

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

14 April 1948

UNITED STATES)

v.)

Otto SKORZENY, et al.)

Case No. 6-100

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 18 August to 9 September 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Otto SKORZENY, Philipp Von BEHR, Walter SCHERF, Hans HASS, Wilhelm MAUS, Dennis MÜNZER, Günther FITZE, Ralph BELLSTEDT, Wilhelm KOCHERSCHIEDT and Lrend de BRUIN, and divers other persons, German nationals or persons acting with German nationals, at sundry times between about 1 October 1944 and about 15 January 1945, in the vicinity of the Kingdom of Belgium, and the then German Reich, acting in pursuance of a common design to commit the acts hereinafter alleged, did wrongfully encourage, aid, abet, and participate in the improper use of the military insignia, badges, emblems, markings, and uniform of the Armed Forces of the United States of America, by entering into combat disguised therewith and treacherously firing upon and killing members of the Armed Forces of the United States of America.

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

Particulars: In that Otto SKORZENY, Philipp von BEHR, Walter SCHERF, Hans HASS, Wilhelm MAUS, Dennis MÜNZER, Günther FITZE, Ralph BELLSTEDT, Wilhelm KOCHERSCHIEDT and Lrend de BRUIN, and divers other persons, German nationals or persons acting with German nationals, at sundry times between about 10 December 1944 and about 15 January 1945, at or in the vicinity of the Kingdom of Belgium and the then German Reich, acting in pursuance of a common design to commit the acts hereinafter alleged, did wrongfully encourage, aid, abet and participate in the killing, shooting, ill-treatment, abuse and torture of members of the Armed Forces of the United States of America, who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich, the exact names and numbers of such persons being unknown but aggregating over one hundred.

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

Particulars: In that Otto SKORZENY, Philipp Von BEHR, Walter SCHERF, Hans HASS, Wilhelm MAUS, Dennis MÜNTZ, Günther FITZE, Ralph BELLSTEDT, Wilhelm KOCHERSCHIEDT and Arond de BRUIN, and divers other persons, German nationals or persons acting with German nationals at sundry times between about 1 October 1944 and about 15 January 1945, at sundry places within the then German Reich or areas under the control of the then German Reich, acting in pursuance of a common design to commit the acts hereinafter alleged, did wrongfully encourage, aid, abet, and participate in removing, appropriating, and using uniforms, identification documents, insignia of rank, decorations, and other effects and objects of personal use in the possession of members of the Armed Forces of the United States of America, who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich.

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

Particulars: In that Otto SKORZENY, Philipp Von BEHR, Walter SCHERF, Hans HASS, Wilhelm MAUS, Dennis MÜNTZ, Günther FITZE, Ralph BELLSTEDT, Wilhelm KOCHERSCHIEDT and Arond de BRUIN, and divers other persons, German nationals or persons acting with German nationals at sundry times between about 1 October 1944 and about 15 January 1945, at sundry places within the then German Reich or areas under the control of the then German Reich, acting in pursuance of a common design to commit the acts hereinafter alleged, did wrongfully encourage, aid, abet and participate, to their own use and benefit, in obstructing and preventing the receipt and delivery of Red Cross and other parcels, containing food and clothing, consigned to members of the Armed Forces of the United States of America, who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich.

(Charge II was withdrawn during the course of the trial, R 448, 449.)

III. DATA AS TO ACCUSED: A motion by the prosecution for findings of not guilty as to accused Arond de BRUIN was granted by the Court (R 452). A motion by the defense for findings of not guilty as to accused Wilhelm MAUS was granted by the Court (R 453, 482). All other accused were acquitted (R 799).

IV. SUMMARY OF EVIDENCE: In October 1944, Hitler personally directed accused SKORZENY to organize and command a special unit in the performance of an unusual, top secret mission. The principal mission of this unit as prescribed by Hitler was to be the capturing and securing of Rhine River bridges. The secondary mission was to be espionage and sabotage.

It was directed that American uniforms and insignia be used by the German forces assigned to this unit during its operations. Hitler's plan contemplated that SKORZENY would command the unit during its operations against the enemy. The unit was to be technically under the command of Lieutenant Colonel Hardieck during the organization and training phase, all to be controlled and directed by SKORZENY. Hardieck was technically in command of the unit from about 1 November 1944 to 14 December 1944, when SKORZENY assumed the technical as well as the actual command. The unit was designated as the 150th SS Panzer Brigade and was utilized in the Ardennes Counteroffensive, commonly known as and hereafter referred to as the "Ardennes Offensive".

SKORZENY, immediately after having received his directions from Hitler, aided by Captain Von Folkersam, determined upon the table of organization, personnel, and equipment for the unit. The German High Command directed all Army Groups to seek physically fit volunteers, who had a command of the English language, for a secret assignment. A large number of men volunteered and were sent to Grafenwohr for training.

SKORZENY informed Colonel Fritz Meurer, Chief of Staff for the Head of the German Prisoner of War Bureau, that he would need a large number of American uniforms for a special task, which had been assigned to him by Hitler, and that the assistance of the Prisoner of War Bureau was essential in obtaining these uniforms. Meurer stated that there was not a sufficient number of American uniforms at prisoner of war camps to fill SKORZENY's requisition. Meurer also stated that those not obtainable in prisoner of war camps could not be procured legally from International Red Cross sources, by the interception of parcels or otherwise. They agreed to obtain the uniforms, first, from booty dumps and, secondly, from warehouses. It was also understood that American emergency rations, to complete the deception, would be supplied from Red Cross packages. Meurer directed his Chief of Administration, Lieutenant Colonel Grossekettler, to fill SKORZENY's requisition.

At SKORZENY's direction, Gerhard, accused FITZE and accused MUNTZ called upon Meurer who had been advised of their visit by SKORZENY. They presented to Meurer identification credentials and a letter from SKORZENY, stating that any officer or official who did not cooperate with them would be reported to Hitler. At a conference of these four persons, a decision was made to supply American uniforms from a prisoner of war camp at Furstenberg. Meurer sent Grossekettler with FITZE and MUNTZ to that camp.

FITZE and MUNTZ forgot some special jackets and returned the following day and informed Lieutenant Colonel Blau, commanding officer of the camp, that they must have the jackets immediately. Blau told them that these jackets were not on hand in the clothing warehouse. They then insisted, notwithstanding his protest, that these jackets be taken from the American prisoners of war. Thereupon, Blau ordered that the jackets be taken from the prisoners of war. In carrying out the order, some of the prisoners of war yielded their jackets without much resistance, but others tore and burned theirs. Blau reported this incident to Grossekettler. Meurer reported it to SS General Berger, who as Chief of the Prisoner of War Bureau was responsible at the Reich level for over-all prisoner of war affairs.

There is evidence that jackets, blouses, shirts, underwear, socks and other articles of American uniform clothing were taken from American prisoners of war at other camps. A substantial proportion, if not the major portion, of the clothing taken had been supplied to the prisoners of war by the International Red Cross.

The unit was organized, equipped and trained at Grafenwohr. The mission of the unit was designated by the code name "Rabenhuegel" and later, by the code name "Greif". The unit was designated as the 150th SS Panzer Brigade. Each man was issued a complete set of American uniform clothing and equipment, including a steel helmet. The men were told at Grafenwohr that they were to wear American uniforms on the Western Front. Some Red Cross packages, the contents of which included

meat, dried milk, chocolate and soap were stored in a stable at Graferwohr. A few of such Red Cross items, as well as American cigarettes, were issued to the men during the training phase.

The brigade was comprised of three combat groups and a Commando Company. The Commando Company, composed of 150 to 200 men, was divided into reconnaissance, radio or communication, and engineer demolition teams. Most of these teams were composed of four men, but there were some seven-man teams. The four-man teams consisted of a leader, a speaker, a driver and a rifleman. The speaker invariably was the team member who was the most proficient in the English language. The four-man teams were furnished American jeeps. Other types of vehicles, some American and some British, were furnished and used in the brigade. The team members were equipped with American ammunition and weapons, including M-1 rifles, carbines, .45 calibre Colt pistols and submachine guns. The teams were furnished United States Army motor vehicle trip tickets and the drivers were issued United States Army driver licenses. The members of the brigade were assigned United States Army officer and enlisted rank designations and were given United States Army insignia pertaining to the rank assigned. Frequently the assigned ranks did not correspond to those held by the individuals in the German Army. They were also supplied with United States Army officer and enlisted man identification cards, pay data cards, pay books, post exchange cards and immunization records. The equipment of the brigade also included some German vehicles, weapons and ammunition.

The instruction at Graferwohr included training in the English language, American slang and mannerisms, and in United States Army close order and extended order drill. Accused von BREHR conducted instruction in the English language and classified the men according to their proficiency in the use thereof. Some of the men were sent to American prisoner of war camps for a few days to talk with and observe the speech, behavior, and mannerisms of American soldiers. Instruction was also given in driving United States Army vehicles and in firing United States Army

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weapons. The members of the brigade were forbidden to write or send out letters and were required to take an oath that they would not reveal anything concerning the unit, its mission or operation either during or after the end of the war. SKORZENY addressed the officers and team leaders stating that he was to lead them "in combat" by order of Hitler; that they should not count on returning from the mission of the unit; and that anyone who desired to withdraw from the unit and its task would be permitted to do so at that time without prejudice.

Early in December 1944, the unit was moved to Koin-Wahn in railroad box cars. During the trip, Major von Schrotter spoke to the men and said that their mission would include creating disorder and unrest behind the enemy lines. At Koin-Wahn, additional Red Cross packages were distributed and instructions were issued that the contents were to be utilized, for deception only, after the men had succeeded in breaking through to enemy territory. After about three days, the unit moved into a forest in the vicinity of Munstereifel, at which place American and British currency was distributed to each team leader. Each member of the brigade was issued a poison vial and instructed to use it for self-destruction in the event of capture by the enemy.

On 15 or 16 December 1944, the members of the Commando Company were ordered by Major von Schrotter to remove their German uniforms, dress in their American uniforms, and wait for further instructions. They wore their German parachute combination jackets over the American uniforms. Their German uniforms were stored in bags which were left at a forester's house. The men were instructed that their German parachute combination jackets were not to be discarded until enemy territory had been reached. They were also instructed that the code name "Solar" would be used thereafter to designate the unit and that the name "Skorzeny" would not be applied to the unit. SKORZENY took active command of the brigade on 14 December 1944.

On 16 December 1944, the Ardennes Offensive was commenced. The operational plan was for the combat groups of the brigade to march behind the combat groups of the 1st and 12th SS Panzer Divisions of the Sixth

SS Panzer Army; the 1st Combat Group, commanded by Wulff, behind the 12th SS Panzer Division; the 2nd Combat Group, commanded by accused SCHREFF, behind Combat Group Peiper, a specially organized combat team formed from units of the 1st SS Panzer Division; and the 3rd Combat Group, commanded by Hardieck, behind Combat Group Hanson of the 1st SS Panzer Division. Combat Group Peiper formed a spearhead or point of the Sixth SS Panzer Army in the offensive. The direction of the march was to be initially directly westward and later in a northwesterly direction. The area was divided into strips. The northernmost of these strips was assigned to the 1st Combat Group, its goal being the Maas River Bridge at Angier; the second strip was assigned to the 2d Combat Group with the Maas River Bridge at Amoe as its goal; and the southernmost strip was assigned to the 3rd Combat Group, with the Maas River Bridge at Huy as its goal. The teams of the Commando Company, commanded by Stielau, were divided among the combat groups of the brigade and the combat groups of the armored divisions.

The teams attached to the combat groups of the brigade were to be used with them after they had infiltrated into the enemy lines. Some engineer teams were attached for marching purposes to the 2nd SS Panzer Division and were assigned the task of removing demolition charges from bridges in Sixth SS Panzer Army's sector. They were placed with the spearhead troops to aid them in breaking through the enemy lines. The combat groups of the brigade were attached to the respective combat groups with which they were to march and were subject to the marching orders of the commanders of the respective combat groups. Otherwise, the combat groups of the 150th SS Panzer Brigade remained under the command of SKORZENY.

The members of the brigade and particularly those in the Commando Company were instructed to avoid contact with enemy troops, if possible, and to avoid combat. This was to prevent them from being detected by the enemy. The troops of the brigade did not receive instructions to refrain from shooting.

The combat groups were to use the cover of night to proceed about 10 kilometers from the Maas River as rapidly as possible. Then they were to withdraw into the forest. In the meantime, the engineer teams, which had driven ahead to the bridges, would have investigated whether or not the bridges had been prepared for demolition. Then the engineer platoons of the combat groups were to proceed to the bridges, remove any demolition materials, and hold the bridges. Simultaneously, other troops were to proceed behind the respective engineer platoons and form bridgeheads and security outposts on the west sides of the bridges.

The 1st Combat Group left Munstereifel on the night of 15 December 1944 and reached the area of Reiferschrid the next night. The 2nd and 3rd Combat Groups left Munstereifel on the nights of 15 and 16 December and by about 2400 hours on 16 December 1944, the former had reached the area around Hallschlag and the latter a town to the left of Stadtkyll. On the morning of 17 December 1944, the 1st Combat Group was slightly west of Hollerath and on the next day was near the Losheimer Ditch. On the morning of 17 December 1944, the 2nd Combat Group reached the area of Ianzerath and remained there until the morning of 19 December 1944. By 18 December 1944, the 3rd Combat Group had proceeded from Frum to Losheim and was outside of Holzheim.

The breaking of the enemy line by the armored divisions was not completely successful. On 18 December 1944, SKORZENY decided to drop the main mission of taking the three Maas River bridges and notified the commanders of the three combat groups of this decision. Up to 18 December 1944, some of the three combat groups had reported to SKORZENY that they had had contact with American forces. On 18 and 19 December 1944, SKORZENY remained with the headquarters of the I SS Panzer Corps in the vicinity of Manderfeld and Holzheim. On the latter date, he ordered the three combat groups of the brigade to proceed to the area of Engelsdorf (Ligneville) and that their commanding officers report to the commanding officer of the I SS Panzer Corps.

After the cancellation of the "Greif" mission, SKORZENY suggested that the 150th SS Panzer Brigade be used as infantry. He was given an infantry mission and on 20 December 1944 ordered the commanding officer of the 2d Combat Group, accused SCHERF, and the commanding officer of the 3d Combat Group, von Folkersam, to attack toward Malmedy.

The evidence includes testimony of numerous instances in which members of the 150th SS Panzer Brigade, including Von BEHR and KOCHERSCHIEDT, were wearing American uniforms and a German parachute combination jacket while engaged in combat operations. There is also eyewitness testimony as to the killing of several German soldiers, who were at the time wearing American uniforms and insignia, in an engagement at Stavelot, as well as the killing of an American soldier near St. Vith by a German soldier, the latter being then dressed in American uniform and insignia.

V. QUESTIONS OF LAW:

Jurisdiction: It is clear that the Court had jurisdiction of the persons of the accused and of the subject matter.

Use of Enemy's Uniforms, Insignia, etc., in Combat: Article 23 of Annex to Hague Convention No. IV of 18 October 1907, set forth in TM 27-251, War Department, U.S. Army, "Treaties Governing Land Warfare", 7 January 1944, provides in pertinent part as follows:

"In addition to the prohibitions provided by special Conventions, it is especially forbidden-- ***

"f. To make improper use of a flag of truce, of the national flag, or of the military insignia and uniform of the enemy, as well as the distinctive badges of the Geneva Convention."

Paragraph 43, FM 27-10, War Department, U.S. Army, "Rules of Land Warfare", 1 October 1940, provides:

"43. National flags, insignia, and uniforms as a ruse.--In practice it has been authorized to make use of these as a ruse. The foregoing rule (par. 41) [which paragraph quotes Article 23 of the Annex to Hague Convention No. IV, set forth above] does not prohibit such use, but does prohibit their improper use. It is certainly forbidden to make use of them during a combat. Before opening fire upon the enemy they must be discarded."

On page 335, Volume II, Oppenheim's "International Law", it is stated:

"As regards the use of the national flag, the military ensigns, and the uniforms of the enemy, theory and practice are unanimous in prohibiting such use during actual attack and defense, since the principle is considered inviolable that during actual fighting belligerent forces ought to be certain who is friend and who is foe."

Taking Uniforms, Insignia, etc., from Prisoners of War: Article 6 of the Geneva (Prisoners of War) Convention of 27 July 1929, set forth in TM 27-251, War Department, U. S. Army, "Treaties Governing Land Warfare", 7 January 1944, provides in pertinent part as follows:

"All effects and objects of personal use - except arms, horses, military equipment and military papers - shall remain in the possession of prisoners of war, as well as metal helmets and gas masks.

"Identification documents, insignia of rank, decorations and objects of value may not be taken from prisoners."

Diverting of Red Cross Parcels: Article 38 of the Geneva (Prisoners of War) Convention, supra, deals with consignments of money or valuables, as well as parcels by post intended for prisoners of war, Article 37 thereof provides:

"Prisoners of war shall be allowed individually to receive parcels by mail, containing foods and other articles intended to supply them with food or clothing. Packages shall be delivered to the addresses and a receipt given."

Immunity of Spies: The immunity of a spy from punishment after having escaped to his own forces has nothing to do with the law of this case involving violations of the law of war.

VI. CONCLUSIONS: The law of the case is well settled. However, as to the evidence, the applicable procedure did not require that the Court make findings other than those of guilty or not guilty. Consequently, there is no explanation available as to the Court's views concerning such testimony as that by First Lieutenant William J. O'Neill, commanding an engineer platoon of Headquarters Company, 1st Battalion, 117th Infantry, 30th Infantry Division, United States Army, asserting that during the Ardennes Offensive several Germans in American uniforms and equipped with jeeps were killed, one by himself, in an engagement in Stavelot (R 379-398); that by KOCHERSCHIEDT to the effect that, while dressed in an American uniform, he killed an American soldier near St. Vith (R 333; P-Ex 33); that by SKORZENY asserting that KOCHERSCHIEDT wore an American

uniform in action against the enemy (R 582); that by Meurer, Chief of Staff to General Berger, Chief of the German Prisoner of War Bureau, as well as that by Colonel Paul R. Goode and Lieutenant Colonel Roy J. Harte, both of the United States Army and in Prisoner of War Camp Furstenberg during the fall of 1944, as to the forcible taking of uniforms and insignia from American prisoners of war in Furstenberg (R 68-72, 118, 119, 716; P-Exs 13, 45); and that by Lang and Sternhuber as to the distribution and use of Red Cross parcels (R 143, 147, 175).

It is recommended that the record of trial be filed in the records of this office and that a copy of this Review and Recommendations be forwarded to the Judge Advocate, European Command, for his information.

RAYMOND J. HEILMAN
Major, INF
Post Trial Branch

Having examined the record of trial, I concur, this _____
day of _____ 1948.

C. E. STRAIGHT
Lieutenant Colonel, JAGD
Deputy Judge Advocate
for War Crimes