

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

24 March 1947

UNITED STATES

vs

Case No. 000-50-2-1

✓ Karl ADAMI, Adolf BALTES,
Franz BAYER, Josef BOERSCH,
Andreas DEPPER, Georg KARPE,
Anton SCHEIDMAUL, Alfred SCHOLZ

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA:

Tried jointly at Dachau, Germany
Date: 11 - 14 October 1946
Intermediate Military
Government Court.

<u>ACCUSED</u>	<u>DATA</u>	<u>SENTENCE</u>
ADAMI, Karl	Married, family Roumanian national Age 40 E.M. Roumanian Army 1930-31; also 1939-43 Drafted German Army July 1943 SS Guard Dachau, August 1943 to capitulation.	6 months confinement from 14 October 1946.
BALTES, Adolf	Marital status unknown Age 40 Drafted German Army 1941 SS Guard Dachau and out-camps, October 1944 to capitulation.	6 months confinement from 14 October 1946
BAYER, Franz	Marital status unknown Age 55 Czechoslovakian national, German descent SS Guard Dachau and out-camps, August 1944 to capitulation.	6 months confinement from 14 October 1946

ACCUSEDDATASENTENCE

BOENSCH, Josef	Marital status unknown Age 47 German national Drafted Waffen SS February 1941 SS Guard and Detail Leader Dachau, September 1944 to capitulation.	3 years confinement from 14 October 1946
DEPNER, Andreas	Married, 3 children Age 43 Roumanian national Roumanian Army 1924-26 Drafted German Army 1943 SS Guard Dachau, August 1943 to capitulation.	6 months confinement from 14 October 1946
KARPE, Georg	Married Age 42 German national Drafted Waffen SS January 1940 SS Guard at Praezifix Factory, Dachau, 1941-45.	2 years and 6 months confinement from 14 October 1946.
SCHERMAUL, Anton	Married, 3 children Age 42 German national Drafted German Army January 1944 SS Guard Dachau (Kempton) September 1944 to capitu- lation.	6 months confinement from 14 October 1946
SCHOLZ, Alfred	Married Age 41 Member of Nazi Party Drafted German Army November 1940 SS Guard Dachau March 1944 to capitulation Rank, Corporal.	2 years confinement from 14 October 1946

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

PARTICULARS:		<u>Pless</u>	<u>Findings</u>
In that Karl ADAMI,			
Adolf BALTES, Franz BAYER, Josef			
BOENSCH, Andreas DEPNER, Georg	ADAMI	NG	G
KARPE, Anton SCHERMAUL and Alfred	BALTES	NG	G
SCHOLZ, acting in pursuance of a	BAYER	NG	G

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 -A- 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>
BOENSCH	NG	G
DEPNER	NG	G
KARPE	NG	G
SCHERMAUL	NG	G
SCHOLZ	NG	G

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

PARTICULARS: In that Karl ADAMI, Adolf BALTES, Franz BAYER, Josef BOENSCH, Andreas DEPNER, Georg KARPE, Anton SCHERMAUL, and Alfred SCHOLZ, 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 -A- 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>
ADAMI	NG	G
BALTES	NG	C
BAYER	NG	G
BOENSCH	NG	G
DEPNER	NG	G
KARPE	NG	G
SCHERMAUL	NG	G
SCHOLZ	NG	C

2. RECOMMENDATIONS: That the findings and sentences be approved, except as to accused SCHERMAUL, and that the finding and sentence as to accused SCHERMAUL be disapproved.

3. EVIDENCE:

For the Prosecution: The Prosecution's case was based on extra judicial sworn testimony as hereinafter indicated. Exhibit P-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; E 7). Exhibits P-2 to P-9, inclusive, consist of extra judicial testimony of each of the accused.

Accused SCHOLZ was an SS guard at Camp Dachau from December 1944 to the liberation of the camp with the rank of corporal (R 20). He performed tower and escort guard duty at the main camp (R 22). He later served as tower guard at the Praezifix Factory at Camp Dachau which made aircraft parts. He was a guard on the prisoner march from Camp Dachau to Wolfbratshausen. The Praezifix column in the march was made up of 116 Russians and Germans (P-9). He was on the Praezifix detail at the time a hanging took place (R 42).

Accused KALFE was an SS guard at Camp Dachau from February 1941 to the capitulation. He was promoted to sergeant in May 1944. He served as a guard on the Praezifix detail from March 1943 until July 1944, assisting the detail leader and taking his place when he was away (R 30). He worked in various other offices prior to his service on the Praezifix detail. He was familiar with all workings of the camp (P-7).

Accused ADAMI was drafted into the Waffen SS in August 1943 and sent to the SS clothing factory at Camp Dachau four days later. He worked every second week with prisoners on the night shift until he became sick in March 1944. From that time to the liberation of the camp he worked on the day shifts. Workers in the clothing factory were supervised by civilian technicians while ADAMI and one other SS trooper acted as guards (P-2).

Accused BOENSCH was drafted into the Waffen SS February 1941. He served in a field unit until September 1944 when he was made a guard at Camp Dachau and served in this capacity until the capitulation. He had charge of various small details around the

Accused DEBNER was drafted into the SS in August 1943 and transferred to Camp Dachau to the rabbit farm where there were 82 prisoners working under him (P-6). He held the rank of T/Sgt (R 64) until the capitulation in April 1945 (R 65).

Accused BALTES was a tower guard and a work-detail guard in the SS at Allach, an out-camp, from early in September to the middle of November 1944. Then with the same duties he served at Camp Dachau until 4 March 1945 and finally at the Augsburg sub-camp until the evacuation in April 1945. He stated that the food was bad in all three camps and the prisoners were undernourished. The prisoners at Allach working under JAROLIN (U.S. vs Weiss et al, 000-50-2) were compelled to work 12 hours a day. He saw the Allach deputy camp leader beat a prisoner. A typhoid fever epidemic broke out at Dachau in the winter of 1944 and many prisoners died. He saw many corpses go to the crematory. BALTES stated that Augsburg was a very bad camp and prisoners were in such poor health that many were too weak to walk from their work and had to be carried. They were kept at work by blows from capos. BALTES was a guard on the prisoner march from Augsburg out-camp southward on 23 April 1945 and was captured by the advancing Americans three days later (P-3).

Accused BAYER entered the Waffen SS in October 1944 and was immediately assigned guard duty at out-camp Kaufering No. VII. There were about 2000 male and female inmates of various nationalities in this camp. They were badly fed and clothed and lived under very unsanitary conditions. Johannes EICHELSDORFER was commandant of this camp where beatings were not only permitted but EICHELSDORFER beat the prisoners himself (U.S. vs Weiss et al, 000-50-2, R 1764). BAYER performed the same duties at out-camp Kaufering No. XI where three to four thousand male and female prisoners were incarcerated under conditions similar to those at out-camp Kaufering No. VII. BAYER saw prisoners beaten at both camps by capos/ accused was a guard on the prisoner march from out-camp Kaufering No. XI, which departed toward Wolfratshausen at the end of April 1945 (P-4).

accused SCHEEMAUL entered the Waffen SS in September 1944 and was transferred to out-camp Kempton where he served as both a tower guard and on escort guard until the capitulation. There were about 400 prisoners at this camp working for the Bavarian Motor Works (P-8).

For the Defense. Accused SCHOLZ testified that when he arrived at Camp Dachau he knew nothing of concentration camps (R 21). He never had trouble with prisoners and never reported any of them for punishment (R 22). He claimed that he was transferred to Camp Dachau and to the SS without his consent. His assignment was made arbitrarily by his superiors (R 23, 24). He was recalled to the stand by the Defense and stated that he knew nothing about the hangings in 1944 referred to in the testimony of the defense witnesses Henrik FUESER (R 42), Franz KAPBERGER (R 48), and Ferdinand KAPPE (R 49), and that he, SCHOLZ, was in the hospital at the time. He identified the accused KARPE, whom he relieved on the Praezifix detail (R 25). He testified that KARPE was kind to the prisoners and treated them humanely (R 25). He also testified that KARPE'S duties were restricted because of extremely bad vision (R 25). On the prisoner march from Camp Dachau to Wolfratshausen, SCHOLZ was a guard and had two wagons with food for the prisoners. No losses occurred in his column (P-9).

Accused KARPE was drafted into the Waffen SS in January 1940 and was discharged in October 1940 because of faulty vision. After reinduction in February 1941 he tried to get a discharge but was unsuccessful. He denied knowing anything about the organization or responsibility for the care of inmates at Camp Dachau (R 30). He never had any trouble with prisoners nor did he have occasion to report them for infractions of the rules (R 30). He knew accused SCHOLZ in the camp and testified that SCHOLZ always treated the prisoners kindly and humanely (R 32). He saw prisoners beaten only once in the camp and never saw anyone shot or hanged at Camp Dachau (R 34).

The defense witness, Henrik FUESER, was interned in Camp Dachau by the Gestapo in 1942 and remained until the liberation (R 36, 37). He knew accused KARPE in the camp, described KARPE'S duties at the Praezifix and testified that KARPE acted in a very humane manner toward the inmates (R 38). In 1944 FUESER witnessed one hanging in the Praezifix. KARPE, however, had been transferred from Praezifix before the hanging (R 42). On cross-examination, FUESER stated that KARPE had given him cigarettes and bread (R 41).

Another defense witness, Franz KAPOBERGER, a German national and former inmate at Camp Dachau from 1940 to 1945, testified that he was on the Praezifix detail from 1941 to 1945 (R 43). While on this detail, he became acquainted with accused KARPE who acted very humanely toward the prisoners (R 45) and had relaxed the discipline of the camp as much as he could (R 45, 46). This witness also knew SCHOLZ on the Praezifix detail and described him as a kind and humane guard (R 47).

The defense witness, Ferdinand KAPPER, a German national and resident of Dachau, was an inmate in the camp from 1938 to 1944 (R 50). He knew the accused KARPE in the camp and described him as being extremely humane and kindly (R 51). The witness was acquainted with accused SCHOLZ whom he described as being very strict but never guilty of harshness or mistreatment (R 53).

Accused ADAMI testified and denied any knowledge of concentration camp organization (R 57). At Camp Dachau he was detailed to the tailor shop and worked at a machine with the inmates from August 1943 to March 1944. He was hospitalized for tuberculosis from that time until October 1944 when he returned to work in the same shop with civilian labor (R 58). He got along very well with the inmates working under his supervision. On cross-examination, he stated that his records were taken away from him, making it impossible for him to prove any of his statements relative to his army service (R 59, 61). He never saw prisoners mistreated and did not mistreat any himself (P-2).

Defense witness, Franz MRAAS, testified that he was interned at Camp Dachau in May 1943 because of political activity (R 91), that he is now detained in the War Crimes Enclosure and that he was denounced by former inmates (R 92). He was a capo in a clothing factory after August 1943. He knew and worked with the accused ADAMI in the factory and states that for three or four months ADAMI worked on the night shift instructing the inmates in the operation of the machines (R 92). During this time ADAMI did not perform any guard duty. The witness described the popularity of ADAMI with the inmates and observed that ADAMI treated those under him humanely and correctly (R 94).

Another defense witness, Simon HONHEISER, a former inmate of Camp Dachau for two years and now a tailor employed in the village of Dachau (R 95, 96), described in detail an act of kindness accused ADAMI had once done him when he fell ill at his machine in the clothing shop (R 97,98).

Defense witness, Rudolf DREIER, a German national and former inmate of Camp Dachau from 1941 to 1945, was incarcerated there upon conviction for forgery in 1938 (R 105). While an inmate, he became acquainted with accused DEPNER and ADAMI. He testified as to DEPNER'S friendly and cooperative attitude toward the prisoners and cited examples (R 106). He also described ADAMI'S reputation among the inmates as being good (R 107). He saw beatings in camp but never by DEPNER or ADAMI, or in their presence (R 108).

Accused DEPNER testified to the effect that he never had any trouble with inmates while at Camp Dachau (R 65) and that he was able to provide them with food above their regular ration (R 66). On cross-examination, he stated that he exercised no command functions over the members of the rabbit farm detail but that he acted in a technical supervisory capacity (R 66). No guards were needed as the farm was a fenced-in enclosure located inside the regular camp and the detail was marched over each morning directly from their quarters (R 67). He never saw any inmates shot, hanged,

Defense witness, Doctor Paul HUSAREK, now a resident of Dachau and an investigator employed by Military Government, was an inmate at Camp Dachau from 1941 to 1945. He knew DEPNER in the concentration camp and often visited a close friend who worked on the rabbit farm, contrary to camp regulations and with DEPNER'S consent. He described DEPNER'S easy discipline and how DEPNER had supplemented the meager rations of members of the rabbit farm detail (R 71). He described in detail how DEPNER had been pointed out as a war criminal and claimed it was a gross mistake (R 72). HUSAREK was also acquainted with the accused ADAMI and stated he had the reputation of treating prisoners humanely (R 73).

Accused BAYER testified to the effect that he was drafted into the SS and sent to Camp Dachau for guard duty without his consent (R 89). He had no trouble with prisoners during his tour of duty at out-camps Kaufering Nos. VII and XI, and never struck a prisoner or reported one for punishment (R 90). He once saw OT men mistreating a prisoner but he stopped it immediately (P-4, par. 3). Sapos who beat prisoners at out-camps Kaufering Nos VII and XI were not under his command (P-4, par. 5).

Accused SCHERMAUL denied knowing anything about operation of concentration camps, how the inmates were selected or who was responsible for their welfare after their incarceration (R 101). While at Kempton out-camp he never had any trouble with the prisoners and never abused them (R 102).

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

5. COMMENTS: Examination of the entire record fails to disclose any errors or omissions which resulted in injustice to the accused. All of the accused were, by their own admissions, SS guards at Camp Dachau or its out-camps for considerable periods of time between the dates alleged (P-2 to P-9, inclusive).

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 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). With the exception of the accused SCHERMAUL, all accused were shown to have participated in the mass atrocity and the Court was warranted, by the evidence adduced, either in the parent Dachau case or in this subsequent proceeding, in concluding as to them that they not only participated to a substantial degree but that the nature and extent of their participation was such as to warrant the sentence imposed. Concerning accused SCHERMAUL, it was shown that he participated and the nature of his duties was also satisfactorily proved. However, a search of the record in the parent case and the record in this subsequent proceeding reveals no evidence as to atrocities committed at the Kempton out-camp. It is true that it is shown that 400 slave laborers were worked there but, if they were not otherwise mistreated and tortured, it is believed that SCHERMAUL'S participation in this mass atrocity was too remote to form a proper basis of sentencing by the Court. By virtue of the absence of evidence as to what occurred at the Kempton out-camp, he is not shown to have participated to a substantial degree and there is inadequate evidence as to the nature and extent of his participation to permit of arriving at an appropriate sentence. It could be contended with considerable merit that the Court, with propriety, could have inferred that the inmates of the Kempton out-camp were subjected to cruelties and torture substantially like those clearly proven to have been inflicted at the parent camp

and the other out-camps. If that view were adopted, as a result, theoretically, injustices could result and those too remotely connected with this or other mass atrocities might be severely punished without a proper gauge to measure the magnitude of their crimes.

6. CLEMENCY: There are no Petitions for Review. Consideration was given to letter from accused Josef BOENSCH dated 3 January 1947. No clemency is recommended.

7. CONCLUSIONS:

a. It is recommended that all the sentences, except the one as to accused SCHERMAUL, be approved.

b. It is recommended that the sentence as to accused SCHERMAUL be disapproved.

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

s/ Louie T. TISCHER
c/ LOUIE T. TISCHER,
Attorney,
Post Trial Section.

Having examined the record of trial, I concur.

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