

DEPUTY JUDGE ADVOCATE'S OFFICE
7708 WAR CRIMES GROUP
EUROPEAN COMMAND
APO 407

20 January 1948

UNITED STATES)
) v.)
Kurt GOTTSMANN)

Case No. 000-Flossenburg-12

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 7-13 November 1947, before a General Military Government Court.

II. CHARGE AND PARTICULARS:

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

Particulars: In that Kurt GOTTSMANN, a German national, did, at or in the vicinity of Flossenburg, Germany, in or about April 1945, wrongfully encourage, aid, abet and participate in the killing of approximately 30 non-German nationals, inmates of Flossenburg Concentration Camp, who were then in the custody of the then German Reich, the exact names and numbers of such persons being unknown.

III. DATA AS TO ACCUSED:

Kurt GOTTSMANN

This accused was acquitted (R 191).

IV. SUMMARY OF EVIDENCE: Three witnesses testified that the accused, a member of the SS, was a guard on the inmate evacuation transport from Flossenburg Concentration Camp to Schwarzenfeld on 19 April 1945 (R 15, 30, 178, 179). The transport arrived by train early in the morning of 18 or 19 April 1945. Due to an Allied air raid the train could not continue but was halted at Schwarzenfeld.

While the train was in the vicinity of Schwarzenfeld the accused shot five Polish inmates with a pistol (R 15, 30, 32, 178). The five victims had hidden in a potato cellar near the railroad tracks and were forced out by the accused, made to lie down on the ground and shot in the back of the head by the accused with a pistol (R 16, 27, 28, 31, 32, 176, 177, 187, 188). The incident occurred in the afternoon sometime after an air raid (R 17, 20, 21, 32, 39, 40, 176). After the shooting,

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the victims did not get up, and one witness testified that he later buried the victims (R 17, 32, 177). One of the three witnesses testified that the accused wore an SS uniform with the SS insignia on the right lapel and a "Deathshead" insignia on the left lapel. The witness testified that the accused wore a long garrison cap with the "Deathshead" insignia in front (R 35, 36, 46). Another of the three witnesses also testified that the accused wore a cap with the "Deathshead" insignia (R 183).

Later the same day the inmates were taken from the railroad cars, organized into march columns and proceeded on foot (R 17, 54). A fourth witness testified that during the march, when the column was approaching Neunberg, he saw the accused shoot and kill an inmate who could not walk any further (R 54, 67, 68).

The accused testified that he participated in the transport described by the prosecution witnesses but denied that he ever shot any of the inmates. He never wore the "Deathshead" insignia on his cap and he was only a private first class in the SS (R 94, 95). When the train arrived at Schwarzenfeld he took shelter in a nearby house during the air raid (R 100). He did not return to the train until sometime between 1100 and 1200 hours and then for only a short period of time (R 101, 110-112). He left the train and went back to another nearby house where he remained until 1830 or 1900 hours. He then returned to the train as the march columns were being formed (R 102). He further testified that he was armed with a rifle and never had a pistol (R 103). He denied that he shot anybody on the evacuation march or that he participated in any shooting of inmates at the potato warehouse in Schwarzenfeld (R 104). He was in a march column that went in a different direction from the column testified to by one of the prosecution witnesses (R 105, 108, 117, 118).

A witness testified that he saw the incident which occurred at the potato warehouse at Schwarzenfeld. The SS man who perpetrated the killings was a corporal (R 75, 78) who had dark brown hair (R 78) and wore a cap with a "Deathshead" insignia on it (R 83). A second witness testified that on 19 April 1945 several SS men came to her house at Schwarzenfeld

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and remained there during the air raid. She corroborated several of the details which the accused testified had occurred that morning (R 126; D-Ex 10; R 127-129). A third witness testified that she recognized the accused as having been in her house in Schwarzenfeld on 19 April 1945 from 0800 hours until 1700 or 1800 hours that day (R 130, 131). The accused helped collect wood at a neighbor's house, worked there all day and left toward evening of the same day (R 131, 132). A fourth witness testified that she recognized the accused as having been in her house in Schwarzenfeld on 19 April 1945 around noontime. The accused was collecting wood and was working on an air raid shelter. He returned at 1400 hours to listen to the radio (R 134). A fifth witness testified that he was working all day at the railroad station in Schwarzenfeld on 19 April 1945. He did not see any shootings or hear about any on that date (R 135, 138).

A sixth witness testified that he was an SS guard assigned to one of the march columns. He saw the accused with the column. He never saw the accused shoot any of the inmates nor did he ever hear that any of the inmates had been shot. The accused was armed only with an Italian rifle (R 162, 163). The column of which he and the accused were members took a different route than the column testified about by one of the prosecution witnesses (R 164, 165). During the march with this column no shootings took place (R 166-168).

V. JURISDICTION:

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

VI. CONCLUSIONS:

It is recommended that the record of trial be filed in the records of this office and that a copy of this Review and Recommendations be forwarded to the Judge Advocate, European Command, for his information.

EMANUEL LEWIS
Captain INF
Attorney
Post Trial Branch

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Having examined the record of trial, I concur, this _____

day of _____ 1948.

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

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