

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

25 March 1947

UNITED STATES

vs

Jakob SCHWARZ, a German National

Case No. 12-1958

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA:

ACCUSED

Tried at Dachau, Germany
Date: 3 February 1947
Intermediate Military Government Court
Sentence: Confinement, 21 months from
19 May 1945.

Married, one child
Age 55
Nazi Party September 1932
Ortsgruppenleiter, 1941 to
1945
Occupation: Farmer

CHARGE: Violation of the Laws of War.

PARTICULARS: In that Jacob SCHWARZ, a German national, did, at or near STETTEN, Germany, on or about 12 September 1944, wrongfully commit an assault upon an unknown member of the United States Army, who was then an unarmed, surrendered prisoner of war in the custody of the then German Reich, by hitting him in the face and body with his fists and by attempting to shoot him.

Pleas
NG

Findings
G (Except the words "and by attempting to shoot him")

2. RECOMMENDATIONS: That the findings and sentence be approved.

3. EVIDENCE:

For the Prosecution. The case for the prosecution was based entirely on extrajudicial sworn testimony. On or about 12 September 1944 an American flyer parachuted to safety in the vicinity of STETTEN, Germany, was captured by a German civilian and placed on a tractor (P-Ex 1, 2, 3, 4). Accused SCHWARZ arrived, ordered the flyer, who was unarmed, off the tractor, walked with him about 8 yards, pointed his pistol at the flyer's head and pulled the trigger several times but the pistol failed to fire (P-Ex 1, 2, 3). Accused shook the flyer many times (P-Ex 1), beat him forcefully with his hands (P-Ex 2) and then took him to a nearby village. Enroute, SCHWARZ, at intervals, grabbed the flyer by the collar and shook him, pushed and struck him and forced him to walk at a rapid pace (P-Ex 3, 4, 5, 6). The flyer was wounded in the right leg and his hands were tied behind his back (P-Ex 4, 5, 6). Later, the flyer was

taken to the railroad station at Eppelsheim, Germany, and transported from there by train (P-Ex 5).

For the Defense. Accused SCHWANZ elected to testify in his own defense in substance as follows:

Accused could not speak English and the flyer could not speak German.

Accused drew his pistol in order to show the flyer that he was in a position of authority but did not make an effort to kill him or intend to kill him (R 10, 11). Enroute to the village, accused pushed the flyer to indicate that he wanted him to walk faster. The flyer walked faster and then slowed up again. This happened about three times. Accused did not beat the flyer (R 13, 17).

4. JURISDICTION: The Court was legally constituted and had jurisdiction of the person of the accused and of the offense.

5. COMMENTS: Examination of the entire record fails to disclose any error or omission which resulted in injustice to the accused.

6. CLEMENCY: There are no Petitions for Review nor Petitions for Clemency.

7. CONCLUSIONS:

a. It is recommended that the sentence be approved.

b. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with your approval.

NORM G. SPRINGFIELD
1st Lt., MAC
Post Trial Section

Having examined the record of trial, I concur.

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