

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

20 October 1947

UNITED STATES)
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 v.))
))
Carl BRUNS, et al.)

Case No. 12-1534

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, on 11 July 1947, before a General Military Government Court.

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars 1: In that Carl BRUNS and Karl DIERKING, German nationals, did, at or near LAUENAU, Germany, on or about 26 November 1944, wrongfully encourage, aid, abet and participate in committing assaults upon a member of the United States Army, 2nd Lt. Richard G. LIPINSKI, ASN 0-823129, who was then and there a surrendered prisoner of war in the custody of the then German Reich.

Particulars 2: In that Fritz HUNKE, Friedrich MEYER and Heinrich SCHEIDES, German nationals, did, at or near LAUENAU, Germany, on or about 26 November 1944, wrongfully encourage, aid, abet and participate in committing assaults upon a member of the United States Army, 2nd Lt. Fred W. WILLIS, Jr., ASN 0-716564, who was then and there a surrendered prisoner of war in the custody of the then German Reich.

III. SUMMARY OF EVIDENCE: On 26 November 1944 the crew from a disabled American bomber parachuted to safety. Two of the fliers landed in the vicinity of Lauenau, Germany. They were captured by a crowd which had gathered. Assaults were committed upon the fliers. One of the fliers was beaten and assaulted by the accused BRUNS and DIERKING. The other flier was beaten and assaulted by the accused HUNKE, MEYER and SCHEIDES.

IV. EVIDENCE AND RECOMMENDATIONS:

1. CARL BRUNS

Nationality: German
Age: 59
Civilian Status: Carpenter and Burgomaster of Lauenau

Party Status: NSMVP

Military Status: None

Place: NG

Findings: Of particulars 1: Guilty, except the words "2nd Lt. Richard G. LIPINSKI, ASN 0-823129" substituting therefor the words "2nd Lt. Fred W. Willis, Jr., ASN 0-716564". Of the excepted words: Not Guilty. Of the substituted words: Guilty. Of the charge: Guilty.

Sentence: 2 years, commencing 1 April 1947

Evidence for Prosecution: On 26 November 1944 in the vicinity of Lausau, Germany, the accused participated in the capture of an American flier. He beat the captured flier on the head with a pistol and kicked the flier with his feet (R 10; P-Exs 3-6). The accused assaulted and struck the flier, apparently Second Lieutenant Fred W. Willis, Jr., on the back of the neck (R 38, 39). The accused admitted the BIERKING he had hit the captured flier on the back of the head with a house key held as in a "dagger grip" (R 12; P-Ex 8, p. 2). On the stand the accused admitted beating a captured American flier on the back of the head with a pistol (R 47, R 13; P-Ex 10, p. 3). The accused in his original extra-judicial sworn testimony, stated he had struck the flier with a house key causing a wound (R 13; P-Ex 9).

Evidence for Defense: The accused stated in Court that when he arrived upon the scene, where the captured flier was, he was very excited and nervous. The crowd was shouting and pushing and he, thinking that the flier was armed and trying to fight, hit the flier on the head once with a small pistol (R 47, 48).

Sufficiency of Evidence: It is established by competent evidence and substantially admitted by the accused that he struck the captured flier on the head with a pistol.

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 DIERKING

Nationality: German

Age: 55

Civilian Status: Merchant

Party Status: Unknown

Military Status: None

Plea: NG

Findings: Of particulars 1: Guilty, except the words "2nd Lt. Richard G. LIPINSKI, ASN 0-823129" substituting therefor the words "2nd Lt. Fred W. Willis, Jr., ASN 0-716564". Of the excepted words: Not Guilty. Of the substituted words: Guilty. Of the charge: Guilty.

Sentence: 2 years, commencing 11 January 1946

Evidence for Prosecution: On 26 November 1944 in the vicinity of Lauenau, Germany, the accused participated in the capture of an American flier. He beat and kicked the captured flier. He also used the cords of the flier's parachute as a noose around the flier's neck to choke him (R 10; P-Exs 3, 4, 6). The accused admitted placing the cords of the flier's parachute around the flier's neck at the time the crowd which had gathered was yelling "hang him, beat him to death" (R 55, 56, R 12; P-Ex 7). He also admitted hitting the flier in the face (R 54, R 12; P-Ex 8, p. 2). The captured flier that was choked and beaten by the accused was apparently Second Lieutenant Fred W. Willis, Jr. (R 57).

Evidence for Defense: The accused stated in Court that the cords from the parachute which the captured flier was carrying were hanging down to the ground. He picked up the cords to keep the crowd of people from stepping on them and slung them around the flier's shoulders. (R 54).

Sufficiency of Evidence: It was established by competent evidence that the accused beat and choked the captured flier. The accused admitted to placing the cords of the parachute around the flier's neck.

sentence is not excessive.

Petitions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

3. FRITZ HUNKE:

Nationality: German

Age: 50

Civilian Status: Business

Party Status: Unknown

Military Status: None

Plea: NG

Findings: Of particulars 2: Guilty, except the words "2nd Lt. Fred W. Willis, Jr., ASN 0-716564" substituting therefor the words "2nd Lt. Richard G. Lipinski, ASN 0-823129". Of the excepted words: Not Guilty. Of the substituted words: Guilty. Of the charge: Guilty.

Sentence: 2 years, commencing 21 May 1945

Evidence for Prosecution: On 26 November 1944 in the vicinity of Lamangau, Germany, the accused participated in the capture of an American flier (R 21). He admitted striking the flier on his buttocks with the butt of his rifle, splitting the stock thereof (R 61, 63, R 28, P-Ex 12). The captured flier assaulted by the accused was apparently Second Lieutenant Richard G. Lipinski (R 60, 64).

Evidence for Defense: The accused stated in Court that on the way to where the flier had landed he had been strafed by a plane and when he hit the ground his rifle was damaged. When he pushed the captured flier on the buttocks with his rifle the stock of the rifle broke (R 61). He did not otherwise touch the flier (R 62).

Sufficiency of Evidence: It was established by competent evidence and sworn testimony admitted by the accused that he struck the captured flier with the butt of his rifle.

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.

4. FRIEDRICH MEYER

Nationality: German

Age: 55

Civilian Status: Unknown

Party Status: Unknown

Military Status: None

Plea: NG

Findings: Of particulars 2: Guilty, except the words "2nd Lt. Fred W. Willis, Jr., O-716565" substituting therefor the words "2nd Lt. Richard G. Lipinski, ASN O-823129". Of the excepted words: Not Guilty. Of the substituted words: Guilty. Of the charge: Guilty.

Sentence: 2 years, commencing 28 March 1947

Evidence for Prosecution: On 26 November 1944 in the vicinity of Lauenau, Germany, the accused participated in the capture of an American flier. The accused pushed the flier to the ground and beat him with a pistol until the wounds inflicted started bleeding (R 15, 17, 18). The flier beaten by the accused was apparently Second Lieutenant Richard G. Lipinski (R 17). The accused also shot at the flier with a pistol from a distance of 150 to 200 meters (R 21, 24). The accused also hit the flier once or twice with his hands (R 30).

Evidence for Defense: The accused stated in Court that he only grabbed the captured flier and pushed him toward his parachute and told him not to run away again as he was a prisoner (R 67, 68, 70). The accused stated that he hit the flier with his pistol (R 71).

Sufficiency of Evidence: It was established by competent evidence that accused beat the captured flier with a pistol.

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.

5. HEINRICH SCHEIDT

Nationality: German

Age: 48

Civilian Status: Electrician

Party Status: Unknown

Military Status: None

Flee: NG

Findings: Of particulars 2: Guilty, except the words "2nd Lt. Fred W. Willis, Jr., ASN O-715564" substituting therefor the words "2nd Lt. Richard G. Kipinski, ASN O-823129". Of the excepted words: Not Guilty. Of the substituted words: Guilty. Of the charge: Guilty.

Sentence: 2 years, commencing 9 June 1947.

Evidence for Prosecution: On 26 November 1944 the accused participated in the capture of an American flier who had parachuted and landed in the vicinity of Lauenau, Germany. The accused beat the flier on the neck with the flat of his hand (R 2). He later told in public about beating up the captured flier (R 22). The flier assaulted and beaten by the accused was apparently Second Lieutenant Richard G. Kipinski (R 4, 42). The accused admitted grabbing the captured flier and pushing the captured flier around (R 75, 76).

Evidence for Defense: The accused stated in Court that he only searched the captured flier and pushed him around so the flier would walk by his side (R 7, 75).

Sufficiency of Evidence: It was established by competent evidence that the accused beat the captured flier.

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.

Recommendations: 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.

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.

ELMER MOONEY
1st Lt., Inf.
Post Trial Branch

Having examined the record of trial, I concur, this 28th day of October, 1947

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

HEADQUARTERS
EUROPEAN COMMAND

AG 383 JAG

AGO 757
Nov 18, 1947

SUBJECT: Execution of Sentence in the Case of the United States vs.
Carl BRUNS, et al. (Case No. 12-1534)

TO : Commanding General
First Military District
APO 1, U.S. Army

Reference is made to letter, Ho. USFET, file AG 383 JAG-AGO,
subject: "Designation of Prisons for War Criminals," 26 February 1947
and to the inclosed copies of the Order on Review in the above entitled
case as to accused Carl BRUNS.

Upon compliance with the Order on Review the certificate below
will be completed and returned to the Deputy Judge Advocate for War
Crimes Group, APO 407, U.S. Army.

BY COMMAND OF GENERAL CLAY:

/s/ Wm. E. Bergin
/t/ Wm. E. BERGIN
Brigadier General, USA
Adjutant General

1 Incl:
1 Form No. 13 (in dup)

Frankfurt 7175

CERTIFICATE OF COMPLIANCE

The sentence covered by the above described Order on Review
was carried into execution at War Criminal Prison No. 1, Landsberg,

Germany, on 29 November 1947, at 0800
(Date) (Hour)

/s/ Lloyd A. Wilson
(Signature and Rank)

/t/ LLOYD A. WILSON
Captain CMU
Prison Officer

(Organization)

/s/ David A. Oakley
(Signature and Rank
of Witnessing Officer)

DAVID A. OAKLEY
1st Lieutenant CMU
Asst. Prison Officer

Do Not Film