

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

FEL/10

UNITED STATES)

7 November 1947

v.)

Case No. 12-1666

Karl MAOK)

REVIEW AND RECOMMENDATIONS

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

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Karl Maok, German national, did, at or near MICHELFELD, Germany, on or about 25 April 1944, deliberately and wrongfully encourage, aid, abet and participate in the killing of a member of the United States Army, believed to be 1st Lt. William J. SIMONS, ASN O-744781, who was then and there a wounded, surrendered and unarmed prisoner of war in the custody of the then German Reich.

III. DATA AS TO ACCUSED

1. Karl Maok

This accused was acquitted (R 34).

IV. SUMMARY OF EVIDENCE: On 25 April 1944 an American flier parachuted from a plane in the vicinity of Michelfeld, Germany (R 9, 12, 18, 23, 24, 29; P-Ex 2A). His parachute collapsed when he was about 100 meters from the ground (R 15, 20, 29; P-Ex 2A). He landed in soft dirt making a hole in the ground about 18 inches deep (R 15, 16, 31). The first man on the scene was one Hartmann who beat the flier in the head with a pole (R 12, 19). Three witnesses testified that the accused was not at the scene (R 13, 18, 19, 25) and that the accused was not normal, intimating that he was insane (R 16, 17, 21, 26). All four of the prosecution witnesses testified that they had heard that the accused had beat the flier (R 13, 19, 23, 25). The extrajudicial sworn testimony of the accused shows that he apparently is mentally incompetent (R 29; P-Ex 2A). He stated that he did hit the flier once in order to make himself look important before the public but the flier was already dead

(R 29; P-Ex 2A). The flier died on the same day from a skull fracture (R 9, R 29; P-Exs 2A, 3A) but was alive when he was taken to the hospital (R 9, 25, 29; P-Ex 3A).

The Court had jurisdiction of the person of the accused and of the subject matter.

V. CONCLUSIONS:

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.

FLOYD M. LUNDBERG
Major JAGD
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