

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

18 September 1947

UNITED STATES)
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 v.))
))
Albert STEFAN, et al.)

Case No. 000-50-2-40

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 23-24 December 1946, before an Intermediate Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Albert STEFAN, Ludwig TRESCHER, Werner ULMER, Johann VERHOEVEN, Karl WAGNER, Erich Siegmund WANDER, Werner Max Johannes WASTRACH, Otto Kasper WEBER, Josef WERNER, Christoph WEYDEMANN, acting in pursuance of a common design to commit the acts hereinafter alleged, and as individuals aiding the operation of the Dachau Concentration Camp and camps subsidiary thereto, did, at or in the vicinity of DACHAU and LINDOBERG, Germany, between about 1 January 1942 and about 29 April 1945, wilfully, deliberately and wrongfully participate in the subjection of civilian nationals of nations then at war with the then German Reich to cruelties and mistreatment, 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 then German Reich in exercise of belligerent control.

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

Particulars: In that Albert STEFAN, Ludwig TRESCHER, Werner ULMER, Johann VERHOEVEN, Karl WAGNER, Erich Siegmund WANDER, Werner Max Johannes WASTRACH, Otto Kasper WEBER, Josef WERNER, Christoph WEYDEMANN, acting in pursuance of a common design to commit the acts hereinafter alleged, and as individuals aiding in the operation of the Dachau Concentration Camp, did, at or in the vicinity of DACHAU, Germany, between about 1 January 1942 and about 29 April 1945, wilfully, deliberately and wrongfully 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, the exact names and numbers of such prisoners of war being unknown but aggregating many hundreds.

III. SUMMARY OF EVIDENCE: The accused were, by their own admissions, members of the SS at Camp Dachau and/or its outcamps for considerable periods of time between the dates alleged, and were shown to have participated to a substantial degree in the Dachau Concentration Camp mass atrocity. Prosecution exhibit P-Ex 1 is a certified copy of the charges, particulars, findings and sentences in the parent Dachau Concentration Camp case (U.S. v. Weiss, et al., 000-50-2, March 1946, hereinafter referred to as the "Parent Case"; see Section V, post; R 11).

IV. EVIDENCE AND RECOMMENDATIONS:

1. ALBERT STEFAN

Nationality:	German
Age:	59
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Sergeant
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	2 years, commencing 4 May 1945

Evidence for Prosecution: The accused was a guard at Camp Dachau from 10 December 1941 to 16 March 1942, at Sendlingen, near Munich (apparently an outcamp of Camp Dachau), from 16 March 1942 to 25 August 1942; at Camp Dachau from September 1942 to April 1943; at outcamp Bayerisch Zell in April 1943; at Camp Dachau for three days; at outcamp Hausharn from May 1943 to July 1943; at Camp Dachau from July 1943 to 1 October 1944; at outcamp Kaufbucron from 1 October 1944 to 7 January 1945; and at Camp Dachau from 8 January 1945 to 27 April 1945 (R 13; P-Ex 2). He served as tower guard at Camp Dachau (R 20).

Evidence for Defense: The accused did not participate in any movements of prisoners (R 13; P-Ex 2). He testified in court that, at the time of the line-up, prisoners stated that he did not beat them. He used to say to them, "You are being punished enough, I don't have to punish you any more." He denied having beaten or mistreated prisoners

or knowing of the mistreatment of the prisoners (R 20). No prisoners were mistreated on his detail (R 21).

Sufficiency of Evidence: 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.

Recommendation: That the findings and sentence be approved.

2. LUDWIG TRESCHER

Nationality:	German
Age:	37
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Corporal
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	1 year, 11 months, commencing 8 May 1945

Evidence for Prosecution: Accused was a guard at Camp Dachau from 7 July 1944 to 27 April 1945. He served as an escort guard with twenty other guards on a one day transport of 400 prisoners from Camp Dachau to Speichingen (apparently an outcamp of Camp Dachau) in October 1944; a one day transport of from 800 to 1,000 prisoners with 40 guards from Camp Dachau to Camp Buchenwald in November 1944; a one day transport of 800 to 1,000 prisoners in December 1944 from Camp Dachau to Camp Buchenwald (R 15; P-EX 3).

Evidence for Defense: The accused testified that he did not know why he was transferred to the SS (R 22). He had a physical disability, which made him unfit for further duty at the front. He denied knowledge of any mistreatment of prisoners (R 23). The prisoners who went to Speichingen were healthy and went there to work. The prisoners who went to Camp Buchenwald were healthy. He saw no unworked prisoners or prisoners in need of clothing (R 24). None died on the trips. He only guarded prisoners who worked outside the camp (R 25). The accused was transferred, because

of an injury, to the SS Guard at Camp Dachau. He was never a Nazi, was antagonistic towards National Socialism, and never beat or mistreated prisoners (R 26; D-Ex 1, R 27; D-Ex 2, R 28; D-Exs 3, 4).

Sufficiency of Evidence: 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.

Recommendation: That the findings and sentence be approved.

3. WERNER ULMER

Nationality:	German
Age:	25
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Sergeant
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	1 year, 8 months, commencing 5 May 1945

Evidence for Prosecution: The accused served at Camp Dachau from February 1942 to April 1945, after being ordered to the guard company as paymaster (R 13c; P-Ex 4). He admitted that he served three days as a guard at Camp Dachau over two prisoners who he believes were Germans (R 32).

Evidence for Defense: The accused did not participate in any movements of prisoners (R 13c; P-Ex 4). He testified in court that he never mistreated any prisoners. He had a stiff left arm due to an injury at the front, did duty in the orderly room in the guard company area, and had no contact with prisoners. He did not hear guards talk about the mistreatment of prisoners (R 30) and did not know that they were mistreated. Prisoners were dressed well and fed well (R 31).

Sufficiency of Evidence: The evidence establishes that the accused participated in the operation. Regardless of the character of his duties, in view of his length of service at Dachau, the Court was warranted from

concluding that the accused knew of the criminal nature of the operation.

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.

Recommendation: That the findings and sentence be approved.

4. JOHANN VERHOEVEN

Nationality:	German
Age:	41
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Corporal
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	2 years, commencing 1 May 1945

Evidence for Prosecution: The accused was a guard at outcamp Allach from 7 August 1944 to 30 April 1945 (R 14; P-Ex 5). He served as a guard on a prisoner march with fifty guards and about 500 prisoners from outcamp Allach to Baiersberg during the period 26 April 1945 to 30 April 1945 (R 14; P-Ex 5). The accused testified in Court that he did not know how many prisoners finished the prisoner march of 26-30 April 1945 and admitted hearing shots along the column. He "supposes" the shots were directed at escaping prisoners (R 36). The prisoners he guarded were Germans, Poles, and Russians (R 36).

Evidence for Defense: The accused testified that he never mistreated prisoners and knew of no mistreatment of prisoners at outcamp Allach (R 33). The prisoners were well fed and had warm clothing. He denied that guards killed prisoners on the prisoner march on 26-30 April 1945 (R 35).

Sufficiency of Evidence: 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.

Recommendation: That the findings and sentence be approved.

5. KARL WAGNER

Nationality:	German
Age:	45
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Sergeant
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	1 year, 8 months, commencing 6 May 1945

Evidence for Prosecution: The accused served at Camp Dachau with the first company of the guard battalion from 19 June 1941 to August 1943 as a clerk and paymaster; was transferred to third company of the guard battalion at Camp Dachau from August 1943 to 6 January 1944 as paymaster; and was transferred to the headquarters staff at Camp Dachau from 7 January 1944 to 6 May 1945 as paymaster (R 15; P-Ex 6).

Evidence for Defense: The accused served as a clerk and paymaster for matters of SS personnel only. He took no part in the movement of any prisoners (R 15; P-Ex 6).

Sufficiency of Evidence: 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.

Recommendation: That the findings and sentence be approved.

6. ERICH SINGISIMUND WANDER

Nationality	German
Age:	33
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Corporal
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II

8 May 1945

Evidence for Prosecution: Accused was drafted into the Jaffen SS on 19 August 1944 and sent to outcamp Allach on 1 September 1944 as a guard on outside duty at the Bavarian Motor Works Plant and kitchen Geisinger. He participated in a prisoner march in April 1944 (obviously this date should be 1945). The prisoners were taken over by the Americans near Koenigsdorf after four days (R 15; P-Ex 7). Accused testified that the overcoats worn by the prisoners were too thin and that the prisoner march at the end of April may have included 3,000 prisoners and may have lasted three or four days (R 40). At Wolfratshausen the prisoners were split up into groups, and his group included 1,000 prisoners and 50 to 60 guards (R 43).

Evidence for Defense: The accused testified that he was transferred from the Luftwaffe on account of sickness. He denied mistreating prisoners and stated that since his twentieth year he had been a member of the Community Christo Jesus and his slogan had been "Love thy neighbor as you love thyself." He was forced to duty in a concentration camp at outcamp Allach. There was one lecture a week against mistreatment of prisoners. He never received or carried out any criminal order (R 38). Prisoners told him that after air force personnel arrived at outcamp Allach, it had turned into a rest camp. They were fed as well as he is being fed at Camp Dachau. Toward the end the food turned worse, but in the same way as for the guards. Also, as at Camp Dachau, Red Cross parcels were received by prisoners (R 39). He was not aware that SS personnel took Red Cross parcels from prisoners (R 40). During the march from outcamp Allach, he strayed ahead and heard no shots (R 43).

Sufficiency of Evidence: 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.

Recommendation: That the findings and sentence be approved.

7. WERNER MAX JOHANNES WASTRACH

Nationality:	German
Age:	41
Civilian Status:	Unknown
Party Status:	SA
Military Status:	SS Corporal
Flea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	1 year, 11 months, commencing 2 May 1945

Evidence for Prosecution: The accused served as a guard at outcamp Allach from 1 September 1944 to 28 April 1945. On 28 April 1945 he participated as a guard in a prisoner march of 1,000 prisoners with 100 guards from outcamp Allach to Koenigsdorf (R 16; P-Ex 8). He heard from prisoners that mistreatments occurred (R 45). Few prisoners were in bad condition at the start, but their condition was worse at the end of the prisoner march. Walking along the side of the column he heard shots falling in the woods (R 46). He did not ask about the shootings. There were orders to shoot in cases of escape (R 47).

Evidence for Defense: The accused testified in Court that he was transferred from the air force on account of sickness, and denied mistreating prisoners. He stated he did not know what happened to prisoners who fell out on the prisoner march, but thought the shots were warning shots to prevent escapes (R 46). He saw no prisoners shot but interpreted the order about shooting in case of escape to mean inflicting a leg injury (R 47).

Sufficiency of Evidence: 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.

Recommendation: That the findings and sentence be approved.

8. OTTO KASPAR WEBER

Nationality:	German
Age:	42
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Corporal
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	2 years, commencing 4 May 1945

Evidence for Prosecution: The accused served as a guard at outcamp Allach from 5 August 1944 to 23 August 1944; at outcamp Gernoring from 23 August 1944 to 19 September 1944; at Camp Dachau from 19 September to 10 December 1944; and at outcamp Allach from 10 December 1944 to 26 April 1945. He participated as a guard in a prisoner transport of 300 to 400 prisoners from Camp Dachau to outcamp Ueberlingen in October 1944 with 30 guards, and as a guard on a prisoner march from outcamp Allach to Eiersdorf between 26-27 April 1945 with 500 prisoners and 50 guards (R 17; P-Ex 9).

Evidence for Defense: There was no evidence presented by the defense.

Sufficiency of Evidence: 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.

Recommendation: That the findings and sentence be approved.

9. JOSEF WERNER

Nationality:	Rumanian
Age:	41
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Private First Class

Plea: NG Charge I; NG Charge II
Findings: G Charge I; G Charge II
Sentence: 1 year, 9 months, commencing
1 May 1945

Evidence for Prosecution: The accused served as a guard at Camp Dachau from 28 July 1943 to 20 August 1944, and at outcamp Allach from 20 August 1944 to 27 April 1945. He participated as a guard in the transport of 400 prisoners to outcamp Allach in February 1945 with 20 guards (R 17; P-Ex 10). Accused testified that he was a company guard and most of the time was in the guard ring around the camp (R 49). He heard that prisoners were beaten inside the camp (R 50).

Evidence for Defense: The accused denied mistreating prisoners or having anything to do with them (R 49) and said that he was never allowed inside the camp. He did not see any prisoners mistreated at outcamp Allach (R 50).

Sufficiency of Evidence: WEAVER was a national of RUMANIA, a cobelligerent of Germany. 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.

Recommendation: That the findings and sentence be approved.

10. CHRISTOPH WEYDEMANN

This accused was neither served nor tried (R 2).

V. QUESTIONS OF LAW:

Jurisdiction: It is clear that the Court had jurisdiction of the persons of the accused and of the subject matter.

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,

of the convicted accused were 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 as to them that they not only participated to a substantial degree but the nature and extent of their participation was such as to warrant the sentences 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 sentences be approved.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

/s/ William C. Craft
WILLIAM C. CRAFT
Attorney
Post Trial Branch

Having examined the record of trial, I concur, this 24th day of Sept. 1947

/s/ C. E. Straight
C. E. STRAIGHT
Lieutenant Colonel, JAGC
Deputy Judge Advocate
for War Crimes