

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

17 November 1947

UNITED STATES)

v.)

000-50-2-70

Mathias Josef Peter
KREBER, et al.)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 26 February - 3 March 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Mathias Josef Peter KREBER, Johann KULLIK, also known as Johann KRESSE acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual(s) 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 Mathias Josef Peter KREBER, Johann KULLIK, also known as Johann KRESSE acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual(s) 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 were, by their own admissions, members of the SS at Dachau Concentration Camp or its out-camps 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. P-Ex 1 (R 27) is a certified copy of the charges, particulars, findings and sentence in the parent Dachau Concentration Camp case (United States v. Weiss, et al., opinion DJAWG, March 1946, hereinafter referred to as the "Parent Case"; see Section V, post).

IV. EVIDENCE AND RECOMMENDATIONS:

1. Mathias Josef Peter KREBER

Nationality:	German
Age:	50
Civilian Status:	Innkeeper and carpenter
Party Status:	NSDAP and SA
Military Status:	Waffen SS Sergeant
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	11 years, commencing 4-May 1945

Evidence for Prosecution: The accused was transferred to Dachau Concentration Camp 12 February 1943 for duty at outcamp Haunstetten where he served as a block leader (R 90, 153; P-Ex 3, p 2). In July 1944 he was sent to outcamp Pferase as a block leader and in November 1944 he was assigned to guard duty in the Messerschmitt Plant. In his extrajudicial sworn statement the accused admitted that at outcamp Haunstetten he attended executions three times by order of the camp leader. In late 1943 he took two inmates to carry out an execution of Russian or Polish prisoners of war at Wertingen. While the inmate carried out the execution, the accused stood guard 20 to 30 meters away to keep

to carry out an execution. In the fall of 1944 he attended the execution of a Polish prisoner of war near Augsburg. The accused also served as a witness at official beatings of inmates (R 153; P-Ex 3).

A former inmate of outcamp Haunstetten testified that in April 1943 there were 400 inmates and this number grew to 3000, including Russians, Poles, Czechs, Dutch, French, Belgians, Italians and Hungarians (R 7). A second former inmate of Haunstetten testified there were also Spaniards, Yugoslavs, Albanians, Greeks, Rumanians, one Norwegian and one American (R 33).

The accused attended hangings at outcamp Pfersee (R 104). One witness testified that at a hanging of two Russians, the accused struck the victims with a stool while they were hanging (R 56 58).

As a block leader the accused was considered among the worst (R 10). In that capacity he was always present at official beatings (R 31, 91) which were administered to an average of three or four inmates every two weeks. These beatings caused the victims to bleed (R 32). A witness testified that the accused was a vicious beater (R 74) and was one of the worst SS men (R 70). He frequently beat inmates at outcamp Haunstetten (R 49, 51, 137) and at outcamp Pfersee (R 10, 99, 139, 141, 143). He struck inmates with his fist and various objects, including a rubber club, a stool, a bull whip, a stick, and a cane (R 51, 56, 58, 62, 63, 77, 78, 90, 91, 100, 123, 138). He beat Russian, Polish, French and inmates of other nationalities (R 92). A former inmate of outcamp Haunstetten testified that as work detail leader at the Messerschmitt Plant the accused beat inmates who were in the detail. Usually he knocked the victims down with his fist and occasionally kicked them. Some could not leave without help. They were covered with blood (R 11, 14, 15). Inmates spent two hours walking to and from work and the accused often went along and beat or prodded them (R 12, 30, 35, 47). He often struck juvenile

inmates who were mostly Russians, Poles and Hungarians (R 15). The witness further testified that on two occasions he saw the accused strike juvenile inmates on the back of the neck with his fist (R 22, 24). A witness testified that at outcamp Pfersee the accused struck him and reported him for punishment, and as a result he lost his extra food ration (R 100). The accused admitted this in his testimony (R 203).

In his testimony the accused further admitted that he escorted hangmen and served as watchman while the hangings took place (R 205). He further admitted that he struck one inmate with his cane and that "when necessary" he hit inmates with his hand at outcamps Haunstetten and Pfersee (R 212, 216, 217, 222).

Evidence for Defense: At the executions which the accused attended sentences were read and the executions were carried out by inmates (R 153; P-Ex 3, R 42, 155; P-Ex 4, p. 3; R 205). The accused testified and stated in his extrajudicial sworn statement that he was relieved as block leader and placed on guard duty for being too friendly with inmates (R 153; P-Ex 3, R 207, 216).

A witness testified that inmates carried out the official beatings which the accused attended (R 31). A former inmate of outcamp Haunstetten testified that he did not see the accused beat anyone there (R 109).

In his testimony the accused denied that he carried a club, but stated that he had rheumatism and carried a walking stick. On one occasion he violated instructions in order to aid a Polish inmate and was once reprimanded for allowing a Russian inmate to pass him without removing his cap (R 213, 214). He stated that he secured extra food for juvenile inmates (R 215, 216) and that he only beat prisoners "when it was unavoidably necessary" (R 216, 222). He denied prodding inmates with a rifle at outcamp Pfersee or that he beat or kicked inmates unconscious at the Messerschmitt factory or that he ever touched juvenile inmates (R 220). In his extrajudicial sworn statement accused KULLIK testified that one

sergeant Stoll struck the hanging Russian with a stool (R 155; P-Ex 4, p. 4).

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

Petitions: No Petition for Review was filed. A Petition for Clemency was filed by the accused's wife Anna Kreber, 16 May 1947.

Recommendation: That the findings and sentence be approved.

2. Johann KULLIK, (also known as Johann KRESSE (R 3))

Nationality:	German
Age:	48
Civilian Status:	Locksmith
Party Status:	Unknown
Military Status:	Waffen SS Technical Sergeant
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; G Charge II
Sentence:	5 years, commencing 28 April 1945

Evidence for Prosecution: The accused served as a roll call leader and deputy camp commander at outcamp Pfersoa (R 9, 10, 35, 49, 53), after August 1944. He previously served at the Camp Dachau ordnance shop from August 1941 (R 174). From 20 February 1945 the accused served at outcamp Burgau, which was an evacuation camp for women from the Bergen Belsen and Ravensbrueck Concentration Camps (R 155; P-Ex 4, p. 6). A transport of inmates consisting of 900 women arrived at outcamp Burgau on 20 March (1945) (R 170, 193). Former inmate of outcamp Burgau testified that the accused was camp leader there. There were 1000 female and 50 male inmates. The witness testified that she saw the accused beat male inmates with the leg of a chair. The inmates included Poles, French and Jews (R 188). On one occasion the accused refused to accept food offered by farmers (R 189) and once he dumped out food that had been soaked, saying that the prisoners did not need it (R 190).

Four witnesses testified that the accused, as roll call leader, attended a hanging at outcamp Pfersee in September or October 1944 when two Russians were hanged (R 37, 40, 44, 104, 130, 132). The accused stood off to one side (R 43, 66). In his extrajudicial sworn statement the accused admitted that he attended the hanging of two Russians at Augsburg in November 1944 (R 155; P-Ex 4, p. 2).

One witness testified that the camp eldest "Chocolate", who was responsible to the accused, often beat inmates in the accused's presence with a rubber club or bull whip (R 55, 56, 99, 143). The accused sometimes boxed inmates on the ear with his open hand (R 60). A second witness testified that he saw the accused beat inmates (R 78). Once in a while the accused kicked inmates (R 99). One witness testified that the accused could have prevented brutality by the camp eldest and block leaders (R 74). A second witness testified that the accused caused inmates to be beaten partly on his own initiative and partly on orders of the camp leaders. These beatings were carried out by capos, block eldest and camp eldest (R 79). A Polish inmate, who was denounced by a Ukrainian, was hanged at Camp Dachau, after a report was forwarded through the accused (R 60, 61, 66). The accused on his own initiative punished some inmates by forcing them to stand or by putting them in the standing bunker (R 116).

Evidence for Defense: Two witnesses and the accused testified that sentences were read by the camp leader before the hangings which the accused attended (R 42, 117, 163, R 155; P-Ex 4, p. 3). Those executed were condemned by order from Himmler for escape and plundering (R 57, 117). The accused stood off to one side (R 43). One former inmate of outcamp Pfersee testified that accused only beat inmates there with his open hand, usually when he was inebriated (R 60). He further testified that juvenile inmates at outcamp Pfersee received extra food (R 68, 69). As to personal behavior toward inmates, the accused was average (R 70, 75). Accused did not beat inmates often (R 99). A witness testified that the accused

was not always present when beatings occurred while inmates were falling in formation (R 142). He never saw the accused hit anyone (R 143). In his testimony the accused KREBER stated that the accused never gave him any orders, and that he never saw him beat any inmates (R 218).

In his extrajudicial sworn statement and in his testimony the accused stated that he did not participate in the hanging in November 1944, but was ordered to be present. That was the only execution that he attended and a sentence was read by the camp leader (R 155, 159-161; P-Ex 4, pp. 2, 3, 4). The accused denied that he personally participated in public lashings. The prisoners were not undressed and no blood flowed (R 155; P-Ex 4, p. 5). He stated that no SS man, subleader or leader beat inmates in his presence. He officially reported all deaths that occurred at outcamp Burgau to the registrar's office (R 155; P-Ex 4, p. 6). In his testimony the accused stated that he was never in charge at outcamp Pforsee. After he once reprimanded the camp oldest, "Chocolate", for beating inmates in his presence, such beatings never occurred again (R 161). On one occasion he suppressed a punishment report against a Polish inmate (R 162) and once arranged to pretend to beat an inmate. The camp commander at outcamp Pforsee threatened to report him for being lenient. Orders for official beatings came from Camp Dachau (R 164). The accused further testified that he arranged for extra food for inmates at outcamp Pforsee (R 165-167, 173, 176). A witness testified that two tubs of food came regularly to outcamp Pforsee from the military barracks in Augsburg (R 119). The accused testified that he also procured food and medical supplies for the inmates at outcamp Burgau and brought in a doctor in violation of regulations (R 170, 171, 193, 237). He denied that he beat inmates of Burgau or that he ever poured out food there (R 196). He testified that one company sent several carloads of potatoes to the camp at his request (R 237).

A doctor from Burgau testified that deaths at outcamp Burgau were due to malnutrition (R 225). The accused helped to improve the condition of inmates. Other doctors told him that the accused treated the inmates well and tried to do everything possible to help them. He procured food for them and allowed the witness to give them food (R 226, 227). The town treasurer of Burgau testified that the accused personally made official reports of the deaths at outcamp Burgau (R 229). A pharmacist from Burgau testified that the accused came to him and procured additional medicine for the camp inmates (R 231-233). A horse butcher testified that the accused came to him to secure meat for the camp inmates (R 234, 235).

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.

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, United States Forces, European Theater, file AG 000.5 JAG-AGO, subject: "Trial of War Crimes Cases", 14 October 1946, and the Parent Case). Both of 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 as to them 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.

WILLIAM G. CRAFT
Attorney
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