

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

13 May 1947

UNITED STATES

VS

Herman FRIEDRICH, Friedrich
SCHMIDT, Karl KRAFT, Anna
STEIN, Georg DICKEHAUT,
Heinrich LULEY, Karl REIN-
HEIMER, Jakob BRÜCKMANN,
Peter LIETSCHUR, and George
JÜGER, German Nationals.

Case No. 12-1956

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA:

Tried at Dachau, Germany
Date: 20 to 25 September 1946
Intermediate Military Government Court

CHARGE: Violation of the Laws of War.

Particulars: In that Herman FRIEDRICH, Friedrich
SCHMIDT, Karl KRAFT, Anna STEIN, Georg DICKEHAUT,
Heinrich LULEY, Karl REINHEIMER, Jakob BRÜCKMANN,
Peter LIETSCHUR and George JÜGER, German nationals
did, at or near TREBUR, Germany, on or about 26
August 1944 willfully, deliberately and wrongfully
encourage, aid abet and participate in an assault
upon unknown members of the United States Army, who
were then unarmed, surrendered prisoners of war in
the custody of the then German Reich.

<u>ACCUSED</u>	<u>PLEAS</u>	<u>FINDINGS</u>	<u>SENTENCE</u>
FRIEDRICH, Herman Age 41 Married, one child, daughter, 2 1/2 years old, grandchild 1 year old.	NG	G	1 year, commencing 14 September 1945
SCHMIDT, Friedrich Age 58 Married, wife living 5 children, 34, 29 & 26, and 4 grandchildren	NG	G	1 year, commencing 17 September 1945
KRAFT, Karl Age 53 Married, one daughter cannot tell if wife is alive NSDAP Member	NG	G	18 months, commencing 14 September 1945

<u>ACCUSED</u>	<u>PITAS</u>	<u>FINDINGS</u>	<u>SENTENCE</u>
STEIN, Anna Age 34 Married, no children	NG	G	1 year, commencing 14 September 1945
DICKHAUF, Georg Age 19 Single Member Hitler Youth from 1937	NG	G	18 months, commencing 18 September 1945
BULNY, Heinrich Age 66 Married, child 37 years old, 3 grandchildren, 5, 9 and 10 respectively	NG	G	1 year, commencing 17 September 1945
REIBELHIMER, Karl Age 45 Married, 2 children, 15 and 9	NG	G	18 months, commencing 27 September 1945
BRÜCKMANN, Jakob Age 39 Married, 3 children, 14, 8 and 6	NG	G	20 months, commencing 14 September 1945
LITTSCHUR, Peter Age 42 Married, 2 children, 23 and 13	NG	G	3 years, commencing 27 September 1945
JÄGER, Georg Age 44 Married, 3 children, 19, 17 and 1 3/4 Joined NSDAP September 1937 In the SA as Scharführer 1937, promoted to Ober- trupführer in 1943.	NG	G	3 years, commencing 30 March 1945

2. RECOMMENDATIONS: That the findings and sentences be approved except those as to the accused Herman FRIDRICH.

3. EVIDENCE:

For the Prosecution. During an air raid over the Mannheim-Lidwigshaven Area by American planes on or about 26 August 1944, one of the planes was shot down over Mannheim, Gross-Gerau, and 2 or 3 flyers parachuted from the plane and dispersed over an area of about 4 kilometers in the vicinity of Russelsheim (P. Ex. B, P 151). A number of civilians and military personnel gathered at the various places where the parachuting Americans had landed. Considerable

animosity against the flyers was exhibited by the populace who were incited to commit an assault (R 16, 54, 103, 105).

Karl REINHHEIMER, accused, a fireman, in his pre-trial statement (P. Ex. 10, R 162) admitted striking the flier and corroborated the statement on the stand.

Georg DICKHAUT, accused, in his pre-trial statement (P. Ex. 5, R 156) admitted striking the flier and threatening him with a knife. During his direct examination he corroborated having struck the victim but denied having threatened him with a knife.

Witnesses Margareta SCHMITT and George GROSSMAN testified accused DICKHAUT beat a flyer several times (R 134) and threatened the flyer with a knife (R 141).

Peter LIETSCHUH, accused, a fireman, who was seen coming from the fire truck at the scene of one of the beating incidents was identified beyond question by witnesses Heinrich JACOBI (R 51), Ludwig LIEBAU (R 106, 107, 108), Phillip SCHMIDT (R 124, 125) and defense witness Michael MANGTHERICH (R 198), as having beaten a flyer severely with his belt, containing iron rings, and a small axe or tool.

Heinrich LILEY, accused, was identified by witnesses Heinrich GIMBEL (R 49), Heinrich JACOBI (R 53), and Ludwig LIEBAU (R 103, 104) as having beaten the flyer with his hands and shaking him, and shouting, "beat him to pieces, this murderer" (R 105).

Karl KRAFT, accused, was identified by witnesses Heinrich GIMBEL (R 40), Heinrich JACOBI (R 54) and Ludwig LIEBAU (R 105) as having hit the flyer, pulled and shaken him and shouted "beat him to pieces".

Anna STEIN, accused, was identified by witnesses Heinrich GIMBEL (R 41) and Ludwig LIEBAU (R 47, 105) as having thrown a stone the size of approximately a half a brick and that she shouted "beat him to pieces". It was not known whether the stone hit the flyer. During her direct examination she admitted saying or yelling

"Why do we have to suffer all this, after all we didn't get into bed for days and days because of the air attacks" (R 170).

Jakob BRÜCKMANN, accused, was identified by witnesses Heinrich GIMMEL (R 41), Franz JOFAZ (R 67) and George KOLE (R 87) as having hit, kicked and pushed the flyer (R 98).

Friedrich SCHMIDT, accused, was identified by the witness Juliana ROSSMAN (R 97, 98) as having struck the flyer very hard.

Georg JÄGER, Christian name actually Georg, accused, was identified by witnesses Margareta SCHWITT (R 134), Elise SCHMALTZ (R 136) and accused Georg DICHAUT (Exhibit P-5, R 186, 187, 189) as having beaten the flyer.

For the Defense. Anna STEIN, accused, denied throwing a stone (R 169) or saying, "beat him to death", meaning the flyer (R 170).

Jakob BRÜCKMANN, accused, denied mistreating or kicking the flyer (R 174), that he had an injury to his right leg which wound was still open at the time of the incident, the scars of which were shown to the Court and therefore he could not have kicked (R 172, 173).

Georg DICHAUT, accused, testified that the sworn statement made by him on September 20, 1945 to United States investigating officers, Exhibit P-5, was secured from him by duress (R 183, 184).

Heinrich LUTY, accused, denied having ever hit, touched, or molested even verbally any flyer (R 193), which testimony was corroborated by witnesses who further testified that the accused had protected the victim (R 199, 203, 204, 206, 209, 214, 215).

Georg JÄGER, accused, denied striking the flyer and testified that he did not see the accused LIPTSCHUK, FRIEDRICH, SCHMIDT, REINHHEIMER or DICHAUT even touch the flyer (R 225, 226, 230) and that LIPTSCHUK tried to protect the flyer (R 233).

Prosecution's Exhibit 3 (R 151), the sworn statement of the accused Jakob BRÜCKMANN, states that on the way to the town he pushed the flyer with his hands and once more to his knee as he wanted the flyer to walk faster because people around were furious and that no one else participated in shoving, kicking or slapping the flyer.

Prosecution's Exhibit 4 (R 155) is a map purporting to be an overlay map of the area where the flyers landed in the vicinity of Tröbur. It was introduced in conjunction with Prosecution's Exhibit 3.

Prosecution's Exhibit 5 (R 156) was the sworn statement of the accused Georg DICHAUT, in which he admits hitting the flyer 3, 4 or 5 times while the latter was lying on the ground, being searched. The accused Georg JÄGER was the only other person he knew who beat the flyer with his hand. When he, DICHAUT, approached the flyer he had pulled out his knife but he put it away and shouted along with the crowd "Kill him".

Prosecution's Exhibit 6 (R 157) was the sworn statement of accused Herman FRIEDRICH, which stated that one of the firemen, Peter LIETSCHUH, hit the flyer 3 or 4 times, but that he (FRIEDRICH) never struck the flyer. FRIEDRICH further stated that Georg JÄGER beat the flyers with his fist like an animal and said "Beat them to death".

Prosecution's Exhibit 7 (R 159), the sworn statement of accused Karl KRAFT, stated that he did not kick or molest the flyers but that a fireman from Russelsheim whose name he didn't know left his car, tried to beat the flyer and shouted "Fit him to death, etc", and that all of the firemen present, maybe 5, 6 or 7, shouted "beat him to death, they smashed Russelsheim".

Prosecution's Exhibit 8 (R 161) the pre-trial statement of Peter LIETSCHUH, states that he was on duty at Russelsheim as a fireman and that he and the accused Karl REINHEIMER, Herman FRIEDRICH,

Karl REINHHEIMER, accused, in mitigation of his own act stated that he only hit the flyer once and he never saw accused LIETSCHUH, FRIEDRICH or JÄGER hit the flyer and that he only hit the flyer because his house had been damaged three times by air attacks and was very excited (R 254).

The accused Karl YRAFT testified that he did not strike a flyer nor did he see a fireman strike a flyer or attempt to strike a flyer that day (R 286). He testified that in his excitement in the courtyard he said "beat them to death", but that he did not participate further.

Herman FRIEDRICH, accused, testified that he never participated in any beatings. The accused LIETSCHUH, REINHHEIMER and JÄGER were not seen by him to have beaten any flyer. He was not in REINHHEIMER's or JÄGER's presence the entire time but did observe LIETSCHUH all the time (R 274).

The witness Walter OBWILINGER, testifying on behalf of the Defense, stated that he was with the accused Herman FRIEDRICH, Karl REINHHEIMER and Peter LIETSCHUH most of the day and that he did not see the defendant LIETSCHUH or FRIEDRICH strike a flyer (R 276, 277).

Exhibits:

Prosecution's Exhibit 1 (R 147), the sworn statement of Conrad WILHELM, stated that BRÜCKMANN followed the flyer, kept kicking and striking him continuously with both fists, and kicked him at least 8 to 10 times although the flyer had his hands over his head and offered no resistance and did not attempt to escape.

Prosecution's Exhibit 2 (R 148) was the sworn statement of Frau Gretel KALENBURG, in which she stated that she saw the accused Wachtmeister Friedrich SCHMIDT strike the flyer with his open hand once, the impact of which drove the flyer all the way to the truck, a distance of about 3 meters, and that she saw no one else mistreat the flyers.

the large crowd. He himself did not strike the flyers.

Prosecution's Exhibit 12 (R 163), the sworn statement of accused anna STEIN, states the crowd was around the flyer. As long as she was there she saw no blows struck. She heard later that the flyer was beaten at the Rathaus by the accused Georg JÄGER. She did not see Karl KRAFT strike the flyers. Unteroffizier SPANGLER was trying to protect the flyers from the people. She further stated that she was standing in her yard and had a piece of wood in her hand but she did not throw it. She also said nothing to the flyer but that there was a big commotion that morning and everyone was upset.

Defense Exhibits 1 and 2 for identification were not received in evidence and not included in the record.

Defense Exhibit 3 (R 283), not referred to in the index of exhibits and received in evidence by the Court (R 283), is a sworn statement of Fritz GIBBYER, and describes the German unit, locale and transport of captured flyers; that no actual severe mistreatment took place, only threats in his presence; that there was only one flyer who had been wounded or injured and he had a swollen eye which apparently was caused by a German civilian hitting him and that the prisoners were all finally taken to ORSEBURG.

Defense Exhibit 4, not referred to in the index of exhibits and received in evidence by the Court (R 285) is a sworn statement of Georg JÄGER, that he joined the NSDAP in August or September 1937, that he was in the SA since 1937 and was a Scharführer at that time and in 1943 was promoted to Obertrupführer; that GOEBBELS said that all flyers should be done away with over the radio in the spring of 1944, that there was no direct orders other than this; that he was with the fire vehicle that transported the flyers that were captured on the date in question; that his and his mother-in-law's home had been damaged by Allied bombings, that they were threatened by civilians at Risselheim one of whom had

and a boy soldier named ORTRINGER, went to the place where the flyers were standing. The flyers were brought out on the street and put on the truck. He saw no flyer being mistreated or beaten before he went to the truck. The crowd was shouting something like "upon them" but Herman FRIEDRICH did not do any beating. He (LIETSCHUH) did not mistreat or beat the prisoner.

Prosecution's Exhibit 9 (R 162), the sworn statement of accused Herman LULEY, states that when he arrived where the flyers landed, there was a crowd of people. This accused saw a fireman raise his arm. LULEY told the fireman to leave the flyers in peace but the fireman shouted to the accused LULEY, "Are you going to protect them, then go to Russelsheim and see what they have done there." LULEY could not tell whether the fireman who raised his hand had beaten the flyers and he did not know the name of the fireman except that he heard that his home was in Russelsheim. LULEY did not strike the flyers and the people who said he did told lies.

Prosecution's Exhibit 10 (R 163), the sworn statement of accused Karl REINHIMER, states that he was a fireman. He went to the place where the flyers were in Teubur with Herman FRIEDRICH, the driver of the fire truck and a boy. He hit the flyer on the back. Herman FRIEDRICH did not beat the flyer with his belt, and the accused (REINHIMER) did not see anyone else beat the flyer or throw rocks. He did not see the flyers being mistreated.

Prosecution's Exhibit 11 (R 163), the sworn statement of accused Friedrich SCHMIDT, states that he saw the three American flyers in the guard room of the Rathaus. When the flyers were let outside the door the accused Georg JÄGER called "hands up" and struck one of the flyers a blow with his fist on the nape of the neck. The accused did not know whether any of the other firemen struck the flyers. He argued with JÄGER about beating the flyers. It was impossible for him to keep the participants quiet because of

said, "If you had your home bombed by these men you wouldn't feel so kind toward them", that he did not hit any of the flyers, that he had boxed the ears of about 4 or 5 Poles and that he had once beaten some Poles who attacked a man named JANKO with the same stick they had used on DOERR, that he knew most of the people named as witnesses, that he couldn't imagine why they should lie about him.

4. JURISDICTION: The Court was locally constituted and had jurisdiction of the person of the accused and of the offense.

5. CONSENTS: Accused Karl KRAFT raised the question of his sanity and at the request of the Court took the stand and was questioned by the Court, which found him to be sane (R 260, 261, 262, 263). The testimony of the witnesses and the confessions of the accused Georg DICKHAFT and Karl REIPERTNER admit of no doubt as to their guilt, and there was sufficient credible evidence before the Court to warrant the findings of guilt with respect to the accused Georg JÄGER, Peter LIETSCHEN, Friedrich SCHMIDT, Karl KRAFT, Heinrich LULY, and Jakob BRÜCKMANN.

With respect to the accused Anna STEIN, it is true that the record fails to disclose that a flyer was actually hit by any missile thrown by her, but there is sufficient evidence, that she actually threw something the size of half a brick (R 41, 105); in addition to aiding, abetting and inciting the crowd to violence by shouting "Beat him to pieces" (R 105); and her own admissions, "I was standing in the yard and I had a piece of wood in my hand but I did not throw it" (sworn statement, Prosecution's Exhibit 12), together with her testimony that she said to the crowd, "Why do we have to suffer all this after all we didn't get into bed for days and days because of the air attacks" (R 170).

With respect to the accused Herwarz FRIEDRICH, the record seems to disclose that there was a case of mistaken identity (R 20, 26, 36, 37, 59, 114, 115, 129); that by reason of the fact that the

accused Peter LIETSCHUE was seen in a fireman's uniform coming from the fire truck and that at the time the different statements were taken, neither the name of the accused Peter LIETSCHUE, who was actually identified by a parade of witnesses as having been the man who beat the flyer most severely with his belt (R 50, 51, 106, 107, 108, 124, 125, 129), nor the name of the accused Herman FRIEDRICH, the actual driver of the fire truck, was known (R 25, 28, 37, 54, 55, 131, 130A). It apparently was supposed by all of these witnesses that the driver of the fire truck was Peter LIETSCHUE and the sworn statements referred to the man who did the beating as the driver of the fire truck. As a result, it would seem that the accused Herman FRIEDRICH was charged with committing the offense actually perpetrated by the accused LIETSCHUE. At the trial all of the witnesses positively identified the accused Peter LIETSCHUE as being the man who administered the beating (R, supra) and whom they had believed was the driver of the fire truck (R 39, 40, 46, 59). The actual driver of the fire truck, however, the accused Herman FRIEDRICH, would seem to have been entirely innocent of participating in the beating. No satisfactory evidence links accused Herman FRIEDRICH with having beaten or participated in the beatings of the flyers (R 20, 57, 58, 84, 115, 131, 139 and supra).

6. PETITIONS FOR REVIEW. There are 4 Petitions for Review, as follows:

<u>NAME</u>	<u>DATE</u>	<u>GROUND OF PETITION FOR REVIEW</u>
FRIEDRICH, Herman	30.9.1946	Neither witnesses nor documentary evidence in any way connected or identified the accused with offense. Motion for finding of not guilty at end of Prosecution's case should have been granted and also at the end of case a finding of not guilty should have been made.
STEIN, Anna	30.9.1946	Evidence fails to show assault by this defendant.

<u>NAME</u>	<u>DATE</u>	<u>REASONS OF PETITION FOR REVIEW</u>
JÄGER, Georg	30.9.1946	As compared to others, the sentence is far too severe. In opinion of Defense Counsel the proper sentence would be between 1 year and 18 months.
REINHEIMER, Karl	30.9.1946	Motion for finding of not guilty at end of Prosecution's case for failure on part of witness to identify accused and connect him with offense should have been granted.

and Petitions for Clemency filed by and on behalf of Georg JÄGER and Jakob BRÜCKMANN individually, both dated 31 October 1946, and by Heinrich and Margarete FRIEDRICH, parents of Herman FRIEDRICH, dated 12 December 1946.

7. CLEMENCY: No facts have been presented by the Petitions for Review and Petitions for Clemency which have not already been considered. From a study of the entire case it is concluded that no clemency is warranted and none is therefore recommended.

8. CONCLUSIONS:

a. It is recommended that the sentences be approved, except for the one as to Herman FRIEDRICH.

b. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with your approval.

/s/ Jacob Silbermann
 JACOB SILBERMAN
 Attorney
 Post Trial Section

Having examined the record of trial, I concur.

/s/ C. E. Straight
 C. E. STRAIGHT, Colonel, JAGP
 Deputy Judge Advocate
 for War Crimes