

28 October 1947

UNITED STATES)

v.)

Case No. 000-50-2-74

Josef HAEUSSLER, et al.)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 6-10 March 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Josef Haeussler, Rudolf Pichner, Otto Karl Wichmann, Josef Neuner, acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual(s) 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, tortures, 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 Josef Haeussler, Rudolf Pichner, Otto Karl Wichmann, Josef Neuner, acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual(s) 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 were SS noncommissioned officers at Dachau Concentration Camp and two or more of its subsidiary camps between the dates alleged. Accused HAEUSSLER served as guard, block leader and assistant detail leader. Accused PICHNER

survived as guard and food and supply checker. Accused WICHMANN served as guard. Individual acts of cruelty were shown to have been committed or instigated by each of the accused. Prosecution's exhibit P-Ex 1 (R 17) is a certified copy of the charges, particulars, findings and sentences in the parent Dachau Concentration Camp (United States v. Weiss, et al., 000-50-2, DJANC, March 1946, hereinafter referred to as the "Parent Case", see Section V, post).

IV. EVIDENCE AND RECOMMENDATIONS:

1. Josef H. EUSLER (The surname actually spelled H.ÜSSLER, R 18, P-Ex 2).

Nationality:	German
Age:	59
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS, S/Sgt
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	3 years, commencing 6 May 1945

Evidence for Prosecution: The accused stated in his extrajudicial sworn testimony that he transferred to the Waffen SS in December 1941 and served as a guard at Camp Dachau from that date until 5 April 1943. He then served as block leader at outcamp Allach from 5 April 1943 until 1 September 1943, as a block leader and deputy detail leader at outcamp Kottorn from 20 November 1943 until 15 May 1944, as a block leader at Camp Dachau from 15 May 1944 until 15 September 1944, as a block leader and deputy detail leader at outcamp Kottorn from 15 September 1944 until 7 January 1945 and as a block leader at Camp Dachau from 7 January 1945 until 26 April 1945. The accused also participated as a guard in an inmate evacuation march consisting of 800 to 1000 inmates and about 60 guards from Camp Dachau to Bad Tölz, 26 April 1945 to 1 May 1945 (R 18; P-Ex 2A). Witness Kauschenhein, a former inmate at outcamp Kottorn, testified that the accused severely beat inmates with a stick and a whip; that he required them to stand at unnecessarily long roll calls; and that many prisoners of war were confined at outcamp Kottorn (R 42-50).

Witness Kohlhofer, a former inmate, testified that at outcamp Kottorn the accused frequently mistreated inmates while he was drunk, and that once he ordered the guards to shoot into a group of inmates resulting in the shooting of one inmate (R 62, 63). The accused's counsel joined the prosecution in a stipulation that, if former inmate Czerniarzycki were present and sworn, he would testify to specific acts of cruelty and mistreatment which he had seen the accused administer on inmates (R 73). Witness Sammett, a former inmate of outcamp Kottorn, testified that the accused beat inmates who stole articles (R 126-127).

Evidence for Defense: Witness Kauschenheim, a former inmate of outcamp Kottorn, testified that the accused justifiably beat Russian inmates who stole potatoes from other inmates and that he never saw the accused pilfer a Red Cross package (R 49, 53). Witness Sammett, a former inmate of outcamp Kottorn, testified that the accused beat inmates who had stolen articles, rather than report them to Camp Dachau for more severe punishment (R 126, 127); that the accused helped thousands of inmates; and that he helped inmates whom Camp Commander Doffner mistreated (R 128-130). The accused declined to take the stand in his own behalf (R 142).

Sufficiency of Evidence: The admission of the accused concerning his service as a guard, block leader and detail leader at Camp Dachau and two of its outcamps and his participation in the final inmate evacuation march, as well as the evidence as to his individual acts of cruelty, demonstrate his participation in the common design. 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. Rudolf PICHNER

Nationality:	German
Age:	53
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS, 1/3Sgt

Flea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	2 years, commencing 29 April 1945

Evidence for Prosecution: The accused stated in his extrajudicial sworn testimony that he transferred to the Waffen SS in January 1940 and after serving as a guard at Buchenwald Concentration Camp, he was transferred to Dachau Concentration Camp in January 1941 where he remained until December 1942 as a duty checker and bookkeeper. He then served in the ration and supply sections at outcamps Haunstetten, Gablingen and Augsburg-Pfersee until the capitulation (R 19; P-Ex 34). Witness Rohbein, a former inmate of outcamp Haunstetten, testified that the accused slapped inmates; that he made some Russian inmates eat frozen boots causing them to become seriously ill and making it necessary to hospitalize them; that the accused made punishment reports on inmates causing them to receive the "twenty-five"; that some inmates were civilian and some were military; and that there were Russian, Polish, Jewish, German, Italian, French, and Yugoslavian inmates confined in outcamp Haunstetten (R 34, 38). Witness Muschenheim corroborated witness Rohbein's testimony that the accused reported prisoners for punishment (R 45). Witness Abler, a former clerk at outcamp Augsburg (Haunstetten) testified that the accused was a fanatical SS man (R 96).

Evidence for Defense: Witness Muschenheim, a former inmate, testified that he never saw the accused pilfer a Red Cross parcel (R 53). Witness Abler, a former clerk at the outcamp at Augsburg, stated that he complained to the accused who had charge of the food distribution about the poor quality of the food and that the accused made an investigation at the place of storage and received a promise of better food in the future, and that the accused was able to end the corruption in the distribution of food (R 79-81). The accused took no part in inmate marches (R 19; P-Ex 34). He elected not to take the witness stand in his own behalf (R 142).

Sufficiency of Evidence: The admission of the accused concerning

his service at Camp Dachau and three of its outcamps demonstrates his participation in the common design. 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.

3. Otto Karl WICHLMANN

Nationality:	German
Age:	26
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:	2 years, commencing 5 May 1945

Evidence for Prosecution: The accused stated in his extrajudicial sworn testimony that he joined the Waffen SS in March 1942. In May 1943 he was assigned to Dachau Concentration Camp where he served as a guard until March 1944. He then served successively as a guard on Camp Dachau out details Friedrichshafen, Raderach and Uberlingen until the capitulation in April 1945 (R 20; P-Ex 4.). Witness Klukowsky, a former inmate at the outcamp at Bodensee (Friedrichshafen) testified that the accused was a dog leader at the camp and that one Italian died from bitings inflicted on him by the dogs which the accused set upon him (R 103-104). Witness Leutfelder testified that at outcamp Uberlingen (Friedrichshafen) he saw the accused kick a prisoner who had already been beaten by two SS men (R 120, 121). In his extrajudicial sworn testimony the accused admitted his service at Camp Dachau and three of its out details between the dates alleged, and that he took part as a guard in an inmate transport consisting of about 800 inmates and about 60 guards from Dachau to Uberlingen in October 1944 and in an inmate evacuation march consisting of about 800 inmates and about 50 guards from Dachau to the vicinity of

Evidence for Defense: Witness Klukowsky, a prosecution witness, testified that he did not actually see the dog of the accused bite inmates and that he could not state with certainty that the accused actually "sicked" his dog on inmates (R 119). The accused offered no testimony in his own behalf and declined to take the stand (R 142).

Sufficiency of Evidence: The admission of the accused concerning his service as a guard at Camp Dachau and three of its outcamps, together with the evidence that he took part in the final evacuation march and was also shown to have committed individual acts of cruelty, demonstrate his participation in the common design. 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.

4. Josef MEUNER

This accused was served but not tried (R 15, 16, 32, 40, 88)

V. QUESTIONS OF LAW:

Jurisdiction: 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.) The convicted 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 proceedings, in concluding 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.

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

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.

GEORGE M. LENTZ
Captain, JAGD
Post Trial Branch

Having examined the record of trial, I concur, this _____ day of
_____ 1948.

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