

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

26 May 1947

UNITED STATES)

vs)

Case No. 000-50-2-20

Johann BAUMGARTNER, Michael
UBACH, Adam PFEIFER, Franz
HL, Kurt Max PROEHL, Karl
NDLAN, Franz TONWEBER)

REVIEW AND RECOMMENDATIONS

TRIAL DATA:

Tried jointly at Dachau, Germany
Date: 20 November 1946
Intermediate Military Government Court

<u>ACCUSED</u>	<u>DATA</u>	<u>SENTENCE</u>
BAUMGARTNER, Johann	Age 54 German national SS guard out-camp Allach Rank: S/Sgt	Acquittal
UBACH, Michael	Age 41 German national SS guard out-camp Allach Rank: S/Sgt	2 years confinement from 2 May 1945
PFEIFER, Adam	Age 45 German national SS guard Camp Dachau, out-camps Allach and Germening (Gemeining) Rank: Corporal	2-1/2 years confinement from 4 May 1945
PROEHL, Franz	Age 30 German national SS guard out-camp Allach Rank: T/Sgt	2-1/2 years confinement from 7 May 1945
PROEHL, Kurt Max	Age 41 German national SS guard out-camp Allach Rank: Corporal	2 years confinement from 5 May 1945
TONWEBER, Karl	Age 41 German national SS guard out-camp Allach Rank: Corporal	2 years confinement from 3 May 1945

ACCUSEDDATASENTENCE

TONWEBER, Franz

Age 37

Austrian national

SS guard out-camp Allach
and labor camp Rottern
(Kottern)

Rank: Corporal

2 years con-
finement from
29 April 1945FIRST CHARGE: Violation of the
Laws and Usages of War.

PARTICULARS: In that Johann BAUMGARTNER, Michael MAUBACH, Adam PFEIFER, Franz POHL, Kurt Max PROEHL, Karl RANDHAN, Franz TONWEBER, acting in pursuance of a common design to commit the acts hereinafter alleged, and as individuals aiding the operation of the Dachau Concentration Camp and camps subsidiary thereto, did, at, or in the vicinity of DACHAU and LANDSBERG, Germany, between about 1 January 1942 and about 29 April 1945, wilfully, deliberately and wrongfully participate in the subjection of civilian nationals of nations then at war with the then German Reich to cruelties and mistreatment, the exact names and numbers of such civilian nationals being unknown but aggregating many thousands who were then and there in the custody of the then German Reich in exercise of belligerent control.

BAUMGARTNER
MAUBACH
PFEIFER
POHL
PROEHL
RANDHAN
TONWEBER

<u>Pleas</u>	<u>Findings</u>
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SECOND CHARGE: Violation of the
Laws and Usages of War.

PARTICULARS: In that Johann BAUMGARTNER, Michael MAUBACH, Adam PFEIFER, Franz POHL, Kurt Max PROEHL, Karl RANDHAN, Franz TONWEBER, acting in pursuance of a common design to commit the acts hereinafter alleged, and as individuals aiding in the operation of the Dachau Concentration Camp, did, at or in the vicinity of DACHAU, Germany, between about 1 January 1942 and about 29 April 1945, wilfully, deliberately and wrongfully participate in the

BAUMGARTNER
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subjection of members of the armed forces of nations then at war with the then German Reich, who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich, to cruelties and mistreatment, the exact names and numbers of such prisoners of war being unknown but aggregating many hundreds.

2. RECOMMENDATIONS: That the findings and sentences be approved.

3. EVIDENCE:

For the Prosecution. The prosecution's case was based on extrajudicial sworn or certified testimony as hereinafter indicated. Exhibit P-1 is a certified copy of the charges, particulars, findings and sentences in the parent Dachau Concentration Camp Case (U.S. vs Weiss et al., 000-50-2, March 1946; R 6). Exhibits P-2 thru 9 are extrajudicial sworn or certified testimony of each of the accused (R 7 thru 13).

For the Defense. The defense's case was based on the testimony of all the accused: the sworn testimony of one witness (R 14, 15) and a letter on behalf of accused BAUMGARTNER, the letter being a request by him to his commanding officer for retransfer to the Wehrmacht (D-Ex 1, R 20); the sworn testimony of one witness on behalf of accused TONWEHER (R 16 thru 18); and extrajudicial sworn or certified testimony of all the accused introduced by the prosecution (P-Ex 2 thru 9).

Accused MAIBACH was transferred from the Luftwaffe to out-camp Allach as a guard on 5 August 1944. On 1 September 1944 he was taken into the Waffen SS. On 26 April 1945 he participated in the prisoner march from out-camp Allach with 2000 prisoners. The camp contained a large number of prisoners of all nationalities who worked in an armament factory. The camp commander was 2d Lieutenant JAROLIN, who was convicted in the parent Dachau Concentration Camp Case (U.S. vs Weiss et al., 000-50-2, March 1946, P-Ex 124, R 249) (P-Ex 1, R 6).

In defense, MAUBACH stated that the prisoners at out-camp Allach were treated well. He never saw an SS trooper or capo beating a prisoner nor did he know of executions at out-camp Allach nor about prisoners being shot while attempting to escape. During the prisoner march from out-camp Allach on 26 April 1945, he never observed prisoners being beaten or shot. He never beat prisoners nor reported them for punishment. No prisoner remained lying along the route nor died during the march (P-Ex 4, R 9). He served 8 months as a guard, apparently at out-camp Allach, from 5 August 1944. He did not belong to the Nazi Party. He never mistreated a prisoner (R 23). He had contact with the accused PFEIFER, POHL, PROEHL, RANDEMAN and TONWEBER and never saw them mistreat a prisoner. He did not know of any beating detail at out-camp Allach (R 25).

Accused PFEIFER joined the SA on 6 November 1933, the Nazi Party in March 1941 and the SS on 1 September 1944. In August 1943 he was transferred to out-camp Allach to guard inmates. There were about 1000 prisoners working in the Bavarian Motor Works. On 28 September 1943 he went to out-camp Gernering (Gemering) where there were 300 inmates working at the Dornier factory. This camp was dissolved, and he went with the inmates to Camp Dachau, where he performed no duty for 3 weeks, was sick for 2 weeks, and then served as camp guard and as guard on various work details. He was sent back to out-camp Allach on 10 December 1944. There were 4000 inmates at out-camp Allach. He left out-camp Allach with a prisoner march on 26 April 1945 in the direction of Wolfraetshausen (P-Ex 5, R 9). He served as guard for 9 months (R 26).

In defense, PFEIFER stated he joined the SA because he had been unemployed for years. Food at out-camp Gernering (Gemering) was good, in his opinion. He saw no inmates mistreated at Camp Dachau, and he did not get into the camp. Because he requested transfer he was sent back to out-camp Allach on 10 December 1944 as punishment. He did not see his detail leader, T/Sgt FENSCH, mistreat inmates, only guards. He saw no mistreatment or executions on the prisoner march, 26 April 1945. He deserted the prisoner march the morning after it left out-camp Allach. He does not know what happened to the inmates who were left behind (P-Ex 5, R 9). He did not in any way mistreat any prisoners (R 26).

He had contact with TONWEBER, RANDEMAN, PROEHL, POHL and MAUBACH. None of them

the left side of the first third, and since he was so far up front he could not get a good view of the prisoner march. He did not know whether or not there were casualties. He always treated prisoners well and humanely and never heard of nor saw mistreatment during his stay at out-camp Allach. He never received orders from his superiors to perform any mistreatments (P-Ex 7, R 11).

TONWEBER, RANDHAN, POHL, PFEIFER and MAUBACH served at out-camp Allach with him and did no beating. He does not know whether they were on the prisoner march on 26 April 1945. He served in a guard detail with TONWEBER, PFEIFER and MAUBACH (R 37).

Accused RANDHAN was drafted into the Waffen SS on 5 August 1944 from the Luftwaffe and sent to out-camp Allach as a prisoner guard. There were Russian, Polish and French prisoners. He stayed at out-camp Allach until 26 April 1945 and was taken prisoner at Bad Tölz. He could see that the prisoners were underfed, and their clothes were not warm. Many could hardly walk (P-Ex 8, R 12).

In defense, RANDHAN said he did not in any way mistreat prisoners (R 38). He never heard of prisoners being beaten or executed by hanging after being caught in attempting to escape (R 39). He did not voluntarily join the Waffen SS. He was sent to out-camp Allach against his will. He saw no mistreatment of prisoners there. Weak prisoners did light work within the camp. The ones who were sent to the Bavarian Motor Works received food there. Guards did not go into the camp. He never saw any prisoners trying to escape. a prisoner told him that it had been bad for him from 1940 on but that treatment was better after the Wehrmacht and Luftwaffe took over from August 1944 (P-Ex 8, R 12). He knew MAUBACH, PFEIFER, POHL, PROEHL and TONWEBER in out-camp Allach. None of them mistreated any prisoners there (R 39).

Accused TONWEBER was drafted into the Air Corps 27 January 1942. He was sent to out-camp Allach on 1 April 1944. He was drafted into the SS 1 September 1944 and remained at out-camp Allach until 3 March 1945. He knew of two executions which took place in July or August 1944, in which he did not take part. On one occasion he saw one prisoner mistreat another prisoner by kicking him. He heard that two prisoners who escaped and committed burglary were hanged after being detected in a wood near Munich wearing civilian clothes (P-Ex 9, R 13). He served as guard for 11 months (R 40).

joined the SS on 1 September 1944 on transfer from the Luftwaffe as Sergeant Major. He served as leader of the guards in out-camp Allach from 12 August 1944 until 28 March 1945. There were 40 men in his detail which guarded prisoners working at the Bavarian Motor Works. The prisoners were Polish, Czech, French, Russian and German. It was his duty to see that the guards allowed no prisoners to escape. He heard about mistreatment of prisoners at out-camp Allach (P-Ex 6, R 10). The guards were subject to his orders. He heard of prisoners being beaten (R 31).

In defense, POHL stated he never did any guarding himself. A clerk in the office assigned the guards to their duty, and orders to the guards concerning what action should be taken if a prisoner attempted to escape were fixed by guard rules and regulations, and the guards were instructed by a special commander. He never saw any prisoners mistreated and never heard that the guards mistreated them. He never heard that anybody had been killed. He served in combat with the Luftwaffe and left the front in June 1943 when he was wounded. He left the hospital November 1943 (P-Ex 6, R 10). He went to the front again on 29 March 1945. He did not mistreat any prisoners at out-camp Allach (R 30). He stated that if guards beat prisoners they violated regulations and would have been punished (R 31). He heard about beatings when he got to out-camp Allach (R 32). The guards who told him of the beatings were not under him. Service regulations for orientation of guards were issued by the company commander (R 33). JAROLIN was the prison compound commander and had nothing to do with his guard unit. He received no promotion after joining the SS (R 34). MAUBACH, PFEIFER, RANDHAN and TONWEBER served under him. They never beat nor mistreated prisoners (R 30).

Accused PROEHL was taken into the SS in September 1944. He became a guard at out-camp Allach on 1 August 1944. On 26 April 1945 he accompanied a prisoner march of 700 to 800 prisoners to Bad Toelz by way of Pasing and Starnberg. The prisoners wore wooden shoes (P-Ex 7, R 11). He served as a guard for 9 months (R 34).

In defense, PROEHL stated he did not see any prisoners mistreated at out-camp Allach and that he never harmed anyone. He voluntarily surrendered to the Americans on 4 May 1945. He left the prisoner march on 30 April 1945. He is

When he saw one prisoner kick another he was 50 meters away, enroute to change guards. He did not know the names of the prisoners nor the reason for the kick. He was not present on any prisoner march nor when the prisoners were evacuated prior to the occupation. He left out-camp Allach on 3 March 1945 and served as a guard at out-camp Rottern (Kottern) until 11 March 1945. His duty there was standing guard outside the Messerschmitt plant and guarding the camp itself. On 11 March 1945 he was assigned duty on the fighting front (P-Ex 9, R 13). Defense witness STEINBACHER, an inmate of out-camp Allach during the winter of 1943-1944, testified that he saw TONWEBER there several times as a guard (R 16). He never saw him mistreat prisoners, and his reputation among them was good (R 17). During the winter of 1943, on three or four occasions, prisoners were hanged who were caught attempting to escape. There was a big beating detail at out-camp Allach, but TONWEBER was not in it. The prisoners were fed camp food, and some additional food was furnished by the Bavarian Motor Works (R 17). The prisoners were not well-fed, although some of the capos were. None of the accused were in the beating detail. Defense witness STEINBACHER left in May 1944 (R 18). Accused TONWEBER stated that BAUMGARTNER, MAIBACH, PERIPER, POHL, PNOEHL and RANDEMAN served with him in out-camp Allach. None of them mistreated prisoners (R 41).

4. JURISDICTION: The Court was legally constituted and had jurisdiction of the persons of the accused and of the offenses.
5. COMMENTS: Examination of the entire record fails to disclose any error or omission which resulted in injustice to the accused.

All of the accused were, by their own admissions, members of the SS at Camp Dachau and/or its out-camps for considerable periods of time between the dates alleged (P-Ex 2 thru 9).

The Court was required to take cognizance of the decision rendered in the parent Dachau Concentration Camp Case, including the findings of the Court therein, that the mass atrocity operation was criminal in nature and that the participants therein, acting in pursuance of a common design, subjected persons to killings, beatings, tortures, etc., and was warranted in inferring that those shown to have participated knew of the criminal nature thereof (Letter,

were shown to have participated in the mass atrocity and the Court was warranted by the evidence adduced, either in the parent Dachau Case or in this subsequent proceeding, in concluding as to them that they not only participated to a substantial degree but the nature and extent of their participation was such as to warrant the sentences imposed.

After weighing all the evidence the Court acquitted accused BAUMGARTNER.

6. CLEMENCY: There are no Petitions for Review nor Petitions for Clemency.

7. CONCLUSIONS:

- a. It is recommended that the findings and the sentences be approved.
- b. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

/s/ WILLIAM C. CRAFT
WILLIAM C. CRAFT
Attorney
Post Trial Branch

Having examined the record of trial, I concur.

/s/ C.E. STRAIGHT
C.E. STRAIGHT
Colonel, JAGD
Deputy Judge Advocate
for War Crimes