

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

4 March 1948

UNITED STATES

v.

Case No. 000-50-5-6

Hans Joachim Georg GEIGER, et al.)

REVIEW AND RECOMMENDATIONS

I. TOTAL DATA: The accused were tried at Dachau, Germany, during the period 9 July-5 August 1947, before a General Military Government Court.

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Hans Joachim Georg GEIGER, Max KRAMER, Lothar KOBILKE, Paul BINZENBACH, Emil EULER, Stefan KRAUSS, Mathaeus MEIER, Karl PETRINA, Paul DEISTLER, Max GRUTZI, Paul ROSENTHAL, Otto SCHIEFFER, Albert WIENER, 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 Hartheim, and at or in the vicinity of the Mauthausen Sub-camps, including but not limited to Ebensee, Gros-Raming, Gunskirchen, Gusen, Hinterbrühl, 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, ~~and~~ 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: All the convicted accused with the exception of MEIER, were members of the SS at Mauthausen Concentration Camp and/or its subcamps between the dates alleged in the charge, and were shown to have participated in the Mauthausen Concentration Camp mass atrocity. Accused MEIER performed the duties of a capo and participated in the



Prosecution's Exhibit P-Ex 2 (R 14) is a certified copy of the charge, particulars, findings and sentences in the parent Mauthausen Concentration Camp Case (U.S. v. Altfuldisch, et al., 000-50-5, February 1947, hereinafter referred to as the "Parent Case"; see Sec. VI, post).

IV. GENERAL EVIDENCE: Most of the testimony adduced at the trial pertains to the general conditions present at subcamp Ebensee of Mauthausen Concentration Camp and to avoid repetition, testimony of that nature will be here set forth.

From the opening of subcamp Ebensee, 18 November 1943 (R 384), until May 1945 there were 8,745 deaths at Ebensee (R 416). The rations for the inmates were never adequate. They ate coal, rubber, turnips mixed in horse manure and some ate human skin (R 138, 139, 186, 291, 293). At the quarry at subcamp Ebensee, the work was too strenuous and difficult for the undernourished inmates. Ten to twelve inmates were carried back to camp at the end of each day. Some were carried back dead (R 143, 144, 173). Sick inmates were required to work at the quarry and elsewhere (R 173).

There were many cases of phlegmones at subcamp Ebensee (R 215). Medical supplies were inadequate (R 970).

There was a crematory at subcamp Ebensee, but during the last few months its capacity was inadequate to dispose of all the dead and many were buried in mass graves (R 237, 238, 414). There were public hangings at subcamp Ebensee (R 151).

Introduced in evidence was an official report made by a United States Army medical officer which depicted the deplorable conditions at subcamp Ebensee at the time of the liberation (R 452; P-33)

ant. P-18  
V. EVIDENCE AND RECOMMENDATIONS:

1. Hans Joachim Georg GEIGER

Nationality:	German
Age:	34
Civilian Status:	Doctor
Party Status:	Member of the Nazi Party
Military Status:	SS Captain
Plea:	NG



Findings:

G

Sentence:

20 years, commencing 20 May 1946

Evidence for Prosecution: The accused was camp physician at subcamp Ebensee from 1 April to the end of May 1944 (R 197, 218, 697). Witnesses Haeussler and Wetterwald testified that conditions during this period at the hospital were intolerable and the sick inmates received inhuman treatment and insufficient food and accommodations (R 219, 700). Two and sometimes three patients were required to sleep in a bed consisting of a straw mattress and a straw sack on a wooden support constructed to accommodate only one person (R 201, 202, 223, 699). Paper bandages were utilized on the inmates while there were gauze bandages in use at the SS hospital (R 200, 222, 709). In some instances operations were performed without anaesthetic (R 701). Patients who came for treatment were required to wait in line in the open for hours before they received treatment (R 225, 703). Several times inmates waiting for treatment collapsed (R 225). Some sick inmates were required to work (R 226). There was evidence that inmates received lethal injections (R 226, 241, 243, 271, 272, 723, 724). Notwithstanding the existence of the foregoing conditions, the accused regularly reported officially to Mauthausen Concentration Camp that "the state of health of the prisoners is satisfactory and the food is adequate" (R 219).

Witness Loercher testified that toward the end of March 1944 two non-German inmates, who were said to have mutilated themselves, were driven into the electrified wire fence and killed. The witness heard the accused on the following day exclaim to the inmates around him, "If anyone tries to mutilate themselves then I will send them to Jesus just like I did yesterday" (R 197, 198). The witness also testified that about April 1944, the sick inmates were transferred from an old hospital to a new hospital. Before entering the new hospital, pursuant to orders issued by the accused, they were all subjected to a delousing and disinfecting process by a civilian organization hired by the accused as camp physician (R 198, 199). The sick were required to remove all their clothes. Those wearing bandages were required to remove them, notwithstanding the fact that some had had operations a day or two before. All including wounded patients were



required to take cold showers. Several inmates died as a result (R 198, 199).

Witness Barta testified that in April 1944, a truck was standing in the middle of the roll call square. Sick inmates were being loaded on the truck for transport to Mauthausen Concentration Camp. A Polish or Russian inmate fell off the truck. The accused kicked the inmate until he became unconscious and died. The witness, whose duty it was to report deaths, inquired of the accused as to whether the inmate should be reported sick or dead and was told by the accused to report him as having "died on the way" (R 421, 422).

An official statement made by the camp commandant at Mauthausen Concentration Camp which was accepted in evidence, indicated that the accused was removed as camp physician due to neglect of duty (R 984, P-Ex 36A; R 203).

Evidence for Defense: Witness Martin testified that he was a clerk in the medical office at Mauthausen Concentration Camp during the periods the accused was acting physician at the camp. Although lethal injections were given and inmates killed in the gas chambers, no injections were ordered, nor inmates sent to the gas chambers by the accused (R 508, 509). Witnesses Wegner and Mueller testified that they never heard of the accused giving or ordering lethal injections (R 532, 612).

Witnesses Wegner, Franz, Mueller and Wohlrab testified that the accused was transferred from subcamp Ebensee because he refused to falsify a report of deaths caused by one Deimer, camp commander, who killed several inmates while drunk in May 1944 (R 533, 541, 588, 656). Witness Hofhansl testified that he knew the accused at Flossenburg Concentration Camp and that the accused had a good reputation respecting treatment of patients there (R 559). Witness Slupetsky, who was in charge of the delousing process, testified that the accused was not present during the delousing incident at Camp Ebensee about April 1944. He was transferred prior to that time (R 636).

The accused testified that he was camp and troop physician at subcamp Ebensee from the beginning of April until the end of May 1944 (R 965).



He improved medical conditions at Ebensee and recommended new construction (R 966-968). He denied that he was present during the delousing incident about April 1944 (R 972). He denied that lethal injections were given during his tour at Ebensee (R 966). He further testified that he was transferred from Ebensee because he refused to make a false report in connection with the Reimer incident to the effect that the inmates killed by Reimer while drunk had been shot while trying to escape (R 973).

The accused testified, relative to the incident involving the death of inmates who had mutilated themselves, that he stated in a loud tone of voice that the same results happen to everybody who practice self mutilation. He so stated in order to protect the inmates from self mutilation (R 976).

The accused denied having made reports to Mauthausen Concentration Camp that the health at Ebensee was satisfactory and the food adequate (R 985).

The accused characterized the entire incident involving the alleged killing of an inmate, who was said to have fallen out of a truck, as an invention of the witness and untrue (R 989, 990).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the nature and extent of his participation, especially that concerning the responsible position held by the accused and the mistreatment resulting from his acts and those of others at his direction, in its findings of guilty. The sentence is not excessive.

Petitions: No Petitions for Review were filed. No Petitions for Clemency were filed.

recommendation: That the findings and sentence be approved.

2. Max KRAMER

Nationality:	German
Age:	27
Civilian Status:	Bookbinder
Party Status:	Member of Nazi Party
Military Status:	SS Sergeant
Plea:	NG



Findings:

G

Sentence:

20 years, commencing 27 May 1945

Evidence for Prosecution: The accused was an SS sergeant and served as a block leader at subcamp Ebensee, a subcamp of Mauthausen Concentration Camp, from 19 November 1943 to 5 May 1945 (R 17; P-Ex 4A).

The accused, in an extrajudicial sworn statement, admitted that he performed duty as the stone quarry once or twice a month and saw block leaders chase inmates through the chain of guards; and that the inmates so chased were shot by the guards (R 132; P-Ex 22A).

Witness Melching testified that in November 1944 he was told to hide a Frenchman known as Leo because the accused and others intended to kill him. The witness hid Leo in his workshop. He later saw the accused and others opening the door of his workshop by force. When the witness got to the door of his workshop, the accused approached with a bloody stiletto in his hand. Leo was standing on a little chair in the workshop, a rope around his neck. Leo was told that, if he divulged who had hidden him, he could continue to live. Leo said, "I hid myself". The chair was pulled away by camp eldest Hubert, and Leo was hanged. The accused was present with others when Leo was hanged (R 268-270).

Melching further testified that in November 1944 he saw the accused and another drag one Hermann who was holding on to a bed. He heard some strokes and then the camp eldest said, "This one is finished, we can go now." The witness looked outside and Hermann was on the ground, dead, with a deep wound in his lung (R 271). The accused, at the line-up at Dachau, admitted he was present when Hermann was stabbed and that he had a hunting knife in his hand (R 283; P-Ex 26A).

Witness Zuk testified that, near Christmas holidays in 1944, he saw the accused mistreat a Czech or Yugoslav inmate by standing on the inmate's throat. Later the inmate died and the witness saw his body on the bed (R 285-287). This witness further testified that, between February and April 1945, four Russian inmates who had escaped were recaptured; that the accused, two block leaders and a few capos took the Russians to a wash room; and that he saw a capo take two of the Russians and drown them in a



keg of water (R 287, 288).

Witness Barta testified that he often saw the accused beat inmates of various nationalities with an oxtail whip. Most of these inmates were Poles, Russians, Yugoslavs and Frenchmen, who were smuggling wood or coal into camp (R 423, 424). Barta further testified that in January 1945 the accused beat a Russian inmate and threw him into a stove. The following day the witness was informed that the inmate had died (R 425).

Another witness, Kaminski, in an extrajudicial sworn statement stated that, at the time of an air raid at Ebensee in October 1944, the accused beat two Polish Jews with a shovel until they died (R 450; P-Ex 32).

Evidence for Defense: The accused did not testify. Witness Wegner testified that the accused was not a bad block leader (R 535). Witness Mueller testified that the accused beat inmates to prevent one Buener from giving them more severe beatings (R 588). The witness further testified that the accused was not connected with the killing of Hermann (R 601). The accused was not present when Hermann was killed (R 614, 615).

Witness Wetterwald testified that Leo, the Frenchman, died from hanging and that there was no blood on his body or clothing (R 716). Hermann was stabbed and not Leo (R 717) and Hermann's body was covered with blood (R 722). Another witness, Ehrle, testified that Hermann was killed in front of his bed and that at that time the accused was at the guardhouse (R 744). While they were carrying the body of Hermann away, the witness saw the accused approach and heard him exclaim, "What on earth happened there?" (R 748). This witness further testified that when inmates were sick, the accused often took his own meal to them (R 752).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the nature and extent of his participation in its findings of guilty. The sentence is not excessive.

Petitions: No Petitions for review were filed. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

REPLICATION CANCELLED



3. Lothar KOBILKE

Nationality:	German
Age:	45
Civilian Status:	Miller
Party Status:	None
Military Status:	SS Corporal
Plea:	NG
Findings:	G
Sentence:	15 years, commencing 16 May 1945

Evidence for Prosecution: The accused was an SS corporal and performed duty at subcamp Ebensee from 26 December 1943 to 5 May 1945 (R 17; P-Ex 5A).

Witness Mueller testified that, toward the end of 1942, the accused beat a Polish inmate with a rubber hose until the inmate became bloody. The accused was attempting to make the victim divulge the name of a civilian who had given him a bowl of potato peelings. Then the accused reported the civilian to the Gestapo and the civilian was punished (R 136). The witness testified that on another occasion, about the end of 1944, the accused beat another Polish inmate with a rubber hose to ascertain the name of the person who had given bread to the inmate (R 136, 137).

Witness Fajks testified that the accused ordered another guard to give a Russian inmate 25 lashes because the Russian had gone into a tunnel to sleep (R 166, 167).

Two witness, Mueller and Lukan, testified that the accused performed duties at the quarry (R 145, 182). Witness Melching testified that, in November 1943 at Wiener-Neudorf, a subcamp of Mauthausen Concentration Camp, he saw the accused beat inmates, principally Frenchmen, with a wire cable (R 267, 268).

Another witness, Ehrle, testified that he saw the accused push Polish inmates around with a rifle butt until they collapsed (R 757); that he regularly heard inmates complain to capos about the accused beating them (R 757); and that the accused beat Polish, Yugoslav and Russian inmates at the quarry so severely that they collapsed (R 758, 759).



Evidence for Defense: The accused testified that he never killed anyone nor did he beat anyone so severely at subcamp Ebensee as to cause death (A 907).

Witness Leiss testified that at the line-up at Dachau, prosecution witness Fajks said that the accused had been a capo at subcamp Ebensee. The witness pointed out his error to Fajks (A 491).

Sufficiency of Evidence: The Court was warranted from the evidence as to the nature and extent of his participation in its findings of guilty. The sentence is not excessive.

Petitions: No Petitions for Review were filed. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

4. Paul BINZENBACH

Nationality:	German
Age:	55
Civilian Status:	Business Man
Party Status:	Member of Nazi Party
Military Status:	SS Technical Sergeant
Plea:	NG
Findings:	G
Sentence:	3 years, commencing 17 May 1945

Evidence for Prosecution: The accused was an SS technical sergeant and served at subcamp Ebensee as a 1st sergeant from 13 January 1944 to 15 January 1945 and at Melk, a subcamp of Mauthausen Concentration Camp, from 15 January 1945 to the end of April 1945. He assisted in the conduct of a transport as deputy transport leader from Melk to Ebensee in April 1945. He served at Ebensee from sometime in April 1945 until the liberation (A 17; P-Ex 6A).

The name of the accused appeared in the death book as having shot and killed an inmate (A 80; P-Ex 17).

Witness Goldstein testified that the accused was transport leader of a transport consisting of 3000 to 4000 inmates who were taken from Melk to



Ebensee in April 1945; that inmates escaped and the accused selected ten inmates who were shot as a reprisal; and that the inmates shot were Poles, Italians, Russians and French. They included the witness' brother, a Polish inmate (R 302-308).

Witness Heinrich, in an extrajudicial sworn statement, stated that in the fall or winter of 1943 the accused was the detail leader on a road construction detail and that he beat and kicked Polish Jews until they collapsed. This witness further stated that he gave inmates 25 lashes for mere trifles (R 473; P-Ex 34A).

Evidence for Defense: Witnesses Wegner, Melching and Fischer testified that they never saw the accused inside the inmate compound at subcamp Ebensee and that he never saw or heard of him beating an inmate (R 531, 532, 546, 547, 574, 575; R 320; P-Ex 27A). Flickert, Franz, and Krause testified that the accused did not shoot the inmate mentioned as having been killed by the accused in the death book (R 796; D-Ex 4A), but that the inmate was shot by a forester (R 542; R 586, D-Ex 2A). Witnesses Dobrzynski, Lutz and Flickert testified that while inmates on the transport from Melk to Ebensee were selected to be shot, they were certain that no one was actually shot (R 670-674, 776, R 796; D-Ex 4A).

By his testimony, the accused denied that he was at subcamp Ebensee in the winter of 1943 and denied the veracity of the statement made by witness Roth in an extrajudicial sworn statement (R 473; P-Ex 34A). The accused arrived in subcamp Ebensee in January 1944. The accused further testified that he had no duties connected with inmates at subcamp Ebensee (R 828). In connection with the transport from Melk to Ebensee, the accused testified that no one was killed on the transport (R 830); that 25 inmates escaped from the transport (R 830); that SS Lieutenant Reischenbach, the transport commander, was drunk and had 20 inmates selected who he said were to be shot and that later on SS Captain Schiffter, together with SS Sergeant Kramer, managed by subterfuge to smuggle the 20 so selected into the camp; and that the 20 were not shot and were unharmed (R 830-832).

As to the incident which resulted in his name being placed in the death book, the accused testified that he shot at the inmates.



sickle until his ammunition was exhausted and that then the inmate was shot and killed by a forester who accompanied the search party (A 832-838).

Sufficiency of Evidence: The Court was warranted from the evidence as to the extent and nature of his participation in its findings of guilty. The sentence is not excessive,

Petitions: No Petitions for review were filed. No Petitions for Clemency were filed.

Recommendation: That the findings and the sentence be approved.

5. Emil EULEN

Nationality:	German
Age:	63
Civilian Status:	Police Sergeant
Party Status:	Member of Nazi Party
Military Status:	SS First Lieutenant
Plea:	NG
Findings:	G
Sentence:	10 years, commencing 17 May 1945

Evidence for Prosecution: The accused was an SS first lieutenant and performed duty at subcamp Ebensee from 12 March 1944 to 5 May 1945 as a guard and as commanding officer (A 17, P-Ex 7A).

Witness Havlicek testified that, in November 1944 near a gasoline station at Ebensee, the accused beat two Hungarian Jews with a broken shovel handle and set a dog on them. When the witness assisted the inmates, the accused beat him and set the dog on him. The accused took their numbers and later the Jewish inmates and the witness were beaten. All were severely injured and were hospitalized. The witness exhibited scars he still bore from the dog bites (A 19-23). In December 1944, the witness saw inmates suffering from diarrhoea jumping from a latrine. They were followed by the accused and a dog (A 23). Witnesses Folger and Friese testified that the accused was known by the nickname, "the Killer" (A 24, 39, 46). Folger further testified that he knew the accused as an SS master sergeant and commanding officer of the guard at Gusen, a subcamp of Mauthausen Concentration Camp; that the accused beat Soviet prisoners of war.



up fallen fruit (R 39). Friese further testified as did Felez, Wegner, and Jehn that they heard the accused instruct his guard company to be hard with the inmates and to shoot to kill, if the inmates ran away (R 46, 62, 64, 70, 127).

Witness Rose testified that, in January 1944 about 20 to 25 meters from the main gate, he saw the accused beat two Polish inmates with a spade handle until they lay prostrate on the ground. He never saw the inmates again, although they were on his detail (R 53). This witness further testified that it was common knowledge that the accused beat and kicked inmates (R 56). Felez further testified that the accused beat a Polish inmate and kicked him (R 61). Wegner further testified that the accused was lieutenant of the guard and camp commander at Ebensee in the spring of 1944; that in the spring of 1944 he saw the accused beat a non-German inmate with a branch of a tree so severely that the inmate collapsed and died; that he saw the body taken to the crematory (R 68); that during the summer of 1944, while the witness was on a work detail near the KLaer works outside Camp Ebensee, the accused shot two Jews who were too weak to work (R 69); that in June or July 1944 he saw the accused set the dog known as "Lad", which belonged to one Bachmeier, on two non-German inmates; and that the inmates collapsed and their bodies were later taken to the crematory (R 70).

Witness Kotieschoweg in an extrajudicial sworn statement stated that the accused directed that inmates who did not fall in promptly were to be beaten with clubs and riding whips by the capos (R 132; P-Ex 21, pp. 5, 6). Witness Fojks, a former Polish inmate, testified that the accused beat him (R 165) and that, at the stone quarry in Ebensee, he saw the accused kick inmates of various nationalities because they did not walk fast enough (R 165). Witness Barta testified that, toward the end of the summer of 1944, he saw the accused set his dog on two Russians who were torn to pieces (R 422).

Evidence for Defense: Witnesses Keresti, Frombach, Goennemen, and Borkenstein testified that they never saw or heard of the accused beating or killing any inmate (R 522, 551, 567, 822). Witness Havlicek testified that he never saw a dog with anybody but a dog leader (R 32). Witness Friese



testified that while at Ebensee he never saw the accused shoot any inmate attempting to escape (R 47).

The accused, in an extrajudicial sworn statement, stated that he instructed his guard company to shoot inmates attempting to escape, if they did not halt after the guard had shouted "Halt" three times (R 263; P-Ex 25A). A witness corroborated this statement (R 552). Witness Goenneman testified that he never saw the accused enter the inmate compound at sub-camp Ebensee (R 567). The witness never saw the accused with a dog (R 568).

The accused testified that he never had a dog at Ebensee (R 914); that he never kicked or set a dog on Jews at Ebensee (R 915); and that he never permitted anyone to disable an inmate by beating (R 917). The accused further made a general denial of the testimony of various prosecution witnesses (R 927-929).

Sufficiency of Evidence: The Court was warranted from the evidence as to the nature and extent of his participation in its findings of guilty. The sentence is not excessive.

Petitions: No Petitions for review were filed. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

6. Stefan KAUS

This accused was acquitted (R 999).

7. Mathaeus MEIER

Nationality:	German.
Age:	44
Civilian Status:	Milker
Party Status:	None
Military Status:	None
Plea:	NG
Findings:	G
Sentence:	20 years, commencing 11 June 1945

Evidence for Prosecution: Witness Starkmann testified that the accused was his superior capo in Walz, a subcamp of Mauthausen Concentration



Camp; that in April 1945 while the witness was going to the dispensary he saw two russians hanging in a bombed-out building; that the accused was the only man there and he came out with blood on his hands; and that he overheard the accused say to other inmates, "I will help you like I helped those two russians" (R 344). In April 1945 the accused beat and killed a Polish Jew by the name of Solomon Tochermann with a spade handle. The victim came from the witness's home town. The victim, after being beaten by the accused, lay in a pool of blood for four or five hours while the detail was working. After the work was over, the witness checked this victim's pulse and found that he was dead (R 345, 346).

The witness further testified that in April 1945 the accused killed another Polish Jew by the name of Sadual Zyssmann. Zyssmann died as a result of being beaten with a stick and rubber hose (R 346, 347). During April 1945, when it was cold and raining, the clothing of inmates consisted of only a jacket, shirt and drawers. They had no overcoats, but put their blankets underneath their jackets to keep themselves warm. The accused announced that, if he found blankets on anybody, he would give them 25 lashes or kill them (R 348).

Another witness, Lozmarin, testified that the accused was the capo of his work detail at Wetz in 1945 (R 363, 364). At the railroad station in Wetz, the witness picked up a potato. The accused saw him and beat him to the ground. The accused kicked him in the mouth and knocked out two front teeth (R 364, 365). The witness further testified that the accused said, "As long as I am a capo I will destroy all the Jews". The accused beat the witness on a second occasion with pieces of iron and stone (R 365). The accused beat other Jewish inmates at other times and on one occasion beat approximately 20 inmates (R 366). In beating the accused used stones or anything handy.

The witness further testified that, one night on coming back from work, four russians escaped and were recaptured. On the following day the witness saw the accused take some rope and go out with the russians and other SS men. About 20 minutes later the accused came back. His hands were covered with blood. After awhile some inmates came back with four russians



stretcher (d 367, 368). The witness further testified that the four Russians were ordered hanged by the camp commander but that the accused had volunteered to hang the Russians (d 369, 370).

Evidence for Defense: Witness Goenneman testified that he knew the accused at Welz on a railroad construction detail. He never saw or heard of the accused beating an inmate (d 566). No one was hanged during the time that the witness was at Welz (d 566). This witness further testified that the accused was beaten for taking food belonging to the National Socialist Welfare and distributing it among his inmate laborers (d 569). Witness Mueller testified that he never heard of the accused having hanged anybody at Welz. Only one man was killed at Welz by a capo. He was killed by one Hartmann, a capo called "Gypsy" who resembled the accused. The victim was a Russian and was killed the day before the transport left Welz for subcamp Ebensee (d 602).

The accused testified that he did not beat anyone to death at Welz and never killed anyone at Welz. The only inmate killed at Welz, a Russian, was killed by one Hartmann (d 890). The accused admitted that he beat a Russian who attacked other inmates and was said to have stolen their bread (d 890). He also admitted that he beat 15 to 20 Russian inmates at Welz with his fist (d 894). He denied that he beat the witness who testified that the accused had kicked his front teeth out (d 898). The accused further testified that he was an assistant capo at Welz (d 899).

Sufficiency of Evidence: The Court was warranted from the evidence as to the nature and extent of his participation in its findings of guilty. The sentence is not excessive.

Petitions: No Petitions for Review were filed. A Petition for Clemency was filed by accused, 5 January 1948.

Recommendation: That the findings and sentence be approved.

8. Karl PETRINA

This accused was not tried, but was apparently served.

9. Paul DEISTLER

Nationality: German

Age: 42



Civilian Status:	Business Man
Party Status:	Member of Nazi Party
Military Status:	SS Corporal
Plea:	NG
Findings:	G
Sentence:	3 years, commencing 8 May 1945

Evidence for Prosecution: The accused was on duty as a guard at sub-camp Ebensee from 12 January 1944, to 5 May 1945 (R 17; P-Ex 10A).

Witness Lukan testified that the accused performed duty once or twice a week at the stone quarry at Ebensee (R 182). Witness Romanowicz testified that in August 1944 he saw the accused beat inmates at the stone quarry at Ebensee. The accused beat the witness with an oxtail whip and set a dog on him. The witness exhibited dog bite scars to the Court (R 322, 323).

Evidence for Defense: Witness Fischer testified that he never saw the accused beat an inmate at Ebensee (R 582). Another witness, Mueller, testified that he met the accused in May 1944 through the camp eldest. The accused furnished the witness, who was assigned to landscaping, 200 pounds of flower and vegetable seeds. Otherwise, the inmates would have to carry grass from a far distant point to cover the area. The witness testified that he never saw the accused with a dog (R 605). Schmitz testified that he knew the accused at subcamp Ebensee and never saw him beat an inmate at subcamp Ebensee (R 734). Witness Ehrle testified that he knew the accused at Traunkirchen. The accused <sup>never</sup> beat inmates, but treated them decently (R 749). Accused BINZENBACH testified that the accused never owned a dog and that no guard or company clerk was allowed to visit work details on off hours (R 838).

The accused testified that he was a guard and clerk in the finance office. He never visited the quarry with the dog (R 957). He further testified that he never beat inmates (R 958). He once slapped an inmate, who had refused to return his cigarette lighter to him after he had lost it and was found by the inmate (R 958). The accused further testified that he was only at the quarry once or twice a week (R 961).



Sufficiency of evidence: The Court was warranted from the evidence as to the nature and extent of his participation in its findings of guilty. The sentence is not excessive.

Petitions: No Petitions for Review were filed. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

10. Max GAUFZl

Nationality:	Austrian
Age:	42
Civilian Status:	Shoemaker
Party Status:	Member of Nazi Party
Military Status:	SS Sergeant
Plea:	NG
Findings:	G
Sentence:	10 years, commencing 16 May 1945

Evidence for Prosecution: The accused was a guard at subcamp Ebensee from April 1944 to 5 May 1945 (d 17; P-Ex 11A)

Witness Kaminski, in an extrajudicial sworn statement, stated that in August 1944 the accused was in charge of a detail of 30 inmates, walking three abreast, proceeding to Steinkagel. The accused directed that if anyone stepped out of rank he would be shot. At about 100 meters from Steinkagel, an inmate stumbled and fell and the accused fired three shots into the inmate and the witness saw the body of the inmate removed. The victim was a Polish Jew. The witness further testified that the accused saw him pick up a package containing bread; that the accused then hit him over the head with a pistol, leaving a permanent scar; and that when he fell, the accused kicked him with a hobnailed shoe, leaving a scar on his right leg (d 450; P-Ex 32).

Witness Ehrle testified that in October 1943 or 1944, he saw the accused beat three Polish and Yugoslav inmates, using a rifle butt (d 761, 762). The accused sometimes hit inmates, employing whatever weapon he had handy. On one or more occasions the accused beat inmates who were on the road construction detail (d 762).



Evidence for Defense: Witness Mueller testified that he never saw the accused beat anyone (A 606). Moreover he never heard of the accused beating or killing anybody (A 606).

The accused testified that he never shot a man to death at subcamp Ebensee (A 901). At subcamp Ebensee he slapped inmates on three occasions (A 901), and slapped two or three inmates at subcamp Wiener-Neudorf (A 903). The accused further testified that he was on duty at the stone quarry at Ebensee about once a month (A 903) and that from time to time he saw sick inmates carried back from the stone quarry (A 905).

Sufficiency of Evidence: Austria was a co-belligerent of Germany. The Court was warranted from the evidence as to the nature and extent of his participation in its findings of guilty. The sentence is not excessive.

Petitions: No Petitions for review were filed. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

11. Paul ROSENTHAL

This accused was not served nor tried.

12. Otto SCHIFFTER

This accused was acquitted (A 1000).

13. Albert WIENER

Nationality:	Romanian
Age:	29
Civilian Status:	Unknown
Party Status:	None
Military Status:	SS Corporal
Plea:	NG
Findings:	G
Sentence:	3 years, commencing 14 August 1945

Evidence for Prosecution: The accused stated in his extrajudicial sworn statement that he was a guard at Mauthausen subcamps Gusen, Grossraming, Wiener-Neudorf and Ebensee from May 1943 until October 1944, when he was transferred to Camp Dachau (A 17; P-Ex 13). Witness Lukon testified



The witness further testified that the accused was present at the stone quarry at subcamp Ebensee every fourth day (d 182). An entry appeared in the death book (P-Ex 17, pp. 46, 47, #477) indicating that on 5 December 1944 the accused had shot and killed a Yugoslav.

Evidence for Defense: Witness Keresti testified that he remembered the incident which resulted in the accused's name being present in the death book; that he saw Technical Sergeant Schuh shooting at an inmate and running in the direction of the woods; and that he hit the inmate and the victim broke down. He did not know whether the inmate died. After the shooting, the victim was taken to the dispensary. After the shot was fired, Schuh gave the gun back to ~~WIENER~~ (d 520). Emil Mueller, a witness called by the prosecution, testified that block leader Blener mistreated him and that if the name of the person appears as ~~WIENER~~, that was an error. ~~WIENER~~ was never a block leader in subcamp Ebensee (d 586, 587). Another witness, Frombach, testified he did not know of the accused beating anyone (d 552).

Sufficiency of Evidence: Romania was a co-belligerent of Germany. The Court was warranted from the evidence as to the nature and extent of his participation in its findings of guilty. The sentence is not excessive.

Petitions: No Petitions for review were filed. A Petition for Clemency was filed by accused, 23 February 1948.

Recommendation: That the findings and sentence be approved.

#### VI. 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, 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 J.G-AGO, subject: "Trial of War Crimes Cases," 14 October 1946, and the Parent Case). All of the convicted accused were shown to have par-



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 which resulted in injustice to the accused.

VII. 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.

E. L. MEYER  
Capt CWP  
Post Trial Branch

Having examined the record of trial, I concur, this 2 Apr day of  
April 1948.

C. E. STRAIGHT  
Lieutenant Colonel, JAGD  
Deputy Judge Advocate  
for War Crimes