

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

6 August 1947

UNITED STATES )

v. )

Case No. 000-50-2-50

Robert Anton BOOS, et al. )

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 14-15 January 1947, before an Intermediate Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Robert Anton BOOS, Albert BUECHL, Michael BUSCH, Walter Josef DYSL, Kurt Erich ENGELMANN, Ludwig ERNST, Albert Emil FINKE and Paul Jakob FRITZ 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.

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

Particulars: In that Robert Anton BOOS, Albert BUECHL, Michael BUSCH, Walter Josef DYSL, Kurt Erich ENGELMANN, Ludwig ERNST, Albert Emil FINKE and Paul Jakob FRITZ 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: The convicted accused were, by their own admissions, members of the SS at Camp Dachau and/or its outcamps

for considerable periods of time between the dates alleged, and were shown to have 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 Concentration Camp case (United States v. Weiss, et al., 000-50-2, March 1946, DJAWG, hereinafter referred to as the "Parent Case"; see Section V, post; R 8).

IV. EVIDENCE AND RECOMMENDATIONS:

1. ROBERT ANTON BOOS

Nationality:	German
Age:	48
Civilian Status:	Unknown
Party Status:	NSDAP since May 1933
Military Status:	M/Sgt, Waffen SS
Flea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	2½ years, commencing 5 May 1945

The accused stated in his extrajudicial sworn testimony that he served as a guard at Camp Dachau from 1 March 1940 until 30 July 1941. From 1 August 1941 until 2 May 1945 he served as the sergeant major of the 3rd Guard Company at Camp Dachau (R 8, 9; P-Ex 2). The accused testified that he was first sergeant of a guard company at Camp Dachau and when his company was on duty, he gave them orders to load their rifles and he then marched them to the gate of the camp. His company guarded inmates during the day (R 58-60). He further testified that his duties as sergeant major of his guard company also consisted of taking care of the company clothing, billeting, furloughs for the guards and all inside work in the orderly room (R 55).

Evidence for Defense: One witness, a former Waffen SS sergeant and a guard in the accused's company, testified that in April 1945 the accused attempted to assist him in liberating inmates at Camp

Dachau and stopping inmate transports by supplying ammunition and support but they both failed (R 47-49, 52, 52).

The accused, in his testimony denied ever going into the concentration camp (inmate enclosure) of Camp Dachau during the entire time that he served there. He denied ever beating or in any way mistreating any inmates. He testified that during the five years that he was stationed at Camp Dachau he had nothing to do with inmates. All he saw was that inmates generally speaking, did not look bad and received second breakfasts. He knows of no instances where inmates were mistreated by any of the guards (R 55, 56, 61).

The accused did not participate in inmate marches or inmate transports during the period alleged in the particulars (P-Ex 2).

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 accused, 3 February 1947. No petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

2. ALBERT BUECHL (The surname actually spelled BÜCHL, P-Ex 3):

Nationality:	German
Age:	48
Civilian Status:	Unknown
Party Status:	Nazi party since 1935
Military Status:	Sergeant, Waffen SS
Plea:	NC Charge I, NC Charge II
Findings:	G Charge I; G Charge II
Sentence:	21 months, commencing 14 September 1945

Evidence for Prosecution: The accused stated in his extrajudicial sworn testimony that he was a detail leader and guard at labor camp Rothschrwige O.T., from 3 June 1944 to 3 September 1944 and at labor camp Karlsfeld, O.T., from 3 September 1944 to 25 April 1945. (Both of these labor camps were outcamps of Camp Dachau). He participated as a guard in the inmate evacuation march from outcamp

Allach about 26 or 27 April 1945, consisting of approximately 200 to 300 prisoners and 25 guards (R 9, 10; P-Ex 3-A).

Evidence for Defense: The accused testified that he never at any time beat or in any manner mistreated any inmates. Inmates told him that their camp was the best in which they had been confined. On his work detail inmates received additional food and a monetary premium of four Reichmarks at times (R 65-67).

Sufficiency of Evidence: 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. MICHAEL BUSCH

Nationality:	German
Age:	42
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Private, Wehrmacht
Plea:	WG Charge I; WG Charge II
Findings:	G Charge I; G Charge II
Sentence:	6 months, commencing 2 October 1946

Evidence for Prosecution: The accused stated in his extrajudicial sworn testimony that he was a civilian worker in post administration at Camp Dachau from 16 March 1939 to July 1943 and a guard from July 1943 to 20 April 1945 (R 10, 11; P-Ex 4). Zeta Busch, wife of accused, testified that the accused frequently told her he had beaten inmates at Camp Dachau (R 16, 18-20).

Schulz testified that the accused reported inmates who were later thrown into the bunker and henceforth never heard of again (R 24, 27). The accused, in April 1944, threw two inmates who were working with him into the manure pit causing them to go around in filthy clothes for one week due to lack of water and the fact that

their clothes were changed only once a week (R 29, 30).

Evidence for Defense: The accused participated in no inmate exercises or inmate transports (i-Ex 4-A).

Hartmann testified that he worked with the accused at Camp Dachau and during all the time he worked with him he never saw him mistreat any inmates. Although Hartmann was with the accused on all occasions he never saw him throw two inmates into the manure pit. He never heard anything against the accused and no one complained about him or said anything (R 70, 72).

Schwab testified that the accused was very good to and friendly toward inmates. The accused never beat or mistreated inmates. He brought food to inmates from the kitchen (R 77).

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 accused, 11 February 1947. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

4. WALTER JOSEF DYSL

This accused was acquitted (R 89).

5. KURT ERICH ENGELMANN

This accused was not served nor tried.

6. LUDWIG ELNST

This accused was served but not tried (R 1, 2).

7. ALBERT EMIL FINKE

This accused was served but not tried (R 1, 2).

8. PAUL JAKOB FLITZ

This accused was not served nor tried.

V. QUESTIONS OF LAW:

Jurisdiction: It is clear that the Court had jurisdiction of the persons 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 knew of the criminal nature thereof (Letter, Headquarters, United States Forces, European Theater, file AG 000.5 JAG-460, subject: "Trial of War Crimes Cases", 14 October 1946, and the Parent Case). 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 proceedings, in concluding as to them that they not only participated to a substantial degree but that the nature and extent of their participation was such as to warrant the sentences 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 sentences be approved.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

GEORGE M. LENTZ  
Captain, JAGD  
Post Trial Branch

Having examined the record of trial, I concur,  
this \_\_\_\_\_ day of \_\_\_\_\_ 1947.

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