

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

5 August 1947

UNITED STATES)

v.)

Josef HERMER, et al.)

Case No. 000-50-2-45

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 24-27 January 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 DEFFNER and Josef HERMER 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 DEFFNER and Josef HERMER 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: The accused was, by his own admission, a member of the SS at Dachau Concentration Camp and several of its outcamps for considerable periods of time between the dates alleged and was shown to have participated as a guard 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, DJLHC, hereinafter referred to as the "Parent Case"; see Sec. V, post, R 94).

IV. EVIDENCE AND RECOMMENDATIONS:

1. GEORG DEFFNER

This accused was neither served nor tried.

2. JOSEF HERMER

Nationality:	German
Age:	50
Civilian Status:	Unknown
Party Status:	NSDAP, NSV and SA
Military Status:	Waffen SS Sergeant
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	15 years, commencing 7 May 1945

Evidence for Prosecution: The accused joined an SA communications company in 1939 and was drafted into the Waffen SS 15 March 1942. He served at Lublin Concentration Camp as a guard and photographer from July 1942 to April 1944. From April 1944 until August 1944, he acted as sergeant of the guard at the Warsaw Ghetto. During the month of August he left Warsaw with an inmate transport for Dachau Concentration Camp. He served from August 1944 until April 1945 as a guard and labor service leader at the following outcamps of Camp Dachau: Allach, Kaufering I, IV and IX, (R 7, 97; P-Ex 2).

One witness testified that he knew the accused at outcamp Kaufering as leader of the work service office (R 7). He saw the accused strike sick inmates with a stick on approximately ten occasions (R 8). There were

approximately 800 to 1000 inmates on the inmate evacuation transport which left Landsberg 26 April 1945. The accused was a guard on this transport. At Schwabhausen when the transport stopped to let a German anti-aircraft train go by, it was strafed by enemy planes. Many inmates fled to the forest and after the attack was over they came back to the railroad cars. Twenty minutes later the train was strafed again and the inmates jumped from the railroad cars. SS Lieutenant Mueller ordered the guards to shoot at the prisoners. The witness saw the accused running around with a pistol in his hand (R 9, 10). One hundred fifty to two hundred inmates were killed by the strafing of the planes and by the guns of the guards. He did not know how many had been shot by members of the SS (R 10). At Landsberg (outcamp Kaufering I) there were 2,500 to 2,800 inmates of Hungarian, Rumanian, Lithuanian, Russian, French, Belgian and German nationalities (R 13, 14, 28, 34, 93).

A second witness testified that she knew the accused at outcamp Turkheim (Kaufering IV). He was the labor commitment leader there. At this outcamp female inmates had to work as hard as the male inmates at digging ditches and unloading trains (R 16, 17). The accused was very rude and very brutal toward the inmates and beat them with a red cable loaded with lead. The witness saw him strike female inmates on approximately ten occasions (R 18). He continued his brutality at outcamp I (Kaufering I) at Landsberg (R 19). Female inmates worked on the "Scheiss Kommando", a detail that carried the dried contents of latrines to SS gardens to be used as fertilizer. The witness was assigned to this detail by the accused (R 20). Both male and female inmates were forced to work on the ill-famed Moll detail, which was an underground cement factory (R 21). The witness left Landsberg with between 2,000 and 3,000 inmates on an inmate evacuation transport 26 April 1945. Inmates who were jumping from the cars during an air attack by enemy planes were threatened with being shot by SS First Lieutenant Mueller and the accused if they did not return (R 21-23). The accused beat at least three or four inmates every day, including females (R 28). The accused struck the witness on her left shoulder at outcamp Turkheim. Male inmates from outcamp Turkheim who

were sent out on the Moll detail became so weak and thin after a week that they were unrecognizable (R 27, 32).

A third witness testified that at outcamp Kaufering IX, the accused beat everyone with a big stick who was working in the gravel pit. The witness was hospitalized for two weeks as a result of being beaten by the accused. The accused beat men, women and children (R 36, 37). On one occasion when a capo was not administering the "25" severely enough, the accused said, "You dog, I'll show you how you dispense blows", and using a rubber hose the accused completed the punishment. After the beating, he made the inmate stand outside the clerk's office until evening. Three days later this inmate died (R 38) and the witness attended his funeral (R 43).

A fourth witness testified that the accused slapped her once and on another occasion kicked her. She saw him strike inmates with his hands, with his feet and with whatever he wanted (R 49). As a result of being kicked by the accused she was incapacitated for two days (R 50). A fifth witness testified that when inmates did not work fast enough the accused drove them with a stick (R 59). The witness was twice beaten with a stick by the accused (R 57, 58). The accused was always scolding and shouting (R 60). A sixth witness testified that she was placed on the "Scheiss Kommando", the Moll detail, and dynamite detail by the accused. He beat inmates on these details with a cable which was loaded with lead. On one occasion he threw a big stone on the foot of the witness (R 67). At outcamp Kaufering I, Poles, Czechs, Russians, Yugoslavs, French, Belgians, Rumanians and Hungarians were inmates (R 70). At Easter time 1945, female inmates were punished by having their food withdrawn for 36 hours (R 71).

A seventh witness testified that the accused beat him for having a piece of coal in his pocket and beat his comrade for having a piece of potato in his pocket. The accused then made them hold the objects in their mouths and stand behind the wire fence all night (R 73, 74). They stood behind the wire fence from 12 to 14 hours (R 76). Both he and his

comrade caught a cold and got typhoid fever as a result of this punishment. His comrade died 12 days later (R 74). On one occasion the accused tormented sick inmates all day long by making them carry stones in their caps from one spot to another and bring them back again. An eighth witness testified that the accused beat him at outcamp Kauforing I with a stick causing his arm to swell. For the three weeks that the witness was inside the camp, the accused struck somebody every day with a spade handle. Eighteen to twenty inmates died every day between January and April 1945 (R 83, 84). The witness saw the accused shoot his pistol three or four times when the inmate evacuation transport, which left Landsberg 26 April 1945, was attacked by enemy planes (R 85, 86).

In his testimony, the accused admitted that he beat inmates with a stick, a piece of cable, and that he kicked them (R 99). He once beat a female inmate at outcamp Turkheim with a stick for stealing bread from her comrades (R 100). At one time he gave a male inmate five blows with a stick for stealing potatoes (R 101). He admitted beating eight to ten prisoners (R 114).

Evidence for Defense: The accused, testifying in his own defense, denied that he had ever kicked a female inmate (R 101). He administered five blows to an inmate after a consultation with the camp commander to avoid reporting him to Camp Dachau for punishment. This was the inmate whom the third witness for the prosecution testified had died as a result of a beating administered by the accused (R 38). The accused denied that this inmate was ever hospitalized or died (R 101). He never searched any inmates. He never tormented sick inmates nor did he place any inmate between the wire fences. He never used his pistol when he was a guard with the inmate evacuation transport which left Landsberg on about 25 April 1945, nor did he threaten to kill anyone on that transport (R 102, 103). The three blows he administered to a Greek block eldest were for stealing food from the inmates (R 107). He only beat inmates for sabotaging their work (R 109). The cable which he used to beat a few inmates was made of aluminum, six centimeters broad and on the inside were aluminum wires. It

was approximately 32 centimeters long (R 111, 112). No inmates died as a result of beatings administered by him (R 114). He never heard Mueller give an order to shoot inmates who were escaping from the inmate evacuation transport. He never killed anybody (R 115). The barbed wire enclosures were not electrically charged (R 116). The report mentioned by him in his statement of November 1946 was not a report to have inmates punished but was merely a report to secure female laborers from the Iodt organization. No females were ever punished because of this report (R 97, 119; P-Ex 2). At outcamp Turkheim (Kaufering IV) he had coffee prepared for the inmates when it was cold. He secured food for the inmates at outcamp Kaufering IX. Behind him was the camp commandant who ordered the work and in front of him were the inmates who did not want to work. If he submitted any kind of report, the inmates involved would have received the "25", but he took the initiative and hit them and by so doing saved them from the other "24" (R 130).

The English translation of Prosecution's P-ex 2 is not contained in the record of trial. A translation thereof has been prepared by the Translation Section, 7708 War Crimes Group, and has been inserted in its proper place in the record.

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 person 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

that those shown to have participated knew of the criminal nature thereof (Letter, Headquarters United States Forces, European Theater, file AG 000.5 JAG-AGG, subject: "Trial of War Crimes Cases", 14 October 1946, and the Parent Case). The accused was 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 him that he not only participated to a substantial degree but that the nature and extent of his participation were such as to warrant the sentence 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 sentence be approved.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

MARVIN J. ANDROVETTE
Attorney
Post Trial Branch

Having examined the record of trial, I concur.
this _____ day of _____ 1947.

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