

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

12 November 1947

UNITED STATES )  
 )  
 V. )  
 )  
 Friedrich Wilhelm ALLEA )

Case No. 12-1038

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 17-19 September 1947, before a General Military Government Court.

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars: Is that Friedrich Wilhelm ALLEA, a German national, did, at or near SALGAU, Germany, on or about 9 August 1944, wrongfully encourage, aid, abet and participate in the killing of a member of the United States Army who was then and there a surrendered prisoner of war in the custody of the then German Reich.

(The place name actually spelled Salgau, B 7).

III. SUMMARY OF EVIDENCE: On or about 9 August 1944 an American flier parachuted from his disabled pursuit plane, landing near Salgau, Germany. The accused went to search for the flier. As the accused approached the flier he shot him, causing a fatal wound.

IV. EVIDENCE AND RECOMMENDATIONS:

Friedrich Wilhelm ALLEA

Nationality:	German
Age:	45
Civilian Status:	None
Party Status:	NSDAP, SA
Military Status:	SS Major
Place:	NS
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution: The accused Grove is the scene of the killing in a car, accompanied by witnesses Fuhrmann and Holzler (R 33, 32, R 7; P- Ex 3). He arrived there after the flier, now believed to have been Theodore Nielsen (or Nielsen) (R 7-8, 57, R 7; P-Ex<sup>2</sup> 3, R 48; P-Ex<sup>2</sup> p 2), had been captured by witness Braler (R 11). After seeing the flier, the accused ordered his two companions and other individuals present to leave (R 13, 24, 34). The accused then aimed at the flier, shooting him at least three times (R 13, 19, 30), although no resistance had been offered (R 14, 21, 22). The American then collapsed (R 15, 35, 30). Witness Schlichter, a nurse, was prohibited from treating the flier (R 7-8), having been chased away by the accused (R 34, 54, R 48; P- Ex 3). After he had shot the flier, the accused stated that the flier had assaulted him with a knife but he did not show a knife to anyone present. There was no sign of any weapon in the possession of the flier. His clothes were opened by witness Holzmueller who did not see any weapons (R 36-37). When the victim was taken to the hospital, there were no weapons in his clothes (R 45). Shortly after the shooting, the flier was examined by Holzmueller and found to have multiple wounds, including a stomach wound (R 36). At the time witness Stigels examined the flier at the hospital, the victim was in a dying condition (R 41). At 1430 hours on 9 August 1945, the day he was shot, the flier died. He was buried in the Selgau cemetery on 10 August 1945 (R 7-8). At a later time his body was removed from Selgau by the American forces (R 6). According to Dr. Stigels, the cause of death was "internal bleeding into the cavity of the stomach" (R 43).

Evidence for Defense: The accused testified that after he came upon the flier he held up his pistol and said, "Step up"; that he then turned to the right and said to his companions, "You go back a little, there are more coming"; that, as he turned, he saw a movement out of the left corner of his eye; that the flier was turned to a half-right and was almost touching the handle of his dagger which he carried on his right trouser leg; and that, at the very same time, he just took

a → got shot in the direction in which the flier was reaching and shouted "Halt" (R 53). The accused further testified, "When I shot at him he already had it in his hand" (R 62). The flier did not get the knife entirely out of his trouser leg and so was not in a position to make as the accused (R 63). The accused further testified that he saw a woman or a young girl moving in the direction of the flier; that his first feeling was that this woman or girl planned to take something away from the flier and for this reason he sent her away; and that she gave some name which he believes may have been Bullinger and said that she was a student of medicine practicing in a hospital (R 54). The accused further testified that the dagger which had been in the possession of the flier had been confiscated by a police officer, a first lieutenant, whose name he did not know (R 55-56, 62-63); that he asked a man whose name he did not know to examine the flier; and that he ordered the crowd to get back from the flier (R 57).

Sufficiency of evidence: The evidence clearly established that the accused wrongfully killed an unarmed and unarmed flier. The Court was justified in rejecting the theory of self-defense advanced by the accused.

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.

Recommendation: That the findings and sentence be approved.

V. QUESTIONS OF LAW: The Court clearly had jurisdiction of the person of the accused and of the offense set forth in the Charge and Particulars. Examination of the entire record fails to disclose any error or omission in the conduct of the trial 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.

  
HERMAN PLATT  
Attorney  
Post Trial Branch

Having examined the records of trial, I concur, this 14<sup>th</sup>

day of January 1946.

  
C. M. STRAUFF  
Lieutenant Colonel, USAR  
Deputy Judge Advocate  
for War Crimes