

DEPUTY JUDGE ADVOCATE'S OFFICE
7706 WAR CRIMES GROUP
EUROPEAN COMMAND
APO 407

16 October 1947

UNITED STATES)

v.)

Case No. 12-489-1

August HAESIKER)

REVIEW AND RECOMMENDATIONS

I. TRIAL DATE: The accused was tried at Dachau, Germany, on 26 June 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

CHARGE 1: Violation of the Laws and Usages of War

Particulars: In that August HAESIKER, a German national, did, at or near BORKUM, BORKUM ISLAND, Germany, on or about 4 August 1944, wrongfully encourage, aid, abet and participate in committing assaults upon seven members of the United States Army, believed to be W. LAMBERTUS, William J. MEYERS, James W. DAINO, William P. DOLD, Harvey M. WALTHALL, Kenneth FABER, and Howard S. GRAHAM, who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich.

CHARGE 2: Violation of the Laws and Usages of War

Particulars: In that August HAESIKER, a German national, did, at or near BORKUM, BORKUM ISLAND, Germany, on or about 4 August 1944, wrongfully encourage, aid, abet and participate in the killing of seven members of the United States Army, believed to be W. LAMBERTUS, William J. MEYERS, James W. DAINO, William P. DOLD, Harvey M. WALTHALL, Kenneth FABER, and Howard S. GRAHAM, who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich.

III. SUMMARY OF EVIDENCE: On or about 4 August 1944 at about 11:00 hours, an American plane containing seven American flyers was shot down at or near Borkum, Borkum Island, Germany. The flyers immediately surrendered and shortly thereafter were escorted under guard to the town of Borkum. On the route to the town they encountered a group of

Reichs labor service men (R. L. S.) who were under the command of the

accused. A gauntlet was formed by the RAD men and the flyers were forced to go between the two columns of RAD men who severely beat the flyers with spades upon orders given by the accused.

The accused was acquitted by the Court on Charge 2 and the particulars.

The incident involved in this case is the same as that involved in the case of the United States v. AKKERMANN, et al., case No. 12-489, commonly known as the Borkum Island case. In the latter case five accused were sentenced to death, one to life imprisonment, two to 25 years, one to 15 years, one to 11 years, one to six years, one to five years, one to four years, one to two years imprisonment and one accused was acquitted.

IV. EVIDENCE AND RECOMMENDATIONS:

AUGUST HAESIKER

Nationality:	German
Age:	39
Civilian Status:	Food merchant
Party Status:	Nazi party since 1932; R.S.D. Captain (Reichs labor service)
Military Status:	None
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; NG Charge II
Sentence:	10 years, commencing 5 July 1946

Evidence for Prosecution: On or about 4 August 1944 at about 1400 hours, a plane containing seven American flyers was shot down over Borkum, Borkum Island, Germany (P-Ex 2, p. 2; P-Ex 8, pp. 2,3,5; P-Ex 9, pp. 2, 3; P-Ex 10, p. 2; P-Ex 11, p. 2; P-Ex 12, p. 2; P-Ex 13, pp. 2, 3; P-Ex 14, p. 2). The flyers immediately surrendered (P-Ex 2, p. 2; P-Ex 8, p. 3; P-Ex 10, p. 2; P-Ex 11, p. 2; P-Ex 12, pp. 2, 3; P-Ex 13, p. 2). The only weapon the flyers had was turned over to their captors (P-Ex 11, p. 3; P-Ex 12, p. 2). The flyers were shortly thereafter sent under guard to the town of Borkum. (P-Ex 9, p. 3; P-Ex 10, pp. 3, 4;

P-Ex 11, pp. 4, 5; P-Ex 12, pp. 4, 5, 6; P-Ex 13, pp. 4, 5). On the way they encountered a group of Reichs labor service men (R.L.D.) who formed a gauntlet and the flyers were forced to pass between the two lines. While thus passing, the flyers were severely beaten with spades by the RAD men (P-Ex 9, p. 3; P-Ex 10, pp. 5, 6, 7; P-Ex 11, pp. 6, 7; P-Ex 12, pp. 5, 6; P-Ex 13, pp. 5, 6). An R.L.D. officer, who is also referred to as a leader or a platoon leader, was present at the scene of the incident (P-Ex 9, p. 3; P-Ex 10, p. 6; P-Ex 13, pp. 5, 6). He wore boots and had "two stars" on his shoulders (P-Ex 10, p. 6). He yelled, "Beat them, beat them" (P-Ex 10, p. 6) and also yelled, "At them, at them" (P-Ex 13, p. 6).

Vomel, a practicing physician for 16 years and on Borkum Island since 1937, stated in his extrajudicial sworn testimony that August HABSICKE admitted to him on the day following the incident that he gave the order to his men to beat the flyers. Vomel also stated that August HABSICKE was a captain in the RAD service and in effect stated that the accused was in charge of the RAD men who beat the flyers (P-Ex 14, p. 3).

Evidence for Defense: Two female witnesses testified to the effect that the accused was dressed in a bathing suit and on the Borkum beach with them between about 1400 and 1700 hours on the day in question (R 20-22, 32, 33); that the flyers were reported to be already dead when the accused left the witnesses at about 1700 hours (R 25-28, 33); that they did not see the flyers in the afternoon but heard about them (R 21, 22, 24, 32); that the accused did not leave them during this period of time (R 22, 33, 34); that the accused did not participate in any mistreatment of the flyers nor did he issue any orders for their mistreatment (R 27, 33).

The accused stated in Court that he was a Reichs Arbeits Dienst leader with a rank of captain (R 39); that he was with the two female witnesses the afternoon the flyers were mistreated and killed (R 42); that he saw the flyers at a distance of approximately 200 to 250 meters

(R 42); that some of his men were near the flyers (R 43, 54) but he did not issue any orders in regard to the mistreatment of the flyers (R 43, 44); and that on the day in question he had left his men in charge of Captain Schiereck who was his representative (R 49). The accused admitted he ordinarily wore a uniform with two stars on each shoulder (R 47), but that he wore no uniform on the afternoon in question (R 42, 44, 45, 49). He further stated that a platoon leader wore one star on each shoulder (R 47) and that he never told anyone that he gave an order relative to the beating or killing of these flyers (R 48).

Sufficiency of Evidence: The evidence is not contradicted that the R.A.D. men did line up in two columns and severely beat the seven surrendered unarmed American flyers with spears during the afternoon of 4 August 1944, at or near Borkum, Borkum Island, Germany. It is not contradicted that an R.A.D. officer, leader or platoon leader with two stars on his shoulders was present and encouraged his men to beat the flyers and that the accused usually wore a uniform with two stars on each shoulder. The evidence also shows that August HAESICKS, who is apparently the same man as the accused, admitted to one of his townsmen that he gave the order to beat the flyers. The Court had the opportunity to observe the alibi witnesses of the accused and the accused and apparently did not believe their testimony. The testimony of the accused places him near the scene of the beatings.

The findings of guilty as to Charge 1 are warranted by the evidence. The sentence is not excessive.

Petitions: No Petitions for Review were filed. A Petition for Clemency was filed by Captain W. A. Gordon, defense counsel, 30 June 1947.

Recommendation: That the findings and sentence be approved.

V. QUESTIONS OF LAW:

Jurisdiction: It is clear that the Court had jurisdiction of the person 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 sentence be approved.
2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

Floyd M. Lundberg

FLOYD M. LUNDBERG
Major JAGD
Post Trial Branch

Having examined the record of trial, I concur,
this 4th day of December 1947.

W. H. Straight

W. H. STRAIGHT
Lieutenant Colonel, JAGD
Deputy Judge Advocate
for War Crimes