

17 July 1947

UNITED STATES)

v.)

Hermann ZISCH)

Case No. 000-50-2-42

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 3 January 1947 to 3 February 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

PARTICULARS: In that Hermann Zisch acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual aiding in 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, willfully, deliberately, and wrongfully encourage, aid, abet and participate in the subjection of civilian nationals of nations then at war with the then German Reich to cruelties and mistreatment, including killings, beatings, tortures, starvation, abuses and indignities, 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 German Reich in exercise of belligerent control.

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

PARTICULARS: In that Hermann Zisch acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual aiding in 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, willfully, deliberately and wrongfully encourage, aid, abet and 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, including killings, beatings, tortures, starvation, abuses and indignities, the exact names and numbers of such prisoners of war being unknown, but aggregating many hundreds.

III. SUMMARY OF EVIDENCE: The convicted accused was, by his own admission, a member of the SS at Camp Kaufering XI, an outcamp of Camp Dachau, for a considerable period of time between the dates alleged, and was shown to have participated in the Dachau Concentration Camp mass atrocity. Prosecution's Exhibit P-Ex 1 is a certified copy of the charge

case (U.S. v. Weiss, et al., 000-50-2, March 1946, hereinafter referred to as the "Parent Case", see Section V, post; R 10).

IV. EVIDENCE AND RECOMMENDATIONS:

HERMANN ZISCH

Nationality:	German
Age:	40
Civilian Status:	Machinist
Party Status:	None
Military Status:	Waffen SS, Sergeant
Plaos:	NG First Charge; NG Second Charge
Findings:	G First Charge; G Second Charge
Sentence:	Death by hanging

Evidence for Prosecution: Accused ZISCH was transferred from the police force into the Waffen SS in 1942. He served as a guard at Natzweiler Concentration Camp from March to October 1942. From November 1942 to September 1943 he was in basic training at Ravensbruck. From September 1943 to December 1944 he was in charge of supplies at Carlshagen. During December 1944 he was placed in charge of the supply room at Kaufering XI, an outcamp of Camp Dachau and remained there until 23 April 1945 (R 7; P-E: 2). Prosecution witness Schneider, a former Polish prisoner, testified that accused beat him on two occasions. Once at the gate when accused was searching prisoners he found a scarf on Schneider and hit him on the nose causing it to bleed (R 10, 11). The second time when the prosecution witness went to the clothing store the accused threw a shoe at him which struck him on the lower part of the left leg. The accused beat between 20 and 30 prisoners a day with his hands and by kicking them with his feet (R 12, 13). One Sunday from 7 o'clock in the morning until 3 o'clock in the afternoon he made a group of prisoners, half of whom were half dead, the others were all right, run up and down a pile of dirt, about 20 meters high, for approximately eight hours and then they had to do knee bends. Thirty to forty-five prisoners died every day from typhoid fever, weakness, nothing to eat, and from beatings. His testimony was corroborated by other witnesses (R 14, 15, 18, 67, 144, 157, 226, 227). He made two or

three prisoners stand between the barbed wire every day. At one time he made a Polish comrade of the witness stand between the barbed wire with a potato in his mouth for over six hours (R 18, 44). On the prisoner march from Kaufering to Buchberg at the end of April, he saw the accused shoot a Czechoslovakian prisoner who tried to get a drink of water from a stream (R 16, 24, 44). He took away the overcoats of the prisoners and as a result some died of cold (R 16). The prisoners lived in dugout trenches with lumber for a roof; one window at the end of the roof and a door at the other end. The huts were approximately ten meters long and three to four meters wide. Normally 50 prisoners slept in a hut (R 20). There was one toilet and one washroom for 3000 prisoners. The toilet had 40 bowls. The camp was once quarantined for three or four weeks because of typhoid. During this period 4 to 50 prisoners died from typhoid fever a day (R 20, 21). The prisoners arose at four o'clock in the morning and fell out for roll call. At seven o'clock the guard detail took them to work. They worked until four o'clock or until four-thirty at which time they assembled, were counted off and marched back to camp for supper. They received a half liter of soup made out of water with one loaf of bread for 12 or 13 men and sometimes the bread was mouldy. Another roll call was held at seven o'clock at night which lasted two or three hours (R 32).

Betty Rosenwald, a Hungarian prisoner, testified that on one occasion while she was cleaning the room of the accused he bit her left foot (R 51). She saw the accused kick a prisoner for taking some potatoes (R 51). She was with the prisoner march that left Kaufering XI at the end of April and saw ZISCH carry a wounded prisoner to a car and learned from other prisoners that he had shot him (R 52, 54, 55).

Prosecution witness Mallich Rosenwald, a former Polish prisoner, testified in effect that he saw the accused kick and beat prisoners at the morning and evening roll calls until they couldn't get up any more and a lot of these prisoners were so-called "Muselmenns", that is, men without any flesh, only skin and bones (R 59). The accused on one occasion brought three men into the kitchen and tied their hands behind their backs. They were then hoisted from the ground and remained hanging for 10 to 15 minutes (R 62, 63, 65, 86). Upon being released, the prisoners fainted (R 66). He saw ZISCH shoot a Czechoslovakian prisoner named

Adi in the stomach when he attempted to get to the water with three other prisoners. At the time Adi was shot he was kneeling with his hands in the air. This was when the prisoner march that left Camp Kaufering XI at the end of April, halted before Allach for a rest (R 71, 72). The SS guards at this time shot into the air (R 71, 72). ZISCH was either a brother-in-law or cousin of the camp commander (R 78). After the Czechoslovakian Adi was shot he pleaded with the accused not to shoot him and he used the word "murderer" (R 83).

Sonia Szajnborg, a former Lithuanian prisoner, called as a witness by the prosecution, testified to the effect that the accused was in charge of the clothing store and that frequently she saw him beat prisoners and two or three times she saw him kick or strike with his right hand prisoners who were so weak that they fell to the ground immediately after having been kicked by the accused (R 94, 95). She saw the accused hit a woman prisoner of Lithuanian nationality twice in the face for throwing her old shoes away (R 98). SS men took food from the prisoners. The accused and the First Sergeant could eat as much as they wanted and they needed a lot (R 101). She heard from Adi that ZISCH had shot him (R 103). She heard Adi murmur "this murderer" and he mentioned the name of ZISCH (R 122).

Monck Szajnborg, a Polish national and former prisoner, testified that when the accused found him with an unauthorized jacket he hit him twice in the face and made him stand by the barbed wire for two hours without moving. The weather was cold. On another occasion, the accused kicked him for not taking off his cap (R 128). He once closed the barracks under a pretense of fumigating them and the prisoners had to stand outside and undress. He saw that one prisoner was wearing two shirts and beat him unconscious. One Czechoslovakian prisoner, whom ZISCH made stand all night by the barbed wire with a potato in his mouth froze to death (R 129, 135). He heard that ZISCH hung up three prisoners in the kitchen (R 130).

Moses Schafar, a Lithuanian Jew and a former prisoner, testified to the effect that he had been twice beaten and once hung up by ZISCH. At the time he was hung up two other prisoners were also undergoing this punishment (R 139,

move his wrists. He was hospitalized for three days. Not a day passed without the accused beating a prisoner. He beat them with a stick and often kicked them with his feet (R 142). There were no healthy prisoners at Kaufering XI. The prisoners had to participate in the sport exercises on Sundays (R 144, 145). Those who could not do the exercises had to fall out and were transferred from the camp. When prisoners went to get clothing they were beaten by ZISCH (R 145). The witness knew of the incident when ZISCH shot a Czechoslovakian prisoner named Ada after the prisoner march which left Kaufering XI on 22 and 23 April 1945, had halted for a rest. Prisoners who were exhausted fell out of the marching column. He heard from other prisoners that Ada said, "That murderer ZISCH shot me." The witness saw dead prisoners lying on the ground (R 146, 148).

Harry Schoofer, a Lithuanian and former prisoner, testified for the prosecution to the effect that he was beaten by ZISCH with a stick and often saw him beat other prisoners with his bare hands, with a stick, with a branch from a tree and with his feet. He knew of one prisoner that died as a result of a beating by ZISCH (R 157, 158). He saw ZISCH shoot the Czechoslovakian Adi in the stomach for attempting to get a drink of water when the prisoner march halted for a rest (R 159).

Hirsch Baronow, a former Polish prisoner, testified for the prosecution, to the effect that ZISCH beat prisoners severely (R 165). He saw him beat severely one prisoner. This prisoner died later.

In the tailor shop special straps were made for ZISCH to hang up prisoners (R 166, 167).

Prisoners died as a result of being made to stand between the barbed wire (R 168).

He saw ZISCH shoot the Czechoslovakian prisoner Ada (Adi, Addi). A guard told him that a thousand or more prisoners who left on a prisoner transport at the beginning of April or the end of March, with ZISCH and the camp commander, were taken to be liquidated (R 170). At Camp Kaufering there were Russians, Poles, Lithuanian, Czechoslovakians, Frenchmen, Greeks, Russian prisoners of war and French prisoners of war (R 180, 181).

Dr. Moses Cogan, a Lithuanian and former prisoner, testified for the prosecution to the effect that ZISCH once beat him on the neck and buttocks with his hands and with his foot. He often saw other prisoners mistreated by the accused (R 183). He heard that some prisoners were beaten into unconsciousness. He saw prisoners standing by the barbed wire (R 184). He saw ZISCH take a blanket away from a prisoner in January with the temperature about 4° Fahrenheit when the night detail was lined up. This prisoner was later brought to the dispensary and in his opinion died from the cold, being inadequately clothed (R 186, 191). The prisoners in March and April 1945 were receiving from 400 to 800 calories per day although doing hard work while approximately four thousand calories per day are necessary to keep the average man nourished. He also testified that, even though undernourished, the prisoners' mental facilities were not affected to such an extent as to imagine they were beaten when in fact they were not beaten (R 187, 189).

Elias Dreispul, a former Polish prisoner, testified to the effect that the accused beat him and other prisoners at roll call square. ZISCH made him stand between the barbed wire at attention for six hours without a meal. It was cold and snowing (R 195).

Leigh Kutner, a former Polish prisoner, testified for the prosecution to the effect that the accused made him stand between the barbed wire for 24 hours (R 204). He saw many prisoners die on the prisoner march from Kaufering at the end of April (R 207).

Gerschon Cipin, a former Russian prisoner, testified for the prosecution to the effect that he was beaten and kicked by the accused for picking up a leaflet after an air raid (R 211, 212). On another occasion a detail of prisoners, including five women, went to the supply room to receive new overcoats. The prisoners were made to put everything from their pockets on the table. Some had a few marks. They were ordered to undress completely and while naked the prisoners were chased from the supply room. The accused then beat them with his fists. Three days later with one of the girls they reported to the Camp Commander and were beaten again and the girl was beaten and sent to the standing up bunker (R 212, 213).

A prisoner Matusowicz was beaten on the parade ground by ZISCH and died five days later (R 212-214).

Chaim Todres, a former Polish prisoner, testified for the prosecution that he was both hit and kicked by the accused (R 218).

Chil Nemlich, a former Polish prisoner, testified for the prosecution, to the effect that he was slapped in the face by the accused and being only skin and bones fell to the ground immediately and was carried away by his comrades. The accused beat prisoners during the day and made them stand between the barbed wire for twenty-four hours. He knew that prisoners died as a result of this punishment (R 223). The accused took shoes away from sick prisoners who were leaving on prisoner transports. On the prisoner march at the end of April 1945 he heard from comrades that ZISCH had shot the prisoner Adi (R 224, 225).

The accused was one of the most feared men in Camp and while only in charge of the clothing store, took care of all the other things which were not his business (R 228). Although many prisoners died daily, not many medical certificates were issued to release prisoners from work details (R 231).

Sally Raibstein, a former Polish prisoner, testified for the prosecution to the effect that the accused kicked her in the groin for wearing a neckerchief contrary to regulations and after she fell to the ground he kicked her with his feet. While on the prisoner march at the end of April 1945, he hit her with a heavy stick over her head and shoulders four or five times. He beat prisoners every day (R 237, 238).

The witness saw ZISCH shoot the prisoner Adi in the stomach (R 239). She heard Adi say that ZISCH had shot him (R 246).

Daniel Kirs, a former Lithuanian prisoner, testified for the prosecution to the effect that accused beat him with his fist for burning his overcoat and he was the terror of the camp. ZISCH, through his beatings, was responsible for the death of prisoners. He knew of two Polish prisoners who died several days after being beaten by the accused and in his opinion the beating caused their death (R 249, 250, 252).

Mr. Noah Malykont, a former Polish prisoner, testified that ZISCH hit him on the back with a stick. When the prisoner march was being assembled the accused threw him to the ground and kicked him three or four times. ZISCH also threw him to the ground and kicked out two of his teeth at Buckberg (R 258-261).

Chone Beverski, a former prisoner, testified for the prosecution to the effect that ZISCH beat and kicked him until he became unconscious. He saw the accused beat and kick other prisoners (R 264, 265).

Bernard Kohr, a former Polish prisoner, testified for the prosecution to the effect that he was beaten by ZISCH and woke up in the hospital (R 266, 267).

Judel Kuerzner, a former Polish prisoner, testified for the prosecution to the effect that ZISCH beat prisoners severely with his fists. He heard the prisoner Addi say, "This ZISCH is my murderer" (R 269, 270).

Israel Krost, a former prisoner, testified for the prosecution to the effect that the accused beat him and other prisoners severely with his feet and with his hands (R 274).

Alter Kasper, a former prisoner, testified for the prosecution to the effect that ZISCH knocked out two of his teeth and severely beat other prisoners with his fist, stick, rubber hose and feet. On the prisoner march at the evacuation of Kaufering, whenever a man was falling behind or leaving the column, he hit them with his fists, or kicked them with his feet. He saw ZISCH shoot Addi in the stomach. He heard Addi say, "ZISCH is my murderer" (R 277, 278).

Samuel Lehman, a German Jew and former prisoner, testified for the prosecution to the effect that he saw ZISCH beat and mistreat approximately ten prisoners of Lithuanian, Polish, Hungarian and Greek nationality. He beat them with his hands and with a stick. The prisoners were in very bad condition (R 287). The accused took a pleasure in beating people (R 287).

Martin Schreyer, a German national, a former member of the SS, and now being held as a war crime suspect, testified for the prosecution to the effect that

there were on the average 1300 prisoners at Kaufering although at times the number reached 2500. He saw the accused beat prisoners twice, and on one occasion a prisoner was hung by the wrists as a result of a report made by ZISCH (R 299, 304; P-Ex 3). Many persons complained that ZISCH would not give them clothing sufficient to protect them against the weather.

Dr. Karl Torgownik, a former Polish prisoner, testified for the prosecution to the effect that he knew the accused at Kaufering. Accused was in charge of the clothing store (R 377). He was once beaten by ZISCH and he frequently saw him beat other prisoners, who were in a terrible condition, and some died as a result. The accused took clothing, shoes and overcoats away from prisoners when they were leaving on "sick transports, so the prisoners left half naked" (R 315, 320). From the beginning until the end of January there was a typhoid epidemic in the camp (R 321).

Dr. Isack Sigfried, a Polish physician and former prisoner, testified to the effect that the accused beat prisoners at every opportunity and in every possible way. He beat with his fists, a stick, an oxtail and he kicked with his feet. Prisoners died from these beatings. Sick prisoners had to work. The prisoners were in the worst possible physical condition (R 331-334, 338).

Blanka Ventura, a former Hungarian prisoner, testified for the defense to the effect that she was on the prisoner march to Allach and saw two prisoners attempting to escape. One prisoner, Ada or Edi, was brought back covered with blood (R 359, 360). Defense witness, Ventura, testified that ZISCH beat prisoners every day (R 361). He had one prisoner hung up and put prisoners between the barbed wire (R 362).

For the Defense: Gold Fried, a former Lithuanian prisoner, testified for the defense to the effect that she knew the accused at Camp Kaufering XI and was with the prisoner march from Kaufering XI when it halted for a rest before proceeding to Allach. On this occasion two prisoners attempted to run away and she heard one Adam was shot by an SS guard named Shreyer, on the prisoner march that left Kaufering XI at the end of April, in the stomach. She saw ZISCH beat prisoners (R 345, 346, 348, 351).

Hermann Georg Winter, a former SS guard at Kaufering XI testified that he heard two shots from the direction of the village (R 369).

In a statement in lieu of an oath, by Hilary Grosman, a former prisoner, that was admitted in evidence (R 371; D-Ex 2) he stated that he heard after the liberation that Adi or Adolf had remained alive and through conversations with other prisoners he learned that he had been shot by an unknown SS guard while attempting to escape.

Wojcikowski Szyja stated he was on the prisoner march that left Kaufering XI at the end of April and saw two prisoners run away from the river and one prisoner was brought back wounded. It was rumored that the guards had done it (R 377; D-Ex 3).

The name of the Czechoslovakian prisoner who the witnesses testified was shot by ZIECH has been spelled Adi, Ada, Addi, Adam, Edi and Adolf in the record.

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

Petitions: No Petitions for Review were filed. Petitions for Clemency were filed by the Defense Counsel Robert E. L. Welch, 16 May 1947; by the accused's wife, Resine Zisch, 28 March 1947 and 18 April 1947; and by the accused, Hermann ZIECH, 10 March 1947 with two certificates and one statement relative to accused's employment by the Protective Police. One certificate signed by a former employer relative to his satisfactory conduct as an employee and one certificate with 19 signatures submitted by members of the accused's former glee club relative to his spotless character.

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.

Application of Parent Case: The Court was required to take cognizance of the decision rendered in the Parent 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 know 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 1946, and the Parent Case). The accused was 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 him that he not only participated to a substantial degree, but the nature and extent of his participation was such as to warrant the sentence imposed.

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.

/s/ Murray J. Androvette
MURRAY J. ANDROVETTE
Attorney
Post Trial Branch

Having examined the record of trial, I concur.

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