

DEPUTY JUDGE ADVOCATE'S OFFICE
7708 WAR CRIMES GROUP
EUROPEAN COMMAND
APO 207-1

6 August 1947

UNITED STATES)
))
 v.) Case No. 000-50-2-43
))
Heinrich PALME)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 21 - 26 December 1946, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

PARTICULARS: In that Heinrich PALME 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 Heinrich PALME 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: Accused participated in the Dachau Concentration Camp mass atrocity as an SS guard and detail leader. He participated in beating and mistreating prisoners and reported them for punishment. Prosecution's Exhibit P-Ex 1 is a certified copy of the charges, particulars, findings and sentences in the Parent Dachau Concentration Camp Case (U.S. v. WEISS et al., 000-50-2, March 1946, hereinafter referred to as the "Parent Case", R 5; see Section V, post).

IV. EVIDENCE AND RECOMMENDATIONS:

HEINRICH PALME

Nationality:	Czechoslovakian
Age:	43
Civilian Status:	Farmer and Forest worker
Party Status:	Unknown
Military Status:	SS Sergeant
Plea:	NG First Charge; NG Second Charge
Findings:	G First Charge; G Second Charge
Sentence:	12 years, commencing 4 May 1945

Evidence for Prosecution: Accused was an SS guard at Camp Dachau from 25 February 1941 to April 1945. He performed duties as a tower guard and escort guard with outdetails at the plantation Liebhof, gravel pit, lumber yards 1 and 2, boiler house, Praezifix, potato cellar Dachau, porcelain factory Dachau, garage construction, outer gardens, porcelain factory Allach and the clothing factory (R 6; P-Ex 2, p. 1). In the fall of 1943 he was guard leader at outdetail Wuelfert and in September or October 1944 he was promoted to detail leader remaining as such until 26 April 1945 (R 6; P-Ex 2, p. 2). Accused admitted beating prisoners with a stick and with his hands and that he reported them to the camp commander at Camp Dachau for punishment (R 6; P-Ex 2, pp. 3, 4). Accused admitted beating

prosecution's witness Urbanjak (R 7; P-Ex 3). Accused, while detail leader at outdetail Wuelfert, beat prisoners in the face with a stick or oxtails. These beatings took place during air raid alerts, roll call and in the bunker. Accused also beat prisoners with his fists and kicked them. He was often seen with a stick in his possession (R 9, 12, 13, 32, 34, 38, 39, 46, 50). One of the Polish prisoners accused reported for punishment to the camp commander at Camp Dachau, was later hanged (R 11, 27, 28, 47). Prosecution's witness Urbanjak testified to the effect he was beaten by the accused at least seven times (R 10). Prosecution's witness Trybuszewski, testified to the effect he was beaten by the accused with an oxtail (R 47). The prisoners beaten by accused were of various nationalities including Russian, French, Polish, Yugoslavian and Italian. He treated the German prisoners better than the others (R 50).

Evidence for Defense: Accused as detail leader at outdetail Wuelfert was required to prevent the stealing and eating of the meat products produced at the factory. When prisoners were caught stealing or eating food the accused would punish them by making them do extra work. This procedure was followed if they admitted the theft and were repentant. The only prisoners reported to the camp commander at Camp Dachau for punishment were those who repeatedly stole the food products (R 6; P-Ex 2, pp. 2, 4). Accused as detail leader was very correct, just and he was fair in the distribution of the food ration. He did not convert any of the rations to his own use (R 59, 70, 75). He was not seen around the factory with a stick or an oxtail in his hand (R 60) nor did he mistreat prisoners (R 61). The food from Camp Dachau was not sufficient for the prisoners for the type of work they were doing. To overcome this the officials of the factory supplemented the ration with meat, sausage, fat, bread, potatoes and vegetables (R 63). The prisoners working at outdetail Wuelfert received a small remuneration

for their work (R 65). Prisoners, even though they had good food, stole meat from the factory (R 69). Outdetail Wuefert was considered to be the best detail in Camp Dachau (R 70) and was liked by the prisoners because of the good and sufficient food (R 71). The accused only beat prisoners for misconduct but did not use a stick or an oxtail (R 70, 79).

Sufficiency of Evidence: The accused participated in the Dachau Concentration Camp mass atrocity as an SS guard and detail leader at Camp Dachau and work details thereof between the dates alleged. In addition thereto substantial evidence of his personal brutality against the prisoners is clearly proven.

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.

V. QUESTIONS OF LAW:

Jurisdiction: The accused is a Czechoslovakian national which country is a member of the United Nations. War criminals, brigands, and pirates are the common enemies of all mankind and all nations have an equal interest in their apprehension and punishment for their violation of international law. Concerning this question, it is stated in "Wheaton's International Law", Volume I, Sixth Edition, at page 269, that every independent state has the judicial power to punish "piracy and other offenses against the common law of nations, by whomsoever and wheresoever committed." Nationals of other United Nations were sentenced, which sentences have been approved and carried into execution in the Mauthausen Concentration Camp case (United States v. Altfuldinger et al., February 1947), and in the Belsen Concentration Camp case,

British Army of the Rhine, December 1945. Apparently, all concerned with the reviews and approvals in those cases considered the universality of jurisdiction over war crimes to be so well recognized that discussion was not necessary. Military Government Courts have jurisdiction over the nationals of any country who are in the United States Zone of Occupation, except as to certain classes of American and other nationals, e.g., military personnel, which are not pertinent to the jurisdictional question here involved. Concerning jurisdiction over war crimes, no limitation is imposed. (See Sections 5-300.2 and 5-300.3, Title 5, "Legal and Penal Administration", of "Military Government Regulations" published by Headquarters, US Forces, European Theater, 30 November 1945). Concerning the general question of universality of jurisdiction over war crimes see "Universality of Jurisdiction Over War Crimes", by Cowles, California Law Review, Volume XXXIII, June 1945, No. 2. pp. 177-218.

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 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 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 proceedings

in concluding 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 the sentence be approved.

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

/s/ Elmer Moody
ELMER MOODY
1st Lt. Inf.
Post Trial Branch

Having examined the record of trial, I concur.

/s/ C. E. Straight
C. E. STRAIGHT
Lieutenant Colonel, JAGD (5 Oct 47)
Deputy Judge Advocate
for War Crimes