

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

31 March 1947

UNITED STATES )

vs )

Case No, 000-50-2-4

Thomas BRUECKER, Erwin BURGHARD, )  
Michael DIETLMAYER, Josef BELLER, )  
Josef HOLLNACHER, Josef JEISEL, )  
Stefan JUNG, Ernst MORLOCK )

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA:

Tried jointly at Dachau, Germany  
Date: 23 - 24 October 1946  
Intermediate Military Government Court

<u>ACCUSED</u>	<u>DATA</u>	<u>SENTENCE</u>
BRUECKER, Thomas	Age 27 Roumanian national Civilian occupation: Barbor SS guard out-camp Gendorf, October 1943 to 5 February 1945 Rank: Private	18 months confinement from 9 June 1945
BURGHARD, Erwin	Age 60 German national Civilian occupation: Clerk SS guard out-camp Utting, 15 August 1944 to capitulation Rank: Private	15 months confinement from 5 August 1945
DIETLMAYER, Michael	Married, 5 children Age 52 German national SS clerk at Gendorf- Muhlendorf out-camp September 1944 to capitulation Rank: Unknown	2 years confinement from 28 July 1945

<u>ACCUSED</u>	<u>DATA</u>	<u>SENTENCE</u>
HELLER, Josef	Married, 6 children Age 50 German national SS tower and work- detail guard Allach out-camp, September 1944 to capitulation Rank: Sergeant	2 years confinement from 30 April 1945
HOLLHAICHER, Josef	Age 54 German national Civilian occupation: Farmer SS guard Camp Dachau and out-camp Gendorf Muhldorf, July 1944 to capitulation Rank: Pfc	2 years confinement from 30 April 1945
JEISEL, Josef	Married, 3 children Age 48 Hungarian national Civilian occupation: Farmer SS guard Camp Dachau, Allach and Muhldorf out-camp, February 1945 to capitulation Rank: Pfc	18 months confinement from 30 April 1945
JUNG, Stefan	Married, 2 children Age 34 Roumanian national Civilian occupation: Farmer SS guard out-camp Muhldorf, October 1943 to capitulation Rank: Unknown	18 months confinement from 30 April 1945
MORLOCK, Ernst	Married, 3 children Age 60 German national Civilian occupation: Jeweler-Farmer SS guard Camp Dachau Landsberg out-camp #7 and Muhldorf, June 1944 to capitulation Rank: Unknown	18 months confinement from 30 April 1945

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

PARTICULARS: In that Thomas BRUECKER, Erwin BURGHARD, Michael DIETLMAYER, Josef HELLER,, Josef HOLLNAICHER, Josef JEISEL, Stefan JUNG and Ernst MORLOCK, 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 Camp subsidiary thereto, did, at, or in the vicinity of DACHAU and LANDSBERG, 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.

	<u>Pleas</u>	<u>Findings</u>
BRUECKER	NG	G
BURGHARD	NG	G
DIETLMAYER	NG	G
HELLER	NG	G
HOLLNAICHER	NG	G
JEISEL	NG	G
JUNG	NG	G
MORLOCK	NG	G

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

PARTICULARS: In that Thomas BRUECKER, Erwin BURGHARD, Michael DIETLMAYER, Josef HELLER, Josef HOLLNAICHER, Josef JEISEL, Stefan JUNG and Ernst MORLOCK, 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.

	<u>Pleas</u>	<u>Findings</u>
BRUECKER	NG	G
BURGHARD	NG	G
DIETLMAYER	NG	G
HELLER	NG	G
HOLLNAICHER	NG	G
JEISEL	NG	G
JUNG	NG	G
MORLOCK	NG	G

2. RECOMMENDATIONS: That the findings and sentence be approved except as to accused BURGHARD, and that the finding and sentence as to accused BURGHARD be disapproved.

3. EVIDENCE:

For the Prosecution. Prosecution's case was based on extrajudicial sworn testimony as hereinafter shown. Exhibit P-1 is a certified copy of the charges, particulars, findings and sentences in the parent Dachau Concentration Camp Case (R 7; U.S. vs Weiss et al, 900-50-2, March 1946). Exhibits P-2 to P-13, inclusive, are extrajudicial sworn testimony of the accused.

Accused BRUECKER received his SS guard training at Oranienburg July to October 1943. He was then transferred to Gendorf, an out-camp of Camp Dachau, where he served until February 1945. There were 250 prisoners of various nationalities at Gendorf working in a chemical factory and on excavating details. He knew of beatings and mistreatment there (P-2, R 8).

Accused BURGHARD came to Camp Dachau as a guard in August 1944 and transferred to out-camp Utting on Ammersee. At Utting there were about 400 prisoners under 13 guards constructing a factory nearby. The prisoners worked 12 hours a day (P-3, R 9).

Accused DIETLMAYER was an SS clerk at Gendorf-Muhldorf, an out-camp, for 8 months. His duties included making up duty rosters of the guards (P-5, R 10). He was a member of the Nazi Party, 1933 to 1943 (P-6, R 10).

Accused HELLER served as a tower and work-detail guard, first at Allach out-camp, 2-1/2 months; Camp Dachau, on the Praezifix factory detail, 5 months. He knew one American Officer at Allach (P-7, p 3; R 12). He was a guard on the prisoner transport Muhldorf to Tutzing, 29 April 1945, on which there were 3600 inmates loaded into 60 to 70 box cars. Many died of exhaustion (P-7, pp 5 to 7, inclusive; R 12).

Accused HOLINAICHER was a plantation and clothing factory work-detail guard at Camp Dachau and work detail guard at out-camp

300 prisoners and the clothing detail of about 30 men. The Gendorf Chemical Works detail was made up of 3000 prisoners (P-8, P-9, R 15, 16).

Accused JEISEL was a SS work-detail guard, first at Dachau then at out-camp Allach and Muhlendorf. He was a guard on the prisoner transport of 4000 inmates to Tutzing 27 April 1945, where he was captured (P-10, R 17).

Accused JUNG was a work-detail guard at Gendorf-Muhlendorf, an out-camp, for 17 months. He was also a guard on the prisoner transport to Tutzing just prior to capitulation (P-12, R 18). There were more than 3000 prisoners in the transport, and in an air attack on this transport at a station, some were injured and some were killed (P-12, R 18).

Accused MORLOCK served as an SS tower guard at Camp Dachau for 3 months, Landsberg Camp #7 (Kaufering #7, 2000 inmates, labor and recuperation camp for Jews, U.S. vs Weiss et al, 000-50-2, R 832, P. Ex. 118); 4 months at Muhlendorf as messenger; and participated as a guard in the prisoner transport of 3000 prisoners from Muhlendorf to Tutzing on 29 April 1945. Prisoners were crowded into box cars and had very little food. In an air attack on this transport on 29 April 1945 many prisoners, as well as guards, were killed (P-13, R 19).

For the Defense. Each of the accused took the stand in his own defense.

Accused BRUECKER's duties were on the outside of the camp only, and he never beat any prisoners himself (P-2, R 8, 22).

Accused BURGHARD had no duties inside the camp at Utting (R 27).

Accused DIETLMAYER's duties at out-camp Gendorf-Muhlendorf were clerical and he claimed the rations at Gendorf were good (P-5, R 10).

Accused HELLER knew of mistreatments at out-camp Allach but never saw any himself, nor did he participate in any mistreatment of inmates either at Allach or Camp Dachau (P-7, p 13; R 12).

camp and knew nothing of what went on inside Camp Dachau. Prisoners at out-camp Gendorf-Muhldorf looked well (R 42). He never shot or beat a prisoner himself (P-8, R 15).

Accused JEISEL was drafted into the SS and held the rank of Pfc (R 43). He made an effort to get more food for prisoners on the prisoner transport but was unsuccessful (P-10, R 17).

Accused JUNG's guard duties were outside the camp. He was also quartered outside the camp. He did not see prisoners shot or mistreated on the prisoner transport (R 45, 48).

Accused MORLOCK never served on an outside guard detail. For one month at out-camp Landsberg #7 he guarded seven Jewish women cooks in the guard kitchen. He had messenger duty only at out-camp Muhldorf, for 4 months (P-13, R 19). He saw no guards mistreat prisoners on the prisoner transport to Tutzing (R 52).

4. JURISDICTION: The court was legally constituted and had jurisdiction of the persons of the accused and of the offenses.

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

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 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 Crime Cases," 14 October 1946, letters superseded thereby, and U. S. vs Weiss et al, 000-50-2, March 1946).

With the exception of the accused BURGHARD, all accused were shown to have participated in the mass atrocity and the court was warranted, by the evidence adduced, either in the parent Dachau Case or in this subsequent proceeding, in concluding as to them

the nature and extent of their participation was such as to warrant the sentences imposed. It was shown that accused BURGHARD participated and the nature of his duties was also established. However, a search of the record in the parent case and the record in this subsequent proceeding reveals no evidence as to atrocities committed at the Utting out-camp. While it was shown that there were approximately 400 prisoners working under 13 guards constructing a factory nearby, if they were not otherwise mistreated, tortured or starved, it is believed that BURGHARD'S participation in this mass atrocity was too remote to form a proper basis for sentencing by the Court. By virtue of the absence of evidence as to the operation of out-camp Utting and what occurred there, accused BURGHARD is not shown to have participated to a substantial degree and there is inadequate evidence as to the nature and the extent of his participation to permit of arriving at a proper sentence. It could be contended with considerable merit that the Court, with propriety, could have inferred that the inmates of out-camp Utting were subjected to cruelties and torture substantially like those proven to have been inflicted at Camp Dachau and other out-camps. However, if that view were adopted, at least theoretically, injustices could result and those too remotely connected with this or other mass atrocities might be severely punished without a proper gauge to measure the magnitude of their crimes.

6. CLEMENCY: There are no Petitions for Review. Consideration was given to a Petition for Clemency on behalf of accused Michael DIETLMAYER, undated, signed by Mimi DIETLMAYER, his wife. No clemency is recommended.

7. CONCLUSIONS:

a. It is recommended that the sentences, except the one as to accused BURGHARD, be approved.

b. It is recommended that the sentence as to accused BURGHARD be disapproved.

c. Legal Forms No. 13 and No. 16 to accomplish this result are attached hereto, should it meet with approval.

s/ Louie T. Tischer  
t/ LOUIE T. TISCHER  
Attorney  
Post Trial Section

Having examined the record of trial, I concur.

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