

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

27 February 1948

UNITED STATES)
))
 v.)
))
Friedrich DEMMER)

Case No. O#C-Buchenwald-20

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, 30 October 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Friedrich DEMMER, a German national, did, at or in the vicinity of Kassel, Germany, in or about December 1944, wrongfully encourage, aid, abet and participate in the killing of an unknown non-German national, an inmate of Buchenwald Concentration Camp, who was then in the custody of the then German Reich.

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

Particulars: In that Friedrich DEMMER, a German national, did, at or in the vicinity of Kassel, Germany, in or about June 1944, wrongfully encourage, aid, abet and participate in committing an assault upon approximately five non-German nationals, inmates of Buchenwald Concentration Camp, who were then in the custody of the then German Reich, the exact names and numbers of such persons being unknown.

(The particulars of Charge I were amended in Court to add the word "and" between the words "aid, abet"; to delete the words "and participate" immediately following "abet"; to delete therefrom the words "the killing of"; and to substitute therefore the words "committing an assault upon" (X 3).)

III. SUMMARY OF EVIDENCE: The accused was an SS technical Sergeant, assigned to a guard battalion at Arolsen/^asubcamp of Buchenwald Concentration Camp.

Incident 1: In or about December 1944 the accused and one Wiech assaulted a Russian inmate, one Peter Kowalow, who had escaped and was apprehended. The victim is said to have died some time later as a result of that mistreatment.

Incident 2: In or about June 1944, the accused assaulted inmates of Polish, Russian and French nationalities.

The accused pleaded guilty to the charges, but later, without with-

drawing his pleas, entered a general denial of the charges.

IV. EVIDENCE AND RECOMMENDATIONS:

Friedrich DEMMER

Nationality:	German
Age:	54
Civilian Status:	Tinker
Party Status:	Member of Nazi Party
Military Status:	SS Technical Sergeant
Flea:	G Charge I; G Charge II
Findings:	G Charge I; G Charge II
Sentence:	10 years, commencing 11 April 1945

Evidence for Prosecution: General Evidence: It was understood between defense and prosecution counsel some weeks before the trial that the evidence of prosecution would relate to acts of the accused at Arolsen, Germany, in the vicinity of Kassel (R 12).

The accused pleaded guilty to the charges and particulars (R 9-12) and his pleas of guilty ^{were} ~~was~~ accepted by the Court (R 15). In testifying later, the accused, while denying generally that he ever severely mistreated any inmates (R 23), admitted without stating the date thereof that he administered two strokes with a stick on the buttocks of each of a group of inmates involved in the theft of cognac (R 21).

A stipulation between the accused, defense and prosecution, offered on behalf of the accused, stated that on several occasions from March 1944 to March 1945 unruly inmates and some inmates who violated the rules and regulations of the camp were given corporal punishment by the accused or by others at his direction. The number so punished was about eight to ten. No deaths were known to have resulted therefrom (R 15; D-Ex 1)

Incident 1: Pioniazek, a former inmate of Buchenwald, stated in an extrajudicial sworn statement that in the winter 1944-1945 a Russian inmate named Kowalow attempted to escape. One week later he was brought to sub-camp Arolsen (Arolsen) where he was severely beaten by the accused and Wiech. A day after the beating Kowalow, in chains, was shown to the entire

detail, his face and body terribly beaten and bloody. The witness stated further that Kowaldow later died on a transport from Aroldeon (Arolsen) to Buchenwald. He stated that the death resulted from the mistreatment by the accused and Wiech. He stated further that the accused was a very harsh detail leader and that at Aroldeon (Arolsen) he quite frequently saw the accused beating inmates with a stick (R 13; P-Ex 6A).

Incident 2: Bolek, a former Buchenwald inmate, stated in an extra-judicial sworn statement that in June or July 1944 he saw the accused assault Polish, Russian and French inmates (R 14; P-Ex 7A).

Evidence for Defense: The accused testified that a young Russian inmate who escaped in December 1944 (Incident 1) was brought back, but was not assaulted by him. Inmates escaped in June 1944 and in December 1944. He investigated the escape in June (Incident 3), but ^{did} not slap or otherwise mistreat those interrogated (R 21-25). The accused denied the evidence offered in proof of each of the incidents in support of the charges, although he did not withdraw his pleas of guilty. He did not report inmates to Buchenwald nor did he punish inmates severely enough for them to require hospital treatment or other medical aid. However, the approximate date of the reports or possible punishments are not indicated (R 21-24).

It was agreed by stipulation between the accused and the defense counsel and the prosecution that the accused was a detail leader at Arolsen, an administration school for SS military personnel, from March 1944 until November 1944; that in November 1944 he was relieved and made assistant detail leader because a number of inmates had escaped in SS uniforms they had stolen; that he remained as, an assistant until the evacuation of the camp; that he was not usually vicious or harsh and was generally able to get along with the inmates; that Johann Winkler, a former inmate, if present, would testify that he was in daily contact with the accused from March 1944 to March 1945; that he knew the general reputation of the accused among the inmates and considered him a fair and just man; that other inmates regarded the accused as decent and humane; that, if Herbert Muetlitz were present, he would testify that his mother was the proprietor of a small cafe at Arolsen; that from the fall of 1944 until the late spring

1945 he, Muotlitz, assisted in the cafe which was frequented by SS men; that the accused spent much of his free time there; that, if any serious mistreatments of inmates had taken place, he would have heard of them, but that he never did hear of any such mistreatments; that, if Willi Mueller were present, he would testify that he was employed as a civilian cook at the SS school at Arolsen; that the accused inspected the kitchen daily; that he frequently overheard the conversations of the inmates who were under his supervision; and that he would have heard of any serious mistreatment of inmates, but that he never heard of any such mistreatments (R 15; D-Ex 1).

Sufficiency of Evidence: At the most the pleas of the accused were qualified. Neither in his pleas to the charges nor in his testimony does he manifest an intention to admit having committed the crimes charged. The two extrajudicial sworn statements introduced by the prosecution are vague and indefinite. The same is true of the purported evidence by way of stipulations. The findings of guilty are not warranted by the pleas or the evidence.

Petitions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendation: That the findings and sentence 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.

Plea of Guilty: The accused was advised repeatedly with regard to the nature of the charges and the legal effect of pleading guilty to them (R 9-12). However, he still may not have understood the nature of his plea. In the light of the entire record it is apparent that the accused did not intend to give an unqualified plea and his pleas of guilty should not have been accepted.

VI. CONCLUSIONS:

1. It is recommended that the findings and the sentence be disapproved.

2. Legal Forms Nos. 13 and 16 to accomplish this result are attached.

WILLIAM R. COHEN
Major Inf.
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