

6 January 1948

UNITED STATES)

v)

Paul MUELLER)

Case No. 000-Buchenwald-26

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany on 27 October 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Paul MUELLER, a German national, did, at or in the vicinity of Buchum, Germany, in or about Jan. 1945, 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 Paul MUELLER, a German national, did, at or in the vicinity of Bochum, Germany, in or about November 1944, wrongfully encourage, aid, abet and participate in committing an assault upon approximately six unknown non-German nationals, inmates of Buchenwald Concentration Camp, who were then in the custody of the then German Reich.

III. SUMMARY OF EVIDENCE: In or about January 1945 at Bochum, Germany, a subcamp of Buchenwald Concentration Camp the accused beat one Szekely Pista or Szekely Istvan, a non-German national with the iron part of a spade until he fell unconscious and then kicked him. The victim was later transported to the hospital where he died 24 or 30 hours later. This offense alleged in the particulars under Charge I is hereinafter referred to as Incident No. 1.

In or about November 1944, the accused assaulted several non-German nationals with a cudgel and stick until they were bloody. This offense alleged in the particulars under Charge II is hereinafter referred to as Incident No. 2.

IV. EVIDENCE AND RECOMMENDATIONS:

Paul MUELLER

Nationality: German
Age: 34
Civilian Status: Chauffeur
Party Status: None
Military Status: None
Plea: G Charge I; G Charge II
Findings: G Charge I; G Charge II
Sentence: 15 years, commencing 20 May 1945

Evidence for Prosecution: The accused pleaded guilty to all charges and particulars (R 7).

Incident No. 1. A witness in an extrajudicial sworn statement in connection with the first incident, as set out under Charge I, stated that about the end of January 1945 or the beginning of February 1945 at Bochum, Germany, a subcamp of Buchenwald Concentration Camp he saw the accused beat one Szekely Pista, with the iron part of a shovel and when Pista fell to the ground unconscious, the accused kicked him several times with his boots; that Pista was later removed to the hospital where he died within about 24 to 30 hours (R8; P-Ex 6A). It was stipulated that Pista was a non-German national (R 14).

Incident No. 2. A witness in an extrajudicial sworn statement stated that between November 1944 and April 1945, also at Bochum sub-camp the accused beat several Russian, Polish, Hungarian and Latvian inmates until they were bloody (R 8; P-Ex 7A). Another witness stated in an extrajudicial sworn statement that between November 1944 and April 1945, he saw the accused beat many Polish, Russian and Hungarian inmates with a cudgel and stick until they became bloody (R 9; P-Ex 8A).

It was stipulated that if Dr. Albert Gyocery, psychiatrist of Camp Dachau were present, he would testify that accused is completely oriented about conditions of time, environment and his own person and has no serious memory disturbances (R 9; D-1).

Gyocery, psychiatrist at Camp Dachau were present he would testify that as a result of a blow suffered by accused in March 1940, his diagnosis discloses injury of the brain with suspicion of post traumatic and epilepsy and post traumatic encephalopathy (R 9; D-1). It was further stipulated that two other witnesses, former SS corporals, if present would testify under oath that the accused was never a capo but a foreman at Bochum and served as such only a month; that the accused was a decent man and a good comrade towards his fellow inmates and that they knew of no incident in which he could have harmed other persons (R 9; D-1).

It was agreed by stipulation that the accused including his present confinement had spent 13 years and three months of his 34 years and nine months behind prison wire; that he had been a member of the SPD, an anti-fascist organization and had been incarcerated for his antifascist activities (R 9; D-1).

Sufficiency of Evidence: After the accused had been apprised of the consequences of a plea of guilty and had conferred with American and special German defense counsel, he pleaded guilty to both charges and the particulars thereunder and refused to change his plea when an opportunity was given after the prosecution rested.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

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

Recommendations: That the findings and sentence be approved.

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. In this case the accused entered a plea of guilty and insisted on such plea after he had been duly warned of the consequences thereof. The record shows affirmatively that all of the legal rights of the accused in regard to entering such plea were fully protected by the

Court and that the prescribed procedure set forth in section 501, "Manual for Trial of War Crimes and Related Cases," page 406 was followed.

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 and the sentence be approved.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

E. LLOYD MEYER
Capt CMP
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