

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

13 January 1948

UNITED STATES)

v.)

Johannes SCHAIRER)

Case No. 000-50-2-93

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, 20 June 1947, before a General Military Government Court.

II. CHARGES AND PARTICULARS:

FIRST CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Johannes Schairer acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual(s) aiding in the operation of the Dachau Concentration Camp and camps subsidiary thereto, did, at or in the vicinity of DACHAU and LANDSBERG, Germany, between about 1 January 1942 and about 29 April 1945, willfully, deliberately, and wrongfully encourage, aid, abet and participate in the subjection of civilian nationals of nations then at war with the then German Reich to cruelties and mistreatment, including killings, beatings, tortures, starvation, abuses and indignities, the exact names and numbers of such civilian nationals being unknown but aggregating many thousands who were then and there in the custody of the German Reich in exercise of belligerent control.

SECOND CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Johannes Schairer acting in pursuance of a common design to commit the acts hereinafter alleged, and as individual(s) aiding in the operation of the Dachau Concentration Camp and camps subsidiary thereto, did at or in the vicinity of DACHAU and LANDSBERG, Germany, between about 1 January 1942 and about 29 April 1945, willfully, deliberately and wrongfully encourage, aid, abet and participate in the subjection of members of the armed forces of nations then at war with the then German Reich, who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich, to cruelties and mistreatment, including killings, beatings, tortures, starvation, abuses and indignities, the exact names and numbers of such prisoners of war being unknown, but aggregating many hundreds.

III. SUMMARY OF EVIDENCE: The accused was, by his own admission, a member of the SS at Dachau Concentration Camp and outcamp

Landsberg for a considerable period of time between the dates alleged and was shown to have participated as a guard and work detail leader in the Dachau Concentration Camp mass atrocity. Prosecution's P-Ex 2 is a certified copy of the charges, particulars, findings and sentences in the parent Dachau Concentration Camp case (United States v. Weiss, et al., 000-50-2, opinion DJAWG, March 1946, hereinafter referred to as the "Parent Case"; see Section V, post, R 33).

IV. EVIDENCE AND RECOMMENDATIONS:

Johannes SCHAIRER

Nationality:	German
Age:	35
Civilian Status:	Unknown
Party Status:	Unknown
Military Status:	SS Technical Sergeant
Plea:	NG Charge I; NG Charge II
Findings:	G Charge I; NG Charge II
Sentence:	5 years, commencing 2 May 1945

Evidence for Prosecution: The accused joined the German Army 11 November 1935 and re-enlisted on 25 August 1939. He was attached to the SS Death Head Battalion on 14 July 1944 and later transferred thereto (R 35, 41). He served at Dachau Concentration Camp for a short period in July 1944 and then was assigned to outcamp Landsberg of Dachau Concentration Camp (R 35) where he acted as a guard and detail leader (R 7, 36). In his conduct toward inmates he "was a human being acting like a beast" (R 7). The accused ordered the other guards to beat inmates for the least little thing and he used to show the guards how to beat the inmates. On one occasion in about August 1944 he beat a stateless inmate, who failed to recognize the accused's insignia in the dark and said to him "How do you do, guard." This inmate had his leg cracked in two places and was hospitalized for two months as a

they fell to the ground and had to be taken back to the camp in a cart. These inmates were so weak and undernourished that they usually died. These events took place in the fall of 1944. Latvians, Poles, Hungarians, Dutch, Czechs and Russians were inmates of outcamp Landsberg who worked at the firm of Leonard Moll (R 9, 10, 14, 23). The accused beat the prosecution witness, Fain, and other inmates in a murderous way (R 10). The accused beat inmates every day (R 16). In March 1945 the accused beat an inmate named Bergmann so severely that he was reported to have died the next day (R 22, 27, 31). In April 1945 he beat inmates on the inmate evacuation march from outcamp Landsberg to Dachau Concentration Camp (R 24, 25). One inmate named Boris Druan, who tried to get a little water, was beaten by the accused in such a manner that he died a month later (R 25). The accused beat inmates with a whip until they bled (R 33; P-Ex 3). The accused admitted slapping some inmates for stealing potatoes (R 36). On one occasion he beat an inmate who had a big piece of meat in his possession that was given to him by a capo (R 36).

Evidence for Defense: The accused testified that his duties consisted of patrolling the guards and the chain of guards. In the morning he received and signed for the inmates at the gate. All his duties were outside the prison compound. No inmate was ever beaten or died on his detail nor did anyone die on the march to Seefeld or Dachau Concentration Camps (R 37, 41). He only beat inmates when they stole potatoes which was forbidden by camp regulations and never so severely that they had to be hospitalized. He only beat inmates if they had done something wrong. The accused believed that it was quite possible for the prosecution witnesses to be mistaken about some of the incidents due to the fact that other guards at outcamp Landsberg had the same name as he did (R 40). He never heard any shooting on the inmate evacuation march from outcamp Landsberg to Dachau Concentration Camp (R 41).

It was stipulated between the prosecution and defense that if three former inmates of outcamp Landsberg were present in Court, they would testify as to the good character of the accused (R 42).

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.

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.

Application of the Parent Case: The Court was required to take cognizance of the decision rendered in the parent Dachau Concentration Camp case, including the findings of the Court therein, that the mass atrocity operation was criminal in nature and that the participants therein, acting in pursuance of a common design, subjected inmates to killings, beatings, tortures, etc., and was warranted in inferring that those shown to have participated knew of the criminal nature thereof (Letter, Headquarters, United States Forces, European Theater, file AG 000.5 JAG-AGO, subject: "Trial of War Crimes Cases", 14 October 1946, and the Parent Case). The accused was shown to have participated in the mass atrocity and the Court was warranted by the evidence adduced, either in the Parent Case or in this subsequent proceedings, in concluding as to him that he not only participated to a substantial degree but that the nature and extent of his participation were such as to warrant the sentence imposed.

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 sentence be approved.

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

MURRAY J. ANDROVETTE
Attorney
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