

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

1 March 1948

UNITED STATES)
))
 v.)
))
Heinz BLUME)

Case No. 000-Sachsenwald-7

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 22-24 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 Heinz BLUME, a German national, did, at or in the vicinity of Graslitz, Czechoslovakia, in or about April 1945, wrongfully encourage, aid, abet and participate in the killing of an unknown non-German national, an inmate of Meuselwitz Concentration Camp, who was then in the custody of the then German Reich.

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

Particulars: In that Heinz BLUME, a German national, did, at or in the vicinity of Graslitz, Czechoslovakia, in or about April 1945, wrongfully encourage, aid, abet and participate in the killing of approximately four non-German nationals, inmates of Meuselwitz 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 Heinz BLUME, a German national, did, at or in the vicinity of Meuselwitz, Germany, in or about April 1945, wrongfully encourage, aid, abet and participate in the killing of approximately three non-German nationals, inmates of Meuselwitz Concentration Camp, who were then in the custody of the then German Reich, the exact names and numbers of such persons being unknown.

(The particulars of Charge III were amended by substituting the words "in committing assault upon approximately" for the words "in the killing of approximately" (R 78).

III. SUMMARY OF EVIDENCE: The evidence under Charges I, II, III, and the particulars thereunder will hereinafter be referred to as Incident Nos. 1, 2 and 3, respectively.

Incident No. 1. On or about 16 April 1945, at Graslitz, Czechoslovakia, on an evacuation transport from subcamp Meuselwitz, a subcamp

WAR DATE 3/21/48
775032

Concentration Camp, located at Meuselwitz, Thuringia, Germany, the accused, an SS technical sergeant and labor allocation leader of subcamp Meuselwitz, fired with his pistol into a group of 20 to 25 male inmates of subcamp Meuselwitz. One of the shots hit the head of a Polish Jewish inmate named Kaufmann, resulting in his death. The accused denied the charge and his testimony is corroborated by other witnesses.

Incident No. 2. On or about 31 April 1945 between Falkenau and Eilbogen, Czechoslovakia, and 45 to 50 kilometers from Graslitz, Czechoslovakia, on an evacuation transport from subcamp Meuselwitz, a subcamp of Buchenwald Concentration Camp, located at Meuselwitz, Thuringia, Germany, the accused, an SS technical sergeant and labor allocation leader of subcamp Meuselwitz, shot and killed four Russian male inmates of subcamp Meuselwitz who were improperly attempting to take potatoes and bread for their own use. The accused denied the charge and his testimony is corroborated by other witnesses.

Incident No. 3. In March or the beginning of April 1945, at subcamp Meuselwitz, a subcamp of Buchenwald Concentration Camp, located at Meuselwitz, Thuringia, Germany, the accused, an SS technical sergeant and labor allocation leader of subcamp Meuselwitz, beat a Polish female inmate with a rubber stick on her body and head because she had improperly taken a few potatoes.

IV. EVIDENCE AND RECOMMENDATIONS:

Heinz BLUME

Nationality:	German
Age:	34
Civilian Status:	Dairy Export
Party Status:	Member of German Labor Front
Military Status:	SS Technical Sergeant
Flea:	NG Charge I; NG Charge II; NG Charge III
Findings:	G Charge I; G Charge II; G Charge III
Sentence:	Death by hanging

Evidence for Prosecution: The accused, in his extrajudicial sworn statement, admitted that during the entire time he was on duty at subcamp Meuselwitz from October 1944 to 12 April 1945, he beat an inmate on only four or five occasions with 10 to 15 blows on the buttocks with a rubber hose 50 centimeters long. In all instances these beatings were administered because of offenses committed ~~by~~ ^{the} inmates (R 87; P-Ex 6A p. 2).

Incident No. 1. One witness, a half-Jewish (R 14) inmate and block eldest at subcamp Meuselwitz (R 22), a subcamp of Buchenwald Concentration Camp, located at Meuselwitz, Thuringia, Germany (R 8, 87, 122; P-Ex 6A p. 1; P-Ex 7A p. 1), testified that the accused was an SS technical sergeant at subcamp Meuselwitz (R 8). On 12 April 1945 an evacuation transport consisting of 2,000 female inmates and 350 male inmates left Meuselwitz by train (R 11) and arrived at Graslitz, Czechoslovakia, where it remained until 17 April 1945. The inmates were hungry at Graslitz. On 16 April 1945 at Graslitz, the accused fired with his pistol into a group of some 20 to 25 male inmates who had been attracted by the unloading by SS Sergeant Hohner of two bags of raw potatoes from a railroad car. One of the shots hit the head of a Polish Jew named Kaufmann, killing him instantly (R 12, 13, 15, 17, 21). Witness was two to four meters from the railroad car from which these potatoes were unloaded (R 17). There was an air raid on Sunday, 15 April 1945, at Graslitz, and about 30 inmates were killed (R 15).

A second witness, a former German or Polish Jewish inmate 27 years of age, testified that subcamp Meuselwitz was a subcamp of Buchenwald Concentration Camp (R 25, 26); that on or about 16 April 1945 at Graslitz, the accused fired several shots with his pistol in the direction of inmate Kaufmann and some other inmates who had crawled under the railroad car for the purpose of stealing some bread or potatoes (R 29, 36). Kaufmann was hit in the head and was dead 15 minutes later (R 42). This witness was 20 to 30 meters from the accused when the shots were fired (R 39). He did not hear accused say anything before he fired the pistol (R 41). On 18 April 1945, this witness with six other inmates and an SS man escaped

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the evacuation march, returned to Graslitz and on 19 April 1945, buried inmate Kaufmann together with about 20 victims of an air raid at Graslitz on 15 April 1945. These bodies had been left unburied at Graslitz on 17 April 1945 when the inmates continued the evacuation march by foot (R 30-32, 42).

A third witness, a former Polish Jewish inmate barber 18 years of age, testified that the evacuation transport arrived by rail at Graslitz on 14 April 1945 where it remained until 17 April 1945, at which time it continued by foot march. At Graslitz the accused fired his pistol into a group of about 25 male inmates (R 45-47, 50) who had been attracted by the unloading by SS Sergeant Hohner (R 49) of two bags of potatoes from a railroad car. One of the shots hit the head of and killed a Jewish inmate named Kaufmann who was a former bedmate of this witness (R 47). The exact date of this incident is not disclosed by the witness. Nothing was said by the accused before the shooting, and the witness does not know why the shots were fired (R 51).

Incident No. 2. One witness, a former Polish inmate (R 71), testified that on or about 20 April 1945 between Falkenau and Milbogen, Czechoslovakia, three days by foot from Graslitz, Czechoslovakia, the accused shot with ^{his} pistol and killed two Russian inmates who were improperly taking potatoes. The bullets hit the victims in the back of the head (R 73, 74, 77).

A second witness, a former German Jewish inmate (R 59), testified that approximately four days out of Graslitz (that is, 31 April 1945), 45 to 50 kilometers from Graslitz, the accused shot with his pistol without any particular aiming (R 69) into a group of 150 to 180 male inmates (R 67), because some had jumped on a horse drawn bread cart (R 58, 66-68). Some of these shots hit and killed two Russian inmates (R 58, 59). This witness also testified that he came to subcamp Meuselwitz at the end of April 1944 (R 57, 59); that at that time there were approximately 1,000 male inmates and 1,000 female inmates at this subcamp; that there were 1,000 male inmates until the camp was evacuated on 12 April 1945 who

25032
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cupied eight to ten blocks (R 60); that approximately 1,000 male inmates were on the evacuation transport and arrived at Graslitz (R 61). Other evidence indicates that inmates were not received at this subcamp until October 1944. All the other evidence, both prosecution and defense, established that there were approximately 350 male inmates at this subcamp and on the evacuation transport.

Incident No. 3. One witness, a former Polish female inmate (R 79), testified that in March or the beginning of April 1945 at subcamp Meuselwitz, the accused beat a Polish female inmate with a rubber stick all over her body and head, because she had improperly taken a few potatoes (R 80, 81).

Evidence for Defense: One witness, an SS auxiliary and former supervisor at subcamp Meuselwitz and member of the evacuation transport and march, testified that she never saw the accused shoot any inmate and never heard that he did, and that SS Second Lieutenant Bergmaier was the highest authority at subcamp Meuselwitz (R 94-96).

A second witness, a Hungarian who worked in the factory at subcamp Meuselwitz, testified that the first inmates arrived at subcamp Meuselwitz on 5 October 1944 (R 97).

A third witness, Christof Hohner, an SS sergeant in charge of accounts at subcamp Meuselwitz from October 1944 to 12 April 1945 and a member of the evacuation transport and march from 12 April 1945 to 8 May 1945, testified that he did not see the accused shoot any inmate at Graslitz or at any time on the inmate march thereafter, and he did not hear that the accused did so (R 98-100). This witness is the same SS Sergeant Hohner referred to by the first and third prosecution witnesses.

A fourth witness, a former German guard at subcamp Meuselwitz and on the evacuation transport and march, testified that inmates did not arrive at subcamp Meuselwitz until after 1 October 1944; that the accused was Camp Commander from October 1944 to November 1944, and SS Second Lieutenant Bergmaier was Camp Commander from November 1944 to 8 May 1945; that he never saw or heard that the accused shot at any inmates, but he did

Date 3/13/50
15032

not see the accused every day on the evacuation transport and march (R 103-106).

A fifth witness, a former member of the SS at subcamp Meuselwitz and member of the evacuation transport and march, testified that he did not see the accused shoot any inmates at Graslitz or on the inmate march thereafter (R 107-109).

A sixth witness, a former German guard at subcamp Meuselwitz and a guard on the evacuation transport and march, testified that the 30 inmates killed in the air raid at Graslitz on 15 April 1945 were buried before the inmate march left Graslitz and not four days after they were killed as testified by the second prosecution witness and that he did not see or hear that the accused shot any inmates (R 110-113).

The accused testified that he was Camp Commander of subcamp Meuselwitz from 2 October 1944 until the middle of December 1944 and then he became labor allocation leader; that he never shot any inmates in Meuselwitz, Graslitz or on the foot march from there; that he beat inmates who violated the rules of the camp; that the inmates ^{were} informed orally on the roll call square as well as by posters on the bulletin board that they would be punished by beatings and the cutting of their hair for violations of camp regulations, especially those concerning stealing of food; that the accused did not report these violations to Camp Buchenwald as the inmates then would have been punished more severely; and that in the fall of 1944 five Polish female inmates presented him with a remembrance booklet (R 116-119; D-Ex 1). The accused specifically denied the testimony of the prosecution witnesses against him (R 127).

Sufficiency of Evidence: The evidence adduced is insufficient to sustain the findings of guilty as to Charges I and II. Considering the unsatisfactory nature of the testimony of the witnesses for the prosecution, the testimony of the accused and the six defense witnesses, who were in no way impeached, creates a reasonable doubt as to the guilt of the accused as to Charges I and II. The Court was warranted in its findings of guilty as to Charge III. The sentence is excessive.

RA Date 3/31/50
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Petitions: A Petition for Review was filed by Mr. Delitala, defense counsel, 3 November 1947. Petitions for Clemency were filed by the accused, 22 November 1947; and by Waltraut Blume, wife of the accused, 14 November 1947 and 15 February 1948.

Recommendation: That the findings as to Charges I and II be disapproved; that the findings as to Charge III and the sentence be approved, but that the sentence of death by hanging be commuted to imprisonment for three years, commencing 11 May 1945.

V. QUESTIONS OF LAW:

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

Motions: At the conclusion of the prosecution's evidence, the defense made a motion for findings of not guilty as to Charge I and the particulars thereunder and Charge II and the particulars thereunder (R 88). This motion was properly denied by the Court (R 92). It is not error for a war crimes tribunal to overrule a motion for findings of not guilty made at the close of the case for the prosecution, if it believes there is sufficient evidence to support the charge and that the accused should be required to answer it (Section 5-327.2, Title 5, "Legal and Penal Administration" of "Military Government Regulations", published by Office of Military Government for Germany (US), 27 March 1947; and Section 501, page 409, "Manual for Trial of War Crimes and Related Cases", 15 July 1946). A similar practice is followed in courts-martial (Paragraph 71 d., "Manual for Courts-Martial, U.S. Army." 20 April 1943).

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

VI. CONCLUSIONS:

1. It is recommended that the findings as to Charges I and II be disapproved; that the findings as to Charge III and the sentence be approved, but that the sentence to death by hanging be commuted to imprisonment for three years, commencing 11 May 1945.

3/21/48
15032

HAROLD E. KUHN
Attorney
Post Trial Branch

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

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

Date 3/31/50
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