

Lore of the Corps

War Crimes in Sicily: Sergeant West, Captain Compton, and the Murder of Prisoners of War in 1943

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Q: “Do you know anything about some prisoners shot on July 14, near the Biscari Airfield?”

A (Captain Compton): Yes, sir.

....

Q: What order did you give concerning the shooting of these prisoners?

A (Captain Compton): I told my [lieutenant (Lt.)] to take care of it.

....

Q: What did you tell him?

A (Captain Compton): I told the Lt. to tell the [sergeant (Sgt)] to execute the prisoners.”¹

On 14 July 1943, about 1300, near the Biscari airport in Sicily, Captain (CPT) John T. Compton, a company commander serving in the 180th Infantry Regiment, 45th Infantry Division, ordered his men to execute thirty-six prisoners of war (POWs). Only three hours earlier, Sergeant (SGT) Horace T. West, also serving in the 180th, committed a similar war crime when he murdered thirty-seven Italian and German POWs by shooting them with a Thompson submachine gun. This is the story of those two events, the courts-martial of West and Compton for murder, and the very different outcomes of those trials.

Operation Husky, the Allied invasion of Sicily, kicked off on 10 July 1943, when British and Canadian forces landed on the southeastern corner of the island. The following day, Soldiers belonging to Lieutenant General (LTG) George S. Patton’s Seventh Army and LTG Omar N. Bradley’s II Corps waded ashore, some miles to the west, at Licata and Gela, respectively. Driving northward, the Americans, British, and Canadians ran into ten Italian and two German panzer divisions but, after fierce fighting, had seized the southern quarter of Sicily on 15 July.²

¹ Office of the Inspector Gen., Headquarters, 45th Infantry Div., Report of Investigation, subj: Shooting of Prisoners of War under direction of Captain John T. Compton 5 (5 Aug. 1943) [hereinafter Compton Report of Investigation].

² ALBERT N. GARLAND & HOWARD MCGRAW, U.S. ARMY IN WORLD WAR II, THE MEDITERRANEAN THEATER OF OPERATIONS, SICILY AND THE SURRENDER OF ITALY 141–42 (1965).

While this was good news for the invaders, the murder of German and Italian POWs the previous day cast a dark cloud over the sunny skies of Sicily. No one doubted that the killings had occurred or that they had happened during “a sharp struggle for control of the airfield north of Biscari.”³ Rather, the question was why it had occurred, who was responsible, and what should be done.

The facts were that, on 14 July 1943, troopers serving in the 180th Infantry Regiment overcame enemy resistance and, by about 1000, had gathered together a group forty-eight prisoners. Forty-five were Italian and three were German. Major Roger Denman, the Executive Officer in the 1st Battalion, 180th Infantry, ordered a noncommissioned officer (NCO), thirty-three year old SGT Horace T. West, to take the POWs “to the rear, off the road, where they would not be conspicuous, and hold them for questioning.”⁴

After SGT West, several other U.S. Soldiers assisting him, and the forty-eight POWs had marched a mile, West halted the group. He then directed that “eight or nine” POWs be separated from the larger group and that these men be taken to the regimental intelligence officer (S-2) for interrogation.

As the official investigation conducted by Lieutenant Colonel (LTC) William O. Perry, the division inspector general (IG), revealed, West then took the remaining POWs “off the road, lined them up, and borrowed a Thompson Sub-Machine Gun” from the company first sergeant (1SG). When that NCO asked West what he intended to do, “SGT West replied that he was going to kill the ‘sons of bitches.’” After telling the Soldiers guarding the POWs to “turn around if you don’t want to see it,” SGT West then singlehandedly murdered the disarmed men by shooting them. The bodies of the dead were discovered about thirty minutes later by the division chaplain, LTC William E. King. King later told the division IG that every dead POW had been “without shoes or shirts.” This was expected, because it was common practice to remove a captured soldier’s shoes and shirt to discourage escape. But King also told the IG that each POW “had been shot through the heart,” which was unexpected but indicated that they had been killed at close range. Investigators subsequently learned that, after emptying his

³ James J. Weingartner, *Massacre at Biscari: Patton and an American War Crime*, HISTORIAN, Nov. 1989, at 24, 25.

⁴ Office of the Inspector Gen., Headquarters, 45th Infantry Div., Report of Investigation of Shooting of Prisoners of War by Sgt. Horace T. West 1 (5 Aug. 1943) [hereinafter West Report of Investigation].

submachine gun into the POWs, West had “stopped to reload, then walked among the men in their pooling blood and fired a single round into the hearts of those still moving.”⁵

Three hours later, twenty-five year old CPT John T. Compton, then in command of Company A, 180th Infantry, was with his unit in the vicinity of the same Biscari airfield. After the Americans encountered “sniping . . . from fox holes and dugouts occupied by the enemy,”⁶ a Soldier managed to capture thirty-six enemy soldiers. When CPT Compton learned of the surrender, he “immediately had a detail selected” from his company to execute the POWs. According to LTC Perry, who investigated both shootings, Compton gave the following answers to Perry’s questions:

- Q. How did you select the men to do the firing?
A. I wished to get it done fast and very thoroughly, so I told them to get automatic weapons, the BAR [Browning Automatic Rifle] and Tommy Gun.
Q. How did you get the men? Did you ask for volunteers?
A. No, sir. I told the [SGT] to get the men.
Q. Do you remember exactly what you told him?
A. I don’t remember exactly.
Q. What formation did you get them in before they were shot?
A. Single file on the edge of a ridge.
Q. Were they facing the weapons or the other side?
A. They were in single file, in a column, rifle fire from the right.
Q. Were the prisoners facing the weapons or the other side?
A. They were facing right angle of fire.
Q. What formation did you have the firing squad (sic)?
A. Lined 6 foot away, about 2 yards apart, on a line.
Q. Did you give any kind of a firing order?
A. I gave a firing order.
Q. What was your firing order?
A. Men, I am going to give ready fire and you will commence firing on the order of fire.⁷

Since Compton had lined his firing squad up so that the POWs presented a target in enfilade, there was little doubt that he intended to kill the POWs.

The following day, after knowledge of Compton’s execution of the enemy travelled up the chain of command, LTG Bradley personally questioned the junior officer about his actions. As CPT Compton told Bradley, he “had been raised fair and square as anybody else and I don’t believe in shooting down a man who has put up a fair fight.” But, said

⁵ RICK ATKINSON, *THE DAY OF BATTLE* 118 (2007).

⁶ Compton Report of Investigation, *supra* note 1, at 1.

⁷ *Id.* at 3 (statement by Captain John T. Compton (July 1943)).

Compton, these enemy soldiers “had used pretty low sniping tactics against my men and I didn’t consider them as prisoners.” Perhaps most importantly, CPT Compton added the following to his official statement:

During the Camberwell operation in North Africa, [LTG] George S. Patton, in a speech to assembled officers, stated that in the case where the enemy was shooting to kill our troops and then that we came close enough on him to get him, decided to quit fighting, he must die. Those men had been shooting at us to kill and had not marched up to us to surrender. They had been surprised and routed, putting them, in my belief, in the category of the General’s statement.⁸

What was to be done about these two massacres at Biscari? According to Carlo D’Este’s *Bitter Victory: The Battle for Sicily 1943*, General Bradley “was horrified” when he learned what West and Compton had done, and “promptly reported them to Patton,” his superior commander. Patton not only “cavalierly dismissed the matter as ‘probably an exaggeration,’” but told Bradley “to tell the officer responsible for the shootings to certify that the dead men were snipers or had attempted to escape or something, as it would make a stink in the press, so nothing can be done about it.”⁹

But Bradley was a man of principle, and refused to follow Patton’s suggestion.¹⁰ On the contrary, Bradley directed that West and Compton be tried for murder. As a result, Major General (MG) Troy H. Middleton, the 45th Infantry Division commander, convened a general court-martial to try SGT West for “willfully, deliberately, feloniously, unlawfully” killing “thirty-seven prisoners of war, none of whose names are known, each of them a human being, by shooting them and each of them with a Thompson Sub-Machine gun.”¹¹ As for CPT Compton, he also faced a general court-martial convened by Middleton. The charge was the same, except that Compton was alleged to have killed “with premeditation . . . thirty-six prisoners of war . . .

⁸ *Id.*

⁹ CARLO D’ESTE, *BITTER VICTORY: THE BATTLE FOR SICILY* 318 (1988).

¹⁰ While Patton initially was not interested in a trial for West and Compton, D’Este notes that he later changed his mind. *Id.* at 319. Atkinson writes that this change of heart occurred after the 45th Division’s IG found “no provocation on the part of the prisoners . . . They had been slaughtered.” Patton then said: “Try the bastards.” ATKINSON, *supra* note 5, at 119.

¹¹ *United States v. West*, No. 250833 (45th Inf. Div., 2–3 Sept. 1943), at 4 [hereinafter *West Record of Trial*].

by ordering them and each of them shot with Browning Automatic Rifles and Thompson Sub-Machine Guns.”¹²

Sergeant West was the first to be tried. His court-martial began on 2 September 1943 and concluded the next day. West pleaded not guilty, and his counsel (none of whom were lawyers) portrayed him as “fatigued and under extreme emotional distress” at the time of the killings. This “temporary insanity defense,” in fact, had been suggested by the division IG, who found that “in light of the combat experience of the sergeant and the unsettled mental condition that he was probably suffering from, a very good question arises as to his sanity at the time of the commission of the acts.”¹³ West also testified that he had seen the enemy murder two American Soldiers who had been taken prisoners, an experience which filled him with rage and made him want “to kill and watch them [the enemy] die, see their blood run.”¹⁴ The problem with this defense was that the killings had not occurred in the heat of battle, or near in time to the alleged murder of the two Americans, but rather long after the fighting had ceased and SGT West was escorting the POWs to the rear for interrogation.

Sergeant West also advanced a second rationale for what he had done at Biscari: he had been following the orders of General Patton who, insisted West, had announced prior to the invasion of Sicily that prisoners should be taken only under limited circumstances. Colonel Forest E. Cookson, the 180th Infantry’s regimental commander, testified for the defense and confirmed that Patton had proclaimed he wanted the 45th Infantry Division to be a “division of killers,” and that if the enemy continued to resist after U.S. troops had come within two hundred yards of their defensive positions, then the surrender of these enemy soldiers need not be accepted.¹⁵ While Cookson testified further that he had repeated Patton’s words “verbatim” (sic) to the Soldiers of his regiment, West’s problem with claiming a defense based on following Patton’s order was that the POWs he had killed had already surrendered and were in custody. Consequently, while West raised Patton’s order in his trial, he did not really offer it as a defense.

The panel members clearly gave more weight to the testimony of 1SG Haskell Y. Brown, who testified that West had “borrowed” his Thompson “plus one clip of thirty rounds” and then had killed the Italians and Germans in cold blood.¹⁶ The panel did not believe West was temporarily

insane, and found him guilty of premeditated murder under Article 92 of the Articles of War.

In an unusual twist, however, the panel of seven officers sentenced West to “life imprisonment” only. They did not adjudge forfeitures or a dishonorable discharge. Perhaps this was because SGT West’s good military character. West had served almost continuously with Company A, 180th Infantry Regiment since his induction in September 1940, was “exceptionally dependable,” and had “fought bravely and courageously since the invasion of Sicily.”¹⁷ But a life sentence nevertheless sent the message that such a war crime would not be condoned, and the convening authority directed that West be confined in the “Eastern Branch, United States Disciplinary Barracks, Beekman, New York.”¹⁸

The general court-martial of CPT Compton was a very different affair. While it was true that a number of Soldiers had carried out the executions, only Compton was being tried for murder. This was almost certainly because Field Manual (FM) 27-10, *Rules of Land Warfare*, which had been published in October 1940—more than a year before the United States entered World War II—provided that a Soldier charged with committing a war crime had a valid defense if he was acting pursuant to a superior’s orders. In discussing the “Penalties for Violations of the Laws of War,” paragraph 347 stated, in part:

Offenses by armed forces. The principal offenses of this class are: Making use of poisoned and otherwise forbidden arms and ammunition; killing of the wounded; . . . *ill-treatment of prisoners of war. Individuals of the armed forces will not be punished for these offenses in case they are committed under orders or sanction of their government or commanders.* The commanders ordering the commission of such acts, or under whose authority they are committed by their troops, may be punished by the belligerent into whose hands they may fall.¹⁹

This language meant that the Soldiers who had been ordered by Compton to shoot the POWs had a complete defense to murder. But Compton’s defense was that he, too, had been acting pursuant to orders—orders from General Patton. Compton claimed that he remembered, almost word for word, a speech given by Patton in North Africa to the

¹² Headquarters, 45th Infantry Div., Gen. Court-Martial Order No. 84, (13 Nov. 1943), in *United States v. Compton*, No. 250835 (45th Inf. Div., 23 Oct. 1943).

¹³ Compton Report of Investigation, *supra* note 1, at 2.

¹⁴ *West Record of Trial*, *supra* note 11, at 101.

¹⁵ *Id.* at 58–59; Weingartner, *supra* note 3, at 28.

¹⁶ *West Record of Trial*, *supra* note 11, at 8.

¹⁷ West Report of Investigation, *supra* note 4, at 2.

¹⁸ Headquarters, 45th Infantry Div., Gen. Court-Martial Order No. 86 (4 Nov. 1943).

¹⁹ U.S. DEP’T OF ARMY, FIELD MANUAL 27-10, RULES OF LAND WARFARE para. 347 (1 Oct. 1940) (emphasis added).

officers of the 45th Infantry Division. According to Compton, Patton had said:

When we land against the enemy, don't forget to hit him and hit him hard. We will bring the fight home to him. We will show him no mercy. He has killed thousands of your comrades, and he must die. If you company officers in leading your men against the enemy find him shooting at you and, when you get within two hundred yards of him and he wishes to surrender, oh no! That bastard will die! You will kill him. Stick him between the third and fourth ribs. You will tell your men that. They must have the killer instinct. Tell them to stick him. He can do no good then. Stick them in the liver. We will get the name of killers and killers are immortal. When word reaches him that he is being faced by a killer battalion, a killer outfit, he will fight less. Particularly, we must build up that name as killers and you will get that down to your troops in time for the invasion.²⁰

A Soldier in Compton's company testified that he was "told that General Patton said that if they don't surrender until you get up close to them, then look for their third and fourth ribs and stick it in there. Fuck them, no prisoners!"²¹ An officer testified that Patton had said that the "more prisoners we took, the more we'd have to feed, and not to fool with prisoners."²²

Compton did not waver in insisting that he had been following orders. The POWs he had ordered shot had resisted at close quarters and had forfeited their right to surrender. Additionally, Compton claimed that the executed men had been snipers (and that some were dressed in civilian clothes) and that this was yet another reason that they deserved to be shot—because sniping is dishonorable and treacherous. As Compton put it: "I ordered them shot because I thought it came directly under the General's instructions. Right or wrong a three star general's advice, who has had combat experience, is good enough for me and I took him at his word."²³

On 23 October 1943, after the prosecution declined to make a closing argument in Compton's trial, the court closed

to deliberate. When the members returned, the president of the panel announced that the court had found CPT Compton not guilty of the charge of murder and its specification.

When LTC William R. Cook, the 45th Infantry's Staff Judge Advocate, reviewed the *West* and *Compton* records of trial in November 1943, he immediately recognized that he had two problems. The first was that, when charged with very similar war crimes, an NCO had been convicted while an officer had been acquitted and, since that NCO had been sentenced to life imprisonment, this might be perceived as unfair.

But perhaps more troubling was that Compton had been acquitted because he claimed that his execution of POWs had been sanctioned by General Patton's orders. Cook did not want to criticize the court members directly, and he acknowledged that Patton's speech to the 45th's officers provided both a moral and a legal basis for the panel's conclusion that Compton had acted pursuant to superior orders. Lieutenant Colonel Cook also conceded that the 1928 *Manual for Courts-Martial* provided that the "general rule is that the acts of a subordinate officer or soldier, done in good faith . . . in compliance with . . . superior orders, are justifiable, unless such acts are . . . such that a man of ordinary sense and understanding would know to be illegal."²⁴ But, focusing on this last phrase, Cook wrote that he believed that an order to execute POWs was illegal. As he wrote in the "Staff Judge Advocate's Review" of Compton's trial:

My own opinion on the matter is . . . the execution of unarmed individuals without the sanction of some tribunal is so foreign to the American sense of justice, that an order of that nature would be illegal on its face, and being illegal on its face could not be complied with under a claim of good faith. However, that opinion is my personal interpretation of the law, and being without adequate means of research, I am not prepared to state that it is an opinion founded on good authority.²⁵

Lieutenant Colonel Cook did not address the language contained in paragraph 347 of FM 27-10, discussed above, which provided yet another legal basis for the panel to have acquitted CPT Compton.

As James J. Weingartner shows in his study of the *West* and *Compton* trials, the "Biscari cases made the U.S. Army and the War Department acutely uncomfortable. Both feared the impact on U.S. public opinion and the possibility of

²⁰ United States v. Compton, No. 250835 (45th Inf. Div., 23 Oct. 1943), at 58–59.

²¹ *Id.* at 55.

²² *Id.* at 48.

²³ *Id.* at 63.

²⁴ MANUAL FOR COURTS-MARTIAL, UNITED STATES para. 148a (1928).

²⁵ Staff Judge Advocate's Review, in *West* Record of Trial, *supra* note 11, at 3.

enemy reprisals should details of the incidents become common knowledge.”²⁶ To keep what had happened from public view, both records of trial were classified “Secret” and the media was kept in the dark about the two episodes.

Captain Compton, who had been reassigned to another unit after his acquittal, was killed in combat on 8 November 1943. Like it or not, his death solved the problem of keeping his case confidential.

Not so with West. He was alive and, instead of being returned to the United States, where his presence in a federal penitentiary would likely bring unwanted publicity to him and his crime, West was shipped to a confinement facility in North Africa. Keeping West under Army control no doubt made it less likely that the Germans and Italians would learn of the Biscari killings.

In any event, after reviewing West’s record of trial, Eisenhower decided to “give the man a chance” after he had served enough of his life sentence to demonstrate that he could be returned to duty.²⁷ After West’s brother wrote to both the Army and to his local member of Congress asking about the case—raising the possibility again that the public would learn about what had happened at Biscari—the Army moved to resolve the worrisome matter.

In February 1944, the War Department’s Bureau of Public Relations recommended that West be given some clemency, but “that no publicity be given to this case because to do so would give aid and comfort to the enemy and would arouse a segment of our own citizens who are so distant from combat that they do not understand the savagery that is war.”²⁸ Six months later, on 23 November 1944, LTG Joseph McNarney, the deputy commander of Allied Forces Headquarters, then located in Caserta, Italy, signed an order remitting the unexecuted portion of West’s sentence. Private West was restored to active duty and continued to serve as a Soldier until the end of the war, when he was honorably discharged.

But secrecy remained paramount in the *West* and *Compton* cases. A 1950 memorandum for MG Ernest M. “Mike” Brannon, The Judge Advocate General of the Army, advised that all copies of the records of trial were under lock and key in the Pentagon; the records apparently were not declassified until the late 1950s.²⁹

²⁶ Weingartner, *supra* note 3, at 38.

²⁷ ATKINSON, *supra* note 5, at 20.

²⁸ *Id.* at 39.

²⁹ Memorandum from Lieutenant Colonel W. H. Johnson, Judge Advocate Gen.’s Corps Exec., for Gen. Brannon, subj: Records of Trial [Compton & West] (26 May 1950).

Three final points about the courts-martial of SGT West and CPT Compton. First, the War Department Inspector General’s Office launched an investigation into the Biscari killings, and General Patton was questioned about the speech that Compton and others had insisted was an order to kill POWs. Patton told the investigator that his comments had been misinterpreted and that nothing he had said “by the wildest stretch of the imagination” could have been considered to have been an order to murder POWs. The investigation ultimately cleared Patton of any wrong-doing.

Second, on 15 November 1944, slightly more than five months after Allied landings in Normandy, and more than a year after the *West* and *Compton* trials, the War Department published Change 1 to FM 27-10. That change added this new paragraph:

Liability of offending individual.— Individuals and organization who violate the accepted laws and customs of war may be punished therefor. However, the fact that *the acts complained of were done pursuant to order of a superior or government sanction may be taken into consideration in determining culpability, either by way of defense or in mitigation of punishment.* The person giving such orders may also be punished.³⁰

Would the result in the Compton trial have been different if Change 1 had been in effect in October 1943?³¹

Finally, in *Hitler’s Last General*, two British historians argued that if the legal principles used to convict SS-troops for the massacre of American POWs at Malmedy had been applied to the Biscari killings, then Patton³² would have been sentenced to life imprisonment and Bradley to ten years. As for Colonel Cookson, who had commanded the 180th

³⁰ U.S. DEP’T OF ARMY, FIELD MANUAL 27-10, RULES OF LAND WARFARE para. 345.1 (1 Oct. 1940) (C1, 15 Nov. 1944) (emphasis added).

³¹ For more on the Army’s decision to remove superior orders as an absolute defense to a war crime, see GARY D. SOLIS, *THE LAW OF ARMED CONFLICT* 354–55 (2009). Today, paragraph 509a of Field Manual 27-10 provides that “the fact that the law of war has been violated pursuant to an order of a superior authority . . . does not deprive the act in question of its character as a war crime, nor does it constitute a defense in the trial of an accused individual, unless he did not know and could not reasonably have been expected to know that the act ordered was unlawful.” U.S. DEP’T OF ARMY, FIELD MANUAL 27-10, *THE LAW OF LAND WARFARE* para. 509a (July 1956).

³² As for George S. Patton, widely regarded as one of the best combat commanders of all time, General Eisenhower said it best: “His emotional range was very great and he lived at either one end or the other of it.” SOLIS, *supra* note 31, at 386. Assuming that Eisenhower was correct, what does this say about Patton’s responsibility for West’s and Compton’s actions in Sicily?

Infantry Regiment, he would have been sentenced to death.³³ Whether one agrees with this assessment or not, it is arguable that, in light of the principle of command responsibility for war crimes, some culpability may well have attached to senior American commanders in Sicily.

Remembering that military criminal law and the law of armed conflict today are much different than they were in World War II, what are the lessons to be learned from the events at Biscari? One might conclude that an officer serving in 1943 could expect different treatment at a court-martial

from an enlisted Soldier being prosecuted for a similar offense. Another lesson might be that culpability for war crimes very much depends on who wins the war (so-called “victor’s justice”). But perhaps the most important lesson is that commanders must be careful when giving a speech designed to instill aggressiveness and a “warrior” spirit in their subordinates. Word choice does matter, and Soldiers do listen to what commanders say to them.

More historical information can be found at

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Dedicated to the brave men and women who have served our Corps with honor, dedication, and distinction.

<https://www.jagcnet.army.mil/History>

³³ IAN SAYER & DOUGLAS BOTTING, *HITLER’S LAST GENERAL* (1989). For more on the Malmedy murders, see CHARLES WHITING, *MASSACRE AT MALMEDY* (1971). *See also* DANNY S. PARKER, *FATAL CROSSROADS* (2012); JAMES J. WEINGARTNER, *A PECULIAR CRUSADE* (2000). For a short legal analysis of the Malmedy trial, see Fred L. Borch, *The ‘Malmedy Massacre’ Trial: The Military Government Court Proceedings and the Controversial Legal Aftermath*, *ARMY LAW.*, Jan. 2011, at 3.