

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

11 April 1947

UNITED STATES)

vs)

Ernst FRAENZL, Gustav NAUBERSIT,
Wilhelm OBERMEIER, Kurt PENZEL,
Jakob SAETTELLE, Friedrich SCHMUR,
Stefan SCHWARZ, Walter STLZER)

Case No. 000-50-2-13

1. TRIAL DATA:

Tried at Dachau, Germany
Date: 8 November 1946
Intermediate Military
Government Court

<u>ACCUSED</u>	<u>DATA</u>	<u>SENTENCE</u>
FRAENZL, Ernst	Age 52 German national Guard out-camp Kaufering Rank - PFC	1 year and 7 months confinement from 2 May 1945
NAUBERSIT, Gustav	Age 54 German national Guard out-camp Allach Rank - Corporal	2 years confine- ment from 3 May 1945
OBERMEIER, Wilhelm	Age 46 German national SS guard Camp Dachau and out-camps Lands-berg and Muehldorf Rank - Sergeant	2 years confine- ment from 2 May 1945
PENZEL, Kurt	Age 41 German national SS guard at out- camps Allach and Landsberg Rank - Unknown	21 months confine- ment from 3 May 1945
SAETTELLE, Jakob	Age 50 German national SS guard at out-camp Landsberg Rank - Staff Sergeant	2 years confine- ment from 27 April 1945
SCHMUR, Friedrich	Age 31 Yugoslavian national SS guard Landsberg Rank - Unknown	acquitted
<u>ACCUSED</u>		
SCHWARZ, Stefan	Age 39 Rumanian national	3 years con- finement from

SELZER, Walter

Age 29
Austrian national
SS guard out-camp
Allach
Rank - Corporal

2 years confine-
ment from 7 May 1945

FIRST CHARGE: Violation of
the Laws and Usages of War

PARTICULARS: In that Ernst FRAENZL, Gustav NAUBEREIT, Wilhelm OBERMEIER, Kurt PENZEL, Jakob SAETTELE, Friedrich SCHMUR, Stefan SCHWARZ, Walter SELZER 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.

	<u>Pleas</u>	<u>Findings</u>
FRAENZL	NG	G
NAUBEREIT	NG	G
OBERMEIER	NG	G
PENZEL	NG	G
SAETTELE	NG	G
SCHMUR	NG	NG
SCHWARZ	NG	G
SELZER	NG	G

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

PARTICULARS: In that Ernst FRAENZL, Gustav NAUBEREIT, Wilhelm OBERMEIER, Kurt PENZEL, Jakob SAETTELE, Friedrich SCHMUR, Stefan SCHWARZ, Walter SELZER acting in pursuance of a common design to commit the acts hereinafter 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.

	<u>Pleas</u>	<u>Findings</u>
FRAENZL	NG	G
NAUBEREIT	NG	G
OBERMEIER	NG	G
PENZEL	NG	G
SAETTELE	NG	G
SCHMUR	NG	NG
SCHWARZ	NG	G
SELZER	NG	G

2. RECOMMENDATIONS: That the findings and sentences be approved.

3. EVIDENCE:

For the Prosecution. The 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 Concentration Camp 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.

It was shown that for considerable periods of time between 1 January 1945 to 29 April 1945 each of the accused was an SS guard at Camp Dachau or one of the out-camps Kaufering, Allach, Landsberg and Muehldorf (P-Ex 2 thru P-Ex 9; R 8 thru R 14).

For the Defense. Defense's case was based on the extrajudicial testimony of the accused (P-Ex 2 thru P-Ex 9; R 8 thru R 14). No witnesses were called by the defense nor did any of the accused take the stand and testify in his own defense.

accused FRAUTZI was an SS guard at out-camps Kaufering Nos. II and XI from August 1944 to April 1945 (P-Ex 8, R 8). There were approximately 1,000 prisoners in Nos. II and XI, mostly Hungarians that worked for Pöll Construction Company. Kaufering No. XI was evacuated on or about 22 April 1945 to Konigswald. About 100 guards were used on the prisoner march. Many prisoners were unable to complete the march due to their physical condition (P-Ex 2, R 8).

In defense, the accused, during his tour of duty at Kaufering Nos. II and XI, never saw any guards or camps beat or mistreat any prisoners nor did he see any prisoners beaten on the prisoner march. The prisoners were turned over to the Red Cross at Konigswald. His duty consisted of guarding prisoners from the camp to work and return (P-Ex 2, R 8).

Accused MAURERIT was an SS guard at out-camp Allach from January 1944 to 29 April 1945 (P-Ex 3, R 8). Six to eight thousand prisoners, mostly French, Russian and Polish, worked at the BMW factory. The camp commander during this time was JAROLIN who was convicted in the parent Dachau case (U.S. vs Weiss et al., 000-50-2, March 1946). On 29 April 1945 accused participated as guard

In defense, accused was a guard at the BMW factory and never went inside the camp (P-Ex 3, R 8).

Accused OBERGELTNER was an SS guard at Camp Dachau, out-camps Muehldorf and Landsberg from August 1944 to April 1945 (P-Ex 4, R 9). Duties at Camp Dachau consisted of gate guard and guard of a work detail building an air-raid shelter in the town of Dachau. Was tower guard at out-camp Landsberg, Camp No. XI, which had two to three thousand prisoners of many nationalities including Poles and French. At out-camp Muehldorf was guard of a work detail of 300 prisoners laying pipe for the factory "Zangberg." The prisoners were required to march to and from work which took approximately three quarters of an hour each way. There were approximately 1000 prisoners in Muehldorf of all nationalities constructing an underground factory. On or about 1 March 1945 participated in prisoner transport as guard from Landsberg to Muehldorf (P-Ex 4, R 9).

In defense, accused was only on duty at Dachau 14 days. At out-camp Landsberg the prisoners were well treated. He never saw any prisoners beaten by any guards or capos. At out-camp Muehldorf, accused never went inside the camp (P-Ex 4, R 9).

accused PENZEL was an SS guard at out-camp Allach from August 1944 to 3 April 1945 (P-Ex 5, R 10). Guarded prisoners to and from the BMW factory and was outside guard at the factory. The prisoners worked from 0700 to 1800. JAROLIN, who was convicted in the parent Dachau case (U.S. vs Weiss et al., 000-50-2, March 1946), was camp commander. From 3 April 1945 to 27 April 1945, was on duty at Landsberg. LIPPMANN, who was convicted in the parent Dachau case (U.S. vs Weiss et al., 000-50-2, March 1946) was camp commander. Prisoners lived in small earth bunkers. Accused was also present at the liquidation of Camp No. 1 (P-Ex 5, R 10).

In defense, accused did not observe any beatings or ill-treatment of any prisoners at out-camp Allach as he was very seldom on duty in the camp. At out-camp Landsberg Nos. I and VII, was on duty as a barber. No prisoners were shot or ill-treated (P-Ex 5, R 10).

accused SAETTEL was an SS sergeant in charge of the guard at out-camp Landsberg from 3 August 1944 to 11 April 1945 and 27 April 1945 to capitulation (P-Ex 6, R 11). Prisoners of various nationalities worked at the BMW factory

tries. They were thin and under-nourished. In 1945 the food was very short. He saw a prisoner shot by an SS man by the name of RAIL. Prisoners were also punished by being placed in the "Stehbunker" (standing bunker) for one or two days. Prisoners were badly beaten by KIRSCH who was convicted in the parent Dachau case (U.S. vs Weiss et al., 000-50-2, March 1946) (P-Ex 6, R 11).

In defense, accused was never a guard at Dachau. Did not see any prisoner transport coming into or leaving Landsberg (P-Ex 6, R 11).

accused SCHWARZ was an SS guard at Concentration Camp Lublin, 13 September 1943 to 28 April 1944. WEISS, who was convicted in the parent Dachau case (U.S. vs Weiss et al., 000-50-2, March 1946) was camp commander. From 28 April 1944 to 28 July 1944 SCHWARZ was an SS guard at Warsaw. RUPPERT was camp commander and KRAMER was company commander. Both were convicted in the parent Dachau case (U.S. vs Weiss et al., 000-50-2, March 1946). On 28 July 1944 participated in prisoner transport and march from Warsaw to Dachau as a guard. There were 70 to 80 prisoners in each car. The prisoner transport arrived at Dachau 7 August 1944 (P-Ex 8, R 12). The prisoner transport proceeded to out-camp Kaufering No. IV on 14 August 1944. From August 1944 until the winter of 1944 prisoners worked in the factories Moll and Holzmann. EICHELSDORFER was camp commander and TEMPL was rapport leader. Both were convicted in the parent Dachau case (U.S. vs Weiss et al., 000-50-2, March 1946). From the winter of 1944 to 12 March 1945 Kaufering No. IV was quarantined and prisoners did not leave the camp for their work details (P-Ex 8, R 12).

In defense, accused was a tower guard from August 1944 to 12 March 1945. He did not know of any mistreatments or shootings of prisoners (P-Ex 8, R 12).

accused SMLZER was an Air Force guard at out-camp Allach from 17 October 1943 until 1 September 1944 at which time he became an SS guard remaining at Allach until 30 March 1945 (P-Ex 9, R 13). From October 1943 to March 1944 he was on duty at the BMW plant guarding work details of from 30 to 400 prisoners of various nationalities (P-Ex 9, R 13).

In defense, accused in September 1944 did duty in the clerk's office. In October 1944 was placed in charge of the ordnance section where he stayed until 30 March 1945. He never saw any prisoners mistreated (P-Ex 9, R 13).

4. JURISDICTION: The court was legally constituted and had jurisdiction of the

5. COMMENTS: Examination of the entire record fails to disclose any error or omission which resulted in any 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 over persons at Concentration Camp Dachau and/or subsidiary camps thereto with various ranks and duties (P-Ex 2 thru P-Ex 9, R 7 thru R 13).

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 AG 000.5, JAG-AGO, subject: "Trial of War Crimes Cases," 14 October 1946, letters 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 the accused SCHMUR was an SS guard at out-camp Landsberg and was in a position to mistreat prisoners, his period of participation was so short that his connection with the operation of the camp was too remote to warrant a finding of guilty and the Court was warranted in acquitting him.

6. CLEMENCY: There are no Petitions for Review. Consideration was given to Petition for Clemency signed by the accused Stefan SCHWARZ, dated 30 January 1947. No clemency is recommended.

7. CONCLUSIONS:

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

Having examined the record of trial, I concur.

/s/ C.E. STRAIGHT
/t/ C.E. STRAIGHT
Colonel JAGD

/s/ ELMER MOODY
/t/ ELMER MOODY
1st Lt, Inf,
Post Trial Section