

15 April 1948

UNITED STATES)

v.)

Case No. OOC-50-5-23

Franz KOFLER, et al.)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 7-21 August 1947, before a General Military Government Court.

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Franz KOFLER, Hermann Franz BUETGEN, Emil TRIELMANN, Paul Robert BUCHMANN, Michael HELLER, Stefan LENNERT, Gustav PETRAT, Filipp HEHL, Quirin FLAUCHER, Arno Albert RUETER, Ferruccio DWORSKY, German nationals or persons acting with German nationals, acting in pursuance of a common design to subject the persons hereinafter described to killings, beatings, tortures, starvation, abuses, and indignities, did, at or in the vicinity of the Mauthausen Concentration Camp, at Castle Hartheim, and at or in the vicinity of the Mauthausen Sub-camps, including but not limited to Ebensee, Gros-Baming, Gunskirchen, Gusen, Hinterbrühl, Lambach, Linz, Loiblpass, Melk, Schwechat, St. Georgen, St. Lambrecht, St. Valentin, Steyr, Vienna, Wiener-Neudorf, all in Austria, at various and sundry times between January 1, 1942, and May 5, 1945, wrongfully encourage, aid, abet, and participate in the subjection of Poles, Frenchmen, Greeks, Yugoslavs, Citizens of the Soviet Union, Norwegians, Danes, Belgians, Citizens of the Netherlands, Citizens of the Grand Duchy of Luxembourg, Turks, British Subjects, stateless persons, Czechs, Chinese, Citizens of the United States of America, and other non-German nationals who were then and there in the custody of the then German Reich, and 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 killings, beatings, tortures, starvation, abuses and indignities, the exact names and numbers of such persons being unknown, but aggregating thousands.

III. SUMMARY OF EVIDENCE: All the convicted accused were members of the SS, except accused FLAUCHER who was a criminal inmate, at Mauthausen Concentration Camp or its subcamps for considerable periods of time between the dates alleged and were shown to have participated in the Mauthausen Concentration Camp mass atrocity. Accused FLAUCHER was shown to have

participated as a block eldest. Prosecution's Exhibit P-Ex 2 (R 13) is a certified copy of the charge, particulars, findings and sentences in the parent Mauthausen Concentration Camp Case (United States v. Altfuldich, et al., 600-50-5, opinion DJAWC, February 1947, hereinafter referred to as the "Parent Case"; see Section V, post).

Little weight is given herein to the testimony of witness Karl Geiger.

IV. EVIDENCE AND RECOMMENDATIONS:

1. Franz KOFLER

Nationality:	Austrian
Age:	31
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS Sergeant
Plea:	NG
Findings:	C
Sentence:	Death by hanging

Evidence for Prosecution: This accused enlisted in the Waffen SS on 28 June 1938. On 2 September 1941 he was assigned to the Mauthausen Concentration Camp as a guard. Irrespective of difficulty in determining from evidence by the accused as to when and where he served, it is clear that he served at Mauthausen Concentration Camp from September 1941 to late fall of 1941 or January 1942, at subcamp Gros-Raming from 20 January 1942 to March 1942, at Linz the first half of 1944 and at Schlier (Redl Zipf) from July or August 1944 to May 1945. He served in such capacities as guard, detail leader and roll call leader (R 14, 346; P-Exs 3A, 19A).

Rehn, a German inmate, testified that, about 2100 hours one night in the beginning of August 1942 when the accused was roll call leader in Mauthausen Concentration Camp he and another SS man went into block 5 armed with pistols and carrying whips. The accused spoke with the block eldest. The latter opened a window through which the accused jumped. Then the other SS man drove 17 Dutch Jewish inmates through the window, and the accused chased these inmates into the electric wire (R 199, 200).

Sixteen of these inmates died from contact with the wire, but the remaining one was not killed because of a short circuit. The accused ordered a guard to shoot this inmate to death (R 200). The witness saw all of the inmates jump through the window and could hear the lashing of the whip which the accused held in his right hand. A pistol was in the accused's left hand (R 200, 201). The accused chased the inmates toward the electric wire after they went through the window (R 201). The witness saw all the victims hit the wire and sear upon contact. An unknown guard shot the inmate not killed by contact with the wire (R 202). The bodies remained on the wire until about 0600 hours the next day when they were taken away by the camp eldest and inmates (R 202, 203).

The witness further testified that one day in Mauthausen near the end of December 1942 at 1400 hours the accused came to the roll call square with three Jews. He was carrying a leather whip and was armed with a pistol. He drove the three Jews into the electrically charged wire (R 203, 204). The witness saw all three die. The current was cut off after an hour and the three bodies were taken away (R 204). The witness also saw the accused administer at least 20 beatings to inmates. During these beatings the victims were required to lean on a table or similar object while they were given 25 or 50 lashes with a leather whip (R 205, 206).

Buerger, a German former inmate, testified that in August 1942 in Mauthausen he saw a crowd of 45 inmates, including 16 women, come out of the camp prison. Later, he saw the group in front of the warehouse confronted by the entire staff of the camp commander's office (R 216, 217). He saw a number of SS men, including the accused, wearing steel helmets and standing by. The accused marched up with a group of eight men who lined up and fired a salvo with their rifles. He saw three or four inmates killed on this occasion. The accused participated in the shooting of at least one group. As an inmate fell to the ground, two corpse carriers from the crematory took the body to one side. After several had been shot, their bodies were loaded on trucks and hauled away (R 217).

218). He further testified that the camp commander, as well as his staff, was present at this execution and that, apparently, some kind of orders were read to those who were to be shot (R 238, 239).

The same witness further testified that in Mauthausen in the spring of 1942 the staff of the camp commander's office appeared to inspect a Jewish inmate who had freak toenails. The inmate was put upon a table and pictures taken of these horn-like growths. The accused and another person thereupon cut off the toenails with a big pair of tin scissors. In cutting off the toenails, the tips of the toes were also cut so that they bled (R 219, 220). The inmate was then chased by a group of block leaders. Two corpse bearers from the crematory followed the crowd with stretchers. The witness heard some shots fired, and a short time later the corpse carriers returned with the Jewish inmate on the stretcher. The victim had been shot to death. He was taken to the crematory (R 219). The accused was among those last seen with the inmate before the shooting. Prior to shooting the Jew, the accused beat him with a bull whip (R 220).

Bauer, a German inmate of Mauthausen from 1939 to 1945, testified that he saw the accused and another block leader in the spring of 1942 at about 2300 hours beat five Jewish inmates. The witness heard the accused order them to jump into the electric wire and two of them did so immediately. The other three, a father and his two sons, begged the accused for their lives, to which he replied with further blows and threw the father into the electric wire. The two sons begged the accused to let the father live, saying that they would go into the chain of guards. The accused and the other block leader picked up the two sons and threw them into the wire and, during all this time, shots came from the guards outside the chain of guards (R 255, 256). The witness observed this incident from the barracks window. He could see the entire incident very plainly. The next morning the bodies were removed from the scene (R 257). The witness testified that he knew of three family groups who were put to death in this manner in Mauthausen (R 267). He further testified that he saw the accused mistreat many inmates severely, perhaps hundreds, by kicking,

beating with a whip, his fists or anything he could get his hands on. The accused frequently took part in public beatings with whips, in which the 25 strokes were given (R 250). The witness further testified that it was well known in the camp that the accused was one of the biggest foragers there; that he operated at the expense of the inmates; that he ordered the inmates to forage things for him and then refused to pay them; that in spite of these favors to him he had these inmates destroyed; that, if the accused could not destroy the inmate himself, he had someone else do it, usually a capo at the quarry detail; that, when the accused sent word around that a certain inmate could not return to camp, that inmate would voluntarily go through the chain of guards to his death; and that the accused was responsible for hundreds of such deaths (R 250, 260).

Muehling, a German inmate of Mauthausen from 1940 to liberation, testified that in the washroom in 1942 he saw the accused and two other noncommissioned officers beat some Jewish inmates with a bull whip until they could no longer walk; that he threw them out the window and, later, into the electric fence; that the following morning he saw their dead bodies at the wire fence; and that after roll call they were taken to the crematory (R 271-273). He further testified that on many occasions he saw the accused and other noncommissioned officers beat new arrivals at the camp at night; that many bodies were lying there the following morning; and that to his knowledge the accused killed hundreds of inmates by beating them (R 269, 274, 276).

Diebsmuller, a German inmate of Mauthausen from 1941 to May 1945, testified that he saw the accused and one or two SS block leaders constantly beat Jewish inmates who came to the camp on transports; that these inmates were often driven into the electric wire fences; that he saw their bodies on the wire; and that this happened once a week during the months of January and February 1942 (R 283-285). He further testified that in July, August and September 1942, while he was a carpenter, he saw the accused participate in many executions by shooting in the back of the head those who did not die immediately upon being shot or hanged; that on

one occasion he saw the accused hang a Yugoslav inmate, who had only one arm and one leg, by raising him up by a rope around his neck and throwing him down (R 286); and that the accused took part in approximately 180 executions of Yugoslavians, Belgians, Frenchmen, Russians, Poles and Germans (R 287).

Schwaiger, a German inmate of Mauthausen from 1939 to April 1944, testified that, on about 10 occasions between 1942 and 1944, he saw the accused chase Jewish inmates into the electric wire fence upon their arrival at the camp; that they were killed instantly; that some ran into the wire voluntarily after being beaten by the accused or for fear of being beaten by the accused; that the bodies remained on the wire until the following morning when pictures were taken, making it appear they had attempted to escape; and that the bodies were then taken to the crematory (R 295, 296). He further testified that he saw the accused participate in executions at least four or five times between 1942 and 1944 (R 297, 298). The witness knew of three occasions on which the accused beat inmates so severely that they died the following day (R 299).

Melching, a German inmate of Mauthausen from 1939 to 1943, testified that he saw the accused participate in the execution of three or four women and 78 or 80 Yugoslavs on 20 April 1943; that the accused shot eight or ten times; that the accused was the most feared man and a terrible Jew hater; and that when Jews got into his hands, they were "done for" (R 306, 307).

Milonia, a former Yugoslav inmate, testified that he knew the accused as a roll call leader at subcamp Gros-Raming; that on one occasion in February or March 1943 he was present when the accused surprised a Yugoslav inmate who was smoking in the barracks; that the accused punched the inmate on the chin a couple of times and then dragged the inmate to the clerk's office and gave him 75 blows with an ox-tail whip; that one of the blows hit the inmate on the spine; and that in 1944 he saw the inmate as a cripple. He further testified that the accused was the most feared roll call leader at subcamp Gros-Raming and that the accused was always ready to do anything he could against a defenseless inmate

Linz III. In late August 1944 he saw the accused personally drown 11 inmates who came late to a roll call by putting them into water puddles on the ground and that the bodies were then carried to the crematory by capos. He further stated that in September 1944 in Linz III he saw the accused shoot two Yugoslav inmates to death in front of the kitchen for failure to attend roll calls (R 354; P-Ex 20).

Sprenger, a former inmate, stated in an unsworn pretrial statement that when he was in subcamp Schlier in January 1945 a Polish inmate named Kolewsky, who was the accused's orderly, escaped and took with him some property belonging to the accused. Later, Kolewsky was captured and returned to camp. A letter from the camp clerk, Schoendorfer, was found in the possession of Kolewsky. The witness further stated that the accused, in company with Camp Commander Bendeler, made a rope noose; that the camp commander ordered Schoendorfer to place his neck in the noose; that Bendeler strangled Schoendorfer by stepping on his neck and drawing the knot together; and that the witness was ordered to remove the body. The witness further stated that Kolewsky was brought in; that the accused ordered the witness to bring two chairs and to fasten the rope to a rafter; that Bendeler ordered Kolewsky to step on one of the chairs and place his head in the noose; that, when Kolewsky complied, Bendeler kicked the chair from under him; and that, some minutes later, the accused ordered the witness to remove the body and threatened him with death if he told anyone of the incident (R 355; P-Ex 21A).

Smabl, a Czechoslovakian inmate, stated in an unsworn pretrial statement that the accused was transferred from Linz to Mauthausen in July 1944; that, after the accused came to Mauthausen, the witness saw him beat sick inmates after roll call; and that when one of the inmates stepped on the stairs leading to the bathroom, the accused kicked him and caused him to fall down the stairs and land in the blood of dead inmates (R 356; P-Ex 22A).

Diels, a former German Jewish inmate, stated in an extrajudicial sworn statement that, in September 1943 in Mauthausen, he saw the accused send a Jewish inmate into the electric wire, near block 1. The inmate did not die.

(R 313-315).

Schnebling, a German former inmate, testified that he knew the accused as a roll call leader at subcamp Schlier in August 1941 and thereafter; that he was personally beaten by the accused, with the result that he lost some teeth and received an injured nose; that the accused beat and kicked inmates at the roll call square while inspecting the details; and that, after the liberation, a former camp policeman gave him a statement relating the killing of two inmates by the accused for having made off with some property of the accused (R 336, 337).

Gloetzl, a German inmate of Mauthausen from 1939 to September 1943, testified that the accused beat and mistreated many Jewish inmates on their arrival at the camp (R 350); that on one night in the summer of 1942 he and other inmates saw the accused force two inmates to walk into the electric wire; that the following morning the bodies were removed; and that he saw the accused do this sort of thing repeatedly (R 361).

Keller, a German inmate of Mauthausen from 1941 to 1943, stated in an extrajudicial sworn statement that from 1941 to 1942 he saw the accused taking an active part in the extermination of Dutch Jews and participating as a rifleman in several executions (R 334; P-Ex 12A).

In an extrajudicial sworn statement the accused admitted that he was roll call leader from March 1942 until late fall of 1943 at Mauthausen and that he was guilty of committing cruelties and deeds unworthy of humanity. He also admitted being in the Vienna Ditch (stone quarry) when many Jewish inmates were chased over the cliff, but denied that he, personally, chased anyone. He further denied participating in any shooting. He further stated that he performed the duty of blocking off the road on two occasions for executions. He denied having forced anyone into the barbed wire. He admits that Mauthausen was an extermination camp and that he was a tool in this task. He also admitted chaining an inmate by the neck to a tree and then twice knocking him down with blows to his face (R 326; P-Ex 10A).

Ratkovic, a former Yugoslav inmate in Linz III, stated in an extrajudicial sworn statement that he first knew the accused in July 1944 at

until the accused ordered an increase in the electric current (R 356; P-Ex 23A).

Espina, a Spanish inmate of Mauthausen from 1940 to 1944, stated in an extrajudicial sworn statement that in 1942 he saw the accused and Camp Commander Bachmeier force 300 to 400 Russian inmates, who had just arrived on a transport, into the gas chamber. He further stated that in the summer of 1942 he witnessed the accused leading a Jewish inmate in the direction of the electric fence and that, later, saw the dead inmate hanging on the wire (R 357; P-Ex 24).

Henold, a German former inmate, stated in an extrajudicial sworn statement that, in the summer of 1943 when he arrived in Mauthausen with a transport of Russians and Poles, he saw the accused beat members of a transport of Poles and other inmates with his gloved hands. One fell down and the accused kicked him (R 357; P-Ex 25A).

Marbon, a former Yugoslav inmate, stated in an extrajudicial sworn statement that, in March and April 1943 in Gros-Raming, he saw the accused knock an inmate down with two blows to the chin; that he then took the inmate into the orderly room and gave him 75 to 100 blows with a cowhide whip; that, a few days later, he saw the camp eldest and the accused, who was displeased with the actions of a forest detail, administer 25 blows to the assistant capo and 15 blows to each member of the detail; and that hardly a day passed that the accused didn't torment an inmate in the orderly room (R 358; P-Ex 26A).

Weitschak, a former German inmate, stated in an extrajudicial sworn statement that, in June 1943 in Mauthausen near the bath house, the accused beat 17 or 18 inmates with his fists, including Germans, Poles and Russians. He beat a Jew so severely that the victim collapsed. He then kicked him in the chest with his heel and the inmate was then carried to the bath. Later, the witness heard that this inmate died (R 359; P-Ex 27A).

Wiesendorf, a former German inmate, stated in an extrajudicial sworn statement that in 1942 and 1943 in Mauthausen, he saw the accused kick and

that he saw the accused march to and from the execution place; and that he later saw the corpses of inmates of various nationalities carried on a truck to the crematory (R 360; P-Ex 28A).

Kern, a former German inmate of Mauthausen from 1939 to 1942, stated in an extrajudicial sworn statement that he often saw the accused beat inmates of Polish, Russian, Czech and German nationalities with a whip until they fell; that he then kicked them in the face with his boots; and that many victims were so seriously injured that they had to be carried to the dispensary. He further stated that in the summer of 1942 he saw the accused go on execution details (R 361; P-Ex 29A).

Tarnoczi, a former inmate of Mauthausen, stated in an extrajudicial sworn statement that the accused was present once in 1942 or 1943 when Austrian and Polish Jewish inmates were chased into the electric wire (R 590; P-Ex 46A).

Evidence for Defense: The accused testified that he did not mistreat anybody to the extent that they died. However, he admitted that he did do some beating. The accused admitted slapping inmates in the face in preference to putting them on a report. He denied that he ever shot anyone at Mauthausen or caused them to run into the charged wire (R 496). He admitted that he saw dead bodies brought back from the quarry (R 502); that he beat prosecution witnesses for various infractions; but he testified that, if he had reported them, they would have received a notice and then given 25 blows (R 296).

The accused further testified that he was mistreated at the time he made a written statement at Noternberg and that his answers were "turned around" and not all were correct, but he admitted that he was not compelled to sign the statement (R 495, 500-504). The statement of the accused appearing in the evidence was procured at a later date and was not objected to (R 495, 346; P-Ex 19A).

Sufficiency of Evidence: Austria was a co-belligerent of Germany. The evidence shows that the accused participated in killings and beatings of inmates at Mauthausen and some of its subcamps at times when the accused admits that he was assigned to such camps. The Court was

warranted from the evidence concerning the nature and extent of the accused's participation, in its findings of guilty. The sentence is not excessive.

Petitions: A Petition for Review was filed by Major William A. Oates, defense counsel, 10 September 1947. Petitions for Clemency were filed by Mrs. Josephine Genser, mother of the accused, 21 October 1947; Werner Reinsdorff, 1 November 1947; Otto Friedrich Kleinguenther, 5 November 1947; Paul Tremmel, 5 October 1947; Arnold Damaschke, 4 November 1947; Fritz Miroff, 2 November 1947; accused, 22 November 1947; Stefan Malleschitz, 16 November 1947; Johann Haider, 16 November 1947; Eduard Erb, 19 November 1947; accused, 30 August 1947; Leader of the Free Corps of Austria, undated; three illegible signatures, 22 August 1945; Dr. Ursula Lehmann, 13 January 1948, 11 February 1948 and 3 April 1948; Erika Zeller-Kofler, wife of accused, 3 January 1948; and Friedrich and Josef Genser, 2 September 1947.

Recommendation: That the findings and the sentence be approved.

2. Hermann Franz BUETGEN

Nationality:	German
Age:	44
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS Sergeant
Plea:	NG
Findings:	G
Sentence:	3 years, commencing 14 October 1945

Evidence for Prosecution: The accused was assigned to Mauthausen Concentration Camp as a guard from a date prior to 1 January 1942 until 1 July 1942 and as an electrician and movie-projector operator from 2 July 1942 until 1 May 1945 (R 16; P-Ex 44).

Sztejnberg, a Polish Jew, testified that the accused broke branches off trees and beat French, Czech, Hungarian and Yugoslav inmates; that he worked in the stone quarry for seven days; that each day the accused would beat the inmates; and that as a result of the beatings by the accused, several inmates died (R 102, 103).

Bressler, a former Polish inmate, identified this accused as LENNERT. However, the incidents hereinafter described by him were committed by this accused (R 165, 172). The witness testified that the accused accompanied the detail to the stone quarry and would tear off a branch of a tree and beat the inmates on the way to the quarry (R 166). The witness saw the accused shoot to death a friend, a Polish Jew named Klein, while carrying a rock up the steps from the stone quarry (R 167). He saw the accused severely beat and kick a Hungarian inmate who had asked the accused for something to smoke. The witness further testified that the body of the inmate was immediately taken to the crematory (R 169).

Niedermann, a former Czech inmate, testified that at Mauthausen on 20 April 1945 a crowd of inmates rushed to meet an arriving transport: that the accused beat one inmate with a stick so severely that he died immediately (R 179); and that he saw the dead body of this inmate (R 183).

during morning roll calls (R 179).

Feldstein, a former Polish inmate, saw the accused pick out a Jewish inmate named Tittlebaum from the stone carrying detail at Mauthausen, some time after August 1944, and shoot him to death, because he was carrying a smaller rock than the others. The inmate fell down. His body was later carried to the roll call place. He further testified that on four or five occasions the accused took inmates to the barbed wire fence, where they were shot by the guards (R 507-509).

Sarna, a former Polish inmate, testified that at Mauthausen during 1944, while the accused was work detail leader at the stone quarry, he saw the accused pick out all inmates who were carrying small stones and had them stand aside. When he, the witness, returned later with the detail, those inmates were dead (R 518). The witness further testified that he saw 10 instances in which the accused shot inmates, mostly Polish Jews. One of them was Tittlebaum. The accused dragged them into the wire (R 518, 519).

Evidence for Defense: Prosecution witness Melching, recalled as a defense witness for the accused, testified that the accused was not regarded by inmates as a beater, and that he saw the accused every day for three years (R 309, 310). Prosecution witness Gloetzi (also spelled Gelotzi), called as a defense witness for the accused, testified that he never heard that the accused mistreated anyone (R 353), nor did he know whether the accused was in the stone quarry after 1942 (R 376). Tarnoczi (also spelled Tanotzy), a former inmate, testified that he saw the accused every day in the camp; that he never saw the accused beat anyone; and that the inmates liked him. He further testified that the accused was in charge of the electrical detail and was never in the stone quarry, nor was he ever on a detail in the Jewish camp (R 379, 380). Prosecution witness Schmebling, called as a defense witness for the accused, testified that he knew the accused at Mauthausen from January 1945 until the capitulation; that he did not recall that the inmates were afraid of the accused; that he never heard of the accused mistreating inmates; and that he never saw the accused in the Jewish camp (R 386, 387).

Bente testified that he never saw the accused beat or mistreat any inmates, and that the accused was never attached to the Jewish camp. He also testified that the accused had a good reputation among the inmates (R 392).

Karl Geiger, a former political inmate, testified that the accused was friendly to the resistance group (R 398); that he knew the accused as an electrical worker at Mauthausen from 1940 to 1943; that between January 1942 and May 1942 the accused never served at the stone quarry; and that had the accused been a beater, he would not have been tolerated in the electrical department (R 397).

Barzinsky, a former inmate, testified that he knew the accused at the electrical department; that he never heard of the accused mistreating any inmates; that he always behaved very well; and that he often brought bread to inmates at the tailor shop where he, the witness, was working (R 430). Prosecution witness Schwaiger, called as a defense witness for the accused, testified that he was an inmate at Mauthausen from 1939 to 1944, working in the carpenter shop and knew the accused in the electrical department; that he never saw nor heard of the accused mistreating any inmates; and that, against orders and in danger of his life, the accused never reported the fact that some of the inmates listened to foreign radio broadcasts on the detail of which the accused was leader (R 440, 441). Reinsdorf testified that he never heard of nor saw the accused beat or mistreat any inmates (R 450, 451). Streitwolf testified that he was an inmate in Mauthausen from 1939 to 1945 (R 459); that the accused was in the electrical department; and that he never heard of nor saw that he mistreated any inmates (R 460). Ramon testified that he was an inmate from January 1942 until the capitulation; that he knew the accused as detail leader of the electrical detail (R 548); that he knew all the detail leaders at the quarry; that there was another man at the quarry who resembled the accused (R 549); and that he saw the detail leaders each day leave with their details from the roll call square and was in a position to know the accused did not accompany the stone quarry detail (R 552).

The accused declined to testify (R 611).

Sufficiency of Evidence: The evidence is sufficient to warrant the findings of guilty. The sentence is not excessive.

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

Recommendation: That the findings and the sentence be approved.

3. Emil THIELMANN

Nationality:	German
Age:	40
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS Corporal
Plea:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution: The accused was an SS guard at Mauthausen from May 1944 until 5 May 1945 (R 16; P-Ex 5A).

Mornstein, a former inmate at Mauthausen Concentration Camp, testified that the accused was a tower guard and block leader from August 1944 to May 1945; that, while working on the crematory detail during March and April 1945, he saw the accused shoot and kill at least ten sick and undernourished inmates who had just arrived at the camp on transports; that these inmates could have been saved by treatment at the dispensary which was very close by; and that he, the witness, registered the bodies at the crematory as "unknown inmates," because they had not as yet received prison numbers. He further testified that he saw the accused shoot these inmates; that he could observe this from the crematory where he worked, a distance of about 50 meters; that he saw the accused fire the shots and saw the bodies fall; and that the bodies were then brought to the crematory. He also testified that the nationalities of those he saw cremated during the time he was on the detail included American fliers, Dutch, Polish, Russian, Hungarian inmates and others (R 226-229).

Evidence for Defense: Schmehling, a prosecution witness called as a defense witness for the accused, testified that he knew the accused at Mauthausen from January 1945 until the capitulation as block leader in block number 28, camp number 3, where the young people and children were interned; that the accused took an interest in the children and cared for them and brought them food; and that he interfered with the guards who had wanted to beat inmates. He further testified that he never saw nor heard of the accused mistreating any inmate in any way (R 388).

Barzinsky testified that, so far as he knew, the inmates in the block said the accused had a good reputation, and that the accused gave warning to the block elders of the blocks when there was to be an SS search, in order that they could hide any extra rations they had (R 431).

Streitwolf testified that he was at Mauthausen from 1939 until 1945; that he knew the accused for six or eight months during that time; that he never heard of nor saw that the accused mistreated any inmates; and that on two occasions he saw the accused give inmates cigarettes, and on another occasion he saw the accused give the inmates some liquor (R 459, 460).

The accused declined to testify (R 612).

Sufficiency of Evidence: The Court was warranted from the evidence in its findings of guilty. The sentence is not excessive.

Petitions: A Petition for Review was filed by Major William A. Oates, defense counsel, 10 September 1947. Petitions for Clemency were filed by accused, 10 September 1947; and Ernest Schmehling, 1 September 1947.

Recommendation: That the findings and the sentence be approved.

4. Paul Robert BUCHMANN

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

5. Michael HELLER

Nationality:	Rumanian
Age:	37
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS Corporal

Facts:

no

Findings:

G

Sentence:

Death by hanging

Evidence for Prosecution: In his extrajudicial sworn statement, the accused stated that he was an SS guard and assistant block leader at Mauthausen from 8 August 1943 until 24 February 1945 (R 17; P-Ex 6).

Peda, a former Polish inmate, testified that one afternoon in August 1944, while he was working on the/athletic field, the accused and two other SS men brought 48 paratroopers to the athletic field; that among them were Dutch, Belgian and English nationals; and that the accused and the other SS men beat these inmates (R 126). The witness further testified that these 48 paratroopers were carrying stones from the stone quarry to the athletic field; that the first time he saw them there were 48; and that when he saw them a second time, which was about two hours later, there were only 32; that on this occasion he talked to these paratrooper inmates and was told the remainder expected to be killed by the accused and the other SS men who were chasing them into the wires and shooting them; and that on this second occasion of seeing the paratroopers they told him the other 16 had been killed (R 126, 127, 159, 160). He further testified that he often saw the accused pass by his block 6 as a member of an execution detail which shot Russian, Polish and Austrian inmates. On one of these occasions 14 Polish officer inmates were executed. In 1944 the witness apparently saw two flyers beaten by the accused and commander Bachmaier and then put in the camp prison. The witness heard they were shot at the camp prison the next day (R 128).

Lipinski, a Polish inmate of Mauthausen from 11 June 1944 to 5 May 1945, testified that during the entire time he worked on a punishment detail carrying stones out of the stone quarry; that in August 1944 he saw the accused and two escorts bring 48 inmates clad only in trousers to the stone quarry; that they were loaded with heavy stones; that they beat them and chased them to the wire; that the inmates were shot by members of the guard chain; that at 1300 hours the witness saw 10

corpses hanging on the wires; that the rest of the group were carrying stones up the 186 steps from the bottom of the quarry; that the accused and the other two SS men beat the inmates with clubs and ox whips; and that when the inmates were no longer able to walk under the weight of the stones the accused and the other two SS men indicated the wire fence where they were directed to go; that at about 1500 hours only two of the detail of 48 inmates were left; that one of these inmates refused to go into the wire and was praying; that the three SS men then ordered these two inmates to remove the corpses from the wire; that when they approached the wire they were shot to death by the guards in the guard chain; and that he observed the entire incident (R 138, 139). The witness further testified that he heard on the day in question that these inmates were carrying the stones to the athletic field; that the field was 800 to 1000 meters from the stone quarry; that he helped carry out 48 bodies of those killed at the stone quarry; and that they were counted and the individual numbers written down by the SS men (R 147-150). The witness saw the accused daily for 11 months in Mauthausen (R 146). He further testified that on a Sunday in September he saw the accused and others with two flyers who had been beaten before they were brought into the camp. He was told by inmates who worked in the camp prison and the crematory that the flyers were shot the same day (R 140).

Milonia, a former Yugoslav inmate of Mauthausen, testified that on 25 April 1945 after an air raid on Lins and Steyr five allied flyers, one seriously wounded or dead, were captured and brought to Mauthausen; that upon being questioned by the accused and two others the flyers were reluctant to give information; that the accused and the other SS men made them turn their faces to the wall and they were given punches on the back of the neck causing their heads to bounce against the wall; that their faces were torn by the rough stones in the wall; that the flyers were then required to pick up their wounded or dead comrade and march to the camp prison; that while en route to the camp prison they were further

he saw them for the last time as they went into the gate at the camp prison (R 316). The witness further testified that the accused was among those who took the flyers to the camp prison; that he learned later that the uniforms and underwear of the victims were "turned over" to the laundry; and that one of the flyers was a Canadian and one a Pole (R 317). On cross-examination this witness testified that the time of this incident was 3 or 4 October 1944 and was very elusive and at least confused in his testimony (R 317).

Schmebling, a former German inmate, testified that following 20 February 1945 he was capo in the mass grave burial detail; that they buried bodies when the crematory ovens could not dispose of all the bodies; that when bodies were brought for burial quite frequently there were live inmates among them; that on one day in March 1945, a live inmate was discovered and he ordered that this inmate be laid aside to be returned to camp; that the accused came to the grave and upon seeing this live inmate said that to send him back to camp was out of the question; that the accused thereupon shot the inmate in the back of the neck killing him; that he observed the killing from a distance of two meters; and that the body was buried along with the others (R 338, 339).

Norkovic, a former Yugoslav inmate of Mauthausen, stated in his extrajudicial sworn statement that he knew the accused during the entire year 1944 as a block leader; that he saw the accused daily during this period; that in November 1944 a Gross Rosen transport of about 10,000 inmates of various nationalities was assembled; that as an incident of assembling this transport the accused selected about 470 sick inmates who were forced to stand in the open for two days and one night; that as a result of the exposure 360 died and 110 were taken to the hospital; that the accused helped to give the 470 sick inmates a cold bath by using a hose; and that he saw the accused select five or six of the weak inmates and "stamp the life out of them" by jumping on their chests heads (R 344, P-Ex 15).

Sicherman, a Czech inmate, stated in his extrajudicial sworn statement that he was in Mauthausen from the fall of 1944 to the capitulation

that in the fall/1944 on roll call square he saw the accused beat an elderly female Hungarian inmate with a rubber cudgel because the inmate did not enter the formation quickly enough; and that in the fall of 1944 he saw the accused mistreat several other female inmates by beating them on their hands and feet with a rubber cudgel until the bruised spots on the victims became blue (R 366; P-Ex 38a).

Sikora, a former Polish inmate, stated in his extrajudicial sworn statement that he was in Mauthausen from the winter of 1942 to the capitulation; and that he saw the accused beat Polish and Russian inmates until they bled, by using a rubber hose, a piece of wood or whatever he could find. He further stated that the accused was a block leader and these incidents happened in the block and on roll call square in 1943 (R 368; P-Ex 39a).

Joachim-Skiba, a former Polish inmate, stated in his extrajudicial sworn statement that he was in Mauthausen from November 1943 to the capitulation; that in July or August 1944 the accused beat and kicked more than 40 Dutch, Belgian and English inmates at the roll call square. The victims, who were nearly unconscious when the accused began mistreating them, were marching from the quarry and the accused beat them because they were not marching properly. The accused beat them in the face and abdomen with his fists and kicked them in the back and head until they bled (R 368; P-Ex 40a).

Mitrovic, a former Yugoslav inmate, stated in his extrajudicial sworn statement that he was in Mauthausen from 21 October 1942 until the capitulation; that the accused was a detail leader; that he saw him about once a week from 1943 until May 1945; that in October 1944 on the way back from the stone quarry the cart carrying rocks overturned and injured two inmates and this witness; and that the accused beat them on this occasion with his fists and kicked them for about 30 minutes. He further stated therein that he saw the accused beat Czech, Yugoslav, Russian and Italian inmates (R 369; P-Ex 41).

Kuehnreich, a former Polish inmate from May 1944 to May 1945, stated in his extrajudicial sworn statement that in February 1945 he saw an

inmate transport arrive at Mauthausen. These inmates were completely undressed and squirted with cold water. Six hundred of these inmates died as a result of this treatment. The accused and other SS men were present. Kuehnreich further stated that the accused beat many Russian and Polish inmates so severely at the roll call square that they bled (R 541; P-Ex 45a).

Evidence for Defense: The accused testified that he was assigned to Mauthausen on 8 August 1943 and served there until 24 February 1945, when he was assigned to a combat unit (R 566); that he was on leave from 2 December 1943 to 3 January 1944 and again from 12 August 1944 to 20 or 25 October 1944; and that both leaves were spent at his home at Grabatz, Rumania. He denied ever having served on execution details; that he ever beat any inmates to such extent as to cause their death; or that he ever put inmates under cold water (R 566-568). He admitted having casually slapped inmates for small thefts to avoid filing punishment reports (R 569). He denied having chased inmates into the wires at the rock pile or that he pushed anyone off the cliff and he further testified that he served on the rock detail only three or four times and then for only half a day (R 573). He denied that he beat female inmates and contended that there was no women's camp at Mauthausen in 1944. Therefore, no female inmates were ever on the roll call square in 1944. He also denied that any transport of 10,000 inmates or any number of inmates arrived at Mauthausen from subcamp Gross Rosen as this was an independent camp (R 574). The accused further denied knowing, or ever having seen witness Schmebling who accused him of killing inmates at the mass grave (R 587, 588). He further testified that he was not at Mauthausen in March 1945 when this incident is alleged to have occurred but was with a combat unit (R 588).

Mornstein, a prosecution witness, testified that the accused always expressed horror at what was going on; that he never saw or heard of the accused mistreating inmates; and that in his opinion the accused was different from the other SS men (R 229, 230).

Prosecution witness Jovanovic testified that he never saw the

accused mistreat anyone (R 254).

Schrenker testified that he knew the accused at Mauthausen from 1943 or 1944 to the capitulation; that on one occasion when the accused was a detail leader he, the witness, was apprehended by the accused, while carrying some food which was hidden in his jacket; and that the accused waited until he had passed into the gate and, upon the accused asking and receiving an answer as to what he had, the accused slapped his face twice and told him the punishment was in lieu of making a punishment report and in lieu of apprehending him in the presence of others, in which events he would have received a much more severe punishment. The accused permitted him to keep the food (R 402).

Schoeps, a former inmate, testified that the accused was block leader at Mauthausen; that in the beginning he was a very good man and had a good reputation among the inmates; and that he never saw the accused mistreat anyone (R 413).

Barzinsky testified that on one occasion, during either the latter part of February or beginning of March 1945, a transport of 400 to 500 women arrived at Mauthausen; that they were taken to the bath house and locked up with no ventilation; that he, the witness, was working in the adjoining room; that after about two hours he heard them crying for air; that the guard commander would do nothing about it; that he, the witness, went for the accused; that the accused came and opened the door and obtained water for them; and that after 9 o'clock he had to lock the door again and go back to the guardhouse. He further testified that the accused gave food to the inmates which had been taken away from incoming inmates and which was ordinarily given to the pigs (R 432, 433); and that he did not know whether the accused participated in the killing of 45 or 46 inmates at the stone quarry (R 433).

Reinsdorf testified that he never saw or heard of the accused mistreating inmates at Mauthausen. He heard nothing bad or good about him in the camp (R 446, 447).

Streitwolf testified that he was an inmate at Mauthausen from 1939 to 1945; that he knew the accused about one year during this time; that

he never saw or heard of the accused mistreating any inmates; and that the inmates were not afraid of him (R 459, 461).

Barcynski (also spelled Barzinsky), recalled as a witness for the defense, testified that he was a tailor and that he made a summer uniform for the accused before he went on furlough; that the accused went on furlough during the first or middle of August 1944 (R 605); that the accused returned to Mauthausen shortly before or after Christmas 1944; and that the accused told him that he had a difficult time avoiding being taken prisoner while on furlough (R 606). He further testified that he saw the accused working as a guard at Mauthausen in March or April 1945 (R 609).

Manset testified that she was living at Grabatz, Rumania, in August and September 1944; that the accused was there before 20 August 1944 and remained until 4 October 1944; that she talked to him practically every day while he was there (R 615); that the accused lived two houses away from her; and that she left Rumania on 4 October 1944 (R 616).

Sufficiency of Evidence: Rumania was a co-belligerent of Germany. The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for review was filed by Major William A. Oates, defense counsel, 10 September 1947. Petitions for Clemency were filed by Barbara Heller, 12 September 1947; Rev. Anton Kuhn, 10 September 1947; by the accused, 4 September 1947 and 22 October 1947; Anna Heinrich and others, 27 August 1947; Franz Doppelreiter, 29 August 1947 and 29 October 1947; Johann Gretsche, 29 August 1947; Eduard Klerner, 29 August 1947; Karl Schulz, 29 August 1947; and Karl Giessrigh, 29 August 1947.

Recommendation: That the findings and the sentence be approved.

6. Stefan LENNERT

This accused was acquitted (R 676).

7. Gustav PETRAT

Nationality:	German
Age:	24
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS Private
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution: In his extrajudicial sworn statement the accused stated that he was a dog leader at Mauthausen from May 1944 until the capitulation and that he was with a combat unit in Russia from December 1943 to March 1944 (R 18; P-Ex 8A).

Drbuszesnska, a former Polish female inmate 16 years of age, testified that the accused was the SS man in charge of the female inmates at Mauthausen; that she had stolen a carrot and he took her from roll call to his apartment some time during 1944 and beat her with a piece of iron (R 21, 22, 30), which resulted in a four-inch scar, one inch wide, under her right arm (R 23); that in his apartment he wound her pigtails around his hands and "dipped me up and down and when I fainted, he took my hands and tied them behind my back and up on a stake"; and that she hung there by her wrists for half an hour (R 23, 24). The accused beat the witness and others in the washroom (R 21), beat the witness in his apartment (R 21-24), beat a friend of the witness to death with an iron bar in the washroom (R 26, 27), and beat the witness and four other girls while carrying iron rails (R 31-33). On cross-examination she testified that this incident took place on 15 April 1945 (However, the witness might have intended to refer to the instance where the accused beat her while she was carrying iron rails) (R 49). The witness later testified that the accused injured her arm sometime prior to his beating her in his apartment (R 52). She further testified that, on the occasion in the female inmates bathroom, the accused came in and all the girls except her

friend, Wisniewska, who was disabled from a rupture, ran (R 24, 25); that the accused struck Wisniewska in the right front part of her head with an iron bar and killed her; that her brains fell out and the other girls stood there and cried (R 25, 26); that while two other girls acted as lookouts, she looked into the crematory where the body had been carried, and saw the body of Wisniewska put in a huge tray and shoved into the stove to be burned; and that the accused and the camp commander supervised and hurried the crematory workers. There was a five minute alert, "and the Americans were to come pretty soon" (R 26). This witness was positive in her identification of the accused (R 48). She further testified that this incident occurred at six o'clock one morning three months before the Americans came to liberate the camp (R 49, 52).

Sztejnberg, a former Polish inmate of Mauthausen for two and one half months near the end of 1943, testified that about the middle of October 1943 he saw the accused kill seven inmates (R 91); that there were about 2,000 inmates lined up for the washroom and that there were some pushing among them; that he stood in the line a portion of two days waiting his turn, apparently commencing at 1800 hours in the evening (R 92-94); that the accused, who was carrying a club, came along with a dog; that at intervals of half an hour to several hours he singled out seven inmates, one at a time, and beat them until they were dead (R 93, 94); that the seven bodies were laid out on the ground; that the accused reported to the roll call leader who passed by that seven were dead; that he and others in the line carried the bodies to the crematory; that the bodies were carried inside the crematory, stacked on a pile and their numbers called out; and that three of the seven killed were French (R 94, 95).

Jovanovic, a former Yugoslav inmate during the time the accused admits he was at Mauthausen, testified that in April 1944 the accused was a guard and dog leader in the quarry detail and that he beat two Russians with a rubber hose and kicked them with his feet; that the dog bit both of the inmates on their feet and drew blood; that they fell to the ground during the attack; that the inmates were carried away un-

friends, who worked at the dispensary, that the victims had died (R 246-249); and that the accused set his dog on the inmates every day (R 250). The witness saw the accused administer a few other beatings (R 251).

Fried, a former Hungarian inmate of Mauthausen from 15 April 1945 to the liberation, testified that on an evacuation march comprised of 4000 to 5000 inmates from Mauthausen to Gunsckirchen he saw the accused on a motorcycle with a sub-machine gun (R 528-530). During a period of days he saw the accused shoot 15 inmates who were unable to march any longer (R 530, 535).

Gottlieb, a Hungarian inmate of Mauthausen from December 1944 to sometime in April 1945, stated in his extrajudicial sworn statement that in April 1945 during an evacuation march of 5,000 inmates of all nationalities from Mauthausen to Gunsckirchen he saw the accused shoot to death many inmates who were too weak to walk; and that he did not know the accused's name (but apparently he recognized his picture) (R 345; P-Ex 16A).

Mitrovic, a former Yugoslav inmate of Mauthausen Concentration Camp while the accused admits he was there, stated in his extrajudicial sworn statement that in January 1945, while his detail was returning to camp, they passed two dead Polish Jews on the road, a third Polish Jew was lying nearby. He stated that he saw the accused approach the third Polish Jew and stamp on his head until he was dead. The accused's dog then attacked and bit this inmate (R 345; P-Ex 17).

Sehol, a former Rumanian inmate, stated in his extrajudicial sworn statement that in April 1945 the accused was a guard in an inmate evacuation march from Mauthausen to Gunsckirchen consisting of 3,500 Jews. He stated that he saw the accused shoot inmates with a machine gun who were unable to walk on this march (R 363; P-Ex 33A).

Novohradsky, a former Czech inmate of Mauthausen from May 1944 to March 1945, stated in his extrajudicial sworn statement that in the summer of 1944 he was beaten by the accused with a five-tail whip while carrying

stones up the steps in the Vienna Ditch stone quarry and that he still bears the scars from this beating (R 364; P-Ex 34A).

Stamler, a former Hungarian inmate, stated in his extrajudicial sworn statement that in April 1945 on a march from Vienna to Mauthausen which lasted four weeks, the accused shot many inmates who were tired and unable to continue the march. He further stated that while at Mauthausen the accused beat many inmates to death (R 540; P-Ex 43A).

Zinner, a former Hungarian inmate, stated in his extrajudicial sworn statement that about the middle of April 1945, while on an evacuation march from Mauthausen to Gunskirchen, he saw the accused on a motorcycle shoot Polish and Hungarian inmates who were unable to continue the march (R 541; P-Ex 44A).

Evidence for Defense: Reinsdorf, a former inmate and capo, testified that he was at Mauthausen from 1941 until 8 April 1945; that he knew the accused as a dog leader from 1944 when the dog detail came into existence; that he never saw the accused inside the main camp; that the accused went with his detail approximately every second day as dog leader; and that he never saw the accused mistreat inmates in any way, nor did he permit his dog to mistreat any inmate. He further testified that the accused was well liked by the inmates who were in his detail (R 446).

Resch, a former SS sergeant and dog leader, testified that he and the accused were stationed outside the camp; that the accused would have been severely punished had he gone inside the camp (R 472); and that he never saw the accused set his dog on anyone, nor did he ever hear that he mistreated anyone (R 473, 474).

Muller, a former SS sergeant and dog leader, testified that the accused had never worked inside the camp; that he never saw the accused set his dog on anybody; that he never heard of the dog biting an inmate; that the accused never mistreated anyone; that the accused never had duty at the stone quarry; and that he would have been punished by the SS had he gone into the camp with his dog (R 484, 485). Recalled as a rebuttal witness, Muller testified that he was the superior of the accused and that

the accused was never on a transport in April 1945, nor did he ever see him ride a motorcycle (R 561, 562).

The accused declined to testify (R 611, 612).

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 Major William A. Oates, defense counsel, 10 September 1947. Petitions for Clemency were filed by the accused, 5 August 1947 and 5 December 1947; Lydia Haller, 1 March 1948; Ursula Epstude, 13 February 1948; and five statements, signatures illegible, 18 February 1948.

Recommendation: That the findings and sentence be approved.

8. Filipp HEHL

This accused was neither served nor tried (R 1).

9. Quirin FLAUCHER

Nationality:	German
Age:	32
Civilian Status:	Inmate
Party Status:	Unknown
Military Status:	None
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution: The accused was an inmate at Mauthausen from 29 June 1942 to 5 May 1945. From 1 May 1943 to 23 December 1943, he was a male nurse, and from 23 December 1943 to 5 May 1945 he was block eldest of block 8 (R 18; P-Ex 9A).

Loreau, a former French inmate at Mauthausen for about one and a half months from 26 March 1944 and after that at subcamps Gusen I and II and who is now a member of the French War Ministry, testified that the accused was block eldest in the dispensary in block 8; that he saw the accused beat Russians, Yugoslavs, Frenchmen, Belgians, Austrians, Italians and Swedes every day (R 54); that he beat them with a rubber hose and with his fists (R 55); and that he once saw two or three

washroom (R 56). He further testified that in April 1944 he saw the accused beat a Yugoslav inmate with a whip and then punch and kick him until the victim neither moved nor shouted; that the inmate was then undressed and carried into the washroom, where it was thought by those present, including the witness, that he was dead; that the witness never saw the victim after that time although his bed was only 10 feet from the victim's bed; and that it was common practice that when anyone was dead, the body was undressed and taken to the washroom (R 56-58).

Pogorzelski, a former Polish inmate at Lauthausen from 22 October 1943 to 5 May 1945, testified that he was a male nurse in block 8 from 18 December 1943 to 3 March 1944; that during this period he saw the accused in block 8 severely beat 20 to 25 sick inmates with a wire cable; that the victims were Poles, Russians, Germans, Belgians, Frenchmen, Dutchmen, Yugoslavs and Italians; that he saw the accused beat a sick Polish lieutenant until the victim bled; that he helped carry this inmate to another bed; and that the next morning he helped carry the corpse of this inmate out of the block to a spot where all the dead from the dispensary were placed (R 71, 72).

Szterjnberg, a former Polish inmate, testified that in January 1944 he visited his cousin in the dispensary, who pointed out to him the corpses of two Czech inmates which were lying on a board; that his cousin stated that the accused had just killed them; that he saw the accused beat two Polish inmates in the dispensary with a heavy club; and that a half hour later they were carried away on a stretcher dead (R 96-99).

Wisniewski, a former Polish inmate, testified that while he was assigned to the Russian camp dispensary at Lauthausen, he saw the accused beat 30 to 40 inmates with his hands and a stick; and that in two cases five inmates died as a result of a beating which the witness saw the accused administer (R 192). In the autumn of 1944 the witness saw the corpse of one of these five inmates the morning after he was beaten by the accused and saw medics move the body to the mortuary (R 193). Two weeks after this incident, he saw the corpse of another inmate the morning after the inmate had been

beaten by the accused (R 193). Wisniewski further testified that after this incident he saw the accused beat another inmate and a week later he was told by a Polish doctor from block 7 that the victim had died. The three inmates who were killed by the accused were two Poles and one Russian (R 196).

Bente, a defense witness, testified that he knew the accused by sight but not by name from October 1944 until the capitulation; that the accused was a block-elder; and that he never saw him mistreat inmates (R 392). On cross-examination, however, he admitted that he had heard from other inmates that the accused had killed inmates (R 393).

Mayer, a former Czech inmate, stated in his extrajudicial sworn statement that in April 1945 the accused reported 10 to 20 inmates sick during roll call, when as a matter of fact, the accused had killed them. He further stated that he saw the accused kill inmates with a rubber club (R 362; P-Ex 3L).

Kolewads, a former Hungarian inmate, stated in his extrajudicial sworn statement that he saw the accused beat inmates with a rubber cudgel in a very brutal manner; and that he, the witness, was beaten by the accused in March 1945 and had several teeth knocked out (R 363; P-Ex 32A).

Dr. Dadlez, a former inmate and physician working in block 8, stated in an unsworn pretrial statement that he saw the accused mistreat inmate patients, beat them with his fists, knock out teeth and tie them to the bed during the night in a kneeling position with their hands crossed behind their backs (R 364; P-Ex 35A).

Kustner, a former Austrian inmate, stated in an extrajudicial sworn statement that in the summer of 1944 he saw the accused beat sick inmates with his fists (R 365; P-Ex 36A).

Weber, a former Austrian inmate, stated in an extrajudicial sworn statement that he, the witness, was at Mauthausen from 1943 to 1944; that he worked at the dispensary in block 8 from May until September; that the accused was very brutal to sick inmates and beat and trampled upon them for minor reasons (R 365; P-Ex 37A).

A record of previous convictions of the accused shows that he was sentenced to eight years on 24 May 1934 for the crime of robbery and assault; and that he was sentenced to two months' imprisonment on 13 February 1939 for blackmail (R 627; P-Ex 50).

Evidence for Defense: Schrenker, a former Austrian criminal inmate, testified that he knew the accused since 1944 at Mauthausen; that the accused never mistreated him; that the accused did not beat anybody to death (R 403, 404); and that he never saw the accused beat anybody in ward 3 (R 407).

The accused declined to testify (R 612).

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 Major William A. Oates, defense counsel, 10 September 1947. Petitions for Clemency were filed by Frieda Flaucher, mother of the accused, undated; Georg Flaucher, brother of the accused, 24 August 1947 and 14 January 1948; Otto Kleinguenther, 12 November 1947; the accused, December 1947; Karl Kaufmann, 30 September 1947; and Karl Knoerzer, 3 September 1947.

Recommendation: That the findings and sentence be approved.

10. Arno Albert REUTER

Nationality:	German
Age:	37
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS Sergeant
Plea:	NG
Findings:	G
Sentence:	2 years, commencing 10 June 1945

Evidence for Prosecution: The accused was an SS sergeant in Gusen I, a subcamp of Mauthausen Concentration Camp, from November 1941 to 1 May 1945. He served as a clerk in the administration department.

Sobiesiak, a former Polish inmate, testified that in 1943 at

Gusen, he saw the accused on several occasions beat and kick weak and undernourished inmates when they failed to remove their caps in his presence. He persecuted the inmates (R 329-331).

Gleisinger, a former German inmate at Mauthausen from March 1941 to the liberation, stated in an extrajudicial sworn statement that he was a messenger at the gate of subcamp Gusen I in 1942 and 1943; and that while the accused at first had the reputation of being a good detail leader among the inmates, upon becoming more closely acquainted with him, he learned that the accused beat Russians and others; and that he also knew for sure that the accused made punishment reports to the camp authorities (R 370; P-Ex 42a).

Evidence for Defense: Schoeps testified that he never saw the accused mistreat any of the inmates (R 414). Streitwolf testified that he knew the accused only a short time, but never heard of or saw that the accused mistreated any of the inmates (R 461). Schoenewolf testified that he was acquainted with the accused since 1942 at subcamp Gusen I; that he saw the accused almost daily; and that he never saw or heard of the accused mistreating any of the inmates (R 467).

The accused declined to testify (R 612).

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.

11. Ferruccio DWORSKY

This accused was neither served nor tried (R 1).

V. QUESTIONS OF LAW:

Jurisdiction: It is clear that the Court had jurisdiction of the persons of the accused and 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

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). 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 were such as to warrant the sentences imposed.

Examination of the entire record fails to disclose any errors or omissions in the conduct of the trial 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.

LOUIE T. FISCHER
Attorney
Post Trial Branch

Having examined the record of trial, I concur, this _____ day of
_____ 1948.

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