

25 July 1947

UNITED STATES

v.

Case No. 000-50-2-52

Anton Bernhard SCHLOETER, et al.

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 13-14 January 1947, before an Intermediate Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Andreas Georg MAIER, Gerd SCHLADEN, Anton Bernhard SCHLOETER, Hans SIEDLER, Kurt Emil STRAUSS, Hermann Georg WINTER, Friedrich ZERBIAN, Matthias ZWICK, acting in pursuance of a common design to commit the acts hereinafter alleged, and as individuals aiding the operation of the Dachau Concentration Camp and camps subsidiary thereto, did, at or in the vicinity of DACHAU and LINDSBERG, Germany between about 1 January 1942 and about 29 April 1945, wilfully, deliberately and wrongfully participate in the subjection of civilian nationals of nations then at war with the then German Reich to cruelties and mistreatment, 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 then German Reich in exercise of belligerent control.

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

Particulars: In that Andreas Georg MAIER, Gerd SCHLADEN, Anton Bernhard SCHLOETER, Hans SIEDLER, Kurt Emil STRAUSS, Hermann Georg WINTER, Friedrich ZERBIAN, Matthias ZWICK, acting in pursuance of a common design to commit the acts hereinafter alleged, and as individuals aiding in the operation of the Dachau Concentration Camp, did, at or in the vicinity of DACHAU, Germany, between about 1 January 1942 and about 29 April 1945, wilfully, deliberately and wrongfully 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, the exact names and numbers of such prisoners of war being unknown but aggregating many hundreds.

III. SUMMARY OF EVIDENCE: The convicted accused were, by their own admissions, members of the SS at Camp Dachau and/or its outcamps for considerable periods of time between the dates alleged, and were shown to have participated in the Dachau Concentration Camp mass atrocity. Prosecution's P-Ex 1 is a certified copy of the charges, particulars, findings and sentences in the parent Dachau Concentration Camp case (United States v. Weiss, et al., 000-50-2, March 1946, DOJWC, hereinafter referred to as the "Parent Case", see Section V, post; R 7).

IV. EVIDENCE AND RECOMMENDATIONS:

1. Andreas Georg MAIER

This accused was not tried.

2. Gerd SCHLADEN

This accused was not tried.

3. Anton Bernhard SCHLOETER

Nationality:	German
Age:	31
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS, Sergeant
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	20 months, commencing 27 April 1945

Evidence for Prosecution: The accused stated in his extrajudicial sworn testimony and in his testimony in Court that, as a member of the 9th SS Deathhead Regiment of Dachau, he was a guard at outcamp Kaufering III from 1 August 1944 to 27 April 1945 (R 8, 14a; P-Ex 2e).

Evidence for Defense: The accused participated in no inmate transports or marches (P-Ex 2e).

The accused testified that he appeared before a line-up of former concentration camp inmates of Camp Dachau five or six times and that at

no time had any former inmates ever denounced him. He denied ever mistreating an inmate in any way and stated that he had tried twice to have his duties changed. As a member of a convalescent battalion in Berlin, he was transferred to the Waffen SS and Camp Dachau on 1 August 1944. Inmates whom he guarded were treated well. They seemed to have sufficient civilian clothes and overcoats and were in a fair physical condition. He did not know of, or see, any deaths among the inmates (R 15, 16). As a disabled veteran he was compulsorily transferred to the Waffen SS (D-Ex 1a, 2a).

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.

4. Hans SIEDLER

This accused was acquitted (R 72).

5. Kurt Emil STRAUSS

Nationality:	German
Age:	39
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS, Corporal
Plan:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	20 months, commencing 4 May 1945

Evidence for Prosecution: The accused stated in his extrajudicial sworn testimony and in his testimony in Court that he was a member of the SS Deathhead Regiment at Camp Dachau as a guard from 23 September 1944 to 4 May 1945, during which time he was on one occasion in charge of a detail of four inmates. During the balance of the time he only

served as a guard (R 9, 10, 31; P-Ex 4a).

He participated as a guard in an inmate evacuation march from Camp Dachau to Wolfretshausen 27-29 April 1945 with 300 female inmates and 30 guards (R 36; P-Ex 4a).

Evidence for Defense: The accused testified that he appeared before a line-up of former concentration camp inmates of Camp Dachau on three different occasions, but no one recognized him or preferred charges against him. His orders from superiors were that no inmate was to be beaten or ill-treated. In Dachau nothing happened to inmates and particularly nothing happened to inmates on his detail. Inmates moved about together with the guards without any incident occurring. Inmates on his details told him that conditions had improved in camp since the air corps came to Camp Dachau. He attempted to be relieved from duty as a guard at Camp Dachau by pretending he should be excused from duty because of his bad legs. He denied ever mistreating inmates and stated that his reputation with inmates must have been good because inmates asked him whether the other guards were good. Whenever the inmates knew a guard was not good, they talked to the guard and said, "Look here, everything is all right here, so don't pull anything." The accused testified that he had influence and used it in behalf of the inmates in cases where they failed to answer questions properly. He also permitted inmates to pick up bread at the bakery and to get potatoes and cook them in the potato cellar. He specifically allowed a Yugoslavian inmate to be together with his wife. The accused stated that he acted as he did for humane reasons because he had been taught, "Do unto others as you would have them do unto you" (R 31-34).

On cross-examination the accused testified that as long as he was at Camp Dachau, there were no bed guards. Nothing ever happened to anyone. Questioned by the Court, the accused stated that he never saw a guard abuse inmates at Camp Dachau and absolutely nothing happened there. Inmates going out to work looked good and well fed and the reason they

did look well fed was because he allowed them to take potatoes and to cook and eat them. He never saw any bodies hauled through Camp Dachau (R 35, 38, 39).

Sufficiency of Evidence: The findings of guilty are warranted by the evidence. The sentence is not excessive.

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

Recommendation: That the findings and sentence be approved.

6. Hermann Georg WINTER

This accused was acquitted (R 72).

7. Friedrich ZERBIAN

This accused was not tried.

8. Matthias ZWICK

This accused was not tried.

V. QUESTIONS OF LAW:

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

Application of 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 criminal in nature and that the participants therein, acting in pursuance of a common design, subjected persons to killings, beatings, tortures, etc., and was warranted in inferring that those shown to have participated knew of the criminal nature thereof (Letter, Headquarters, United States Forces, European Theater, file 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

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extent of their participation were such as to warrant the sentences imposed.

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

VI. CONCLUSIONS:

1. It is recommended that the findings and sentences be approved.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

MURRAY J. ANDROVETTE
Attorney
Post Trial Branch

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

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