

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

14 May 1947

UNITED STATES )

vs )

Andreas MUELLER, Otto Karl )  
MUELLER, Reinhold PATZER, Georg )  
PETERMANN, Wilhelm ROHMER, Ludwig )  
ROTTMAIER, Hermann SCHROEFL, and )  
Franz SCHUSTETTER. )

Case No. 000-50-2-12

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA:

Tried at Dachau, Germany  
Date: 5-6 November 1945  
Intermediate Military Government Court

<u>ACCUSED</u>	<u>DATA</u>	<u>SENTENCE</u>
MUELLER, Andreas	Age 43 Roumanian national Guard at Dachau (canning factory Wulfert). Rank: Unknown	1 year and 8 months confinement from 1 May 1945
MUELLER, Otto Karl	Age 42 German national SS guard Dachau (factory Praezifix) Rank: Corporal	2 years confinement from 1 May 1945
PATZER, Reinhold	Age 40 German national SS Guard outcamp Augsburg and Muehldorf Rank: Private	2 years confinement from 16 May 1945
PETERMANN, Georg	Age 42 German national SS guard at Dachau and outcamps Neu Aubling and Germering	2 years confinement from 1 May 1945
ROHMER, Wilhelm	Age 42 German national SS driver at Camp Dachau Rank: Unknown	Acquittal
ROTTMAIER, Ludwig	Age 30 German national SS guard Dachau Rank: Unknown	2 years, 6 months confinement from 2 July 1945
SCHROEFL, Hermann	Age 49 German national SS guard Dachau and out-camp Muenldorf	1 year, 6 months con- finement from 26 May 1945

ACCUSEDDATASENTENCE

SCHUSTETTER, Franz	Age 56 German national SS guard outcamp Muehldorf Rank: Unknown	1 year, 6 months confinement from 4 May 1945
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FIRST CHARGE: Violation of the Laws and Usages of War.

Pleas    Findings

PARTICULARS: In that Andreas MUELLER, Otto Karl MUELLER, Reinhold PATZER, Georg PETERMANN, Wilhelm ROHMER, Ludwig ROTTMAIER, Hermann SCHROEFL, Franz SCHUSTETTER acting in pursuance of a common design to commit the acts hereinafter alleged, and as individuals aiding 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, wilfully, deliberately and wrongfully participate in the subjection of civilian nationals of nations then at war with the then German Reich to cruelties and mistreatment, the exact names and numbers of such civilian nationals being unknown but aggregating many thousands who were then and there in the custody of the then German Reich in exercise of belligerent control.	Andreas MUELLER Otto Karl MUELLER Reinhold PATZER Georg PETERMANN Wilhelm ROHMER Ludwig ROTTMAIER Hermann SCHROEFL Franz SCHUSTETTER	NG NG NG NG NG NG NG NG	G G G G NG G G G
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SECOND CHARGE: Violation of the Laws and Usages of War.

Pleas    Findings

PARTICULARS: In that Andreas MUELLER, Otto Karl MUELLER, Reinhold PATZER, Georg PETERMANN, Wilhelm ROHMER, Ludwig ROTTMAIER, Hermann SCHROEFL, Franz SCHUSTETTER acting in pursuance of a common design to commit the acts herein-after alleged, and as individuals aiding in the operation of the Dachau Concentration Camp, did, at or in the vicinity of DACHAU, Germany, between about 1 January 1942 and about 29 April 1945, wilfully, deliberately, and wrongfully 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, the exact names and numbers of such prisoners of war being unknown but aggregating many hundreds.	Andreas MUELLER Otto Karl MUELLER Reinhold PATZER Georg PETERMANN Wilhelm ROHMER Ludwig ROTTMAIER Hermann SCHROEFL Franz SCHUSTETTER	NG NG NG NG NG NG NG NG	G G G G NG G G G
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2. RECOMMENDATIONS: That the findings and sentences be approved except that the sentence imposed in the case of Ludwig ROTTMAIER be reduced to confinement for a period of 18 months.

3. EVIDENCE:

For the Prosecution: Prosecution's case was based on extrajudicial sworn testimony as hereinafter indicated. Prosecution's Exhibit 1 is a certified copy of the charges, particulars, findings and sentences in the parent Dachau case (U.S. vs. Weiss et al., 000-50-2, March 1946; R 7). Prosecution's Exhibits 2 thru 9 consist of extrajudicial testimony of each of the accused (R 7 thru 15).

It was shown that all of the accused, with the exception of Andreas MUELLER and Wilhelm ROHMER, were SS guards at Camp Dachau and/or outcamps or work details thereof for a considerable length of time between the dates alleged. Accused ROHMER was an SS driver at Camp Dachau. Rank or membership in the SS as to Andreas MUELLER does not appear in the record.

For the Defense: Defense's case was based upon an extrajudicial statement on behalf of accused ROHMER (D-Ex. 1, R 16), the testimony of accused SCHROEFL (R 16 thru 18) and the evidence contained in the extrajudicial testimony of the accused (P-Ex. 2 thru 9; R 7 thru 15).

Accused MUELLER, Andreas, was a guard at the canning factory Wulfert from September 1943 to April 1945 (P-Ex. 2, R 7). There were 280 to 300 prisoners of Polish, Russian and German nationalities, working in the factory Wulfert. On or about 27 April 1945 all prisoners were transferred to Camp Dachau. Accused from August 1943 to September 1943 was in Camp Dachau (P-Ex. 2, R 7).

In defense, accused seldom spoke to prisoners. Prisoners lived at the factory, were well fed, had good billets and enough blankets. Accused was never in Camp Dachau other than for basic training (P-Ex 2, R 7).

Accused MUELLER, Otto, was an SS guard at Camp Dachau with duties at factory Praezifix from August 1944 to April 1945 (P-Ex. 3, R 9).

There were approximately 380 prisoners, French, Poles, Czechs, Russia Dutch and Belgian, that worked at the factory Praezifix. At the end of April 1945, all prisoners except 115 were transferred to Camp Dachau. The 115 prisoners, Russians, Austrians and Germans, were taken to Wolfratshausen by prisoner march which lasted two days. Accused participated in said march as a guard (P-Ex. 3, R 9).

In defense, accused never saw or heard of any beatings or mistreatment of prisoners. The prisoners at factory Praezifix slept and were fed there. They were fed very well. No prisoners were mistreated on the march (P-Ex. 3, R 9).

Accused PATZER was an SS guard at outcamp Augsburg (Michael Flaig 2 ) from September 1944 to 17 April 1945 (P-Ex. 4, R 10). There were approximately 500 Hungarian women prisoners working in the plant in two 12-hour shifts. The SS men guarded hallways in front of the work rooms, while SS women were on guard in the work rooms. On 17 April 1945, he participated in prisoner transport as guard from outcamp Augsburg to outcamp Muehldorf. There were approximately 35 prisoners confined in each railroad car on the transport. At Muehldorf he stood guard outside the factory "Zannberg". He also escorted prisoners marching to and from the factory, the march taking approximately 20 minutes each way. At Muehldorf all of the prisoners were forced to wear wooden shoes (P-Ex. 4, R 10).

In defense, accused never mistreated prisoners nor did he ever see prisoners mistreated at Augsburg. Medical aid was available for the prisoners at the factory. The prisoner transport was of 13 hours duration. Prisoners carried rations with them and were allowed off the train at regular stops. At Muehldorf the prisoners lived in wooden barracks. The accused never did camp guard duty at Camp Muehldorf. After three days at Muehldorf accused was hospitalized and remained at the hospital until his capture (P-Ex. 4, R 10).

Accused PETERMANN was an SS guard at outcamp Neu Aubling from 5 August 1944 to about 20 August 1944; outcamp Germering from 20

August 1944 to October 1944; Camp Dachau from October 1944 to 26 April 1945 (P-Ex. 5, R 11). Approximately 300 prisoners from Camp Neu Aibling worked in the Dornier factory. At Camp Germering, approximately 300 prisoners worked in either the airplane factory or in the construction of barracks. In the first part of October 1944, all of the prisoners were transferred to Camp Dachau. From October 1944 to 26 April 1945, he was camp guard or work detail guard at Camp Dachau. On 26 April 1945, accused participated as guard in prisoner march from Camp Dachau to Benarberg, arriving at Benarberg on 30 April 1945. The prisoner march leader was RUPPERT, who was convicted in the Camp Dachau case (U.S. vs. Weiss, et al., 000-50-2, March 1946) (P-Ex. 5, R 11).

In defense, accused never saw any prisoners beaten or mistreated at Camp Dachau or any of the outcamps, nor did he mistreat any prisoners. He did not see any sick prisoners on the march. From 8 December 1944 to 2 March 1945, he was in the Dachau hospital (P-Ex. 5, R 11).

Accused ROTTMAIER was an SS guard at Camp Dachau from 6 June 1944 to 27 April 1945 (P-Ex. 7, R 13). From 20 September 1944 to 27 April 1945, he was bunker guard of bunker where the prominent people of various nationalities were confined (P-Ex. 7, R 13). Defense witness Dr. RICHDE, upon examination by the Court, testified that prisoners were punished and killed in Camp Dachau (R 25). The prominent people bunker was in two parts--small cabins for normal persons being one part, the other a "specialty, a very small room in which you can only stand right straight" (R 25). He saw smoke coming from the chimney of the crematory (R 27). He saw the accused inside the bunker (R 27).

In defense, accused never heard of or saw any prisoners beaten, shot or starved. He did not see smoke coming from the crematory; nor did he see any prisoners that looked bad (P-Ex. 7, R 13). Defense witness Dr. RICHDE testified that in November 1944 he was prisoner in Camp Dachau and became acquainted with accused ROTTMAIER who was a guard at that time (R 19). The accused treated prisoners as well as

he could and never mistreated any prisoners (R 23). The accused gave the prisoners cigarettes, food and bread (R 27). The witness escaped from Camp Dachau by car with a chauffeur and the assistance of ROTTMAIER (R 20). He discovered that the accused was not a Nazi so he was included in the plan to escape, which was accomplished on or about 27 April 1945 (R 25). After the escape the witness and accused separated; the accused having a bicycle went his own way (R 26). In July or August 1945 the witness learned accused was a prisoner of war and wrote letters to the accused's wife and the burgomaister of Fahrenberg to help his release (R 26; D-Ex. 2, R 21; D-Ex. 3, R 22).

Accused SCHROEFL was an SS guard at Camp Dachau from 25 July 1944 to 1 September 1944 (P-Ex. 8, R 14). He was work detail guard at the plantation, the horticulture farm Nuetzel and the vegetable cellar. From 1 September 1944 to 17 January 1945, he was at outcamp Muehldorf as camp guard and work detail guard. He saw camp eldest ROHR beat prisoners. He witnessed as a guard the arrival of a prisoner transport of approximately 300 prisoners. There were 25 to 30 prisoners in each box car. All prisoners in the camp wore wooden shoes (P-Ex. 8, R 14).

In defense, accused while at Camp Dachau did not see any prisoners mistreated, and at outcamp Muehldorf the only mistreatment of prisoners he saw was when camp eldest ROHR beat prisoners. When he, the accused, stopped immediately. The work details he guarded at Camp Dachau and outcamp Muehldorf worked from 0700 to 1200 and from 1300 to 1700. He helped prisoners at Camp Muehldorf by giving them bread on the march to work (P-Ex. 8, R 14).

Accused SCHUSTETTER was an SS guard at Camp Dachau from 10 October 1944 to 20 November 1944; outcamp Muehldorf 20 November 1944 to 1 May 1945 (P-Ex. 9, R 15). The accused was a tower guard and he was also a work detail guard at Muehldorf Camp M-1. There were 1200 to 1500 prisoners of French, Russian, Greek and Lithuanian nationalities. During the time accused was a tower guard he heard shrieks coming from the prisoners' barracks. He heard that the prisoners were

300 were transferred from Camp Muehldorf by train. The prisoners remained behind due to sickness. Approximately 10 days later a used by prisoner march, delivered to Camp Walvlager 150 of the prisoners that could walk. Camp commander of Camp Muehldorf was LANGLEISS who was convicted in the parent Dachau case (U.S. vs. Weiss, et al., 000-50-2, March 1946) (P-Ex. 9, R 15).

In defense, accused was only in Camp Dachau for basic training. He never was inside Camp Muehldorf so did not see prisoners mistreated there. No prisoners were mistreated on the work details. He did not participate in prisoner marches other than the delivery of prisoners to Camp Walvlager which was only three kilometers from Camp Muehldorf. (P-Ex. 9, R 15).

4. JURISDICTION: The Court was legally constituted and had jurisdiction of the persons of the accused and the offenses.

5. COMMENTS: Examination of the entire record fails to disclose any error or omission which resulted in injustice to the accused. All of the accused were at some time during the period 1 January 1942 to 29 April 1945, by their own admissions, SS guards and/or guards over prisoners at Dachau Concentration Camp and/or subsidiary camps thereof with varying ranks and duties (P-Ex. 2 thru P-Ex. 9, R 7 thru R 15).

The Court was required to take cognizance of the decision rendered in the parent Dachau Concentration Camp 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 #G 000.5 JAG-AGC, subject: "Trial of War Crimes Cases," 14 October 1946, letter superseded thereby, and U.S. vs. Weiss, et al., 000-50-2, March 1946). All of the 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 proceeding, in concluding that they not only participated to a substantial degree but that the nature and extent of their participation was such as to warrant the sentences imposed.

While it was shown that accused ROHMER was member of the SS at Dachau from 14 August 1942 to 11 March 1945, he was not in a position to mistreat prisoners. It is believed his connection with the operation of Camp Dachau was too remote to warrant a finding of guilty and the Court was warranted in acquitting him (P-Ex. 6, R. 12; D-Ex. 1, R. 16). Concerning accused ROTTMAIER, it is true he was shown to have been an SS guard at Camp Dachau and on duty in the prominent people's bunker. However, it was shown by competent testimony of Dr. ROHDE that he not only refrained from mistreating prisoners, but aided or assisted them insofar as was possible by giving them cigarettes, food and bread. It was further shown that he did assist an inmate Dr. Lothar ROHDE, to escape. It is, therefore, believed that the sentence imposed by the Court is to some extent excessive.

6. CLEMENCY: Petition for Review was filed 13 November 1946 by Defense Counsel Capt. R. J. Baker on behalf of accused Ludwig ROTTMAIER. There are no Petitions for Clemency.

7. CONCLUSIONS:

(a) It is recommended that the findings and the sentences be approved except that the sentence imposed in the case of Ludwig ROTTMAIER be reduced to confinement for a period of 18 months.

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

/s/ Elmer Moody  
ELMER MOODY  
1st Lt, Inf.  
Post Trial Branch

Having examined the record of trial, I concur.

/s/ C. E. Straight  
C. E. STRAIGHT  
Colonel, JAGD  
Deputy Judge Advocate