

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

WCT Rpt # 559

3 November 1947

UNITED STATES)

v.)

Johann SCHWABEN)

Case No. 12-494-1

REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused was tried at Dachau, Germany, during the period 3-4 June 1947, before a General Military Government Court.

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Johann SCHWABEN, a German national, did, at or near BILLINGSBACH, Germany, on or about 17 April 1945, deliberately and wrongfully encourage, aid, abet and participate in the killing of a member of the United States Army, believed to be Captain Peter M. CUMMINS, Jr., ASN 4-1797609, who was then and there a surrendered and unarmed prisoner of war in the custody of the then German Reich.

III. DATA AS TO ACCUSED:

Johann SCHWABEN

This accused was acquitted (R 79).

IV. SUMMARY OF EVIDENCE: On 17 April 1945, an American captain was captured by some German soldiers belonging to the battalion Schwaben, which was commanded by the accused. Later, the American was shot and killed on orders issued by a member of the first company of the battalion because he had seen too much and because he could not be taken along when the unit withdrew.

The incident involved in this case is the same as that involved in the case of United States v. STEINERT, et al., case No. 12-494. In that case two accused were sentenced to imprisonment for life.

V. CONCLUSIONS:

It is recommended that the record of trial be filed in the records of this office and that a copy of this Review and Recommendations be forwarded to the Judge Advocate, European Command, for his information.

ROBERT E. L. WELCH
Attorney
Post Trial Branch

Having examined the record of trial, I concur, this _____ day
of _____ 1948.

O. E. STRAIGHT
Lieutenant Colonel, JAGD
Deputy Judge Advocate
for War Crimes