

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

24 October 1947

U N I T E D S T A T E S

v.

Erwin Karl Heinrich SCHLICKAU

Case No. 12-2400

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, on 2 May 1947, before an Intermediate Military Government Court.

II. CHARGES AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Erwin Karl Heinrich SCHLICKAU, a German national, did, at or near BERGDORF, Germany, on or about 6 November 1944, deliberately and wrongfully encourage, aid, abet and participate in committing assaults upon a member of the United States Army, S/Sgt. Joseph G. WARD, ASN 32344733, who was then and there a wounded, surrendered and unarmed prisoner of war in the custody of the then German Reich.

III. SUMMARY OF EVIDENCE: On 6 November 1944, an American airman, Staff Sergeant Joseph G. Ward, parachuted from a falling plane at or near Bergdorf, district of Hamburg, Germany. The accused, who was one of the first to reach the flyer, assaulted the airman by hitting him in the face and beating his head against a wall until he fell to the ground unconscious. Later, he and another German took the flyer to the Hamburg-Bergdorf police station where they turned him over to the police.

IV. EVIDENCE AND RECOMMENDATIONS:

Erwin Karl Heinrich SCHLICKAU

Nationality:	German
Age:	38
Civilian Status:	Coal dealer; Volksturm member
Party Status:	NSDAP since 1941
Military Status:	None
Plea:	NG

Findings:

G

Sentence:

7 years, commencing
1 June 1945

Evidence for Prosecution: On 6 November 1944, Staff Sergeant Joseph C. Ward, an American airman, parachuted from his falling plane at or near Bergdorf, district of Hamburg, Germany (R 7, 9, 13, 15; P-Ex 3, p. 2, P-Ex 6, p. 2, P-Exs 8, 9, 11). A crowd gathered, including the accused, who was one of the first to reach the flyer, together with Hefar, Tiedemann, and Schaal (R 6, 7, 8, 9; P-Ex 2, p. 2, P-Ex 3, p. 2, P-Ex 4, p. 2, P-Ex 6, p. 2). The flyer showed no signs of any injury except small scratches on his hands received in landing (R 7, 9, 9; P-Ex 2, p. 2, P-Ex 4, p. 3, P-Ex 6, p. 3). The accused shouted, "Kill the dog" (R 7; P-Ex 3, p. 2). Tiedemann, Schaal, and the accused after a short time, started toward the local police station with the flyer. The flyer offered his wristwatch to the accused whereupon the accused hit him in the face with his fists and kept hammering at him until he fell to the ground unconscious (R 7, 8; P-Ex 3, p. 2, P-Ex 4, p. 2). The accused admitted in his extrajudicial sworn statement that he struck the flyer twice in the face and banged his head against the wall of a house (R 8; P-Ex 6, p. 4); that he refused to turn the victim over to a policeman on the way to the police station (R 9; P-Ex 6, p. 6); and that the victim was covered with blood and dirt when he finally did turn him over to the police (R 9, 12; P-Ex 6, p. 4, P-Ex 7A, p. 2). Police Lieutenant Reutzers verified that the flyer's head was covered with blood and dirt and that he had learned that the accused had beaten the victim (R 15; P-Ex 11). First Lieutenant Levitoff, a fellow crew member, stated in his extrajudicial sworn statement that the flyer told him that after he was taken into custody immediately after landing, he was knocked down, trampled upon, kicked, hit with sticks and stones, and beaten about the head and eyes so that both eyes were closed. He also suffered contusions

Evidence for Defense: The accused testified that when he arrived at the place where the flyer landed, there were quite a few people gathered around the flyer yelling, "Beat him to death; beat him to death" (R 20); that the flyer was bleeding from the nose when he first saw him (R 22, 31); that he simulated beating him just give the impression that he actually did want to harm the flyer (R 20); that when they arrived at Rosenhof, on the way to the police station, he shook the flyer by the shoulders and made him lie down so as to give the shouting people the impression that he was trying to do something to him (R 21); that he hit the flyer twice, but not hard - "I just faked it" (R 22); that he was trying to protect the flyer from the crowd and that is why he appeared to act rough with him (R 25, 26); that that evening he went into a local inn and asked the women there to give him a half a liter of beer because he had done a good deed during the day by saving the life of an American pilot (R 23).

Counsel stipulated that if Mrs. Annie Engel were present in Court, she would have testified that the accused told her the evening of the incident, "Give me half a liter; I did a good job today; I saved the life of a pilot" (R 16). The evidence also showed that the flyer's condition was due to beatings administered by several other persons in addition to the accused (R 6, 7, 8, 9, 13; P-Ex 2, p. 3, P-Ex 3, p. 2, P-Ex 4, p. 2, P-Ex 6, p. 4, P-Exs 7A, 8, 9).

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

Petitions: A Petition for Review was filed by Major Samuel P. Roach, defense counsel, 28 May 1947. 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

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 the sentence be approved.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

ROBERT E. L. WELCH
Attorney
Post Trial Branch

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

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