

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

12 May 1947

UNITED STATES

vs.

Case No. 12-2662

Karl HESS and Rudolf KÜFER,
German nationals.

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA:

Tried at Dachau, Germany, 30 January 1947
By Intermediate Military Government Court

<u>ACCUSED</u>	<u>DATA</u>	<u>SENTENCE</u>	<u>RECOMMENDATION</u>
Karl HESS	Age 66, married Children Was member of the NSDAP from 1933- 1934.	Confinement, 18 months commencing 8 Oct. 1946	Approval
Rudolf KÜFER	Age 56, married Children, boy, age 25	Confinement, 2 years commencing 11 May 1945	Approval

	<u>Pleas</u>	<u>Findings</u>
CHARGE I: Violation of Laws and Usages of War	Karl HESS NG Rudolf KÜFER NG	G G

PARTICULARS: In that Karl HESS and Rudolf KÜFER, German Nationals, did, at or near BLOFELD, Germany, in or about May 1944, wilfully, deliberately and wrongfully encourage, aid, abet and participate in committing assaults upon an unknown member of the United States Army who was then and there an unarmed, surrendered prisoner of war in the custody of the then German Reich, by striking him in the face and by striking him on the leg, hand, back and body.

Karl HESS	NG	G
Rudolf KÜFER	NG	G

CHARGE II: Violation of Laws and Usages of War

Rudolf KÜFER	NG	G
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PARTICULARS: In that Rudolf KÜFER, a German national, did, at or near BLOFELD, Germany, in or about the month of May 1944, wrongfully commit an assault upon an unknown member of the United States Army, who was then and there an unarmed, surrendered prisoner of war in the custody of the then German Reich, by hitting him in the face.

Rudolf KÜFER	NG	G
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2. EVIDENCE:

For the Prosecution: On or about May 1944, two unknown American fliers parachuted to earth approximately 50 to 100 meters apart in the vicinity of BLOFELD HESSEN, Germany (P-Ex 5). Karl HESS and Rudolf KUFER were among the first to arrive of the crowd that gathered (R 16). Neither of the two fliers offered resistance. HESS beat one flyer with a hoe with such severity that the flyer fell. KUFER beat the flyer in the face until he bled from his mouth (P-Ex 1, 4 and 5). KUFER then went over to the second flyer and beat him in the face with his fists (P-Ex 2 and 5). Both fliers were then led away.

This case was tried solely on affidavits on behalf of the Prosecution. The testimony contained in the affidavits was that one flyer was beaten severely with a hoe by the accused Karl HESS and in the face with his fists by accused Rudolf KUFER so that the flyer fell to the ground bleeding from the mouth (Wilhelm ROTH P-Ex 3, Wilhelm SCHMIDT P-Ex 4). Hermann NICOLAY same testimony with respect only to accused HESS (P-Ex 6). Wilhelm FISCHER, (P-Ex 5) same testimony as to accused HESS, and that accused KUFER beat the second flyer in the face with his fists. Both accused admitted beating the fliers (P-Ex 1 and 2).

For the Defense: Accused HESS admitted beating the flyer with a hoe but denied beating any other flyer (P-Ex 1) and explained that when he indicated with the hoe that he wanted the flyer to move, the flyer grabbed the hoe and pulled it away from the accused. Thereafter, when he got the hoe back the accused beat him (R 14). KUFER did not take the stand in his own behalf but admitted beating both fliers in his pre-trial statement (P-Ex 2).

3. JURISDICTION: The Court was legally constituted and had jurisdiction of the persons of the accused and of the offenses.

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

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

6. CONCLUSIONS:

a. It is recommended that the sentences be approved.

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

Order on Review
Verfügung nach Überprüfung

Case No. 12-2662
Strafsache Nr. 12-2662.....

Order No.
Verfügung Nr.....

Whereas one Karl HESS
(Name of Accused) (Name des (der) Angeklagten)

was convicted of the offence of wrongfully assaulting a prisoner of war
wegen der folgenden strafbaren Handlung rechtswidriger Grnfall auf einen
Kriegsgefangenen

~~*Stricken~~
by the *Intermediate Military Court
~~*Stricken~~ at Dachau, Germany
~~*Stricken~~ in Dachau, Deutschland.....
from *Mittleren Militärgerichte (Address of Court)
~~*Stricken~~ (Anschrift des Gerichts)

and sentenced to imprisonment for 18 months, commencing 8 October 1945
schuldig erkannt und zu 18 Monate Gefängnis verurteilt, mit Wirkung ab 8 Oktober
1945
by Judgment dated the 30 January 1947
durch Urteil vom 30 Januar 1947.....194.....and
(date)
(Datum)

Whereas the case has now come before me by way of review and after due con-
sideration and in exercise of the powers conferred upon me, I hereby order:

Diese Strafsache ist mir zur Überprüfung vorgelegt worden und nach entsprechen-
dem Studium des Sachverhaltes und in Ausübung der mir übertragenen Befugnisse ver-
füge ich:

That the findings and sentence are approved. The Commanding General, First
Military District, will confine the individual in War Criminal Prison No. 1, Lands-
berg, Germany, for a period of 18 months, commencing 8 October 1945.

Dass der Befund und das Urteil bestätigt werden. Der kommandierende General,
Militärbezirk I, wird die Inhaftierung des Betreffenden im Kriegsverbrecherge-
fängnis No. 1, Landsberg, Deutschland, für die Dauer von 18 Monate mit Wirkung ab
8 Oktober 1945 veranlassen.

Dated this
Gegeben am ...19. Nov.....194..7..

..... s/ J. L. Harbaugh, Jr.
(Signature of Reviewing Authority)
(Unterschrift der nachprüfenden Behörde)
J. L. HARBAUGH, JR.
Colonel JAGD
Judge Advocate
(Title)
(Titel)

*Strike out words not applicable.
*Nichtzutreffendes ist zu
durchstreichen.

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

JACOB SILBERMAN
Attorney
Post Trial Section

Having examined the record of trial, I concur.

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