

UNITED STATES ARMY INVESTIGATION AND
TRIAL RECORDS OF WAR CRIMINALS
UNITED STATES OF AMERICA v. KURT ANDRAE ET AL.
(AND RELATED CASES)
APRIL 27, 1945-JUNE 11, 1958

On the 16 rolls of this microfilm publication are reproduced the records of the Nordhausen Concentration Camp war crimes cases generated by six U.S. military trials between August 7 and December 30, 1947.

The records contained in this publication come from two different sources: the War Crimes Branch, Judge Advocate General's Office, Washington, and the War Crimes Group, Judge Advocate General's Office, European Command. The former records belong to Records of the Office of the Judge Advocate General (Army), Record Group 153; the latter records constitute part of Records of U.S. Army Commands, 1942- , Record Group 338. Neither record group by itself provides full documentary evidence of the Nordhausen prosecutions, but together they complement one another. The records are identified by record group number in the table of contents and on insert sheets appearing on the microfilm.

In the six separate proceedings, 24 individuals associated with the camp's operation were prosecuted on one or more counts of the general charge "violation of the laws and usages of war." The records of these proceedings include pretrial records, trial transcripts, prosecution and defense exhibits, formal reviews of sentence and actions undertaken by modification boards, and posttrial records. Although most of the documentation is in English, numerous items are in German, Polish, or French, often with English translations, including interrogation statements, official camp records, trial exhibits, and fact-gathering reports compiled by war crimes investigative teams. There are also English- and German-language versions of posttrial petitions and parole documents.

Most of the records were created as a consequence of the main Nordhausen atrocity case, *United States of America v. Kurt Andrae et al.*, case file numbers 12-481 and 000-50-37. Documentation for the Andrae case spans a time period from April 1945, when pretrial investigations were first undertaken, to June 1958, when the last defendant was released from parole supervision; however, some pretrial exhibits date back as far as June 1938.

History and Organization

In the American Zone of Occupied Germany, responsibility for developing the evidence in war crimes cases and for prosecuting the crimes was assigned to the Army's Deputy Judge Advocate General for War Crimes, and a special War Crimes Group was set up under his direction. U.S. Army military courts and commissions in Germany tried a total of 1,672 defendants in 489 cases from 1945 to 1949.

Authority to try the six Nordhausen cases stemmed from several sources, including the Declaration on German Atrocities (the Moscow Declaration) of November 1, 1943. This declaration stated that the Allies were determined to ferret out and bring to justice all Axis war criminals after hostilities. In addition, the Joint Chiefs of Staff (JCS) Directive 1023/10, dated July 8, 1945, delegated to military theater commanders the responsibility for war crimes trials of such minor war criminals as concentration camp personnel, soldiers, and enemy civilians. This directive urged that courts established for this purpose "adopt fair, simple, and expeditious procedures" to effect justice without ensnarlment in technicalities. As a result of JCS Directive 1023/10, the commander of U.S. Forces, European Theater (USFET), on July 16, 1945, conferred on the commanding generals of the Eastern Military District (the 7th Army Area, encompassing U.S.-held parts of Hesse, Wuerttemberg-Baden, and Bremen) and of the Western Military District (the 3d Army Area, encompassing Bavaria) the authority to use military government courts to try most war crimes cases. Subsequently, USFET Commanding Gen. Joseph T. McNarney, on October 14, 1946, revoked the authority for war crimes trials to proceed on the district level; instead, trials were to be administered at one location--the site of the former concentration camp Dachau. Centralizing all Army trial activities at Dachau resulted in increased efficiency in docketing and bringing war crimes cases to trial. Henceforth, the Deputy Judge Advocate General for War Crimes, acting for the USFET commander, referred pertinent cases (including the Nordhausen cases) for trial to military government courts sitting at Dachau, where detention facilities already existed.

Nordhausen Concentration Camp was not one camp but a complex of camps clustered in and around the town of Nordhausen, Germany. Composed of a main camp, "Dora," and 31 subcamps, the complex was known variously as "Nordhausen," "Dora," or "Mittlebau" after the location of each of several constituent camps or sections. Because of its location and purpose, the whole Nordhausen-Dora-Mittlebau complex resembled few of the other major concentration camps except that it contained large numbers of prisoners. Nordhausen was not an extermination camp; hence, few crematoriums and no gas chambers were employed. The chief reason for the existence of the complex was the presence of a top-secret, V-weaponry factory housed in one of the neighboring Harz Mountains.

Both in its construction and production phases, the factory utilized forced inmate labor totaling 75,000-80,000 workers from the summer of 1943 to April 1945. According to prosecution briefs, casualties were estimated to be between 15,000 and 20,000 because the inmates were forced to sleep in the underground tunnels that were being constructed and the inmates were subjected to insufficient diets, unsanitary surroundings, 12-hour work shifts 7 days a week, and brutalization by the SS troops who guarded them. The SS troops were assisted in their guard duties by inmate block leaders, usually called "Kapos," who were, allegedly, common criminals.

The Andrae Case

As a consequence of concentration camp and/or factory activities, the Nordhausen defendants in the Andrae case stood trial before a general military government court on August 7, 1947. Each defendant was indicted under a general charge of "violation of the laws and usages of war." Specific alleged offenses involved engagement "in a common design" to operate the Nordhausen complex from 1943 to 1945 in order to result in wholesale starvation, beatings, tortures, and killings. In addition, the prosecution maintained that the rifling of inmates' mail, black-market trade in food, the lack of proper toilet facilities, the exposure of inmates to the elements without providing adequate clothing and shelter, and the callous disregard for medical needs constituted criminal behavior.

The following 19 Andrae case defendants were indicted and listed on the formal charge sheet:

<u>Names of Defendants</u>	<u>Ranks and Positions</u>
Arthur Kurt Andrae (listed on original charge sheet as "Kurt Andree")	SS master sergeant; in charge of the mail office.
Erhard Brauny	SS master sergeant; block leader at Dora and occasional rollcall leader and camp commander of Rottleberode (outcamp).
Otto Georg Werner Brinkmann	SS master sergeant; rollcall leader at Dora and, from January to February 1945, protective custody camp leader at Ellrich (outcamp).
Emil Buehring	SS staff sergeant; tunnel guard later bunker guard.
Heinz Georg Alfred Detmers	SS first lieutenant; adjutant and judge advocate at Dora from December 1943 to November 1944.
Josef Fuchsloch	SS master sergeant; substitute camp leader at Harzungen (outcamp).
Kurt Heinrich	SS first lieutenant; adjutant and judge advocate at Dora from November 1944 to January 1945.

Names of DefendantsRanks and Positions

Oskar Georg Helbig	SS technical sergeant; in charge of clothing supply at Dora.
Rudolf Jacobi	SS master sergeant; in charge of the carpentry shop at Dora.
Josef Kilian	inmate; for a short time "Kapo" and afterward official hangman at Dora.
Georg Wilhelm Koenig	SS master sergeant; rollcall leader at Dora and in charge of motor pool.
Paul Maischein	SS corporal; worked in Dora dispensary and acted as medical aide at Rottleberode from January to April 1945.
Hans Moeser	SS first lieutenant; protective custody camp leader at Dora.
Georg Johannes Rickhey	civilian; general director of entire Mittlebauworks (factory).
Heinrich Schmidt	SS captain; physician at Boelke-Kaserne (outcamp).
Wilhelm Simon	SS technical sergeant; labor allocation leader at Dora
Walter Ulbricht	inmate; "Kapo" and clerk at Rottleberode.
Richard Walenta	inmate; "Kapo" and camp "Eldest" (head "Kapo") at Ellrich and afterward "Kapo" at Dora.
Willi Zwiener	inmate; "Kapo" and for a short time camp "Eldest" and official hangman at Dora.

Headquarters, European Command (successor organization to USFET), Special Order 144, paragraph 17, designated seven officers to constitute the court for this case: Col. Frank Silliman, president of the court; Col. Joseph W. Benson; Col. Claude O. Burch; Lt. Col. Louis S. Tracy; Lt. Col. Roy J. Herte; Lt. Col. David H. Thomas; and Maj. Warren H. Vanderburgh. Lt. Col. William Berman

was assigned as chief prosecutor with Capt. William McGarry, Capt. John J. Ryan, and Lt. William F. Jones assigned to assist him. Maj. Leon B. Poullada served as chief defense counsel; Milton Crook served as associate defense counsel. They were assisted by three German attorneys--Emil Aheimer, Ludwig Renner, and Konrad Max Trimolt.

All of the Andrae case defendants pleaded not guilty to both the general charge and the specific charges. One of the first issues addressed by the defense was whether or not "common design," the allegation referred to in the specific charges, actually amounted to a separate substantive crime. The court ruled that it did not. Moreover, the court ruled as implausible the defense assertion that the prosecution exaggerated the level of abuse and suffering in the camp. Similarly, a defense contention that certain killings had been justified because the victims had been residents of cobelligerent countries was disallowed. The basis for the court's decision in this instance was the view that these unfortunate inmates had been unarmed deportees who, as such, had represented no significant threat to the Third Reich's continued security. Finally, the defense argued that many of the acts had been in compliance with superior orders or had been preceded by administrative determinations of guilt, thus the acts had been in accord with German law. The court, however, agreed with the prosecution and ruled against the defense assertion.

On December 30, 1947, the court announced its findings and pronounced its sentences for the Andrae case defendants. Four of the defendants--Fuchsloch, Heinrich, Rickhey, and Schmidt--were found not guilty and were acquitted. Moeser was sentenced to death by hanging. The remainder were pronounced guilty and received prison sentences as follows: Maischein and Ulbricht, 5 years; Detmers, 7 years; Andrae, Helbig, and Walenta, 20 years; Zwiener, 25 years; and Brauny, Brinkmann, Buehring, Jacobi, Kilian, Koenig, and Simon, life.

Information on actual time served and release dates for these defendants can be found in the defendants' posttrial files filmed on rolls 12 through 15. Those defendants sentenced to serve time were imprisoned at War Criminal Prison No. 1, Landsberg, Germany, including defendant Moeser until his execution there on November 26, 1948.

The Five Other Nordhausen Cases

In five separate but related cases, five additional defendants stood trial at Dachau in short-term proceedings.¹ Each defendant

¹In another case (000-Nordhausen-4) Eduard Schwalm, a German national, was charged with concentration camp beatings, but because witnesses could not identify the accused, the case was dropped before coming to trial.

was accused of assaults or murders that had occurred at Nordhausen. Case numbers, names of defendants, ranks and positions held, and trial dates are as follows:

<u>Case Numbers</u>	<u>Names, Ranks, and Positions of Defendants</u>	<u>Trial Dates²</u> (1947)
000-Nordhausen-1 and 12-481	Michail Grebenski: ³ SS private; block leader at Dora	Oct. 22-23
000-Nordhausen-2 and 12-481	Albert Mueller: SS corporal; rollcall leader	Dec. 1
000-Nordhausen-3 and 12-481	Georg Finkenzeller: Inmate; chief "Kapo" in tunnel	Oct. 3
000-Nordhausen-5 and 12-481	Philipp Klein: SS sergeant; German national	Dec. 1
000-Nordhausen-6 and 12-481	Stefan Palko: SS corporal; block leader at Nordhausen	Dec. 3-11

Defendants Grebenski, Finkenzeller, and Palko pleaded not guilty to the general charge of "violation of the laws and usages of war" and to the specific offenses that they were alleged to have committed. Grebenski, a Romanian national, successfully argued that he had never served where the murders and beatings attributed to him had occurred, and he was acquitted. Finkenzeller and Palko were found guilty of assault but not guilty of murder. They were sentenced to 2 years and 25 years in prison, respectively. Klein, after changing his plea several times, pleaded guilty to one of several counts of assault. All of the other assault charges against Klein were dismissed, and he was sentenced to 4 years in prison. Mueller also pleaded guilty to one charge. He argued a case of mistaken identity for several of the beatings that he allegedly had administered and offered as mitigating circumstances the information that he had been young and overeager when the said acts had been committed and that he had on subsequent occasions helped inmates escape. The court accepted Mueller's guilty plea and sentenced him to 25 years in prison.

²Sentences were pronounced on the last day of each trial.

³Grebenski's last name is erroneously spelled "Grabinski" or "Grebinski" in several of the documents relating to his case.