

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

3 October 1947

UNITED STATES)

v.)

Case No. 000-50-2-68

Josef HINTERMAYER, et al.)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 4-5 March 1947, before an Intermediate Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Josef HINTERMAYER, Josef GOTSCH, Otto Heinrich HOEHLEN, Bruno LENZKOWSKI, Karl Christian KAUSCH and Hermann ROSTEK, 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 LANDSBERG, 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 Josef HINTERMAYER, Josef GOTSCH, Otto Heinrich HOEHLEN, Bruno LENZKOWSKI, Karl Christian KAUSCH and Hermann ROSTEK, 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: Each of the accused, except HOEHLEN, was an SS guard at the Dachau Concentration Camp and/or one or more of its outcamps for a considerable period of time between

the dates alleged. Accused HOEHLER was an inmate of the camp and held the position of capo. Accused GOTSCH, HOEHLER, LENZ-KOWSKI, and LAUSCH were shown to have committed individual acts of cruelty. Prosecution's P-Ex 1 (R 13) 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, March 1946, hereinafter referred to as the "Parent Case", see Section V, post).

IV. EVIDENCE AND RECOMMENDATIONS:

1. JOSEF HINTERMAYER:

Nationality:	German
Age:	50
Civilian Status:	Unknown
Party Status:	NSDAP since 1931
Military Status:	Waffen SS, Sergeant
Issues:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	14 months, commencing 28 January 1946

Evidence for Prosecution: The accused, in two extrajudicial sworn statements admitted that he served as SS guard and block leader at Camp Dachau from August 1944 to April 1945 and that he took part in an inmate evacuation march from Camp Dachau in April 1945 (R 80, 113; P-Exs 10, 11).

Evidence for Defense: Witness Papawastlin, a former inmate, testified that the accused was a very decent man in the camp and that he never mistreated anyone (R 56). Witness Roemer testified that the accused did not beat anyone and that he was one of the best SS men in camp (R 86). Witness Spiegel, a baker in the town of Dachau, testified that the accused solicited donations of bread for the purpose of feeding the inmates under him (R 105-107). The accused introduced extrajudicial sworn statements of several former inmates (all of whom were apparently

German Nationals) of Camp Dachau describing the good treatment they received at his hands (R 89-91; D-Exs 1,2,4,5,6).

Sufficiency of Evidence: The admissions of the accused concerning his service as a guard at Camp Dachau and on the inmate evacuation march demonstrate his participation.

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

Petitions: A Petition for Review was filed on 14 March 1947 by G. L. Kohless, Lieutenant Colonel, defense counsel. No petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

2. JOSEF GOTSCH

Nationality:	Rumanian (Volksdeutscher)
Age:	32
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS, Corporal
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	3 years, commencing 30 May 1945

Evidence for Prosecution: Witness Jendrian, a former inmate, testified that the accused was dog leader on the Moor Express detail which consisted of inmates being harnessed to flat cars which they pulled. The dog of the accused, because of the training it had received, bit two inmates who worked with Jendrian (R 70, 71). In his extrajudicial sworn statement, the accused admitted that he served as a dog leader at Camp Dachau between the dates alleged and that he served as a guard on an inmate evacuation march in April 1945 (R 68; P-Ex 8).

Evidence for Defense: Witness Jendrian, a former inmate, testified that when the dog of the accused bit inmates, it was because of the training the dog had received and not because of commands of the accused, and that he never saw the accused

mistreat prisoners (R 72, 73). The accused elected not to take the witness stand in his own behalf (R 112).

Sufficiency of Evidence: Rumania was a co-belligerent of Germany. The admissions of the accused concerning his service at Camp Dachau as a dog leader and on the inmate evacuation march as a guard, as well as the evidence as to individual acts of cruelty, demonstrate his participation.

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. OTTO HEINRICH HOEHLEN (The surname actually spelled HOEHLER, R 5, 52; P-Ex 5)

Nationality:	German
Age:	46
Civilian Status:	Unknown
Party Status:	None
Military Status:	None (capt)
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	3½ years, commencing 4 May 1945

Evidence for Prosecution: Witness Von Andlaw, a former inmate of Dachau Concentration Camp, testified that the accused was charge of the weaving factory; that he treated his subordinates in an unbelievably beastly manner; that the accused beat with sticks and pieces of leather; that the accused beat him with a crutch; and that he was particularly brutal toward French prisoners (R 17-20). Witness Steinbacher, a former inmate of Camp Dachau, testified that there were French, Italian, Russian, Yugoslav, Polish and Czech prisoners under him and that the accused beat them willily and indiscriminately (R 29). Witness Wolf, a former inmate, testified that the accused withheld bread

intended for the inmates and bartered with it for his personal benefit (R 34, 35). Witness Weber, a former inmate, testified that the accused used his fist or whatever he could get his hands on to beat inmates (R 47). Witness Klein, a former inmate, testified that the accused had a reputation for beating the inmates on his detail (R 99). The accused in an extrajudicial sworn statement admitted that he served as a prisoner and capo from October 1941 to the capitulation and that he beat inmates who broke the rules of the camp (R 52; P-Ex 5a).

Evidence for Defense: In an extrajudicial sworn statement, the accused claimed that he only beat inmates who were thieves or homo-sexuals and that these beatings were necessary in order to maintain the general order of the camp (R 52; P-Ex 5a). The accused took no part in inmate marches or transports (R 14; P-Ex 2) He elected not to take the stand in his own behalf (R 112).

Sufficiency of Evidence: The admissions of the accused concerning his services, as well as the evidence as to his having administered beatings, demonstrate his participation.

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. BRUNO LENZKOWSKI

Nationality:	German
Age:	45
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS (Rank not shown)
Allegations:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	2½ years, commencing 8 June 1945

Evidence for Prosecution: Witness Schmitt, a former SS prisoner-inmate at Camp Dachau, testified that the accused hit and kicked prisoners on several occasions (R 62). In his extrajudicial sworn statement, the accused admitted that he served as an SS guard at Camp Dachau between the dates alleged and that he took part in an inmate evacuation transport in April and May 1945 (R 68; P-Ex 7).

Evidence for Defense: The accused elected not to take the witness stand, and he offered no witnesses or other evidence in his behalf (R 112).

Sufficiency of Evidence: The admissions of the accused concerning his service as a guard at Camp Dachau and his assistance on the inmate evacuation march, as well as the evidence as to his beating inmates, demonstrate his participation.

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 CHRISTIAN RAUSCH

Nationality:	German
Age:	56
Civilian Status:	Unknown
Party Status:	Allgemeine SS
Military Status:	SS, Warrant Officer
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	2½ years, commencing 4 May 1945

Evidence for Prosecution: Witness Papawasilu, a former inmate, made an extrajudicial sworn statement and testified to the effect that the accused slapped inmates on the ears during the morning roll call and that he occasionally kicked inmates (R 59,

54; P-Ex 6a). Accused HOEHLEN stated in his extrajudicial sworn testimony that he saw this accused beat a prisoner during work (R 52; P-Ex 5a). The accused admitted in his extrajudicial sworn testimony that he was a detail leader at outcamp Schleisheim in 1943 and 1944 and that he took part in an inmate transport in 1943 (R 52; P-Ex 4).

Evidence for Defense: Witness Schnitt, a former SS prisoner-inmate at Camp Dachau, testified that the accused was once arrested and given three weeks confinement for allowing an inmate to talk to his wife (R 66). Witness Bieter, a former inmate of Camp Dachau testified that the accused did not beat anyone and that he made life easier for the inmates (R 93). Witness Klein, a former inmate, testified that the accused provided additional food for the inmates under him and that the accused took a personal interest in the inmates (R 98, 99). The accused elected not to take the stand in his own behalf (R 112).

Sufficiency of Evidence: The admissions of the accused concerning his service at Camp Dachau, as well as the evidence as to individual acts of cruelty, demonstrate his participation.

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. HELMANN ROSTEK

Nationality:	German
Age:	48
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	Waffen SS (Rank not shown)
Facts:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	2 years, commencing 22 May 1945

Evidence for Prosecution: The accused admitted in his extrajudicial sworn statement that he served as a guard, block leader and detail leader at Camp Dachau and its outcamps from February 1942 to May 1945 (R 79; P-Ex 9).

Evidence for Defense: The accused offered in evidence a statement of four former German inmates of Camp Dachau which described as kind the treatment they received from the accused (R 109; D-Ex 7). The accused took no part in any marches or transports of inmates (R 79; P-Ex 9).

Sufficiency of Evidence: The admissions of the accused concerning his service at Camp Dachau demonstrate his participation.

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

Petitions: A Petition for Review was filed on 14 March 1947 by G. L. Kehlss, Lieutenant Colonel, defense counsel. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

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 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 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 that they not only participated to a substantial degree, but the nature and extent of their participation were 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.

GEORGE M. LENTZ
Captain, JAGD
Post Trial Branch

Having examined the record of trial, I concur, this _____ day of
_____ 1947.

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