

4 November 1947

UNITED STATES)

v.)

Wilhelm METZLER, et al.)

Case No. 000-50-2-89

REVIEWS AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, 10 July 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Wilhelm Metzler, and Christian Ferg 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 Wilhelm Metzler, and Christian Ferg 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: Accused METZLER was an inmate of outcamp Horgau of Dachau Concentration Camp and served as a capo. Accused

FERG was a Waffen SS staff sergeant and served as a detail and dog leader at outcamp Allach of Dachau Concentration Camp. Both accused served at these outcamps for considerable periods of time between the dates alleged and were shown to have participated in the Dachau Concentration Camp mass atrocities. Prosecution's Exhibit P-Ex 2 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, opinion DJAWC, March 1946, hereinafter referred to as the "Parent Case"; see Section V, post, R 7).

Not much weight was given to the testimony of witness Karl Kramer.

IV. EVIDENCE AND RECOMMENDATIONS:

1. Wilhelm METZLER

Nationality:	German
Age:	46
Civilian Status:	Merchant
Party Status:	Unknown
Military Status:	Unknown
Pleas:	NG Charge I; NG Charge II
Findings:	G Charge I; NG Charge II
Sentences:	10 years, commencing 28 May 1946

Evidence for Prosecution: The accused was a capo and block eldest at outcamp Horgau of Dachau Concentration Camp in 1945. He beat inmates with a stick when they tried to go to the latrine at night (R 21, 45). He beat inmates over the head with a stick as they left the hall to fall out for the morning roll call (R 22, 34; P-Ex 5). On one occasion he beat an inmate more than 100 times over the head with a stick (R 22, 28). An inmate who was beaten by the accused was reported to have died six days later (R 28). When inmates arrived at outcamp Horgau in the early spring of 1945, they were supposed to have a 14 day rest,

but the accused forced them to work and beat them (R 21,22,34; P-Ex 5). The accused participated in the shooting of 120 Russians near Buchberg on 28 or 29 April 1945 (R 35; P-Ex 6). In his testimony, the accused admitted being an armed member of the guard detail when Russian prisoners of war were sent from Buchberg to Bad Tolz, Germany. Moll, who was sentenced to death in the Parent Case (R 851, P-Ex 114) shot 26 of these prisoners of war with his machine pistol. None of the guards on this detail participated in the killing of these Russian prisoners of war (R 54, 55).

Evidence for Defense: The accused testified that he was sent to Sachsenhausen Concentration Camp in 1936 for making disparaging remarks about the Hitler regime. Later, he was sent to Flossenburg Concentration Camp as a punishment for being too friendly with Jews. In February 1943 he was sent from Flossenburg to outcamp Augsburg of Dachau Concentration Camp, and in February 1945 he arrived at outcamp Horgau of Dachau Concentration Camp (R 42, 43). He was frequently punished and mistreated during his stay in concentration camps (R 43-45). He testified that he did not mistreat any inmates but he admitted that he sometimes had to beat them to maintain order in camp (R 45). He testified that matters would have been much worse if camp leader Bartling handled them (R 46). The accused beat inmates who stayed in the barracks and failed to report for morning roll call. He did this in order to save his fellow inmates from being forced to stand outside the barracks after five o'clock, which was the penalty for failure to report for roll call. The accused would have been beaten if he failed to have the inmates at the roll call square at a certain time (R 47). The accused denied that he beat a young boy over the head 100 times (R 48). There were 300 inmates in his block at outcamp Horgau (R 53).

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. Christian FLRG

Nationality:	German
Age:	57
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Staff Sergeant
Pleas:	NG Charge I; NG Charge II
Findings:	G Charge I; NG Charge II
Sentence:	5 years, commencing 21 June 1946

Evidence for Prosecution: The accused was a detail leader in the gravel pit at outcamp Allach in 1943. He permitted his dog to bite inmates as they marched in and out of the camp and at the work site (R 17). He beat inmates with a rubber hose or a club and also threw rocks at them (R 15, 16). Inmates who had been beaten by the accused or bitten by his dog had to go to the dispensary. Russian and Italian inmates were punished by the accused (R 18). When the inmates were unable to carry rails, the accused beat them with a rubber hose or with a club (R 16). A former inmate testified that he was hit on the back with a stone thrown by the accused and had to go to the dispensary (R 16). On another occasion an inmate was rendered unconscious for about ten minutes, due to being struck on the nose by the accused (R 19).

Karl Kramer, a former inmate, testified that the accused was a detail and dog leader at outcamp Allach of Dachau Concentration Camp in 1943 and 1944 (R 8). The accused permitted his dog to bit inmates as they marched in and out of the camp and at the work site (R 19). He beat inmates with sticks and

also threw rocks at them. Whenever this happened his dog would jump at the inmate and bite him. At the Bavarian Motor works the accused threatened inmates of his work detail with his Browning pistol and beat them daily. The accused would report inmates to the camp leader or deputy leader for doing insufficient work at the factory. As a result of these reports, inmates had to stand for hours at the gate and then they were punished by receiving a number of strokes (R 9). These punishments were severe enough to cause serious bodily harm to the victim. All the dogs at outcamp Allach were trained to jump at the inmates. The accused punished Yugoslav, Russian, Polish, French and Belgian inmates with sufficient severity to cause bodily harm (R 10).

Evidence for Defense: A former second lieutenant of the SS testified that the dog of the accused was muzzled when he visited his detail. He never saw or heard of any of the dogs at outcamp Allach biting inmates (R 38, 39). The prosecution witness Kraemer never complained to him about the accused's dog nor did he ever complain that the accused mistreated an inmate. He never saw any mistreatment of inmates at outcamp Allach (R 40).

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 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 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 J.G.-AG0, 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 proceedings, in concluding as to them that they not only participated to a substantial degree but that the nature and 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 sentence be approved.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

MURRAY J. ANDROVETTI
Attorney
Post Trial Branch

Having examined the record of trial, I concur, this _____
day of _____ 1948.

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