

DEPUTY JUDGE ADVOCATE'S OFFICE
7708 WAR CRIMES GROUP
EUROPEAN COMMAND
AFO 207

11 July 1947

UNITED STATES

v.

Johann Friedrich Wilhelm LOSER

Case No. 12-1607

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany on 19 May 1947 before an Intermediate Military Government Court.

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

PARTICULARS: In that Johann Friedrich Wilhelm LOSER, a German national, did, at or near HANAU, Germany, on or about 22 October 1944, deliberately and wrongfully encourage, aid, abet and participate in committing assaults upon four members of the United States Army, Pfc. Ralph CRUSE, Pfc. Ernest HUNTRO, Pvt. Orlan MANNING, and Pvt. Carl REMBERG, who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich.

III. SUMMARY OF EVIDENCE: The four American paratrooper soldiers named in the particulars, after having made two escapes, the second involving overpowering, beating and disarming their German guards, were recaptured near Hanau, Germany, in the early morning of 22 October 1944. During interrogation by the accused, the prisoners were beaten by several persons, including the two guards the prisoners had beaten the night before, allegedly upon the order of accused, and by the accused himself using brass knuckles and a riding whip, and also forced the victim Manning to go into icy water in search for a rifle. Accused denied beating the prisoners or ordering it done, and claims to have stopped the Kreisleiter from mistreating them.

IV. EVIDENCE AND RECOMMENDATIONS:

1. Johann Friedrich Wilhelm LOSER

Nationality: German

Age: 54

Civilian Status:	Landrat
Party Status:	NSDAF, expelled March 1945
Military Status:	None
Flea:	NG
Findings:	NG
Sentence:	Accuitted

Evidence for Prosecution: The four Americans, having made two escapes from German captors, were apprehended when attempting to break into what they thought was a farm house, but was in fact a Hitler Youth building, near Eudesheim, Germany. They were taken to the police barracks at Hanau, Germany (Exhibit F-3, 4, 5 and 6). Ramberg was beaten in the face with a pair of hand knuckles by a man he described as being a civilian Gestapo agent wearing a German trench coat (F-Ex 3). Manning was beaten by the same man, and forced to jump into deep cold water to search for a rifle (F-Ex 4). Fanturo claims also to have been beaten by a Gestapo agent (F-Ex 5). Cruse gives the names of the Germans at Hanau who beat his three comrades as Wolf, LOSER and Westphal (F-Ex 6). Accused says that he, Kreisleiter Wolf and a certain Westphal were present and that he (accused) interrogated the prisoners (Exhibit F-Ex 7A). He admits grabbing the prisoners by their shirt fronts and arms and shaking them in an effort to learn where they had hidden the rifles for which he was responsible (F-Ex 7A). Accused admitted in his written statement that he struck two of the Americans with aluminum knuckles (F-Ex 7A, p. 2). Heinrich Westphal says accused "beat the flyers repeatedly with a rubber whip" (Exhibit F-Ex 9). Accused also ordered Westphal to strike the prisoners, which he did (Exhibit F-Ex 10). Wilhelm Huneke saw accused "repeatedly and severely beat the flyers in the face with his fists" (Exhibit F-Ex 11).

Evidence for Defense: Accused testified in his own behalf. He was in March 1945 expelled from the Party and sentenced to death by the SS because he had disobeyed orders to turn prisoners of war, in-

cluding the four in this case, over to the SS and Gestapo to be shot, but instead delivered them to the Wehrmacht (R 29, 30). He denied being armed at the time of the incident, or that he had brass knuckles or a whip (R 32). He says that his right hand was fractured at the time and he wore a protective brace of aluminum over it. He could not have struck anyone without having rebroken his hand. He used no improper force in the interrogation of the prisoners (R 33). He did not beat nor did he mistreat any American (R 34). He saw that Kreisleiter Wolf, Hunke and Westphal beat the Americans, and he (Accused) stopped it (R 35). Accused thinks Westphal and Hunke made their statements against him in order to minimize their own responsibility, and in the belief that he, accused, was dead (R 36). In his own written statement he had referred to the aluminum brace on his hand and nothing else (R 37). "----this aluminum brace I was wearing on my hand at the time and I said that I didn't beat but that I took hold of them by the arm and by the chest" (R 39). Accused resembles the Kreisleiter very closely and the Kreisleiter must have been mistaken for accused during the beating. Accused did not wear any coat at all at the time (R 41).

Sufficiency of Evidence: There was introduced sufficient evidence to have supported a finding of guilty, but the trial court evidently believed the theory of the incident as contended by the accused and acquitted the accused.

Petitions: No petitions for review were filed.

Recommendation: No recommendations are required.

V. QUESTIONS OF LAW: No questions of law were raised at the trial that require discussion.

VI. CONCLUSIONS: No formal approval is required. It is recommended that the record of trial and this Review and Recommendations be filed without further action, and that a copy hereof be forwarded to the Judge Advocate for his information,

/s/ V. H. McClintock
/t/ V. H. McCLINTOCK
Attorney
Host Trial Branch

Having examined the record of trial, I concur.

/s/ C. T. Straight
/t/ C. T. STRAIGHT
Colonel, JAGD
Deputy Judge Advocate
for the Crimes