

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

7 January 1948

UNITED STATES )

v. )

Georg SCHALLERMAIR )

Case No. 000-50-2-121

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 18-23 September 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Georg Schallermaier acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual aiding in the operation of the Dachau Concentration Camp and camps subsidiary thereto, did, at or in the vicinity of DACHAU and LANDSBERG, Germany, between about 1 January 1942 and about 29 April 1945, willfully, deliberately and wrongfully encourage, aid, abet and participate in the subjection of civilian nationals of nations then at war with the then German Reich to cruelties and mistreatment, including killings, beatings, tortures, starvation, abuses and indignities, the exact names and numbers of such civilian nationals being unknown but aggregating many thousands who were then and there in the custody of the German Reich in exercise of belligerent control.

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

Particulars: In that Georg Schallermaier acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual aiding in the operation of the Dachau Concentration Camp and camps subsidiary thereto, did, at or in the vicinity of DACHAU and LANDSBERG, Germany, between about 1 January 1942 and about 29 April 1945, willfully, deliberately and wrongfully encourage, aid, abet and participate in the subjection of 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 cruelties and mistreatment, including killings, beatings, tortures, starvation, abuses and indignities, the exact names and numbers of such prisoners of war being unknown but aggregating many hundreds.

III. SUMMARY OF EVIDENCE: The accused was an SS master sergeant and roll call leader at camp M-1 of subcamp Muchldorf, a subcamp of Camp Dachau, for a considerable period of time between the dates alleged and was shown to have participated to a substantial degree in the Dachau Concentration Camp mass atrocity. He personally beat many inmates so severely they died as a result thereof.

Exhibit P-Bx 2 (R 9) is a certified copy of the charges, particulars, findings and sentences in the parent Dachau Concentration Camp case (United States v. Weiss, et al., 000-50-2, opinion DWAC, March 1946, hereinafter referred to as the "Parent Case"; see Section V, post).

IV. EVIDENCE AND RECOMMENDATIONS:

1. Georg SCHALLERMAIR

Nationality:	German
Age:	52
Civilian Status:	Concrete Worker
Party Status:	None
Military Status:	SS Master sergeant; roll call leader
Plea:	NG First Charge; NG Second Charge
Findings:	G First Charge NG Second Charge
Sentence:	Death by hanging

Evidence for Prosecution: The accused was an SS master sergeant and roll call leader at subcamp Muchldorf from August 1944 to 1 May 1945 (R 13, 14, 34, 69, 98).

In August 1944, a transport of 300 male and 50 female inmates arrived at subcamp Muchldorf. By the first of May 1945 all of these inmates except approximately 72 had died (R 13, 16). The food was very bad and insufficient. Many inmates died from starvation. The sanitation of the camp was not good, the bar-

cold. Inmates were forced to stand roll call every day regardless of the weather. During these formations some inmates were beaten so severely that they died as a result (R 15, 19, 27, 42). At times Jewish women were required to work alongside of male inmates and perform the same work (R 11; P-Ex 4, pp. 2-4).

The medical equipment and supplies were inadequate. Little medicine was available. Paper and the inmates' shirts were used for bandages (R 78). One of the surgeons performed an appendectomy on one of the female inmates with only a small knife and without administering/<sup>an</sup>anesthetic (R 79, 80). The accused visited the morgue daily with an inmate dentist and had the gold teeth of the dead inmates extracted (R 76). During air raids, when the inmates were heading toward the trenches, the accused would beat them with a club (R 22, 23) or leather strap (R 44). He also beat many inmates during roll call (R 34) including sick inmates and forced the sick inmates to work. The accused beat the inmates with a rubber club or a cable (R 98, 99, 101, 102). The accused cut the inmates' hair leaving only a small portion of the hair in the center of their heads which he then pulled out (R 34).

During the spring of 1945, an invalid transport, consisting of many sick inmates, was sent out of subcomp Muehldorf. The loading of the inmates on this transport was supervised by the accused, who beat them during the operation (R 23). The accused also filled the work commitment orders with the number of inmates requested for each job by the labor allocation leader (R 89).

Levin testified that in March 1945, on roll call square, the accused beat many sick inmates severely. One of the beaten inmates died in the dispensary about two weeks later (R 17-19). The accused caught one of the inmates who had traded his wooden shoes for some bread and tobacco and beat him so severely that he

was beaten with a stick and kicked for five to 10 minutes by the accused. This beating was near the camp lumber yard. As a result the victim died about a week later (R 20-22). About April 1945, on the roll call square, the accused beat another inmate with a stick so severely he died two days later in Block 17 (R 13-16). Before he died this victim stated to a fellow inmate that he had been beaten by the accused (R 42).

Gilde testified that on 2 February 1945, he observed how the accused in the camp office, beat five inmates severely with a cable (R 60, 61, 62). Again, in March of the same year, behind the roll call square, another inmate was viciously clubbed by the accused (R 62-64).

Kuritzki testified to a beating administered by the accused in December 1944, in the roll call square, to a sick inmate which resulted in death to the victim (R 35).

Segalow testified that he observed the beating and kicking of his own father, also an inmate, by the accused in January or February 1945. So vicious was this mistreatment that an operation was necessary to save his life. Shortly after the operation, Segalow's father was sent on an invalid transport to out-camp Kaufering where he died soon after arrival (102-104).

Dembik testified that near the end of 1944 or the beginning of 1945, the victim of one of accused's beatings died in the hospital (R 76, 77).

Guttmann testified that in January 1945 at roll call, he saw the accused beat and kick an inmate so severely that he died approximately two days later (R 84-86)

Mark testified that in the winter of 1944, an Italian inmate collapsed at the latrine where he was found by the accused who then proceeded to beat and kick him so severely that a doctor's examination showed him to be dead (R 70). This witness verified the testimony of witness Lewin as to the accused beat-

also verified his testimony concerning the accused beating an inmate to death who had exchanged his wooden shoes for bread (R 71), 72).

Prosecution P-Exs 5 and 6, are copies of the death books that were maintained at subcamp Muehldorf and verify the deaths of the inmates that the witnesses testified the accused had beaten and who died as a result therefrom (R 50; P-Exs 5, 6).

Evidence for Defense: The accused testified in his own behalf that he did not volunteer for duty with the SS but was transferred from the Wehrmacht into the SS (R 125). He never beat an inmate to such a degree they were knocked to the ground nor did any inmate whom he had beaten die from such a beating. He did use some force on the inmates during air raids in an attempt to get them into the air raid shelters (R 129). When inmates were found hiding in the barracks in order to get out of work, he would slap them a few times but he never reported any inmate to headquarters (R 128, 131, 132). He assisted the inmates as much as he could by helping them to steal coal, wood and potatoes. He secured wine, apples and bread for the sick inmates in the dispensary. He saw to it that the food was equally distributed to all inmates (R 132-134).

The camp commander and camp leader were always present during roll call and it was then that the accused would strike inmates. He never beat any inmate when the camp commander or camp leader was not present (R 109). The accused, when he did strike an inmate, only used his hands and he never knocked an inmate to the ground (R 111).

Between August 1944 and 1 May 1945, the camp commander was Langleist who was convicted and sentenced to death in the Parent case (R 1987, Parent Case). It was always dark when the roll calls were held (R 30). The accused, until forbidden by the camp leader, ate his meals with the block elders at the canteen but did not

camp office when the accused beat five inmates there. This was required for all official beatings (R 67). During air raids, the accused was forced to chase the inmates from the barracks as they refused to go to the shelters. At these times he usually used a stick but none of the inmates beaten by the accused died, nor was it necessary to send any inmate to the dispensary (R 90).

There was a general order issued by higher headquarters that all the gold teeth of dead inmates would be extracted and turned over to the SS dental clinics. The accused was detailed to guard the inmate dentist who was extracting the gold teeth from the dead inmates in the morgue (R 119, 120). Once the accused was given some gold that had been melted down from extracted teeth because he had helped to have an inmate removed from an invalid transport (R 123).

Sufficiency of Evidence: The evidence clearly establishes the fact that the accused participated in the Dachau Concentration Camp mass atrocities as an SS master sergeant and roll call leader at subcamp Muehlendorf for a considerable period of time between the dates alleged. In addition thereto, it is clearly proven that the accused personally mistreated and beat many inmates. Many of the inmates died as a result of the brutal and vicious beatings he administered to them.

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

Petitions: A Petition for Review was filed by Major Olaf J. Tolnas, defense counsel, 24 September 1947. Petitions for Clemency were filed by the accused, 21 August 1947; Ludwig Gasteiger, a step-son of the accused, 4 October 1947; Josef Gasteiger, the accused's brother-in-law, 5 October 1947; Bergschneider, Groissmeir, Schelchshorn, Weiderer, Kellerer, Leonhard, Walcher, and Groissmeier, residents of the village of Elzhausen, 10 October 1947; Josef Reischl, former Burgemeister of the town of Hoberts-

November 1947; and by Seidenberger, the Bergmeister of Hoberts-  
hausen, 9 November 1947.

Recommendation: 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.

Objection to the Admission of Testimony: The Court did not  
err in sustaining the prosecution's objection to the admissibility  
of proffered testimony for the defense, relating to certain acts  
and good deeds in the treatment of some inmates by the accused,  
and its ruling did not result in injustice to the accused (R 110,  
111).

The effect of the testimony sought to be introduced by the  
accused, viewed from its most favorable aspect, would have been  
to show that at various times he performed acts of kindness toward  
some of the inmates at the camp. It could not rebut the fact,  
clearly established by specific evidence, that the accused sub-  
jected inmates to mistreatment and beatings of such nature as to  
produce death in a number of instances. Therefore, the Court's  
ruling, while not proper, did not result in injustice to the ac-  
cused nor could it conceivably have affected the findings and  
sentence of the Court had it been admitted.

Objection to the Admission of Evidence: The Court's ruling  
in sustaining the prosecution's objection to defense's D-Ex 1,  
which was a certified copy of a charge sheet against the accused  
before the Denazification Court, Camp Regensburg, was proper (R  
155).

The test to be applied in determining the admissibility of  
evidence of this character is whether it appears to the Court to  
contain information of probative value relating to the charges  
and particulars. The matter contained in the offered Exhibit  
had no bearing upon the question of the accused's guilt or inno-

could properly exclude the evidence (Paragraph c (2), (5), Section 270, "Manual for Trial of War Crimes and Related Cases", 15 July 1946, as amended).

Application of the Parent Case: The Court was required to take cognizance of the decision rendered in the Parent Case, including the findings of the Court therein, that the mass atrocity operation was criminal in nature and that the participants therein, acting in pursuance of a common design, subjected persons to killings, beatings, tortures, etc., and was warranted in inferring that those shown to have participated knew of the criminal nature thereof (Letter, Headquarters, United States Forces, European Theater, File AG 000.5 JAG-AGO, subject: "Trial of War Crimes Cases", 14 October 1946, and the Parent Case). The accused was shown to have participated in the mass atrocity, and the Court was warranted by the evidence adduced either in the Parent Case or in this subsequent proceedings in concluding that he not only participated to a substantial degree, but the nature and extent of his participation were such as to warrant the sentence imposed.

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. Leg 1 Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

ELMER MOODY  
1st Lt., Inf.  
Post Trial Branch

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

G. E. STRAIGHT