

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

27 June 1947

UNITED STATES )  
                  ) )  
                  v. ) Case No. 000-50-2-32  
                  ) )  
Wilhelm VELTEN, et al. )

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried jointly at Dachau, Germany, 12 December 1946, before an Intermediate Military Government Court.

II. CHARGES AND PARTICULARS:

FIRST CHARGE: Violation of the Laws and Usages of War,

Particulars: In that Wilhelm VELTEN, Josef VELTEN, Karl WALTER, Friedrich W.K. WAWRZINEK, Max WEINERT, Adolf WEITZEL, Johann Otto WIGLAMEK, Nikolaus WOLF, Johann WRLA, Michael WUENSCHHEL 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 LAUDSBERG, 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.

SECOND CHARGE: Violation of the Laws and Usages of War,

Particulars: In that Wilhelm VELTEN, Josef VELTEN, Karl WALTER, Friedrich W.K. WAWRZINEK, Max WEINERT, Adolf WEITZEL, Johann Otto WIGLAMEK, Nikolaus WOLF, Johann WRLA, Michael WUENSCHHEL 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 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.

### III. SUMMARY OF EVIDENCE:

For Prosecution: Each of the convicted accused were SS guards and participated in the Dachau Concentration Camp mass atrocity. Prosecution's Exhibit P-Ex 1 is a certified copy of the charges, particulars, findings and sentences in the Parent Dachau Case (U.S. vs WEISS, et al., 000-50-2, March 1946, hereinafter referred to as the "Parent Case", R 8, see Section V, post).

### IV. EVIDENCE AND RECOMMENDATIONS:

#### 1. WILHELM VELTEN

Nationality:	German
Age:	39
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Corporal
Plea:	NG, First Charge; NG, Second charge
Findings:	G, First Charge; G, Second Charge
Sentence:	21 months confinement from 3 May 1945

Evidence for Prosecution: Accused was an SS guard at Camp Dachau from 1 September 1944 to 27 April 1945. He participated as a guard in three prison transports; 28 - 29 October 1944 from Allach to Ueberlingen. There were 350 prisoners and 30 guards; 5 - 17 November 1944 from Camp Dachau to Buchwald. There were 15 prisoners and 4 guards; 10 - 11 February 1945 from Trasberg to Allach. There were 200 prisoners and 20 guards. He also participated as a guard in a prisoner march 27 - 29 April 1945 from Camp Dachau to a point 60-KM distant. There were 5000 prisoners and 1000 guards on the march (R 9; P-Ex 2).

Evidence for Defense: The defense relied solely upon his extra-judicial sworn questionnaire (R 9; P-Ex 2).

Sufficiency of Evidence: Accused was an SS guard at Camp Dachau, for a considerable period of time between the dates alleged. He

participated in three prisoner transports and a prisoner march. He is therefore presumed, in the absence of appropriate rebuttal evidence, to be guilty of participating in the common design to subject civilian nationals and surrendered and unarmed prisoners of war to killings, cruelties and mistreatment.

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

Petitions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

2. JOSEF VELTUE

Nationality:	German
Age:	59
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Technical Sergeant
Plea:	NG, First Charge; NG, Second Charge
Findings:	G, First Charge; G, Second Charge
Sentence:	21 months confinement from 26 May 1945

Evidence for Prosecution: Accused was an SS guard at Camp Dachau from February 1942 to December 1942 (R 9; P-Ex 3).

Evidence for Defense: Accused relied solely upon his extrajudicial sworn questionnaire (R 9; P-Ex 3).

Sufficiency of Evidence: Accused was an SS guard at Camp Dachau for a considerable period of time between the dates alleged. He is therefore presumed, in the absence of appropriate rebuttal evidence, to be guilty of participating in the common design to subject civilian nationals and surrendered and unarmed prisoners of war to killings, cruelties and mistreatment.

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

Petitions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

3. EARL WALTER

This accused was acquitted (R 31).

4. FRIEDRICH W.K. WAWRZINEK

This accused was acquitted (R 31).

5. MAX WEINERT

Nationality:	German
Age:	48
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Corporal
Plea:	NG, First Charge, NG, Second Charge
Findings:	G, First Charge; G, Second Charge
Sentence:	21 months confinement from 3 May 1945

Evidence for Prosecution: Accused was an SS guard at Camp Dachau from 10 September 1944 to 10 October 1944; 10 October 1944 to 8 November 1944 outcamp Rotschweige; 8 November 1944 to 3 May 1945 outcamp Karlsfeld (R 12; P-Ex 6).

Evidence for Defense: Accused relied solely on his extrajudicial sworn questionnaire (R 12; P-Ex 6).

Sufficiency of Evidence: While it is true WEINERT was shown to have participated in the mass atrocity at Camp Dachau, his active duty there was only for a period of time between 10 September 1944 and 10 October 1944 which period of participation was so short his connection with the operation of Camp Dachau is too remote. It was shown that accused participated in the Dachau Concentration Camp system and the nature of his duties was also satisfactorily proven. However, a search of the record in the parent case and the record in this subsequent

proceeding reveals no evidence as to atrocities committed at outcamps Rotschweige and Karlsfeld. It is believed that WEINERT's participation in this mass atrocity was too remote to form a proper basis of sentencing by the Court. By virtue of the absence of evidence as to what occurred at outcamps Rotschweige and Karlsfeld he is not shown to have participated to a substantial degree and there is inadequate evidence as to the nature and extent of his participation to permit of arriving at an appropriate sentence. It could be contended with considerable merit that the Court, with propriety, could have inferred that the inmates of outcamps Rotschweige and Karlsfeld were subjected to cruelties and tortures substantially like those clearly proven to have been inflicted at the parent camp and other outcamps. If that view were adopted, at least theoretically, injustices could result and those too remotely connected with this or other mass atrocities might be severely punished without a proper gauge to measure the magnitude of their crimes.

The findings of guilty are not warranted by the evidence.

Petitions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendation: That the findings and sentence be disapproved.

6. ADOLF WEITZEL

Nationality:	German
Age:	59
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Corporal
Plen:	NG, First Charge, NG, Second Charge
Findings:	G, First Charge, G, Second Charge
Sentence:	18 months confinement from 6 August 1945

Evidence for Prosecution: Accused was an SS guard at Camp Dachau from December 1941 to July 1943 (R 13; P-Ex 7).

Evidence for Defense: The accused did not take the stand and testify in his own defense. Defense witness Schaefer testified to the effect accused helped prisoners on the detail he was guarding. The prisoners talked to the accused as a comrade and as a human being (R 20).

Sufficiency of Evidence: Accused was an SS guard at Camp Dachau for a considerable period of time between the dates alleged. He is therefore presumed, in the absence of appropriate rebuttal evidence, to be guilty of participating in the common design to subject civilian nationals and unarmed and surrendered prisoners of war to killings, cruelties and mistreatment.

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

Petitions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

7. JOHANN OTTO WIGLASEK

Nationality:	German
Age:	49
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Sergeant
Plea:	NG, First Charge; NG, Second Charge
Findings:	G, First Charge; G, Second Charge
Sentence:	Two years confinement from 3 May 1945

Evidence for Prosecution: Accused was an SS guard at Camp Dachau from 26 February 1942 to 28 April 1945 (R 13; P-Ex 8).

Evidence for Defense: The accused relied solely upon his extrajudicial sworn questionnaire (R 13; P-Ex 8).

Sufficiency of Evidence: Accused was an SS guard at Camp Dachau for a considerable period of time between the dates alleged. He is therefore presumed, in the absence of appropriate rebuttal evidence, to be guilty of participating in the common design to subject civilian nationals and unarmed surrendered prisoners of war to killings, cruelties and mistreatment.

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

Petitions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

8. NIKOLAUS WOLF

Nationality:	Hungarian
Age:	37
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Pfc
Plea:	NG, First Charge; NG, Second Charge
Findings:	G, First Charge; G, Second Charge
Sentence:	21 months confinement from 5 May 1945

Evidence for Prosecution: Accused was an SS guard at Camp Dachau from 9 November 1943 to 25 August 1944 (R 14; P-Ex 9).

Evidence for Defense: The defense relied solely upon his extra-judicial sworn questionnaire (R 14; P-Ex 9).

Sufficiency of Evidence: Accused was an SS guard at Camp Dachau for a considerable period of time between the dates alleged. He is therefore presumed, in the absence of appropriate rebuttal evidence, to be guilty of participating in the common design to subject civilian nationals and unarmed surrendered prisoners of war to killings, cruelties and mistreatment. Hungary was a co-belligerent of Germany.

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

Petitions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

9. JOHANE WRLA

Nationality:	Czechoslovakia
Age:	36
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Corporal
Plea:	NG, First Charge; NG, Second Charge
Findings:	G, First Charge; G, Second Charge
Sentence:	21 months confinement from 1 May 1945

Evidence for Prosecution: Accused was an SS guard at Camp Dachau from 25 January 1943 to July 1944; July 1944 to April 1945 outcamp Seehausen (R 15; P-Ex 10).

Evidence for Defense: Accused did not take the stand and testify in his own defense. Defense witness Kulpsch testified to the effect accused behaved comparatively decent towards prisoners and once allowed the witness to secure potatoes for himself when he was hungry. He did not do anything bad to the prisoners. (R 24-25).

Sufficiency of Evidence: Accused was an SS guard at Camp Dachau and outcamp Seehausen for a considerable period of time between the dates alleged. He is therefore presumed, in the absence of appropriate rebuttal evidence, to be guilty of participating in the common design to subject civilian nationals and unarmed and surrendered prisoners of war to killings, cruelties and mistreatment.

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

Petitions: No Petitions for Review nor Petitions for Clemency were filed.



Recommendation: That the findings and sentence be approved.

10. MICHAEL WUENSCHEL

Nationality:	Roumanian
Age:	35
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Private
Plea:	NG, First Charge; NG, Second Charge
Findings:	G, First Charge; G, Second Charge
Sentence:	Two years confinement from 4 May 1945

Evidence for Prosecution: Accused was an SS guard at Camp Dachau from July 1943 to 24 April 1945 (R 16; P-Ex 11).

Evidence for Defense: The defense relied solely upon his extra-judicial sworn questionnaire (R 16; P-Ex 11).

Sufficiency of Evidence: Accused was an SS guard at Camp Dachau for a considerable period of time between the dates alleged. He is therefore presumed, in the absence of appropriate rebuttal evidence, to be guilty of participating in the common design to subject civilian nationals and unarmed and surrendered prisoners of war to killings, cruelties and mistreatment. Roumania was a co-belligerent of Germany.

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

Petitions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

IV. QUESTIONS OF LAW:

Jurisdiction: The Court was legally constituted and had jurisdiction of the persons of the accused and of the subject matter.

Parent Case: 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, Headquarters, United States Forces, European Theater, File AG 000.5 JAG-AGO, subject: "Trial of War Crimes Cases", 14 October 1948 and the Parent Case). With the exception of WEINERT, all of the convicted accused were shown to have participated in the mass atrocity and the Court was warranted by the evidence adduced either in the Parent 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.

Presumption of Law. In the trials of additional participants in a mass atrocity, the Court will presume, subject to being rebutted by appropriate evidence, that those shown by competent evidence to have participated in the mass atrocity knew of the criminal nature thereof (Paragraph 12, Letter, File AG 000.5 JAG-AGO, Supra). Presumption of law is a deduction which the law expressly directs to be made from particular facts. These are of two kinds, conclusive and disputable. The presumption applicable here is the disputable presumption which is an inference of law which holds good until it is invalidated by proof or a stronger presumption (Black's Law Dictionary, page 1409 - 10).

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 the sentences be approved except that the findings and sentence imposed in the case of Max WEINERT be disapproved.

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

S/ ELMER MOODY  
1st Lt.  
Post Trial Branch

Having examined the record of trial, I concur.

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