

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

Ludwigsburg Detachment

13 May 1946

THE UNITED STATES

vs

ROBERT SCHAUER
FRITZ AMSTUTZ
WILLI CHRIST

Case No: 12-1742

REVIEW AND RECOMMENDATIONS OF STAFF JUDGE ADVOCATE

1. TRIAL:

The three accused, two of whom were German civilians and the third a German soldier now in the custody of the United States as a prisoner of war, were tried on 4, 5, 6, 7 and 8 December, 1945, at Ludwigsburg, Germany, before a General Military Government Court appointed by par. 5, Special Orders 311, Headquarters 7th U.S. Army, (Western Military District) dated 7 November 1945.

2. CHARGES, PLEAS, FINDINGS AND SENTENCE:

Charges and Particulars	Plea	Finding
Charge: Violation of the Laws of War	NG	C
Particulars:	NG	G

In that Robert Schauer, Fritz Amstutz and Willi Christ, German nationals, did at or near Niederseulbach, Germany, on or about 19 October, 1944, wilfully, deliberately and wrongfully aid, abet and participate in the killing of three unknown members of the United States Army, who were then unarmed, surrendered prisoners of war in the custody of the then German Reich.

(note: "one" substituted for "three" in re Willi Christ)

Sentence:

The court in closed session, at least two-thirds of the members present at the time the vote was taken concurring therein, sentenced the accused as follows:

The accused Willi Christ to be imprisoned
/ for the term of one (1) year commencing
8 December, 1945;

The accused Fritz Amstutz to be imprisoned
for the term of five (5) years commencing
8 December, 1945;

The accused Robert Schauer to be imprisoned
for the term of thirteen (13) years com-
mencing 8 December, 1945.

3. JURISDICTIONAL MATTERS:

a) It is settled law that civilian nationals and persons in the military service of one belligerent nation may be tried and punished before the duly constituted tribunals of another belligerent nation for violations of international laws governing land warfare. When a civilian or a person in the military service wrongfully kills enemy persons who have fallen into their hands as prisoners of war, or aids, abets, participates in or gives the order for such killing it is an offense falling within the scope of this rule.

b) A prisoner of war who during hostilities has committed an offense which is in violation of the International Law governing land warfare may be punished as a War Criminal by what ever tribunal and under such rules and regulations as may be set up by the Theater Commander (In re Yamashita Nos 61 Mis and 672). Under current Theater orders all war crimes cases are to be tried before Military Government Courts (Letter US Forces, European Theater dated 16 July 1945).

c) The General Military Government Court which heard this case was duly and legally appointed by the Commanding General, 7th United States Army (Western Military District) by par. 5, Special Orders #311, Headquarters 7th U.S. Army (Western Military District) AFO 758, dated 7 November 1945. The charges and particulars were preferred by Meade F. Griffin, Lt. Col., Inf., and referred to this court by C.R. Bard, Col. JAGC. The charges were served on each accused on 23 November 1945. Each accused was properly represented by counsel and announced ready for trial (R 2). This court was vested with full power and authority to try each accused for the offense alleged. The sentence was legally within the power of this court to impose. (Art. 3, M.G.O. 2).

4. EVIDENCE:

a) For the Prosecution: During the morning of 19 October, 1944, three American fliers parachuted to earth from their plane in the district of Engenhahn, Germany (R 10). One of these fliers landed near the village of Niederhausen (R 13) and the other two landed near the village of Engenhahn. The first flier was taken from the Rathaus in Niederhausen by Fuhrmann, Christ and Ruecker who proceeded to take him to the Burgomaster's office in Niedersulzbach. When the party arrived at the burgomaster's office, Schauer, who was the burgomaster and Ortsgruppenleiter, was present. The flier was later removed to a room in the Kindergarten for safekeeping. (R 13, 14 and I. Ex. 6, p3). While Ruecker, Christ and Fuhrmann were in the burgomaster's office it was learned that two fliers had parachuted over Engenhahn (R 11). Ruecker and Christ proceeded to Engenhahn for the purpose of returning these fliers. On the way Christ made a remark to Ruecker that the fliers were murderers and criminals. (R 14). When they arrived at Engenhahn they found that the pilots had been rounded up and were being held in the firehouse. There was a crowd

of people around and someone mentioned that one of the fliers had an injured foot. (R 8, 10, 14). Christ and some of the other people standing around searched the fliers. (R 15, I. Ex. 6, 17). The guard mentioned that Schauer was on his way (R 15). Christ and Ruecker then proceeded to lead these fliers from Engenhahn to Niederseelbach. On the way Christ remarked to Ruecker: "What would you do if several men came out of the woods to raid the party?" Ruecker replied: "I am doing my duty." Christ then asked: "You would shoot your own people?" Ruecker again replied: "Yes. We are prohibited by orders of the police to attack prisoners of war." Christ then said: "You don't know what the cities look like, where women and children have burned to death, lying on the rubble and around the streets." (R 15). As Ruecker, Christ and the fliers proceeded to Niederseelbach they approached the Autobahn bridge, where they were met by Schauer who held a conversation with Christ in which Schauer asked Christ: "Why are you bringing these people back alive? Why did you not shoot them?" (R 16, I. Ex. 6, 15). Ruecker did not hear the conversation between Christ and Schauer but he did later remark to Christ that these fliers were American soldiers (R 16). Ruecker and Christ then proceeded on into Niederseelbach where they turned the fliers over to Fuhrmann (R 17).

As the fliers were being taken to Niederseelbach Schauer was seen walking ahead of the fliers, following behind in the custody of Christ, by a woman, Frieda Seel. Mrs. Seel asked Schauer: "What will happen to these American fliers?" to which Schauer replied: "They will probably be shot." (R 22, 23).

While the first flier was being held in the Kindergarten at Niederseelbach prior to the arrival of the last two fliers, a German girl, Margot Dulin, took the flier two cups of tea. Schauer learned of this and proceeded to the home of Miss Dulin. He walked into the kitchen, where he found Miss Dulin with her uncle. He spoke to Miss Dulin saying: "What, you being a German girl and bringing tea to an American flier? What do you think if our Kreisleiter should hear that? You should be shot." Miss Dulin's uncle then tried to calm Schauer, who had obviously been drinking, by explaining that these fliers were prisoners of war. Schauer then said: "I appointed three of my faithful. They will be killed." (R 29). Also during this same conversation Schauer told Miss Dulin and her uncle that he (Schauer) had received a telephone call from Kreisleiter Koch who asked him: "What, Schauer, they are still alive. I did not expect that from you." After the arrival of the second two fliers in Niederseelbach, Fuhrmann looked these two fliers with the other and placed them under guard.

At about 1800 during the evening of 19 October, 1944, accused Amstutz went to Niederseelbach to buy some groceries. While he was there he was stopped by the burgomaster and Ortsgruppenleiter Schauer at the Inn Gruenewald. Schauer invited him to come inside. Amstutz first went to the butcher shop and then returned to the inn. When he got inside he sat down at the table with Schauer and had some cider and proceeded to eat some bread and sausage. A half an hour later Fuhrmann came in and held a conversation with Schauer. A little later Fuhrmann proceeded towards the door. He broke to Amstutz, telling him to come here, whereupon he proceeded to tell Amstutz that he would have to come along and help transport some pilots to Idstein. Amstutz objected but Fuhrmann told him to get ready and it will not be long. As they went to leave the inn Schauer handed Amstutz a pistol saying: "Here, take it along." The three then proceeded down the stairway. When they got to the bottom Schauer excused himself by saying that he had something to correct. Amstutz and Fuhrmann then went to the first house and took the first pilot and proceeded to walk from Niederseelbach in the direction of Idstein. As they got beyond the railroad bridge some 30 to 50 meters Fuhrmann told Amstutz to go to the left at the fork in the road. Just then Amstutz heard a shot and saw the pistol

fall to the ground. Amstutz asked Fuhrmann: "What did you do now? I thought he was to be transported to Idstein," to which Fuhrmann replied: "Those were orders." Fuhrmann then proceeded to take a flashlight and examine the corpse and search the ground for the empty cartridge. Then the two, Fuhrmann and Amstutz, went back to the village of Niederseelbach. On the way Fuhrmann told Amstutz that there was another pilot who had to be transported to Idstein. They again went to the firehouse and got the second pilot. As they started down the road Amstutz noticed that the pilot was limping and asked Amstutz to get a car. Fuhrmann replied: "he wants to drive a car out tonight." After more conversation Fuhrmann did get a cart and Amstutz helped the flier on the cart and the three then proceeded down the road towards Idstein with Amstutz pulling the cart and Fuhrmann following along behind (R 35). As they got down the road past the railroad bridge Amstutz stopped to urinate. The pilot also wanted to urinate and proceeded to get off the cart. Shortly after Amstutz finished he heard two shots. Amstutz said to Fuhrmann: "Now you shot him again and I thought he was supposed to go to the hospital." Fuhrmann again took his flashlight and examined the corpse and searched for the empty cartridge on the ground. The two then proceeded back to Niederseelbach. On the way Fuhrmann told Amstutz that there was another pilot who would have to be taken to Idstein in the morning. Amstutz then proceeded to the Rathaus and, picking up his knapsack, started to go home. Fuhrmann then came running up to him and told Amstutz that it was necessary to keep a guard on him and also to make it possible to have the pilot interrogated promptly. Amstutz objected, saying that his wife and family were waiting for their evening meal. Fuhrmann replied: "You can drive from Idstein. You will have to come along." (R 4).

Prior to the arrival of Fuhrmann and Amstutz for the third pilot, this pilot was being guarded by a man by the name of Fuell who was later relieved by Otto Seel. While Fuell was standing guard Willi Christ came up and began scolding the flier, calling him a criminal. Fuell said to him that they are the same soldiers as ours, to which Christ replied: "Most of them are volunteers." (R 33). At about 9 o'clock in the evening Fuell was relieved from his guard by Seel. Seel had been on guard about ten minutes when he heard four shots and after a lapse of an additional ten minutes he saw Fuhrmann and Amstutz return to the burgomaster's office. In the meantime Schauer had called to Seel, telling him to report to him. Schauer asked Seel if he knew the whereabouts of Willi Christ. On receiving a negative answer Schauer replied: "If I had not loaned my pistol to Amstutz this flier would have been killed already (R 25).

Fuhrmann and Amstutz came to the firehouse, took the third pilot and proceeded to walk in the direction of Idstein. Christ followed along behind (R 5, F. Ex. 6, 15). As they reached a barn some 40 to 50 meters from the railroad bridge Amstutz heard several shots and saw this pilot fall to the ground from the right side of the road. Fuhrmann, Christ and Amstutz were all present (R 5, F. Ex. 7, 15). Christ had a pistol which he admitted removing from the holster and firing twice in the direction of the pilot (F. Ex. 6, 15). After the shooting had ceased Fuhrmann examined the corpse and looked for the empty cartridge. Then all three men proceeded back to the village of Niederseelbach (R 5).

On the night of 19 October, 1944, at 2200 hours, four shots were heard, followed by two long groans, by a Russian woman who was living in an apartment located in a building which was situated not far to the left of the fork in the road beyond the railroad bridge on the road leading from Niederseelbach to Idstein (F. Ex. 1 & 3).

Following the shooting of the third pilot Fuhrmann and Amstutz came into the office of Schauer and talked with him. During this

conversation Schauer was heard to reply: "Well," to which Fuhrmann replied: "Good". Amstutz was seen to place a pistol on Schauer's desk. Amstutz at this time was wearing a leather jacket (R 36). During this conversation Walter Iabst was present and noticed that Fuhrmann was very excited. Iabst then inquired of Schauer what was this all about, to which Schauer replied that the pilots were being transported to Idstein and on the way had tried to escape and in doing so were shot. Schauer, in the course of his conversation, in the presence of Iabst mentioned that he had called the Kreisleiter and he had told the Kreisleiter that he had three pilots and explained what was going to happen to them. Schauer repeated that the Kreisleiter had mentioned that he had expected that from everyone else but him. Schauer went on to talk about an order given by the Kreisleiter to the effect that every flier who entered the territory of the German Reich would have to be shot (R 36). Iabst then asked where the fliers were lying and suggested they would have to be buried. Willi Christ approached and had a talk with Schauer. Schauer then sent Christ to get Maurer and Hahn to dig a grave. Iabst went along with Christ to get these men. When they returned they were joined by Fuhrmann and Schauer who went along. They all followed Amstutz who took them to the place where the shootings occurred and showed them where each body was lying. All of the bodies were then gathered up and stripped on the orders of Fuhrmann (R 37, I. X. 7, 116). The bodies were then put in a gravel pit temporarily and the next evening they were buried in a cemetery in Niedersaalbach (R 37).

b) For the Accused Amstutz: Accused Amstutz admits that he was present at the shooting of each of the three pilots. He denies that he had any knowledge that the pilots were going to be shot and states that at no time did he actually shoot any of the pilots. (R 57-69).

c) For the Accused Schauer: Accused Schauer admits that he knew the two fliers had been captured in Engenhahn. He admits giving an order to the effect that these fliers were to be placed in general arrest. He denies, however, giving any order to have them transported to Niedersaalbach (R 69). He denied giving any order to Fuhrmann to have the fliers killed. He states that he and Fuhrmann were not on friendly terms. He does admit that on the night in question Fuhrmann did come into the Inn Grubevald and asked for a man to help escort the fliers to Idstein (R 70). He denies making any statement to Mrs. Seel to the effect that the fliers would certainly be shot. He further states that he had no intention of having the fliers killed or shot. (R 71). He contends that he had a bad memory and could not remember all of the detailed facts because he had been drinking cider which had a greater effect upon him than ordinarily would be expected because he had suffered a prior brain injury (R 72). Schauer denies making any statements to Margot Dulin in which he stated that he had appointed three faithful (R 72). The credibility of the witness Margot Dulin was attacked by the accused Schauer through the testimony of Wilhelm Hoffman, a minister. Hoffman testified that Miss Dulin was a typical German girl who had had years of obedient training; she was a very conceited person and one who would very likely lie to play a special role (R 84). In a conversation with minister Hoffman, following Miss Dulin's giving testimony for the prosecution in this case, Miss Dulin told of taking tea to the American flier and she also repeated what Schauer had told her. She then added that Herr Schauer had said he had appointed three faithful. Minister Hoffman then warned her of the seriousness of her testimony and she appeared to have doubts as to the statement with regard to the three faithful. Believing that she could not reserve her statement made on the witness stand because she was under oath and because of her pride which prevented her from showing the court her unreliability, Miss Dulin refused to

change the statement she had made in court with regard to the three faithful (R 85).

Schauer admits that he had a conversation with Willi Christ in the presence of Ruecker in which he told Christ: "Then why don't you kill them?", but he states that this statement was not serious and was made only because he noticed that Ruecker was very enraged (R 73). Schauer states that he was unable to recall any conversation with Otto Seel (R 73). He also denies having seen the bodies of the fliers after the shooting, but did admit that Fuhrmann had reported to him that the fliers had been killed because they tried to escape, and he had reported this fact to the Kreisleiter (R 74).

d) For the Accused Christ: Christ admits being with Ruecker and taking the two fliers from Engenhahn to Niederseelbach. He states that in the course of the trip from Engenhahn to Niederseelbach he met Schauer who asked him: "Why are you bringing them alive from Engenhahn?" but he did not listen to these words intently because he was a soldier (R 91). He also admits following Fuhrmann and Amstutz when the third pilot was being taken from Niederseelbach in the direction of Idstein. He states that when Fuhrmann shot the pilot he was so shocked that he didn't say anything to Fuhrmann. He further states that he did not remove his pistol or fire it until after the flier was killed (R 94-97). He also admits returning to the burgomaster's office and procuring to help bury the pilots. (R 97). He states that he knew nothing of the killing of the first two pilots until he overheard a conversation which took place in the burgomaster's office (R 97 & 98). He also admits being present when the bodies of the fliers were buried in the temporary graves. He admits that he took a pair of warm boots from the body of one of the fliers. (R 98).

Christ also introduced Minister Hoffmann, and his fiancée Elsa Imzerman, both of whom testified in substance that Christ was not the type of man who would kill an American flier (R 77-79, 86-88).

5. DISCUSSION:

a) From the evidence adduced by the prosecution the court properly inferred that the accused Schauer wilfully and deliberately aided and abetted the killing of three unknown members of the United States Army who were then unarmed, surrendered prisoners of war in the custody of the then German Reich, by giving the order to Fuhrmann to have these prisoners shot (R 4, 22, 23 & 31).

b) From the evidence adduced by the prosecution the court properly found that the accused Amstutz wilfully and deliberately aided, abetted and participated in the killing of three unknown members of the United States Army who were then unarmed, surrendered prisoners of war in the custody of the then German Reich (R 4, Ex. 1, 14 & 16).

c) There was evidence adduced by the prosecution showing that the accused Willi Christ was actually present and wilfully and deliberately aided, abetted and participated in the killing of one unknown member of the United States Army who was then an unarmed, surrendered prisoner of war in the custody of the then German Reich (R 5, 14, 16, 25, 33, and Ex. 5).

d) The identity of the victims as being members of the United States Army who at the time of the offense were unarmed,

surrendered prisoners of war then in the custody of the then German Reich was properly established by the evidence. (R 10, 22, 23, 29, 32, I. Ex. 3, p3, and I. Ex. 7, p2).

e) Section 345,1, FM 27-10, as changed 15 November, 1944, provides: "Individuals and organizations who violate the accepted laws and customs of war may be punished therefore. However, the fact that the acts complained of were done pursuant to orders of a superior or government sanction may be taken into consideration in determining the culpability, either by way of defense or in mitigation of punishment. The person giving such orders may also be punished." The last provision above cited specifically provides that the person giving the order which directs others to commit acts which are in violation of the international law governing land warfare may be punished, even though such person may not actually participate in the actual act which constitutes a violation of the rules of land warfare. This provision takes the position that the person who gives such an order is in effect participating in a conspiracy to violate the rules of land warfare and is fully responsible for any offense which occurs as a result of such a conspiracy. In these cases it must be borne in mind that it is impossible for the prosecution to prove such an order to the extent of actually proving the words of the order itself. As is the case in conspiracy the giving of the order must in most cases be inferred from the circumstances. (Sec. 1667, Wharton's Criminal Law). Bearing this in mind, let us consider the evidence as it is presented by the record. At the time the first pilot was killed Fuhrmann told accused Amstutz: "Those were orders" (R 4). The evidence also shows that immediately before the first pilot was killed Fuhrmann had a conversation with Schauer, and that all three of the fliers were killed within a very short period of time following such conversations (R 4). It was also established that immediately following the last shooting Fuhrmann returned to Schauer's office and had another conversation with him. (R 36). Now let us consider the events that took place from the time the victims were captured until the actual shooting. When Schauer met Christ and Ruecker returning to Nidderseebach with the fliers which had been captured in Engenhahn, Christ testified that Schauer said: "Why are you bringing these people back alive? Why did you not shoot them?" (R 16, I. Ex. 6, p5). Not long after Schauer was seen walking ahead of the fliers, who were in the custody of Christ, by a Frieda Seel who inquired of Schauer: "What will happen to the American fliers?", to which Schauer replied: "They will probably be shot." (R 23). After his arrival in Nidderseebach accused Schauer learned that a Miss Dulin had treated the flier, being held in custody in the Kindergarten, kindly by taking him two cups of tea. On learning of this Schauer went to the home of Miss Dulin and scolded her, saying: "Nat, you being a German girl bringing tea to an American flier? What do you think if our Kreisleiter should hear of that? You should be shot." During this same conversation Schauer told Miss Dulin and her uncle: "I appointed three of my faithful. They will be killed" (R 29). On two different occasions Schauer told witnesses of a telephone call which he had received from Kreisleiter Koch concerning the fliers, in which the Kreisleiter had reprimanded Schauer by saying: "Nat, Schauer, they are still alive. I did not expect that from you." (R 31 & 36). Also during the time that the fliers were under guard Schauer called to the guard Seel who came into his office, whereupon Schauer proceeded to ask the whereabouts of Willi Christ. On receiving a negative answer Schauer said: "If I had not loaned my pistol to Amstutz this flier would have been killed already." (R 25). There is evidence that Schauer had loaned his pistol to Amstutz when the latter went with Fuhrmann to take the fliers supposedly to Idstein (R 4). The record further shows that Schauer was the Ortsgruppenleiter of the district (I. Ex. 6, p5). As such he had the power to override any police order (R 36). It must be borne in mind

that all of the foregoing statements were made within a matter of a few hours preceeding the actual killing of the fliers in question. In view of all of the evidence as heretofore pointed out there is no ground for saying that there was an abuse of discretion on the part of the court in making its finding holding Schauer responsible for the crime of which he was charged, in that there is definite evidence from which the court, as reasonable men, could properly infer that accused Schauer gave Fuhrmann the order to kill the fliers on 19 October 1944.

f) Accused Amstutz admits being present when all three of the fliers were shot. (R 57-69). Although we might possibly excuse his participation in the killing of the first flier because of his lack of knowledge of what had transpired before his meeting with Schauer we cannot excuse him for his presence and activities in connection with the shooting of the second two fliers. There is no evidence that Amstutz was under any threat of violence which required him to comply with the orders of Fuhrmann. Therefore we must assume that he voluntarily and of his own free will participated in the shooting of the second two fliers. In the case of the shooting of the third pilot there is evidence in the record which shows that he was walking along beside the pilot and was even holding him by the arm (R 95). There is also evidence in the record that during all three shootings Amstutz himself was armed with a weapon. However, taking the position that Amstutz did not actually fire any of the fatal shots, he certainly participated in the shootings voluntarily, and in the case of the second two pilots did so knowing that the first one had been killed. He also knew that the pilots were prisoners of war and should have been taken to Idstein for safekeeping. Thus by his acts in connection with the shooting of the second two fliers accused Amstutz was established as being an aider and abettor and is responsible as a principal for the killings which resulted (Sect. 257, Wharton's Criminal Law, Chap. 321, sectl. 332, 35 Fed. Statutes, 1152).

g) Accused Christ was found guilty of the offense in so far as it applied to the killing of only one of the fliers. The court made an exception in its findings to conform with the facts, and, inasmuch as such an exception did not change the nature or identity of the offense charged, the court's exception in its findings was proper. (par. 79c MCM 1928). Accused Christ admits that he followed Fuhrmann and Amstutz when they took the third pilot from Niedersaalbach in the direction of Idstein. He also admits that he was present when the flier was shot and that after hearing the first shot he drew his own pistol and fired in the direction of the flier (R 94-97). Immediately prior to the commission of this offense Christ had helped round up the fliers. During this time he had referred to them as criminals and murderers (R 14 & 33). He was fully aware of Schauer's attitude with respect to having these fliers killed (F. Ex. 6, p. 5). His presence, in view of his knowledge of what had transpired before, established Christ as an aider and abettor in the killing of the third pilot and as such would be liable as a principal for such killing. (Sect. 257, Wharton's Criminal Law, chapter 321, sec. 332, 35, Fed. Statutes 1152).

h) At the close of the prosecution's case a motion for a finding of not guilty was made on behalf of all three accused, based upon the ground that there was no evidence contained in the prosecution's case which established any of the accused guilty of the offense charged. As pointed out in the preceding paragraphs of this discussion, there was evidence presented by the prosecution from which the court could have properly found that each accused participated in the offense charged. Therefore the court properly overruled the defense motion for a finding of not guilty (par. 71d MCM 1928).

i) The sentences imposed by the court upon each accused herein were within the authority of the court to impose. (Art. III, Sec 2). After a careful consideration of the entire record it is evident that the court considered all of the mitigating circumstances and imposed sentences which appear to be adequate to punish each accused for his part in the offense of which they were all three found guilty.

j) A careful and thorough examination of the entire record discloses no errors or irregularities in the proceedings herein which would prejudice the rights of any of the accused.

6. DATA AS TO ACCUSED:

a) Fritz Amstutz: Accused is 40 years old; a German civilian; married, and his last residence was Engenhahn, Germany (R 2 & 43). His occupation was that of electrician but he had been unemployed for eight years. (Statement Item 3, Book II). He has been a member of the Nazi Party since 1 May, 1932. He was an SA Scharfuhrer (sergeant) (I. Ex. 4, 13). He has been in confinement since 6 September, 1945 (Arrest Report, Book II).

b) Robert Schauer: Accused is 42 years old; a German civilian; married, with a family, and his last residence was 53 Hauptstr., Oberjosbach, Germany (R 2 & I. Ex. 7, 12). He was the burgomaster of Engenhahn and Niederseelbach (I. Ex. 7, 12). He was a member of the Nazi Party with the position of Ortsgruppenleiter (I. Ex. 6, 15). He has been in confinement since 18 September, 1945 (I. Ex. 7).

c) Willi Christ: He is 31 years old; single, and his last residence was Niederseelbach, Germany. At the time of trial he was a prisoner of war (R 1, 2 & 67). He attended public school. Finished an apprenticeship and worked as a helper. He entered the army in 1936 and was released in 1938 and then taken back into the army in September '40, '41. (R 88 & 89). He has been a front line soldier (R 89). He was requested as a war criminal on 13 May, 1945 (copy of Telegram, Book II).

7. PETITION FOR REVIEW:

No petition for review was filed on behalf of any of the accused herein.

8. CLEMENCY:

No petition for clemency was filed on behalf of any of the accused herein.

9. RECOMMENDATION:

It is recommended that the findings and sentence of the court herein be approved and upheld. Orders carrying out this recommendation are attached for the signature of the reviewing authority.

/s/ M. C. Steitzkorn
/t/ M. C. STEITZKORN
Capt., Inf
Chief, Trial Section

I concur.

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

MILITARY GOVERNMENT COURT
Order on Review

Case #12-1742

Order # _____

WHEREAS ROBERT SCHAUER was convicted of the offense of wrongfully aiding, abetting and participating in the killing of three prisoners of war by a General Military Government Court at Ludwigsburg, Germany, and sentenced to imprisonment for a term of thirteen (13) years, commencing 8 December 1945 at such place as may be designated by competent military authority, by a judgment, dated 8 December 1945.

AND WHEREAS this case has come before me by way of review and after due consideration and in exercise of the powers conferred upon me, I hereby order:

THAT the findings and sentence are approved and upheld and the sentence duly executed. Bruchsal Central Prison, Bruchsal, Germany, is designated as the place of confinement.

Dated 8 June 1946

/s/ Geoffrey Keyes
(Signature of Reviewing Authority)
/t/ GEORGEY KEYES
Lieutenant General, U. S. Army
Commanding
(Title)

GERICHT DER MILITARREGIERUNG
Revisionsanordnung

Strafsache #12-1742

Order # _____

WOBEI ROBERT SCHAUER des Vergehens, unrechtmässige Mithilfe, Unterstutzung und Teilnahme an der Tötung von drei Kriegsgefangenen von einem Oberen Gericht der Militärregierung in Ludwigsburg, Deutschland, fuer schuldig erklart und zu Gefaengnis fuer die Zeitdauer von dreizehn (13) Jahren, beginnend am 8. Dezember 1945 an dem Ort, der von der zustandigen Militarbehoerde bezeichnet wird, durch Urteilspruch, datiert vom 8. Dezember 1945, verurteilt wurde.

UND WOBEI diese Strafsache mir jetzt zur Ueberpruefung vorgelegt wurde, und nach gebuehrender Eruegung und in Ausuebung der mir uebertragenen Befugnisse ordne ich hiermit an:

DASS das Untersuchungsergebnis gebilligt und aufrechterhalten and das Urteil demgemess vollstreckt wird. Das Zentralgefaengnis in Bruchsal, Deutschland, ist als Ort der Haft angegeben.

Datum: _____ 1946

(Unterschrift der Revisionsbehoerde)

(Titel)