

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

15 April 1947

UNITED STATES)
vs.) Case No. 13-2420
Albert NINGELGEN,)
a German national.)

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA:

ACCUSED

Tried at Dachau, Germany
Date: 17 to 23 January 1947
General Military Government
Court
Sentence: Imprisonment for
Life

Age 38
Member of Police Department from 1927
In November 1944 member of
Criminal Police

CHARGE: Violation of the Laws of War

Facts

Findings

PARTICULARS: In that Albert NINGELGEN, a German National, did, at or near KAISERSLAUTERN, Germany, on or about 6 November 1944, wilfully, deliberately, and wrongfully encourage, aid, abet and participate in the killing of a member of the United States Army, believed to be Stanford G. WOLFSON, who was then an unarmed, surrendered prisoner of war in the custody of the then German Reich.

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

3. EVIDENCE:

For the Prosecution: On or about 6 November 1944, an American flyer, who walked as if he was injured, voluntarily surrendered at a sanatorium in FINSTERBRUNNERTAL, Germany (P. Exs. 1A, 2A, 7A). The criminal police at KAISERSLAUTERN were notified and the SS-Obersturmfuehrer GRUMS, Sturmfuehrer BANSBACH, together with the accused, Criminal Secretary NINGELGEN, drove to FINSTERBRUNNERTAL to take the flyer into custody. They went via FIRMASENSE STRASSE, which is the shortest route, in a car driven by August ALTMOOS (p. 1, 2, P. Ex. 3A; P. Ex. 7A; R 20, 21). GRUMS, BANSBACH and NINGELGEN went into the sanatorium and returned with the prisoner whom they searched for weapons. The prisoner was seated in the back of the car between BANSBACH and NINGELGEN and GRUMS sat next to the driver. The driver was ordered to return to KAISERSLAUTERN via HOHNHECKER STRASSE which is a longer and

GRUMS sat next to the driver. The driver was ordered to return to KAISERSLAUTERN via HOFNECKER STRASSE which is a longer and more wooded route than was taken on the trip to the sanatorium. There was no conversation during the trip. About 400 to 500 meters past the place where the car had passed a military patrol going in the direction of KAISERSLAUTERN, and about 600 to 900 meters from the city on the highway through a forest, GRUMS ordered the driver to halt, and told NINGELGEN, "Take the prisoner and bring him by foot to the city." This was unusual because prisoners were usually driven directly to the 23rd Caserne (p 2, P.Ex. 3A; P. Exs. 7A, 8A; R 21, 22, 28, 30, 31). NINGELGEN was not surprised and didn't say a word. When the two left the car the prisoner had his hands above his head and NINGELGEN was armed with a machine pistol. The principal weapon of the Police Department was a service pistol and a machine pistol was only used on special occasions. GRUMS then ordered ALTMOS to drive on and as the car neared a foundry, a distance of about 400 meters from the place the car had stopped, Grums told ALTMOS to drive to the foundry. About an hour and fifteen minutes later NINGELGEN arrived at the foundry alone. GRUMS appeared surprised and said "So and?" NINGELGEN answered "Taken care of" and they all drove to the city (p 3, P. Ex. 3A; pp 5, 6, P. Ex. 6A, as amended by R 13; R 21, 28, 29). Both roads used on the trip to and from the sanatorium lead past the foundry (R 146). The dead body of the flyer was later found down a small lane that leads on to HOFNECKER STRASSE about 500 meters towards KAISERSLAUTERN from the place where GRUMS ordered ALTMOS to stop the car (P. Exs. 7A, 8A; R 63).

NINGELGEN delivered the property of a flyer named Stanford JOHNSON to August WIEDLER, Criminal Secretary, KAISERSLAUTERN on 6 November 1944, and as he placed the items on the desk said "Shot while escaping." This property consisted of a leather coat, a pair of gloves, an identification tag and some other articles (R 44, 49). In the normal course of his duties, WIEDLER did not receive property of shot-down fliers. This was usually delivered to a man named VISTER (R 45, 47, 60). WIEDLER issued new ammunition but does not remember whether or not he issued

NINGELGEN ammunition following this incident. If four or five shots were fired the individual would not as a rule request new ammunition. Thirty-two rounds of ammunition was normally contained in the clip of a machine pistol (R 46, 48). Customarily, if a member of the enemy armed forces was captured by the Criminal Police he was first brought to the police station where his identity was established and then he was delivered to the military detention institution (R 55, 61). A criminal policeman would not ordinarily turn an American flyer over to a Wehrmacht patrol that happened to appear (R 56). If the Wehrmacht had arrested or shot an American flyer they would have taken his dog tags and papers and made a report to their unit. The Wehrmacht had nothing to do with the Criminal Police (R 48).

The Superior of the cemetery at KAISERSLAUTERN received a call from GRUMS on 6 November 1944 to pick up a body of a flyer who allegedly had been shot while trying to escape (R 62). The flyer's name was WOLFSON (R 79). The body, with a shot wound in the neck, was found about two meters in the woods on the left side of a lane which runs into HOHENCKER STRASSE, and about 25 to 30 meters from HOHENCKER STRASSE. There was no guard, which was unusual, and the outer garments had been removed from the body (R 63, 64, 74, 77, 92; P. 7x, 8A). A written report containing personal data was customarily received from the Criminal Police when a body was picked up under orders from that organization, but was never received in this case (R 64, 80, 87). The information was obtained by telephone (R 79).

If an individual in charge of a Wehrmacht patrol in the vicinity of KAISERSLAUTERN had shot an American flyer while attempting to escape, he would have left a guard with the body and made a report to his headquarters and his unit would have reported to the headquarters of the Air Raid Protection Service in KAISERSLAUTERN. That office would have been in charge of the burial and the flyer buried with military honors. The headquarters had a special burial officer to handle this. All identification tags and property would have been turned over to the Army by the patrol and not to the Criminal Police. Neither the WEHRMACHT Major in charge of the headquarters of the Air Raid Protection Service

nor the secretary in the headquarters ever received a report from any Wehrmacht patrol concerning the shooting of an American flyer named WOLFSON or any other American flyer while attempting to escape (R 103, 104, 105, 107, 108, 109, 111).

WEILBERGER, the man in charge of burials, was not notified by NINGELGEN to pick up the body of the flyer; and the Bureau of Vital Statistics did not receive reports concerning the death (R 97, 98, 99, 100).

For the Defense: The accused NINGELGEN elected to testify in his own behalf in substance as follows:

The day after KAISERSLAUTERN was occupied NINGELGEN reported to American authorities and was locked up because he belonged to the Criminal Police. On the day NINGELGEN went with GRUMS to pick up the American flyer, GRUMS told him to pick up a machine pistol. Any vehicle of the Security Police was equipped with a machine pistol when leaving the post area (R 118). The road used for the return trip was through a less wooded district and a more traveled road than the one used going out (R 120). A short time before or while the car passed an Army patrol, GRUMS told NINGELGEN that he had some business to attend to at the foundry and told him to take the prisoner to town on foot; then as the car passed the patrol, GRUMS ordered NINGELGEN to stop and told NINGELGEN "NINGELGEN, get out and turn the pilot over to the Army boys who are following us". NINGELGEN and the prisoner got out and the car drove off (R 121). The Army patrol arrived, NINGELGEN turned the prisoner over to the Chief of the patrol and walked towards KAISERSLAUTERN. NINGELGEN then heard a few shots behind him and heard someone yelling. He turned, saw soldiers motioning to him, walked backward and the Sergeant explained that he had shot the prisoner while he was attempting to escape. The flyer's body was 20 or 30 meters away from the road and NINGELGEN had the body carried out to the path leading through the forest towards the viaduct (R 123). The flyer had been shot and killed with a small calibre weapon (R 123). If the pilot had been shot by a machine pistol four or five times, the head would have been completely smashed. NINGELGEN took one piece of the identification tag and left the other piece on

the body; he also removed a watch, ring and gloves. NINGELGEN told the Sergeant that he would have the body removed and told the Sergeant to report the incident to his headquarters and send him a report in duplicate to send along with his (NINGELGEN'S) report (R 124). NINGELGEN found GRUMS at the foundry and reported the incident. BANSBACH was not present and ALTMOOS was sitting in the car outside a fence and was not able to hear the conversation (R 124, 125). NINGELGEN called WEILBERGER, the man in charge of burials, to pick up the body (R 125). He also informed the Army headquarters and made out the necessary reports. The following morning a soldier brought a report to him which he attached to his report and sent to his Chief (R 126). The property removed from the body was turned over to WEIDLER, Criminal Police Secretary, in accordance with standard operating procedure. He did not turn in a leather jacket; the flyer only had on overalls (R 127). NINGELGEN filled out a report form for the Bureau of Vital Statistics and gave it to GRUMS (R 128). When the papers of the Criminal Police were burned prior to occupation, NINGELGEN saved a copy of his report of this incident. This was taken from him at Camp Charlon Sevens by American authorities and in spite of many requests never returned to him (R 129). NINGELGEN assumed that the Sergeant would leave a man behind to guard the body (R 133). Every time any one used a weapon he made a report which was turned over to WEIDLER who in turn would reissue ammunition to the men concerned. The magazines of machine pistols had to be filled at all times (R 137). At the end of November NINGELGEN met the Sergeant in charge of the patrol in the waiting room of the railway station, where the Sergeant was drinking beer, and asked him if he was the Sergeant that at one time shot the pilot and the Sergeant answered "Yes, I shot him." NINGELGEN told him that his action had been unsoldierlike. A waitress named DANIEL heard this conversation (R 141, 142). The reports that were prepared concerning the incident stated that the prisoner was shot by Sergeant JUNGELUTH. When he was first interrogated NINGELGEN asked the investigator to get in touch with the office in NEUSTADT-KASSEL where the files concerning the matter could be found and the examiner told him that he was a prosecutor and that was not his

concern (R 161, 162).

Lia DANIEL, a waitress, testified that she overheard a conversation between NINGELGEN and a Sergeant toward the end of 1944 (R 162). She heard the soldier say, "Yes, I did shoot him" and NINGELGEN answered "That is unfair. One doesn't do that." Later when she asked NINGELGEN who the soldier shot, he answered, "Official secret." (R 163).

After the announcement of a finding of guilty, evidence was presented by the Prosecution that accused had been tried by the French and sentenced to life imprisonment (R 170). The accused then testified that he received this sentence for transporting to the place of execution, a Russian civilian who had been sentenced to death (R 172).

4. JURISDICTION: The Court was legally constituted and had jurisdiction of the person of the accused and of the offense.

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

6. CLEMENCY: There are no Petitions for Review nor Petitions for Clemency.

7. CONCLUSIONS:

- a. It is recommended that the sentence be approved.
- b. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with your approval.

/s/
/t/

Nora G. Springfield
NORA G. SPRINGFIELD
1st Lt. WAC
Post Trial Section

Having examined the record of trial, I concur.

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