

DEPUTY JUDGE ADVOCATE'S OFFICE
7706 WAR CRIMES GROUP
MILITARY COMMISSION
APO 407

14 August 1947

UNITED STATES)

v.)

Albert SCHMID, et al.)

Case No. 000-50-2-76

INDICTMENT AND PARTICULARS

I. INDICTMENT: The accused were tried at Dachau, Germany, during the period 13-14 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 Albert SCHMID, Karl KUBISA, Franz BAUER, Rudolf Walter Erich SCHMID, 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, wilfully, 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 Albert SCHMID, Karl KUBISA, Franz BAUER, Rudolf Walter Erich SCHMID, 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, wilfully, 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 convicted accused were, by their own admissions, members of the SS at Dachau Concentration Camp or its outcamps for considerable periods of time between the dates alleged, and were shown to have participated substantially in the Dachau Concentration Camp mass atrocity. Prosecution's P-LX 1 (A 8) is a certified copy of the charges, particulars, findings and sentence in the parent Dachau Concentration Camp case (United States v. Weiss, et al., 000-50-2, March 1946, DJAGC, hereinafter referred to as the "Parent Case"; see Section V, post).

IV. EVIDENCE AND RECOMMENDATIONS:

1. Alphon SCHLAL

Nationality:	German
Age:	39
Civilian Status:	Policeman
Party Status:	Unknown
Military Status:	SS Corporal
Plea:	AG Charge I; AG Charge II
Findings:	G Charge I; AG Charge II
Sentence:	10 years, commencing 22 April 1945

Evidence for Prosecution: The accused testified that he went to Camp Dachau on 1 August 1944, where he stayed only a few days. He was then assigned to outcamp Landsberg I (the Landsberg and Auerling outcamps are referred to interchangeably throughout the record and are the same) and served there until 12 March 1945 (R 69). He performed guard duty in camp, accompanied a work detail and stood guard as a member of a guard chain at a building construction detail outside the camp (R 70). Male inmates under his supervision were poorly nourished and it was hard for them to do the required work (R 74). A former inmate of Camp Dachau stated in his extrajudicial sworn testimony that the accused sometimes

Moll at outcamp Kaufering I during the period August 1944 until 12 March 1945. He often beat inmates over the head and other parts of the body with his rifle. One victim became sick and died as a result of a beating administered by the accused. Inmates were hungry all the time, but when they went to get bread the accused made reports to the camp leader (a 63; P-LX 3A). A witness, formerly an inmate of outcamp Kaufering I, testified that the accused was always beating inmates, both male and female. When female inmates saved bread for male inmates, the accused beat them with the butt of his rifle and later made reports to the roll call leader (a 40,43). He beat male inmates until they were bloody and were unable to work the next day (a 40). The food was bad at outcamp Kaufering I. Inmates always had lice and they were always sick and dirty. The accused had charge of all details (a 41).

A second witness, formerly an inmate in outcamp Kaufering I, saw the accused participate in the mistreatment of a Lithuanian inmate in the winter of 1945 (obviously winter of 1944-45). This inmate was exhausted and could not walk fast enough, so the accused beat him with his rifle butt. The victim fell to the ground, was carried back to camp in a cart and died three days later (a 45, 46). The witness saw the victim's body. There were wounds and blood on his face (a 45,50). On the day of this incident there were 1000 inmates on the detail. It was necessary to haul six or eight inmates who had been beaten back to camp on food carts. Some days as many as 15 inmates were thus hauled back to camp, and sometimes there were dead ones (a 47).

A third witness testified there were 1000 Lithuanians among a total of 2000 inmates at outcamp Kaufering I in 1944. There were also Russians, Hungarians, French, Rumanians, Poles and Czechs (a 52). The Russians and French were prisoners of war (a 55). He saw the accused mistreat inmates on four occasions, using his hands, rifle butt and boots. After hitting one of the inmates in the ribs with his rifle butt, the accused then kicked him in the shins before he fell (a 59). The witness was told that

this victim died on the third day after he was beaten (R 53, 60). This incident occurred in the autumn of 1944 (R 57).

evidence for Defense: The accused testified that he did not mistreat inmates (R 70, 71); that he did not consider inmates as enemies of the Third Reich; that he was never a friend of the Third Reich, but was compelled to serve in the army (R 71, 72); that he saw no mistreatment of inmates at outcamp (Aufering I (R 72); and that he saw no inmates die as he was always outside as a guard. The only inmate who became sick on his detail was taken to a barrack to rest (R 74). Once he let members of his detail steal potatoes. He considered himself to be, in a sense, in the same position as the inmates because he was ordered to work under pressure and had been away from home for seven years (R 75). The accused was compelled to become a member of the SS (R 77; D-LX 1). He was never a member of the NSDAP or its affiliated organizations (R 77; D-LX 2). Accused BRUNOLD testified that he never saw the accused mistreat inmates (R 80). The three prosecution witnesses testified that they themselves were not beaten by the accused (R 43, 48, 56).

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

Petitions: No Petitions for review were filed. Two Petitions for Clemency were filed by the accused's wife, Frieda Schaal, 15 May 1947.

Recommendation: That the findings and sentence be approved.

2. KARL KARASEK

A nolle prosequi was entered in favor of this accused (R 67).

3. FRANZ BRUNOLD

Nationality:	German
Age:	27
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Corporal
Plea:	NG Charge I; AG charge II

Findings: G Charge I; NG Charge II

Sentence: 5 years, commencing 1 May 1945

Evidence for Prosecution: The accused testified that he was transferred to the SS from the Wehrmacht on 15 July 1944 and sent to Camp Dachau. He was assigned to outcamp Landsberg I on 23 July 1944, and served there as a guard until 28 April 1945. His duties included standing guard at the camp gate, accompanying guard for work details, and guard duty in the tower and at the barrier (R 77, 80, 84). One witness, a former inmate at outcamp Kaufering I, testified that the accused participated in the mistreatment of a Lithuanian inmate by kicking him after accused SCHALL hit him with his rifle butt (R 45, 46). This victim died within three days (R 50). A second witness saw the accused mistreat inmates while serving in the guard chain (R 54, 55). This witness testified that there were Russian and French prisoners of war in outcamp Kaufering I (R 55).

Evidence for Defense: The accused testified that he was transferred to the SS because he had frozen his feet; that he was never a Nazi (R 79); that he never mistreated inmates; and that he was never inside outcamp Landsberg I (R 80). He denied all charges against him (R 83). He was never in charge of a work detail but was only an accompanying guard (R 84). The two prosecution witnesses testified that they themselves were never beaten by the accused (R 48, 56).

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.

4. RUDOLF WILHELM BRICH BLUMBERG

Nationality: German

Age: 47

Civilian Status: Unknown

Party Status:	NSDAP
Military Status:	SS Sergeant
Floa:	NG Charge I; NG Charge II
Findings:	G Charge I; NG Charge II
Sentence:	8 years, commencing 27 April 1945

Evidence for Prosecution: The accused was assigned to outcamp Landsberg IV on 4 September 1944 and remained there until 29 April 1945 (R 85, 88, 89; P-lx 5). There were approximately 2500 inmates at this outcamp (R 86). From 18 January 1945 until 26 April 1945 the accused had charge of the guards (R 90, 94). A witness testified there were 3500 inmates at outcamp Kaufering IV, mostly Jews from Hungary, Czechoslovakia and Poland, and there were also a few Russian inmates (R 11, 12). Inmates got up at 5 A.M. and performed hard labor from 7 A.M. until 6 P.M., with one-half hour off at noon. They received a little black coffee for breakfast and soup made from grass at noon (R 13). For supper they received soup and one-eighth of 1100 grams of bread (R 14). Forty to fifty dead inmates were collected daily for burial (R 15).

The camp was evacuated at midnight 26 April 1945 (R 93). In April 1945 half of outcamp Kaufering IV was set on fire by the SS (Parent Case, Volume IV, R 580; P-lx 81). There were inmates inside the huts at the time who were severely ill and incapable of going outside. All able-bodied inmates had been ordered to leave, but only those able to walk went (R 21).

A witness saw the accused strike one inmate on the head with a spade handle for not working fast enough. The victim fell to the ground unconscious, and two hours later he was carried back to camp still unconscious (R 17, 35). The next morning the victim was dead. His head was black from the beating he had received (R 18, 19, 36). Prior to beating this victim, the accused had warned him to work faster and kicked him (R 32). The accused beat other inmates on a few occasions (R 20). Inmates tried to avoid the accused's work details after they learned of his beatings (R 26,

Evidence for Defense: A former inmate of outcamp Kaufering IV testified that he never saw the accused inside the camp (R 26). There were no prisoners of war in outcamp Kaufering IV (A 36). The accused testified that he was transferred to the SS because he was sick with malaria. He had charge of supply at outcamp Kaufering IV (A 86, 87). Starting 3 December 1944 (R 86), there was a typhoid epidemic and healthy inmates were removed from the outcamp and additional sick ones sent to it. He denied beating an inmate with a spade handle or mistreating any of the inmates. He obtained food, smoking supplies and beer for the inmates (A 87, 94). A former inmate stated that the accused was always ready to help inmates and did not beat any of them but secretly supplied them with food and cigarettes (A 95; D-Ex 3). The accused did his best for the inmates at outcamp Kaufering and helped them where he could (A 97; D-Ex 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.

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 CG 000.5 JAG-200, subject: "Trial of War Crimes Cases", 14 October 1946, and the Parent Case). 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 that 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 C. Craft
WILLIAM C. CRAFT
Attorney
Post Trial Branch

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

C. L. STRAMANT
Lieutenant Colonel, JAGD
Deputy Judge Advocate
for War Crimes