

DEPUTY JUDGE ADVOCATE'S OFFICE
7708 WAR CRIMES GROUP
EUROPEAN COMMAND
APO L07

15 September 1947

UNITED STATES

v.

Hermann Josef CALENBERG, et al.

Case No. 000-50-2-61

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 6-7 March 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Herman Josef CALENBERG and Richard BOSCHKE acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual(s) 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 Josef CALENBERG and Richard BOSCHKE acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual(s) 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: During the period alleged in the particulars, the two accused served for different lengths of time as SS guards at outcamps of the Dachau Concentration Camp. Individual atrocities were shown to have been committed by each of the accused, and they both took part in the final evacuation march from Dachau to Wolfretshausen in April 1945. Prosecution's 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, hereinafter referred to as the "Parent Case"; R 7).

IV. EVIDENCE AND RECOMMENDATIONS:

1. Herman Josef COLENERG (The Christian name actually spelled Hermann, R 15; P-Ex 2)

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| Nationality: | German |
| Age: | 47 |
| Civilian Status: | Truck Driver |
| Party Status: | Member DAF (German Labor Front) |
| Military Status: | SS First Sergeant |
| Place: | NG Charge I; NG Charge II |
| Findings: | G Charge I; NG Charge II |
| Sentence: | 3 years, commencing 8 May 1945 |

Evidence for Prosecution: Witness Dombiowski, a former inmate at outcamp Utting of the Dachau Concentration Camp, testified that the accused was first sergeant in charge of the guards at outcamp Utting. The inmates, who were all Polish and Russian civilians, were required to live in earth huts dug into the ground, the huts being without floors and so small that all the inmates could not lie down at the same time (R 8, 9, 17). Dombiowski further testified that the accused beat inmates with a club, causing them to be hospitalized (R 12). Witness Goldstein testified that the accused beat inmates, many of whom were in a weakened condition and suffering from fever, after every roll call (R 23, 24, 30). Josef Milner, a former inmate, in his

inmate trading his gold teeth for bread, and how the accused then required an inventory of all inmates' teeth to be made so that such trading could be stopped (R 57; P-Ex 8). Selzer, in his sworn extrajudicial testimony, described how the accused examined inmates' teeth with his flashlight in order to determine the gold teeth to be torn out after their death (R 52; P-Ex 6). Witness Milner, a former inmate at outcamp Utting testified that the accused was the leader of a group of guards on the inmate evacuation march from Dachau to Wolfretshausen, and that after a night halt in the woods he saw the accused running around with a pistol counting 15 bodies of inmates from his group who had been shot (R 119, 120).

The accused stated in his extrajudicial sworn testimony that in June 1944 he was transferred to outcamp Kaufering III where he served as a guard, guard leader and detail leader. There were about 900 to 1000 inmates at this outcamp. In October 1944, he was transferred to outcamp Utting where he served as acting first sergeant of the guard detachment. There were about 350 to 400 inmates at this outcamp. He once heard that an inmate was kicked in his abdomen at outcamp Utting. The accused further stated that he was on a two day inmate evacuation march from outcamp Utting to Dachau beginning 25 April 1945 with about 350 inmates and a five day inmate evacuation march from Dachau to Koenigsdorf (R 45; P-Ex 24).

Evidence for Defense: Witness Bier, a former roll call leader under the accused at outcamp Utting, testified that the only part the accused took in the inventory of inmates' gold teeth was to hold the light for the camp dentist (R 65-67). Witness Trappe, a former guard at outcamp Kaufering III, testified that the accused was called the "Prisoner's Friend". Six written statements describing the good character of the accused were introduced into evidence (R 74-77; D-Exs 1-6). The accused testified that he never beat inmates (R 81) and claimed that because of his aid to inmates he was called "the friend of the Jews" (R 83). Accused HOSCHKE testified that he never saw the accused beat inmates (R 111). Witness Milner testified that no prisoners of war were confined in outcamp Utting (R 117). He further testified that he did not actually see the accused shoot anyone on the

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

Recommendation: That the findings and sentence be approved.

2. Richard HOSCHKE

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| Nationality: | German |
| Age: | 55 |
| Civilian Status: | Unknown |
| Party Status: | NSDAP member |
| Military Status: | SS Master Sergeant |
| Place: | NG Charge I; NG Charge II |
| Findings: | G Charge I; NG Charge II |
| Sentence: | 3 years, commencing 6 May 1945 |

Evidence for Prosecution: Witness Dembiewski, a former inmate at outcamp Utting of the Dachau Concentration Camp, testified that the accused was roll call leader at outcamp Utting. The inmates, who were all Polish and Russian civilians, were required to live in earth huts dug into the ground, the huts being without floors and so small that all the inmates could not lie down at the same time (R 8, 9, 17). Dembiewski further testified that the accused beat him, and that he also beat other prisoners with a stick until blood was drawn (R 9-11, 17). Witness Kliberski testified that he saw the accused beat male inmates frequently, and that once he saw him brutally beat a female inmate. Kliberski further testified that the accused once beat him about the face, and that he (Kliberski) had given medical treatment to inmates who had been badly injured by the accused (R 35-38). Josef Wilner, a former inmate, in his extrajudicial sworn testimony, described how the accused forced inmates to perform heavy work while standing in cold water up to their stomachs (R 59; P-Ex 9). Daniel Kirsch, in his extrajudicial sworn testimony, related how the accused ordered inmates beat because they tried to warm themselves by a fire, and because they had found some potatoes near a farm (R 62; P-Ex 5). The accused, in his testimony, admitted beating the former inmate Dembiewski and slapping other inmates

He testified that he was transferred to outcamp Kaufering II 21 September 1944 and on about 5 January 1945 he was transferred to outcamp Utting (R 100) where he served as roll call leader (R 107).

The accused, in his extrajudicial sworn testimony, stated that he was an outside guard and an inmate escort detail guard at outcamp Kaufering II from 21 September 1944 until 3 January 1945 when he was transferred to outcamp Utting as roll call leader. At the latter outcamp he beat inmates with his open hand. From 12 February 1945 until about 15 March 1945 he was at outcamp Udet training recruits. From 15 March 1945 until about 2 April 1945 he was SS kitchen chief at "camp 1" and then he was transferred to outcamp Utting where he stayed until 22 April 1945. He further stated that he then went on a two day inmate evacuation march with about 453 inmates to Dachau. Here he was assigned to an inmate evacuation march, however, he left the march after it had gone eight kilometers (R 47; P-Ex 4A).

Evidence for Defense: The accused testified that he did not report inmates for violations of camp rules (R 103); that he gave sick inmates food and schnappa; and that he allowed inmates to visit relatives (R 103, 104). Witness Milner, a former inmate at outcamp Utting, testified that no prisoners of war were confined in outcamp Utting (R 117).

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.

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 J.G-160, subject: "Trial of War Crimes Cases", 14 October 1946, and the Parent Case). Both of the 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 were 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. LESNYZ
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