

HEADQUARTERS  
THIRD UNITED STATES ARMY  
Office of the Judge Advocate

AGO 403  
18 March 1946

SUBJECT: Review of Proceedings of Intermediate Military Court in  
the Case of the United States versus Charlotte V. Battalo,  
et. al. (Case No. 13-1093).

TO : Commanding General, Third United States Army, AGO 403,  
U.S. Army.

1. THE TRIAL:

The accused, Charlotte V. Battalo, Erhardt Erdt, Mathias Schandl, Georg Gruendel, Josef Klotz, and Maria Hegelo, were tried before an Intermediate Military Court at Dachau, Germany, on 31 January 1946, on the following Charges and Particulars:

CHARGE: Violation of the Laws of War.

PARTICULARS: In that Charlotte V. Battalo, Erhardt Erdt, Mathias Schandl, Georg Gruendel, Josef Klotz and Maria Hegelo, German nationals, did, on or near Mittenwald, Germany, wilfully, deliberately and wrongfully encourage, aid, abet, and participate in an assault upon unknown members of the United States Army who were then unarmed, surrendered prisoners of war in the custody of the then German Reich, by hitting them with their hands and with various articles, the exact nature of which is unknown, on their heads and bodies, and by kicking them on various parts of their bodies.

2. FINDINGS AND SENTENCE:

The accused were found guilty of the charge and of the particulars. The sentences of each accused were as follows:

Battalo - 1 year in prison, commencing 37 May 1946  
Erdt - 2 years in prison, commencing 31 January 1946.  
Schandl - 3 year in prison, commencing 13 May 1946.  
Gruendel - 2 years in prison, commencing 31 January 1946.  
Klotz - 4 years in prison, commencing 31 January 1946.  
Hegelo - 1 year in prison, commencing 28 July 1946.

3. EVIDENCE FOR THE PROSECUTION:

On or about 19 June 1944, a four-motored American bomber crash landed about two kilometers distant from Mittenwald, Germany (Pros Ex A, D, E). The members of the crew, consisting of nine American officers and enlisted men, were taken prisoners by uniformed members of the German Armed Forces (Pros Ex A, D). While these Americans were in the custody of the said members of the German Army, a large crowd of civilians gathered about the prisoners (Pros Ex A, D).

The accused, Josef Klotz, hit one of the flyers with his fist on the back of the neck so hard that the flyer fainted (Pros Ex C, D). Klotz also kicked the flyer and later seized another one of the Americans and shouted that he should be thrown into the river (Pros Ex I, J). He was stopped in this design by the German soldiers (Pros Ex J).

The accused, Mathias Schandl, beat one of the flyers with his fist (Pros Ex F). He beat one flyer until he was bloody, and struck several of the Americans with a pole or other instrument (Pros Ex C, G, H). Schandl also kicked one flyer, the latter not putting up any resistance (Pros Ex F, H, I).

The accused, Maria Hegels, whose maiden name was Weiss, jumped at one of the flyers shouting hysterically and spit and hit him in the face (Pros Ex A, C). She struck the American with her hands (Pros Ex B).

The accused, Georg Gruendel, was the first in the crowd to strike the flyers (Pros Ex D). First he struck one of them with his fist but later he used a board or a club which he had torn from a fence (Pros Ex D, E).

The accused, Charlotte V. Battalo, beat the Americans who were marching at the end of the column (Pros Ex D). She also struck some of the flyers in the face with her hand, hitting them "madly" (Pros Ex E). In her own sworn statement this accused admitted that, at the time, she was in great wrath, when she saw the unharmed pilots come along chewing gum. She admitted using insulting language and that as far as she knew she was the first who physically mistreated the flyers (Pros Ex K).

The accused, Erhardt Erdt, struck the flyers with a bicycle pump until it was bent (Pros Ex F, I). Erdt beat the flyers along with the others (Pros Ex G). In his pretrial affidavit, Erdt admitted these accusations and stated that the pump was bent from 180 degrees to 150 degrees (Pros Ex J).

While the accused were mistreating the Americans, the German soldiers did nothing to stop them (Pros Ex F). All the flyers were able to walk away from the scene after the beating (Pros Ex C).

#### 4. MITTEWALD FOR THE DEFENSE:

Only one of the Americans was singled out for general mistreatment and he was the only one to receive injuries (Def Ex A). He received wounds in his head and his face and was later cared for by the school doctor (Def Ex A). None of the other Americans required medical care, the flyers all leaving Mittenwald the next day (Def Ex A).

The accused Josef Klotz, elected to testify and made the following unsworn statement: At the time of the incident he had been on furlough from the Wehrmacht (R 11, 12). There had been 800 to 1,000 people in the crowd which gathered around the flyers, 80 to 85 per cent of whom were women (R 12). In the confusion and turmoil, Klotz beat the Americans, but was stopped by a German soldier (R 14, 15).

The accused, Erhardt Erdt, elected to testify and made the following unsworn statement: He was butcher in the town of Mittenwald and on the day of the plane crash he went along to look at the apparatus of the plane (R 16, 17, 18). Erdt admitted mistreating a flyer with the pump and stated that it was possible that he struck two of the Americans (R 20). Erdt heard a lot of people yelling and threatening and was urged by many in the crowd to help beat the flyers (R 19). Erdt tried to push through the crowd and some of them spit at him because of his hesitation (R 19). He does not remember how he happened to pick up the bicycle pump but remembers that he did use it on the flyers (R 19).

The accused, Maria Hegels, elected to testify and made the following unsworn statement: She had been bombed out of her home in Augsburg (R 22, 23). She took her family to an air raid shelter there, but had to leave it because of the danger of fumes, and then she came to Mittenwald (R 23). She saw the plane making an emergency landing on the day of the incident and joined the crowd because of curiosity (R 24). Amid the excitement she pushed her way through the crowd and grabbed one of the flyers and shoved him with her hand (R 24, 25). Mrs. Hegels thought that the plane had come from the direction of Augsburg but was not sure about this (R 26, 27). None of the members of her family were injured as a result of the Augsburg bombing (R 27).

The accused, Charlotte V. Battalo, elected to testify and made the following unsworn statement: She had been bombed out in Berlin on 22 November 1943 and had salvaged none of her belongings (R 28). Mrs. Battalo happened to be on the road from Mittenwald to Schnitz at the time the plane crashed and she drove her bicycle over to it after it had landed (R 29). After the crowd had gathered, amid the excitement, she slapped two of the Americans with her open hand on the left side of the face, giving each of them two slaps (R 29). However, she calmed down almost immediately and stepped aside (R 29, 30). Mrs. Battalo admitted she might have been the first one to strike the flyers (R 29).

The accused, Georg Gruendel, elected to testify and made the following unsworn statement: Gruendel had been dismissed from the army because of a nervous condition and received a pension up to the end of 1945 (R 33). He went to Mittenwald on 18 June 1944, leaving Munich because of the air raids (R 33, 34). At the time of the incident, he seized a rotten piece of wood about one and a half meters in length which was lying on the road and beat the flyers (R 34). He also slapped them with his hands and also kicked several of the pilots in the feet (R 34, 35). Gruendel threw clumps of earth at the flyers also six or seven times (R 35). Gruendel claimed that he was overly excited because of the air raids in Munich (R 34).

The accused, Matheus Schundl, elected to testify and made the following unsworn statement: He was a farmer and had served in the army (R 36). Schundl had a crooked leg and lived with his wife and had a few cows, 50 to 60 a day (R 36). He often spoke to them about the air raid bombings (R 36). On the day of the crash, the plane flew over his house about 100 meters away (R 36). In the excitement among the crowd that gathered around the flyers, he heard a soldier calling him to help with the "skinnet"; therefore Schundl picked up an umbrella from a woman and hit one of the flyers with the umbrella about four times (R 36). He also kicked and beat other upon the prisoners only to push them forward (R 37, 38). However, he mistreated only that one flyer (R 38). The crowd also hit the prisoners on one of the flyers for a portable radio and Schundl asked the American to give them off, which he did (R 37). All through this, the crowd kept shouting "beat them to death", "beat them down", and so on (R 37).

#### 5. EVIDENCE FOR THE CASE:

Upon preliminary examination, no accused other than Charlotte V. Battalo, testified that they were German nationals (R 2, 3, 4). Mrs. Battalo was a German who had married a Yugoslav (R 2). All the accused declared themselves to be civilians (R 2, 3, 4).

#### 6. WITNESSES:

In Lettow, County Greater Judge Advocate, Air Crimes Branch,

USFPM, subject: "Case of the United States versus Charlotte V. Rutledge, et. al.," dated 5 December 1945, the present case was transmitted for reference to trial by an Intermediate Military Court. The appointment of the Intermediate Military Court and the proceedings thereof were in compliance with the provisions of letter, Headquarters USFPM, subject: "Trial of War Crime and Related Cases", dated 16 July 1945, and pertinent military government directives and instructions. The accused were represented by a first lieutenant who is a lawyer. A fair and impartial trial was had, an individual interpreter who was sworn, was provided for the accused. Challenges for cause were permitted.

#### 7. JURISDICTION:

In letter, Headquarters USFPM, subject: "Trial of War Crime and Related Cases", dated 16 July 1945, it was stated that as a matter of policy, cases involving offenses against the laws and customs of war or the laws of the occupied territory or any part thereof, commonly known as "War Crimes", were to be tried before specially appointed military government courts. The particulars alleged a violation of the laws and customs of war committed before 9 May 1945 by enemy nationals or persons working with enemy nationals against members of the United States Army Air Force while an actual state of war existed. Accordingly the court which was specially appointed to hear the charges had jurisdiction over the persons and subject matter.

#### 8. PROCEEDINGS:

Although each accused in the present case pleaded "guilty" to the charges and particulars, the procedure outlined for such a case was not strictly followed. Although the court had the power to accept the pleas on their plea without further proceedings, it failed to do so in reliance on evidence it established prima facie case in determining that the plea was not true, violent or unadvised. The prosecution clearly established such a prima facie case against each accused.

At the instant case, after the prosecution had rested and the court had satisfied itself that the accused understood the import of their pleas and said pleas had been accepted, the defense should not have been permitted to offer evidence in rebuttal before the measurement of the findings. However, the said evidence was admitted. Offered by the defense for the purpose of mitigation, it should have been excluded. It is regretted that the accused in this case.

#### 9. SUFFICIENCY:

The findings of guilty are supported by the evidence and there are no errors or irregularities affecting the fairness and impartiality of the trial or which are prejudicial to the substantial rights of the accused in proceedings such as these. Regardless of the nature of the courts concerned in the findings of the sentences.

#### 10. SENTENCE:

An Intermediate Military Court may impose any lawful sentence including death, or imprisonment in excess of ten years, or fine in excess of \$5,000 or both of \$10,000. Under this standard the sentence given in the instant case would be appropriate.

Petitions for relief were filed in the case of each accused in

which counsel contend substantially as follows: Each accused had already been in confinement for several months awaiting trial. Each accused possessed a good reputation in his community and willingly confessed and pleaded guilty to the Charge and Particulars. No serious injuries had been inflicted upon any of the American flyers. In view of these claims, counsel asked for a reduction or remission of the sentences against each defendant. It would seem that the assaults committed by Schandl, Gruendel, Erdt and Klots were of about the same degree with the exception that although the three former at one time or another wielded a stick, an umbrella or a bicycle pump, some doubt was raised as to whether or not Schandl had intentions of beating the flyers or merely of pushing them forward in order to have them continue the march. There was no doubt that Erdt in his use of the bicycle pump was particularly capable of inflicting injuries with that weapon even though he was not substantially vicious. Both Gruendel and Klots admitted that their intentions were to beat the Americans. Although the court might very well have believed the same of Schandl, it would appear that the seriousness is adjudged by the court bying the facts should be held to stand.

In the case of Charlotte V. Buttner, a defendant, which was also supported by her own admissions, proved that she was one of the crowd responsible for starting the attack upon the flyers and for using words that very well might have incited others to further mistreatment of the men. She may have been actuated by fear and excitement as is claimed in her petition, but there is no indication that she was motivated by the desire to injure the helpless prisoners, particularly the little dark flyer who possessed Jewish features. It is felt that the sentence adjudged might have been heavier but that the court had already considered these details and had shown mercy. The sentence should therefore not be disturbed.

In the case of Marie Hagde, however, although she admitted grabbing a flyer and shaking him, and gave in extenuation the fact that her home had been destroyed not long before and that she had suffered a severe shock of nerves because of it, nevertheless, it would appear that her only motivation was her mental condition and not due to her inspiration of committing severe injuries on the prisoners. If it can not be said that the accused Marie acted willfully, that anyone could possibly have been injured due to her severity. She made an open admission and the record of her past life is good. She is married and has a child and her husband was severely wounded during the war. Mrs. Hagde also had been under arrest for the past six and one half months at the time sentence was adjudged. In the case of Marie Hagde it would appear that her confinement for the period during which this case was pending would be adequate punishment.

## 11. RECOMMENDATIONS:

I accordingly recommend that:

- a. The findings and sentences in the case of each accused be approved.
- b. Five and one half months of the confinement in prison imposed upon the accused Marie Hagde be remitted, and wherever modified, the sentence be duly executed.

## 12. ACTION:

Forms of action designed to carry the foregoing recommendations into effect should they meet with your approval, are submitted