

DEPUTY THEATER JUDGE ADVOCATE'S OFFICE
 7708 WAR CRIMES GROUP
 UNITED STATES FORCES EUROPEAN THEATER

February 1947

UNITED STATES)
)
 vs)
)
 Wilhelm BOCK, a German)
 national)

Case No. 12-1106

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA

ACCUSED

Tried at Dachau, Germany
 Date: 7-13 November 1946
 General Military Government Court
 Sentence: Death by hanging

Married, two
 children
 Age 50
 Police sergeant
 of the rural
 police.

PLEAS FINDINGS

CHARGE: Violation of the Laws of War

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Particulars 1: In that Wilhelm BOCK, a German civilian, did, at or near Halchter, Germany, on or about 28 September 1944, willfully, deliberately and wrongfully kill a member of the United States Army, whose name is unknown, who was then a surrendered and unarmed prisoner of war in the custody of the then German Reich, by shooting him with a gun.

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Particulars 2: In that Wilhelm BOCK, a German civilian, did, at or near Halchter, Germany, on or about 28 September 1944, willfully, deliberately and wrongfully kill James T. Hahn, a member of the United States Army, who was then a surrendered and unarmed prisoner of war in the custody of the then German Reich, by shooting him with a gun.

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2. RECOMMENDATIONS: That the findings and sentence be approved.

3. EVIDENCE:

For the Prosecution: On or about 28 September 1944 two American fliers parachuted to safety in the vicinity of Halchter, Germany, surrendered and were taken to the City Hall (R 9, 10, 50, 51). After searching the fliers accused BOCK, armed with a pistol and a carbine left the community house with the fliers (R 132, 133) (accused's testimony). Shortly thereafter both fliers were shot by accused near a gravel pit on way to a nearby airfield (R 13, 16, 61, 62, 101, 102, 106). One of the fliers was killed (R 72) and the

other still alive with a shot wound in his chest was later brought to town by an Italian laborer (R 19, 41, 42, 43, 63, 75, 88; Prosecution Exhibit 2). On arrival in town the laborer was intercepted by accused BOCK and ordered to take the wounded flier to the barn of one of the local citizens (Pros. Ex. 2, 3; R 76, 77, 79). The flier walked from the vehicle to the barn where a local Red Cross nurse made him comfortable, talked with him and found that his name was James HAIN (R 19, 82, 86, 97, 88, 92). accused BOCK arrived and with drawn pistol ordered the nurse, together with other citizens who had gathered, to leave (R 20, 95, 80, 89). BOCK and the Mayor of Halchter remained with the flier and shortly thereafter a shot was heard by three witnesses who testified at the trial (R 21, 66, 81, 88). One of these witnesses saw BOCK and the mayor leave and returned to the barn where he saw the dead body of the flier with a bullet wound in the head (R 60, 82). The two fliers were buried in a common grave with four other fliers killed in the crash landing near Halchter on the same day (Pros. Ex. 2).

For the Defense: Accused Wilhelm BOCK elected to testify in his own behalf in substance as follows: Accused BOCK in compliance with a telephone order from a superior officer started with the fliers to a Luftwaffe installation near Halchter where he was to turn the fliers over to the Air Corps (R 120). One flier was walking on the right and one on the left of the street at a distance of approximately ten or fifteen meters in front of accused, when accused tripped, fell, and dropped his rifle. He was startled by the fall and felt a pain in his back. As he reached for his rifle one of the prisoners jumped toward him with something in his right hand (R 121, 123). In self-defense BOCK fired a shot, the flier collapsed and a stone fell from the flier's hand and rolled toward BOCK. The other flier ran. BOCK called "halt", fired, and when the flier did not fall he fired again and the flier fell. He noticed that the first prisoner was escaping

through a gravel pit and called "Halt" and fired and the flier collapsed (R 122, 124). He examined both fliers and believed they were dead (R 123). En route to the village he was ordered by superior officer to collect the dead men and their personal belongings (R 126) and on his return to the scene he found one of the fliers gone. He returned to the apartment of the Mayer and was told that some Italian farm workers had picked up the flier who was badly wounded and that the flier had been brought to the barn of a local citizen (R 127). BOCK went to the barn to determine the condition of the flier (R 128), ordered the people there to leave and pulled his pistol because official orders demanded that officers pull weapons under such circumstances so that no one would be surprised. As BOCK bent over the flier to examine him he accidentally fired a shot which entered the flier's head. This accidental shot resulted from pressure of excitement and extreme nervousness (R129). BOCK believes the flier was dead before the shot was fired (R152). Accused did not intend to kill either of the fliers. (R 136). The Italian laborer who gave a pre-trial statement against accused (Pros. Ex. 2, R 146), had been severely reprimanded on two occasions by accused BOCK (R 151).

4. JURISDICTION The court was legally constituted and had jurisdiction of the person of the accused and of the offenses.

5. COMMENTS: Examination of the entire record fails to disclose any error or omission which resulted in injustice to the accused.

6. CLEMENCY: Consideration was given to a Petition for Review dated 13 December 1946 filed by Captain Emanuel Lewis, defense counsel, which contained attestations of the good character of the accused from the following: Wilhelm Braedt, 21 November 1946; Lochte, 23 November 1946; Ernst Gutt, 19 November 1946; Ernst Kayser, 19 November 1946; Wilhelm Kluge, 22 November 1946; Schuetze, 21 November 1946; O. Rosenkranz, 22 November 1946; Louis Rodenstein, 20 November 1946; Gustav Kyrath, 15 November

1946; Gustav Hessel, 20 November 1946; Rudolf Meyer, 3 June 1946;
Rudolf Meyer, 3 June 1946; Hessel, 18 March 1946; Bar-el Bischof,
13 October 1946; Louis Rodenstein, undated.

7. CONCLUSIONS:

- a. It is recommended that the sentence be approved.
- b. A form of action to accomplish this result is at-
tached hereto, should it meet with your approval.

/s/ Nora G. Springfield
/t/ NORA G. SPRINGFIELD
1st Lt., JAC
Post Trial Section

Having examined the record of trial, I concur

/s/ G.E. Straight
/t/ G.E. STRAIGHT,
Colonel, JAGD
Deputy Theater Judge Advocate
for War Crimes