

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

20 October 1947

UNITED STATES)

v.)

Case No. 12-57)

Otto RUEGER, et al.)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 4-5 June 1947, before an Intermediate Military Government Court.

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Otto RUEGER, Wilhelm SCHROEDER and August TIDOW, German nationals, did, at or near BREMEN, Germany, on or about 28 May 1944, deliberately and wrongfully encourage, aid, abet and participate in committing assaults upon members of the United States Army, 1st Lt. Rudolph M. STOHL, AC, ASN O-749350, 1st Lt. David W. SCHELLENGER, AC, ASN O-170001, 2nd Lt. James E. THOMAS, AC, ASN O-752961 and 2nd Lt. John O. MILLHAM, AC, ASN O-691761, M/Sgt Robert C. KREITE, AC, ASN 16026826, and S/Sgt Irwin A. WELING, AC, ASN 32704009, who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich.

III. SUMMARY OF EVIDENCE: On 28 May 1944 several American crew members parachuted from their disabled plane near Bremen, Germany, and were immediately captured by the Germans. First Lieutenant Rudolph M. Stohl, one of the crew members, landed in Osterholtz, near Bremen, Germany. He was captured and beaten by several civilians including accused RUEGER who hit him with a hatchet. Another crew member, First Lieutenant David W. Schellenger, landed in the vicinity of Verden, near Bremen, Germany, and was taken to the scene of the crashed plane where he was struck by accused SCHROEDER and was bitten by accused SCHROEDER's dog.

IV. EVIDENCE AND RECOMMENDATIONS:

1. Otto RUEGER

Nationality:

German

Age:	43
Civilian Status:	Baker
Party Status:	Member of Nazi Party
Military Status:	Private in German Army
Plea:	NG
Findings:	G
Sentence:	3 years, commencing 21 October 1945

Evidence for Prosecution: On 28 May 1944 several American crew members parachuted from their disabled plane near Bremen, Germany (R 9, 10, 11, 12, 13, 15, 19, 20, 27, 36; P-Exs 4, 5, 6, 7, 8, 9, 10, 11A, 14; D-Ex 1). First Lieutenant Rudolph L. Stahl, one of the crew members, was immediately captured by German civilians (R 9, 10, 14, 17; P-Exs 4, 5, 12 p. 2, 17) and was beaten by several of them (R 10, 17, 20, 24, 28; P-Exs 5, 17). The accused threatened Stahl with a hatchet (R 14, 28, 29, 36, 43; P-Ex 12 p. 3; D-Ex 1). According to eye witness and admissions made by the accused in his first extrajudicial sworn statement, he hit the flyer on the head with it causing the blood to flow freely (R 13, 14, 20-22, 28-30; P-Exs 11A, 12; pp. 4, 5, 13).

Evidence for Defense: The accused testified that he did threaten the flyer with a hatchet but that he did not strike him (R 43). He signed P-Ex 11 and 12 and he read P-Ex 11 before signing it (R 46). He was almost forced to sign P-Ex 11 or be called a liar (R 46). He was not in full command of his mind when he signed P-Ex 12 (R 45). In his second extrajudicial sworn statement the accused admitted threatening the flyer with a hatchet but not striking him (P 36; D-Ex 1).

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

Petitions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendations: That the findings and sentence be approved.

2. Wilhelm SCHROEDER:

Nationality:	German
Age:	56
Civilian Status:	Police Sergeant
Party Status:	Member of Nazi Party
Military Status:	None
Plea:	G as to one flyer; NG as to others
Findings:	G
Sentence:	Two and one-half (2½) years, commencing 25 September 1945

Evidence for Prosecution: One of the American crew members who parachuted from the disabled plane on 28 May 1944 was First Lieutenant David W. Schellonger (R 9, 10, 11, 12; P-Exs 4, 5, 6, 7, 8). He was immediately captured and taken to the location of his crashed plane (R 10; P-Ex 6). While sitting in a truck with the other captured American crew members he was ordered from the truck by the accused (R 10, 11, 12, 15; P-Exs 6, 7, 8, 15). The accused gave this crew member an order in German. Inasmuch as he did not understand the order, he did not obey (R 10, 11; P-Ex 6, 7). The accused then struck him in the face with his fist (R 10, 15; P-Exs 6, 14, 15) and sicked his dog on him (R 10, 11, 12; P-Exs 5, 6, 7, 8). The dog bit the flyer two times (R 10, 11, 12, 15; P-Exs 5, 6, 7, 8, 15). After the accused pleaded guilty to an assault on one flyer, defense counsel stated in Court that the victim was First Lieutenant David W. Schellonger (R 7).

Evidence for Defense: The accused did not testify. In his extrajudicial sworn statement he stated that after he slapped the flyer with his hand the dog attacked the flyer without any command from him (R 15; P-Ex 14 p. 2). One prosecution witness stated in an extrajudicial sworn statement that the accused did not sick the dog on the flyer (R 15; P-Ex 15).

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

Revisions: No Petitions for Review nor Petitions for Clemency were filed.

Recommendations: That the findings and sentence be approved.

3. August TIDOW

This accused was acquitted (R 76).

V. QUESTIONS OF LAW:

Jurisdiction: It is clear that the Court had jurisdiction of the accused and of the subject matter.

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 sentences be approved.

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

FLOYD M. LUNDBERG
Major - JAGD
Post Trial Branch

Having examined the record of trial, I concur, this _____ day
of _____ 1948

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