

DEPUTY JUDGE ADVOCATE'S OFFICE
7708 WAR CRIMES GROUP
EUROPEAN COMMAND
APO 178

7213 A
25 June 1947

UNITED STATES)

v.)

Heinrich TRIXL)

Case No. 000-50-2-80

REVIEW AND RECOMMENDATIONS

TRIAL DATA: The accused was tried at Dachau, Germany, on 9 May 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

PARTICULARS: In that Heinrich TRIXL 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, 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 Heinrich TRIXL 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: Accused was a prisoner detail leader and assigned to training guards at Kaufering No. 11 from about 1 November 1944 to the end of the war. This was a Dachau subcamp utilized in the mass atrocity operation which constituted the gravamen of the common design established in the Parent Dachau Case (U.S. v. Weiss et al., 100-50-2, March 1946, hereinafter referred to as the "Parent Case"). Prisoners suffered mistreatment at his hands, and in two instances death resulted from beatings he administered.

EVIDENCE AND RECOMMENDATIONS:

HEINRICH TRIXL

Nationality:	Austrian
Age:	37
Civilian Status:	Merchant
Party Status:	Unknown
Military Status:	SS T/Sgt
Pleas:	NG Charge I; NG Charge II
Findings:	G Charge I; NG Charge II
Sentence:	30 years commencing 3 May 1945

Evidence for Prosecution: TRIXL was assigned to duty at Kaufering camp No. 11 (aka Landsberg Camp 11) from November 1944 and remained there until the end of the war (P-Ex 3). He was in charge of prisoner work details (R 12, 32, 33). These details worked at various construction sites (R 45), and also did jobs around the camp (R 44). They were made up of Polish, Czech, Hungarian, Greek, Russian and other nationalities (P-Ex 3, R 32, 44). Accused treated these prisoners brutally (R 12, 33), beating them frequently and severely, sometimes with a rifle (R 15), but more often with a heavy club (R 13, 33, 34). On one occasion, TRIXL beat a Greek prisoner so heavily that he died within four days (R 12, 13). Also, at another time a Czech national died within two days following a beating administered by the accused (R 15).

Evidence for Defense: TRIXL testified under oath that while he had occasionally delivered a box on the ear to prisoners in order to punish them for wrongful conduct (R 55, 57) he never beat them with a club (R 55) or kicked them (R 57). In fact, during his tour at Kauferring No. 11 he did not carry a club nor did he possess one (R 55). He could not remember having previously seen the witnesses who testified against him (R 58) and he called their accusations lies (R 55). Guards under his jurisdiction were instructed not to beat prisoners (R 58). TRIXL, originally an Austrian soldier, was transferred into the SS because his wounds disqualified him from combat duty (R 54).

Sufficiency of Evidence: The evidence is legally sufficient to sustain the Court's findings of guilty as to Charge I and the particulars thereunder. There is ample evidence that prisoners at Kauferring Camp No. 11, subjected to mistreatment by the accused, were civilian nationals of countries then at war with the then German Reich. (That they were prisoners of war is not sufficiently shown and accordingly the findings of not guilty as to the second charge and particulars are proper). Moreover, accused's connection with the camp, his length of service there, and the nature of his duties suffice to identify him with the system of ill treatment. That the system itself existed is established in the Parent Case and it was incumbent upon this Court to take judicial knowledge of the findings in that case (P-Ex 2). Proof of individual mistreatment by TRIXL was not required but it is competent to show the extent and gravity of his involvement and to act as a guide in fixing suitable punishment. Austria was a co-belligerent of Germany.

The contradiction in the evidence has been resolved by the Court in favor of the prosecution. The determination of where the truth lies is within the peculiar province of the trial court and when, as here, it is supported by proper evidence, it will not be disturbed on review. This evidence warrants the findings of guilty. The sentence is not excessive.

Petitions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

QUESTIONS OF LAW:

Jurisdiction: The Court was legally constituted and had jurisdiction of the person of the accused and of the offense.

Parent Case: 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, 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 substantial error or omission which resulted in injustice to the accused.

CONCLUSIONS.

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

/s/ Anthony J. Albert
ANTHONY J. ALBERT
Attorney
Post Trial Branch

Having examined the record of trial, I concur.

/s/ C. E. Straight
C. E. STRAIGHT