

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

19 September 1947

UNITED STATES)

v.)

Case No. OGO-50-2-66

Georg BEEB, et al.)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 21-26 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 Georg BEEB, Josef HINTERMAYER, Josef GOTSCH, Otto Heinrich HOEHLER, Magnus KUSTERMANN, Bruno LENZKOWSKI, Karl Christian RAUSCH, Hermann ROSTEK, Friedrich SCHLOSSBERGER, 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 Georg BEEB, Josef HINTERMAYER, Josef GOTSCH, Otto Heinrich HOEHLER, Magnus KUSTERMANN, Bruno LENZKOWSKI, Karl Christian RAUSCH, Hermann ROSTEK, Friedrich SCHLOSSBERGER, 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: All the convicted accused were members of the SS at the Dachau Concentration Camp for considerable periods of time between the dates alleged and were shown to have participated in the Dachau Concentration Camp mass atrocity. 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, D.J.A.C., hereinafter referred to as the "Parent Case"; see Section V, post; R 10).

IV. EVIDENCE AND RECOMMENDATIONS:

1. GEORG BEER

Nationality:	German
Age:	34
Civilian Status:	Automobile Mechanic
Party Status:	Unknown
Military Status:	Waffen SS, Master Sergeant
Plca:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	10 years, commencing 24 July 1946.

Evidence for Prosecution: In his testimony and in his extrajudicial sworn testimony, the accused stated that he joined the Allgemeine SS in 1933. He served at Camp Dachau as a truck driver from 1 August 1934 to 1 May 1938, and from 1 September 1938 to 1 October 1940. From about 1 October/1940/ until 28 April 1945 he served as a maintenance sergeant at Camp Dachau, with the exception of the period from 1 November 1941 until 1 February 1942 when he was in Russia assigned as a driver for the SS captain who was in charge of the clothing factory at Dachau. He was drafted into the Waffen SS October 1940 and was promoted to a master sergeant in November 1943 (R 195-197, 200; P-Ex 5).

A witness testified that on one occasion in 1945 the accused hit an Italian inmate over the head with a sack containing pieces of wood, causing the victim to collapse (I 142, 147-150). He saw

the accused hit inmates five or six times during 1944 and 1945 (R 143). The accused was in charge of the garage at Dachau and two Russian inmates were hanged in the garage (R 146).

A second witness testified that he first met the accused at Camp Dachau in 1944 and at that time the accused was in charge of the garage operated in connection with the clothing factory (R 119, 120). In the fall of 1944, two Russian inmates who had been caught stealing a few small items of clothing material were hanged in the accused's garage for the purpose of setting an example for other inmates in the clothing factory detail. The witness did not state that the accused was responsible for the hanging, but he was fairly certain that he was present at the hanging because the entire clothing factory detail, including members of the SS and inmates, were ordered to attend (R 120-128).

A third witness testified that he heard that the accused kicked inmates. The accused was a "convinced" follower of Nazism and a "convinced" member of the SS (R 174).

Evidence for Defense: The accused treated civilian workers and inmates under him practically the same. If one did something wrong, he told him about it and then the case was over (R 157, 158). Three witnesses testified that they never saw or heard that the accused ever hit anyone (R 161, 165, 166, 177). He was always satisfied with the amount of work performed by inmates under him (R 172). The accused testified to the effect that he never kicked or hit anyone at Camp Dachau (R 197) and that he had nothing to do with the hanging of the two Russian inmates (R 194).

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 Franz Xaver Bucherl, German attorney, 25 April 1947. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

2. JOSEF HINTERMAYER

This accused was neither served nor tried.

3. JOSEF GOTSCH

This accused was neither served nor tried.

4. OTTO HEINRICH HOEHLEN

This accused was neither served nor tried.

5. MAGNUS KUSTELMANN

Nationality:	German
Age:	52
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS, Warrant Officer
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	Life Imprisonment

Evidence for Prosecution: The accused was a roll call leader at Camp Dachau during the fall of 1943 and while serving in that capacity he hit inmates with his hand and also kicked them. Later he served as fourth security compound leader and then detail leader in the belt weaving factory at Camp Dachau (R 114, 115). The accused was the second or third leader of the protective custody department in December 1944 and January 1945 (R 18, 80). He was a detail leader from February to April 1945 (R 84). He reported inmates for punishment when he was detail leader of the belt weaving detail (R 18, 81). He beat inmates with a stick and a rubber hose (R 81, 91). He beat a French inmate so badly when administering the "25" that the victim bled for a week (R 45). He beat Russian inmates very often (R 88). The inmates on the belt weaving detail were of 21 nationalities, including Italians, Yugoslavs, French, Belgians, Russians, Poles, Norwegians and Germans (R 9). While on the belt weaving detail the accused often beat inmates

with a rubber hose which contained a steel whip with a knot at the point. He especially beat those inmates who had to relieve themselves during duty hours (R 94; P-Ex 2, R 130; P-Ex 3). Now and then he slapped inmates on the ear (R 101). He was the terror of the detail. The larger percentage of inmates on this detail were invalids who were not fully capable of working. He went after them like a dog. Kicking and beating inmates were daily occurrences with the accused. As a result of his many reports, inmates received camp punishments or were sent on transports (R 113, 115).

Evidence for Defense: No defense was offered in behalf of this accused.

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.

6. BRUNO LENZKOWSKI

This accused was neither served nor tried.

7. KARL CHRISTIAN RAUSCH

This accused was neither served nor tried.

8. HERMANN KOSTEK

This accused was neither served nor tried.

9. FRIEDRICH SCHASSBERGER

Nationality:	German
Age:	42
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Sergeant
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	Life imprisonment

Evidence for Prosecution: The accused was a deputy work commitment leader at Camp Dachau. It was his duty to select inmates for the various outside work details, to form transports for the various outside work details, and to check incoming transports. The incoming transports were mainly composed of sick inmates or invalids (I 9, 24). He selected inmates for outside work transports regardless of whether they were sick or healthy. He also selected inmates for invalid transports. Inmates who had a doctor's certificate were beaten and sent out on work transports. He beat and kicked inmates in the bathhouse so severely that they required hospitalization in some cases (R 10, 22, 79). Ten to twenty percent of the inmates whom he picked out for the transports either died on their way to their destination or after they returned to Dachau. The accused beat constantly (R 11). He sent French, Polish, Czechoslovakian, Russian, Austrian and German inmates on transports. Inmates were reportedly beaten by the accused for calling his attention to the fact that he should not place sick inmates on work transports (R 19, 60). He beat inmates with his fist and a bull whip and kicked them (R 31, 36). The accused was "a dealer in human beings". He made up the invalid transports that were sent to the extermination camps and gave the inmates selected a taste of what they were going to get in the extermination camps by beating them until blood flowed out of their nose and mouth (R 35). He beat French, Polish, and Russian inmates (I 36).

Another witness heard that the accused sent Hungarian and Gypsy children on transports to Augsburg for employment in the Messerschmidt factory. These children were mistreated by the guards and were covered with dirt and lice (R 49, 50). Many died due to the beatings they received (I 54). The accused selected 1000 inmates for an inmate transport to Frankfurt. Some of these inmates were seriously ill (R 62). The accused worked in the labor commitment office at Camp Dachau from March 1943 until March 1945

(R 64, 65). He often beat and kicked inmates. On some occasions he beat inmates to the ground and a half hour later they were dead (R 108). On one occasion he kicked a young Russian inmate so hard that the victim fell and cut his head on a pot (R 112).

Evidence for Defense: The inmates at Dachau were not treated badly by the accused. He saved many an inmate from hard work and from the "one-way ride" transports (R 181, D-Ex 1).

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 the 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 4G 000.5 JAG-260, subject: "Trial of War Crimes Cases," 14 October 1946, and the Parent Case). 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 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 sentences be approved.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

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

Having examined the record of trial, I concur, this 2nd day of December, 1947.

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