

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

672
RD/daa

12 January 1948

UNITED STATES)

v)

Adolf WUTTKE)

Case No. 000-Buchenwald-40

REVIEW AND RECOMMENDATIONS

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

II. CHARGES AND PARTICULARS:

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

Particulars: In that Adolf WUTTKE, a German national, did, at or in the vicinity of Weimar, Germany, in or about April 1945, wrongfully encourage, aid, abet and participate in the killing of approximately three non-German nationals, inmates of Buchenwald Concentration Camp, who were then in the custody of the then German Reich, the exact names and numbers of such persons being unknown.

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

Particulars: In that Adolf WUTTKE, a German national, did, at or in the vicinity of Weimar, Germany, in or about February 1945, wrongfully encourage, aid, abet and participate in the killing of approximately three non-German nationals, inmates of Buchenwald Concentration Camp, who were then in the custody of the then German Reich, the exact names and numbers of such persons being unknown.

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

Particulars: In that Adolf WUTTKE, a German national, did, at or in the vicinity of Weimar, Germany, in or about June 1944, wrongfully encourage, aid, abet and participate in committing an assault upon approximately five non-German nationals, inmates of Buchenwald Concentration Camp, who were then in the custody of the then German Reich, the exact names and numbers of such persons being unknown.

Before arraignment the prosecution moved to dismiss Charges I & II, for lack of evidence (R5). The Court granted the motion (R 5).

III. SUMMARY OF EVIDENCE: The accused was an SS first sergeant of a guard company in Buchenwald Concentration Camp. In the middle of June 1944, he beat an inmate of the camp with a weighted rubber hose causing severe injuries, as a result of which the victim was incapacitated for a period of about 8 days.

IV. EVIDENCE AND RECOMMENDATIONS:

ADOLF MUTTKE

Nationality:	German
Age:	57
Civilian Status:	Merchant
Party Status:	Nazi Party
Military Status:	SS First Sergeant of a guard company in Buchenwald Concentration Camp
Plea:	NG
Findings:	G, "except the word 'five', referring to the five non-German nationals, sub- stituting therefore the word 'one'. Of the excepted word Not Guilty and of the substituted word: Guilty"
Sentence:	Four years and six months, commencing 23 May 1945

Evidence for Prosecution: The accused was an SS first sergeant of a guard company in Buchenwald Concentration Camp (R 40). One witness, a Polish national and former inmate of Buchenwald Concentration Camp, testified that he worked on a timber cutting detail located in a garage outside of the camp (R 6, 7, 14). In this area on 14 or 15 June 1944, the accused beat the witness on the head and over the right eye with a weighted rubber hose about 18 inches in length (R 8, 9). After the witness fell to the ground the accused kicked and continued to beat him with the rubber hose (R 10). The beating caused profuse bleeding of the witness' head and face which required medical attention. The beating caused permanent scars on his right and left forehead about half an inch in length. He also lost the vision of his right eye for a period of about 50 days (R 9, 10, 11). As a result of the beating, he was incapacitated for work during a period of about eight days following the beating (R 11). The testimony of the victim was corroborated in most pertinent respects by the testimony of a second witness, also a Polish national and a former inmate of the camp, who worked on the same work detail with the victim (R 24, 26-27).

Evidence for Defense: The accused, in his testimony, denied the assault and stated he never saw the prosecution witnesses until the time of the lineup in Dachau (R 41). He testified that as first sergeant

of the guard company he performed purely administrative duties; that he had no disciplinary power over inmates; that he was not a work detail leader; and that he had no supervision over inmates on work details (R 40,41). One witness, a former SS warrant officer in the camp, testified that he never heard that inmates of the camp were beaten (R 51). Another witness, a former member of accused's guard company, testified that the accused performed administrative duties only and was never in charge of an inmate work detail (R 53, 54).

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:

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:

- I. 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.

RONALD DADAMIO
2nd Lt. IAF
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

HEADQUARTERS
EUROPEAN COMMAND

AG 383 JAG

APO 757
4 March 1948SUBJECT: Execution of Sentence in the Case of the United States v.
Adolf WUTTKE (Case No. 000-Buchenwald-40)TO : Commanding General
First Military District
APO 1, U.S. Army.

Reference is made to letter, Headquarters, US Forces European Theater, 26 February 1947, File AG 383 JAG-AGO, subject: "Designation of Prisons for War Criminals," and to the inclosed copies of the order on Review in the above entitled case as to accused _____

Adolf WUTTKE

Upon compliance with the Order on Review the certificate below will be completed and returned to the Deputy Judge Advocate for War Crimes 7708 War Crimes Group, APO 407, U.S. Army.

* BY COMMAND OF GENERAL CLAY:

1 Incl:
1 Form No. 13 (in dup)

/s/ John A. Klein
/t/ JOHN A. KLEIN
Colonel, A.G.D.
Adjutant General

Frankfurt 7175.

CERTIFICATE OF COMPLIANCE

The sentence covered by the above described Order on Review was carried into execution at War Criminal Prison No. 1, Landsberg Germany, on 18 March 1948, at 1500.
(Date) (Hour)

/s/ Lloyd A. Wilson
(Signature and Rank)
/t/ LLOYD A. WILSON, Capt. CMP
Prison Director
War Crimes Prison Landsberg
(Organization)

/s/ David A. Oakley
(Countersignature and Rank of
Witnessing Officer)
/t/ DAVID A. OAKLEY, 1st Lt., Cml C
Asst. Prison Director

MILITARY GOVERNMENT COURT
MILITÄRGERICHTORDER ON REVIEW
VERFÜGUNG NACH ÜBERPRÜFUNGCase No.
Strafsache Nr. 000-Buchenwald-40Order No.
Verfügung Nr. _____Whereas one Adolf WUTTKE
Name of Accused Name des/der Angeklagtenwas convicted of the offence of participation in assaulting of a concentra-
tion camp inmatewegen der folgenden strafbaren Handlung Teilnahme an einem Überfall auf
einen Konzentrationslagerhäftlingby the General Military Courtvom Oberen Militärgerichteat Dechau, Germany
in Dechau, Deutschland
Address of Court
Anschrift des Gerichtsand sentenced to imprisonment for four years and six months, commencing
23 May 1945schuldig erkennt und zu einer Freiheitsstrafe von vier Jahren und 6
Monaten mit Wirkung ab 23 Mai 1945by Judgment dated the 20 November 1947
durch Urteil vom 20 November 1947 and
Date DatumWhereas the case has now come before me by way of review and after
due consideration and in exercise of the powers conferred upon me, I
heroby order:Diese Strafsache ist mir zur Überprüfung vorgelegt worden und nach
entsprechendem Studium des Sachverhaltes und in Ausübung der mir über-
tragenen Befugnisse verfüge ich:That the findings and sentence are approved. The Commanding General,
First Military District, will confine Adolf WUTTKE in War Criminal Prison
No. 1, Landsberg, Germany for a period of four years and six months, com-
mencing 23 May 1945.Dass der Befund und das Urteil bestaetigt werden. Der Kommandie-
rende General, vom Militärbezirk I, wird die Inhaftierung von Adolf
WUTTKE im Kriegsverbrechergefängnis Nr. 1, Landsberg, Deutschland,
für die Dauer von vier Jahren und sechs Monaten, mit Wirkung ab 23
Mai 1945, veranlassen.Dated this
Gegeben am 2 Mar 1948/s/ J. L. Harbaugh, Jr.
Signature of Reviewing Authority
Unterschrift der nachprüfenden
Behörde
/t/ J. L. HARBAUGH, JR.
Colonel JAGD
Judge Advocate
Title Titel

672

2 March 1948

SUBJECT : US v. Adolf WUTTKE (No. 000-Buchenwald-40)
MEMORANDUM FOR: Colonel Harbaugh

1. An examination of the record of trial in the subject case reveals the following:

- a. A copy of the charges was served on the accused on 3 November 1947.
- b. The case was referred for trial 19 November 1947.
- c. The personnel of the prosecution and the defense were appointed 8 October 1947.
- d. The case was tried 20 November 1947.

2. I concur in the recommendation of War Crimes Board of Review No. 2 and of the Deputy Judge Advocate for War Crimes in this case.



HOWARD F. BREESEE
Colonel AGD

Chief, War Crimes Board of Review Branch

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