

HEADQUARTERS THIRD ARMY  
OFFICE OF THE STAFF JUDGE ADVOCATE  
WAR CRIMES BRANCH  
AIO 403 US ARMY

1 May 1946

THE UNITED STATES

VS

KARL STIEG, WILHELM FALAND and FRITZ TEUTEBERG,  
German nationals

Case No: 12-1740

REVIEW AND RECOMMENDATIONS OF STAFF JUDGE ADVOCATE

1. TRIAL:

The accused were tried at a joint trial at Ludwigsburg, Germany on 7 December 1945 by an Intermediate Military Government Court appointed by Paragraph 6, Special Orders No. 355, Headquarters 7th United States Army (Western Military District), AIO 758, 21 December 1945.

2. CHARGES, PLEAS, FINDINGS AND SENTENCE:

Charges and Specifications	Plea	Finding
Charge: Violation of the Laws of War	NG (As to all accused)	G (As to Faland & Teuteberg) NG (As to Stieg)

Specifications:

Particulars as to FALAND and STIEG: In that Wilhelm Faland and Karl Stieg, German nationals, did, at or near Reiffenhausen, Germany, on or about 14 August 1944, wrongfully commit an assault upon an unknown member of the US Army, who was then an unarmed, surrendered prisoner of war in the custody of the then German Reich, by hitting him in the face with their fists.

Particulars as to TEUTEBERG: In that Fritz Teuteberg, a German national, did at or near Reiffenhausen, Germany, on or about 14 August 1944, wrongfully and with intent to do him bodily harm, commit an assault upon an unknown member of the US Army, who was then an unarmed, surrendered prisoner of war in the custody of the then German Reich, by hitting him in the face with his fists and by kicking him.

Sentence:

The Court by at least two-thirds vote of the members present at the time the vote was taken sentenced:

WILHELM FALAND to imprisonment for a term of two years commencing 15 July 1945.

FRITZ TEUTEBERG to imprisonment for a term of four years commencing on 7 January 1946.

The Court by at least two-thirds vote of the members present at the time the vote was taken concurring, found the accused KARL STIEG not guilty of all Particulars and the Charge.

3. DATA AS TO ACCUSED:

KARL STIEG: Accused, a male, German citizen, civilian, 41 years of age, farmer by occupation and a resident of Reiffenhausen, Germany.

WILHELM FALAND: Accused, a male, German citizen, civilian, 43 years of age, railroad worker by occupation and a resident of Reiffenhausen, Germany.

FRITZ TEUTEBERG: Accused, a male, German citizen, civilian, 50 years of age, farmer by occupation and a resident of Reiffenhausen, Germany. Accused was Ortsgruppenleiter of Reiffenhausen from 1935 to April 1945.

4. EVIDENCE:

a. By the Court:

1. WILHELM FALAND: I was working in the fields near Reiffenhausen when a plane crashed near by. I went over to the pilot and tried to hit him but he bent backward so "I barely tapped his chin." We then walked toward the village and en route we met Sturmfuhrer Fueslgrave who searched the pilot for weapons and stated he would take charge. I left the group as we entered the village and did not see the pilot again. (R-5)

2. KARL STIEG: As I was entering the barnyard of my home with a wagon of wheat I noticed a parachutist coming down. I then ran to where he had landed and when I arrived there were about ten people who had already gathered about the pilot, Hermann Linne being among the group. Linne called us cowards for cursing the pilot and said we should volunteer for the front. This made me angry and we became engaged in a lengthy quarrel which continued until I reached my home in the village. I did not strike the pilot at any time but noticed FALAND strike him, although it appeared to me that the blow did not connect as the pilot was so tall. (R-7)

3. FRITZ TEUTEBERG: I was on my way home from harvesting in the fields when the pilot landed. I then returned home, put on a uniform as I was Ortsgruppenleiter and went to the office of the Buergerrichter to inquire about the pilot. The "American pilot" stood in the hallway surrounded by people and I went over and hit him "a few times on the head" because I was angry and excited, as a German pilot had been killed that day in a crash near the town. The pilot threw himself to the ground and "I slightly tapped him with my knee." I then called the Kreisleiter and he told me we should do away with him but I refused. (R-8)

b. For the Prosecution:

On or about noon the 13th or 14th of August 1944, an American pilot (S, 25, 23, 28; Exhibit 2-1) parachuted to earth in a field

near Reiffenhausen, Germany. A German citizen Hermann Linne was the first adult to reach the pilot and he took him into custody. The townspeople immediately gathered around as they started toward Reiffenhausen. (Exhibits 4, 2) Accused FALAND and STIEG were in this group and Linne states that the two men beat the pilot once with their hands. Linne separated these two accused from the pilot and this resulted in a quarrel between STIEG and Linne. (Exhibit 4) A Polish farm worker states each of these two accused "kicked and knocked the American." (Exhibit 2) A second Polish farm worker stated "FALAND and STIEG hit the flyer and that took about two to five minutes." (Exhibit 3) The flyer was taken to the office of the Bürgermeister at Reiffenhausen and turned over to his custody. (Exhibits 4, 2, 3,) Shortly thereafter the accused Teuteberg, Ortsgruppenleiter of Reiffenhausen, appeared and began questioning the pilot. The Bürgermeister states he was called to the telephone during this questioning and upon his return to the scene he saw Teuteberg hit the flyer "with his fist and as far as I can remember he hit him on the head and chest" Teuteberg hit the flyer for a few minutes\*\*\*, the flyer was very pale." (Exhibit 1) One of the Polish farm workers states that Teuteberg "Repeatedly beat the American into the face with his fist. The American glided down from the stairs to the earth. Teuteberg kicked him into the ribs\*\*\*several times. (Exhibit 2) The other Polish farm worker states the accused Teuteberg pushed the pilot so that he fell down and then kicked him several times. (Exhibit 3) In pursuance to the telephone conversation from the Fliegerhorst, the Bürgermeister had the flyer placed in a stable in his barn, shortly after the incident just described. The Polish witnesses state the American "was bent forward as if he had pains" and was holding his stomach and flanks as he walked to the stable. (Exhibit 2, 3) He remained in the stable until approximately four o'clock in the afternoon when he was taken away by the Luftwaffe. (Exhibit 1) The prosecution introduced the confession of each accused and the material section of each as it pertains to each accused is as follows:

TEUTEBERG: I handled the pilot roughly; I kicked him with my knees. (Exhibit 8)

STIEG: I saw FALAND beat the flyer about ten times with his fist. I do not recall beating him myself. (Exhibit 7)

FALAND: I hit the flyer four or five times. (Exhibit 6)

##### 5. JURISDICTION AND PROCEEDINGS:

a. The Intermediate Military Government Court which heard this case was properly constituted and had jurisdiction over the subject matter and of the accused. (Par. 7, Field Manual 27-10, Rules of Land Warfare; letter, Headquarters, United States Forces, European Theater, dated 16 July 1945, AG 000.5-2, subject: "Trial of War Crimes and Related Cases.") It is well recognized that the offense in the instant case, an assault by a German civilian of a member of the United States Armed Forces who was then a surrendered prisoner of war, is a violation of the laws of war and properly triable by a Military Commission having custody of the accused. The sentence was legally within the power of the Court to impose.

b. In letter Deputy Theater, Judge Advocate's Office, War Crimes Branch, United States Forces, European Theater, dated 29 October 1945, AG 000.5, subject: "Case of United States vs. WILHELM FALAND, KARL STIEG and FRITZ TEUTEBERG" trial by an Intermediate Military Government Court was directed. The charges and particulars against these accused were prepared by Major P. Griffin, Lieutenant Colonel. A copy of the charge sheet was served on each accused on 12 December 1945. Six members of the Court panel were present throughout the trial. The accused were represented by two American officers, attorneys, who

announced they were ready for trial. There was no conflict in interest which prejudiced the substantial rights of any of the accused and prevented them from having a fair, just and full trial. Challenges for cause were permitted.

#### 6. DISCUSSION:

a. The total proof adduced by the prosecution consisted of documentary evidence, to-wit: The sworn statements of four witnesses and the confession of each accused. Two of the former witnesses apparently resided in British territory and request was made of the War Crimes Branch, USFET, by the prosecution to obtain their presence at the trial but the record fails to show why the request was not fulfilled. (Exhibit 5) These statements will be commented upon as they affect each accused. The offense for which each accused is charged is a violation of Paragraph 73, Field Manual 27-10, Rules of Land Warfare which provides that prisoners of war "\*\*\*\*must at all times be treated with humanity and protected particularly against acts of violence, insults, and public curiosity\*\*\*\*". However, the essential elements of the offense against the accused FALAND and TEUTBERG were established by the testimony of the three accused when they were interrogated by the Court at the beginning of the trial. Each accused was advised of his rights before testifying. No errors prejudicial to the substantial rights of any of the accused and which prevented them from having a fair, just and full trial, was committed by the Court in admitting the statements in lieu of calling the witnesses. The evidence establishing the identity of the victim as an American is weak but sufficient to support the Court's finding and sentence. (R-8, 25, 23, 28; Exhibit 2-1) The identity of the victim as an individual was not established and is not an essential element of the offense.

b. KARL STIEG. The accused was charged with a war crime approximating a common law assault. The evidence against this accused consisted of an extract from the statement of a German civilian, Hermann Linne. Linne states that accused STIEG beat the pilot once with his hand. The Polish farm workers state that STIEG was one of the men who hit and kicked the flyer. (Exhibits 3, 4, 2) It was shown by the defense that there was a personal animosity between Linne and accused STIEG and the witness' reputation for truth and veracity was attacked. (R-19) The accused was never afforded the privilege of cross-examining the Polish witnesses. Their prejudice and bias was indicated by the severe beating they gave the accused FALAND at the time of his arrest. (R-28) The weight to be given this evidence was, of course, a matter for the Court, and it cannot be said that their finding of not guilty was improper.

c. WILHELM FALAND: Accused was charged with a war crime approximating a common law assault. The accused is charged only with hitting the pilot in the face with his fist. FALAND states: "I barely tapped his chin" when interrogated by the Court and on cross-examination admitted that he hit the pilot four or five times but the blows merely grazed or brushed off. Witness Linne states accused FALAND beat the pilot once with his hand. One of the Polish workers stated the accused kicked and knocked the pilot and another said the beating and kicking lasted three to five minutes. Their bias and prejudice has already been commented upon in the preceding paragraph. The maximum punishment for an assault and battery under the table of maximum punishments for courts-martial is confinement at hard labor for a term of six months. An assault with intent to do bodily harm carries a maximum penalty of one year. The accused was arrested and has been imprisoned since 15 August 1945. (R-29) In view of the character of the offense and the period of imprisonment that the accused has already served, it is believed that a more appropriate and just sentence would be imprisonment for a term of one year commencing on 15 August 1945.

d. FRITZ TEUTEBERG: The accused was charged with a war crime approximating an assault with intent to do bodily harm by hitting a member of the armed forces, when a prisoner of war, in the face with his fist and by kicking him. Accused admitted in Court, after being advised of his rights by the Court, that he hit the pilot "a few times on the head" and also "slightly tapped him with my knee." (R-8) This assault was corroborated by the testimony of the Buergermeister Rottger. It is questionable from the record whether the confession of the accused should have been admitted into evidence after the accused related the manner in which it was obtained, and after he had recruited two witnesses, who apparently were available, to corroborate his testimony in this regard. The question raised as to whether the manner in which the confession was obtained should go to the credibility and the weight to be given to the confession or to the question of admissibility need not be discussed but only noted for the reason that apparently the defense withdrew their objection. (R-3, 12) The two Polish workers state that the pilot when he left the office of the Buergermeister on route to the stable bent forward and held his stomach and flanks. As pointed out in the preceding paragraphs, their testimony must be carefully and cautiously weighed for the reasons stated. There is no evidence in the record to indicate that the fist and kicking was in such a manner that it could be considered or interpreted as a dangerous weapon. The maximum punishment under the table of maximum punishments for assault to do bodily harm is imprisonment for a term of one year. The accused was arrested on 28 April 1945 (R-29) and apparently has been in prison at all times since said date. The Court sentenced accused to a four year term to commence on 7 January 1946. It is considered that a more fair, just and appropriate sentence would be imprisonment for a term of one year from 7 January 1946.

7. PETITION FOR REVIEW:

No petition for review on behalf of any of the accused has been filed.

8. CLEMENCY:

No pleas for clemency have been received. All matters which might properly have been discussed under this paragraph have already been set forth and discussed under Paragraphs 3 and 6 respectively.

9. RECOMMENDATION:

It is recommended that the finding of the Commission as to accused VITHEM PALAND and so much of the sentence as provides for imprisonment for a term of one year commencing the 15 day of August 1945 be approved. It is further recommended that the finding as to accused FRITZ TEUTEBERG and so much of the sentence as provides for imprisonment for a term of one year commencing the 7 of January 1946 be approved. The forms of action designed to carry these recommendations into effect are attached hereto for the signature of the reviewing authority.

/s/ M. C. Setzkorn  
/t/ M. C. SETZKORN  
Capt. Inf.  
Chief of Trial Section

I concur.

/s/ Charles E. Cheever  
/t/ CHARLES E. CHEEVER  
Colonel JAGC  
Staff Judge Advocate