

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

12 June 1947

UNITED STATES)
)
 v.)
)
 Willi FISCHER, et al.)

Case No. 000-50-2-62

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA:

Tried jointly at Dachau, Germany
 Date: 26 February - 6 March 1947
 General Military Government Court

<u>ACCUSED</u>	<u>DATA</u>	<u>SENTENCE</u>
FISCHER, Willi	Age 33 German national Inmate, Camp Rank: None	Death by hanging
JENTNER, Kurt Walter	Age 27 German national SS guard Rank: Corporal	2 years confinement from 1 May 1945
JOREWITZ, Josef	Age 52 German national SS guard Rank: Staff Sergeant	Life imprisonment
LIPPMANN, Albert	Age 56 German national SS guard Rank: Pfc.	Acquittal
SCHREYER, Martin Philipp	Age 44 German national SS guard Rank: Sergeant	Death by hanging

FIRST CHARGE: Violation of the
 Laws and Usages of War

	<u>Pleas</u>	<u>Findings</u>
PARTICULARS: In that Willi FISCHER	NG	G
FISCHER, Kurt Walter JENTNER,	NG	G
Josef JOREWITZ, Albert	NG	G
LIPPMANN, Martin Philipp	NG	NG
SCHREYER, acting in pursuance	NG	G
of a common design to commit		
the acts hereinafter alleged,		

and as individuals 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: Violations of the Laws and Usages of War

PARTICULARS: In that Willi FISCHER; Kurt Walter JENTNER, Josef JOREWITZ, Albert LIPPMANN, Martin Philipp SCHREYER, 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 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.

FISCHER
JENTNER
JOREWITZ
LIPPMANN
SCHREYER

Pleas

NG
NG
NG
NG
NG

Findings

C
G
G
NG
G

2. RECOMMENDATIONS: That the findings and sentences be approved.

3. EVIDENCE:

For the Prosecution. The prosecution's case was based on the sworn, oral testimony of 36 witnesses, including seven rebuttal witnesses, and the extrajudicial sworn testimony and extrajudicial sworn questionnaires as hereinafter indicated. Exhibit P-1 is a certified copy of the charges, particulars, findings and sentences in the parent Dachau Concentration Camp Case (U.S. vs Weiss et al., 000-50-2, March 1946, hereinafter referred to as the "Parent Case"; N 7). Exhibits P-2-6 are extrajudicial sworn questionnaires of the accused (R 7 - 10). Exhibits P-7, 6 and 11 are extrajudicial sworn testimony of three of the accused (R 325, 326, 330). Exhibits P-9 and 10 are extrajudicial sworn statements of a prosecution witness (R 327 - 329).

For the Defense. The defense's case was based on the sworn trial testimony of three witnesses in behalf of the accused SCHREYER (R 340 - 376); a deposition of one witness (D-Ex 2, R 378); the extrajudicial sworn testimony and extrajudicial sworn questionnaires of the accused introduced by the prosecution (P-Ex 2 - 8, 11, R 7 - 10, 325, 326, 330).

Accused FISCHER, a criminal prisoner, was transferred to Buchenwald Concentration Camp in 1943 and after seven months therein was transferred to the Lublin Concentration Camp, where he served as capo for about one year. In July 1944, he was transferred to Dachau Concentration Camp, and after three weeks he was made camp capo at outcamp Kaufering II and, except for a brief period as camp capo at outcamp Kaufering XI in the winter of 1944 - 1945, remained in that position until the evacuation in April 1945. In April 1945 he was given an SS uniform and rifle. He admitted besting prisoners at Kaufering II (P-Ex 2, 7, E 8, 325). Prosecution witness Jacob Lewin testified to the effect that he was beaten with a stick by FISCHER at Kaufering II; that he saw FISCHER beat eight to eleven prisoners and that seven of these prisoners, whom he named, died, and that he later saw some of their bodies (R 22 - 24). Witness Scheliten testified that

he saw FISCHER beat prisoners with a rubber hose until they fell to the ground (R 64). Witness Drider testified that FISCHER beat two persons, one a Russian, to death at Kaufering IX (M 122, 123). Witness Lewman testified that he saw FISCHER beat prisoners and that he saw three or four cartloads of dead bodies brought from the Mell work detail when FISCHER was capo; that FISCHER was wearing an SS uniform and carrying a machine pistol when taking 122 Russian prisoners on a prisoner march in April 1945; and that witness later heard that the Russians had been killed (R 132, 133). Witness Bregman gave testimony, corroborated by witness Jed, that FISCHER helped accused SCHREYER beat a Greek prisoner to death at Kaufering II (R 145, 146, 228, 229). Witnesses Klynarski and Pawlovski testified to the general mistreatment of prisoners by FISCHER and to his beating to death of one prisoner at Kaufering XI (R 163 - 165, 194 - 198). Witness Idel Fried testified that he saw continual beatings of prisoners by FISCHER and that he later saw the corpses of some of these prisoners (R 203). Witnesses Salomon Fried and Techertok testified to beatings of prisoners by FISCHER (R 209, 214). Witness Ickowicz testified that he saw FISCHER beat 30 to 40 prisoners to death at Kaufering XI (R 268). Witness Ludgin testified that he saw FISCHER beat Ludgin's father-in-law over the head with a club so badly that he died within two days. (R 261, 262). Witness Arapapzki testified that FISCHER beat an American sailor about the head (R 274). Witness Cukerman testified that FISCHER was a master of all the instruments of beating, including board, stick, stone and hose (R 305).

In defense, FISCHER relied solely upon his extrajudicial sworn questionnaire and his extrajudicial sworn testimony in which he stated that he knew nothing of what happened to the 112 Russian prisoners which he started with on a prisoner march in April 1945. He denied that he beat prisoners so badly that they died from the beatings (P-EX 2, 7, R 8, 325).

Legal Sufficiency of Evidence. The evidence is sufficient to support the findings and sentence of the Court.

Accused FISCHER was shown, by the testimony of many witnesses, not only to have participated in the subjection to cruelties and killings of many prisoners who were nationals of countries then at war with the then German Reich, but to have, as an individual and without any regard for the generally accepted rules of humanity, committed such acts of cruelty and murder as are beyond comprehension. Originally a criminal prisoner himself, he demonstrated his ability to commit acts of cruelty and murder which were not surpassed by members of the SS under whom he served, and by the end of the war he was apparently accepted as an SS member and issued a uniform and weapon.

Accused JENTNER was transferred to Camp Lachau 29 August 1942 and to Kaufering 11 8 September 1944. He transferred from the Wehrmacht to the Waffen SS on 1 September 1944. He took part in two prisoner transports in 1944 and 1945, and in a prisoner march from Kaufering to Wolfratshausen in April 1945. He beat prisoners with his hands and rifle butt, although this was against orders (P-Ex 5, 8, R 10, 326). Prosecution witness Mylnarski testified that JENTNER pushed weak prisoners with a rifle butt (R 171).

In defense, JENTNER relied solely upon his extrajudicial sworn questionnaire and his extrajudicial sworn testimony. JENTNER admitted slapping and hitting prisoners but denied that they were acts of any severity (P-Ex 5, 8, R 10, 326). Witness Mylnarski testified that JENTNER did not beat prisoners while they were at work but that accused would push and drive them along with his rifle butt and that witness never heard of any mistreatment of prisoners by JENTNER (R 166).

Legal Sufficiency of Evidence. The evidence is sufficient to support the findings and sentence of the Court.

Accused JENTNER was not shown to have committed any individual severe acts of cruelty or mistreatment other than beating prisoners with his hands and rifle butt and pushing and shoving prisoners with his rifle butt. However, the findings and sentence of the Court in his case were fully

justified since he was an SS guard within the Dachau Concentration Camp organization for a period of nearly three years.

Accused JOREWITZ arrived at Kaufering VII as a guard on a prisoner transport 28 August 1944 and was transferred to Kaufering II on 17 November 1944, where he served as block leader. He transferred from the Wehrmacht to the Waffen SS on 1 October 1944. He took part as guard on a prisoner transport in August 1944 and as a guard on a prisoner march from Kaufering XI to Duchberg in April 1945. He beat prisoners with a stick, although such was forbidden (P-Ex 3, 11, R 8, 334). Prosecution witness Schalitan gave sworn testimony that he saw JOREWITZ beat prisoners at Kaufering XI and that three of these prisoners were dead when brought into the dispensary (R 66,67). Witness Kleiner named one prisoner who died within a few hours after being beaten over the head by JOREWITZ (R 101, 102). Witness Rosenberg named another prisoner from Kaufering XI who died as the result of a beating by JOREWITZ (R 114). Witness Lesman testified that at Kaufering XI and that three of these prisoners were dead when brought into the dispensary (R 66, 67). Witness Kleiner named one prisoner who died within a few hours after being beaten over the head by JOREWITZ (R 101, 102). Witness Rosenberg named another prisoner from Kaufering XI who died as the result of a beating by JOREWITZ (R 114). Witness Lesman testified that at Kaufering XI he saw JOREWITZ beat prisoners and that two or three days later he saw the dead bodies of the same prisoners (R 133, 134). Witness Bregman testified that at Kaufering XI he saw JOREWITZ beat a Polish prisoner, whom he named, so badly that the prisoner died during the following night (R 151). Witnesses Mylnarski and Igdaleki testified to beatings of prisoners by JOREWITZ at Kaufering XI (R 169). Witnesses Idel Fried and Saloman Fried testified that they and other prisoners had been beaten by JOREWITZ (R 203, 208, 209, 243). Witness Iekowicz testified that he saw JOREWITZ beat a prisoner to death with an axe handle for attempting to roast potatoes between the barracks at Kaufering XI (R 268-272). Witness Dr. Siegfried testified that JOREWITZ was one of the few people who constituted an integral part of the design which resulted in deaths of so many prisoners who died on account of bad living conditions, hard work, starvation and mis-

In defense, JOREWITZ relied solely upon his extrajudicial sworn questionnaire and his extrajudicial sworn testimony. Although admitting beatings of prisoners, JOREWITZ testified he only did what was necessary to keep prisoners from getting out of control; that he did not beat prisoners about the face; and that no prisoners were beaten or killed on the prisoner march in which he took part (P-Ex 3, 11, R 8,334).

Legal Sufficiency of Evidence. The evidence is sufficient to support the findings and sentence of the Court.

Accused JOREWITZ was shown to have individually committed many acts of cruelty and murder. In addition, it was abundantly shown that he was one of the moving forces in the common design to commit the acts alleged in the particulars under each of the charges.

Accused SCHREYER joined the Weffan SS 20 May 1941 and transferred to Camp Dachau 20 January 1942 for guard duty. On 2 December 1943 he became a guard at outdetail Friedrichshafen, and on 29 July 1944 became roll call leader at Kaufering (Landsberg) XI. He served as roll call leader on a prisoner march from Kaufering to Wolfratshausen in April 1945 (P-Ex 4, R9).

Accused Fischer gave extrajudicial sworn testimony that accused SCHREYER beat, or ordered beaten, many prisoners at Kaufering II, that a rubber hose was used; and that prisoners fell to the ground from the beatings (P-Ex 7, R325).

Prosecution witness Jacob Lewin testified that he saw accused SCHREYER beat prisoners at Kaufering II and that five or six prisoners died as a result of such beatings; that SCHREYER made prisoners stand barefooted in the cold for 24 or more hours; that SCHREYER ordered a Russian prisoner hanged by the wrists at Kaufering XI; and that SCHREYER reported five prisoners of Kaufering II for making foot rags of blankets, and that these prisoners were hanged at Kaufering I on SCHREYER's orders (R 16 - 37; Vol. I, p 63, Vol. VI, p. 656, Parent Case). Witness Dr. Klibanski testified to the effect that SCHREYER was acting commander at Kaufering II; that SCHREYER selected prisoners who were to be exterminated and had them sent on invalid transports; that he later saw the corpses of many prisoners who

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SCHREYER used some of the rations of the prisoners to manufacture liquor for himself (R 214 - 217). Witness Jed testified that he and other prisoners were beaten many times by SCHREYER; that he saw a Greek prisoner beaten and kicked into the mud by SCHREYER until he died (R 224 - 229). Witness Karapatkin testified that he saw SCHREYER beat 10 or 15 prisoners, who died from such beatings (R 269, 290). Witness Cuckerman testified that shortly after SCHREYER became acting commander of Kaufering II a liquidation of the camp began and that prisoners died in great numbers from poisoning of food, tortures, overwork, beatings and lack of clothing in cold weather (R 308, 309). Defense witness Dr. Fay, in extrajudicial sworn testimony, testified that SCHREYER, in committing atrocities against prisoners, knew right from wrong but that SCHREYER, along with the rest of the 85, did not consider mistreatment and killing of Jews wrongful (D-Ex 2, ¶ 378). Prosecution witness Dr. Siegfried testified that he saw SCHREYER beat one prisoner at Kaufering II so badly that the prisoner died, and that SCHREYER was one of the most important persons in the design to mistreat prisoners, resulting in many deaths caused by lack of food, clothing, shelter and sanitary conditions, aggravated by beatings (R 244 - 253).

In defense, SCHREYER relied solely upon his extrajudicial sworn questionnaire and the testimony of three witnesses in his behalf (P-Ex 4, R 9, 349 - 378). Defense witness Rottkepp testified that he knew SCHREYER at Camp Dachau from January 1941 until some time in 1943, and that SCHREYER never mistreated any prisoners (R 349 - 351). Witness Weber testified that she, at SCHREYER's request, gave food to prisoners when SCHREYER brought to the restaurant where she worked, and that at SCHREYER's request she took clothing and toilet articles to women prisoners at Kaufering XI (R 352 - 356). Witness Kutane testified that up until 1943 he had known SCHREYER as a guard at Camp Dachau; that SCHREYER had never mistreated any prisoners; and that the prosecution witnesses were attempting to get SCHREYER hanged (R 357 - 376). Witness Dr. Fay gave extrajudicial sworn testimony to the effect that SCHREYER had tried to improve the conditions of the camp, and that SCHREYER was once arrested for taking prisoners into a restaurant (D-Ex 2, R 376).

Legal Sufficiency of Evidence. The evidence is sufficient to support the findings and sentence of the Court.

Accused SCHREYER was not only shown to have committed many acts of cruelty and murder on his own, but was also shown to have been, by reason of his position as roll call leader and acting camp commander, one of the main moving forces in the mass atrocities committed at outcamps Kaufering II and XI. The testimony of many witnesses for the prosecution and one witness for the defense shows that SCHREYER did not merely ignore the cruelties and mistreatments which went on about him, but that he took a strongly aggressive part in instituting such inhuman treatment as brought on the deaths of hundreds, and possibly thousands, of prisoners who came under his control.

The Court, after weighing the evidence, acquitted accused LIPPMANN.

4. JURISDICTION: The Court was legally constituted and had jurisdiction of the persons of the accused and of the offenses.

5. COMMENTS: Examination of the entire record fails to disclose any error or omission which resulted in injustice to any of the accused.

All of the accused except FISCHER 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. Accused FISCHER joined, or at least was considered a member of, the SS in April 1945 when he was issued a uniform and rifle.

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 JG 000.5 JAG-AGO, 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 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.

6. CLEMENCY: There are no Petitions for Review. Consideration has been given to Petition for Clemency dated 27 March 1947, signed by Matharina Schreyer, wife of accused SCHREYER. No clemency is recommended.

7. CONCLUSIONS:

- a. It is recommended that the findings and the sentences be approved.
- b. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

GEORGE A. LEWIS
Captain, JAGC
Post Trial Branch

Having examined the record of trial, I concur.

G.E. SMITH
Colonel, JAGC
Deputy Judge Advocate
for War Crimes

HEADQUARTERS
EUROPEAN COMBAND
OFFICE OF THE JUDGE ADVOCATE

UNITED STATES)

vs.)

Willi FISCHER, et al.)

RECOMMENDATION OF THE
JUDGE ADVOCATE

No. 000-50-2-62

I have examined the record of trial and I concur in the views expressed by the Deputy Judge Advocate for War Crimes in his Review and Recommendations to the effect that the findings and the sentences as to accused FISCHER, Kurt Walter JEWINER, Josef JUREWITZ and Martin Philipp SCHREYER should be approved.

Date

J. L. HARBAUGH, JR.
Colonel, JAGD
Judge Advocate

I concur.

Deputy Chief of Staff

I concur.

Chief of Staff