

HEADQUARTERS
EUROPEAN COMMAND
Office of the Judge Advocate

War Crimes Board of Review No. 2

12 April 1948

UNITED STATES

: 7708 War Crimes Group

APO 407

v.

Josef BARTL, et al

: Trial by General Military Government Court convened at Dachau, Germany during period 29 July—5 August 1947. The court found all of the accused guilty and sentenced them as follows:

Case No. 000-50-5-24

BARTL, Josef - 3 years imprisonment commencing 5 May 1945.

BECK, Philipp - 5 years imprisonment commencing 6 May 1945.

BLUME, Walter - 10 years imprisonment commencing 8 May 1945.

BOBROWSKI, Max - 3 years imprisonment commencing 5 May 1945.

DOEFLER, Oscar Eduard - 3 years imprisonment commencing 5 May 1945.

LORENZ, Ernst - Life imprisonment.

OHNMACHT, Edward - 10 years imprisonment commencing 9 May 1945.

VOLGGER, Konrad - 10 years imprisonment commencing 8 May 1945.

ZIRNER, Johann - 3 years imprisonment commencing 6 May 1945.

ZULEGER, Herman - 15 years imprisonment commencing 9 May 1945.

 Report of War Crimes Board of Review No. 2

 WILSON, BERG and CRAWFORD

I The record of trial in the above entitled case has been reviewed by Board of Review No. 2 for War Crimes Cases.

II DISCUSSION: The accused were brought to trial on a single charge, the particulars of which alleged that the accused, all German nationals or persons acting with German nationals, did in pursuance of a common design subject nationals of nations at war with the then German Reich and prisoners of war who were citizens of nations then at war with the then German Reich to killings, beatings, tortures, starvation, abuses and indignities. All of the accused were found guilty and sentenced as indicated above.

The evidence established that all of the accused were members of the SS with the exception of the accused OHNMACHT and ZULEGER and served as guards at Linz III, a sub-camp of Mauthausen Concentration Camp for various periods of time between 1941 and 1945.

1944 and the liberation in May 1945. The accused OEDMACHT and ZULEGER were civilian foremen of the Hermann Goering Plant in which the inmates worked and in connection with which activity the remaining eight accused served as guards. The evidence establishes that all of the accused in their various capacities subjected numerous inmates to various forms of mistreatment including, beatings, kicking, starvation and general torture.

This Board concurs in the recommendation of the Deputy Judge Advocate for War Crimes that the sentence to imprisonment for 15 years as to the accused ZULEGER; the sentences to imprisonment for 10 years as to the accused VOLGGER, OEDMACHT and BLUME; the sentence to imprisonment for 5 years as to the accused BECK; and the sentences to imprisonment for 3 years as to the accused ZIRNER, DORFLER, BARTL and BOBROWSKI, be approved and ordered executed. As to the accused LORENZ, this Board is of the opinion that the sentence to life imprisonment is excessive.

We are mindful that the record indicates that the activities of the accused LORENZ may have contributed at least in some degree to the death of possibly two inmates. However, the evidence as to each incident is not conclusive nor is it particularly convincing. As to the first incident involving the inmate Szpitzman, the witness Greber testified that this accused beat the inmate with his rifle butt to hurry him to the air-raid shelter during a raid, and that the inmate showed bruises from the beating. The block clerk, according to the witness, told this witness seven or eight days later that the inmate had died six or seven days previously (R 49-50). As to the second incident, the witness Steiner testified that the accused LORENZ and BECK beat the prisoners during the march to the plant from the camp. One was an inmate by the name of Shapiro. This witness claims to have seen the dead body of this inmate the following morning at five o'clock. The accused BECK and LORENZ both denied having beaten the inmates on the occasion in question, and further that they were not in the same guard company, had never served on the same detail and were not even acquainted with each other in camp.

The accused LORENZ was twenty years of age at the time of the alleged incidents. He had been drafted but was unfit for front-line duty. He had been a guard only a few months at the time of the alleged incidents and his rank was that of private. Except for the two incidents above, neither of which are conclusively established, there is little evidence to indicate that his efforts and activities were of a more brutal nature than those of several of the other accused who served as guards. There is evidence that the accused BLUME, who was sentenced to imprisonment for a term of ten years, also beat an inmate to death (R 33. 34). Accused BECK also beat the

... at the time of the alleged incident involving the inmate Shapiro. His sentence was five years imprisonment. There is evidence that the accused ZULENER had inmates beaten and kicked to death by the detail leader (R 68-71). Also that he himself slapped and kicked one inmate causing death (R 87, 88). In view of the rather lenient sentences imposed on the rest of the accused, it is the opinion of this Board that the court was not warranted in the severe penalty imposed alone on the accused LORENZ. In view of all of the circumstances, this Board is of the opinion that a reduction of the sentence from life imprisonment to imprisonment for a term of twenty years will meet the requirements of justice, sufficiently punish the accused for his acts and will serve as a satisfactory deterrent against similar acts by future generations.

No Petitions for Review have been filed. Appropriate consideration appears to have been given to the various Petitions for Clemency which were in the hands of the Deputy Judge Advocate for War Crimes at the time the Review and Recommendations was prepared. The review of the Deputy Judge Advocate for War Crimes is accurate and complete and fully refers to the pertinent evidence introduced by the prosecution and the defense. This Board concurs with the conclusion that the record of trial fails to disclose any errors or omissions which resulted in injustice to any of the accused and that the evidence is legally sufficient to support the findings of the court. We are of the opinion that the sentences recommended for approval by the Deputy Judge Advocate for War Crimes are legal, fair and just except as to the accused LORENZ. As to this accused this Board hereinafter makes a specific recommendation.


III CONCLUSIONS: The court was legally constituted and had jurisdiction of the accused and of the offenses. No errors or irregularities were committed during the trial resulting in any injustice to the accused. The sentences recommended for approval by the Deputy Judge Advocate for War Crimes are legal, fair and just except as to the accused LORENZ. As to this accused the sentence is excessive. The review of evidence submitted by the Deputy Judge Advocate for War Crimes is accurate, complete and sets forth all material facts.


IV RECOMMENDATIONS: It is recommended:

1. That the findings of guilty as to all of the accused be approved.
2. That the sentences of the accused Josef BARTL, Max BOBROWSKI and Oscar Eduard DORFLER to three years imprisonment commencing 5 May 1945; the sentence of the accused Johann ZIRNER to three years imprisonment commencing 6 May 1945; the sentence of the accused Philipp BECK to five years imprisonment commencing 6 May 1945; the

sentence of the accused Walter BLUME and Konrad VOLGGER to ten years imprisonment commencing 8 May 1945; the sentence of the accused Edward OIEWACHT to ten years imprisonment commencing 9 May 1945; and the sentence of the accused Herman ZULBACH to fifteen years imprisonment commencing 9 May 1945 be approved and ordered executed.

3. That the sentence of the accused Ernst LOEWNE to life imprisonment be approved but reduced to twenty years imprisonment, and as reduced be approved and ordered executed.


GEORGE S. WILSON, Lt. Col., Inf.
Chairman


GORDON O. REES, Lt. Col., USAF
Member


IRVING R. CRAWFORD, Lt. Col., TC
Member