

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

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12 January 1948

UNITED STATES )  
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Friedrich KUBEL, et al. )

Case No. 000-50-5-37

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, on 6 August 1947, before a General Military Government Court.

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that KUBEL, Friedrich, RAAB, Hilar, German nationals or persons acting with German nationals, acting in pursuance of a common design to subject the persons hereinafter described to killings, beatings, tortures, starvation, abuses, and indignities, aid, at or in the vicinity of the Mauthausen Concentration Camp, at Castle Hartheim, and at or in the vicinity of the Mauthausen Sub-camps, including but not limited to Ebensee, Gros-Raming, Gunskirchen, Gusen, Hinterbruehl, Lambach, Linz, Loiblpass, Melk, Schwechat, St. Georgen, St. Lambrecht, St. Valentin, Steyr, Vienna, Wiener-Neudorf, all in Austria, at various and sundry times between January 1, 1942, and May 5, 1945, wrongfully encourage, aid, abet, and participate in the subjection of Poles, Frenchmen, Greeks, Yugoslavs, Citizens of the Soviet Union, Norwegians, Danes, Belgians, Citizens of the Netherlands, Citizens of the Grand Duchy of Luxembourg, Turks, British subjects, stateless persons, Czechs, Chinese, Citizens of the United States of America, and other non-German nationals who were then and there in the custody of the then German Reich, and 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 killings, beatings, tortures, starvation, abuses and indignities, the exact names and numbers of such persons being unknown, but aggregating thousands.

III. DATA AS TO ACCUSED:

1. Friedrich KUBEL

This accused was acquitted (R 55).

2. Hilar RAAB

This accused was acquitted (R 55).

IV. SUMMARY OF EVIDENCE: One witness testified on behalf of the prosecution that one of the accused, whom he identified as KURBEL (R 8), while serving as a guard of a work detail at Gross Raming Concentration Camp beat prisoners (R 8, 9) including the witness; that he killed a French inmate in a quarry at Mauthausen Concentration Camp in 1944 by beating him with a pick (R 10). The identification of the accused KURBEL by the witness was erroneous (R 15, 42) and his testimony in fact applied to the other accused, RAAB.

The second witness for the prosecution erroneously identified both of the accused (R 19). He testified that the accused KURBEL (who was in fact the accused RAAB), while serving as a guard at Gross Raming Concentration Camp, beat prisoners (R 20), and that he killed a Polish inmate by the name of Branek by beating him with his rifle butt and by kicking him (R 21). He then testified that the accused RAAB (who was in fact the accused KURBEL), while a detail guard at Gross Raming Concentration Camp, killed a Yugoslav inmate by the name of Licic by beating him with his rifle butt and by kicking him (R 24).

The accused KURBEL stated in Court that he served as a guard at Gross Raming Concentration Camp as a private in the German army from 1 August 1943 to 29 August 1944 (R 40); he denied having beaten or otherwise mistreated or killed any prisoners, and that he had ever before seen either of the witnesses that appeared before the Court (R 49).

The accused RAAB stated in Court that he served as a guard at Gross Raming Concentration Camp as a private in the German army from August 1943 to August 1944 (R 44);



he denied having beaten or otherwise mistreated or killed any prisoners and that he had ever before seen either of the witnesses that appeared before the Court (R 45).

The Court apparently concluded that the evidence as to the alleged atrocities could not be used as a basis for a finding of guilty and sentence of the accused, in view of the complete failure on the part of the prosecution witnesses to positively identify either of the accused.

The Court had jurisdiction of the persons of the accused and of the subject matter.

V. 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.

GORDON O. BERG  
Lt Col AC  
Post Trial Branch

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

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