

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

RCH/vmm

19 August 1947

UNITED STATES)

v.)

Arnold DAMASCHKE)

Case No. 000-Mauthausen-4

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, 22 April 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Arnold DAMASCHKE, a German National, did, at or in the vicinity of Mauthausen, Austria, in or about April 1942, wrongfully encourage, aid, abet and participate in the killing of approximately twenty-five non-German nationals, the exact names and numbers of such persons being unknown, inmates of the Mauthausen Concentration Camp, then in the custody of the then German Reich.

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

Particulars: In that Arnold DAMASCHKE, a German National, did, at or in the vicinity of Mauthausen, Austria, in or about December 1942, wrongfully encourage, aid, abet and participate in the killing of approximately 140 non-German nationals, the exact names and number of such persons being unknown, inmates of the Gusen I Concentration Camp, then in the custody of the then German Reich.

III. SUMMARY OF EVIDENCE:

Incident No. 1. In April 1942, during his service as an SS man at Mauthausen Concentration Camp, the accused, on two occasions, was one of several riflemen comprising a firing squad which executed many Yugoslavian, Polish, French and Czech inmates, offense alleged under Charge I hereinafter referred to as Incident No. 1.

Incident No 2. When the accused was a roll call leader at Camp Gusen I in December 1942, inmates were compelled to stand on roll call square through an entire night in the rain until an escaped inmate was caught and killed in the presence of the accused; 160 Russian prisoners of war

were gassed to death in Block 16 during disinfection operations; inmate transport arrivals were forced to stand all day in icy weather on the roll call square; and invalid inmates were bathed under cold showers, the survivors being exposed to the weather in the snow until they died, offense alleged under Charge II hereinafter referred to as Incident No. 2.

Both of these incidents caused the death of many inmates and contributed to a high death rate for inmates at Camp Gusen I.

Not much weight is given to the testimony of witness Geiger.

IV. EVIDENCE AND RECOMMENDATIONS:

Arnold DAMASCHKE

Nationality:	German
Age:	32
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS, Master Sergeant
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	Death by hanging

Evidence for Prosecution: The accused served at Mauthausen Concentration Camp near Mauthausen, Austria, from September 1938 to the end of 1942 as a headquarters clerk and at Camp Gusen I, an outcamp of Mauthausen Concentration Camp, as a roll call leader from the end of 1942 to February 1943 (R 24; P-Ex 2, 2A). (In his Petition for Clemency, 16 June 1947, the accused states he went to Camp Gusen I about the end of November 1942.)

Incident No. 1. During April, 1942 witness Barcynski saw some 25 to 28 persons executed by shooting at Mauthausen Concentration Camp (R 10). At about 1430 or 1500 hours on a day (R 23) in April 1942 (R 10), Yugoslavian, Polish, French and Czech inmates of Mauthausen Concentration Camp (R 11, 26, 27) were marched to the rifle range where they were ordered to undress (R 6, 7, 9, 15, 19). Witness Geiger, who saw two executions,

a hole in a wooden tool shop at a distance of approximately three to seven meters from his concealed position (R 27, 29, 30, 39, 56). He testified that an "order" purporting to direct the execution of the inmates was "read" by one Schultz from a blank sheet of paper (R 30, 37, 41, 42) while the six riflemen of the execution detail grinned (R 37). The execution ostensibly was ordered because of the victim's participation "in an armed insurrection against the German army" (R 30). The accused and three others armed with rifles were seen to go to the place where the execution occurred (R 24; P-Ex 3, 3A; R 7, 27, 37). All riflemen (R 28), including the accused (R 27), fired in volleys (R 27), shooting one inmate at a time (R 22, 23, 28). The firing lasted for approximately an hour (R 24; P-Ex 3, 3A). Bodies of the executed inmates were taken from the rifle range by crematory employees who stacked the corpses inside a car, covering them with clothing and a blanket to conceal them while being transported to the crematory through the camp (R 9, 10, 21). At the crematory, the naked bodies, bleeding like freshly slaughtered pigs, were unloaded and thrown down the stairs (R 22). Some 25 to 28 inmates were seen to perish by this form of execution in April 1942 (R 10). Whether this is the same execution as that seen by eyewitness Bercynski is not clear (R 6, 7, 18, 19).

Incident No. 2. At Camp Guson I, in December 1942, 160 Russian prisoners of war were gassed to death in block 16 during disinfection. In the same month, inmates were compelled to stand on roll call square nearly a whole night in the rain until a missing inmate was discovered and killed in the presence of the accused (R 32; P-Ex 6, 6A). In their extrajudicial sworn testimony (R 48-50; P-Ex 7, 7A, 8, 8A), two former inmates related how members of a transport arriving at Camp Guson I in December 1942 were required to stand in icy weather from approximately 0500 to 1800 hours. Invalid inmates were driven under cold showers in cold weather and the survivors were exposed to the snow until they, too, died (R 48; P-Ex 7, 7A).

49, 50; P-Ex 7, 7A, 8, 8A).

Evidence for Defense:

Incident No. 1. The accused testified that he did not participate in executions at Camp Mauthausen (R 54) but that he participated in rifle practice while wearing a steel helmet (R 55). As evidence of his good relationship with inmates of Camp Mauthausen, the accused testified that former inmates rendered assistance to his wife after the collapse of the Germany army (R 66).

Incident No. 2. The accused testified that he was not responsible for inmates standing in inclement weather at Camp Gusen I because any order of that nature would have been given by the security compound leader (R 54); that he had no knowledge of mass atrocities at Camp Mauthausen, nor of its reputation as a liquidation camp (R 59), and of extermination practices there (R 57); that no inmates in his charge died at Camp Gusen I (R 60); that he did not expose inmates to the rain for long hours at Gusen I (R 60); that he did not select inmates for invalid transports (R 60); that he slapped inmates for thefts from each other (R 56, 57, 58, 66); and that he was present when inmates were given camp punishment but he denied administering it (R 57).

Sufficiency of Evidence: Aside from the testimony of Geiger, there is little or no evidence connecting the accused with either the offense alleged in Charge I or the offense alleged in Charge II.

The findings of guilty are not warranted by the evidence.

Petitions: A Petition for Review was filed by Fred R. Manfredi, defense counsel, 14 May 1947. Petitions for Clemency were filed by Elsbeth Damaschke, wife of the accused, 15 May 1947; Paul Gallrein, 16 May 1947; Heinz Backhaus, 20 May 1947; A. Rothornel, 20 May 1947; H. Gail, 27 May 1947; Franz Erber, undated; Gustav Stoltz, 22 May 1947; Richard and Helene Siewert, 28 May 1947; Hildegard Sauer, 4 June 1947; Herta Ruckeweldt, 4 June 1947; Herta Klein, 6 June 1947; Georg Buss, 7 June 1947; Franziska Ficht, 8 June 1947; Herta Buss, the accused's sister, 10 June

scheidt, 12 June 1947; Wilhelm Damaschke, 13 June 1947; the accused, 16 June 1947; Erna Schwarz, 8 July 1947; Theodora Dopfer and Irmgard Wagner, 17 JULY 1947; Albert Janns, undated; and Meta Reinecke and 40 other persons, undated.

Recommendation: That the findings of guilty be disapproved.

V. QUESTIONS OF LAW:

Jurisdiction: 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.

VI. CONCLUSIONS:

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

RICHARD C. HOGAN
Major JAGD
Attorney
Post Trial Branch

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

C. W. PHIPPS
Lieutenant Colonel, USAF
Acting Deputy Judge Advocate
for War Crimes