

19 January 1948

UNITED STATES)

v.)

Max Paul Emil VOGEL)

Case No. 000-Buchenwald-14

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 3-7 October 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Emil VOGEL, a German national, did, at or in the vicinity of Bochum, Germany, in or about November 1944 wrongfully encourage, aid, abet and participate in the killing of approximately three non-German nationals, inmates of Buchenwald Concentration Camp, who were then in the custody of the then German Reich, the exact names and numbers of such persons being unknown.

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

Particulars: In that Emil VOGEL, a German national, did, at or in the vicinity of Bochum, Germany, in or about March 1945 wrongfully encourage, aid, abet and participate in the killing of approximately 30 non-German nationals, inmates of Buchenwald Concentration Camp, who were then in the custody of the then German Reich, the exact names and numbers of such persons being unknown.

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

Particulars: In that Emil VOGEL, a German national, did, at or in the vicinity of Bochum, Germany, in or about November 1944 wrongfully encourage, aid, abet and participate in committing an assault upon approximately three non-German nationals, inmates of Buchenwald Concentration Camp, who were then in the custody of the then German Reich, the exact names and numbers of such persons being unknown.

During the trial the particulars under Charge III were amended by the Court to read:

"In that Max Paul Emil Vogel, a German national, did at or in the vicinity of Bochum, Germany in or about March 1945 wrongfully encourage, aid, abet and participate in committing an assault upon one non-German national, an inmate of Buchenwald Concentration Camp who was then in the custody of the then German Reich." (R 153)

(Correct name of VOGEL actually Max Paul Emil VOGEL; R 3, 4, see certificate attached to Prosecution Exhibit P-5.)

III. SUMMARY OF EVIDENCE: Inasmuch as the accused was acquitted of charges I and II, the evidence concerning these charges is not digested herein.

In March 1945, the accused, an SS Technical Sergeant at Bochum, a subcamp of Buchenwald Concentration Camp, beat a Latvian inmate with a wooden stick until he fell bleeding to the ground. The victim died two weeks later.

IV. EVIDENCE AND RECOMMENDATIONS:

Max Paul Emil VOGEL

Nationality:	German
Age:	53
Civilian Status:	Builder
Party Status:	None
Military Status:	SS Technical Sergeant
Plea:	NG Charges I, II and III
Findings:	NG Charges I and II; G Charge III as amended
Sentence:	4 years, commencing 3 April 1945

Evidence for Prosecution: The accused testified that he was transferred from the Wehrmacht to the SS with a rank of technical sergeant on 17 June 1944; that after eight days in Buchenwald he was sent to Bochum about 27 June 1944; that until November 1944 he acted as an officer of the day, inspecting the chain of guards at Bochum; that from November 1944 to about the middle of March 1945 he was in charge of the reconstruction of the barracks at Bochum; and that the inmates who worked under him were largely Jewish (R 109, 110).

One witness, a former inmate, testified that in March 1945, about a week before the evacuation of subcamp Bochum, he saw the accused beat a Latvian inmate named Schermann with a wooden stick about a meter long because this inmate was not carrying cement blocks fast enough (R 141-143, 146, 151). The victim who was in a weakened condition, fell down, bleeding profusely (R 142, 151). He was sent on the evacuation transport to Buchenwald Concentration Camp and died there about two weeks after the

beating (R 142, 143). This witness saw his body in Buchenwald after the evacuation from subcamp Bochum to Buchenwald (R 142). A second witness stated in an extrajudicial sworn statement that he saw the accused beat the inmate Schermann at subcamp Bochum. Schermann died after a few days. (This witness did not indicate the date of the incident.) (R 46; P-Ex 6-A).

Evidence for Defense: The accused testified that he never beat an inmate with a stick and that the only stick he carried was a measuring rule, which would have broken if he had beaten inmates with it (R 113, 126). A witness who often visited subcamp Bochum in 1945 testified that the accused was good to the inmates, never mistreated them, and was never seen carrying a club or hose (R 50, 51). His reputation as to the treatment of inmates was good (R 53). A second witness, the former leader of the subcamp, testified that he never saw or heard that the accused mistreated inmates (R 86, 87). A third witness, a former guard at Bochum, testified that he never saw the accused carry a club or rubber hose. A fourth witness testified that the accused treated the inmates decently and gave them food (R 78, 79).

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: It is clear that the Court had jurisdiction of the person of the accused and of the subject matter.

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

VI. CONCLUSIONS:

1. It is recommended that the findings and the sentence be approved.

2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

RICHARD A. SCHNEIDER
Attorney
Post Trial Branch

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

C. W. PHIFER
Lieutenant Colonel, USAF
Acting Deputy Judge Advocate
for War Crimes