

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

12 May 1947

UNITED STATES )

vs )

Case No. 12-1155-1

Bernhard STREDELE, a  
German National )

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA:

ACCUSED

Tried at Ludwigsburg, Germany  
Date: 25 February to 14 March 1946  
General Military Government Court  
Sentence: Death

Married, three  
children. Age 34.  
Officer German Army  
World War II  
Nazi Party 1930  
Kreisleiter of Kreis  
Berchtesgaden from  
September 1943

Recommended: Approval, but commute.

CHARGE: Violation of the Laws of War

Pleas      Findings

Specification 1: In that Bernhard Stredale, then Kreisleiter of Berchtesgaden, Germany, did, at or near Freilassing, Germany, on or about 16 April 1945, wrongfully and unlawfully order that a member of the United States Army, then a surrendered prisoner of war, in custody of the then German Reich, be killed, which said member was then and there killed pursuant to said order by a person subordinate to the said Bernhard Stredale, namely, August Kobus.

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Specification 2: In that Bernhard Stredale, then Kreisleiter of Berchtesgaden, Germany, did at or near Berchtesgaden, Germany, on or about March, 1945, at a meeting of his subordinate Ortsgruppenleiters, wrongfully and unlawfully order said subordinates to kill or cause to be killed all captured American fliers; in pursuance of which order, August Kobus, one of said subordinates, did on or about 16 April 1945, wrongfully and unlawfully kill a member of the United States Army, an American flier, then a surrendered prisoner of war in the custody of the then German Reich.

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Specification 3: In that Bernhard Stredale, the Kreisleiter of Berchtesgaden, Germany, did at or near Berchtesgaden, Germany, on or about March, 1945, at a meeting of his subordinate Ortsgruppenleiters, wrongfully and unlawfully order said subordinates to kill or cause to be killed all captured American fliers.

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2. RECOMMENDATIONS: That the findings and sentence be approved but that the sentence be commuted to imprisonment for life.

3. EVIDENCE:

For the Prosecution. On or about March 1945, at a meeting of the Ortsgruppenleiters in Kreis Berchtesgaden, the accused stated, "all American pilots who bombed German cities and villages are not soldiers, but should be considered criminals" and "whenever any of them land they are to be done away with" (R 12, 13, 14, 37, 38, 40, 45, 47, 50).

On the 16th day of April at about 3:00 o'clock, KOBUS received a telephone call from the accused stating that an enemy pilot had been shot down in KOBUS' district and that he should make an investigation and report back (R 9, 28, 32). Upon investigation KOBUS was informed that a scout tank from the German Armed Forces had gone to where the pilot had landed. He returned to his office and waited until the tank car returned about 4:00 o'clock transporting an American airman (R 10, 11, 12, 28). A non-commissioned officer on the tank told KOBUS that the pilot was being taken to the Central Schoolhouse where a Tank Division was quartered. KOBUS told him that he must first make a telephone call and would then join him (R 10, 11, 29). KOBUS telephoned the accused and was told: "Okay, you know what you have to do now. I am referring you to the order which I put out." When KOBUS protested, the accused both scolded and threatened him, saying: "Don't make any excuses, you can do it very nicely, you can do this job very nicely and you should stop avoiding what is unpleasant." The accused then told KOBUS to take advantage of the free hand given him and carry it out or he (STREDELE) would make an example of him. KOBUS ended the telephone conversation by saying, "Okay, Kreisleiter, I'll carry out your orders" (R 12, 13, 14, 15, 21).

KOBUS went to the Central Schoolhouse, informed the army officer in charge that he had an order from the Kreisleiter to shoot the pilot to death, and asked to have him delivered to his custody



(R 15, 16, 29). The army officer ordered that the captured pilot be taken to "Pfarrau, the far meadow". KOBUS followed behind the tank on his bicycle. The tank crew took the pilot from the tank, stood him on the ground, and KOBUS killed him with two shots (R 16, 33). In pursuance to KOBUS' orders, the tank crew took the body of the captured airman to a cemetery nearby, where KOBUS made the necessary arrangements for burial (R 16, 35). KOBUS called the office of the accused at about 7 o'clock and talked to a man by the name of BUCH (BUK), telling him what had occurred (R 22, 141). Five or six days later the accused told KOBUS, "The affair with the American flyer is all in order. We won't speak anymore about it" (R 22).

For the Defense. The accused elected to testify in his own behalf in substance as follows: As part of his official duties accused STREDELE supervised and gave orders to the Ortsgruppenleiters of his district (R 61). STREDELE gave no orders at a March meeting or at any other meeting to liquidate or kill captured enemy airmen and never used the words "murderers, criminals, or liquidation" of flyers on any occasion (R 63, 73). The accused admitted that a directive came from Martin BORMANN stating that measures taken by the populace against flyers who had landed were not to be prevented and that the Ortsgruppenleiters should incite the populace against downed enemy airmen, but denied forwarding the order to subordinates (R 71, 73). In the afternoon of 16 April 1945 STREDELE was occupied with inspecting installations for erecting air raid shelters and he returned from this trip to his office at about 1730 hours (R 86, 87). The accused denied ever having had a telephone conversation with August KOBUS relative to a captured enemy pilot (R 59, 60), and stated that the first knowledge he had of the incident relative to the airman killed by KOBUS was on the 16th of April 1945, between 1700 and 2000 hours, when a co-worker in his office reported to him that an enemy plane had crashed and that the pilot was dead (R 60, 61, 73, 83, 84, 87).

The accused changed his testimony regarding the telephone conversation, after the finding and before he was sentenced. He stated that KOBUS called him about 5:30 on the 16th of April and reported an American flyer had been shot down and had died on the way to the hospital. Accused believed at the time KOBUS had killed the pilot. Accused further stated, "There was in March, 1945, such a general order." (R 146).

The accused called as witnesses two Ortsgruppenleiterers who denied that the subject of captured airmen was discussed at the March meeting and testified that although accused had mentioned captured airmen at prior meetings, he never gave any orders that they should be killed, but only that the captors should notify the police or Wehrmacht (R 91-94, 96, 97). Another testified that he could not remember that the Kreisleiter ever said that American flyers should be done away with (R 127).

Simon BUX, employee in the office of the accused, stated that he attended the March meeting of Ortsgruppenleiterers in Berchtesgaden and that the subject of captured airmen was discussed but the accused stated that such airmen should be turned over to the Wehrmacht; no orders were given by the accused that they be killed or treated as murderers or criminals (R 101, 104). BUX further stated that he was in the office of the Kreisleiter on 16 April 1945, and he heard of the death of the captured airman from a co-worker, Hans NIEBERLE. BUX denied that he had any telephone conversation with KOBUS on the 16th day of April 1945 (R 108).

Hans NIEBERLE, employee in the office of the accused at Berchtesgaden, stated that he received notice at about 1200 hours on 16 April 1945, through the air raid station, that an airman had been shot down and captured. The message had come from a sub-station at Freilassing commanded by KOBUS, and the information probably came from KOBUS' secretary. NIEBERLE relayed the information immediately to the secretary of accused and delivered it personally to the accused at



about 1530 hours (R 134). Two witnesses testified that STREDELE and KOBUS were not on good terms (R 109, 113, 135).

4. JURISDICTION:

The Court was legally constituted and had jurisdiction of the person of the accused and of the offense.

5. COMMENTS:

The only evidence that STREDELE gave an order to KOBUS to kill the flyer is contained in the testimony of KOBUS who had been sentenced to death for the killing of the flyer. The only evidence directly refuting KOBUS' testimony is the statement of STREDELE that he did not give such an order. Three prosecution witnesses testified that STREDELE gave the order as alleged in Particulars (2) and (3) at a meeting of Ortsgruppenleiters; however, four defense witnesses, three of whom testified that they usually attended all such meetings and all of whom testified that they attended the March meeting, stated that they did not hear STREDELE make the alleged statement. KOBUS was told by the prosecuting attorney that his sentence had been approved and that he would be executed within the week, and KOBUS still maintained that the testimony he had given during the trial was the "pure truth" (R 140). It was the province of the Court to determine which witnesses were to be believed when contradictory testimony was given and the findings of the Court should not be disturbed in the absence of compelling reasons therefore.

Examination of the entire record fails to disclose any error or omission which resulted in injustice to the accused. There was no member with legal training sitting on the Court ; however, it does not appear that any injustice resulted and under such conditions it is settled that the absence of a member with legal training does not present grounds for reversal (US vs Wilhelm HEENE and Wilhelm MATTHAEI, August 1946).

6. CLEMENCY:

In a Petition for Review dated 17 April 1946 filed by Captain

Cecil L. Fisher, American Defense Counsel, it is alleged, (a) that there was insufficient evidence for a finding of guilty, (b) that the Court erred in denying a motion for acquittal at the close of prosecution's case, and (c) that there was an error in the interpretation of a statement given by accused after the Court's announcement of its findings. This statement concerned the existence of a General Order (See page 4, supra). Three statements, one signed by accused dated 5 April 1946, another signed by KIRSCHEN, a German defense counsel dated 9 April 1946, and another by Maximilian KOESSLER, a bystander, dated 13 April 1946, are presented as evidence of the error. A prima facie case against accused was presented before prosecution rested; there was sufficient evidence before the Court to sustain a finding of guilty; and the testimony alleged to be incorrectly translated is not considered to be necessary to a finding of guilty.

In Petitions for Review dated 24 March 1946 and 8 May 1946 the accused STREDELE alleges that he was not given an opportunity to prepare properly and present his case and alleges an error in translation of the testimony of one of prosecution's witnesses concerning statements made by STREDELE at a meeting. STREDELE, after being informed of his rights by the Court, announced that he was ready for trial (R 3 and 4). And there is nothing in the record to show that STREDELE was refused the opportunity to properly defend his case. The record shows that two continuances were granted of several days each. Further, the statement that is allegedly translated incorrectly is repeated in substance on three different pages of the record (See R 45, 47, 50).

Two Petitions for Review, filed by Dr. WEER, an attorney, one dated 13 June 1946 and the other 17 October 1946, were considered, together with 28 affidavits discussed or listed below:

a. Elisabeth WINKLER, 13 May 1946. Attended the March meeting of the Ortsgruppenleiter at Berchtesgaden as a stenographer and did not hear STREDELE give an order to kill flyers. STREDELE



was absent from his office during the afternoon of 16 April and returned about 6 or 6:30. STREDELE had frequent violent disputes with KOBUS.

b. Erna Betty HOFER, Marlene ASCHAUER, 7 May 1946. The two affiants, shorthand typists at Kreisleitung at Berchtesgaden, together with Elisabeth WINKLER, kept the protocols at all meetings by turns. Neither ever heard any remark similar to "pilots are murderers and are to be killed."

c. Adam SCHULER, 9 October 1946. KOBUS and affiant left the City Hall together on 16 April 1945 and passed a German tank with a wounded man in American uniform lying on top. KOBUS went over, talked with the crew a few minutes, re-joined affiant and the two proceeded toward the railway station. KOBUS stayed with affiant for about an hour and did not make a phone call.

e. Christoph FRIEDL, 18 September 1946. Affiant dealt with in and out mail and kept the files at the Kreisleitung, Berchtesgaden and never heard an order to the effect that bailed-out pilots were to be shot.

f. W. MILTNER, Georg WEISER, Hans RAPPOLT, 7 October 1946. Affiants were Ortsgruppenleiter in the Kreis Berchtesgaden prior to and during 1945 and never heard an order to the effect that bailed-out pilots were to be shot, but were ordered to hand over enemy pilots to the Wehrmacht.

g. Josef HUBER, 5 October 1946. STREDELE rejected the order of ROHMANN received in August 1944 and denounced it a sheer insanity. On several occasions STREDELE had to report to Munich to answer for his attitude concerning the treatment of foreigners. STREDELE was on bad terms with KOBUS and repeatedly demanded his removal from office.

h. Franz PUHLMANN, 7 October 1946. Affiant, a defense witness, spelled BUHLMANN in the record, was confined in a room with KOBUS and MOSER, main prosecution witnesses, and both tried to persuade him that he had heard the order of STREDELE.

i. Erna HOFER, Marlene AUSCHAUFER, 19 September 1946. At the beginning of March an order was received that halled-out enemy pilots were to be shot. STREDELE was indignant and did not pass the order on in any form.

j. Ludwig SULDINGER, 7 May 1946; two letters Z. A. HAMMER, Colonel, British Army; retired, undated; Martin KOCHENBURGER, 15 March 1946; Paul HOFNER, 29 April 1946; Georg DRENGLE, 26 April 1946; Jos. ALBERT, undated; Josef RESCH, 13 March 1946; J. DIRKE, 26 April 1946; Franz WAGNER, 26 April 1946; Irmgard STREDELE, wife of accused, undated; Georg ASCHNER, 9 April 1946; Markus WESTENHANNER, 5 May 1946; Josef LOHMEIER, 18 September 1946; Georg ULLENBERGER, 7 October 1946; Elfried RAUH, 15 April 1946; Michael BRANDNER, 7 October 1946; Hermann KIRCHER, undated.

Consideration was also given to a Petition for Clemency dated 21 March 1946 from Irmgard STREDELE, wife of accused.

In view of the fact that many of the affidavits contained statements in the nature of direct testimony they were given very careful consideration. It is not considered that the information contained in the above-mentioned Petitions and Affidavits present any new evidence sufficient to warrant a change in the findings. However, under the particular facts and circumstances of this case, it is believed that the accused's relationship to the crime was such that the death sentence should be commuted to imprisonment for life.

7. CONCLUSIONS:

a. It is recommended that the findings and sentence be approved but that the sentence of "death by musketry" be commuted to imprisonment for life.

b. A form of action to accomplish this result is attached hereto, should it meet with your approval.

Having examined the record of trial, I concur:

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

/s/ Nora G. Springfield  
/t/ NORA G. SPRINGFIELD  
1st Lt., WAC  
Post Trial Section



HEADQUARTERS  
EUROPEAN COMMAND

LEGAL FORM NO: 16

AG 383 JAG

AGO 757  
June 25 1947

SUBJECT: Execution of Sentence in the Case of the United States vs.  
Bernhard STREDELE (Case No. 12-1155-1).

TO : Commanding General  
First Military District,  
APO 1, U.S. Army.

Reference is made to letter, Hq. USFET, file G 383 JAG-  
AGO, subject: "Designation of Prisons for War Criminals," 26  
February 1947 and to the inclosed copies of the Order on Review in  
the above entitled case as to accused Bernhard STREDELE.

Upon compliance with the Order on Review the certificate  
below will be completed and returned to the Deputy Judge Advocate for  
War Crimes, 7708 War Crimes Group, APO 178, U.S. Army.

BY COMMAND OF GENERAL CLAY:

/s/ Wm. E. Bergin  
/t/ Wm. E. BERGIN  
Brigadier General, USA  
Adjutant General

1 Incl:  
1 Form No. 13 (in dup)

Frankfurt 2-2310.

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CERTIFICATE OF COMPLIANCE

The sentence covered by the above described Order on  
Review was carried into execution at War Criminal Prison No. 1,  
Landsberg, Germany, on 3 July 1947, at 0815  
(Date) (Hour)

/s/ George T. Lagish  
(Signature and Rank)  
/t/ GEORGE T. LAGISH, Maj. Inf.  
Prison Officer  
War Criminal Prison Landsberg  
(Organization)

/s/ Lloyd A. Wilson  
(Countersignature and Rank  
of Witnessing Officer)  
/t/ LLOYD A. WILSON, Capt. CMP  
Asst. Prison Officer

MILITARY GOVERNMENT COURT  
MILITÄRGERICHT

ORDER ON REVIEW  
Vorfügung nach Überprüfung

Case No. 12-1155-1  
Strafsache Nr. 12-1155-1

Order No. \_\_\_\_\_  
Vorfügung Nr. \_\_\_\_\_

~~Accused one~~ Bernhard STREIBLE  
(Name of Accused) (Name des (der) Angeklagten)

was convicted of the offence of wrongfully ordering the killing of American flyers  
wegen der folgenden strafbaren Handlung rechtswidrige Erteilung eines Befehls zur Tötung von Amerikanischen Fliegern

by the ~~XXXXXX~~ Military Court  
\*General at Ludwigsburg, Germany  
\*XXXXXX in Ludwigsburg, Deutschland  
von \*XXXXXX Militärgerichte (Address of Court)  
\*Oberon (Anschrift des Gerichts)

and sentenced to death by musketry  
schuldig erkannt und zu Tod durch Erschossung

by Judgment dated the 14 March 1946  
durch Urteil vom 14 März 1946 194 and  
(date), (Datum)

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

Diese Strafsache ist mir zur Überprüfung vorgelegt worden und nach entsprechendem Studium des Sachverhaltes und in Ausübung der mir übertragenen Befugnisse verfüge ich:

That the findings and sentence are approved but the sentence is commuted to imprisonment for life. The Commanding General, First Military District, will confine the individual in War Criminal Prison No. 1, Landsberg, Germany, for the duration of his life.

Dass der Befund und das Urteil bestätigt werden, das Urteil jedoch in eine lebenslängliche Freiheitsstrafe umgewandelt wird. Der kommandierende General, Militärbezirk I, wird die lebenslängliche Inhaftierung des Betroffenen im Kriegsverbrechergesängnis No. 1, Landsberg, Deutschland, veranlassen.

Dated this 15 June 1947  
Gegeben am

/s/ Lucius D. Clay  
(Signature of Reviewing Authority)  
(Unterschrift der nachprüfenden Behörde)

CERTIFIED A TRUE COPY:

/s/ Wade M. Fleischer  
/t/ WADE M. FLEISCHER  
Lt Col JC

/t/ LUCIUS D. CLAY  
General USA  
Commander in Chief  
(Title) (Titel)

\*Strike out words not applicable.  
\*Nichtzutreffendes ist zu durchstreichen.



HEADQUARTERS  
EUROPEAN COMMAND  
OFFICE OF THE JUDGE ADVOCATE

UNITED STATES

vs

Bernhard STREDELE, a German national

RECOMMENDATION OF THE  
JUDGE ADVOCATE

No. 1155-1

I have examined the record of trial and I concur in the views expressed by the Deputy Judge Advocate for War Crimes and in his Review and Recommendations to the effect that the findings and the sentence as to the accused STREDELE should be approved, but that the sentence of "death by musketry" be commuted to imprisonment for life.

12 June '47

/s/ J. L. Harbaugh, Jr.  
/t/ J. L. HARBAUGH, Jr.  
Colonel, JAGD  
Judge Advocate

I concur:

/s/ M. G. Pito  
Deputy Chief of Staff

I concur:

/s/ C. R. Huebner  
Chief of Staff