

2 February 1948

UNITED STATES )

v. )

Case No. 000-Nordhausen-3

Georg FINKENZELLER )

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, on 10 November 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Georg FINKENZELLER, a German national, did, at or in the vicinity of Nordhausen, Germany, in or about October 1944, wrongfully encourage, aid, abet and participate in committing an assault upon approximately twenty non-German nationals, inmates of Nordhausen Concentration Camp, who were then in the custody of the then German Reich.

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

Particulars: In that Georg FINKENZELLER, a German national, did, at or in the vicinity of Nordhausen, Germany, in or about December 1944, wrongfully encourage, aid, abet and participate in the killing of an unknown Yugoslav national, an inmate of Nordhausen Concentration Camp, who was then in the custody of the then German Reich.

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

Particulars: In that Georg FINKENZELLER, a German national, did, at or in the vicinity of Wiener-Neustadt, Austria, in or about September 1943, wrongfully encourage, aid, abet and participate in the killing of an unknown Polish national, an inmate of Mauthausen Concentration Camp, who was then in the custody of the then German Reich.

III. SUMMARY OF EVIDENCE: Accused FINKENZELLER was at Camp Dora Concentration Camp, near Nordhausen, Germany, from November 1943 until 4 April 1945 as a superior capo at the stone quarry tunnel detail.

He beat inmates, especially Poles, with a heavy stick until they became unconscious and had to be sent to the hospital. A Yugoslav inmate died from a beating by the accused.

IV. EVIDENCE AND RECOMMENDATIONS:

Georg FINKENZELLER

Nationality:

German

Civilian Status: Plumber  
Party Status: None  
Military Status: None  
Flea: NG Charge I; NG Charge II; NG Charge III  
Findings: G Charge I; NG Charge II; NG Charge III  
Sentence: 2 years, commencing 23 July 1947

Evidence for Prosecution: Wawrzyniak, a former Polish inmate of Camp Dora, near Nordhausen, Germany, in his extrajudicial sworn statement stated from August 1944 until 4 April 1945 he worked on the tunnel detail, and that he saw the accused, while acting as a capo on this detail, beat inmates with a heavy stick until they became unconscious and had to be removed to the hospital (R 30; P-Ex 7).

A former French inmate in his extrajudicial sworn statement stated that he worked on the tunnel detail at Camp Dora, and that between September and 11 November 1944, the accused beat inmates in the tunnel with his fist and with a stick (R 31; P-Ex 8).

Another former Polish inmate in an extrajudicial sworn statement stated that the accused "before Christmas 1944" while a superior capo in the tunnels at Camp Dora beat a Yugoslav inmate with a cudgel so severely that the inmate died within three or four hours (R 30; P-Ex 6).

Defense witness Ziezek testified that he was an inmate of Camp Dora from the end of 1943 or the beginning of 1944 with duty as a clerk for the accused (R 40). On cross-examination he testified that on several occasions he saw the accused mistreat Polish inmates because they were Poles. The witness said that he did not look at the beatings but understood that the accused used a stick or a rubber hose (R 42). The witness reaffirmed on redirect examination that he saw the accused beat prisoners (R 44). The witness remained at the camp until the final evacuation (R 47) and was with the detail that worked in the tunnel (R 48).

In his own testimony the accused admitted that he was at Camp Dora, near Nordhausen, Germany, from November 1943 until the evacuation

4 April 1945 (P 51). He admitted that he beat inmates with a stick about three feet long and one inch in diameter. He said, however, that such beatings were for the punishment of individuals for infractions of rules which otherwise would have caused his entire group to be punished (P 56-58). He further testified that the inmates in the stone quarry detail were Russians and Poles and other nationals (P 57).

The accused was acquitted on Charges II and III and evidence relating solely to those charges has not been set out.

Evidence for Defense: One witness, a former inmate, testified that he was a clerk for the inmate details that worked in the stone quarry tunnels of which the accused was superior capo or inmate foreman through 1944 to April 1945; that he saw the accused every day; that he never heard of an inmate being killed by the accused; and that he never saw the accused beat any inmate sufficiently to warrant hospitalization (P 40, 41). Another former inmate testified that he never heard that the accused killed anyone at Camp Dora (P 35, 36).

The accused was at Dora from November 1943 to 4 April 1945 (P 51). He testified that he beat inmates for stealing food from other inmates, but never so hard that they were unable to work (P 55, 57, 59). He denied killing a Yugoslav inmate (P 58).

Sufficiency of Evidence: The findings of guilty as to Charge I are not warranted by the evidence.

Petitions: No Petitions for Review were filed. A Petition for Clemency, was filed by Dr. Karl Durst, German counsel for the accused, 16 January 1948.

Recommendation: That the findings and sentence be disapproved.

#### V. QUESTIONS OF LAW:

It is clear that the Court had jurisdiction of the person of the accused and of the subject matter.

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

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

E. LLOYD MEYER  
Captain CMP  
Post Trial Branch

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

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