

J. Y. Interpretation No.61 (August 13, 1956) *

ISSUE: May a runaway serviceman wearing his own badge be subject to the penalty of the offense of common escape?

RELEVANT LAWS:

Article 95 of the Armed Forces Criminal Act (陸海空軍刑法第九十五條) ; Judicial Yuan Explanation No. 2044 (司法院院字第二〇四四號解釋) .

KEYWORDS:

escaped soldier (軍人脫逃) , escape soldier crime (軍人脫逃罪) , the essentially military materials (軍中重要物品) .**

HOLDING: Even if a soldier in uniform with his/her military stripes intact is suspected of being AWOL [absent without leave], this is not sufficient evidence to establish the crime of being AWOL because the essential military items, as designated in Article 95 of the Armed Forces Criminal Act, do not include such military stripes. Therefore, the Judicial Yuan Explanation No. 2044

解釋文：軍人逃亡如僅佩帶本人符號，尚難認為與陸海空軍刑法第九十五條所謂攜帶其他重要物品之情形相當，應以普通逃亡論罪。本院院字第二零四四號關於該部分之解釋，應予變更。

* Translated by Lawrence L. C. Lee.

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issued on August 3, 1940, concerning essential military items should no longer apply.