

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

1 April 1948

UNITED STATES)

v.)

Case No. 000-50-5-29

Karl BERTSCH, et al.)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 13-22 October 1947, before a General Military Government Court.

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Karl BERTSCH, Emil Andreas GAY, Friedrich HASSL, Rudolf KANSMEYER, Erwin Georg KAUFF, Wilhelm KAUFF, August H. KIRSCHMANN, Paul KUEBLT, Rudolf MERTEN, Max PAUSCH, Hans W. E. SIELAFF, Georg F. STEINHARDT, German nationals or persons acting with German nationals, acting in pursuance of a common design to subject the persons hereinafter described to killings, beatings, tortures, starvation, abuses, and indignities, did, at or in the vicinity of the Mauthausen Concentration Camp, at Castle Wartheim, and at or in the vicinity of the Mauthausen Sub-camps, including but not limited to Ebensee, Gros-Raming, Ganskirchen, Gusen, Hinterbruehl, Lambach, Linz, Loiblpass, Melk, Schwechat, St. Georgen, St. Lambrecht, St. Valentin, Steyr, Vienna, Wiener-Neudorf, all in Austria, at various and sundry times between January 1, 1942, and May 5, 1945, wrongfully encourage, aid, abet, and participate in the subjection of Poles, Frenchmen, Greeks, Yugoslavs, Citizens of the Soviet Union, Norwegians, Danes, Belgians, Citizens of the Netherlands, Citizens of the Grand Duchy of Luxembourg, Turks, British Subjects, stateless persons, Czechs, Chinese, Citizens of the United States of America, and other non-German nationals who were then and there in the custody of the then German Reich, and members of the armed forces of nations then at war with the then German Reich who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich, to killings, beatings, tortures, starvation, abuses and indignities, the exact names and numbers of such persons being unknown, but aggregating thousands.

III. SUMMARY OF EVIDENCE: The accused were members of the SS at Mauthausen Concentration Camp or its subcamps between the dates alleged and were shown to have participated as officers, guards, block leaders or detail leaders in the Mauthausen Concentration Camp mass atrocity. They committed acts of killings, beatings, tortures, abuses and indignities upon inmates

of Gussen I, Gussen II. Many of these illegal acts were committed in the tunnels and Messerschmitt plants at the St. Georgen works. The inmates were of various non-German nationalities. These acts were committed by shooting, hanging, drowning, suffocation, kicking and beating. Implements used were wooden and rubber clubs, hammers, truncheons, rifles, cables and fists.

Eleven prosecution witnesses, one by extrajudicial sworn statement, testified to incidents which involved all of the accused. These witnesses were all former inmates of Mauthausen or its subcamps.

Prosecution's Exhibit, P-Ex 6 (R 17), is a certified copy of the charge~~s~~, particulars, findings and sentences in the Mauthausen Concentration Camp Case (U. S. v. Altfuldack, et al., 000-50-5, opinion DENY, February 1947, hereinafter referred to as the "Parent Case"; see Section V, post).

IV. EVIDENCE AND RECOMMENDATIONS:

1. Karl BERTSCH

This accused was neither served nor tried (R 2, 3; P-Ex 2).

2. Emil Andreas GAY

Nationality:	German
Age:	43
Civilian Status:	Restaurateur
Party Status:	None
Military Status:	SS Sergeant
Plea:	NG
Findings:	G
Sentence :	Death by hanging

Evidence for Prosecution: Witness Milner testified that in February 1945 the accused was a detail leader in the tunnel at the Messerschmitt plant and beat many inmates in the tunnel with a rubber club or a loaded cable he habitually carried (R 43, 44); that on one occasion in February 1945 the foreman of Tunnel 2 sent a Pole to the accused for punishment and the witness saw the accused hit the Pole twice with a rubber stick

and beat him three times in two hours after which the Pole could not get up (R 45); that at about 0100 to 0200 hours of the day in question, he saw the accused hang this inmate in Tunnel 13 by placing a cable around his neck (R 36, 42, 45-49); that he later saw the dead body on a stretcher (R 47); and that he and another inmate, Widman, took the body away (R 47, 48, 50).

Witness Bear testified that the accused struck him one time with a rubber club (R 94). Witness Lourcau testified that he saw the accused beat inmates several times with a rubber hose and a cable (R 461).

Witness Sperling testified that in the spring of 1945 in Tunnel 8 at St. Georgen the accused discovered a Polish inmate name Szor making a spoon to feed himself; that the accused beat him with a cable until he fell, screaming with pain; that the accused then kicked him in the head, side and stomach; that the victim was then removed to block 13, the Gusen II dispensary; and that when the witness went there the next day, he was told that the man was dead (R 105, 114, 115).

Witness Mandelbaum testified that in March 1945 he was working in the underground tin manufacturing section in Tunnel 7; that most of the inmates used rags around their feet for shoes (R 118); and that only a negligible percentage in the armament factory at St. Georgen received leather shoes (R 124). He further testified that a Polish inmate had tied yellow wire around his clogs to keep them together, a common though forbidden practice (R 118, 125, 137); that the accused charged the Pole with stealing and committing sabotage (R 118); and that the witness was four to five meters away when he saw the accused beat the Pole over the head with a wooden hammer (R 119, 125) and trip and beat him with a bent iron bar two or three times until the victim's brains spilled on the floor (R 119). He was dead (R 126). He further testified that the accused beat others whom he found with yellow wire on their shoes, and that he knew about these beatings both from hearsay and from his own knowledge (R 125).

Witness Zuckerman testified that in February 1945, in Tunnel 2, an Italian inmate fell asleep in the cockpit of a plane (R 139); that the accused sent a capo, named Fritz, to find this inmate; that after ten minutes the inmate appeared by himself (R 144); and that the accused and the capo then beat the Italian with cables while he counted to 70 (R 139, 145). The witness stated that he was three meters away at the time (R 145); that all the inmates were then ordered out of the tunnel (R 139); that the Italian was taken to tunnel 13 (R 148, 149); that about five minutes later the accused came out of the tunnel; that two inmates who brought out the body stated that the Italian had been hanged from an iron beam by a cable and that they had cut him down. The corpse was covered with a cement bag and was then taken back to camp (R 140, 146, 147).

Witness Smolarz testified that on one occasion in December 1944 he was in bed in the dispensary in block 13 at Guson II; that the accused noticed a Jewish inmate who had soiled himself; that the accused struck the inmate in the face with his fist and then kicked him; that the inmate fell over and collapsed, thereupon the accused kicked and trampled him; that the victim, who was about 10 meters away from the witness, was bleeding from his mouth and nose; and that shortly afterward the witness saw the inmate dead in the latrine with a number on his chest. The witness testified that living inmates had numbers written on the wrist while the dead had numbers on the chest (R 158, 161-163, 165).

Witness Jaskiel testified that in January 1945 he saw the accused kill two Russians in Tunnel 7 during the night shift. One Russian was lying on the ground, apparently dead. The accused beat the other Russian repeatedly on the neck with a stick. As the witness was leaving the tunnel about three hours later he saw that both Russians were dead (R 177, 178, 180-182).

Weisz testified that in October 1944 he saw two inmates quarreling over a plate of soup in block 13 (R 186); that the accused beat one of these inmates in the face; that the inmate fell and was kicked on the

chin, sustaining a fractured jaw; that after lying on the floor for some time he was taken to the so-called "Bahnhof", the morgue. He weighed only 30 kilograms at the time (R 186, 193, 194).

Witness Glowacki testified that the accused was a block leader and that he saw him beat inmates with his fists or a club (R 446) and that once he saw the accused hit an inmate, causing him to fall and strike his head on a cobble stone and split his skull. The inmate did not die as a result of this treatment (R 453, 464).

The accused admitted, in his testimony, that he beat inmates lightly on the buttocks when he deemed it necessary and conceded that he carried a stick or gas hose (R 310, 311).

Evidence for Defense: Karl Albrecht (sentenced to death in United States v. Karl Albrecht, Case No. 000-Mauthausen-13) a former inmate and block eldest at Gusen II, testified that the accused was in charge of block 13 from September or October 1944 to December 1944; that he did not hear anything bad regarding the reputation of the accused; and that if inmates had been beaten to death by the accused he would have heard and known about it (R 224, 225).

Witness Putz testified that he knew the accused since 1918; that the accused was opposed to the Nazi Party and was a member of anti-fascist organizations; that in 1933 the accused helped a Jew who was arrested by the Gestapo by serving him food in his restaurant (R 270, 271); that the restaurant owned by the accused was marked "off-limits" by the NSDAP; that he last saw the accused in 1940; and that he could not believe the accused was a murderer (R 272).

Witness
Karl
Fleischer (sentenced to death in United States v. Karl Fleischer, Case No. 000-50-5-45) testified that, although he was in St. George's from 22 October 1944 to 28 December 1944 as capo with the machine transport, he did not know the accused; that he did not know whether the accused hanged an inmate in Tunnel 13 and that names of block leaders who beat inmates spread around the camp, but he never heard the name of the

accused in this connection (R 274-277).

Witness Wimmer testified that he knew the accused in the army in 1940; that he was a good comrade (R 282); that the accused treated French civilians well; that he did not behave badly to Russian prisoners and civilian employees (R 283); that the accused was anti-fascist and anti-nazi; that he was good natured and never beat anyone at that time, nor was he brutal (R 284); and that he had no further contact with the accused after 1943 or the beginning of 1944 and so could not say what happened at the camp (R 285).

Witness Mayer testified that he knew the accused for 25 years; that the accused demonstrated against national socialism, but became quiet after 1933 because of his restaurant business; that Jewish patrons were served at the accused's restaurant from the fall of 1933 to the fall of 1934 (R 287-289); and that the witness kept in touch with him until the latter joined the army in 1940 (R 289-290).

Wilhelm F. Mueller, a former detail leader at Gusen II (sentenced to death in United States v. Adolf Berg, et al., Case No. 000-50-5-28) (R 231, 232) testified that there was no punishment detail at Gusen II or at St. Georgen; that most of the inmates at the Messerschmitt works at St. Georgen wore leather shoes (R 248); that he did see some shoes tied with yellow or thin wire; and that it was not regarded as sabotage to use wire for that purpose if it were waste (R 249). He further testified that the punishment of inmates who had hidden and were later apprehended depended upon the capo in charge and on the detail leader (R 250) and that an inmate could not be beaten without considerable notoriety (R 251).

Witness Freidberger testified that he was a guard and block leader at Gusen II (R 351); that he transferred to the SS from the Air Corps on 1 September 1944; that he knew the accused since December 1944; that until the end of January 1945 the accused was block leader of block 13 (R 352); that he did not hear anything bad about the accused (R 353, 354); that he did not hear of the accused beating any inmate to death, nor did he hear

of the killing incident of October 1944 (R 354); that he did not see the accused carry a rubber cable; and that he did not discuss with the accused the treatment of inmates or the maintenance of discipline within the camp (R 355). He further testified that discipline was maintained by beatings or reports; that the camp capos often beat inmates, although it was prohibited by the block leaders; and that he did not know whether the accused tolerated such beatings (R 355). This witness also testified that the accused was transferred to St. Georgen as detail leader and that he did not hear anything regarding brutal treatment of inmates there by the accused (R 356). He stated that in December 1944 there were no more than two deaths daily in the camp but that the number of daily deaths increased later to 13 or 14 because of an epidemic (R 357); that only Captain Seidler, Goldner and Bendel beat inmates at Gusen II (R 358); that he was told by inmates that it would have done no good to make complaints about beatings because Seidler was camp leader and Bendel was the roll call leader (R 359); and that he did not hear about any deaths by beating (R 360).

The accused testified that he was a block leader at Gusen II; that it was prohibited to beat inmates severely; that there was bad feeling between inmates of different nationalities (R 295); that he was block leader of block 2, in charge of 400 to 600 inmates until October 1944 when he was transferred to block 13, the dispensary; and that he was attached to the dispensary until December 1944. He denied that he beat, mistreated or killed inmates in either block 2 or block 13. He stated that the witnesses' stories were pure invention (R 296, 298). He testified that he gave punishment to inmates himself to avoid reporting to Captain Seidler who would order a more severe punishment. He never reported an inmate because he was told that reports meant severe beatings and hangings for hours by the wrists (R 300). He further testified that inmates informed him that they preferred his kind of punishment; that he never inflicted any bodily harm on an inmate; and that he never beat any prisoner who was sick (R 301). He stated that his duty as detail leader at St. Georgen was to

see that "no difficulties would arise", to supervise inmates, and to distribute food. He received no special orders regarding treatment of inmates at this Messerschmitt plant (R 298, 299).

He further testified that Tunnel 13 was separated from the rest of the blocks by boards; that it was possible to enter there only toward the end of March or the end of April 1945; that the tunnels were cemented in dome shape fashion with no supporting beams (R 301); that the machine construction detail consisted mostly of strong men and was not a penalty detail; and that he doubted whether Milner was on the machine construction detail, because the latter was too young and could not manage the hard work (R 302).

The accused denied beating or hanging anyone in Tunnel 13 and did not know of any hanging occurring in Tunnel 13 in February 1945 (R 302); and that he never beat or kicked an inmate (R 302). He also testified that he had no special orders with reference to inmates who used yellow wire to tie their shoes; that this was not regarded as sabotage; that he did not beat any inmate to death for using yellow wire; that he did not recall any incident where yellow wire was used to bind a shoe; and that although he criticized capos who beat inmates repeatedly, he was told they were under pressure by Captain Seidler. Since reporting them would accomplish nothing, he tolerated such beatings. He never saw a capo beat an inmate to death (R 303, 304). He denied beating a Russian on the neck with a stick in January 1945 (R 305).

Sufficiency of Evidence: The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by Dr. Franz Gaenssler, attorney, 24 October 1947. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

3. Friedrich HUSSEL

This accused was neither served nor tried (R 2, 3; 1-Ex 2).

4. Rudolf KANSMEYER

Nationality:	German
Age:	37
Civilian Status:	Businessman
Party Status:	None
Military Status:	None
Place:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution: The accused was an inmate of Gusen and a member of the camp police. Witness Beer testified that he lived in block 6 and that there was a latrine and washroom behind this block; that the drain was next to the washroom and was uncovered at night for inmates; that one night in November or December 1944 he saw the accused beat an inmate; that the witness returned to his barracks and after five minutes went to a canal nearby, where he heard a gurgling noise; that he became frightened and returned to his block where he looked out from a window and saw the accused and another pull an inmate out of the canal. The next morning he saw this inmate dead near the washroom. He did not know the nationality of this inmate (R 76, 84, 85). He testified that the accused was an inmate and at that time was on night guard duty (R 81, 82); that he saw the accused mistreat inmates by occasionally hitting them (R 94); and that he learned the name of the accused from photos at Linz and at Dachau (R 83).

Witness Glowacki testified that he lived in the same block with the accused (R 446) from September or October 1944 until the liberation; that he saw the accused practically every day from September on; that the accused was in the detail of the camp police; and that he saw him mistreat inmates and beat them with clubs when trying to keep order (R 447).

Witness Loureau testified that he was at Gusen II from the end of May 1944 until the liberation (R 95, 96). That in the fall of 1944 he saw

the accused and three other camp police trying to drown an inmate in a keg of water; that the head of this inmate was inside the keg; that he could not tell the inmate's nationality; that next to the keg of water was a pile of bodies; and that he could not tell whether these deaths had occurred during the day (R 96, 97). He further testified that at Gusen II, the accused was one of a group which beat and killed a Polish inmate in block 2 (R 97).

Witness Mandelbau testified that the accused belonged to the camp police; that one night in February 1945 about midnight when he went from his barracks to the latrine (R 119, 120), he met the accused who struck him with a rubber club, beat him over the head and shoulders until he collapsed, and then kicked him in the ribs. As a result of this mistreatment, the witness had to go to the hospital over a period of several weeks for treatments. The witness also testified that when the accused was beating him, he interrupted his activities to beat a Belgian inmate who witnessed the incident; that the accused beat the Belgian over the head and shoulders with a lead cable until he collapsed; that the accused then kicked the Belgian in the sides and placed his foot on his neck to choke him; and that the Belgian became unconscious and the accused then left the scene. The witness stated that he then took the Belgian to block 5 and left him there (R 120) and that the next morning he saw the Belgian dead in front of block 12 (R 121). He further testified that the accused performed the beatings with a rubber hose or cable about two feet long and one to one and a quarter inches in diameter (R 130, 133).

Witness Weiz testified that in September 1944 at Gusen II the accused wanted a pair of shoes belonging to an inmate; that these shoes were taken against the inmate's protest; that upon learning of this the accused beat this inmate with a loaded stick until he fell to the ground; that he then kicked and stepped on him (R 185, 191); and that the next day the inmate, a Pole, was loaded on a wagon and taken to the crematory (R 185, 186).

In an extrajudicial sworn statement, Tameryk stated that he first identified the photos of the accused and was then told his name. He stated

that he was at Gusen from 1943 until the liberation; that the accused was a capo or assistant capo; that he saw him every day between the spring and fall of 1944; that the accused, while on a transport detail, beat to death at least 10 inmates of various nationalities; that in the spring of 1944 the witness saw the accused beat an inmate until he fell; and that the accused then pressed his club on the inmate's throat and stepped on it until the victim died (R 468; P-Ex 12).

The accused testified that he was convicted twice for theft (R 343).

Evidence for Defense: Witness Folger (sentenced to 10 years in United States v. Georg Firner, et al., Case No. 000-50-5-42) testified that he was a capo at Gusen I (R 219). He testified further that the accused was a member of the camp police at Gusen II in June, July and August 1944; that the accused was in the dispensary at Gusen I in October, November and December 1944 and stayed there until shortly before Christmas 1944; that the accused was in bad physical condition, weighing about 45 to 47 kilograms; and that he last saw the accused at Gusen I in December 1944 (R 217, 218).

Witness Albrecht (sentenced to death in United States v. Karl Albrecht, Case No. 000-Bauthausen-12) testified that he was a former inmate and block oldest at Gusen II (R 221); that he was in Gusen II from May 1944 to Christmas 1944 and in January 1945 (R 222, 227); that he first knew the accused in May 1944; and that the accused worked in the St. Georgen tunnel until the end of July or August and then was in the hospital until shortly before Christmas 1944. He saw the accused when the latter returned to Gusen II (R 222); and the accused told him that he had been in the hospital at Gusen I (R 230). He further testified that the accused could have been in Gusen II between August and December without his knowledge, since there were over 10,000 inmates (R 229, 230). He further testified that he did not know of any killings which took place in Gusen II in his time (R 230).

Witness Gonzalez (sentenced to death in United States v. Lauriano Navas, Case No. 000-50-5-25) testified that he was at Gusen II

from 10 April 1944 to 5 May 1945 (R 263, 264); that the accused became ill in August 1944 and went to the infirmary in Gusen II (R 264), but the witness changed this testimony to state that the accused went to the infirmary in Gusen I; that later he learned that the accused had returned to Gusen II in December; that the accused was in poor physical condition after his return from the infirmary (R 265, 266); and that in January 1945 the accused was an assistant capo in the Siemens detail (R 265). The witness further testified that he was not a friend of anyone in the camp, including the accused (R 266); and that he had heard the accused was seriously ill and was sent to the infirmary at Gusen I where there were better facilities for seriously ill cases, but he admitted that there were seriously ill inmates in the infirmary at Gusen II. He testified that he did not see the accused from August until December 1944 and that he did not see SS men kill anyone at Gusen II (R 268, 269).

Witness Weidhofer testified that he and the accused were patients together in the hospital at Gusen I during the period from 22 September 1944 until about the end of October 1944 when the accused left (R 279, 280). The witness further testified that the accused was confined to his bed but did get up and around; however, he did not leave Gusen I while the witness was in the dispensary (R 280).

Witness Korzeniowski, a civilian internee and a former medical orderly at Gusen I, in an extrajudicial unsworn statement, stated that from September to December 1944 the accused was in the dispensary at Gusen I because of phlegmones and undernourishment; that in December 1944 he met the accused in Gusen II; that he neither saw nor heard that the accused was guilty of mistreatments or aggression; and that he always saw and heard only good things about him (R 469; D-Ex 1A).

The accused testified that he was never a member of the Nazi Party (R 315), but in fact was an enemy of it; that he was anti-Fascist; that he had committed thefts; that he was twice punished for high treason; and that he had ignored a call for service in the army (R 316). He further testified that he had been in concentration camps since 1939, coming to

Gusen II in April 1944 (R 317); that he was on night watchman patrol, his tour of duty being from 2000 to 0600 hours; that his duty was to keep the camp clean and to check on inmates who left their blocks to go to the latrines; that he had the right to chase inmates away and to give them five blows or anything of that nature; and that he was supposed to report incidents to camp headquarters (R 318). He testified that he was beaten each morning the camp roads were found to be dirty and that he received punches in the jaw from the block eldest and roll call leader. He had the position of patrol watchman from May 1944 to 7 August 1944 when he was taken to the hospital at Gusen I, suffering from phlegmones. He stayed at the hospital until 23 December 1944 (R 319, 320). He denied the statement of witness Loureau to the effect that he participated in the drowning of an inmate and in the beating and killing of an inmate in block 2 in September 1944. He stated that the inmate was killed by his own countrymen as the result of intrigue and that he learned this from inmates who were new arrivals from Gusen II (R 321-323). He testified that Loureau had reported his immediate supervisor for bringing liquor into the camp and that Loureau hanged this supervisor to keep the latter from talking. The accused further testified that he could have talked about this affair but he did not (R 322, 323). The accused denied killing a Belgian near blocks 3 ~~and~~ 5 in February 1945. He further testified that there was a special barrel placed at each block to make it unnecessary for inmates to go to the latrines in the cold weather (R 326) and that block 7 was locked at night, making it impossible for inmates to proceed from there to block 5. The accused further testified that he never saw Mandelbaum before the latter testified at Dachau; that at the time covered by this witness' testimony he was an assistant capo on the Siemens telephone and construction detail (R 327); that he was chosen by the inmates to be the capo helper of the detail in the Siemens factory (R 328); and that he was not at any time a member of the camp control, other than during the period from April to 7 August 1944 when he was a night watchman (R 328, 333).

The accused denied killing an inmate in front of a latrine at night, stating that he was in the Gusen I dispensary at the time it allegedly

occurred. He testified that there was no canal in the camp; that there were latrine watchmen, latrine guards and block guards; and that Gusen II was well lighted at night so that a killing would have been noticed. The accused denied he caused any deaths, reaffirming that in September 1944 he was in the dispensary at Gusen I and, therefore, could not have killed a Polish Jew at the tunnel at St. Georgen (R 330); that he never carried a rubber hose nor mistreated an inmate when he was with the camp patrol; that it was only when inmates gave one another away on intrigues that he beat four of them with a hollow rubber hose. He was a capo helper at Siemens at the time; that he beat these inmates because they had stolen chemical fluid and drunk it; and that three of these inmates were Russian and one was a Pole (R 331, 332, 344).

He admitted that at an interrogation held on 18 July 1945 he did not state that he was in the dispensary at Gusen I during the fall of 1944 (R 334), but explained it by stating that he knew that he would be accused by the Frenchman, Loureau, who was present at the time and he was afraid that prosecution witnesses would testify in court that the acts of which he was charged occurred at a different time (R 335, 342).

Sufficiency of Evidence: The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: No Petition for Review was filed. Petitions for Clemency were filed by Amalie Kamsmeyer, 27 October 1947 and Wilhelm Kamsmeyer, 11 November 1947.

Recommendation: That the findings and sentence be approved.

5. Erwin Georg KAUH

Nationality:	German
Age:	42
Civilian Status:	Tailor
Party Status:	Nazi Party and SA
Military Status:	SS Corporal
Place:	RG
Findings:	G
Sentence:	20 years, commencing 5 May 1945

Evidence for Prosecution: The accused was a guard at Gusen II. Witness Beer testified that in August 1944 the accused fired three shots at one of a group of inmates marching from a train and that the inmate fell dead; that the victim, a Lithuanian, was two meters away from the accused when he was shot (R 77); that the Lithuanian was inside the chain of guards when the accused shot and he was not trying to escape (R 88); and that, at the time of the shooting, the witness was about three meters in front of the inmate (R 89).

Evidence for Defense: The accused testified that he was a party member since 1938 and was in the SA from 1933 (R 362); that he came to Gusen in July 1944 as a corporal in the air force and was transferred to the SS on 1 September 1944 (R 363); that he was stationed in Gusen I but did duty at Gusen II as a guard; that he was also a guard with a small work detail at St. Georgen; that on 28 August 1944 he was a guard and remembered the incident with the Lithuanian, which took place on that day (R 364-366). He stated that there was a railroad track building detail there with 20 inmates in it (R 365); and that he was with another guard and five inmates. He testified that a capo began to beat an inmate who consequently bled from the nose (R 366); that he and another guard took the inmate to the dispensary and upon their return, the capo beat the inmate again; that the inmate ran toward the chain of guards whereupon the accused called for an interpreter who came and explained the situation to the inmate; that a short time later the inmate left the chain of guards, running slowly, at a sort of a slow walk, whereupon the accused called to him, but the inmate went 25 to 30 meters outside the chain of guards. He further testified that another SS man asked the accused why he was permitting the inmate to run so far away from the guards, whereupon the accused fired; that he did not shoot to kill but aimed in the middle and hit the inmate in the back. He testified that he could have stopped the victim physically but was not allowed to touch or otherwise strike the inmate (R 367, 368, 376); that as a superior officer he was not permitted to stop a capo from beating an inmate and had been instructed to call to an inmate three times and then to use his firearms (R 369); that he reported the incident to the Political Department and

after four weeks was acquitted of guilt; that he did not intend to kill the inmate, not having any premeditation and would have been taken into custody if the inmate had escaped (R 370, 371). He also testified that he had stopped a capo from beating an inmate (R 371); that he never mistreated an inmate and saw only petty incidents of mistreatment at Gusen II, such as beatings with a stick; that the inmates in his details were mostly in good condition (R 372). He maintained that the testimony given by Beer was not accurate (R 373). He admitted on cross-examination that the inmate had to go through a chain of guards, who were six to 10 meters apart (R 374); that the victim was an old man; and that the accused could have walked up and talked to him (R 375). He also admitted receiving 20 cigarettes and two days leave as a reward for his actions (R 374), but claimed that he was not aware, prior to the incident, that he would receive cigarettes for his conduct (R 376).

Sufficiency of Evidence: The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: No petition for Review nor petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

6. Wilhelm KAU

Nationality:	German
Age:	42
Civilian Status:	Painter and Farmer
Party Status:	None
Military Status:	SS Corporal
Alibi:	NG
Findings:	G
Sentences:	Death by hanging

Evidence for Prosecution: The accused was a guard and detail leader at Gusen II. Witness Milner testified that he was at Gusen II from August 1944 to 5 May 1945 (R 36); that in February or March 1945 he saw a French inmate get out of a line of march to tie a wire which was on

his wooden shoe; that the accused struck the Frenchman on the head with his rifle butt, knocking him to the ground (R 36, 37); that the witness was in the same row as the victim; that the column then stopped (R 53-58) and the witness heard the accused yell, "Get up, get up"; and that he then heard a shot. The next morning the witness saw the body of the Frenchman near the barracks. The victim was not trying to escape at the time of the incident (R 37, 58). He further testified that he first learned the name of the accused at Linz when he saw it on a photograph in January 1947; that he identified 13 or 14 photos out of 3000 which were shown to him; and that this was the fourth case in which he had testified (R 52).

Beer, a former inmate of Gusen II, testified that one day in January or February 1945, in front of the Messerschmitt tunnel, he saw the accused shoot a Polish inmate from a distance of three meters; that after working hours a detail took the Pole back to camp (R 78). He also testified that during the same period he was in the airplane repair shop outside the tunnel; that he heard a shot, looked out the window and saw the accused in the act of shooting two inmates who had been carrying a log or piling; and that later he saw the same two after they were brought to camp. One was French, the other Russian. The accused had fired five or six rifle shots at the victims from a distance of about three meters (R 79, 80, 91-93).

Witness Spierling testified that in February or March 1945, upon arriving at St. Georgen, he saw the accused shoot a Russian with his carbine from a distance of five meters and inside the wire fence (R 106, 107, 109, 110); that the victim could not have escaped unless he went through the fence; that, at the time, the victim was holding up his pants and apparently wanted to go to a building 50 meters away, inside the fence and chain of guards, to relieve himself; and that the accused gave no warning before firing (R 106, 107).

Witness Zuckerman testified that he was at Gusen (R 138) and that in February or March 1945 an order came to search inmates; that when the accused found a knife in the pocket of a Dutch inmate, he beat the inmate fatally with his rifle butt on the head and the small of the back;

that the victim was carried away, in a battered condition, by the witness and another; and that the next morning the victim was lying in front of the block with a number on his chest, a practice applied to dead bodies. This incident took place outside the protective custody camp (R 155).

Evidence for Defense: Witness Wilhelm Mueller (sentenced to death in United States v. Adolf Berg, et al., Case No. 000-50-5-28) testified that he was under a death sentence by a war crimes court in Dachau (R 231); that he was transferred in September 1944 from the Air Corps to Guson II as a guard and a detail leader (R 232); that a detail was never stopped on the way to work to be searched (R 233); that guards were never allowed to search inmates (R 236); that if an inmate stepped out of line over five steps, the guards had special instructions to shout "halt" and then shoot if the inmate did not stop; and that the inmates knew this rule. The guards were forbidden to beat the inmates (R 234). He further testified that if an inmate were killed, the corpse would lay there until the Political Department investigated the incident; that a transport was never searched; that any searches that did take place were within the fenced area of St. Georgen; that searches, at the working place were conducted by canes and in the camp by the roll call leaders (R 235); that the chain of guards was 800 meters back from the tunnels; that the repair shop at St. Georgen was only a space knocked out of a cave; and that there were no windows in the repair shop. He stated that no one in the repair shop or in the blacksmith shop could have seen any guards; that a guard could not have seen the shop from his post; and that the guards were not permitted inside the St. Georgen works (R 238). He further testified that he remembered the incident which took place outside the wire fence around the St. Georgen works in November or December at 0800 hours, when the accused shot an inmate (R 239). He heard shouting and shooting and saw an inmate lying in the field about 25 meters outside the guard chain. The witness concluded that the inmate had tried to escape. He was told by the accused that he had called to the inmate to stop but when he failed to do so the accused and several other guards shot, the accused being the only one to hit the victim (R 240, 241, 259). He further testified that the victim of the shooting was about 25 to 40 meters away from the ledge on which the

inmates were marching at the time (R 260) and that the inmate could have escaped if he successfully hid behind the complex of houses which was on the right side (R 261).

The accused testified that he was never in the Nazi Party; that he was a corporal in the Air Corps but was transferred to the SS on 1 September 1944 and assigned to Gusev I (R 383) and that he belonged to the Gusev II guard until 8 April 1945 (R 384). He recalled the testimony of Milner, but did not recall the case of the Frenchman who stepped out of the column of march to fix his shoes (R 384). He denied that he ever beat an inmate with his rifle (R 385). He testified that the guards were three to five meters from the inmates; that inmates were not allowed to step out of line but if an inmate did step out and did not go beyond the guards, nothing happened; and that the inmates were familiar with these rules. The accused further testified that he did not remember the incident related by Sperling, when accused allegedly shot an inmate suffering from dysentery (R 385). The accused admitted that at about 0700 hours, one morning in the beginning of December 1944, he did shoot an inmate at St. Georgen near the railroad tracks; that the inmate was 10 to 20 meters away; that he called "halt" three times, but as the inmate did not stop he fired at his head; that the latter fell dead (R 386, 392, 393); that this incident happened outside the fence and about 150 meters from the chain of guards (R 386). The accused further testified that he first saw the victim when the latter passed him (R 391); that the incident was investigated by the Political Department; that he was exonerated by this department; and that he received a reward of cigarettes two or three days after the investigation (R 387). He also testified that he did not know whether this incident was the same one as testified to by Mueller and that he did not remember the testimony of Zuckerman (R 387). He testified that he accompanied inmates into the compound but never searched them there; that he was not permitted to search inmates (R 388); that he saw inmates restricted four or five times at Gusev, sometimes severely, by the roll call leaders, capos or labor leaders (R 389); and that he did not know of any case where an inmate died after a severe beating by a capo,

although some were hospitalized (R 393). He once saw an inmate beaten by use of the hands but he never saw an inmate beaten with a rubber covered wire cable (R 393). In a prior statement (R 394) the accused stated that he never saw inmates mistreated. He testified that what he considered to be the effect of mistreatment was inability to walk or a similar disability (R 394); that it did not constitute a mistreatment to give one a slight blow or a slap (R 395); that one could not see the repair shop or the blacksmith shop from any place along the chain of guards; that he never fired inside the chain of guards; that he never shot anyone inside the walls of St. George's; that he never mistreated an inmate; and that he never saw an inmate hanged at St. George's (R 390, 391).

Sufficiency of Evidence: The findings are warranted by the evidence. The sentence is not excessive.

Petitions: No petition for review was filed.

Petitions for Clemency were filed by Kazimierz Karolczak, 27 October 1947; Catholic Clerical Office of Althain, 27 October 1947; Mayor and Council of Althain, 27 October 1947; Lawyer Schmiel, 31 October 1947; and Josef Singer, 31 October 1947.

Recommendation: That the findings and sentence be approved.

7. August H. KIRSCHLERN

This accused was neither served nor tried (R 2, 3; I-Ex 2).

8. Paul KUEBLER

This accused was neither served nor tried (R 2, 3; I-Ex 2).

9. Rudolf HENTEN

This accused was neither served nor tried (R 2, 3; I-Ex 2).

10. Max PAUSCH

Nationality:	German
Age:	53
Civilian Status:	Musician
Party Status:	Nazi Party, 1933; Allgemeine SS, 1932
Military Status:	SS Captain
Plea:	NC
Findings:	C
Sentence:	Death by hanging

Evidence for Prosecution: Witness Karl Geiger testified that between 17 and 21 January 1945 the accused was in command of a transport of inmates which went from Gusen II to a delousing institution in Linz; that the inmates were packed in railway cars (R 19, 20, 30, 38), one of which was a refrigerator car containing about 100 inmates; that the door of this car was almost closed, a small opening remaining for ventilation; that the accused came by and ordered a sergeant who was with him to completely close the car door; that there was only one refrigerator car and the door hooked from the outside, and that no guards were assigned to it (R 29, 30). He further testified that the inmates on the transport were in a hungry and weak condition (R 31); that the death reports of the refrigerator car passengers came back to the clerk's office at the camp (R 31); that the dead were later brought to the crematory; that this occurrence was well-known in the camp; that he knew of only one survivor; and that he was in St. Georgen when the car returned the next day (R 32, 33).

Witness Milner testified that in January 1945, he saw railroad cars being loaded with inmates destined for Linz; that the accused was there; that the doors of the refrigerator car were closed and that the accused assisted in the closing (R 37, 38, 59); that the guard told the accused the door of the refrigerator car should be opened for air; that accused responded, "There is enough air. The air in the fields is fresh enough

and the doors may be closed. They won't suffocate"; and that the inmates of the car were Poles, Jews, French and Yugoslavs. He further testified that the guard with the accused asked whether it would be possible to keep the doors slightly opened but the accused refused; that the witness did not know how many inmates were in the cars although he saw they were crowded (R 60, 61); and that he heard from an inmate friend on the transport that the passengers in the refrigerator car died from hunger, cold and bombing (R 69, 72).

Witness Lourenu testified that there were different types of cars in this transport, but that all were covered cars, one being a refrigerator car; that he was in a closed car which left Gusen II after the noon meal and arrived at Linz at night-fall; that the inmates in the refrigerator car, with few exceptions, were all dead upon arrival at Linz, probably from suffocation (R 98, 102). The witness stated that he believed the accused was transport commander (R 98); that an air attack occurred at noon the day after the arrival of the transport at Linz; that all inmates got off the transport except those from the refrigerator car; that these inmates were Poles; and that three to four hours after the attack, the transport returned to Gusen II. Those present on the transport were accused PAUSCH and SIELAFF, one Kestler and a number of guards (R 100-102).

Accused SIELAFF testified that he was on the transport from Gusen to Linz; that the accused was his superior and the train commander; that the temperature was 16-17 degrees below zero (centigrade); that although the train stopped twice on the three hour trip, he did not see PAUSCH before their arrival at Linz; and that the doors of the refrigerator car were locked during the trip. He also testified that it was customary for a railway transport leader to check a train before departure (R 425, 427, 437).

Witnesses Milner and Zuckerman testified that in April 1945 at Gusen II, about two or three weeks before liberation, a Russian from Block 11

was running from the kitchen, after stealing some potatoes, and jumped on the accused from a platform; that the accused then obtained a wooden stirring ladle, one to one and one-half meters long and weighing three kilograms, from a capo and beat the Russian over the head five or six times; that the Russian fell to the ground; that the accused then kicked him and trampled on his neck; and that the Russian was later seen lying dead in front of the block, a number on his chest (R 38, 39, 62, 63, 141, 142, 150, 153, 154).

Evidence for Defense: Geiger testified that he did not see the accused mistreat any inmate (R 31) other than order the door of the refrigerator car containing the 100 inmates to be closed (R 28, 29). Slupotsky (sentenced to five years in United States v. Karl Glas, et al., Case No. 000-50-5-31) testified that in 1945 he was the owner of a delousing firm in Linz, Austria (R 202, 203); that on 18 January 1945 a transport of 2500 inmates left Gusen II for Linz for delousing (R 204); that the witness rode on the engine with the accused and the doors of the cars were closed; and that he did not know what had happened prior to his arrival at the train (R 207). The witness testified that when the transport arrived at Linz he learned that there was an Italian refrigerator car in the transport (R 208); that there was a heavy snow fall during the trip and one could not see further than 30 steps (R 210A); and that the accused got off the engine during this trip, checked the SS men and went to the rear (R 211).

Witness Folger (sentenced to 10 years in United States v. Georg Pirner, et al., Case No. 000-50-5-42) testified that the transport left Gusen in January 1945 (R 215); that the accused arrived three to five minutes before the train left (R 216); that the train was then ready for departure, the guards at the rear having mounted the train; and that he did not see the accused check the train or walk along it. He also testified that the accused then went to the front of the train, but he did not see whether he mounted the engine; and that he was present when the inmates were

loaded on the train and that there was a chain of guards around it, under the charge of 1st Lt. Schuettauff (R 216, 217).

Accused SIELAFF testified that he was on the delousing transport to Linz; that he did not see the accused until their arrival at Linz; that the doors were closed when he arrived; that he was in the last car with the guards; that the accused was on the engine when the train left; and that the guards, who carried carbines, dismounted and surrounded the train when it stopped (R 425, 427, 438). He further testified that he first saw the refrigerator car at the Linz railroad station and was present when some 70 to 75 bodies were taken out and that the train was surrounded by guards upon arrival at Linz where the inmates dismounted and lined up. The refrigerator car was opened with the others and dead bodies could be seen. The witness assumed that they were dead because revival was tried unsuccessfully. He further testified that he heard that capes were also in the car (R 426). He did not inspect the car. There were no dead bodies in any other car on the transport (R 427). He also testified that he carried a pistol; that neither he nor any guard had a rubber truncheon and no inmates were mistreated on the transport; that delousing began the evening of arrival; and that an air raid took place the next day at 1100 hours after delousing had been completed; and that the institution was hit by three bombs killing about 40-50 inmates (R 428, 429). He testified further that he did not see the accused on the return trip, but he was present at Gusen when the transport was unloaded upon its return. He did not know whether an investigation was made regarding the suffocations in the refrigerator car (R 438).

The accused testified that he was a member of the Nazi Party since 1933, of the Allgemeine SS since September 1932, of the Waffen SS since June 1935 and band leader until November 1944. He testified that he came to Gusen I on 1 December 1944 and was there until March 1945 when he went to Gusen II, where he remained until the middle of April 1945 as a supervisor of block leaders (R 395, 396). He denied killing or mistreating a

Russian in the vicinity of the kitchen and stated that, as far as he knew, inmates were not allowed to enter the kitchen (R 377). He also testified that he never mistreated nor touched any inmate, did not see mistreatment at Gusen, never tolerated beatings and when he saw a beating he prohibited it. He also testified that he did see Bendel, roll call leader, and Geisler, labor distribution leader, beat inmates and that he entered Gusen II almost daily while stationed there, but always with Schulz, a block leader, or with a labor distribution leader (R 398, 399).

The accused further testified that Captain Siedler told him that he would have to accompany the delousing transport to Linz (R 399); that he told Siedler he knew nothing about the rules, regulations or laws of transport and was told that an SS Major would accompany him, and that upon arriving at the transport he was told by Captain Siedler that all was ready and to go (R 400). He did not inspect the train, which was complete, and it left about 10 minutes after he mounted the engine, accompanied by defense witness Slupetzky (R 401), who joined it to show the way. He did not take orders from Slupetzky, an SS Major (R 411, 412, 416). The accused did not notice the SS guards before arrival at Linz because they had their own compartment, nor did he notice the refrigerator car prior to the arrival at Linz (R 401). He noticed a commotion upon their arrival and was told that the inmates in the refrigerator coach were dead (R 402, 414). He was told later that most of them were capos (R 402), although he did not know how many (R 412). He testified that he did not ascertain the cause of death, but was told it was from suffocation (R 402); that the inmates were examined by an inmate doctor in front of the refrigerator car, but the accused did not stay to check on the number of dead, did not inspect the car at any time, nor supervise reloading of the dead; that he ordered the inmates lined up and marched off; and that on his return to camp he made a report (R 415). Slupetzky did not return (R 411). The accused heard the defense witness Slupetzky testify that he, the accused, got off the engine and went along the train, but he did not know

whether he had done so (R 408) and he stated that the testimony of Slupotaky did not refresh his recollection (R 409). He testified that enroute to Linz the train stopped, perhaps two or three times and that the trip, usually a 30 or 40 minute run, took three or four hours (R 409). He testified further that it was not necessary nor important enough for him to make an inspection and that he could not look after the welfare of the inmates on the train during the three and one-half hour run (R 410). He stated that he learned later there were 2000 to 2500 passengers, but he did not know how many returned (R 411); that it was the duty of the train commander to take the transport to its destination for delousing (R 412); and that Slupotaky was detailed to check inmates in and out of the delousing plant and make a report to Gusek (R 414). He further testified that he was outside the delousing institution during the bombing which took place after the arrival at Linz and after the discovery of the dead bodies in the refrigerator car. He admitted that the air raid had nothing to do with the deaths of those in it. He did not know whether an investigation was conducted by the Political Department and never saw a report of the incident (R 416).

Sufficiency of Evidence: The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: No Petition for Review was filed. Petitions for Clemency were filed by Elsa Pausch, 20 November 1947; Dr. Alfred Hopplauer, 29 November 1947; Adolf Arnold and 10 others, 13 November 1947, 23 November 1947, and 10 January 1948; Alex Schmid and Anton Linner, 21 November 1947; Berta Kampf, Alise Ludwig, Robert Pausch, Meta Moller, Louie Pausch and Ann Pausch, 10 December 1947.

Recommendations: That the findings and sentence be approved.

11. Hans W. E. SILLAPP

Nationality:	German
Age:	43
Civilian Status:	Shoemaker
Party Status:	None
Military Status:	Sergeant Air Force Sergeant SS
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution: The accused was a detail leader at the Messerschmitt works. Witness Milner testified that, about noon on a day in November or December 1944 at Gusen II, a French inmate was discovered to be missing from a group employed in tunnel 13; that he was found after a 45 minute search; that the accused gave ~~the~~ Frenchmen 25 blows on his buttocks and then ordered capo Otto to bring a cable or rope; and that the accused then hanged him (R 40, 64-67). The witness learned the name of this accused by selecting him from some 3000 photos he viewed at Linz (R 52, 64, 65).

Witness Beer testified that in December 1944 in Messerschmitt tunnel 20, a Yugoslav inmate was seen dozing by capo Kuersmann; that the accused then struck the Yugoslav about 12 times over the head with a rubber covered cable, three centimeters in diameter and 70 centimeters long; that the inmate collapsed and fell; and that the accused then kicked and jumped on him until he was dead (R 80, 81). The witness testified that he was never mistreated by the accused (R 94).

Witness Loureau testified that the accused beat inmates with a rubber hose and an electric cable on the head, shoulders and back (R 461, 462).

Witness Seelers testified that in January 1945, at the Linz delousing institution, during an air raid, he saw the accused and other SS men beat a non-German national inmate across the face with a heavy truncheon until he collapsed (R 159, 171, 172). The witness testified that he was among the

last to take his bath and after he had finished and was waiting for his clothes the air raid started. The SS men then secured the bathhouse by surrounding it. A bomb struck the bath house killing many inmates, including Russians, Poles, Frenchmen and Jews (R 158, 159, 168). The inmates who had been beaten did not survive the bombing (R 159). The witness testified that he was in the washroom eight to ten meters away from the other inmates when the bomb struck (R 168).

Evidence for Defense: The accused testified that he was never affiliated with the Nazi Party (R 417, 418); that he was transferred from the Air Force to the SS as a sergeant and assigned to Gusen I on 1 September 1944 (R 419) (at another point in his testimony he said that he was assigned to Gusen II on that date (R 420)); and that he was inactive for 14 days and then twice detailed as a guard because of a shortage of guards (R 420). He further testified that he was detail leader on two separate details at the armament plants Messerschmitt and St. Georgen, serving at the Messerschmitt plant until the end of May 1945; that he had previously been detail leader at St. Georgen from before Xmas 1944 until the end of 1944 (R 420, 432); and that he was with the Messerschmitt plant until the end of March as detail leader, and thereafter in a tunnel construction in Gusen II, where he was captured by American troops (R 421). The accused testified that he was never a block leader at Gusen nor was he solicited by inmates at Gusen II just prior to liberation; that he heard the testimony of Milner but did not know of the beating of a Frenchman (R 422), nor of the incident involving the missing inmate allegedly beaten by himself and then hanged; that he was not in St. Georgen at the time, but was at the Messerschmitt plant in Gusen I; and that he did not know whether tunnel 13 was under construction at that time (R 423). He stated that he did not know Milner in Gusen and saw him for the first time when Milner appeared in Court. He did not know why Milner should make an accusation against him (R 424). He further testified that he did not remember the tunnel 2 incident testified to by Beer; that he was in Gusen with the Messerschmitt plant until shortly before Xmas; that he never mistreated a Yugoslav or any other inmate at any time at Gusen; and that he

never beat inmates with a rubber cable or his fist, nor did he ever kick them (R 430). He further testified that he saw beatings by Siedler, roll call leader Bendel and Geisler inside the tunnel and in the armament plant (R 431). He stated that he was not in St. Georgen in November 1944 (R 432). He testified that he was on the transport from Gusen to Linz which Captain PAUSCH commanded (R 435, 437) and denied he beat a Russian inmate just after arrival at Linz (R 427).

Other testimony by this accused about the Gusen II - Linz transport of January 1945 relates particularly to the PAUSCH case and is included in the Evidence for Defense therein.

Sufficiency of Evidence: The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: No Petition for Review was filed. Petitions for Clemency were filed by Georg Debbert, 27 and 28 October 1947; Auguste Stransky, 28 October 1947; Marta Hogner, 28 October 1947; Karl Otto, 19 November 1947; A. Weiss, 24 November 1947; Helmut Saehse, 21 November 1947; Johanna Goeing, undated; Robert Kessner, undated; Georg Sommer, undated; and Walter Rosenthal, 19 January 1948.

Recommendation: That the findings and sentence be approved.

12. Georg F. STEINHARDT

This accused was neither served nor tried (R 2, 3; P-Ex 2).

V. QUESTIONS OF LAW:

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

Application of Parent Case: The Court was required to take cognizance of the decision rendered in the Parent Case, including the findings of the Court therein that the mass atrocity operation was criminal in nature and that the participants therein, acting in pursuance of a common design, subjected persons to killings, beatings, tortures, indignities, etc., and was warranted in inferring that those shown to have participated knew of the criminal nature thereof. (Letter, Headquarters, United States Forces, European Theater, file AG 000.5 JAG-AGO, subject: "Trial of War Crimes

Cases," 14 October 1946, and the Parent Case). All the convicted accused were shown to have participated in the mass atrocity and the Court was warranted from the evidence adduced, either in the Parent Case or in this subsequent proceedings, in concluding as to them that they not only participated to a substantial degree but that the nature and extent of their participation were such as to warrant the sentences imposed.

Examination of the entire record fails to disclose any error or omission in the conduct of the trial which resulted in injustice to the accused.

VI. CONCLUSIONS:

1. It is recommended that the findings and the sentences be approved.

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

WILLIAM R. COHEN
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