

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

6 August 1947

UNITED STATES)

v.)

Ferdinand GREINER, et al.)

Case No. 000-50-2-51

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA: The accused were tried at Dachau, Germany, on 13 January 1947 before an Intermediate Military Government Court.

CHARGES AND PARTICULARS:

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

PARTICULARS: In that Ferdinand GREINER, Otto HIRSCHBECK, Erwin HUSER, Ferdinand Bernhard HUESER, Leopold KARRER, Adolf KELLERMANN, Daniel KONNERTH, Edmund KRIESE, 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 LAUDSBERG, 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.

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

PARTICULARS: In that Ferdinand GREINER, Otto HIRSCHBECK, Erwin HUSER, Ferdinand Bernhard HUESER, Leopold KARRER, Adolf KELLERMANN, Daniel KONNERTH, Edmund KRIESE, 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.

III. SUMMARY OF EVIDENCE: The convicted accused were, by their own admissions, members of the SS at Dachau Concentration Camp and/or its outcamps for considerable periods of time between the dates alleged,

and were shown to have participated in the Dachau Concentration Camp mass atrocity. Prosecution's P-Ex 1 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, hereinafter referred to as the "Parent Case"; see Section V, post; R 7, 8).

IV. EVIDENCE AND RECOMMENDATIONS:

1. FERDINAND GREINER

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|------------------|-------------------------------------|
| Nationality: | Czechoslovakian |
| Age: | 37 |
| Civilian Status: | Unknown |
| Party Status: | Unknown |
| Military Status: | Waffen SS Private First Class |
| Plea: | NG Charge I; NG Charge II |
| Findings: | G Charge I; G Charge II |
| Sentence: | 21 months, commencing 30 April 1946 |

Evidence for Prosecution: Accused was a guard at Camp Dachau, out-camp Allach, outcamp Hausstetten, outdetail Unterfalheim, and SS special detail Flansee, from 20 January 1943 to 30 April 1945 (R 8,9; P-Ex 2a).

Evidence for Defense: Accused did not participate in any prisoner transports or marches (P-Ex 2a).

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.

2. OTTO HIRSCHBECK

This accused was neither served nor tried.

3. ERWIN HUSER

This accused was neither served nor tried.

4. FERDINAND BERNHARD HUSSER

This accused was neither served nor tried.

5. LEOPOLD KARRER

6. ADOLF KELLERMANN

| | |
|------------------|------------------------------------|
| Nationality: | German |
| Age: | 57 |
| Civilian Status: | Unknown |
| Party Status: | Unknown |
| Military Status: | Waffen SS Master Sergeant |
| Plea: | NG Charge I; NG Charge II |
| Findings: | G Charge I; G Charge II |
| Sentence: | 2-1/2 years, commencing 4 May 1945 |

Evidence for Prosecution: Accused was a guard, control guard and baker with the Economic Administration main office at Camp Dachau from 20 December 1941 to 28 April 1945 (R 9; P-Ex 3a). Prosecution witness Rogasik, a former inmate, testified that at outcamp Sudelfeld, in the Spring of 1942, the accused reported him and others to the camp leader because of a pause in their hard work, and they were punished for eight weeks by having to work on Sundays without food, and with only one meal a day during week-days in that period. Prior to the Spring of 1942, accused, as a guard at outcamp Sudelfeld, forced prisoners to work beyond physical endurance and during periods of time when other detail leaders did not require them to work (R 12-14).

Evidence for Defense: accused did not participate in any prisoner transports or marches (P-Ex 3a).

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

Petitions: A Petition for Review was filed by G. L. Kohloss, Lieutenant Colonel, counsel for accused, dated 22 January 1947. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

7. DANIEL KONNERTH

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|------------------|--------------------|
| Nationality: | Rumanian |
| Age: | 32 |
| Civilian Status: | Unknown |
| Party Status: | Unknown |
| Military Status: | Waffen SS Corporal |

Plea: NG Charge I; NG Charge II
Findings: G Charge I; G Charge II
Sentence: 21 months, commencing 27 April 1945

Evidence for Prosecution: Accused was in training and a guard at Camp Dachau from 1 August 1943 to 1 August 1944, and at outcamp Kaufbeuren from 1 August 1944 to 7 January 1945 (R 9, 10; P-Ex 4a).

Evidence for Defense: accused did not participate in any prisoner transports or marches (P-Ex 4a).

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

Petitions: a Petition for Review was filed by G. L. Kohloss, Lieutenant Colonel, counsel for accused, dated 22 January 1947. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

8. EDMUND KRIESE

This accused was neither served nor tried.

V. QUESTIONS OF LAW:

Jurisdiction: A question not raised during the course of trial merits discussion, viz., did the Court have jurisdiction of the persons of the accused who are allegedly nationals of other United Nations. Ferdinand GREINER is a national of Czechoslovakia. War criminals, brigands, and pirates are the common enemies of all mankind and all nations have an equal interest in their apprehension and punishment for their violations of international law. Concerning this question, it is stated in "Wheaton's International Law", Volume I, Sixth Edition, at page 269, that every independent state has the judicial power to punish "piracy and other offenses against the common law of nations, by whomsoever and wheresoever committed." Nationals of other United Nations were sentenced, which sentences have been approved and carried into execution, in the Mauthausen Concentration Camp case (United States v. Altfuldisch, et al., February 1947), and in the Belsen Concentration Camp case, British Army of the Rhine, December 1945. Apparently, all concerned with the reviews and approvals in those cases

ognized that discussion was not necessary. Military Government Courts have jurisdiction over the nationals of any country who are in the United States Zone of Occupation, except as to certain classes of American and other nationals, e.g., military personnel, which are not pertinent to the jurisdictional question here involved. Concerning jurisdiction over war crimes, no limitation is imposed. (See Sections 5-300.2 and 5-300.3, Title 5, "Legal and Penal Administration", of "Military Government Regulations", published by Headquarters, US Forces, European Theater, 30 November 1945). Concerning the general question of universality of jurisdiction over war crimes see "Universality of Jurisdiction Over War Crimes", by Cowles, California Law Review, Volume XXXIII, June 1945, No. 2, pp. 177-218.

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 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, and the Parent Case). 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 as to them that they not only participated to a substantial degree but that the nature and extent of their participation were such as to warrant the sentences imposed.

The service of charges indicates that the accused who were tried had less than five days time within which to prepare a defense, having been served on 9 January 1947 and tried on 13 January 1947. The fact that the accused, through their counsel, advised the Court that they were ready for trial is a clear indication that the accused had sufficient time in which to prepare their defense (R 6).

Examination of the entire record fails to disclose any error or

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/ THOMAS L. NAIR
THOMAS L. NAIR
Attorney
Post Trial Branch

Having examined the record of trial, I concur.

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