

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

21 February 1947

UNITED STATES

v.

Case No. 12-27

Georg OSTENRIEDER, (also
known as Georg OSTERRIEDER)

REVIEW AND RECOMMENDATIONS

1. TRIAL: The accused was tried at Dachau, Germany on the 9th day of September 1946 before an Intermediate Military Government Court appointed by paragraph 2, Special Orders No. 250, Headquarters United States Forces, European Theater, dated 7 September 1946.

2. FINDINGS: The offense involved was:

	<u>Plea</u>	<u>Findings</u>
CHARGE: Violation of the Laws of War	NG	G

Particulars: In that Georg OSTENRIEDER, alias OSTERRIEDER, a German National, did, at or near Obergünzburg, Germany, on or about 19 July 1944, wrongfully commit an assault upon 2nd Lt. Richard G. CHAPMAN, a 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 with a pistol and with his fist.

NG G

When arraigned the accused stated that he pleaded guilty, however, the court entered a plea of not guilty and the case was tried as if such plea had been made by the accused.

3. SENTENCE: The court by at least two-thirds vote of the members present at the time the vote was taken concurring sentenced the accused Georg OSTENRIEDER, (also known as Georg OSTERRIEDER) to be imprisoned for a term of two years commencing the 19th day of May 1945 at Dachau or such other place as may be designated by competent military authority.

4. DATA AS TO ACCUSED: Upon being examined by the court the accused stated that his name is Georg OSTERRIETER, that he is 37 years of age, a resident of Schotten and of German nationality (R 3).

5. RECOMMENDATION: That the findings and sentence be approved.

6. EVIDENCE:

a. For the Prosecution: Briefly summarized the record shows that about 9:30 A.M. on the 19th day of July 1944 the accused and the witness Max BAUER were working in the hay field and that American planes were flying overhead (R 8). One was shot down by a German fighter plane and the pilot parachuted. The accused and the witness, Max BAUER, went to the home of the accused where OSTERRIETER took his pistol and they then set out in pursuit of the flyer whose back was partially paralyzed upon landing (R 8, P. Ex. 1). He was unarmed and surrendered. The accused, in the presence of a number of other people, placed his knee on the flyer's chest and struck him in the face with the side of his pistol and his fist (P. Ex. 1 and 2; R 8, 9). Severe bruises and abrasions resulted (P. Ex. 1; R 11).

7. JURISDICTION: The court was legally constituted and had jurisdiction of the person of the accused and of the offense.

8. COMMENTS: An examination of the entire record fails to disclose any error or omission which resulted in an injustice to the accused.

9. SENTENCE: An Intermediate Military Government Court may impose any lawful sentence up to and including imprisonment for a term of ten years. The court in this case imposed

a sentence of two years imprisonment commencing 19 May 1945. Considering the nature of the assault it is evident that the court gave full credence and effect to the request of the accused for mitigation as set forth in his statement before sentence. The facts and circumstances in this case would have warranted the imposing of a heavier sentence.

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

11. CONCLUSIONS:

a. It is recommended that the findings and sentence be approved.

b. A form of action to accomplish this result is attached hereto, should it meet with your approval.

DAVID P. HERVEY,
Attorney,
Post Trial Section

Having examined the record of trial I concur.

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