

DEPUTY JUDGE ADVOCATE'S OFFICE
7708 WAR CRIMES GROUP
EUROPEAN COMMAND
AFO 207-1

15 July 1947

UNITED STATES)

v.)

Alois WIPPLINGER)

) Case No. 000-50-2-24
)
)
)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 2-5 December 1946, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

PARTICULARS: In that Alois Wipplinger, acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual 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, torture, starvation, abuses and indignities, 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 German Reich in exercise of belligerent control.

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

PARTICULARS: In that Alois Wipplinger acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual 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 numbers of such prisoners of war being unknown, but aggregating many hundreds.

III. SUMMARY OF EVIDENCE: The convicted accused was, by his own admission, a member of the SS at Camp Dachau and/or its outcamps for considerable periods of time between the dates alleged, and was shown to have participated to a substantial degree in the Dachau Concentration Camp mass atrocity. Exhibit P-Ex 1 is a certified copy of the charges, particulars, findings and sentences in the parent Dachau Concentration Camp case (U.S. v. Weiss, et al., OOO-50-2, March 1946, hereinafter referred to as the "Parent Case", see paragraph V, post; R 56).

The defense's case was based on the sworn testimony of eleven witnesses called on behalf of the accused as well as the unsworn testimony of the accused in open court.

IV. EVIDENCE AND RECOMMENDATIONS:

1. ALOIS WIPPLINGER

Nationality:	German
Age:	43
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS, Sergeant
Fleas:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	Imprisonment for life, commencing 5 December 1944

Evidence for Prosecution: Accused joined the Waffen SS on 20 May 1940, and served in various authoritative positions as assistant block leader, block leader and camp leader at Camp Dachau and outcamps Heppenheim, Valepp, Neu Aubing, Kaufering II and Utting between January 1941 and 24 April 1945 (R 166, 168, 170, 173, 174, 196-201). He last served at outcamp Utting from 16 December 1944 to 24 April 1945 (R 31, 173, 174). He was present in Camp Dachau in 1942 when 150 prisoners were assembled for the purpose of receiving 25 lashes each (R 201). While at Camp Dachau in 1942, accused saw prisoners hanged on chains attached to the arms or legs, and either in the winter of 1942 or Spring of 1943 he saw

truck. When these trucks returned to Camp Dachau he was told they were loaded with clothes, eyeglasses, crutches, artificial limbs, etc. Accused testified that he supposed that these prisoners who were sent to another camp (Mauthausen) were probably gassed or something else done to them. At Camp Dachau accused also saw prisoners covered with blood standing at the gate for hours (R 202-204).

Dr. Lunz, a witness for the prosecution, who was a prisoner at outcamp Utting from July 1944 until the liberation, testified that the daily caloric content of the meals at outcamp Utting was 400, and at times less, for fourteen hours work whereas the caloric content required was 3500 per day (R 26, 29-31). The accused admitted that the food at outcamp Utting was insufficient for the kind of work that the prisoners were doing (R 205).

Accused was the "camp commando" (presume camp leader is meant) of outcamp Utting at the end of 1944 and 25 to 40 men assisting him in controlling 500 to 600 prisoners there (R 8, 200). The prisoner barracks at outcamp Utting were half sunken into the ground with only boards on the ground and some straw to sleep on, causing prisoners to contract pneumonitis (R 9, 10, 79, 80).

Camp IV, referred to as outcamp Kaufering IV (R 55), though commonly called a rest camp, was in actuality an annihilation camp (R 21-22) (R 580-589, 622, 624-627, 629-650, 1334, 1335, 1337, 1343-1345, 1351, 1353-1370, 1313, 1413, 1416, 1417, 1420, 1429-1432, 1434, 1755-1757, 1769, 1789, Parent Case). Prisoners unable to work because of illness were sent to Camp IV and died there (R 10). Dr. Lunz testified that the accused issued the orders sending an average of 20 to 30 people per month to outcamp Kaufering IV (R 32, 33, 75, 82, 83).

Prisoners who were unable to work because of weakness were beaten. In one case their hunger was so great they caught a rat, skinned it, and ate it alive. Prisoners also ate rotten potatoes, snails and frogs when they caught in the woods (R 34, 35).

Sometime around 10 or 12 April 1945 prosecution witness Milner was

that he required hospitalization and surgery, and at the time of trial 8 December 1946, he was still receiving treatment for the injuries resulting therefrom (R 10-12, 17-19, 26, 27, 64, 65, 67).

The accused on three or four occasions was seen kicking prisoners as well as administering punishments of 25 lashes on their buttocks (R 10-13). Prisoners beaten by the accused required hospitalization and medical treatment (R 27-29, 48, 80). Beatings of 25 blows were given prisoners for the slightest violation of camp rules and though physically unable to work thereafter were forced to do so on the following day (R 34, 35). In January 1945 accused beat a prisoner over the head, causing him to require medical treatment, and thereafter further punished him by requiring him to stand at the camp gate for 12 hours a day for several days in winter weather (R 27, 36, 37, 47, 48, 80, 81).

The accused did nothing about delousing until after there had been an epidemic. Most of the prisoners had to sleep on straw without benefit of bed ticks. The accused did nothing to better the sewage disposal system other than to cause an occasional cleaning of accumulated matter in the latrines. Dr. Lutz made medical inspections until prohibited from doing so by accused. The existence of a separate dispensary for women was due to an order from higher authority, rather than to any initiative on the part of accused. The accused did not arrange for extra food (R 38-42, 68, 69, 74, 85, 86). During the period December 1944 to April 1945, Dr. Lutz witnessed deaths of prisoners at outcamp Utting from such causes as starvation, physical injuries and typhoid fever. He calculated that 200 out of 650 prisoners perished and that there are 200 bodies buried in the cemetery at Utting as proof that at least that many had died (R 44, 45, 75).

Prosecution witness Riwkind testified he personally received 25 blows from the accused for stealing a few potatoes from the O.T. kitchen (R 52, 53, 65). Prosecution witness Epstein testified that he was struck, kicked and trampled upon, on three different occasions, by the accused, breaking his ribs. As a result of these injuries he is a complete invalid and is still being treated for Angina Pectoris by a

Prosecution witness B. Kibort testified he overheard a conversation between the accused and his wife wherein accused stated that the Jews would not be shot, but that they would die anyway from starvation, etc (R 66). He further testified that as a runner for the accused he brought to accused food consisting of meat, bread, etc., for his personal consumption from the Jewish camp kitchen once or twice a week for nearly three-quarters of a year (R 66, 69, 73).

Prosecution witness L. Kibort testified that he brought the accused water at his request on seven different occasions for the purpose of washing his hands which were bloody, the accused on these occasions saying, "Leo, bring me a cup of water. I just beat up a dirty Jew". (R 72). He further testified that SS Sergeant Lenz told him that the accused had instructed Lenz to watch the prisoners and if he saw them take potatoes or anything else to shoot at them without warning (R 72).

Prosecution witness Leber testified that he was kicked on one occasion by the accused for failure to remove his hat. He also testified he saw his brother-in-law Shrifken receive 25 blows on the buttock because he had stolen some potatoes (R 76, 77).

Prosecution witness Seltzer testified that he saw the accused who had a stick and his comrade Hodop who had a club take six or eight prisoners in back of the camp where they were chased around in a circle for about an hour during which time they were beaten (R 81, 82). Seltzer also named six men who died from malnutrition between December 1944 and April 1945. He further testified that several of these men were buried in Utting and that one had been taken to Camp IV (outcamp Kaufering IV) where he died (R 84, 85).

Defense witness Callenberg testified that he knew the accused from December 1944 until the end of April 1945, and that during this period of time the accused was camp leader at outcamp Utting. He also testified that the accused was not well liked, but that the inmates never said a thing because they were afraid. On cross-examination he denied ever seeing accused beat prisoners but did hear about it. He recalled the

occasion of a man being helped through the camp by other prisoners and that in talking with the camp elder he was told that this inmate had been kicked while on the construction site by the accused, causing the prisoner to collapse. He further testified that during the accused's time at outcamp Utting some prisoners did die (R 149-151).

Defense witness Fischer, a former inmate and capo at outcamp Kaufmaring II, admitted upon cross-examination that conditions there were such that rain water entered the barracks (R 147, 149).

Evidence for Defense: Defense witness Hoeness testified that the accused, while at outcamp Germering in the late fall of 1943 or Spring of 1944, arranged for treatment of prisoners at a dental clinic set up at the Dornier Works (R 91, 92, 94).

Defense witness Sperrl testified that accused, as roll call leader while at outcamp Neu Aubing, from 5 May 1944 to 28 April 1944, was generally known in the camp as a good man and that he never made punishment reports (R 95, 96). On cross-examination Sperrl testified that the prisoners at Neu Aubing did not include Jews (R 98).

Defense witness Basel testified that at outcamp Germering accused permitted her to use prisoners in working a field in the camp, to which prisoners she brought food and tobacco (R 100, 103).

Defense witness Kreiss testified that at outcamp Germering accused's reputation among prisoners was good and that he sought to improve the food for the prisoners as well as to increase their premium coupons which they received for good work (R 107, 108).

Defense witness Seibold testified that at outcamp Utting during the winter of 1944-1945 the accused permitted her to use prisoners for the purpose of loading potato peelings. She gave them food and on one occasion accused permitted a prisoner to come to her home to fix a stove for which services she paid the prisoner with food. Upon examination by the Court, she admitted that the food she gave the prisoners wasn't too much and might possibly be sufficient to feed two or three prisoners on each occasion (R 112-117).

It was stipulated between Counsel and consented to by the accused

that if a Mrs. Fischer, living at Holzhausen near Utting, was in Court she would testify that on several occasions in the early part of 1945 prisoners in outcamp Utting were permitted to do work at her home where they received and consumed food for their labor (R 121, 122).

Defense witness Theresa Baumgartner testified in detail regarding number of good deeds allegedly performed by accused while at outcamp Utting. On cross-examination, however, she admitted her knowledge was based on conversations overheard, between the accused and the camp eldest, since she herself never went into the camp. She further testified that though she was not Mrs. Wipplinger, she was generally known in the camp as Mrs. Wipplinger, wife of the accused (R 125-129).

Defense witness Charlotte Baumgartner, daughter of Theresa Baumgartner, corroborated her mother's testimony in respect to the good deeds allegedly performed by the accused, but on cross-examination admitted that her testimony was not based on her personal knowledge and was in fact based on what her mother had told her (R 142).

Defense witness Fischer, a former inmate and capo, testified he knew the accused as camp commander at Kaufering II in 1944 and that accused arranged for better drainage in that camp (R 147, 148).

On redirect examination Callenberg testified that accused did much to improve the camp by arranging for such improvements as: building of delousing unit by the O.T.; water for the camp; obtaining of skim milk for the prisoners twice weekly; a dispensary for women; and the removal of two men, one named Hannes and the other a medical man who had failed to treat the prisoners properly (R 153-156).

Defense witness Gorzns, a former political prisoner at Camp Dachau testified that accused was a block leader there between 1942 and 1944 and that he was, generally speaking, rather quiet and did not beat or report anybody (R 159).

The accused voluntarily took the stand in his own behalf making a lengthy unsworn statement in minute detail setting forth innumerable instances of alleged good deeds performed by him at the various camps where he served either as guard, block eldest or camp leader. Many of

which instances are insignificant and others of which have been covered in this review in the testimony of witnesses testifying in his behalf, accused specifically denied ever having seen prosecution witness Milner or ever remembering him as being in outcamp Utting and by reason thereof denies beating or kicking him at any time. Accused denied beating prosecution witness Moses and testified in detail that Moses and others had stolen potatoes and that all he did was admonish Moses verbally. Accused denied specifically ever having administered 25 lashes with a tick to any prisoner either at outcamp Utting or anywhere else and stated further that he didn't agree to beating of prisoners and for that reason had camp eldest Hannes removed (R 187-191). Accused admitted that on one occasion in 1945 he twice slapped a prisoner across the face who had been reported by Burkin and other prisoners for pilfering a red cross package, but on cross-examination stated that the reason he did slap the prisoner was to prevent other prisoners from beating him, admitting however, that he was a little rough with/and had used strong words in talking to him (R 194, 195). Throughout the lengthy cross-examination and questioning by the Court and lengthy statements made by the accused he admitted, in general, that he had been promoted and his position bettered each time he was transferred from one camp to another. He contended that his continuous transfers by higher authority, in each instance bringing him promotions, was nevertheless caused by his humane treatment of prisoners in each camp (R 197-200).

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

Petitions: A Petition for Review was filed on 6 December 1946 by Major J. Tolnes, Major, Signal Corps, U.S. Army, Attorney for the accused. Petitions for Clemency were filed, one by the wife of the accused, Theresa Wipplinger, undated, and three by the accused on 25 February 1947.

Recommendations: That the findings and sentence be approved.

7. QUESTIONS OF LAW:

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

Parent Case: The Court 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 cruelties, 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" 4 October 1945, and the Parent Case). The accused was 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 as to him that he not only participated to a substantial degree but that the nature and extent of his participation was such as to warrant the sentence imposed.

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

7I. CONCLUSIONS:

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

/s/ Thomas L. Nair
THOMAS L. NAIR
Attorney
Post Trial Branch

Having examined the record of trial, I concur,
this 15th day of September 1947.

/s/ C. E. Straight
C. E. STRAIGHT
Lieutenant Colonel, JAGD

HEADQUARTERS
EUROPEAN COMMAND

AG 383 JAG

AFD 757

SUBJECT: Execution of Sentence in the Case of the United States vs.
Alois WIPFLINGER, Case No. 000-50-2-24TO : Commanding General
First Military District
APO 1, U.S. Army

Reference is made to letter, Hq. USFET, file AG 383 JAG-AGO,
subject: "Designation of Prisons for War Criminals," 26 February 1947
and to the inclosed copies of the Order on Review in the above entitled
case as to accused Alois WIPFLINGER

Upon compliance with the Order on Review the certificate be-
low will be completed and returned to the Deputy Judge Advocate for War
Crimes, 7708 War Crimes Group, APO 178, U.S. Army.

BY COMMAND OF GENERAL CLAY:

/s/ S. J. Codner
S. J. CODNER
Lt. Col. AGD
Asst. Adjutant General

1 Incl:
1 Form No. 13 (in dup)

Frankfurt 7175

CERTIFICATE OF COMPLIANCE

The sentence covered by the above described Order on Review
was carried into execution at War Criminal Prison No. 1, Landsberg,
Germany, on 16 October 1947, at 1300.
(Date) (Hour)

/s/ Lloyd A. Wilson
(Signature and Rank)
LLOYD A. WILSON, Capt. CMP
Prison Officer

(Organization)

/s/ David A. Oakley
(Countersignature and Rank of
Witnessing Officer)
DAVID A. OAKLEY, 1st Lt. CM1C
Asst. Prison Officer