

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

11 August 1947

UNITED STATES)

v.)

Nikolaus KAHLES, et al.)

Case No. 000-50-2-90

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 16-18 June 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Nikolaus KAHLES and Stefan KRECH 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 LANESBERG, 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.

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

Particulars: In that Nikolaus KAHLES and Stefan KRECH 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 LANESBERG, 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 admission, members of the SS at Muhlendorf, an outcamp of Dachau Concentration Camp, and several subcamps of outcamp Muhlendorf, for considerable periods of time between the dates alleged, and were shown to have participated as guards in the Dachau Concentration Camp mass atrocity. Prosecution's Exhibit P-Ex 3 is a certified copy of the charges, particulars, findings and sentence 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 10).

IV. EVIDENCE AND RECOMMENDATIONS:

1. NIKOLAUS KARLES

Nationality:	Rumanian
Age:	33
Civilian Status:	Saddle maker
Party Status:	Unknown
Military Status:	Waffen SS, Private
Elc:	EG Charge I; EG Charge II
Findings:	G Charge I; EG Charge II
Sentence:	Death by hanging

Evidence for Prosecution: The accused became a member of the Waffen SS on 29 May 1943, and was transferred to outcamp Muhlendorf as a guard in August 1944 (R 142). There were 3000 to 4000 prisoners at outcamp No. 2 a subcamp of outcamp Muhlendorf (R 30). The accused was a guard on a prisoner transport consisting of 1200 prisoners from Warsaw to Dachau in August 1944 (R 143, 147; P-Ex 7). He was a guard on a guard chain around outcamp Muhlendorf and also at a construction site (R 145). Prisoners were worked from seven o'clock in the morning until six or seven in the evening and many of these were in a bad condition due to underfeeding and overwork. Weak prisoners were forced to work (R 146).

There were approximately 3000 prisoners on the prisoner evacuation transport (R 147) that left outcamp Muhlendorf 26 April 1945 (R 149). The railroad cars were so crowded that prisoners could not lie down and the only food they had was some limburger cheese and a piece of bread (R 149).

A false liberation occurred at Joing Germany, when the transport stopped at or near the station (R 43). One witness testified that he saw the accused firing his rifle in a courtyard when the prisoner evacuation transport halted at Joing (R 29). Another witness testified that at this time he and his brother left the railroad train and went about 25 or 30 meters from the station (R 43). After an order was issued that all prisoners should return to the railroad train, the witness climbed aboard and about five minutes later his brother, Abraham Almalek, came along and was shot by the accused as he was entering the train (R 44, 51, 54, 60, 61, 94, 101). As he fell into the arms of a prisoner who was behind him, his brother called "Come, get down, your brother has been wounded. Come and help me" (R 44, 45). The witness assisted in getting his brother into the train. His brother asked for water but there was none on the train. Fifteen minutes later his brother died. He saw the accused kill many other prisoners with his bayonet or with shots (R 45, 49). The accused shot many others (R 60, 61) and was seen shooting everywhere at everyone (R 69). Another witness was wounded with a bayonet wielded by the accused (R 77). Another witness testified that he saw the accused shoot and kill his comrade, Solomon, 20 meters from the railroad cars at Joing (R 83, 88). Another witness testified that he saw the accused beat starving prisoners when they left the ranks in order to pick up turnips to eat (R 90). The accused beat prisoners with the "bottom part" of his rifle (R 91). At Joing he hit prisoners with his rifle and bayonet (R 93); severely wounded one prisoner with the "knife" on his carbine (R 106); and shot a French prisoner to death (R 115). On another occasion at outcamp Muhlendorf in 1944, the accused beat a prisoner so badly with the butt of his rifle that he is still suffering from the effect (R 119). In his testimony, the accused admitted that he cursed prisoners (R 142).

Evidence for Defense: The accused testified that he never shot or killed anyone at Joing. He did not beat any prisoners at Joing or at outcamp Muhlendorf (R 142). He never saw or heard of any beatings at outcamp Muhlendorf during his tour of duty there. He never slapped or struck anyone at outcamp Muhlendorf (R 144). He never saw anyone shot on the

At the time of the false liberation, he wanted to leave the transport but an air corps lieutenant scolded the guards for not doing their duty and stated that whoever left would be shot (R 150).

Sufficiency of Evidence: Rumania was a co-belligerent of Germany. 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. STEFAN KRECH

Nationality:	Rumanian
Age:	37
Civilian Status:	Farmer
Party Status:	Unknown
Military Status:	Waffen SS, Private First Class
Flee:	NG Charge I: NG Charge II
Findings:	G Charge I: NG Charge II
Sentence:	Death by hanging

Evidence for Prosecution: The accused became a member of the Waffen SS in June 1943, and was transferred in August 1944 to outcamp Muhl Dorf as a guard. He was transferred to Mittergers (Mittergass), a subcamp of outcamp Muhl Dorf on 28 February 1945. Muhl Dorf was known as outcamp I (R 19). While on duty at the Forest Camp, a subcamp of outcamp Muhl Dorf, the accused beat an inmate on his head with his rifle for failing to walk fast enough and the victim, whose name was Meyer Steinmetz, died two days later as a result of this beating. (R 20, 21). The death book of the dispensary at the Forest subcamp indicated that Steinmetz died on 28 April 1944 (R 25; I-Ex 6). The accused beat inmates with a stick whenever they went to work.

The accused was a guard with the prisoner evacuation transport which left Muhl Dorf on or about 25 April 1945 (R 160, 166). This transport consisted of at least 50 box cars. No water or food was given prisoners for the trip. When the transport halted at Boing, an order

was given that the prisoners were free. The prisoners had not eaten nor received anything to drink for two days (R 27) and when they left the cars, they went toward the city. One witness testified that when he arrived in the city, shots were being fired and prisoners were running toward the box cars. When the witness tried to enter the first car, the accused was standing there and shooting prisoners with a rifle (R 28). Another witness testified that at Feing the accused was running about with his rifle and whenever he could catch he killed immediately (R 133). He shot and killed a prisoner named Abraham Gold who was running toward a box car on the prisoner evacuation transport (R 133, 136).

The accused beat inmates at the Forest subcamp with a stick, with stones and with a carbine (R 106). He beat prisoners so severely that they could not walk anymore and many were hospitalized as a result thereof. Every SS man beat prisoners (R 130).

Evidence for Defense. The accused testified that he was inducted into the Waffen SS involuntarily. While in the Rumanian Army, he was employed as a kitchen orderly because he could not do the usual duties of a common soldier (R 160). He never killed or beat any prisoners either at outcamp Muhl Dorf or at Feing. It was very difficult for him to load his rifle. His comrades and others loaded it for him most of the time (R 161). At Lullin Concentration Camp he was declared unfit for guard duty because of a short nerve in his right eye and weak nerves. He was forced to be a guard at subcamp Mittergars (R 162, 163). He never saw or heard of any prisoners being beaten at the subcamps of Muhl Dorf. He never saw any prisoners killed or heard of any violence at subcamp Mittergars. He never saw any mass graves at subcamp Mittergars (R 164). He never beat anybody to death. The prisoners said to the guards at the time of the false liberation, "Guard, the war is over; we are all going home now and we wish you all the best, and we wish that you may arrive well and sound to your families" (R 168). It was air force men who passed on the order that all the prisoners had to be gathered again and put into the box cars and that the transport should proceed. He did not beat the prisoners with his rifle and bayonet (R 169). He heard shots which were fired to frighten

at the train (R 170). With the exception of the prisoner who died in his car, he saw no other dead prisoners at Feins (R 171). The accused further testified that he was never inside the subcamps of outcamp Muhlendorf, that he never had any trouble with anybody and never harmed anybody; that he did not fire a shot at Feins; that he never shot his rifle during his service as a guard; that he never had target practice; and that he was never shown how to shoot his rifle (R 174).

Sufficiency of Evidence: Duranik was a co-belligerent of Germany. 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. QUESTION 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 Tarent Case: The Court was required to take cognizance of the decision rendered in the Tarent 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-AGC, subject: "Trial of War Crimes Cases," 14 October 1946, and the Tarent case). The accused were shown to have participated in the mass atrocity and the Court was warranted by the evidence adduced, either in the Tarent 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 sentences be approved.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

/s/ Murray J. Androvette
/t/ 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