

DEPUTY THEATER JUDGE ADVOCATE'S OFFICE
7708 WAR CRIMES GROUP
UNITED STATES FORCES, EUROPEAN THEATER

21 February 1947

UNITED STATES

vs

Ernst HOFMANN and Johann
HETTINGER, German nationals

Case No. 12-2595

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA:

Tried at Dachau, Germany
Date: 5 March 1946
Intermediate Military Government Court
Sentences:
Hofmann, Ernst: Acquitted
Hettinger, Johann: Acquitted

ACCUSED

HOFMANN, Ernst: Age 57
Civilian
HETTINGER, Johann: Age 52
Civilian

	<u>Fleas</u>	<u>Findings</u>
CHARGE: Violation of the Laws of War.	NG	NG
Particulars: In that Ernst HOFMANN and Johann HETTINGER, German nationals, did, at or near EPPLINGEN, Germany, on or about 17 August 1943, wilfully, deliberately, and wrongfully encourage, aid, abet and participate in the commission of an assault upon a member of the United States Army, believed to be Robert KAY or Robert KEY, who was then an unarmed, wounded, surrendered prisoner of war of the then German Reich, by kicking him in the face and head.	NG	NG

2. EVIDENCE:

For the Prosecution. It was shown that during the month of August 1943 a fatally wounded American pilot believed to be Robert KAY landed near Epplingen, Germany (R 8, 9). A fifteen year old German youth, Hubert WILLIG, testified that the accused HOFMANN and HETTINGER kicked the dying flyer in the head as he lay on the ground (R 10, 11). The flyer was placed in a cart and taken to rooms of the home guard where he died shortly thereafter (R 12). The flyer was an American (R 8, 88).

For the Defense. Accused testified in their defense; denied kicking or mistreating the flyer (R 26 to 38). Karl MENNINGER (R 38), Joseph KNOENZER (R 47), Adolph FLEUCHHAUSE (R 60), Julius STOCK (R 66), Hedwig HOFMANN (R 71), Magdalene FRIEDRICH (R 74), Edward WEBER (R 77) and Dr. Gustav WITTELSON (R 83) corroborated their testimony.

3. CONCLUSIONS: The findings of the court of not guilty are amply sustained by the evidence. No formal approval is required. It is recommended that the record of trial and this Review and Recommendations be filed without further action and that a copy hereof be forwarded to the Theater Judge Advocate for his information.

ROBERT J. TRAVIS
Attorney
Post Trial Section

Having examined the record of trial, I concur.

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