

DEPUTY JUDGE ADVOCATE'S OFFICE  
7706 WAR CRIMES GROUP  
EUROPEAN COMMAND  
APO 407

1 September 1947

UNITED STATES )

v. )

Michael VOGEL, et al. )

Case No. 000-50-2-112

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 8-15 July 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

FIRST CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Michael Vogel, Ludwig Silbermann, Franz Neubauer, Ludwig Albert, Johann Hinterseer, Johann Trummer, Robert Pahl, Josef Riener, Wilhelm Suess, Josef Berger, Wilhelm Deeg, Josef Unrecht acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual (s) aiding in the operation of the Dachau Concentration Camp and camps subsidiary thereto, did, at or in the vicinity of DACHAU and LANDSBERG, Germany, between about 1 January 1942 and about 29 April 1945, willfully, deliberately, and wrongfully encourage, aid, abet and participate in the subjection of civilian nationals of nations then at war with the then German Reich to cruelties and mistreatment, including killings, beatings, tortures, starvation, abuses and indignities, the exact names and number of such civilian nationals being unknown but aggregating many thousands who were then and there in the custody of the German Reich in exercise of belligerent control.

SECOND CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Michael Vogel, Ludwig Silbermann, Franz Neubauer, Ludwig Albert, Johann Hinterseer, Johann Trummer, Robert Pahl, Josef Riener, Wilhelm Suess, Josef Berger, Wilhelm Deeg, Josef Unrecht acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual(s) aiding in the operation of the Dachau Concentration Camp and camps subsidiary thereto, did at or in the vicinity of DACHAU and LANDSBERG, Germany, between about 1 January 1942 and about 29 April 1945, willfully, deliberately and wrongfully encourage, aid, abet and participate in the subjection of 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 cruelties and mistreatment, including killings, beatings, tortures, starvation, abuses and indignities, the exact names and number of such prisoners of war being unknown, but aggregating many hundreds.

tration Camp which were located in the vicinity of Muhlendorf, Germany, were known as the Muhlendorf Ring. Some 8,300 prisoners were confined in these camps and of this total almost 4,000 died as a result of shootings, beatings, disease, malnutrition, being sent to the extermination camp at Auschwitz, or while being shipped on transports. Each of the convicted accused, except UNRECHT, was an SS guard in this group of outcamps for a considerable period of time between the dates alleged and were shown to have committed many individual acts of cruelty. UNRECHT was a camp capo whose brutality was shown by a large number of witnesses. Prosecution's P-Ex 8 is a certified copy of the charges, particulars, findings, and sentences in the Parent Dachau Concentration Camp Case (United States v. Weiss, et al., 000-50-2, March 1946; R 21, hereinafter referred to as the "Parent Case", see Section V, post).

IV. EVIDENCE AND RECOMMENDATIONS:

1. MICHAEL VOGEL

Nationality:	Rumanian
Age:	39
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Guard
Plea:	NG Charge I; NG CHARGE II
Findings:	G Charge I; G Charge II
Sentence:	Life Imprisonment

Evidence for Prosecution: Witness Alter testified that the accused beat inmates many times with a stick and rifle (R 109, 110). Witness Sobel testified that at Forest Camp, an outcamp in the Muhlendorf Ring, the accused was the terror of the camp and that he was known as a murderer and that he beat inmates (R 151, 152). Witness Korn testified that the accused beat inmates with a stick and rifle and that he shot to death an inmate who could not walk (R 169-171). Witness Snessmann testified that the accused mistreated many inmates and that he beat one inmate so severely that he

died the same night (R 188). Witness Szmidt testified that the accused beat him and other inmates who were carrying the dead body of a fellow inmate (R 199, 200). Witness Herskowitz testified that the accused shot a young boy who was on the outside of a prisoner transport (R 215, 216). The accused took part as a guard in a prisoner evacuation transport from Muhldorf to Poing in April 1945 (R 276).

Evidence for Defense: The accused testified that he was drafted into the SS (R 273), and that he never shot anybody nor beat anybody to death (R 273, 276).

Sufficiency of Evidence: Rumania was a co-belligerent of Germany. The findings of guilty are warranted by the evidence. The sentence is not excessive.

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

Recommendation: That the findings and sentence be approved.

2. LUDWIG SILBERMANN

The accused was served but not tried (R 1).

3. FRANZ NEUBAUER

Nationality:	Austrian
Age:	30
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Guard
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	Life Imprisonment

Evidence for Prosecution: Witness Schuster, an inmate of Muhldorf, testified that the accused beat sick inmates who were being sent on a transport from Muhldorf and that many of them died on the cars before the transport left (R 68-70). Witness Glass testified that the accused beat sick inmates in order to get them to air raid shelters faster; that he beat other inmates without mercy; that one inmate died as a result of a beating administered by the accused; that he beat two French inmates who later died; and

that he took Red Cross parcels away from inmates (R 82-84, 91, 92). Witness Baumann testified that the accused was second roll call leader at Muhlendorf and on one occasion he beat both male and female inmates while a transport was being loaded (R 117, 118). Witness Herskowitz testified that the accused kicked sick inmates and required them to work even though a medical officer had pronounced them unfit for performing labor (R 214, 215). In his testimony, the accused admitted slapping prisoners (R 229).

Evidence for Defense: On cross-examination, witness Schuster testified that the accused was "quite a good person in the camp" (R 75). The accused testified that he was involuntarily transferred into the SS for guard duty because he was unfit for frontline duty (R 227, 228); that he never beat or shot anyone to death (R 228, 229); that he only slapped inmates because, if he had reported them, they would have received greater punishment (R 229, 230); that he was not in charge of deciding how many calories and how much medical supplies would be made available to inmates, or how many hours a day the inmates would work (R 271).

Sufficiency of Evidence: Austria was a co-belligerent of Germany. The findings of guilty are warranted by the evidence. The sentence is not excessive.

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

Recommendation: That the findings and sentence be approved.

4. LUDWIG ALBERT

The accused was served but not tried (R 1).

5. JOHANN HINTERSEER

Nationality:	German
Age:	50
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Guard

Findings: G Charge I; G Charge II  
Sentence: Life Imprisonment

Evidence for Prosecution: Witness Judel, an inmate of Muhlendorf, testified that the accused beat him and other inmates; that the accused was always cruel and harsh; and that one inmate died as a result of a beating administered by the accused (R 33-36). Witness Fleischmann testified that he had hemorrhages for two weeks as a result of a beating given him by the accused (R 43). Witness Harskowitz described as to how the accused beat one inmate who was warming at a fire, and that he later heard that the inmate had died. The accused made inmates remove their outer garments in severe weather resulting in many lung ailments (R 219, 220).

Evidence for Defense: The accused did not testify at the trial but relied solely upon his extrajudicial sworn testimony in which he stated that he gave inmates bread and cigarettes and that he never beat them (R 133; P-Ex 24, p. 3).

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

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

Recommendation: That the findings and sentence be approved.

6. JOHANN TRUMMER

Nationality: Austrian  
Age 37  
Civilian Status: Unknown  
Party Status: Unknown  
Military Status: SS Guard  
Plea: NG Charge I; NG Charge II  
Findings: G Charge I; G Charge II  
Sentence: 4 years, commencing 1 May 1945.

Evidence for Prosecution: Witness Judel, an inmate of Muhlendorf, testified that the accused beat inmates and that he denied them the necessary materials for building fires, resulting in many deaths from the cold

mates and that he took fuel away from them for his own use (R 44-46).  
Witness Herskowitz testified that the accused beat inmates who were not  
fast enough in carrying heavy concrete blocks (R 217, 218).

Evidence for Defense: Witness Judel testified that the accused did  
not beat as severely as other guards (R 40). The accused elected not to  
take the stand in his own behalf.

Sufficiency of Evidence: Austria was a co-belligerent of Germany.  
The findings of guilty are warranted by the evidence. The sentence is not  
excessive.

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

Recommendation: That the findings and sentence be approved.

7. ROBERT PAHL

The accused was served but not tried (R 1).

8. JOSEF RIEMER

This accused was acquitted (R 325).

9. WILHELM SUESS

Nationality:	German
Age:	56
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Guard
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	15 years, commencing 1 May 1945

Evidence for Prosecution: Witness Schuster, a prisoner who was on  
the evacuation transport from Muhl Dorf, testified that at Poing the accused  
shot at prisoners and that he bayoneted one who died as a result (R 62-64, 71-  
74). Witness Alter testified that the accused continually beat inmates who were  
under him (R 108, 109). Witness Martin testified that the accused used a

ities committed by the accused against him and other inmates (R 142, 143). Witness Korn testified that the accused beat inmates who tried to fry potatoes (R 172). Witness Szmidt testified that the accused beat two prisoners to death on a prisoner transport (R 200-202).

Evidence for Defense: The accused elected to remain silent and no evidence was offered by him nor in his behalf.

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

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

Recommendation: That the findings and sentence be approved.

10. JOSEF BERGER

The accused was served but not tried (R 1).

11. WILHELM DEEG

The accused was served but not tried (R 1).

12. JOSEF UNRECHT

Nationality:	German
Age:	36
Civilian Status:	Unknown
Party Status:	None
Military Status:	None
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	Life Imprisonment

Evidence for Prosecution: Witness Udeaki, who was an inmate when less than 10 years old, testified that the accused, who was camp capo, beat him and caused him to receive additional punishment blows from which he became unconscious; that he saw the accused beat an inmate so severely that the inmate died the same evening; and that the accused committed homosexual acts with young boys (R 49-54). Witness Schuster, a former inmate, testified that the accused beat inmates with a large stick and committed

Witness Kahan, a former inmate, testified that the accused beat him with a broom until he became unconscious, that many of the prisoners whom the accused beat died, and that after he no longer desired homosexual relations with a particular prisoner, he would have such prisoner placed on a transport for the extermination camp at Auschwitz (R 100-105). Witness Alter testified that the accused "finished off" inmates who were too weak to be sent out to work (R 110). He beat them every day until they were dead. Witness Baumann testified that the accused was a severe beater and that he used to take Red Cross parcels from the inmates (R 120). Witness Martin testified that the accused made life very difficult for the inmates and that he took gold teeth, crowns, and fillings from inmates as bribes for not reporting them (R 125, 126).

Evidence for Defense: The accused testified that he never beat nor shot anybody to death (R 295), that he never committed a homosexual act but while at Camp Buchdorf he confessed to such acts in order to be transferred from the camp (R 297). He did not receive better food or more cigarettes because he was a capo (R 299).

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

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

Recommendation: That the findings and sentence be approved.

#### 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, etc., and was warranted in



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). The convicted accused were shown to have participated in the mass atrocity and the Court was warranted by 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 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.

VI. CONCLUSIONS:

1. It is recommended that the findings and sentences be approved.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

/s/ George M. Lentz

GEORGE M. Lentz  
Captain, JAGD  
Post Trial Branch

Having examined the record of trial, I concur,  
this 7th day of Oct 1947.

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