

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

14 August 1947

UNITED STATES

v.

Oskar Hermann Franz KNOCHE  
and Jon Wilhelm HEYNE

Case No. 000-50-3-93

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 2-5 May 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

PARTICULARS: In that Oskar Hermann Franz KNOCHE and Jon Wilhelm HEYNE, 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 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.

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

PARTICULARS: In that Oskar Hermann Franz KNOCHE and Jon Wilhelm HEYNE, 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 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 prosecution's evidence establishes the existence of a common design in the carrying out of a mass atrocity operation at the Dachau Concentration Camp and certain of its outcamps, criminal in its nature

and operation, and the connection of the accused therewith. Prosecution's P-Ex 4 is a certified copy of the charges, particulars, findings and sentences in the parent Dachau Concentration Camp case (United States v. Weiss, et al., GOC-DC-3, March 1946, hereinafter referred to as the Parent Case; see Section V post; R 12, 13).

#### IV. EVIDENCE AND RECOMMENDATIONS:

##### 1. OSKAR HERMANN FRANZ KNOCHE

Nationality: German  
Age: 49  
Civilian Status: Unknown  
Party Status: None  
Military Status: SS Sergeant  
Plea: NG Charge I; NG Charge II  
Findings: G Charge I; G Charge II  
Sentence: 4 years, commencing 1 May 1945

Evidence for Prosecution: KNOCHE, a veteran of World War I, entered the Waffen SS 1 August 1944. His entire tour of duty from that date to 27 April 1945 was spent as a guard at Dachau, Augsburg, Raemheim and again at Dachau (R 12; P-Ex 3). He was also a foot guard accompanying the prisoner evacuation march from Camp Dachau in its final days (R 12; P-Ex 3, p. 3; R 27).

In the evacuation of Camp Dachau, about 6000 prisoners, of Dutch, Polish, Jewish, German and Russian nationalities (R 18), were formed into a march column and started in the direction of Koenigsdorf (R 12; P-Ex 3), although Tyrol was named as the destination (R 19). The movement began toward evening 26 April 1945 (R 17) and made its first halt at about 1000 hours the next day. After a break to 1300 hours, the march was resumed (R 19). Some prisoners were shot (R 19-22) and there is evidence that others were mistreated (R 20, 23-25). Many corpses lay at the side of the road over which the column passed (R 23). The witness Baumann believes he saw KNOCHE on the march (R 27). This march from Dachau, in which KNOCHE participated resulted in a large number of deaths due to the generally inhuman manner in which it was conducted (R 14; P-Ex 5).

Evidence for Defense: KNOCHE, testifying under oath (R 57), stated he entered the Wehrmacht 27 August 1939, was transferred to the SS, and came to Dachau as a guard in August 1944 (R 58), where he served with various details outside the camp (R 58). He did not have free access to the camp and as a result did not mix or have contact with the prisoners (R 58, 59).

On the march from Dachau, in April of 1945, KNOCHE was always with the accused HEYNE (R 46, 50, 59, 62). Together they had charge of a cart on which luggage was hauled by prisoners (R 59, 62). There had been an order posted, before the march started, not to shoot or mistreat prisoners (R 60, 61). This accused at no time, covering his entire service in the concentration camps, saw prisoners mistreated (R 65). At the conclusion of the prisoner evacuation march, he turned in his rifle together with the full issue of 180 rounds of ammunition which he had received at the beginning of the march (R 62, 63). He did not know the witness Baumann (R 60). Accused saw stragglers whom he assumed would be picked up by wagons (R 63) but he saw no dead bodies (R 64). All the camps at which KNOCHE saw service as a guard belonged to the Dachau system (R 65). He knew of the crematory at Camp Dachau but did not know prisoners were burned there (R 66, 67).

Sufficiency of Evidence: While there is no evidence of individual acts of cruelty on the part of this accused, his connection as a guard with Camp Dachau, and his participation in the prisoner evacuation march, the horrors of which are shown in the record of the Parent Case (Vol. V, R 754-755, Parent Case), are sufficient to support the Court's conclusion that he had criminal knowledge of and participated in the mass atrocity scheme.

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.

2. JON WILHELM HEYNE

Nationality:	German
Age:	49
Civilian Status:	Baker
Party Status:	None
Military Status:	SS Sergeant

Plea: NG Charge I; MG Charge II  
Findings: G Charge I; G Charge II  
Sentence: 4 years, commencing 1 May 1945

Evidence for Prosecution: This accused served in the Wehrmacht from 30 August 1939 to 30 June 1944, on which date he was transferred to the Waffen SS. On 30 June 1944 he arrived at Dachau Concentration Camp and remained there until 14 July 1944. During this period he received instruction. He was a guard at outcamp Augsburg-Pferssee from 15 July 1944 to 3 October 1944; at outcamp Lauingen-Donau from 4 October 1944 to 5 March 1945; and at Camp Dachau from 5 March 1945 to 30 April 1945. He participated in the prisoner evacuation march from Camp Dachau shortly before its liberation (R 11; P-Ex 2; R 20, 21). For particulars concerning this march as a whole, reference is made to the discussion of "Evidence for Prosecution", page 2 herein, the testimony on this subject being the same as to both accused.

The witness Baumann states that during the break taken by the column at the river Ems, HEYNE was with a group of SS men who threatened to beat him up (R 20). While HEYNE was not seen shooting, the sound of shots was heard coming from a group of SS with whom he was standing (R 22). HEYNE was also heard referred to by other SS men in a manner indicating it was his duty to shoot stragglers (R 24, 25). A discussion of the prisoner evacuation march and the cruelties inflicted during it appears in Prosecution's P-Ex 5 (R 14).

Evidence for Defense: HEYNE took the stand and testified under oath in his own defense (R 40). He admitted the truth of the prosecution's evidence as to his military service (R 40, 41) and that he had participated in the prisoner evacuation march from Dachau (R 41). During his service at concentration camps, and on the march referred to, he never mistreated any prisoners (R 41, 43, 44). He was not a member of the Nazi party or its affiliates after 1933, and prior to that time he belonged to no parties (R 42). His entire service at all concentration camps amounted to 10 months, less four days, and of this period he was for five weeks sergeant of the guard at Lauingen where he had no contact with prisoners (R 43). During his tour of duty at Camp Dachau, he was not inside the camp but served only with outside details. He knew that there was a crematorium there but did not know to what use it was put and

amiss when he saw the prisoners with their heads shaved and their uniforms and wooden shoes, as well as the high fence behind which they were kept and the further fact that guards were not allowed to enter the compound (R 45).

On the prisoner evacuation march from Dachau, he was always in company with KNOCHE (R 46, 58, 59, 62) and had in charge a baggage cart (R 59, 62). He did not fire his rifle while he was on this march (R 53) and after its conclusion he turned in his rifle and the ammunition which was originally issued to him. He, as did KNOCHE, heard shots during the night (R 56), but did not hear any while the column was moving (R 48). He does not know who fired these shots (R 53). HEYNE had no recollection of having seen the prosecution witness Baumann before (R 55). During all the time he was on the march, he saw no dead bodies (R 52, 53) but he did see some stragglers to whom he paid no attention for the reason that he understood a cart was supposed to come along and pick them up (R 52). HEYNE denied any mistreatment of prisoners during the time he acted as guard at Camp Dachau and its outcamps or while on the prisoner evacuation march (R 41).

Sufficiency of Evidence: The testimony of the prosecution witness Baumann is, for the most part, conjecture and is inadequate to establish the commission of individual acts of cruelty by this accused. However, the testimony of Baumann is not essential to make out a case against HEYNE. There is sufficient evidence to justify the Court in concluding that HEYNE had knowledge of the mass atrocity scheme in existence at Camp Dachau and the named outcamps and that he was a participant therein (Vol. I, R 102; Vol. IV, R 530; Vol. V, R 873; Vol. VI, R 1255, 1259, 1267, 1353. Papan's Case).

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

Petitions: No Petitions for Review were filed. A Petition for Clemency was filed by accused Jon Wilhelm HEYNE, 28 June 1947, and also by his wife, Marta Heyne, 1 June 1947, to the latter of which are attached a number of supporting statements.

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 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). Both 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 was 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 the sentences 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 (13 Sept 47)  
Lieutenant Colonel, JAGD  
Deputy Judge Advocate  
for War Crimes