

DEPUTY JUDGE ADVOCATE'S OFFICE  
7708 WAR CRIMES GROUP  
EUROPEAN COMMAND  
APO 407

21 November 1947

UNITED STATES )  
                  v.                    ) Case No. 000-Mauthausen-16  
Rudolf Lamm        )

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 27-28 May 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

CHARGE I: Violation of the Laws and Usages of War.

Particulars: That Rudolf Lamm, a German national, did at or in the vicinity of Mauthausen, Austria, in or about March 1945, wrongfully encourage, aid, abet and participate in the killing of non-German nationals, inmates of the Mauthausen Concentration Camp, who were then in the custody of the then German Reich, the exact names and numbers of such persons being unknown.

CHARGE II: Violation of the Laws and Usages of War.

Particulars: In that Rudolf Lamm, a German national, did at or in the vicinity of Wiener-Neudorf, Austria, in or about March 1945, wrongfully encourage, aid, abet and participate in the killing of an unknown citizen of France, an inmate of Wiener-Neudorf Concentration Camp, who was then in the custody of the then German Reich.

CHARGE III: Violation of the Laws and Usages of War.

Particulars: In that Rudolf Lamm, a German national, did at or in the vicinity of Wiener-Neudorf, Austria, in or about August 1944, wrongfully encourage, aid, abet and participate in the killing of an unknown citizen of Poland, an inmate of the Wiener-Neudorf, concentration camp, who was then in the custody of the then German Reich.

III. SUMMARY OF EVIDENCE: The accused, a roll call leader at Wiener-Neudorf Concentration Camp, an outcamp of Mauthausen Concentration Camp, participated in the inmate evacuation march

of the inmates from the subcamp to the parent camp in April 1945 hereinafter referred to as Incident No. 1. Prior to the beginning of the evacuation march the accused ordered the shooting of any inmate who tried to escape or who could not continue to march. Innumerable shootings occurred and many inmates were killed. The accused shot a French inmate during this march, hereinafter referred to as Incident No. 2. In July or August 1944 the accused ordered a recaptured Polish inmate, who had escaped from outcamp Wiener-Neudorf, placed in a cemented hole where, after three days, the latter died. This is hereinafter referred to as Incident No. 3. The accused confirmed his participation in Incident No. 1 and his responsibility in connection with Incident No. 3 but denied having killed a French inmate involved in Incident No. 2.

IV. EVIDENCE AND RECOMMENDATIONS:

Rudolf LAMM

Nationality:	German
Age:	34
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS, Sergeant
Pleas:	NG Charge I; NG Charge II; NG Charge III
Findings:	G Charge I; NG Charge II; G Charge III
Sentence:	Imprisonment for life

Evidence for Prosecution: After serving from July 1942 in Mauthausen Concentration Camp, outcamp Steyr-Meunichholz, and again in Mauthausen Concentration Camp, the accused came to outcamp Wiener-Neudorf, Austria, as roll call leader in August 1943 where he remained until April 1945 (R 23, 25, 38, 47, 66, 98, 99; P-Exs 2, 2a).

Incident No. 1. Due to the approach of the front lines,

an evacuation of outcamp Wiener-Neudorf to Mauthausen Concentration Camp was undertaken in April 1945 (R 25, 101). On approximately 2 or 3 April 1945 (R 38), two days before Easter (R 25), at about five to six in the morning (R 25), some 3000 inmates of the outcamp began the evacuation march to Mauthausen Concentration Camp (R 25, 26, 42); they were organized into march groups of 100 each, in four columns (R 23, 44; P-Exs 2, 2a). One of the columns was commanded by Master Sergeant Troester who appeared as a defense witness in the trial. Camp Commander Schmutzler (R 15, 26) had organized a so-called burial detail and ordered it to shoot all inmates who could not walk and to bury them (R 23; P-Exs 2, 2a).

Early in the morning (R 18), approximately 15 to 30 minutes (R 10, 26) prior to the beginning of the march, the accused issued orders in the vicinity of the Schurhaus (R 16) to the blockleaders, soldiers and dog leaders that, "if anybody tries to escape or anyone cannot walk any further, he will be shot" (R 10, 16, 18, 26, 33, 34, 36). During the evacuation march the condition of the inmates appeared progressively worse (R 11). Many were shot and some starved to death (R 11, 12, 23; P-Exs 2, 2a).

One witness testified that a Polish inmate was shot by a dog leader during the afternoon of the fourth or fifth day of the march (R 12) and the victim was never seen again (R 13). Another witness testified that he saw 11 dead inmates during the march (R 27). On the first day of the march, some 12 meters from camp, a dead Polish inmate was seen lying beside the road with a pool of blood around him (R 27, 33) and his brains out (R 28). He had been shot by a dog leader with a machine gun from a distance of two meters (R 28). Three days later four weakened inmates, one of whom was a Pole (R 28, 29), were shot by a dog leader with an automatic pistol from a distance of two

the inmates who could not come along would be shot (R 73, 74, 79, 92, 97). The next morning, Captain Stier, a transport leader, transmitted this order at a meeting of three companies of SS guards (R 73, 75, 85). The accused did not attend the meeting at which this order was issued (R 74, 77, 86). No such orders were issued by the group leader Troesler to the inmates (R 76).

During the march the accused took roll call and rode up and down the march column on a motorcycle (R 81) armed with a machine pistol (R 82). He had no authority over the dog leader in the column (R 82, 83, 86). One witness testified that he never heard the accused issue any orders pertaining to the killing of inmates (R 86) or saw the accused shoot anyone (R 87). The dog echelons under Master Sergeant Nitschke (R 91) and the 13th Company under Master Sergeant Troester (R 92) were charged with execution of the inmates who could not march (R 91).

The accused testified that he brought sealed orders to Schmutzler from Vienna with reference to the evacuation (R 101), but he denied seeing the contents of them (R 103). However, he admitted that he heard about the order to shoot inmates who were too weak to march while attending a conference called by Schmutzler (R 99, 103). In his extrajudicial sworn testimony, the accused admitted that he heard that 40 to 50 inmates were shot on the march by a detail organized by Schmutzler to shoot and bury inmates too debilitated to walk (R 23; P-Exs 2, 2a). His principal duties during the evacuation march were the reporting of the length of the column (R 105, 127), maintaining liaison between march blocks (R 105), supervising the marching columns (R 23; P-Exs 2, 2c) and dispatch rider (R 122), with no disciplinary control over the march column (R 127).

Incident No. 2. One witness testified that he never saw the accused shoot anyone on the march (R 87). The accused

ordered the inmate into a cement hole, 1.2 to 1.5 meters in diameter and approximately 2 meters deep (R 49, 52, 63, 67). The hole was then covered with boards which were then weighted down with three heavy boulders or stones (R 49, 67). After closure of the hole, the accused and block leaders stamped on these boards and called down jeering words (R 49). These activities were repeated five or six times (R 69) at roll calls held during the three days of the victim's confinement (R 50, 69). It was reported that the accused ordered the hole uncovered and a bucket of water poured into it (R 50).

Three days after the confinement of the victim, his body was removed from the hole (R 50) to the hospital where it was seen by a medical school graduate who stated that the back, buttocks and backside of the upper thighs were covered with stripes, bruises and wounds (R 50). Although no external cause of death was manifest, it was established that exhaustion, weakness of the heart aggravated by the heat of the sun (R 52) or a respiratory weakness (R 50) were the probable causes of death. The official report was "suicide" and it contained a certification for cremation of the body at Vienna (R 51). Death of the victim was necessary to hide the mistake of the SS in permitting the escape of the five Poles (R 54).

The accused tried to regain his lost reputation when he arrived at outcamp Wiener-Neudorf by shouting and enforcing more brutal and stricter measures (R 70). He beat inmates, but his beatings were not feared (R 70) because they were not hard (R 71).

Evidence for Defense: Incident No. 1. One witness testified that the accused was present at a conference on the evening prior to the beginning of the evacuation march from Wiener-Neudorf to Mauthausen Concentration Camp (R 73, 74). At that time, Schmutzler, the Camp Commander, gave out an order the

denied that he shot a French inmate on the march (R 104, 106, 120) or that he had any knowledge of such a shooting (R 106). He stated, "I did my utmost humanly possible to execute this march in a human way" (R 120).

Incident No. 3. The accused testified that five Polish inmates escaped by a drainage tunnel some 30 meters (R 110) in length leading from outcamp Wiener-Neudorf. It had been in existence from the time the outcamp had served as an internment camp for civilian foreigners (R 109). A person could crawl through the tunnel but not without rubbing his back against the top of it (R 110). One of the escaped roles was recaptured. The accused admitted ordering this recaptured inmate into a cemented hole or trench, which was a part of the air defenses of the camp (R 107) in order to keep him secure for immediate transfer to Mauthausen Concentration Camp (R 111) and to prevent his committing suicide (R 113). He made an immediate report of the incident to Camp Commander Schmutzler who sanctioned the action taken (R 111, 113). He denied seeing the inmate thereafter (R 112).

The accused testified that he was responsible for order and discipline of SS men inside the camp (R 115) and the block leaders were directly responsible to him for order, discipline and the reporting of occurrences (R 117, 118), but that the responsibility over the inmate in the hole passed to the block leader whose barracks was nearest to the man in the hole (R 115). The accused denied administering punishment to the victim or authorizing such punishment (R 113) although he had given 25 lashes on prior occasions (R 125). He admitted checking the hole once or twice during the three days of the inmate's confinement and pointing out to the camp commander the necessity for transferring the inmate (R 120). He admitted on cross-examination that he was partly guilty (R 120) in so far as he

or three meters (R 29). Before arrival at Camp Steyr, three inmates were pulled from the march formation (R 29) and were shot by two dog leaders in the presence of Hoellrieger (or Hoellriegl), a blockleader (R 35), with submachine guns (R 29, 35). There was a hole in the head of one of them and a pool of blood around each (R 30). At Steyr on the same or next day three more inmates, one a Russian (R 31, 34), were pulled from march formation, lined up against a wall beneath a railroad bridge and were shot by dog leaders (R 30), resulting in the death of the victims (R 31).

The numbers of all dead inmates were turned over to the accused during the evacuation march (R 14, 31). Roll calls were held daily by the accused during the march (R 31). One witness testified that during the march the accused inquired of members of the air force who were in the march column why they had not shot two inmates who had been left behind (R 34). The accused rode up and down the march column on a motorcycle during the evacuation march (R 11, 23; P-Exs 2, 2a), wearing two pistols (R 36). Approximately 300 inmates died during the 12 or 14 days of this evacuation march (R 11, 14, 38).

Incident No. 2. On the morning of the third day of the evacuation march (R 38), an eye witness testified that the accused shot and killed a weak French inmate (R 40) from a distance of three or four meters (R 39, 40). The body was placed in a ditch in compliance with the accused's instructions and the inmate's number was given to the accused (R 40).

Incident No. 3. In July or August 1944 (R 48), five Polish inmates escaped through a channel hole underneath the barbed wire surrounding Wiener-Neudorf Concentration Camp. One inmate called Tadeck was recaptured. He received 25 lashes (R 49, 56, 57), a part of the usual punishment for recaptured inmates (R 56). The accused, the highest authority present (R 68),

was on duty at the time (R 121), but that he had too many responsibilities (R 121). after a rather lengthy attempt to limit his statement of his duty at the outcamp (R 115), the accused contended he could only report disobedience of the SS to the camp commander (R 126).

Sufficiency of Evidence: The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by defense counsel, Major L. F. Benson, 29 May 1947. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved

V. QUESTIONS OF LAW:

Jurisdiction: It is clear that the Court had jurisdiction of the person of the accused and of the subject matter.

Examination of the entire record fails to disclose any error or omission which resulted in injustice to the accused.

VI. CONCLUSIONS:


1. It is recommended that the findings and sentence be approved.

2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

  
RICHARD C. HAGAN  
Major JAGD  
Post Trial Branch

Having examined the record of trial, I concur,

this 15<sup>th</sup> day of January 1948.

  
E. E. STRAIGHT  
Lieutenant Colonel, JAGD  
Deputy Judge Advocate  
for War Crimes