

10 December 1947

UNITED STATES)

v.)

Rudolf SCHULMEISTER)

Case No. 000-Flossenburg-7

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 18-19 September 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

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

Particulars: In that Rudolf SCHULMEISTER, a German national, did, at or in the vicinity of Lengenfeld, Germany, in or about January 1945, wrongfully encourage, aid, abet and participate in the killing of one SZOBER, a Polish national, an inmate of the Lengenfeld Concentration camp, who was then in the custody of the then German Reich.

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

Particulars: In that Rudolf SCHULMEISTER, a German national, did, at or in the vicinity of Lengenfeld, Germany, in or about January 1945, wrongfully encourage, aid, abet and participate in the killing of two unknown French nationals, inmates of the Lengenfeld Concentration Camp, who were then in the custody of the then German Reich.

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

Particulars: In that Rudolf SCHULMEISTER, a German national, did, at or in the vicinity of Lengenfeld, Germany, in or about January 1945, wrongfully encourage, aid, abet and participate in the killing of an unknown Netherlands national, an inmate of the Lengenfeld Concentration Camp, who was then in the custody of the then German Reich.

III. SUMMARY OF EVIDENCE: The accused, a German national, was a camp inmate and eventually a camp oldest at Lengenfeld, an outcamp of Flossenburg Concentration Camp, from October 1944 to March 1945. One witness testified that during the month of January 1945, at Lengenfeld, the accused beat one Polish inmate to death with a shovel; and that he beat two French inmates to death with a stick. A second witness alleged he exposed a Dutch inmate to snow and ice, resulting in his death.

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such exposure. The accused denied the charges.

IV. EVIDENCE AND RECOMMENDATIONS:

Rudolf SCHULMEISTER

Nationality:	German
Age:	42
Civilian Status:	Ship Worker
Party Status:	None
Military Status:	None
Pleas:	NG Charge I; NG Charge II; NG Charge III
Findings:	G Charge I; G Charge II; G Charge III
Sentence:	Death by hanging

Evidence for Prosecution: The accused stated in his extrajudicial sworn statement and in his testimony in Court that he was an inmate of Langenfeld, an outcamp of Flossenburg Concentration Camp, from October 1944 to March 1945, where he held the position of camp eldest for two and one half months (R 29, 56, 57; P-Ex 3).

One witness stated in an extrajudicial sworn statement that in January 1945 he saw the accused beat a Polish inmate, named Szober, with a sharp shovel until he collapsed covered with blood; that this inmate died as a result of this beating; and that he helped remove the dead body from the hospital two days later (R 28; P-Ex 2).

This same witness stated further that in January 1945 he saw the accused beat two French inmates to death with a stick and that he saw the bodies carried to the death chamber (R 28; P-Ex 2).

A second witness testified that in January 1945 he saw the accused order a Dutch inmate, to stand outside the block in snow and ice; that this witness was told by an inmate doctor that this inmate had typhoid fever; that he saw the inmate lying there, apparently dead, about 20 minutes later; and that an inmate doctor told this witness that the inmate was dead (R 7, 8, 21, 22, 26).

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Evidence for Defense: One witness, Roller, the former camp commander of Lengenfeld, testified that he was tried and sentenced to death in a war crimes trial for certain of his acts while commander of Lengenfeld, but that he was not tried for any deaths occurring at Lengenfeld; that he forbade beatings at the camp and that no beatings were reported to him (R 30-32); that there were never any Netherlands nationals as inmates of the camp (R 35); and that the prosecution witness Gabauer was block eldest in the camp but had been relieved for stealing packages from other inmates (R 34). A second witness, a German former inmate, testified that he neither saw nor heard of the accused beating anyone at Lengenfeld; that he prepared the bodies of inmates for burial; and that he never saw any marks of beatings on the bodies (R 39, 40). This witness testified that he knew of one Netherlands national in the camp in January 1945 who died of typhoid fever, but that this inmate was not forced out into the snow (R 41, 42).

Prosecution and defense counsel stipulated that, if defense witness Fuerst were present, he would testify that he was camp clerk at Lengenfeld; that there were only seven deaths in the camp in January 1945; that these deaths resulted from illnesses; and, that the accused never beat inmates with a shovel (R 47, 48).

A third witness testified that he was a civilian doctor at the main Flossenburg Concentration Camp from May 1944 to March 1945 and that, when he inspected the hospital facilities at Lengenfeld in October 1944, they were in good condition (R 49). He did not visit Lengenfeld in 1945 (R 52).

A fourth witness testified that he knew the accused as a fellow inmate at Flossenburg Concentration Camp from 1939 to 1944 and that he neither saw nor heard of the accused beating any inmate. He was never at outcamp Lengenfeld (R 54).

The accused testified that he was imprisoned in 1939 for sabotage of a German submarine; that he was an inmate in Lengenfeld from October 1944 to March 1945; and that he bought drugs and medicine for the other inmates (R 56, 58). The accused testified further that he was only in the camp

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during the noon hour when the shovels were locked in a tool shed (R 59, 60); that he boxed the ears of inmates only when they rushed the food containers (R 60); that the two prosecution witnesses had promised to revenge themselves against him because he had relieved one of them from his position as block eldest (R 62); that there were no Netherlands nationals in the camp but that a German, who had spent two years in Holland, posed as a Dutchman among the comrades until his death from heart failure (R 62, 63). The accused denied that he ever beat an inmate with a shovel (R 63).

Sufficiency of Evidence: The evidence adduced is insufficient to sustain the findings of guilty.

The findings of guilty are not warranted by the evidence.

Petitions: A Petition for Review was filed by defense counsel, Major Louis F. Benson, 2 October 1947. Petitions for Clemency were filed by the accused, four undated, and others dated 14 November 1947, 9 December 1947, 22 December 1947, 14 January 1948, 17 January 1948; by a German attorney, Dr. Alfred Hoglauer, 14 November 1947, 13 December 1947, 9 January 1948, 21 January 1948, 29 January 1948, 12 February 1948.

Recommendation: That the findings and sentence be disapproved.

V. QUESTIONS OF LAW: The Court had jurisdiction of the person of the accused and of the subject matter.

VI. CONCLUSIONS:

1. It is recommended that the findings and the sentence be disapproved and that the prisoner be released.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

GEORGE A. MC DONOUGH
Attorney
Post Trial Branch

Having examined the record of trial, I concur, this _____

day of _____ 1948.

C. W. PHIFER
Lieutenant Colonel, USAF
Acting Deputy Judge Advocate
for War Crimes

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