

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

19 September 1947

UNITED STATES)

v.)

Case No. 000-50-2-72

Hans WUELFERT, et al.)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 12-17 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 Hans Wuelfert, Josef Meuner, Bernhard Huber, Franz Weinberger, August Friedrich Mueller, Georg Schiessel, Johann Lichner 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 Hans Wuelfert, Josef Meuner, Bernhard Huber, Franz Weinberger, August Friedrich Mueller, Georg Schiessel, Johann Lichner, 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: WUELFERT and HUBER were owners and managers of the Wuelfert factory in Dachau, Germany, at which a detail of 330 inmates from the Dachau Concentration Camp worked. WUELFERT cooperated closely with the camp commanders and actively participated in the control of inmates at the plant. He was shown to have participated to a substantial degree in the Dachau Concentration Camp mass atrocity.

HUBER was absent in the army when inmates were first employed at the factory. Upon his return in 1943, he succeeded in getting the inmates quartered at the factory. Food and living conditions were good, and medical care was provided. HUBER countersigned punishment reports but testified that he had no power to stop or change them, and that he did not initiate any report or personally punish any inmate. The factory was not leased to the government, and the firm paid for the slave labor of inmates.

MUELLER was, by his own admission, a member of the SS at Camp Dachau or its outcamps for considerable periods of time between the dates alleged and was shown to have participated to a substantial degree 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, hereinafter referred to as the "Parent Case"; see Section V, post, R 8).

IV. EVIDENCE AND RECOMMENDATIONS:

1. HANS WUELFERT (Correct spelling WUELFERT, R 48; P-Ex 19)

Nationality:	German
Age:	54
Civilian Status:	Factory owner and manager
Party Status:	NSDAP
Military Status:	Unknown
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	5 years, commencing 3 July 1945

Evidence for Prosecution: In 1942 there were sixty inmates of the Dachau Concentration Camp working at the Wuelfert factory in Dachau, Germany, including French, Dutch, Yugoslavians, Poles, Ukrainians, Spaniards, Rumanians, Swiss, Danes, Belgians, Hungarians and Austrians (R 43; P-Ex 13). Later there were 330 inmates in the Wuelfert detail, including all nationalities (R 10; P-Ex 4, p. 1). Instructions concerning inmates were issued to the detail leader after the factory manager discussed them with the headquarters staff at Camp Dachau (R 42; P-Ex 11, p. 6; R 10; P-Ex 4, p. 6). The accused was the real factory manager and was responsible for arranging to have inmates used in the factory. He often pointed out inmates he had caught stealing to the detail leader and effected their return to Camp Dachau by personally telephoning the security compound leader (R 10; P-Ex 4, p. 4; R 18; P-Ex 6, p. 3; R 28; P-Ex 7; R 30; P-Ex 9, p. 2; R 86, 184, 185, 186, 191, 231). The accused was always very rough toward the inmates. He demanded that the detail leader search them as they left the work shop (R 29; P-Ex 8; R 30; P-Ex 9, p. 2). Inmates caught stealing from the factory were to be reported to the management office (R 48; P-Ex 14). Inmates reported to the detail leader by the accused had to be returned to Camp Dachau and a report made to the prison compound leader (R 29; P-Ex 8; R 54, 74). The accused personally searched for thefts (R 158, 168). He was very friendly with the Camp Dachau Commander.

It was well known that the Wuelfert firm diverted wehrmacht food for its own use (R 42; P-Ex 11, p. 2, 3; R 63). A former inmate on the Wuelfert detail testified that he saw the accused slap an inmate's face for stealing sausages (R 54). A second witness, formerly an inmate on the Wuelfert detail, saw accused slap and choke an inmate (R 73). The accused testified that he once slapped an inmate for not leaving the room when ordered to do so (R 195). A witness testified that he heard that the accused slapped an inmate (R 183). Lashings were administered in the factory itself by the detail leader (R 75). The accused was

generally feared (R 76, 184). A Polish inmate, reported by the detail leader in 1942 for stealing, was hanged (R 100, 102, 104, 163, 166, 335, 336, 237). The accused's business partner, accused #3, was in the army when the first inmates were used (R 18; P-Ex 6, p. 3; R 205). He testified that he opposed the accused's policy of reporting thefts (R 218). The accused testified that it was his desire that inmates work for the firm (R 203). They were first employed through the efforts of the plant manager on orders from the firm to procure workers (R 205).

Evidence for Defense: The Wuefert detail was a good detail, liked the best of all by inmates of Camp Dachau (R 55, 218; D-Ex 7; R 245; D-Ex 5). Food was adequate (R 108, 131, 156, 182, 199). Working conditions were good, and after 1943, inmates were quartered at the factory (R 156). Inmates constantly stole food (R 90, 132, 135; R 10; P-Ex 4, p. 7). Some inmates stole from the Wuefert factory in order to engage in black market activities (R 89), though appropriation of food for selling was strictly forbidden (R 245; D-Ex 5). Signs were posted in the factory stating that thefts of army food could be punished by death (R 13; P-Ex 6, p. 3). Reports were necessary as a counter measure, but small thefts of food to eat were tolerated (R 60, 169, 171, 190, 245; D-Ex 5). Civilians who stole would have been reported to the police (R 196). Inmates themselves sometimes complained that so much was being stolen, they feared the whole detail would be returned to camp (R 197). The Camp Commandant threatened to do so (R 10; P-Ex 4, p. 3). Most reports were made by stool pigeons among the inmates themselves (R 10; P-Ex 4, p. 5).

The accused testified that it was necessary to report thefts, if they were seen by several people or if SS guards were present, as there was an army inspector there (R 190). Theft endangered the whole detail (R 191). Inmates were treated the same as civilian workers in the Wuefert factory (R 218; D-Ex 7; R 174). Working hours were not increased over eleven hours though the Camp Dachau

commander desired it (R 124, 218; D-Ex 7). It was not more profitable to use inmates, but after 1941, employees of the factory were being drafted and inmates were assigned by the labor office without the desire of the factory management (R 120, 199). The Wuelfert plant was not leased to the government and the firm paid for the labor of the inmates (R 126). The accused was strict but not rough on the inmates (R 230). He was responsible for production (R 13; P-Ex 5, p. 3; R 173). He was absent at the time the Pole, who was hanged, was caught stealing (R 162, 197, 235). The Pole was apprehended by the deputy detail leader and immediately sent back to Camp Dachau (R 156).

The accused testified that he heard about the Pole's arrest eight days after he got back from a trip and about the hanging six to eight weeks after it had happened (R 251). A witness, who had been a government inspector at the plant, testified that it was impossible that any government food was being appropriated there (R 131). The Wehrmacht paid for the food as received, after checking it (R 128). The factory had no power at all over the SS guards (R 190). The guards could not interfere with production, and the factory could not interfere with the guarding of inmates (R 192).

The accused further testified that he had to become a Nazi in order to get customers, as he could not otherwise sell to state institutions (R 193, 194). He did not consider all inmates at Camp Dachau to be criminals (R 198). It eased their lot to get them out of the barbed wire inclosures (R 206). From 1941 to 1944 he made no profit except his salary (R 204). The Wuelfert firm purchased extra blankets, increased the ration allowance and provided recreation and medical care for inmates (R 124). On Christmas the inmates were given a party by the factory (R 245; D-Ex 5). Usually inmates reported by the accused were sent back to the standing bunker, then returned to the plant (R 185). There was a contract with the camp prohibiting severe punishment as the inmates were needed to work, and they were not beaten at all (R 42; P-Ex 11, p. 5). The accused acted as a go-between to give aid to Camp Dachau inmates on Christmas 1944 (R 151).

152). He treated Jews well and his factory had the support of non-Aryans (R 49, 50, 154; D-Ex 6; R 189, 199). Accused HUBER testified that he and the accused secured the release of three inmates of Camp Dachau and tried in numerous other cases (R 212).

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

Petitions: A Petition for Review was filed by Dr. Fritz Hamann, a German attorney, 16 September 1947. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

2. JOSEF NEUBER

This accused was neither served nor tried.

3. BERNHARD HUBER

Nationality:	German
Age:	49
Civilian Status:	Factory owner and manager
Party Status:	NSDAP
Military Status:	Unknown
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	2 years, commencing 14 July 1945

Evidence for Prosecution: The accused was co-owner and commercial manager of the Wuelfert firm from 1935 to 1940 and from 1943 to 1945 (R 13; P-Ex 5, p. 1; R 208). He was the inmate manager of the firm (R 210), and knew that inmates were at times returned to Camp Dachau for disciplinary reasons. He arranged that skilled workers would not be returned without his knowledge (R 13; P-Ex 5, p. 2). Beginning in the middle of 1944, he countersigned punishment reports sent to Camp Dachau from the factory (R 28; P-Ex 7; R 29; P-Ex 8; R 30; P-Ex 9, p. 2; R 76, 103, 210), and after that time, all punishment reports went through his office. He testified that there were eight all together (R 217). The report concerning the Pole who was

later hanged was brought to the accused's office. (The record indicates that this incident occurred while this accused was in the army and away from his office (R 163, R 13; P-Ex 5, p. 1). Accused WUELFERT was not at the factory at that time (R 103). In 1943, the detail leader received his instructions from the accused (R 10; P-Ex 4, p. 3). WUELFERT and the accused always discussed orders to be put into effect at the factory with the camp commanders (R 42; P-Ex 11, p. 6). Thefts were to be reported to the factory management, either the accused or WUELFERT (R 45; P-Ex 14).

Evidence for Defense: The accused spent very little time at the plant (R 64). He went into the army before inmates were first used (R 18; P-Ex 6, p. 3, R 208). There were no punishments given at the factory (R 18; P-Ex 6, p. 4). A former inmate testified that the accused seldom worried about the work of inmates and often granted them additional food rations (R 28; P-Ex 7). The accused was responsible for the release of several inmates from Camp Dachau (R 125, 212). One former inmate who was released because of a petition by the accused continued to work at the factory as a civilian employee and did the same work (R 181, 182). The accused never reported any inmates but defended them when he could by intervening with the Camp Dachau commanders (R 13; P-Ex 5, p. 2; R 42; P-Ex 11, p. 3; R 172, 211). As a result of the accused's efforts in 1943 inmates were quartered at the factory (R 156, 210). Inmates who had fought in the Spanish war got along well at the factory though they were the most active anti-Nazis (R 157, 212). Inmates liked the accused very much (R 172).

The accused testified that he was outraged at the use of inmates at the plant, but was told that they had been put there by the employment service. He tried to get different help from Munich, but failed. As he was forced to produce canned goods for the army and civilian population, he would have been considered guilty of war sabotage and high treason if he had refused manpower offered him (R 209). He got the detail away from Camp Dachau and procured physicians to prevent epidemics among the inmates who worked at the

factory. Until 1944, he had no knowledge of punishment reports to Camp Dachau. In 1944 he complained in order to stop the loss of skilled workers because of a failure to meet production schedules; then he had to countersign the reports (R 210). He could not influence the reports but could only delay the return of skilled workers. Prices were fixed, and it was more expensive to use inmates than civilians. He risked his life preventing exploitation of workers by the SS and decreased working hours to 11 per day (R 211). The accused made no profit except his salary (R 204). He refused to build an electrically charged fence around the factory. He entered a plot to surrender Dachau peaceably to the Americans (R 212).

The accused was endorsed by the Anti-Fascist Committee at Dachau and the International Former Inmates Committee of Camp Dachau (R 213, 244; D-Ex 4). A letter, introduced as P-Ex 15, was written to defend the firm in an investigation by the Gestapo concerning dealings with a Jewish firm (R 216). The accused opposed accused WUELFERT'S policy of reporting thefts by inmates (R 218). He treated the inmates the same as civilian workers (R 212; D-Ex 7).

Sufficiency of Evidence: The accused was shown to have participated in the common design to subject civilian nationals and surrendered and unarmed prisoners of war to cruelties and mistreatment. He took the fruits of their labor knowing they were inmates of Dachau, paying only slave labor wages therefor. That he was not shown to have personally inflicted cruelties was probably considered by the Court. Although his desire to co-operate in the common design may not have been strong, it was obviously stronger than other considerations. The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by a German attorney, whose signature is illegible, 27 March 1947. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

4. FRANZ WEINBERGER

The accused was neither served nor tried.

5. AUGUST FRIEDRICH MUELLER (Correct spelling MÜLLER (R 28; P-Ex7)).

Nationality:	German
Age:	58
Civilian Status:	Civilian employee in private business
Party Status:	Unknown
Military Status:	SS First Sergeant
Plea:	MG Charge I; MG Charge II
Findings:	G Charge I; G Charge II
Sentence:	10 years, commencing 10 May 1945

Evidence for Prosecution: The accused served at Camp Dachau from 16 May 1942 to 18 August 1942, as block leader; at the Bardolit factory, Munich, from 20 August 1942 to 20 July 1943, as detail leader; at detail Wulfert in Dachau from 18 September 1943 to 15 September 1944, as detail leader; at outcamp Allach from 20 September 1944 to 26 April 1945, as First Sergeant (R 8; P-Ex 2; R 30; P-Ex 9). The accused substituted for Camp Leader Jarolin (sentenced to hang in the Parent Case) at outcamp Allach (R 30; P-Ex 9, p. 3; R 33). He held interrogations of inmates and frequently beat them until they were bloody (R 21, 22, 24). His hands were swollen after interrogations (R 25). As detail leader at the Wulfert factory, the accused forwarded reports on inmates to Camp Dachau (R 28; P-Ex 7; R 29; P-Ex 8; R 30; P-Ex 9, p. 2). In 1943 or 1944 he mistreated two inmates on the Wulfert detail by slapping one for stealing and beating the other with a stick. He reported the second one to Camp Dachau (R 30; P-Ex 9, p. 2; R 22). On one occasion the accused received a directive to punish three inmates at the Wulfert factory and as a result he struck ^{each} one, one blow (R 30; P-Ex 9, p. 3).

At outcamp Allach the accused administered and increased punishments beyond the number of strokes prescribed by the camp leader (R 34, 228). Sometimes he ordered or increased punishments such as withdrawal of breakfasts (R 35, 37). He had a bad reputation with inmates (R 42;

P-Ex 11, p. 5). A witness testified that he saw accused strike inmates at outcamp Allach with his hand or fist (R 53). A second witness testified that he saw him lash inmates with an ox-tail whip on two occasions at the Wuelfertfactory to carry out an order of the camp commander at Dachau. The victims were Poles (R 75, 97). A third witness testified that he heard that the accused beat inmates severely at the Wuelfert factory (R 177). The accused often beat inmates in the face with his fist on the Wuelfert detail, causing their faces and his hands to become bloody (R 78, 79, 159, 235). He frequently slapped inmates or otherwise mistreated them (R 121, 164, 184). On one occasion the accused fired his gun in the factory yard, while drunk (R 165, 184, 187). The accused admitted slapping inmates who were caught stealing (R 225). He also admitted that he slapped inmates in the course of interrogations and that he may have accidentally struck inmates on the nose when they unexpectedly turned their heads (R 228).

Evidence for Defense: A witness testified that the accused never acted as camp commander at outcamp Allach (R 20). It was not his custom to beat inmates at all interrogations (R 24). Accused did not participate in any movements of inmates (R 8; P-Ex 2). There were no prisoners of war at outcamp Allach (R 35). A former guard at outcamp Allach testified that he never saw the accused strike an inmate there (R 233). In his extrajudicial sworn testimony, the accused stated that he refused to search inmates as they left the plant, though WUELFERT ordered him to do it (R 29; P-Ex 8; R 30; P-Ex 9, p. 2). He slapped one inmate at the Wuelfert plant for stealing sausages and beat one inmate with a stick for causing another inmate to get scalded. He had to report the inmate who caused the scalding to Camp Dachau because the injured inmate had to be hospitalized (R 30; P-Ex 9, p. 2; R 224). Once he received a directive to punish three inmates at the Wuelfert factory, but he only told the camp commander that the punishments had been carried out (R 30; P-Ex 9, p. 3; R 97, 223). He did the same with one inmate on another occasion. These were the only beatings he

gave with a stick at the Wuefert factory (R 225). Punishments given by the accused on two occasions were ordered by the Camp Dachau administration because of stealing from the Wuefert factory (R 75, 97). Inmates preferred being slapped for stealing instead of being sent back to Camp Dachau (R 121). The accused testified that it was his duty to maintain discipline at the Wuefert factory. In some cases he struck inmates for stealing (R 222) but did not report them. He would have been relieved and imprisoned for not reporting thefts or failing to punish the prisoners who committed them (R 225). He changed punishment reports at outcamp Allach when prescribed punishments were too severe or too light (R 228).

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

Petitions: No Petitions for Review were filed. A Petition for Clemency was filed by accused's attorney, Mr. Russel W. Bartels, 15 May 1947.

Recommendation: It is recommended that the findings and sentence be approved.

6. GEORG SCHIESSEL (Correct spelling: SCHIESSEL, R 44, 45; P-Ex 13).

This accused was acquitted (R 106).

7. JOHANN LICHTNER

This accused was neither served nor 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). 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 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 which resulted in injustice to the accused.

VI. CONCLUSIONS:

1. It is recommended that the findings and the 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
WILLIAM C. CRAFT
Attorney
Post Trial Branch

Having examined the record of trial, I concur, this 9th
day of October 1947

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