

DEPUTY JUDGE ADVOCATE'S OFFICE
7708 WAR CRIMES GROUP
EUROPEAN COMMAND
F.O. 207-1

6 August 1947

UNITED STATES)

v.)

Case No. 000-50-2-60

Joseph Peter Anton ERNST, et al.)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 10-11 March 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Joseph Peter Anton ERNST, Karl SCHUETZ, 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 Joseph Peter Anton ERNST, Karl SCHUETZ, 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 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 to a substantial degree in the Dachau Concentration Camp mass atrocity. Prosecution's P-Ex 1 (R 6) is a certified copy of the charges, particulars, findings, and sentences in the parent Dachau Concentration Camp case (U.S.

1. JOSEPH PETER ANTON ERNST

Nationality:	German
Age:	40
Civilian Status:	Policeman
Party Status:	Unknown
Military Status:	SS Staff Sergeant
Plas:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	Ten years

Evidence for Prosecution: ERNST was sent to Camp Dachau on 27 April 1942. From January 1943 to 14 April 1945 he served as doorkeeper at the German Armament Factory (R 39, 59) for two and one fourth years (R 63). His duties consisted in standing at the gate and supervising inmates as they came in and went out (R 39). He searched them and frequently beat them in the face with his hands or on their heads or backs with a board. If he found a piece of wood on them he beat them with (R 40). At times he used a stick three or four centimeters thick and one meter long. Sometimes he beat two or three times per day. Those who were beaten most were Russians, Poles, and Czechs (R 41). Sometimes there were 1,000 prisoners in the detail at the armament factory, and at times there were shifts working with 800 to 900 prisoners in each shift. They were searched for wood, when they left, and if caught, were punished by losing breakfasts for one or two weeks, receiving twenty-five strokes, or hanging by their hands for one hour. ERNST carried another instrument for beating (R 44) believed to be a piece of rubber and hidden in his sleeve (R 45). Accused testified in Court that he got a stick 60 centimeters long and five or six millimeters thick and tapped the shoulders or caps (R 61). He slapped a Russian "now and again" for stealing (R 61, 62). Once or twice a month he slapped prisoners to prevent theft (R 63). He saw SS officers mistreat prisoners at the factory. They were very severe toward the inmates and took away breakfasts and wrote reports to the camp commander when prisoners were caught stealing in the factory (R 65).

Evidence for Defense: Accused testified in Court that he refused to participate in guard duty at Camp Dachau and did no duty there from April 1942 to January 1943 (R 59) or after 14 April 1945. The factory where he served as doorkeeper was outside the prisoner compound. He told the chief capo to instruct prisoners about proper behavior so that they would not be punished (R 60). He only slapped prisoners to prevent stealing and made no punishment reports. One Russian prisoner thanked him for not reporting him (R 61, 62, 63). When his superior was at the gate he warned the prisoners of his presence (R 61). He did not beat inmates with a stick (R 63). He caught some stealing daily, but his check was superficial, as he searched 800-1,000 inmates in 20 minutes. He took the articles away and let the prisoners pass on and was able to fool the SS (R 64). He gave the prisoners an opportunity to leave things they had taken in the yard, and later he picked them up (R 66). A witness testified that prisoners habitually took small blocks of wood from the factory (R 44).

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.

2. KARL SCHUETZ

Nationality:	German
Age:	53
Civilian Status:	Unknown
Party Status:	NSDAP
Plan:	NG Charge I; NG Charge II
Military Status:	SS Technical Sergeant
Findings:	G Charge I; G Charge II
Sentence:	Ten years

Evidence for Prosecution: SCHUETZ served at Camp Dachau in 1942 as a medic assigned to the physician in charge of the prisoners' hospital. In the Summer of 1942, he became the medical non-commissioned officer in charge of the dispensary at outcamp Allach (R 47). He left outcamp Allach in June 1943, spent one week in Camp Dachau, and was transferred to outcamp Plansee in Tyrol where he stayed until 29 April 1945 as a medic (R 50, 51). There were

more (R 7, 47). It was accused's duty to treat sick prisoners, procure medicine and help put together invalid transports (R 8). Sick inmates who were no longer able to work were assembled and sent to Camp Dachau. SCHUETZ personally supervised and picked out prisoners for these transports without considerations for their physical condition. He beat them while picking them out (R 9). He usually beat with his hand, but, because of their weak physical condition, prisoners generally collapsed and fell (R 10). SCHUETZ decided about admissions of prisoners to the Camp Dispensary (R 12). They usually avoided going because of fear they would be thrown out again (R 13). Half were treated; the others were sent away (R 14). It was not the policy at outcamp Allach to send sick prisoners to Camp Dachau for treatment (R 15). While SCHUETZ was at outcamp Allach two or three prisoner transports per week went to Camp Dachau (R 18). The physician from there came only every four, five or six weeks, but only for inspection and did not stay five minutes (R 16). Prisoners were not sent to Camp Dachau to be treated, but to be sent on to liquidation camps. If a medic had taken an interest, he could have given them rest in the block (R 18), or admitted them to the dispensary, or let them stay in bed instead of sending them away (R 19). The labor commitment office made up the lists for sick transports, after the medic picked out the inmates (R 20, 21). A witness testified that he saw SCHUETZ beat prisoners at outcamp Allach (R 22). Two thousand inmates were killed or died there in an abnormal manner, including French, Belgians, Russians, Poles and Czechs (R 23, 24). On 3 March 1942, SCHUETZ was in the bath house at Camp Dachau while 16 inmates were being beaten (R 26-30). Among the prisoners were Poles, Russians and Czechs. Accused kicked a Pole who collapsed (R 31, 32). Nobody ordered him to kick the prisoner (R 33). SCHUETZ was present at an execution in January 1942 (R 53, 54). He heard about malaria experiments' with humans at Camp Dachau (R 52, 53).

Evidence for Defense: SCHUETZ testified in Court that the physician from Camp Dachau came nearly every second day to outcamp Allach and could be reached by telephone at any time. The physician inquired about patients from dispensary cages and ward boys (R 47, 48, 56). Accused denied making up transports of sick people from outcamp Allach and testified that the phy-

sician and labor commitment office decided about sending them, and they were sent to Camp Dachau if they could not be treated at outcamp Allach. He denied beating any prisoners (R 48) or kicking a prisoner at the bathhouse. He was present there as a medic to apply iodine to avoid infection. He made no punishment reports (R 49). Once in 1942 he risked a prison term by arranging for an inmate to visit his wife, and for another prisoner to visit his sister. He carried letters and packages in and out for a third prisoner (R 50). It was stipulated that accused attended executions as a result of orders (R 55, 56). SCHUETZ testified that all prisoners who came to the dispensary were treated. Some were sent to Camp Dachau (R 57), or the doctor was called. Difficult treatments were supervised by Camp Dachau (R 58).

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 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, ect., 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). The 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 proceeding, in concluding as to them that they not only participated to a substantial degree, but the nature and extent of their participation was such as to warrant the sentences imposed.

Examination of the entire record fails to disclose any error or omission.

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.

/s/ William C. Craft
/t/ WILLIAM C. CRAFT
Attorney
Post Trial Branch

Having examined the record of trial, I concur.

/s/ C. E. Straight (24 Sept 47)
/t/ C. E. STRAIGHT
Lieutenant Colonel, JAGC
Deputy Judge Advocate
for War Crimes

CONFIDENTIAL

(Classification)

INTERNAL ROUTE SLIP

HEADQUARTERS, EUROPEAN COMMAND

FILE NO: Review of Case of War Criminal Joseph Peter
SUBJECT: Anton ERNST for War Crimes Modification Board DATE: 22 January 1951

(Number each memo or minute consecutively. Fill in each column, signed legibly draw a line across the sheet. Use entire width of sheet for long memoranda.)

No.	From	Pass to	Date	HAS THIS PAPER BEEN COORDINATED WITH ALL CONCERNED?
2	War Crimes Modification Board EUCCOM	CinC EUCCOM	5 Feb 1951	<p>1. The War Crimes Modification Board, appointed by General Orders No. 106, Headquarters, European Command, dated 28 November 1949, as amended by General Orders No. 19, Headquarters, European Command, dated 21 April 1950, met at War Criminal Prison No. 1, Landsberg, Germany on Thursday, 1 February 1951. The following members were present:</p> <p>Colonel Mark McClure, OL4935, GSC, G-1, Seventh Army, Chairman; Colonel Paul L. Singer, O6797, MPC, Provost Marshal Division; Colonel William R. Watson, O8354, IG Inspector General Division; Colonel Charles M. Adams, OL2789, GSC, Intelligence Division; Colonel Stanley W. Jones, OL7747, JAGC, Judge Advocate, Seventh Army; Lt Colonel Charles L. Bodine, O206474, AGC, Adjutant General Division.</p> <p>2. The Board fully considered the case of Joseph Peter Anton ERNST on the basis of the evidence before it, as contained in the file at C/N 1, dated 22 January 1951. The Board further considered a personal plea presented by ERNST in his own behalf and the Board unanimously recommends that, in view of the degree of participation in this offense, the ten (10) year sentence of ERNST be reduced to the executed portion thereof.</p> <p>3. Legal Form No. 13, prepared for the signature of the Commander-in-Chief to effectuate the recommendation of the Board, is attached at RED TAB.</p>
4	Incls TABS A thru C, a/s 4. added Legal Form 13			<p><i>Charles L. Bodine</i> CHARLES L. BODINE Lt Colonel AGC Recorder</p> <p><i>Mark McClure</i> for MARK McCLURE Colonel GSC Chairman</p>
JLH/mc/Heid Mil 8842				

CLASSIFICATION CANCELED
By authority of JAG Itr
dtd 4 Aug 1950
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