

DEPUTY JUDGE ADVOCATE'S OFFICE
7708 WAE CRIMES GROUP
EUROPEAN COMMAND
APO 207-1

6 August 1947

UNITED STATES)

v.)

Christian BLUM, et al.)

Case No. 12-1034

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 15 -24 August 1946, before a General Military Government Court.

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws of War.

PARTICULARS: In that Christian BLUM, Gottlob HCHLOCH, Karl MEMMEL and Kurt HANS, German nationals, did, at or near Ruppertshutten, Germany, on or about 12 September 1944, willfully and deliberately and wrongfully encourage, aid, abet, and participate in the killing of Lieutenant EDWARD J. LOWER, Lieutenant ROMAN H. NEWMAN, Lieutenant HARVEY DATER and Sergeant ROBERT E. KUHN, all members of the United States Army, who were then unarmed surrendered prisoners of war in the custody of the then German Reich.

III. SUMMARY OF EVIDENCE: Following a bombing attack on the interior of Germany, 12 September 1944, a disabled American bomber made an emergency landing near Ruppertshutten in the Spessert Mountains, Kreis Lamunden-Ort.-Main (R 9, 10). A search and pursuit detail known as the "Jagdkommando" was dispatched from Wurzburg consisting of eleven men, four from the criminal police, two from the Gestapo, four regular uniformed police and the driver (R 486). Upon arrival at the plane, the detail found a gendarmerie and from 80 to 100 people from the village standing by (R 487). Two of the fliers were wounded. All four fliers were collected and taken into the woods by members of the Jagdkommando party and shot to death.

IV. EVIDENCE AND RECOMMENDATIONS:

1. Christian BLUM

Nationality:	German
Age:	39
Civilian Status:	Criminal Police Secretary
Party Status:	NSDAP (2 May 1937)
Military Status:	None
Plea:	NG
Findings:	G
Sentence:	1 year, commencing 24 August 1946

Evidence for Prosecution: According to the extrajudicial sworn testimony of accused BLUM (P-Ex-3), accused HANS was his superior officer and that HANS called the members of the station to a secret official conference and informed them that he had been given the power through a secret order to enforce execution of his orders by force of arms and that arrested enemy fliers had to be shot. While riding to the scene of action in the vehicle with the other members of the pursuit detail BLUM turned to a new member and said "Do you know that it is our job to shoot the prisoners should we make (sic) prisoners?" (R 446). BLUM was identified by a number of witnesses as being present where the four American fliers were held. On 12 September 1944 he was in charge of the Jagdkommando and as such made the assignment of its personnel to search for parachuted airmen. He was placed on one occasion at a point 20 meters from a man who struck one of the fliers (R 67, 68) and he was also present when an official of the Gestapo or of the criminal police, who was under his command, struck a flier (R 104, 105). He was apparently present when HAHLOCH said that each man was to take a flier and bump him off (R 117, 120). The caliber of the bullet later found in the head of one of the fliers was the same as the caliber of the bullet used in the police guns (P-Ex-7; R 219). Accused MEMMEL testified that BLUM told him,

"That Hammer, Heinrich Baumann had escorted the fliers towards the woods, that he (BLUM) and HOHLOCH remained behind to hold back the people, and then he heard the shots in the woods. After that the officials came out of the woods and ordered a vehicle in the village, which fetched the bodies from the woods." (R 254)

Further that Hammer and Baumann were not punished for shooting the fliers (R 256). Exhibit P-Ex-4 sets forth the names of the four Americans who were buried in the cemetery at Ruppertshuten. Accused HANS, the Kriminalrat and superior of BLUM, testified that BLUM was the senior man on the pursuit detail and as such was in charge of its activities on 12 September 1944 (R 401). That BLUM made a written report to him stating the fliers had been shot, while trying to escape, by the pursuit detail which consisted of Hohloch, Heinrich Baumann, Albert Hammer, and BLUM, (R 377). Accused HOHLOCH stated in his extrajudicial sworn testimony,

"We then went to the mountain where the plane had crashed. There we found one uninjured American soldier who showed us where in the vicinity there were two injured and one uninjured American soldiers. There we were divided up in order to search the woods, while the Jagdkommando (pick up squad) of the Kripo, as well as the men BLUM, HAGER, HAMMER and BAUMANN, ZWINGMANN and STOLZ remained with the Americans. When we returned the four soldiers were fatally shot and we were told that they had been shot while attempting to escape, although the two injured ones could hardly move." (P-Ex-6)

BLUM admitted in court that he received a report on the scene from BAUMANN that the four fliers had been shot (R 453).

Evidence for Defense: The accused BLUM testifying in his own behalf repented the instructions given by Kriminalrat HANS to the pursuit detail, prior to 12 September 1944, with reference to a secret order received from Berlin on the subject of the treatment to be given enemy parachuted airmen. The instructions were as follows,

"You have now listened to the instructions. In the future, when the pursuit detail goes into action, no more prisoners are to be taken but they are to be shot". (R 445)

BLUM further testified that he did not shoot the prisoners himself nor was he present at the shooting (R 468).

Sufficiency of Evidence: Examination of the entire record fails to disclose any error or omission which resulted in injustice to the accused. On the other hand, the evidence adduced as reflected throughout the record is regarded by this reviewer as more than ample to sustain the findings of the court in regard to the accused BLUM. It is the opinion of this reviewer that there was a superabundance of evidence in this case for the court to have convicted HANS as well as the accused BLUM and it is the further opinion of this reviewer that BLUM was given an extremely light sentence by the Court which is not at all commensurate with the crime for which he was found guilty. It is uncontroverted that BLUM was the leader of the pursuit patrol and as such had authority over the men who were in that patrol and that BLUM made a report to his superior HANS that the fliers had been shot while trying to escape when, in truth, BLUM knew that in regard to at least one of the fliers it was impossible to escape as he was severely wounded (R 354). BLUM admitted himself in his own testimony that he said to a man in the automobile as they started on the detail, "Do you know that it is our job to shoot the prisoners should we make prisoners?" It is uncontroverted that BLUM never complained that BAUMANN or HAMMER disobeyed any of his orders (R 254 thru 256). Although it may have been proven to the satisfaction of the Court that BLUM was not actually present when BAUMANN and HAMMER shot the fliers, there is an abundance of evidence that these men were under the command of BLUM and that in his report to his superior HANS he tried to cover them up by alleging that the fliers were shot while trying to escape.

Petitions: There is a Petition for Clemency in the file from Christian BLUM dated 24 November 1946. It is obvious from a reading of this petition that it does not contain any pertinent evidence and that it relates solely to matters and alleged facts, which even if true, could not form the basis of any clemency action. As indicated above, it is the opinion of the reviewer that BLUM should have received a much greater

sentence than did receive and it is the further opinion of the reviewer that the Petition for Clemency is frivolous.

Recommendations: That the findings and sentence be disapproved and set aside as to accused BLUM.

2. GOTTLÖB HOHLOCH

This accused was acquitted (R 540).

3. KARL MEMMEL

A nolle prosequi was entered in favor of this accused (R 151).

4. KURT HANS

This accused was acquitted (R 540).

V. QUESTIONS OF LAW: The record does not show that any questions of law were raised during the trial which require discussion. It is clear that the Court had jurisdiction of the persons of the accused and of the subject matter.

VI. CONCLUSIONS:

1. It is recommended that the findings as to accused Christian BLUM be set aside; that the sentence as to him be disapproved, and that a new trial as to him be had. The reviewing authority is empowered to direct a new trial, Section 5-337, Title 5, "Legal and General Administration", of "Military Government Regulations", published by Headquarters, United States Forces, European Theater, 30 November 1945.

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

D. S. Paul
D.S. Paul
Major, GIC
Attorney
Post Trial Branch

Having examined the record of trial, I concur.

C. E. Straight
C. E. STRAIGHT
Lieutenant Colonel J/CD
Deputy Judge Advocate
for War Crimes

FINAL ACTION OF REVIEW

The conclusions expressed in Section VI of the foregoing Review and

Recommendations were disapproved by the Reviewing Authority, 26 August 1947; the findings and sentence of the Court were approved and the accused Christian ELOM was ordered confined at War Criminal Prison No. 1, Landsberg, Germany for a period of one (1) year, commencing 24 August 1946, per Legal Forms Nos. 13 and 15 issued to accomplish this result, per Col J. L. HARBAUGH, Jr., JAGD, Judge Advocate, EUCOM.