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Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

VOLUME XI - Pages 2280 - 2528 Incl.

MALMEDY

Case No. 6-24

Prosecutor LT COL BURTON F. ELLIS

~~2nd Army~~ Military Court.

Defence Counsel COL WILLIS M. EVERETT JR.

Place DACHAU, GERMANY

Interpreter

Date 0830 hours 27 JUNE
TO 1135 hours 29 JUNE

1946
1948 Incl. Reporter

Members of Court:

- BRIG GENERAL JOSIAH T DALBEY
- COL PAUL H WELLAND
- COL JAMES G. WATKINS
- COL WILFRED H STEWARD
- COL RAYMOND C CONDER
- COL A H ROSENFELD (LAW MEMBER)

Accused VALENTIN BERSIN, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas	VALENTIN BERSIN, ET AL Not Guilty	
Findings	By authority of JAG ltr 4 Aug 1950 Val	
Previous Convictions		

Sentence	Imprisonment	Term	
		Beginning	194
Fine	Amount	To be paid before	194
		or in case of default of payment to serve a *further term of imprisonment.	

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.
756 OMGB Printing

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R E C O R D O F T E S T I M O N Y

in trial of

THE UNITED STATES

VERSUS

VALENTIN BERSIN, ET AL

By

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANYBEGINNING 16 MAY 1946

VOLUME XI - PAGES 2280 - 2528, INCL.

27 JUNE 1946 - 0830 hours

TO

29 JUNE 1946 - 1156 hours

T E S T I M O N YWITNESSES:Direct Cross Redirect Recross Court

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FISCHER, HERBERT	2287	2289			
ERHARDT, ROLF	2291	2295			
MULLING, JOHANN	2296	2300			
SCHRANZ, JOSEF	2302				
NAU, ERWIN	2305	2308			
BUTH, PAUL	2318	2319			
KRAJEWSKI, JOHANN	2320	2322	2325		
GOLTZ, HEINZ (recalled)			2326	2331	
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A I did not understand the question.

Q Well, will you repeat it (to the interpreter). I think it was plain.

(Whereupon the interpreter repeated the question.)

A No.

Q You know where the first aid station was between Stoumont and LaGleize?

A I didn't know that, no.

PROSECUTION (CAPT. SHUMACKER): No further questions.

DEFENSE: Nothing further on redirect.

PRESIDENT: Any questions by the Court?

EXAMINATION BY THE COURT

QUESTIONS BY THE LAW MEMBER:

Q Did you see any officers at the Cross-Roads when you reached it?

A No, I did not see any officers at the Cross-Roads.

Q Did you see Sgt. Schaefer at the Cross-Roads?

A Sgt. Schaefer was not at the Cross-Roads; I didn't see him either.

Q Did you see Sgt. Bode at the Crossroads?

A No.

Q When Billoschetsky was shooting at the prisoners of war, did Altkrueger give him any orders to stop shooting?

A Billoschetsky did the shooting when we were still driving, and he, himself, stopped.

Q Do you know who Billoschetsky is now?

A I don't, no.

PRESIDENT: Any other questions by the Court? Apparently none, the witness is excused.

(Whereupon the excused witness withdrew.)

PRESIDENT: The Court will adjourn until 0830 Monday morning.

(Whereupon at 1155 hours the court adjourned until 0830 Monday morning, the 29th July 1946.)
(Bolts - Court)

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THE UNITED STATES VERSUS VALENTIN BERSIN, ET AL

T E S T I M O N Y

<u>WITNESSES: (Cont'd)</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>	<u>Court</u>
MAURER, OSKAR			2453	2455	
LESSAU, OTTO	2458	2460			
BOLTZ, MARCEL.	2464	2494	2524	2527	2528

E X H I B I T S

<u>Number</u>	<u>Description</u>	<u>Marked</u>	<u>Offered</u>
D-4	STIPULATION in re. Heinz Hendel	2390	2390
D-5	German STATEMENT - Ernst Goldschmidt	2404	2404
D-5-A	English TRANSLATION of Exhibit D-5	2408	2408

CAMP DACHAU, GERMANY

27 JUNE 1946.

MORNING SESSION

(Whereupon court reconvened at 0830 hours.)

PRESIDENT: Take seats. The court will come to order.

PROSECUTION: May it please the court, let the record show that all members of the Court, all members of the Prosecution with the exception of Lt Col Crawford, who is absent on business of the prosecution and Captain Byrne, who has been excused by verbal orders of the Commanding General, all members of the defense with the exception of Dr. Lailing and Dr. Leer, who are absent on business of the defense, all the defendants and the reporter are present.

DEFENSE COUNSEL: The defense recalls Benno Agather who was on cross examination by the prosecution.

BENNO AGATHER, a witness for the defense, was recalled and testified further through an Interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the accused and German counsel.)

PROSECUTION: The witness is reminded that he is still under oath.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q Agather, is it not true that the interrogator at Schwabisch Hall wanted an admission and a statement from you--

CAPTAIN SHUMACKER (to the Interpreter): You had better translate it, if you will. It is a long sentence.

Q (Continuing)--to the effect that Fomhardt had made a speech to the men of your company ordering that no prisoners were to be taken or that prisoners were to be shot?

A Yes.

Q Is it not also true that you were accused to your face by

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Armin Hecht, one of the accused, No. 21, and Fritz Rau another accused, No. 46, of having shot prisoners of war along with them in La Gleize on 18 December 1944?

MR. STRONG: Objection. May I respectfully point out to the Court Section 17 of the Military Government Rules under which any person other than an accused may be required to testify before a Military Government Court, and why no witness shall be required to intimidate himself? May I respectfully ask the court to instruct the witness accordingly?

CAPTAIN SHUMACKER: If the court please, we are just asking the witness the subject of the interrogation. We concede that he did not participate in the shooting.

LAW MEMBER: The objection is overruled.

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q Will you please answer my question?

A Yes.

Q The interrogator wanted an admission from you to the effect that what these two men claimed was true, did he not?

A Yes.

Q Despite the alleged mistreatment that you had, that you underwent according to your testimony, you did not write a statement that Tomhardt had said no prisoners would be taken or that prisoners would be shot, did you? You did not write such a statement?

A I wrote one statement that was given back to me with the remark that it was all lies.

Q I say you did not write a statement to the effect that Tomhardt said no prisoners would be taken or that prisoners would be shot?

A I didn't write that.

Q You did not write a statement that you had participated

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in any shooting of prisoners of war in La Gleize on the 18 December 1944 or any other day, did you?

A Yes.

Q You did write such a statement or you did not write such a statement?

A No.

Q You were first interrogated, I believe you said, on or about 5 March 1945; is that correct?

A Yes.

Q And you were last interrogated on the 28 March 1946?

A I can't say for sure.

Q Well, that is about right, isn't it?

A I don't know.

Q And you weren't interrogated again until after you got to Dachau on or about the 4th day of June 1946 when you wrote this statement about which you were interrogated yesterday?

A I think I was interrogated later too, for I only left Schwabisch Hall on April 17.

Q Well, you do know that from the 17th of April until 4 June you weren't interrogated by anybody from the prosecution, don't you?

A Yes, here in Dachau.

Q You were interrogated between the time of your arrival and the 4 June 1946?

A Yes.

Q Who interrogated you?

A Well, I don't know.

Q No member of the prosecution interrogated you between the time of your arrival and the date you made this statement, did they?

A I beg your pardon.

Q I say no member of the prosecution interrogated you between the date of your arrival at Dachau and the date you made this state-

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ment you referred to yesterday dated 4 June 1946?

A Yes, I was interrogated.

Q Who interrogated you between those dates?

A I think it was the fourth gentleman from the right here (indicating).

Q Do you know what he asked you about?

A About my testimony with the defense.

Q You had already been talked to by the defense at that time; is that correct?

A Yes.

Q And then he questioned you with respect to that interrogation, is that right?

A Yes.

Q And then sometime after that you were interrogated by Lt Perl on 4 June and signed this statement about which you were examined yesterday?

A Yes.

Q Is what you told Lt Perl, is that right? Are the contents of this statement which you signed dated 4 June 1946, about which you were questioned yesterday, substantially the same as the story you told the defense?

A I didn't understand that question.

Q Do you know what the contents of this statement are dated 4 June 1946, about which you were examined yesterday?

A Yes.

Q Do you remember what you told the defense when you were interrogated prior to writing that statement, prior to signing that statement?

A I don't remember the exact words.

Q I am asking you if the contents of this statement check in all important details with the information you gave the defense, or

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did you tell the defense one story and the prosecution a different story?

A That is not correct what I put in that statement I signed.

Q Is it the same thing you told the defense or is it different from what you told the defense?

A It is the same I told the defense.

Q In other words you told the defense also that you didn't attend Tomhardt's speech, is that correct?

A Yes.

Q So then you lied to both the defense and the prosecution; is that right?

A At that time I lied to the prosecution.

Q When Lt Perl talked to you on 4 June , before you signed this statement he talked to you in the barracks where you were living at that time, did he not?

A About what?

Q About this statement that you signed later on?

A No.

Q Where did he talk to you, in the prosecution's office right outside the court room?

A What do you mean, the prosecutor or the defense counsel?

Q I am talking about the interrogation conducted by Lt Perl, sitting here at the prosecution table (pointing), on 4 June 1946?

A That was outside the court room here.

Q And at the time you signed the statement two of your comrades were in the room with you and also a guard; is that not true?

A Yes.

Q And you and your other two comrades were sworn to the statement you made by Lt Perl; is that not true?

A We first had to sign the statement and were then sworn.

Q And you were sworn to this statement about which you were

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examined yesterday, dated 4 June 1946?

A Yes.

CAPTAIN SHUMACKER: Nothing further.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE (Mr. Strong):

Q When you signed that statement which prosecution showed to you, which is dated 4 June 1945, are the contents of this statement true or incorrect?

CAPTAIN SHUMACKER: If the court please, there is no statement that has been mentioned in court that is dated 4 June 1945. I believe counsel is mistaken as to the date.

LAW MEMBER: 1946.

MR. STRONG: 1946; I am sorry.

A No.

QUESTIONS BY DEFENSE (Mr. Strong) (Continued):

Q Do you remember that you were called to the offices of the defense as early as May 1946 at which time you were interrogated about certain phases of the so-called Eifel Offensive?

CAPTAIN SHUMACKER: If the court please, I object to the question as being leading, as telling the witness when he was called for examination, what was told him and what he said.

PRESIDENT: Will the Reporter read that and have it translated?

(Whereupon the Reporter read the last question.)

CAPTAIN SHUMACKER: Will you read the objection, please?

(Whereupon the Reporter read the objection made by Capt. Shumacker to the last question.)

MR. STRONG: I will reframe the question.

QUESTIONS BY DEFENSE (Mr. Strong) (Continued):

Q Do you remember when you were called for the first time to the offices of the defense?

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A No.

Q Do you remember with whom you talked first from the defense?

A I think with this gentleman here (indicating).

MR. STRONG: Let the record show that the witness pointed to Captain Narvid of the defense staff.

QUESTIONS BY DEFENSE (Mr. Strong):

Q When you did talk to Captain Narvid and he asked you several questions, did you tell him at that time the truth?

A No.

MR. STRONG: I would like to repeat that question because I don't know that the witness correctly understood it.

PRESIDENT: Translate that.

(Whereupon the Interpreter translated the remarks of Mr. Strong.)

CAPTAIN SHUMACKER: If the court please, I think the witness understood the question, and rather than suggest the answer that counsel wants I would suggest if there is any question that the witness be asked if he understood the question.

PRESIDENT: The Reporter will read the question. You will translate it to the witness.

A Well, I don't remember what I talked about, what I talked to the Captain about.

QUESTIONS BY DEFENSE (Mr. Strong) (Cont'd):

Q Do you remember to have talked to me? . . .

A With this gentleman, yes.

Q Do you remember what he talked to you about?

A Yes.

Q Did you at that time tell me the truth?

A Yes.

MR. STRONG: That is all.

CAPTAIN SHUMACKER: No further cross.

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PRESIDENT: Are there any questions by the Court? Apparently none, the witness is excused.

(Whereupon the witness was excused and withdrew from the court room.)

DEFENSE COUNSEL: The defense calls as its next witness Herbert Fischer. Mr. Strong on behalf of the defense will conduct the direct examination.

HERBERT FISCHER, a witness for the defense, was duly sworn and testified through an Interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the German counsel and to the accused.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE (Mr. Strong):

Q Fischer, will you please give us your full name?

A Herbert Adelbert Fischer.

Q What is your military rank?

A Unterscharfuhrer, sergeant.

Q Are you at present a prisoner of war being confined in Dachau?

A Yes.

Q To what military unit did you belong at the time of the so-called Eifel Offensive in December 1944 and in January 1945?

A The 11th Company of the 2nd Panzer Grenadier Regiment.

Q Who was your company commander?

A 1st Lt Tomhardt.

Q Do you remember whether or not Lt Tomhardt was wounded?

A Yes.

Q Do you remember when he was wounded?

A Yes, in the morning hours of the 18th.

Q If you say the 18th, you mean 18 December 1944?

A Yes, 18 December 1944.

Q Do you remember when and where you met Tomhardt on the

18th of December 1944 after he was wounded?

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A In the wounded collecting point in Stavelot about noon of the 18th.

Q How long did you stay with him at that time?

A Until the fall of dark on the evening of the 18th.

Q Did Tomhardt, as far as you know, give any orders or take part in any action from noon of the 18th of December 1944 until the afternoon of 19 December 1944?

A No.

Q What did he do?

A He was lying wounded in the same house I was in.

Q What did you and Tomhardt do on the afternoon of 19 December 1944?

A When it got dark on the 19 December 1944 Tomhardt walked into my room and said he would attempt to reach the aid station. I asked him to take me along and he did take me along and so when it got dark on 19 December we left in order to reach the aid station.

Q When did you reach the regimental aid station?

A At about 6 p.m. on the 19th.

Q Was Tomhardt with you at that time?

A Yes.

Q What happened there.

A I was present in the same room with Tomhardt there, treated by Major, Dr. Sickel.

Q How long did you and Tomhardt stay there?

A In the evening of the 19th I was put in one ambulance together with Tomhardt and moved back to the main aid station about 20 km. to the rear.

Q When did you reach the main aid station?

A In the morning hours of the 20th.

Q What happened to you and Tomhardt at the main aid station?

A I was treated in one room together with Tomhardt.

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- Q That was on the 20th of December 1944?
- A 20 December 1944.
- Q And did you stay together afterwards or what else happened?
- A I got separated from Tomhardt there.
- MR. STRONG: Your witness.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

- Q Fischer, you say you saw Dr. Sickel in Stavelot on the evening of the 19th of December 1944?
- A Sickel.
- Q Who was the regimental surgeon or the doctor you say you saw?
- A Not in Stavelot. That was at a village behind Stavelot.
- Q Which direction from Stavelot was it?
- A To the rear of our route of advance.
- Q Was it west of Stavelot or east of Stavelot?
- A I can't say for sure.

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Q Q What was the next town closest to the place you saw Dr. Sickel?

A A little town about 3 or 4 kilometers to the rear of Stavelot.

Q Will you step over here to Prosecution Exhibit Number P-3 and point out where you saw Dr. Sickel?

A Yes.

(Whereupon the witness left the witness stand and took a position near the map Prosecution Exhibit Number 3.)

Q Indicating Stavelot on the map Prosecution Exhibit Number 3, where did you see Dr. Sickel? Do you see LaGleize on the map?

A I don't know LaGleize. It must have been about here (indicating) -- along this road towards the rear. These houses were all here (indicating).

PROSECUTION: Let the record show the witness indicates the Village of Vaceix or Lodomez.

You may make your seat.

(Whereupon the witness resumed the witness stand.)

QUESTIONS BY PROSECUTION:

Q Did Dr. Sickel carry a weapon at that time?

A No, he did not wear a belt even.

Q Did he have a red cross insignia on his helmet?

A He didn't wear a helmet. He did not wear any head gear.

Q Did he wear any red cross insignia at all?

A I can't remember.

Q On the 18th, when you saw Tomhardt, were you always with him in his presence?

(Fischer-Cross)

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Tk #270-SR-6/26-2

A No, I was in another room.

PROSECUTION: No other questions.

DEFENSE COUNSEL: No redirect.

PRESIDENT: Questions by the Court? Apparently none. The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

DEFENSE COUNSEL: Defense calls as its next witness Rolf Ehrhardt. Dr. Wieland on behalf of the Defense will conduct the direct examination.

ROLF EHRHARDT, a witness called by the Defense, after being first duly sworn, testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the German counsel and the accused.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (DR. WIELAND):

Q What is your name?

A Rolf Ehrhardt.

Q How old are you?

A 22 years old.

Q Are you at the present time a prisoner of war in Dachau?

A Yes.

Q What was your rank on the 16th of December 1944?

A Rottenfuehrer, Corporal.

Q What unit were you with during the Eifel Offensive?

A With the 7th Company Panzer Regiment Leibstandarte.

(Fischer-Cross)

Tx #270-SR-6/26-3

Q What were your duties on the 16th of December 1944?

A I was chief driver in the 6th Company.

Q Who was your Company Commander?

A My Company Commander was Captain Klingelhofer.

Q Did you participate in the Eifel Offensive?

A Yes.

Q Where were you prior to the beginning of the Eifel Offensive?

A In the area of Euskirchen.

Q Did anybody make a speech to the company there?

A Yes, company orientations were held.

Q Who held these orientations?

A Captain Klingelhofer.

Q Where were they held?

A In a room in a restaurant.

Q What was the contents of this orientation?

A Matters concerning the motor vehicles were discussed, particularly driving in winter and in the mountains.

Q Did these orientations have the subject of prisoners of war also?

A No.

Q Was it ever mentioned in these orientations that prisoners of war were to be shot?

A No.

Q Was it ever hinted to the effect that prisoners of war were not to be made, were simply to be shot?

A Nothing was said about that.

Q Where were you immediately prior to the offensive?
(Ehrhardt-Direct)

Tk #270-SR-6/26-4

A We were in the area of Blankenheim and Schmidtheim.

Q When was that?

A That was on the 15th of December.

Q Did anybody make a speech to you there?

A No.

Q Did you talk to Klingelhoefter immediately prior to the offensive?

A Yes.

Q Is it correct that you were his driver?

A Yes, I was Captain Klingelhoefter's driver.

Q What was the subject of that conversation?

A Shortly before leaving, Captain Klingelhoefter told me he had found out several things about our own strength. He told me that we intended to reach the Maas within three days, that 2,000 airplanes would be supporting us, that also several infantry divisions would attack together with us and that 400 batteries were available to us.

Q Did he say anything in that connection concerning the existence of a secret order according to which prisoners of war were to be shot in combat?

A No, he didn't say anything about that.

Q Do you still know where Klingelhoefter was coming from when he had that conversation with you?

A Klingelhoefter had returned from a conference with the Battalion Commander just a short while before.

Q Did you yourself take prisoners of war?

A Yes.

Q Can you tell us where and when that happened?

(Ehrhardt-Direct)

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A Once on the 17th in Biellingen and once from the night of the 20th-21st near LaGleize.

Q Was Klingelhoefter with you then too?

A Yes, Klingelhoefter was with me.

Q Did he see the prisoners?

A Yes, Klingelhoefter saw the prisoners.

Q How do you know that?

A Klingelhoefter told me in Biellingen that I was to direct the prisoners who were driving an ambulance to go towards Honsfeld and in the other case in LaGleize I took the prisoner to Klingelhoefter.

Q Did he say anything at that time that there really was an order according to which these prisoners were to be shot and you ought to let him go?

A No, Captain Klingelhoefter did not say anything about that. He ordered me to take the prisoner to the Regimental Command Post.

Q Have you been interrogated about this matter once before?

A Yes.

Q By whom?

PROSECUTION: If the Court please, we object to this line of questioning as incompetent and irrelevant. It has no bearing on the issues in this case or the guilt or innocence of these accused.

LAW MEMBER: What is the purpose of this line of questioning, Doctor?

DR. WIELAND: I consider it necessary that the credibility of the witness is investigated in such a case, particularly since the witness told me previously that he was under physical compulsion.

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Tk #270-SR-6/26-6

LAW MEMBER: Of course, the credibility of this witness is not in issue yet. If the credibility is put in issue, that will be the time to bring it up. The objection is sustained.

DR. WIELAND: That is all.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Ehrhardt, on the 17th of December, did you go by the crossroads north of Engelsdorf?

A Yes.

Q What time was it that you passed the crossroads?

A It was about noon, approximately one o'clock.

Q How many prisoners of war did you see there?

A I saw about 30 prisoners of war there.

Q Were they alive or dead?

A They were alive.

Q Whereabouts were they by the crossroads?

A The prisoners were standing right next to the road on the right side and a little bit further down on the left.

Q Did you see anything on the righthand side of the road as you proceeded towards Engelsdorf?

A Only immediately at the crossroads. I didn't see any other prisoners.

Q How long did you stop at the crossroads?

A I didn't stop at the crossroads itself.

Q Whereabouts did you stop?

A I first stayed in front of the crossroads for a few minutes and then 150 meters on the other side of the

(Ehrhardt-Dross)

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Tk #270-SR-6/26-7

crossroads.

Q How long did you stay on the other side of the crossroads?

A We stopped for a very short time only.

Q How long?

A Maybe one or two minutes.

Q Did you hear any firing while you were stopped?

A No.

Q Did you hear any before you stopped or after you started?

A No.

Q What time did you reach Engelsdorf?

A I can't say the exact time, it must have been about two o'clock.

PROSECUTION: No further cross examination.

DEFENSE COUNSEL: Nothing further on redirect.

PRESIDENT: Any questions by the Court? Apparently none. The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

DEFENSE COUNSEL: Defense calls as its next witness Johann Mulling. Dr. Wieland on behalf of the Defense will conduct the direct examination.

JOHANN MULLING, a witness called by the Defense, after being first duly sworn, testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the German counsel and the accused.)

(Ehrhardt-Cross)

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Tk #270-SR-6/26-8

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (DR. WIELAND):

Q What is your name?

A Mulling, Johann.

Q How old are you?

A 21 years.

Q Are you at the present time a prisoner of war
in Dachau?

A Yes.

Q What was your rank on the 16th of December 1944?

A Sturmman, Pfc.

Q What unit were you with during the Eifel Of-
fensive?

A 7th Panzer Company Panzer Regiment Number 1.

Q Who was your company commander?

A Klingelhoefler.

Q Who was your platoon leader?

A Rehagel.

Q Did you participate in the Eifel Offensive?

A Yes.

Q Where were you before the Eifel Offensive started?

A In Bliesheim.

Q Did anybody there make a speech to the company?

A Yes.

Q Who made that speech?

A Klingelhoefler.

Q What was the subject of that speech?

A Technical matters about driving instructions
for the drivers, driving across open country and in the

(Mulling-Direct)

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Ex #270-SR-6/26-9

mountains.

Q Did that speech mention prisoners of war also?

A No.

Q Was anything said about prisoners of war being shot?

A No.

Q Was that even hinted at?

A No.

Q Where were you immediately prior to the offensive?

A In the forest near Elankenheim.

Q When was that?

A December 15th.

Q Did anybody make a speech to you there?

A Yes.

Q Who made that speech?

A Rehagel.

Q What was the subject of the speech?

A That the offensive would start now and that that offensive was to proceed all the way to the coast.

Q What else did he say?

A That the combat group would have to stay together under all conditions, that we would be supported and that several divisions would attack, and that we would be getting air support.

Q Did he say anything about the number of airplanes which would support you?

A Yes, there were to be 2,000 airplanes to support us.

Q Did he say anything about prisoners of war in

(Mulling-Direct)

Tk #270-SR-6/26-10

that speech?

A I don't know anything about that.

Q Did he say anything about prisoners of war not being taken during this offensive and about their simply being shot?

A No.

Q Did he mention that in the form of a hint perhaps?

A No.

Q You said before that you don't remember that and now you said you know for sure. How come you know for sure?

CAPTAIN SHUMACKER: We object to that as being cross examination of the witness on direct examination.

PRESIDENT: Objection overruled.

QUESTIONS BY DEFENSE COUNSEL (DR. WIELAND):

Q Do I have to repeat the question or did you understand it?

A I would have remembered that because that certainly would have been the first time that anybody would have asked us to shoot prisoners of war.

Q Were you told anything about the existence of a secret regimental order according to which prisoners of war were to be shot?

A No.

Q You yourself did not take any prisoners, did you?

A No.

DR. WIELAND: That is all.

DEFENSE COUNSEL: You may cross examine.

(Mulling-Direct)

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9:30

CROSS EXAMINATION

QUESTIONS BY PROSECUTION: (CAPT. SHUMACKER):

Q You say you were not shown or told about any secret regimental order, ordering that prisoners of war would be shot?

A No.

Q And if you had been shown such an order that had been secret, you wouldn't tell about it, would you?

A I wouldn't have seen any such order.

Q I didn't ask you that. I asked you, if you had seen such a secret regimental order, you wouldn't tell about it would you?

A Yes.

Q You would tell about it?

A At that time I wouldn't have told about it.

Q But you would tell about it now?

A Yes.

Q Now, you were a gunner in Oberscharfuehrer Dubert's tank, No. 715, were you not?

A Yes.

Q And you are sure you didn't take any prisoners, is that right?

A Yes.

Q What time did you pass the Cross-Roads south of Malmedy?

DEFENSE (CAPT. NARVID): Please the Court, the Defense objects to this question because we limited our direct to orders, nothing about the march or the incident.

PROSECUTION (CAPT. SHUMACKER): If the Court please, the witness testified about not taking prisoners of war, and he certainly is talking about this offensive. I have a right to ask him about anything we chose as to where they might have met prisoners of war; he has opened the subject.

PRESIDENT: Objection is overruled.

Mulling - Cross)

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PROSECUTION (CAPT. SHUMACKER): Will you please read the last question?

(Whereupon the reporter read the last question asked by the Prosecution.)

QUESTIONS BY PROSECUTION (CAPT. SHUMACKER):

A At about 1500 hours.

Q How many prisoners of war did you see then?

A I didn't see any prisoners of war at the Cross-Roads.

Q Well, on the righthand side of the road, about a hundred meters south of the Crossroads, how many did you see?

A There were no prisoners there.

Q How many dead American soldiers did you see there?

A About 20 to 30.

Q Looked like they had been killed in combat, didn't they?

A No. I didn't notice anything in particular at that time. I did notice there that there was a large number of them lying all in one place.

Q All piled up in one heap?

A Yes.

Q How long had you been in the Army at that time?

A It was over a year then.

Q Had you been in combat previously?

A Yes.

Q Did that pile of American soldiers that you saw there on the righthand side of the road appear to you to have been killed in combat?

A Well, it happened quite frequently that several soldiers would be lying together in one place, and one cannot draw any conclusions as to what the situation was.

Q There were 20 or 30 of them inside a barbed wire pasture?

A I don't know whether it was a barbed wire pasture.

(Mulling - Cross)

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Q You weren't at all suspicious when you saw that group of American soldiers piled up together, were you?

A No.

Q It didn't strike you as being unusual at all?

A Yes, it did.

Q Why did it?

A Because there were so many of them so close together.

PROSECUTION (CAPT. SHUMACKER): That is all.

DEFENSE: Nothing further on redirect.

PRESIDENT: Any questions by the Court? Apparently none, the witness is excused.

(Whereupon the excused witness withdrew.)

DEFENSE: The Defense calls as its next witness Joseph Schranz. Dr. Wieland, on behalf of the Defense, will conduct the direct examination.

JOSEF SCHRANZ, called as a witness for the Defense, being first duly sworn testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE (DR. WIELAND):

Q What is your name?

A Schranz, Josef.

Q How old are you?

A Twenty-two years.

Q Are you at the present time a prisoner of war in Dachau?

A Yes.

Q What was your rank on the 16th of December 1944?

A Private.

Q What unit were you in during the Bifel Offensive?

A 1st Panzer Regiment, 7th Company.

Q What were your duties on the 16th of December 1944?

A Assistant gunner.

(Josef Schranz - Direct)

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Q Who was your Company Commander?
A Capt. Klingelhofer.
Q Who was your platoon leader?
A 2nd Lt. Rehagel.
Q Did you participate in the Eifel Offensive?
A Yes.
Q Where were you prior to the start of the Eifel Offensive?
A In Bleisheim.
Q Did anybody make a speech to the Company there?
A Yes.
Q Who was that?
A Capt. Klingelhofer.
Q What was the subject of that speech?
A An instruction concerning motor vehicles.
Q Did that speech concern prisoners of war?
A No.
Q Was anything said about prisoners of war being shot?
A No.
Q Was anything like that hinted at?
A No.
Q Where were you immediately prior to the offensive?
A In the Blankenheim forest.
Q When was that?
A That was December 16th.
Q Did anything --did anybody make a speech there?
A Yes.
Q Who made the speech?
A 2nd Lt. Rehagel.
Q What was the subject of that speech?
A That a counteroffensive would start; that two thousand
brand new airplanes, new artillery, V-weapons would be supporting us,
Schrantz - Direct)

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and that we were planning on being at the Maas within three days, and no prisoners of war were to be made in the course of this.

Q Now what do you consider that to mean, that "no prisoners of war were to be made"?

A That the infantry, following us, would receive the prisoners of war.

Q What made you reach that conclusion?

A Because all the states were members of the League of Nations.

Q Do you mean to say by this, that on the basis of your instructions as a soldier, you were not supposed to have done that?

PROSECUTION: If the Court please, we object to that as being leading.

LAWMEMBER: Will you please explain that to the Doctor.

(Whereupon the interpreter did as directed.)

QUESTIONS BY DEFENSE (DR. WIELAND):

Q What did you mean by that?

A That the states were all members of the League of Nations, which - Geneva League of Nations - which provides for the protection of prisoners of war.

Q Did Capt. Klingelhoefer make a speech to you immediately prior to the offensive?

A No.

DEFENSE (DR. WIELAND): That is all.

PROSECUTION: No cross examination.

PRESIDENT: Any questions by the Court? There apparently are none, the witness is excused.

(Whereupon the excused witness withdrew.)

DEFENSE: The Defense calls as its next witness Lt. Erwin Nau. Dr. Pfister, on behalf of the Defense, will conduct the direct examination.

(Schrantz - Direct)

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ERWIN NAU, called as a witness for the Defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE (DR. PFISTER):

Q Will you give your full name?

A Erwin Ernst Nau.

Q What was your rank throughout the Eifel Offensive?

A I was a 1st Lt.

Q What unit did you serve with?

A In the SS Panzer Regiment L.

Q Were you in charge of the 9th Panzer Pioneer Company?

A Yes. I was Ordnance Officer in the 9th Panzer Pioneer Company and later became Motor Officer in the Regimental Headquarters.

Q Can you explain to the Court when that happened?

A I was sent to the Pioneer Battalion in July 1940, and was then transferred to the Panzer Pioneer Company in the Panzer Regiment in December 1942.

Q Continue.

A In 1943-'44 I was sent to Vienna to school, and in January 1944 I became Motor Officer in the Regimental Headquarters.

Q What were your duties as Motor Officer?

A I had administrative tasks, technical tasks and the training of motor personnel.

Q When did you find out about the start of the Eifel Offensive?

A I found that out on the morning of the 16th, from the Regimental Engineering Officer, 1st Lt. Gulden, about the start of the Eifel Offensive.

Q Do you know 1st Lt. Rumpf?

A Yes, very well.

Q Is Rumpf accused in this case? Will you point Rumpf out?

A Fifty-four (54).

(Erwin Nau - Direct)

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DEFENSE (DR. PFISTER): I would like the record to show that he pointed out No. 54.

QUESTIONS BY DEFENSE (DR. PFISTER):

Q How long have you known Rumpf? Approximately?

A I have known Rumpf since November 1940.

Q Have you been together with him frequently ever since?

A Yes, with the exception of a few schools which I attended.

Q Do you know him well?

A Yes.

Q Did Rumpf ever talk to you about orders to shoot?

A No.

Q I mean orders to shoot which were directed against American prisoners of war?

A No.

Q Did you hear about such orders immediately prior to the Eifel Offensive?

A No.

Q Did you hear anything about orders coming from some other authorities in that same vein?

A No.

Q How can you claim that with as much certainty as you do?

A In the first place, I worked very closely with the Adjutant, Capt. Gruhle, and I would certainly have had to find out about the existence of any such order. Furthermore, I was together with the Motor Officer on the morning of the 16th, who had participated in the supply conference in the night from the 15th to the 16th, and who only reported to me the next morning that we had to establish duty details, whose duty it was to clear the roads from knocked out enemy vehicles, and who had also to -- the ones that were still of use to the use of our troops.

(Nau - Direct)

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Q Were there orders - would an order requiring the shooting of prisoners of war in an open or secret manner appear unusual to you?

A It certainly would.

Q Would you, for that reason, have read such an order very exactly?

A Yes. It would have been something very unusual for us.

Q Did you hear of any such orders after the start of the Eifel Offensive?

A No.

Q Would an order of Rumpf, to that effect, have been a unilateral action on his part?

A I certainly do think so.

Q Would you consider such unilateral action possible in view of your knowledge of Rumpf's personality?

A I don't think that Rumpf would take responsibility upon himself to order his Company to shoot prisoners of war.

PROSECUTION:(CAPT. SHUMACKER): If the Court please, we object to the question and the answer, and move that it be stricken from the record as expressing an opinion of the witness as to what Rumpf would have done under certain circumstances, and as being improper.

DEFENSE:(DR. PFISTER): I will leave that decision up to the Court entirely. I have no comments to make upon it.

PROSECUTION (CAPT. SHUMACKER): If it please the Court, that is one of the main issues in the law suit, as to whether or not an officer acted on orders of his own or whether he had done something on orders from higher up.

PRESIDENT: The objection is sustained.

QUESTIONS BY DEFENSE (DR. PFISTER):

Q Have you got any grounds for your belief that Rumpf would
(Nau - Direct)

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not have ordered any shootings on his own?

PROSECUTION (CAPT. SHUMACKER): If the Court please, we object to that question on the same grounds.

DEFENSE (DR. PFISTER): Excuse me, by "grounds" I mean grounds in his recollection, not in his belief.

PRESIDENT: The objection is overruled.

A I remember that in the area of Kharkow, in Russia -- I was at that time an Ordnance Sergeant in the Company -- a Russian civilian woman was killed through the negligence of a Sergeant in the Company, and Rumpf promptly made a punishment report on that man to Regiment in order to stop that sort of undisciplined actions promptly.

DEFENSE (DR. PFISTER): No further questions.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPT. SHUMACKER):

Q Do you remember now that during this Russian offensive that you have just mentioned on direct examination, that the town of Jefremowka was wiped out and all the inhabitants killed by Rumpf's 9th Pioneer Company?

DEFENSE (DR. PFISTER): I should like to raise an objection, because nothing was said about this matter in direct examination. The witness merely made a statement about one single person.

LAW MEMBER: The subject has been opened up, so the objection is overruled.

A I remember that the Russians in civilian clothes there attacked our positions with ammunition in their pockets, and I know that that attack was repulsed bloodily by us. As to how far it is true that the town was burned down, I don't know.

Q Weren't you there?

A No, I wasn't there myself.

Q Well, how do you know about the facts you just related?

(Hau - Cross)

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A They were told me by Rumpf, after the attack.

Q You didn't see any ammunition in any Russian civilians' pockets, did you?

A No, but from the dead bodies we could see that they were civilians, that they had no ammunition belts or other equipment and were carrying the ammunition in their pockets.

Q How well do you know Rumpf, and how long do you know him?

A I have known Rumpf since January 1940

Q Do you know his handwriting?

A Yes.

Q I hand you a piece of paper and ask you if you recognize that as Rumpf's own handwriting?

A I can't say whether -- I can't say with certainty, in fact, I would be almost willing to say that it is not Rumpf's handwriting.

Q Are you judging from the appearance of the handwriting or from the contents of the statement?

A From the look of the handwriting.

DEFENSE (DR. PFISTER): I make objection to this. This witness is not an expert in handwriting.

PRESIDENT: The objection is sustained.

PROSECUTION (CAPT. SHUMACKER): Do I understand the ruling of the Court to mean that I can't ask the witness whether or not he recognizes this as Rumpf's handwriting?

QUESTIONS BY PROSECUTION (CAPT. SHUMACKER):

Q Now, you don't know and are unwilling to swear whether or not this is Rumpf's handwriting, is that correct?

A I have already stated that I would rather say that it is not Rumpf's handwriting than say that it is.

PROSECUTION (CAPT. SHUMACKER): It is about time for the recess, and I would like to find another exhibit and continue with (Kau - Cross)

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the cross examination of this witness.

PRESIDENT: The Court will recess until 1030.

(Whereupon at 0958 hours the Court recessed.)

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(Whereupon court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: Let the record show, if it please the court, that all members of the court, all members of the prosecution with the exception of Lt. Col. Crawford, who is absent on business for the prosecution, Captain Byrne, who has been excused on verbal orders of the Commanding General, and Mr. Elowitz who is absent on business for the prosecution, all members of the defense with the exception of Lt. Wahler, Dr. Leiling, Dr. Leer, Dr. Hertkorn, and Dr. Rau, who are absent on business for the defense, all of the defendants and the reporter are present.

DEFENSE COUNSEL: The defense recalls Lt. Erwin Nau.

PROSECUTION: The witness is reminded that he's still under oath.

(Whereupon the witness, Erwin Nau, resumed the stand and testified further as follows:)

CROSS-EXAMINATION (Continued)

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q Lt. Nau, I hand you another statement, which is Prosecution's Exhibit No. P-55. I ask you if you recognize that handwriting and the signature on that statement?

DR. PFISTER: I object on the same ground upon which the court based its decision in rejecting the witness' ability to distinguish between handwritings.

LAW MEMBER: The court did not sustain the other objection on the ground that the witness could not be asked whether or not he knew the handwriting. The witness can be asked whether or not he does recognize that handwriting.

A I would almost say that this is Rumpf's handwriting but I should like to point out that I seldom had any written communications with Rumpf and I, therefore, have difficulty in recognizing his handwriting.

(Nau - Cross)

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Q Will you look at the signature and state whether or not it is Rumpf's signature?

A That might be Rumpf's signature. I remember that he always wrote very big capitol letters and the other letters comparatively small.

Q Now I hand you again the statement about which you were cross-examined prior to the recess and ask you to look at that and compare it with Prosecution's Exhibit No. P-55.

DEFENSE COUNSEL (Dr. Pfister): I object and I base my objection on the ground that the witness is again asked to compare two handwritings.

DEFENSE COUNSEL (Mr. Strong): In addition, this question calls for an opinion.

PROSECUTION (Capt. Shumacker): If the court please, I haven't even asked the witness a question. I just asked the witness to look at the two statements and to compare the handwriting appearing on both of them.

DEFENSE COUNSEL (Dr. Pfister): However, I want to point out this is supposed to be a question the purpose of which is the man is asked to compare the two documents.

LAW MEMBER: Supposing we wait and see what the next question is.

Q And looking at those two statements, Lt. Nau, are you able or not to state whose handwriting appears in the writing in pencil that is the statement that is not Prosecution's Exhibit P-55.

DEFENSE COUNSEL (Dr. Pfister): I object on the same grounds upon which the court previously refused to have comparisons between handwritings made by the witness which would be a matter for an expert.

PROSECUTION: (Capt. Shumacker) If the court please, I'd like to be heard on this question. I'm not attempting to

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qualify this witness as an expert. He testified on direct examination that he had known Rumpf for several years. He also testified that he was familiar with his handwriting, before he was shown any statement whatsoever. I am only asking this witness if, after comparing these statements, he can state whether or not it is Rumpf's handwriting. Any witness is allowed to state that much. If I received a communication written and signed by Col. Everett, Chief Defense Counsel, I would be permitted to state whether or not that's his handwriting if I know it without testifying as an expert.

DEFENSE COUNSEL (Dr. Pfister): To that it needs to be said that, to my recollection, the witness Nau did not testify that he knew the handwriting based upon years of acquaintance. This opinion of the prosecution is probably erroneous.

PRESIDENT: The objection of the defense is sustained.

Q I'll ask you whether or not, Rumpf, in his conversation with you with reference to the fight around Jefremowka made this statement:

"In Jefremowka I lived in Hauptsturnfuhrer Neuske's Company as there were not enough houses in the section of my platoon, as to my recollection only five or six.

"In the morning at about 10:30 I heard a pistol shot right in front of the entrance. I ran to the door and saw a Hauptsturnfuhrer approximately 30 years old with a student's scar on his cheek. He was wearing a combination of white camouflage color and a fur cap. He called me and asked what I am doing here. I told him that this was the company CP. The next question was 'Who the Company Commander was.' He should come to him right away. All of this he said shouting loud. I expected an argument between Nueske and this Hauptsturnfuhrer because of the tone of voice. However, Nueske controlled himself and reported 'On orders of Meyer this town is to be leveled to the ground because this morning armed civilians tried to attack this locality. Just in order for you to see how this is done' -- these were his approximate words -- 'look at that'. At that he shot the woman approximately 25 years old who was just busy cooking our lunch. He also said

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and stressed that the company commander would be responsible for the execution of this order personally to the Kommandeur (Meyer). The Obergruppenfuehrer (by that, Sepp Dietrich was meant), would be present himself and would be furious at the Russians because of this attack. As I learned right after that from the men in the Headquarters Platoon, this Hauptsturmfuehrer shot in a neighboring house two young girls approximately 18 to 19 years old in the same way and he shouted at the men of the company who were there with approximately the same words.

"Hauptsturmfuehrer Hueske left after that and I suppose that he went to the CP of the Kommandeur and after thirty minutes he returned and confirmed that the order had been given by Meyer. He referred to the way this Hauptsturmfuehrer had behaved. He said enraged that this man of all of the men had to behave like a wild man (by this Hauptsturmfuehrer was meant as he did not have a job in the table of organization and was a man without importance in the Reconnaissance Battalion (Meyers' Battalion)).

"The expression 'like a wild man' characterizes very well the way this officer behaved and the way he shot this woman.

"Because of this order all inhabitants were shot -- all the cattle was killed and all the houses were put afire.

"Whether Sepp Dietrich was actually present at this time I do not know, as I did not see him myself. However, from many sides it was told to me. A rumor even said that Sepp Dietrich was the one who originated this order, which to my knowledge is possible. Furthermore, it can be stated with certainty that when this order was given the Sturmbannfuehrer and Commander of the Panzer Battalion, Dietrich was present."

PROSECUTION (Capt. Shumacker): There was an error in the reading of the last sentence. It should read:

"Furthermore, it can be stated with certainty that when this order was given the Sturmbannfuehrer and Commander of the Panzer Battalion, Wunsche was present."

DEFENSE COUNSEL (Mr. Strong): Objection on the count that part of this statement which just has been read put into issue the character of the accused Dietrich who has not taken the stand and whose character is not an issue.

LAW MEMBER: The court will take notice of that, Mr. Strong, and disregard as involving the character.

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Q When Rumpf was talking to you about the battle around Jefremowka did he impart this information to you?

A I don't know that. I hear this for the first time now.

Q Well, you deny then that Rumpf gave you the information contained in the statement which has just been read to you?

A I hear for the first time now what was read to me, namely that all civilians were killed and all the cattle was killed.

Q Do you deny that all of the civilians and all the cattle were killed in this town?

A I hear for the first time that civilians and cattle were killed. I never knew that civilians were killed in that town, that is, I did know that some civilians were killed, but I later convinced myself that they were armed or had either ammunition belts around them and in that town I, myself, did not find any dead civilians, women or girls.

Q Was that the practice, if you found a civilian with ammunition in his pockets or belt around his body, to kill him?

A If a civilian not wearing a proper uniform would attack us and he put himself in the danger of being shot by our arms.

Q If you discovered a civilian in a house and found that he had ammunition in his pocket and a belt around his body, did you take him out and shoot him?

A If I was not shot at by the civilian myself I would have no grounds for shooting, at least I would have notified higher headquarters and would have left further action up to them.

Q Did you attend any meeting held by Rumpf of the Ninth Panzer Pioneer Company, immediately before the Elfel Offensive began?

A No.

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Q Did you attend any meeting yourself at the Battalion or Regimental C.P. immediately before the beginning of the Eifel Offensive?

A No.

Q Were you with Rumpf on the 17th of December, 1944, between one and two o'clock at the Cross Roads south of Malmedy?

A No.

Q Of your own knowledge then you don't know whether he gave orders to the men of his company to shoot them or whether he shot himself, do you?

DEFENSE COUNSEL (Dr. Pfister): I object on the ground that this question was not asked in direct examination on purpose.

PRESIDENT: The objection is sustained.

Q You were in the Regimental Supply Company at the time this offensive took place?

A No, I was in the Headquarters of the Panzer Regiment.

Q And, in that connection, it was your duty to take care of the maintenance of vehicles, is that correct?

A Yes.

Q Did you have any men under your own command?

A No, I had no men under my direct command. That was done by the Regimental Engineer.

Q And what men he had under his command insofar as your responsibility was concerned were mechanics and repairmen for vehicles?

A Yes.

Q And were not normally looked upon as combat soldiers?

A No.

Q And they weren't expected prior to this offensive to have much, if any, contact with the enemy, were they?

A That would probably have been the case. I can't claim that that was expected from the beginning though. At any rate one had the constant air attacks.

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(Nau - Cross#)

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Q You were not traveling with the armored column itself but would follow behind, is that true?

A Yes, I was to follow the armored column in order to get maintenance work done on the knocked-down vehicles.

PROSECUTION: (Capt. Shumacker) No further questions.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Dr. Pfister):

Q Did you talk to Rumpf about any special incidents after the end of the offensive, that is, after the offensive was crushed by the Americans?

A Yes.

Q What was the subject of this conversation?

A That was about towards the end of January 1945; we talked about the general procedure in the offensive.

Q Did Rumpf mention any special incidents at that occasion?

A Yes, Rumpf asked me whether I had any knowledge about a mess which had occurred there near Engelsdorf somewhere. I, myself, didn't know anything about it because I hadn't been there. I heard about it for the first time then and further on Rumpf said that a column of vehicles had been fired on which later proved to be a column of ambulances. He told at that time that he couldn't explain at all how that could happen. He assumed at that time that a nervous company officer or nervous gun crew started firing and that it was usual in such occasion that everybody started firing too. Rumpf then expressed his disagreement with such behaviour and said that everybody should realize that we as soldiers might be in the same spot one time that these Americans were.

Q Did Rumpf then in a conversation to you, that is to a comrade, quite clearly express his rejection of such treatment?

A Yes.

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DEFENSE COUNSEL (Dr. Pfister): No further questions.

PROSECUTION (Captain Shumacker): I want to make the observation at this time for the record and for the defense that Rumpf's attitude and his character with respect to shooting prisoners of war has been put in issue by this witness called by the defense. No recross.

DEFENSE COUNSEL (Dr. Pfister): I would like to add that it was merely a description of a conversation. I did not ask the witness as to the character of the accused and obviously avoided that.

PROSECUTION (Captain Shumacker): If the court please, he asked him if Rumpf respected this policy. I remember that very distinctly.

DEFENSE COUNSEL (Dr. Pfister): I only asked him for the words --

PRESIDENT: Are there questions by the court? Apparently not. The witness is excused.

DEFENSE COUNSEL: The defense calls as its next witness, Paul Buth. Dr. Pfister, on behalf of the defense, will conduct the direct examination.

PAUL BUTH, a witness for the defense, was duly sworn and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Dr. Pfister):

Q Will you please state your name to the court?

A Buth, Paul.

Q Are you the same Buth that once testified previously in this case?

A Yes.

Q Which unit of the First Panzer Regiment ISSAH were you a member of?

LAW MEMBER: We must ~~2318~~ see the translation. Start over.

(Buth-Direct)

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Q What was your duty in the 9th Panzer Pioneer Company?

A Half-track driver.

Q Do you know when the offensive, the Eifel Offensive started?

A December 16, 1944.

Q Did a company conference of the issuance of orders to the company take place before the Eifel Offensive?

A No.

Q Were you present at a company orientation prior to the Eifel Offensive?

A Concerning the Eifel Offensive, no.

Q Do you remember a company meeting in Eckdorf?

A Every morning I attended the issuance of orders and furthermore those company meetings held by 1st Lt Rumpf.

Q Did in the course of these meetings Rumpf issue any orders which would openly and certainly mean that prisoners of war were to be shot during this offensive?

A No.

DR. PFISTER: No further questions.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q Did you attend the meeting on the morning of 13 December 1944 in the school house at Eckdorf?

A No.

CAPTAIN SHUMACKER: No further questions.

PRESIDENT: Any questions by the court? Apparently not, the witness is excused.

(Whereupon the witness was excused and withdrew from the court room.)

DEFENSE COUNSEL: The defense calls as its next witness Johann Krajewski. Dr. Pfister on behalf of the defense will conduct the direct examination.

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JOHANN KRAJEWSKI, a witness for the defense, was sworn and testified through an Interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the accused and to the German counsel.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE (Dr. Pfister):

Q- Please give your full name.

A Johann Krajewski.

Q What unit were you with before the Eifel Offensive started?

A The 9th Panzer Pioneer Company.

Q What was your rank and duty?

A Rank of Master Sergeant.

Q What was your duty as Master Sergeant?

A I was 1st Sergeant.

Q What were your duties as Master Sergeant?

A The 1st Sergeant is the mother of the company, the righthand man of the commanding officer.

Q Is that the German word for it "spiels"?

A Well, officially it is Hauptfeldwebel, but the common term is "spiels".

Q What were your military duties as a 1st Sergeant?

A The main job is taking care of the company and the correspondence of the company.

Q In that capacity does anybody ever hand you orders coming down from the regiment or orders from your company commander?

A Yes, all orders go through my hands.

Q Were any orders issued prior to the starting of the Eifel Offensive?

A Different orders were issued in the school house, that is company orientation orders were issued every day, and that was done by me.

(Krajewski - Direct)

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Q Do you remember orders being issued to the effect from the regiment that prisoners of war which were to come into your hands were to be shot?

A No.

Q Would you remember this all the more because it might appear to be an unusual type of order to you?

CAPTAIN SHUMACKER: If the court please, I object to the question; it is clearly leading.

DR. PFISTER: I withdraw the question.

QUESTIONS BY DEFENSE (Dr. Pfister) (Cont'd):

Q Would you have noticed such an order?

A Yes.

Q Were you present at the company orientation?

A Everybody had to be present at the company orientation even officers. At a company orientation everybody had to be present, including officers.

Q Please explain to the court what in the German Army is the difference between a company orientation and the issuance of an order?

A Company orientations--well, how should I express it, that the company orientation charges how to behave in combat.

Q Does the company orientation include the general question of war and the laws of war?

A Depending on what the company commander made it his task.

Q Was there anything said in company orientations even prior to the Eifel Offensive concerning the treatment of prisoners of war?

A I remember that 1st Lt Rumpf had a company orientation in captivity.

Q According to this orientation how were you to behave if captured?

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A The person was to give only his name, first name, birth date and home address.

Q Was the approval of shooting of prisoners of war ever expressed in any manner, open or hidden, during the company orientations?

A No.

Q In connection with this Malmedy trial did you ever make a statement before?

A I was interrogated in Schwabisch Hall.

Q Did you make a written statement?

CAPTAIN SHUMACKER: If the court please, I object to any written statement that this witness has made previously. It is immaterial and irrelevant. He is here in person and can testify what he knows about the issuance of orders in this case.

PRESIDENT: The objection is sustained.

QUESTIONS BY DEFENSE (Dr. Pfister) (Cont'd):

Q Did you ever make any statement contradicting your testimony to-day?

A No.

Q Did you maintain this previous testimony in spite of the fact that physical force was used on you?

CAPTAIN SHUMACKER: If the court please, I know that counsel knows that is an improper question in view of the previous ruling of the court. I move that the statement, the question be stricken from the record and not considered by the court.

PRESIDENT: The statement will be stricken from the record and disregarded by the court.

DR. PFISTER: No further questions.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q Sergeant, how long have you known Obersturmfuehrer Rumpf,

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one of the accused in this case?

A Since 1942.

Q Have you been in his organization all that time, in his unit?

A Yes.

Q How long have you been in the SS?

A In the Waffen SS or in the Allgemeine SS?

Q Well, the Waffen SS, first?

A I entered it in 1935 in Dresden and left it in 1938 upon being discharged, and was then drafted in again.

Q How long were you in the Allgemeine SS?

A From 1933 to 1935.

Q You say that at this meeting of the company in the school house at Eckdorf Rumpf gave instructions as how to behave if captured; is that correct?

A I can't say with 100% certainty whether that was in Eckdorf or in Raadan.

Q Do you know whether or not of your own knowledge he said anything at the school house in Eckdorf about prisoners of war?

A No.

Q You don't know?

A No, he didn't say anything.

Q Did he say anything about how you would behave if captured by the enemy?

A How the soldier was to behave?

Q Yes.

A Well, he made a statement once--I can't give you the exact connection--but the gist of it was the way we wanted to be treated, that is how we should treat them, in other words.

Q And you remember his having made that statement once between 1942 and 1945; is that right?

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A Yes.

Q But you can't remember when and where that was?

A It was either in Raadan or in Eckdorf.

CAPTAIN SHUMACKER: Will the court please order the accused Willi Von Chamier wearing No. 6 to stand.

PRESIDENT: No. 6, stand up.

CAPTAIN SHUMACKER: And remain standing, please.

Erich Maute, No. 36, Max Rieder, No. 51, and Erich Rumpf, No. 54.

(Whereupon the accused stood up in the prisoners dock.)

QUESTIONS BY PROSECUTION (Capt. Shumacker) (Cont'd):

Q Sergeant, I ask you if those four men who are standing were present at this meeting that was held in the school house at Eckdorf on the morning on or about 13 December 1944?

A They are members of the company and they must have taken part.

CAPTAIN SHUMACKER: You may sit down.

PRESIDENT: Sit down.

(Whereupon the accused did as directed.)

QUESTIONS BY PROSECUTION (Capt. Shumacker) (Cont'd):

Q Do you know whether or not they were there?

A I can't say with 100% certainty, but everybody had to be present at a company orientation.

Q Now you testified I believe on direct examination that you saw the regimental operational order for this offensive?

A I didn't understand you.

Q Did you testify on direct examination that prior to this offensive, the Eifel Offensive, you saw the regimental operational order?

A Orders, secret orders arrived before moving out. There was one order concerning the route of march. The second one I believe was

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about Section 5 where fuel dumps were and where damaged tanks were to be repaired. That again I cannot state with 100% certainty, but the first order concerning the route of march was in there certainly.

Q Was there anything in either one of these orders as to how prisoners of war were to be treated or as to how they were to be evacuated?

A No.

Q Are you sure about that?

A Yes.

CAPTAIN SHUMACKER: That is all.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE (Dr. Pfister):

Q When were you in Raadan?

A Until about November.

Q What year?

A 1944.

Q When were you in Eckdorf?

A That was shortly before the Eifel Offensive we were moved from Raadan to Eckdorf.

DR. PFISTER: No further questions.

PRESIDENT: Any questions by the court? Apparently not, the witness is excused.

(Whereupon the witness was excused and withdrew from the court room.)

DEFENSE COUNSEL: The defense recalls as its next witness Lt Heinz Goltz. Dr. Pfister on behalf of the defense will conduct the direct examination.

HEINZ GOLTZ, a witness for the defense, was recalled and testified further through an Interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the accused and to the German counsel.)

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CAPTAIN SHUMACKER: The witness is reminded that he is still under oath.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE (Dr. Pfister):

Q Are you the same witness who has once before testified in this case?

A Yes.

Q What was your rank and duty during the Eifel Offensive?

A I was 1st Lt and Company Commander in the Reconnaissance Battalion LSSAH.

Q When were the orders issued to the 9th Company in the Blankenheim Forest?

A 9th Company, which 9th Company?

Q I mean the company of Coblenz.

A That must have been in the morning hours of December 16.

Q At what place?

A In the Blankenheim Forest.

Q Were you together with the accused Coblenz immediately prior and subsequent to the issuance of orders?

A Yes, I was together with 1st Lt Coblenz before as well as after. I was in the same quarters with 1st Lt Coblenz before the offensive.

Q Did you talk about the impending offensive with 1st Lt Coblenz?

A Yes, we talked about it after we returned from the company commanders' meeting at the battalion headquarters.

Q Was that before the company commanders transmitted the regimental orders on to their companies?

A Yes, that was still in the same evening and after we returned.

Q Did Coblenz ever tell you anything after the issuance of orders concerning the shooting of prisoners of war?

A No, not with a single word.

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(Goltz - Redirect)

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Q Would Coblenz have talked to you about that as a comrade of long standing--

CAPTAIN SHUMACKER: If the court please, I object to that question. This witness is totally incapable of testifying what Coblenz would have done.

DR. PFISTER: I withdraw the question.

QUESTIONS BY DEFENSE (Dr. Pfister) (Cont'd):

Q Did Coblenz ever tell you anything about he himself ordering the shooting of prisoners of war?

A No, Coblenz said nothing about this to me, and I don't think that Coblenz would have issued any such order on his own responsibility.

CAPTAIN SHUMACKER: I object to that, may it please the court. It is the expression of an opinion by this witness. And I move that it be stricken from the record and not considered by the court.

PRESIDENT: The later part of the witness's statement which expresses his personal opinion will be stricken from the record and disregarded by the court.

QUESTIONS BY DEFENSE (Dr. Pfister) (Cont'd):

Q What is the term used for a soldier not acting according to orders?

A That is known as refusing an order or non-performance of an order.

Q Is it also the concept of acting on ones own accord?

CAPTAIN SHUMACKER: If the court please, I object to that question as leading the witness. It is obvious to the court any way that a human being can act on his own if he wants to.

DR. PFISTER: I am asking this question in the general manner in order to bring out the point that actions sometimes are voluntary and not done in accordance with military orders.

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PRESIDENT: The objection is overruled.

LAW MEMBER: Do you want the question answered Dr. Pfister?

The objection has been overruled.

DR. PFISTER: Yes.

A. Of course, there are, there might be positions in which a soldier can act upon his own judgment, if he would consider it justifiable.

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Q Might such an act be unjustifiable?

A In that case the man has to take the responsibility for his act personally.

Q Did you, during the offensive or before the offensive, ever hear of Coblenz issuing an order about shooting prisoners of war on his own accord?

A No, I heard nothing of that.

Q Why didn't you?

A Well, probably Coblenz never gave any such order.

CAPTAIN SHUMACKER: If the Court please, I move that the answer be stricken. It is unresponsive and immaterial and expressing the opinion of the witness.

DR. PFISTER: The Prosecutor is correct. Of course, he was not supposed to say "probably."

QUESTIONS BY DEFENSE COUNSEL (DR. PFISTER);

Q I ask you the question, did 1st Lieutenant Coblenz give such an order, to your knowledge?

A Not to my knowledge, I didn't hear of it.

Q Do you know the word "rabatz"?

A Yes, I am familiar with the word "rabatz."

Q What sort of a word is it? Is that a word of soldier's slang?

A Yes, that is an all-around expression of soldier slang which is used by soldiers at every possible opportunity.

Q Please expound to the Court briefly what this word means.

A That might perhaps be done more easily if I cite

(Goltz-Direct)

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a few practical examples. This word "rabatz" was used by the soldier during his training period, as well as in combat. If, for instance, the company commander in a training outfit was not satisfied with his company he made a rough speech and the soldier would then say, "The old man is making a lot of rabatz." Another example, we are in positions and we are in the CP and a messenger comes in, who excitedly reports to the commanding officer and says "There is rabatz in the left flank." That is to mean that the enemy has broken through and that the left flank is in danger. Another example, let us say that our reconnaissance battalion is used in a forward battalion and the point meets the enemy. You don't move forward any more and the commanding officer goes out front to find out what the cause for this unexpected delay is, and the leader of the point tells him, "Major, out front there is rabatz and we are under anti-tank fire." Do you want me to cite any more examples?

Q Yes.

A It often happens, for instance, in an invasion front we were under steady small arms fire and it was very common usage for the soldier to say, "The army is making rabatz again."

Q Did the word "rabatz" perhaps also mean a party among comrades with a lot of noise?

A Of course, if a company or possibly a platoon were together at night and were singing or possibly drinking something, then one also used to say "that was some nice rabatz this evening."

DR. PFISTER: No further questions.

(Goltz-Direct)

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RECROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q In other words, the meaning of that term "rabatz" depends on the context in which it is employed?

A Yes, that is correct.

Q And if a company commander gave an order to his men that they would shoot everything that came before their barrels and not to take any prisoners and mow down any civilians that appeared, "You will make plenty of rabatz" - what would it mean in that connection?

A If any such order was ever given, then it might also be termed rabatz.

Q And it would mean that the soldier would have plenty of fun shooting up everything that came in front of him?

A No, it wouldn't mean all that. If before an offensive it is said to a company that we are going into this action and there will be plenty of rabatz, then that was merely to mean that the soldier was to expect severe and hard fighting and that the fighting would demand considerable strength.

Q And if the expression were used in connection with shooting civilians and enemy prisoners of war it would have no significance whatever?

A It was not common usage to use the word "rabatz" in that sense.

Q I hand you Prosecution Exhibit marked P-79 and ask you if you know the handwriting that appears thereon and the signature on that exhibit?

(Goltz-Recross)

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A Yes, that is the handwriting of 1st Lieutenant
Coblentz.

Q Is that his signature that appears on the back?

A Yes, that is how I know 1st Lieutenant Coblentz'
signature.

Q I hand you Prosecution Exhibit marked P-80
and ask you if you know that handwriting and the signature
on that statement?

A Yes, that too is the way which I know the
handwriting and signature of 1st Lieutenant Coblentz.

Q What company were you in Knittel's Reconnaissance
Battalion at the time of the Eifel Offensive?

A I was CO of the Headquarters Company of the
battalion.

Q Did you stay with your company at its CP im-
mediately before the offensive began or were you with your
friend Coblentz all the time?

A I was with my company as well as with Coblentz
because our companies were very close together in the forest.

Q Were you present when Coblentz spoke to the men
of his company prior to this offensive?

A No, I was not because I was holding company
orientation in my company at the same time.

Q And you do not know of your own knowledge what
Coblentz told the men of his company, do you?

A No, I don't know that.

CAPTAIN SHUMACKER: Nothing further.

DEFENSE COUNSEL: Nothing further on redirect.

PRESIDENT: Questions by the Court? Apparently

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not, the witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

DEFENSE COUNSEL: Defense calls as its next witness Albert Braun. Lieutenant Colonel Dwinell, on behalf of the Defense, will conduct the direct examination.

ALBERT BRAUN, a witness called by the Defense, after being first duly sworn, testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the German counsel and the accused.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (LT. COL. DWINELL):

Q What is your name?

A Albert Braun.

Q How old are you?

A 21 years old.

Q Were you a member of the German armed forces in December 1944?

A Yes.

Q To what unit did you belong?

A - The 6th Company 1st Panzer Regiment.

Q What platoon?

A Third Platoon.

Q What were your duties in the company?

A I was first gunner.

Q Who was your company commander?

A 1st Lieutenant Junker.

Q Is he an accused in this case?

(Braun-Direct)

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A Yes.

Q Would you be able to recognize him if you saw him again?

A Yes.

Q Take a look at the accused in the prisoners' dock at your left and see if he is among those present?

A Yes.

Q What number is he wearing?

A Number 29.

Q Where were you on the 15th of December 1944?

A On the 15th of December I was in the Blankenheim Forest.

Q Did you see the accused Junker there?

A Yes.

Q Did Junker have a company meeting at that time?

A Yes.

Q At what time of the day?

A About 1600 or 1700 hours.

Q Were all the members of the company present?

A With some few exceptions, all were present.

Q Were you present?

A Yes.

Q Did Junker make a speech to the company?

A Yes.

Q What did he say?

A 1st Lieutenant Junker said about the following:

"This is going to be a big offensive. We will make a big Christmas gift to our parents. For the first time again we will have great Air Corps artillery and rocket support. We

(Braun-Direct)

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shall continue this offensive with great speed and power and for that reason" -- and that was the sense of his words -- "following that we will not take any prisoners of war but we will leave it to the outfits following us.

Q Did he say that prisoners of war were to be shot?

A No.

Q Did he say anything about the treatment of Belgian civilians?

A No.

Q Did he say anything about the use of terror methods?

A No.

Q After he made his speech did anyone else make a speech?

A Yes, my platoon leader, Master Sergeant Wien.

Q What did he say?

A By and large, he said about the same.

Q Either on the 15th or 16th of December 1944, did any officer or non-commissioned officer of your company tell you that prisoners of war had to be shot?

A No.

Q Or say anything about the treatment of Belgian civilians?

A No.

Q Or say anything about terror methods?

A No.

LT. COLONEL DWINELL: No further questions.

(Braun-Direct)

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CROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q What did Junker tell you and what did Wien tell you about Skorzeny's troops?

A Master Sergeant Wien said that before us, in front of us we would have a unit of Skorzeny's outfit, whose job it would be to penetrate the enemy lines.

Q They were not to spread any panic and terror, were they?

A I don't remember that being said.

Q Did you not just testify that nobody said anything about spreading panic and terror?

A Yes.

Q Now, are you sure that nobody said that Skorzeny's troops were to spread panic and terror?

A No.

Q You are not sure?

A Yes, I am sure.

Q You are sure that when Oberscharfuehrer Wien, your platoon leader, spoke to you, that he also said the infantry was going to take care of the prisoners of war?

A Yes.

Q Are you sure that Junker said the same thing?

A Yes.

Q What infantry were they talking about?

A About the infantry which was to follow us.

Q What infantry was it -- what division?

A Our division.

Q From your division, from the LAH, is that right?

(Braun-Cross)

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A Yes, that is how I understood it.

Q You are sure about it?

A Yes.

Q You are sure they said the infantry of the LAH would follow behind the armored column and would take care of the prisoners?

A Yes.

Q Both Junker and Wien said that?

A Yes.

CAPTAIN SHULACKER: No further questions.

DEFENSE COUNSEL: Nothing further on redirect.

PRESIDENT: Any questions by the Court? Apparently none. The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

DEFENSE COUNSEL: The Defense calls as its next witness Fritz Reinhold. Colonel Dwinell, on behalf of the Defense will conduct the direct examination.

FRITZ REINHOLD, a witness called by the Defense, after being first duly sworn, testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the German counsel and the accused.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (LT. COL. DWINELL):

Q What is your name?

A Reinhold; Fritz Erich.

Q How old are you?

A 22 years.

(Reinhold-Direct)

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Q Were you a member of the German armed forces in the month of December 1944?

A Member of the Waffen SS, I was.

Q To what unit did you belong?

A 6th Panzer Company 1st Panzer Regiment Leibstandarte.

Q What platoon?

A I was in no platoon. I was a driver.

Q Who was your company commander?

A 1st Lieutenant Junker.

Q Is he an accused in this case?

A Yes.

Q Would you be able to recognize him if you saw him again?

A Yes.

Q Will you take a look at the accused in the prisoners' dock to your left and see if he is among those present?

A Yes.

Q What number is he wearing?

A 29.

Q Where were you on the 15th of December 1944?

A Blankenheim Forest.

Q Did you see the accused Junker there?

A Yes.

Q Did he have a company meeting?

A Yes.

Q What time of the day?

A It was about 1600 to 1630 hours.

(Reinhold-Direct)

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Q Were you present?

A Yes.

Q Did Junker make a speech to the company?

A Yes.

Q What did he say?

A 1st Lieutenant Junker talked about the coming offensive, that we would have air superiority for the time of the offensive, that new weapons would be used for the first time, that the Volksgrenadier Division would be used together with us and that every person was to fight, paying no attention to his own personal comfort. That is about all.

Q Did he say that prisoners of war were to be shot?

A No.

Q Did he say anything about the treatment of Belgian civilians?

A No.

Q Did he say anything about the use of terror methods?

A No.

Q How long did the speech last?

A About 10 or 15 minutes.

Q After Junker made that speech, did anyone else make a speech?

A Yes, 1st Lieutenant Sieg.

Q What did he say?

A That was in the course of a Christmas celebration. We only thought of our loved ones at home.

Q Either on the 15th or 16th of December 1944, did any officer or non-commissioned officer of your unit

(Reinhold-Direct)

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tell you that prisoners of war had to be shot?

A No.

Q Or say anything about the treatment of Belgian civilians?

A No.

Q Or say anything about terror methods?

A No.

LT. COLONEL DWINELL: No further questions.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q As a matter of fact, neither Junker nor Sieg said anything at all about prisoners of war, did they?

A No.

Q They did not tell you they were to be shot and they did not tell you they were not to be taken, did they?

A No.

Q They did not even mention prisoners of war, did they?

A No.

Q You know Albert Braun, the witness who just left the stand?

A Yes.

Q He was in your company?

A Yes.

Q He attended this same meeting?

A Yes.

CAPTAIN SHUMACKER: Nothing further.

PRESIDENT: Any other questions by the Defense?

DEFENSE COUNSEL: No further questions.

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PRESIDENT: Any questions by the Court? Apparently none. The witness is excused.

Court will recess until 1330 hours.

(Whereupon court recessed until 1330 hours.)

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CAMP DACHAU, GERMANY

27 June 1946

AFTERNOON SESSION

(Whereupon the Court reconvened at 1330 hours.)

PRESIDENT: Take seats. The Court will come to order.

PROSECUTION: If it please the court, let the record show that all members of the Court, all members of the Prosecution with the exception of Lt. Col. Crawford, who is absent on business of the prosecution, and Capt. Byrne, who has been excused by verbal order of the Commanding General, all members of the Defense, with the exception of Mr. Walters, Dr. Pfister, Dr. Leer and Dr. Hertkorn, and Dr. Wieland, who are absent on business of the Defense, all of the Defendants, and the Reporter are present.

DEFENSE COUNSEL: The defense calls as its next witness Karl Mannitz. Col. Dwinzel, on behalf of the Defense, will conduct the direct examination.

KARL MANNITZ, called as a witness for the Defense, was sworn and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Lt. Col. Dwinzel):

Q What is your name?

A Mannitz. Karl August.

Q How old are you?

A Twenty and one-half years.

Q Were you a member of the German armed forces in December,

1944?

A Yes.

Q To what unit did you belong?

A 10th Company of the Third Battalion, of the 1st Panzer Division.

Q What platoon?

A Third platoon.

(Mannitz - direct)

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- Q What were your duties in the company?
- A I was platoon runner.
- Q Who was your company commander?
- A Obersturmfuehrer Preuss.
- Q Is he an accused in this case?
- A Yes.
- Q Would you be able to recognize him if you saw him again?
- A Yes.
- Q Take a look at the accused in the prisoners' dock to your left and tell me if he is among those present?
- A Yes.
- Q What number is he wearing?
- A Forty-four.
- Q Where were you on the 15th of December, 1944?
- A In the Blankenheim Forest.
- Q Did you see the accused Preuss there?
- A Yes.
- Q Did you have a company meeting?
- A Yes.
- Q At what time of the day?
- A During the night from the 15th to the 16th of December.
- Q Were all of the members of the company present?
- A I assume so. I can't say for sure.
- Q Were you present?
- A Yes.
- Q Did the accused Preuss make a speech at that meeting?
- A Yes.
- Q Did he say that prisoners of war in the coming offensive were to be shot?
- A No.
- Q Did he say anything about the treatment of Belgian civilians?
- A No.

(Mannitz - direct)

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Q Did he say anything about the use of terror methods?

A No.

Q Either on the 15th or 16th of December did any officer or non commissioned officer of your unit tell you that prisoners had to be shot?

A No one told me anything about it.

Q Did they say anything about treatment of Belgian civilians?

A No.

Q Or anything about the use of terror methods?

A No, not that, either.

DEFENSE COUNSEL (Lt. Col. Dwinnel): No further questions.

PROSECUTION: No cross examination.

PRESIDENT: Any questions by the court?

LAW MEMBER: What did Puess say about treatment of prisoners of war during the Eifel Offensive.

A He didn't say anything about the treatment. He says, he only told us that we were to advance and that we should not bother about prisoners of war.

PRESIDENT: Any other questions? Apparently none; the witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

DEFENSE COUNSEL: The Defense calls as its next witness Albert Gerwick. Col. Dwinnel, on behalf of the Defense, will conduct the direct examination.

ALBERT GERWICK, called as a witness for the prosecution, was sworn and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Lt. Col. Dwinnel):

Q What is your name?

A Albert Gerwick.

(Gerwick - direct).

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Q How old are you?

A 19 years.

Q Were you a member of the German armed forces in December 1944?

A Yes.

Q To what unit did you belong?

A 10th company, third battalion, 2nd regiment.

Q What platoon?

A 4th Platoon.

Q What were your duties in the company?

A I was leader of a hand grenade squad.

Q Who was your company commander?

A Obersturmfuehrer Preuss.

Q Is he an accused in this case?

A Yes.

Q Would you be able to recognize him if you saw him again?

A Yes.

Q Take a look at the accused on the prisoners' dock on the left and see if he is among those present?

A Yes.

Q What number is he wearing?

A No. 44.

Q Where were you on the 15th of December, 1944?

A In the Blankenheim Forest.

Q Did you see the accused Preuss there?

A Yes.

Q Did you have a company meeting at that time?

A Yes.

Q What time of the day?

A The night of the 15th, around midnight.

Q Were all members of your company present?

A Mostly.

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Q Were you present?

A Yes.

Q Did the accused Preuss make a speech to the company?

A Yes.

Q Did he say that prisoners of war were to be shot in the coming Bifel offensive?

A No.

Q Did he say anything about the treatment of Belgian civilians?

A No.

Q Did he say anything about the use of terror methods?

A No.

Q Did he say anything at all about the treatment of prisoners of war?

A No.

Q Either on the 15th or 16th of December 1944 did any officer or noncommissioned officer of your company tell you that prisoners of war had to be shot?

A No.

Q Or tell you anything about the treatment of Belgian civilians?

A No.

Q Or anything about terror methods?

A No.

DEFENSE COUNSEL (Lt. Col. Dwinell): No further questions.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q What time was this meeting held on the night of the 15th of December, 1944?

A Around midnight.

Q I show you Exhibit B, attached to Prosecutions Exhibit P-747A, and ask you if that correctly portrays the scene of that meeting that took place on the night of 15 December 1944? With the

{ Gerwick - direct }
" cross }

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numeral "1" on there representing the place where Preuss stood, with the semicircle showing the way the company was assembled, the arrow with the numeral "3" indicating the direction of the battalion C.P.

Q I don't know that.

Q And these other symbols showing the woods in that area?

A Yes.

Q With the exception of the location of the battalion C.P. then, that sketch is correct? Is that right?

A Yes.

Q Is that Obersturmfuehrer Preuss' signature on that sketch?

Or don't you know?

A I can't say for sure.

Q When did you last talk to Preuss about this speech that he gave?

A Not at all.

Q Haven't talked to him since the offensive took place?

A No, I did not talk to him about it.

Q You are sure that nothing was said in this speech about

Skorzeny's troops?

A No.

Q Nothing was said about Skorzeny's troops spreading panic and terror in front of the armored column?

A At any rate, I don't remember it.

Q And nothing was said about prisoners of war?

A No. But it was said that prisoners of war were not supposed to be made, that they were to be left to the infantry that followed.

Q What infantry?

A I don't know.

Q Didn't tell you what infantry?

A No.

Q Did you ever see any infantry behind you?

(Gerwick - cross)

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A A parachute battalion went with us.

Q I am talking about infantry behind you. Did you ever see any infantry behind you?

A No.

PROSECUTION (Capt. Shumacker): That is all.

DEFENSE COUNSEL: Nothing further on redirect examination.

PRESIDENT: Any questions by the court? Apparently not.

The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

DEFENSE COUNSEL: The Defense calls as its next witness the accused, Franz Sievers. Col. Dwinnel, on behalf of the Defense, will conduct the direct examination. The defense does not contemplate recalling this accused.

FRANZ SIEVERS, one of the accused called as a witness for the Defense, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Lt. Col. Dwinnel):

Q What is your name?

A Franz August Sievers.

Q How old are you?

A 31 years.

Q Are you married?

A Yes.

Q Have you any dependents?

A Yes.

Q How many?

A One child.

Q When were you captured by the American forces?

A On the 10th of May, 1945, I gave myself up.

Q During the Eifel offensive in December 1944 and January 1945, what unit did you command?

A At that time I led the 3rd Panzer Pioneer company, P-Bat-
(Sievers - direct)

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talion 1, Leibstandarte Adolf Hitler.

Q Who was your commanding officer.

A Standartenfuehrer Peiper.

Q On your written statement received in evidence in this case as Prosecution's Exhibit P-25, you said the following:

"For the armored Group, under the command of Obersturmfuehrer Peiper existed, during the Eifel offensive, the order: 'The resistance of the enemy is, if necessary, to be broken by terror...'.
"

"Furthermore, existed the order, if the situation requires it, to shoot prisoners of war."

And you said further:

"At the sand table exercises of the armored groups, or immediately thereafter following officers' meetings, at an estate near Weilerswist (at the end of November--beginning of December 1944) I heard for the first time an expression which had reference to that."

Is that statement true?

A No, it isn't true.

Q In what respect is it not true?

A Because I have never received any order of that kind. and where

Q When/were these sand table exercises held?

A They were held from the 20th of November up until about the 12th of December, in the vicinity of Weilerswist.

Q At the sand table exercises, was anything said about prisoners of war?

A No.

Q At the time of the sand table exercises did you know anything about the coming Eifel offensive?

A No.

Q Now, you said in your statement, Prosecution's Exhibit P-25, the following:

"At a later occasion, a secret regimental order was shown to me in which it said that if the situation requires it, prisoners of war are to be shot and that the resistance of the enemy, if necessary, is to be broken by terror."

Q Is that statement true? In what respects is it not true?

(Siewers - direct).

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A Because I have never seen that order.

Q On the 15th of December did you receive any orders from Poetschke or from his headquarters concerning the coming offensive?

A Yes.

Q What was that order?

A I was called to a company commanders' conference on the 15th of December 1944, in the Blankenheim Forest, by Sturmabfuhrer Poetschke. Poetschke said the following: The sense of it was as follows: We are going to prepare a powerful blow, all powers and strength of the individual man have to be committed relentlessly. In the first days we shall penetrate to the Maas. This operation is of great importance. The fate of Germany depends upon it. Should this operation be unsuccessful we shall have lost the war. Furthermore, he spoke about activity in the air, that a group of Skorzeny's would drive ahead of our panzers in American uniforms and vehicles, that they were to cause panic and fright among the enemy and thus pull back the enemy. It was our task to drive into the depth of the enemy, that our advance would roll along the road and whatever was left and right of the road would not concern us. We shall by-pass larger localities. We cannot bother about prisoners of war, that they would be a matter for the infantry that followed. He said, furthermore, in case civilians were to shoot as terrorists that their resistance would be broken without regard by weapon.

Q Did he say prisoners of war were to be shot?

A No.

Q How do you explain the discrepancy between your written statements in evidence and your testimony that you have given today?

A After a solitary confinement of three months, I was interrogated on the 25th of February 1946 in Schwaibisch Hall for the first time. In the hall I was asked about my name. I said,

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Sievers. At that moment I received a blow on the mouth. Then I was pushed into a cell with my face toward the wall and there received a blow on my right hand. Shortly afterwards a hood was torn off my head.

Q Will you ask the witness to speak a little louder, please?

A And two interrogating officers were standing in the cell. I was yelled at by one of the gentlemen: "Undress. Bare the upper part of your body." Which I did. When I took off my shirt, I was yelled at by those two gentlemen, just like somebody was shooting out with a pistol. He said, "You pig, you smell of perspiration. You haven't washed lately. Pick up your arms!" I did that, and one of the gentlemen then said, "He is the one." There was no wonder that I smelled somewhat of perspiration; I had such a very nice treatment before this. Furthermore, I could not bathe the last twelve weeks. Received two or three litres of water daily for washing and I was the happy owner of a pair of black pants in all.

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(Sievers - direct)

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Q Will you tell the court whether you were physically mistreated?

A Yes, I was pushed against the wall by Mr. Thon, as I found out his name was later on, and who said he was the public prosecutor. And he told me I'd be able to take care of the whole thing without pistol. Then the affair of Obersturmfuehrer Rumpf was told me, that I had shot at prisoners of war with a bazooka. Furthermore, Mr. Thon told me if you should bring me in a vial or a rope so I could finish my life. I told him I didn't need to do that, I did not have any American prisoners of war on my conscience. Lt. Perl wanted to give me some tobacco for a cigarette and Mr. Thon jumped up immediately and said: "That guy's not going to get any tobacco. He will have to confess first." When these gentlemen saw that they couldn't get anywhere with me, several men of my company were confronted with me. The first one that was led in was Sturmann Sprenger. Sprenger was put under oath in the regular manner and then he was asked if he knew me. He said: "Yes, that's my Company Commander, Obersturmfuehrer Seivers." "Did you ever shoot prisoners of war during the Eifel Offensive?" He said: "Yes, five at the Cross Roads and three in Stoumont, upon orders of Obersturmfuehrer Seivers." Then Sturmann Sprenger and Sturmann Hofmann were confronted with me and they were also put under oath and they also said that they shot two men at the Cross Roads upon my orders. Then the Sturmann Tracht of my company came and he said that he had let one man bleed to death at the Castle of Stoumont. Then one man of the 9th Panzer Pioneer was confronted with me. "I did shoot three men in Stoumont in the presence of Col. Peiper." The men were led away again into their cells. Then Lt. Perl asked me if I now knew all about the shooting of prisoners of war. I said: "No, I still don't know any. I've never received such orders." And Mr. Thon again yelled at me and said: "You received this order from the Regiment; it was a secret order." He even told me what was in it. I told him I didn't know it. So consequently the order was read to me. I still didn't know any order.

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(Seivers - Direct)

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✓ "Then Lt. Perl changed his interrogation methods. He said: "Here, you look out of the window. There are two volleyball courts. Those are all men from the Leibstandarte Adolph Hitler." Then I was put into a machine room. He said: "They're all men from the Leibstandarte who are working there. They confessed and they have a good life now." And he said: "If you confess you'll have a good life tomorrow, too." Then I was led back up again. On the way Lt. Perl told me: "Sprenger shot upon your order and you only will get six to eight months and then he'll be free again, and you acted upon orders of Peiper and you carried out the order. What could happen to you? You are just a little Obersturmfuehrer. We don't even want you. We don't even want Peiper. We want Sepp Dietrich and we'll have a trial for him about which the world will gaze with wonder." I was moved by that and made my first statement, which was immediately torn up by Lt. Perl because he was not satisfied with the contents. Then I wrote another statement, which was dictated to me also, P-12. "

Q Are you referring to Prosecution's Exhibit P-12?

A Yes. P-12 was dictated to me and not like Lt. Perl said that I had written it voluntarily. At this day I was relieved. On the 26th I was again called for interrogation. Lt. Perl came to me and said: "Say, do you know the order now; have you thought about it?" I said: "I don't know any such order. I stayed awake all night to think about it." Then Mr. Thon came upon the scene again. He yelled at me again and read the order to me. Then Lt. Perl said: "The First Prosecutor is not satisfied with the one who issued your order. The First Prosecutor wants to know more." I told him that I didn't know any other order. Then Mr. Thon said: "Then take the guy to that place where he belongs." And then I was taken

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to the famous death cell by Lt. Perl. And Lt. Perl told me that I shouldn't harm myself, he would come back in the afternoon. In the afternoon I was again called out for interrogation. I still didn't know any order. Since I finally got tired of this excellent treatment in Hall and I had enough up to my neck, I wrote down P-25.

Q Are you referring to Prosecution's exhibit P-25?

A Yes, P-25. I wrote down P-25 on the 26th to the 27th so that this statement took two days.

Q 26th and 27th of what month and what year?

A February 1946. So that this statement took two days and not like Lt. Perl said, one day -- that I had made an error in the date. All statements which I wrote in Hall were dictated to me. Since I frequently protested on the 27th and got up and said that I wouldn't have any more dictated to me Lt. Perl kicked me with his foot and told me to sit down and write or he would have me beaten. I asked Lt. Perl if I could relieve myself because I was sick in my stomach at the time but he didn't allow that. Later on I was again interrogated on the 11th of March. I was supposed to change my statement. I told Lt. Perl: "I'll never pick up a pen here again." He told me then he'd have me hanged in five minutes and he repeated that often. I said: "Go ahead. I'm not going to write any more." Before I came to this interrogation I had to stand in the hall. First thing there was that I received a very nice stomach blow and, after a few minutes, again. And then Lt. Perl came and led me into this cell. In the afternoon I was led out of the cell and I could stand in the hall for four hours with a hood on my head. Then the interrogating officers came quite often and asked me my name. I did not answer. I was again hit in the stomach.

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(Sievers - Direct)

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Q How many times were you interrogated altogether in Schwabebisch Hall?

A About 7 or 8 times I was interrogated.

Q Where were you on the 15th of December 1944?

A On the 15th of December, 1944, I was in the Blankenheim Forest with my company.

Q Did you have a company meeting on that day?

A No, I did not have a company conference on that day.

Q Did you have a meeting on the 16th?

A No, not either.

Q At any time on the 15th or 16th, did you tell your men to shoot prisoners of war in the coming offensive?

A No.

Q At any time on the 15th or 16th of December 1944, did you tell your men anything about the treatment of Belgian civilians?

A No.

Q Or about the use of terror methods?

A No.

Q Were you in Honsfeld on the morning of the 17th of December, 1944?

A No.

Q Did you hear the statement of Sprenger written evidence in this case wherein he said that prisoners of war that were shot in your presence at Honsfeld on the 17th?

PROSECUTION (Capt. Shumacker): If the court please, I object to the question. There is no such statement in evidence anywhere, if you'll check the record.

DEFENSE COUNSEL (Lt. Col. Dwinell): I'll withdraw the question and check the record and I won't press it again if I'm wrong but if I'm right I'll ask the question again.

Q Where were you on the morning of 17th of December 1944?

A I was on the route from Scheld to Losheim, Honsfeld,

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and Buellingen at about 1600 hours on the 16th of December in the afternoon I fell back with my tank and I had a substitute tank sent for from the Second Platoon, from the group of Bode. On the 16th of December I had the radio installed into this tank. Since it was not possible that in the evening to drive ahead since the road was completely jammed so on the morning of the 17th of December at around eight o'clock I came to Losheim by detours over fields and roads. I arrived in Losheim at about ten o'clock. Then I went ahead and arrived in Lanzerath. Before Lanzerath I hit the wrecking unit of the Panzer Regiment who were trying to get the road clear because on the 16th of December some tanks had hit some mines. Since the road was cut off there I had to wait about one hour. I was asked by an officer there to look around and see if there were any more mines at this spot where the tanks were standing and I used my messengers of my company who picked up two mines. Then I went on from Lanzerath to the station Bucholz. I arrived there at approximately twelve o'clock.

Q Were you alone at that time or were you with a column?

A I was alone in my tank.

Q When did you catch up and rejoin your column?

A I caught up with the column in the evening on the 17th of December in one locality before Stavelot.

Q Where, with reference to Stavelot, east, west, north or south?

A East of Stavelot.

Q Were you in Buellingen on the morning of the 17th of December, 1944?

A No.

Q At any time during the 17th of December were you at Buellingen?

A Yes.

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(Sievers - Direct)

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Q At what time?

A I arrived in Buellingen at about 1400 or 1430 hours.

Q Did you leave Buellingen that day?

A Yes.

Q At what time?

A It might have been around 1500 hours. I had to stop in Buellingen because there was heavy artillery upon Buellingen.

Q In the march did you yourself pass the Malmedy Cross Roads at any time on the 17th of December?

A Yes.

Q At what time?

A At around 1900 hours, it was already dark.

Q In the vicinity of the Cross Roads what did you do, if anything?

A That was the road on which I had to drive to catch up with my column.

Q What did you do, if anything?

A I stopped shortly before I reached the Cross Roads to look at my map to see which road I had to take and then just drove by the Cross Roads.

Q Do you remember the accused Willi Schaefer's statement, Prosecution's Exhibit P-109?

A Yes.

Q Which appears on page 1399 of the record?

A Yes.

Q I'm going to read this and I'll give it to you, wherein he said the following:

"My company commander was Obersturmfuehrer Franz Seivers. In the night from the 16th to the 17th of December 1944, we left our assembly area in the Engalgau sector and drove up to the attack. As we had steering trouble our SPW dropped out; we caught up, however, with the company in Tirfont and then proceeded with them together. We arrived at a big cross-road situated at about 4 km north of Engelsdorf. When we had reached this cross-road we took a left turn around the curve and stopped our SPW at about the northern end of a pasture which is on the right side of the road. I can remember that we dismounted our SPW, and stood in the vicinity

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of it. In our group at that time were Ostuf. Sievers; Ostuf. Rumpf, the commanding officer of the 9th Pz. Pi (9th Armored Engineering Co. TN); Ustuf. Seitz, the platoon leader of the 1st platoon of the 3rd Pz. Pi Co.; and perhaps still others whose names I cannot remember any more.

"As we were standing there, I noticed on this pasture on which about 50 bumped off American prisoners of war were lying, the following: I saw that several of these Americans were still living, because they still moved and also groaned."

Q Is that true?

A No.

Q What happened?

A I didn't even see any prisoner of war there nor anyone shot. Schaefer was in my vehicle all right but passed the Cross Roads at the same time at around 1900 hours himself. I didn't see any Obersturnfuhrer Rumpf at the Cross Roads nor did I see Seitz nor Beutner.

Q Do you remember the written statement of the accused Sprenger, Prosecution's Exhibit P-44, appearing on page 632 of the record?

A Yes.

Q Wherein he said the following:

"We left this house for La Gleize on the night of 20-21 December and arrived in La Gleize at dawn of the 21st of December, 1944. I have drawn a sketch of La Gleize showing the part of the town where we dispersed our SPW's, the church, the school, etc. This sketch is marked Exhibit "F". It is attached hereto and made a part hereof. We entered La Gleize on the road shown on the upper right corner from Stoumont, travelled around the church and dispersed our SPW's as shown by rectangles numbered 3, 4, 5, 6, 7 and 8.

"On the same day we arrived in La Gleize and while I was in the house I have marked number 1 on Exhibit "F", Sturmann Herbert Losenski told me at about 3 or 4 P.M. that he had seen Obersturnfuhrer Sievers, Oberscharfuhrer Schaefer, Unterscharfuhrer Beutner, Rottenfuhrer Max Hammerer and men of the 1st Platoon of the 3rd Pioneer Company shoot 9 American prisoners of war by the schoolhouse. He told me that it had happened on the left side of the school as one faces the school from the church. He further told me that Obersturnfuhrer Sievers had told him to keep quiet about it and not speak about it to anyone. I never went to the spot where Losenski said these prisoners were shot and I did not see the bodies.

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"The men of the 3rd Pioneer Company had taken up offensive positions about $1\frac{1}{2}$ to 2 kilometers outside of La Gleize on the road from La Gleize to Stoumont, the 1st Platoon being on the left side of the road and the 2nd Platoon being on the right side of the road. About the only personnel in La Gleize were the drivers and assistant drivers of the SPW's.

"Sievers, our Company Commander, Schaefer, our troop leader, Beutner, our Platoon Leader, and Hammerer, who was the messenger, were in La Gleize because they were just setting up the Company C.P."

Is that true?

A No.

Q Just what did happen?

A I was in Stoumont from 19th to 21st of December and never left Stoumont during that time. Only around 7 o'clock in the evening we left Stoumont and marched in the direction of La Gleize. I arrived in La Gleize at around 2300 hours and the next morning on the 22nd of December at around 8 o'clock I left La Gleize with my fighting unit and we marched in the direction of Thirimont and went into position with my company before Stoumont and visited La Gleize again on the 23rd in the afternoon at 1600 hours for one hour because I had been ordered to a conference with Poetschke and there received my orders to break out on the night of the 23-24. Otherwise I never saw La Gleize.

Q Was Schaefer in La Gleize during the day on the 21st of December?

A He came to La Gleize with me and left on the 22nd with me to go to Bergoumont.

Q Was Losenski with you in La Gleize on the night of the 21st?

A I can't say for sure.

Q Was Hammerer in La Gleize on the night of the 21st?

A No, he was still in position with me.

Q Was Beutner with you in La Gleize on the 21st?

A Beutner was buried in La Gleize on the 21st.

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Q Do you remember the statement of Sprenger, Prosecution Exhibit P-44, appearing on page 633 of the Record, wherein he said the following: (Reading)

"About 8 o'clock at night on the 22nd of December I was in the cellar of house number on Exhibit 'F'. At that time, Rottenfuehrer Goldschmidt told me that 15 American prisoners of war had been shot by Sievers, Schaefer, Peppi Maier, Beutner, Hammerer and himself in back of the school house. He did not tell me the exact time they were shot or any of the circumstances. I never did see the bodies of these American soldiers. At about six o'clock in the evening of the 23rd of December Rottenfuehrer Goldschmidt and Sturmmann Joachim Hofmann came into the cellar of house number 1, where I was and told us that they had been present at the shooting of about 100 American prisoners of war in the pasture behind the school. Hofmann himself made this statement and I remember distinctly that he used the word 'we'. Since he and Goldschmidt had come into the cellar together I naturally assumed that he and Goldschmidt had witnessed the shooting together. I never saw the bodies of these American soldiers."

Is that true?

A No.

Q What did happen?

A I was all day in Bourgmont on the 22nd and never was in La Gleize.

Q Did you return to LaGleize on that day?

(Sievers-Direct)

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A No.

Q Did your company return to La Gleize after that at any time?

A On the 23rd when we started our retreat.

Q About what time?

A It was at two o'clock from the 23rd to the 24th.

Q Have you had the written statement read in this case, received in evidence in this case, by the accused Hofmann, Prosecution Exhibit P-46 appearing on page 651 of the Record?

A Yes.

Q Wherein he said that on the morning of 19 December in Stoumont after entering Stoumont he parked his SPW near a store on the main street and that he then joined a group of comrades which include Sievers, Schaefer, Sprenger, Neve and Goldschmidt that he heard Schaefer tell Sprenger to take two American PW's away and bump them off and before Schaefer gave that order to Sprenger he conversed with Sievers and when Schaefer gave the order to Sprenger, Sievers was standing next to Schaefer and heard the order. Hofmann further said in his statement that the PW's were shot. Is that true?

A No, I don't even know this whole case. I was standing at the store all right at the beginning when I came in, but not later.

Q At what time was that?

A Just at the time when we passed through Stoumont at around eleven o'clock.

Q On what date?

A On the 19th of December 1944.

(Sievers-Direct)

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Q What did you do in Stoumont on that day?

A I was committed there with my company and the first job I had was to search the locality for prisoners of war and to secure it with one part of the company toward the north. There were prisoners of war brought in continuously who were led back.

Q Did you give any orders on that day to shoot prisoners of war?

A No.

Q Did you give at that time any order to shoot prisoners of war with a bazooka?

A No.

Q Were you in a castle or a chateau in Stoumont on the 21st of December?

A Yes.

Q What happened?

A On the 20th of December I was thrown out of the castle by an American counter attack. Sturmbannfuhrer Poetschke gave me the order on the same day to start another counter attack in order to get back the lost positions. This counter attack took place at 2300 hours. I entered the castle with my platoon and again took this castle but I could not take over the old main front line because the Americans were in there solid. The Americans tried to throw me out of the castle again on the 21st and the battle again started around the castle on the 21st and it was a very hard fight. The Americans were shooting in there with tanks and bazookas.

Q When you say shooting in there, are you referring to the castle or chateau?

(Sievers-Direct)

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A Yes.

Q Continue.

A One room after the other was taken away from me and at the last I was the happy owner of the kitchen only. All afternoon we were fighting over the kitchen. Since I had to defend myself I had one bazooka shot along the hall but never on surrendered prisoners of war. Since the Americans were shooting into this building with tanks and probably didn't know that their own troops were in the castle and had occupied all the rooms, naturally, the Americans yielded when they were shooting in there with tanks and tank destroyers.

Q Did you ever tell Rumpf, the accused Rumpf that you shot American prisoners of war while you were in that castle?

A No.

Q Have you heard Rumpf's written statement, received in evidence, Prosecution Exhibit P-55?

A Yes.

Q You remember he said in that statement the following: That you said, "I have shown them what it means to irritate the old Sievers." Did you say that?

A I might have said that they are not going to succeed in throwing me out of the castle. If I said, "the old Sievers" or not I do not know.

LT. COLONEL DWINELL: There was one question, may it please the Court, concerning an incident in either Buellingen or in Honsfeld in which I evidently made an error. I would like to ask that question on redirect and

(Sievers-Direct)

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in the meantime I could check to see what the other was.
No further questions.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q Sievers, how old are you?

A 31.

Q How long had you been a Company Commander at the time of this Eifel Offensive?

A In a replacement battalion?

Q Do you mind on cross examination testifying from what you remember and from what you know and if you want to refer to your notes, ask for them and I will hand them to you.

A I don't need any notes.

Q How long had you been a company commander at the time of this offensive?

A I took over the 3rd Pioneer Company around the 15th of October 1944.

Q What company had you commanded prior to that?

A One company at a replacement battalion.

Q How long had you been commander of that company?

A I had several because those were training groups.

Q How long had you been an officer at the time of this offensive?

A Since the 21st of February 1943.

Q How long had you been in the SS at the time of this offensive?

A Since 1936 I have been in the Waffen SS.

Q And what were you in before you joined the

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(Sievers-Cross)

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Waffen SS?

A In the Labor Service.

Q You were in the Allgemein SS?

A No.

Q Were you a Party member prior to 1936?

A No.

Q You were the first officer in the 1st Panzer Regiment, were you not, Sievers? You even told the investigators that there were such things as sand table exercises at Weilerswist, is that not true?

A I don't know that.

Q There were sand table exercises at Weilerswist, were there not?

A In the vicinity of Weilerswist.

Q And the only thing wrong in your statement about those sand table exercises is what went on there, is that correct?

A I don't understand.

Q Did you not testify with respect to the statement you made at Schwabisch Hall concerning what took place at the sand table exercises at Weilerswist?

A Yes.

Q And you said that the statement in that affidavit with respect to terror methods and so forth had not been discussed at these sand table exercises was incorrect?

A Yes.

Q And you say now that is the only thing in that statement Prosecution Exhibit Number P-12 that is incorrect?

(Sievers- Cross)

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A I didn't write anything about terror methods in P-12.

Q That is a mistake on the part of the Prosecution. I am referring to Prosecution Exhibit P-25, Sievers. Did you say anything about terror methods in Prosecution Exhibit P-25?

A Yes.

Q That was the second statement you had signed and had been sworn to, is that correct?

A Yes.

Q That one was dated the 27th of February and Prosecution Exhibit P-12 was dated the 25th of February?

A Yes. P-25 on the 26th and 27th.

Q I refer you to Prosecution Exhibit P-25, which is the statement signed by you dated 27 February 1946 and I will refer you especially to the sketch I attached thereto. Is that correct, substantially?

A Yes.

Q I refer you to sketch II which is a drawing of the forester's house in the Blankenheim woods, attached to Prosecution Exhibit P-25 and ask you if that is substantially correct?

A As far as I could imagine it, this sketch is correct. I was there only once.

Q In other words, you drew those two sketches from your best recollection?

A Yes.

Q And sketch number III attached to the same exhibit shows the general location of the Regimental CP

(Sievers-Cross)

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there in the Blankenheim Woods, does it not?

A Yes, it is shown there.

Q You drew those three sketches by yourself without any help from Lieutenant Perl or Mr. Thon, is that not true?

A Yes.

CAPTAIN SHUMACKER: If the Court please, I believe this would be a good place to stop.

DEFENSE COUNSEL: I would like at this time to request the papers that were taken away from the accused be turned over to the Chief Defense Counsel for holding until we recess.

PRESIDENT: Court will recess until 1530 hours.

(Whereupon court recessed until 1530 hours.)

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(Whereupon at 1530 hours the Court reconvened.)

PRESIDENT: Take your seats. The court will come to order.

PROSECUTION: If the Court please, let the record show that all the members of the Court, all the members of the Prosecution with the exception of Lt. Col. Crawford, who is absent on business of the Prosecution and Capt. Byrne, who has been excused by verbal orders of the Commanding General, all the members of the Defense with the exception of Dr. Pfister, Dr. Leer, Dr. Wieland and Dr. Leiling who are absent on business of the Defense, all of the defendants and the reporter are present.

DEFENSE: The Defense recalls the accused, Franz Sievers.

FRANZ SIEVERS, one of the accused, resumed the stand and further testified through an interpreter as follows:

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY PROSECUTION (CAPT. SHUMACKER):

Q I believe you stated on direct examination, Sievers, that during the course of the first interrogation on 25 February 1946, Mr. Thon, one of the interrogators changed his method of interrogation?

A No, I said 1st Lt. Perl.

Q You recognized this change immediately and the method of interrogation was employed?

A Yes, because he took me to the window into the machine room.

Q Where is it he took you?

A He took me to the window and said, "Sievers, look out here, look at the two ball courts. All the men who are playing ball down there are men of the LSSAH, they confessed and now they can play". And then he took me down to the machine room, and he allowed me to take a look through the door and told me, "All of them are men from the LSSAH, they did not confess and they could get along as well as the other ones".

(Sievers - Cross)

Q And that completely fooled you, didn't it?

A No, on the contrary. I denied the whole thing until the 26th of February, that is, that I did not get the order. In the meantime, I was treated differently.

Q Do you mean to tell me then that this date that you wrote underneath your signature, of 25 February is wrong?

A The first sheet is missing.

Q The sheet with the date on it and your signature isn't missing, is it?

A That's an entirely different statement.

Q This statement has to do with the orders you received, does it not?

A No. I didn't state anything in this statement about orders. This statement wasn't even read.

Q Well, here's a statement marked Prosecution Exhibit No. 12. What date appears on that statement?

A The 25th of February, 1946.

Q Do you say that that is a lie too? Is that correct?

A The statement is correct, yes.

Q Is that date correct?

A The date was added upon order of Capt. Shumacker.

Q You mean this date is written in my handwriting beneath your signature?

A No. I had to put it down upon his orders. I didn't say that he put it down, I had to do it upon his orders.

Q Do you mean to tell me that I put this oath on here, using the wrong date?

A Why do you mean that? I don't understand you.

Q Do you mean I used a false oath on the date that is attached to the oath in this statement? This bears the 25th of February 1946.

A No, the oath does not bear the date from the 25th of

(Slevers - Cross)

February 1946.

Q Can you read English?

A No.

Q How do you know it doesn't bear the date of the 25th of February 1946?

A Because I had to change it again on the 9th of March.

Q What are those two figures right there (indicating)?

A You put it down, the 25th.

Q That is my writing, isn't it? You saw me write it, didn't you?

A Yes.

Q To refresh your recollection, I will read this short statement: "On December 15, 1944, I received in a forrester's house or hunting lodge, near the woods in Blankenheim, at a Company Commander's meeting the order: 'If it is necessary and the situation necessitates it, take no prisoners of war'. The Company Commanders of the 1st Battalion were present at this meeting; furthermore a Hauptsturmfuehrer of the 2nd Company of the 501st Section, King's Tiger, only I was present from my Company." Signed, Franz Sievers, 25 February 1946, sworn to and subscribed before me this 25th day of February 1946 at Schwaebisch Hall, Germany, and signed Raphael Shumaeker, Capt., GMP.

Now, you still deny that you were interrogated and made a statement with respect to orders you got on the 25th of February 1946?

A I made a statement on the 25th of February 1946, and that was the same one, but since Capt. Shumaeker couldn't read it I had to write it on the 9th of March, and upon orders of Capt. Shumaeker I had to put down the 25th of February, that the statement had the same date as when the interrogation took place.

Q Now, you say that you made a statement on the 25th of February 1946, on this same subject, but I couldn't read your statement so you had to rewrite it on the 9th of March, is that right?

(Sievers - Cross)

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A Yes, and the oath on the old statement was torn off.

Q Sievers, do you remember when I administered the oath to you?

A Yes.

Q Did I use an interpreter to translate the oath to you?

A Yes.

Q What gives you the idea that I can read German if I have to have an interpreter to translate an oath?

A Read German? I don't know that Capt. Shumacker can read German.

Q Didn't you just testify, less than two minutes ago, that the reason you had to rewrite this statement was that I couldn't read it?

A Well, that was like this. In the office, where the statement was supposed to be translated, they couldn't read the single words, and Capt. Shumacker told me to rewrite it because they couldn't read the words.

Q So now it is somebody else who couldn't read your statement, is that correct?

A No, it was Capt. Shumacker who told me, through an interpreter, that the statement was illegible and I had to rewrite it.

Q And what did you do, take your old statement and try to write the words more plainly, is that correct?

A I wrote exactly the same words, with the exception of one word, and that was a "state of affairs" that was added.

Q So your only complaint about Prosecution's Exhibit No. 12 is that it should have been dated the 9th of March instead of the 25th of February?

A No.

Q And you say the words, "state of affairs" was added?

A Yes. I draw Capt. Shumacker's attention to that fact.

(Sievers - Cross)

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Q Well, see if you can find it in here.

A It is right here.

Q Well, it is important; let's get it straight. If it is "state of affairs", I can't see it in the translation.

INTERPRETER: It may be my fault, in translating that as "state of affairs", which should be translated here as "situation".

PROSECUTION (CAPT. SHUMACKER): (To Interpreter) I suppose you had better translate those remarks to the Defense counsel and accused.

QUESTIONS BY PROSECUTION (CAPT. SHUMACKER):

Q So then, as I understand it, Sievers, the way your first statement read was: "If it is necessary, take no prisoners of war", and then when you wrote this one, which you claim was prepared in March, you made it read this way: "If it is necessary, and the situation necessitates it, take no prisoners of war".

A Well, it says there, "When it is necessary".

Q And otherwise the two statements were the same?

A Yes, they were the same.

Q So coming back to the original question then, you were interrogated and you did make a statement on the 25th of February about orders with reference to prisoners of war?

A Yes, like it did there.

Q Now, I believe you testified on direct examination that you did not make a speech of any kind to the men of your Company in Satzvey?

A No, I did not make any speech.

Q Was one of your platoon leaders named Sietz?

A Yes.

Q Did you attend a meeting that he conducted and did you hear the speech that he made to the men of your Company in Satzvey?

(Sievers - Cross)

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A No.

Q So you don't know what he told the men of your Company on or about the 12th or 13th December 1944?

A He gave them the orders which I gave him; that is what he told the Company.

Q Were you there?

A No.

Q You didn't hear what he told your men, did you?

A No.

Q You only know the orders that you gave him to pass on, is that correct?

A Yes.

Q And you gave him no instructions whatever about prisoners of war, did you?

A No.

Q I will ask you if this portion of Prosecution's Exhibit No. 25, which is your statement dated 27 February 1946, is correct: "During the days prior to my departure from Satzvey - I can't state the exact day - I was twice at the regimental CP in Woilers-nist. We left Satzvey on the 12th or 13th of December 1944". Is that part correct?

A Yes.

Q I will ask you if this portion of Prosecution Exhibit No. 25 is correct. You are here referring to the orders you were given orally by Poetschke on 15 December 1944: "I don't know any more if we were to publish the contents of the described secret order to all men of the company, or if the platoon leaders were only to be acquainted with this hideous measure. I assumed the latter and published it in this form to my platoon leaders only. I did that on the evening of December 15, 1944". Is that correct?

(Slevers - Cross)

A I told my platoon leaders what I stated before on direct examination, and not a regimental order. I never saw a regimental order.

Q You never laid eyes on a regimental order or orders, did you Sievers?

A Not the way it is contained in there.

Q I am talking about the regimental orders of the 1st Panzer Regiment, issued on the night 15 December 1944, prior to the Eifel Offensive. Did you see it or not?

A No.

Q So you don't know what was in it, do you?

A No.

Q It never did come down to your Company, did it?

A I might have gotten a regimental order, but I already emphasized, not such an order.

Q Who were your platoon leaders at this time?

A 2nd Lt. Seitz, Sgt. Beutner, 2nd Lt. Kampfe, and Sgt. Thoma.

Q How many of those officers went with your Company into the Offensive?

A All of them.

Q Kampfe went with you too?

A He left with me on the 16th of December.

Q I will ask you if this paragraph in Prosecution Exhibit No. 25 is correct: "The platoon leaders who I gave these orders were, Untersturmfuehrer August T. Seitz, Untersturmfuehrer Rudi Kampfe and Oberscharfuehrer Max Beutner. At that time I did not read the regimental order to them because the document was only read to me - it was not given to me - therefore I said to my platoon leaders that the enemy resistance had to be broken, if necessary, by terror and if the situation requires it, to shoot prisoners of war". Is that paragraph (Sievers - Cross)

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correct?

A No.

Q Well, if you...

A I did give instructions to my platoon leaders in the evening, but the other things are not correct.

Q And after you gave instructions to your platoon leaders, where did you go and what did you do?

A I sat in my vehicle.

Q Did you go to sleep?

A I don't know that any more today.

Q Did you attend the meetings held by your platoon leaders of your three platoons?

A If I called the platoon leaders, I must be present.

Q Did you attend the meetings of your platoons held by your platoon leaders?

A Of the platoons, no - not on the 15th. There were no assemblies of my Company, nor were there any platoon conferences, because I gave only preliminary orders to my platoon leaders for a possible commitment. And during the night from the 15th to the 16th, when I got the order from my regiment, I called the platoon leaders to me and gave them instructions for the operation.

Q And you know that they did not assemble their respective platoons?

A I did not see that, and as I found out there were no assemblies on the 15th.

Q Do you know of your own knowledge, Sievers, whether or not the platoons were assembled by their respective platoon leaders?

A The 1st Platoon was not assembled, I know that for sure, and I can say the same thing about the 2nd. I don't know what the 3rd and 4th platoons did, because I was not up there where they were stationed in another place, in Engalgau Forest.

(Sievers - Cross)

Q And they didn't go with you into the Offensive, did they?
I mean the 3rd and 4th Platoons?

A Yes, they went into the Offensive on the 16th.

Q How far did they get?

A The 3rd and 4th Platoon went up to Losheim with the armored group, and then they were detached because of the bad road situation, and they fell out and later on rejoined the Pioneer Battalion.

Q So, actually they didn't participate in the Offensive, did they Sievers?

A They participated in the Eifel Offensive, but not with the Panzer Regiment but with the Pioneer Battalion.

Q They didn't participate under your command, did they?

A No.

Q Now, when you were at Satzvey, you had no information at all about this Offensive, did you?

A No, because I didn't know anything about this Offensive.

Q So the men of your Company were sent into the Offensive without any orders or instructions whatsoever from either you or the platoon leaders, is that correct?

A No. My men were instructed the morning of the 16th.

Q And who instructed them on that occasion?

A The platoon leaders or the squad leader.

Q Were you present at all those instructions of all those four platoons?

A No. I gave orders to the platoon leaders to instruct the men.

Q And were you present at any of the meetings of the platoon held on the 16th of December 1944?

A No.

(Sievers- Cross)

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Q And what specific instructions had you given your platoon leaders about prisoners of war?

A Instructions were the same contents which I received from the Panzer Regiment in the evening of the 15th.

Q I ask you again, what instructions did you give your platoon leaders with respect to the treatment of prisoners of war?

A That it was not our task to bother about prisoners of war, it was our task to break through the lines of the enemy, and our orders said to get to the Maas as fast as possible, that the following infantry will clean the areas and will take care of the prisoners.

Q Now, is that all you told them?

A I might have said one or another word more, but the substance was the same.

Q Very well. Now, what instructions did you give them with respect to what they should do if the enemy insisted upon surrendering to them?

A They did, when we had to take prisoners -- that is, they would be sent back to the rear along the route of advance, along a column, and the column had the length of about 15 to 20 kilometers.

Q And you didn't know what protection or what support you had on your flanks, did you?

A That the infantry was coming behind us, would be coming behind us, and then -- and that we were on the road with all our vehicles, the enemy would not attack us.

Q Now, I ask you again Sievers, and request that you answer the question. You did not know, and it was no concern of the armored column what support it had on its flanks or what the enemy was doing on its flanks. Isn't that what you just testified to on direct examination, in substance?

A What they would do with our flanks, I did not talk about our flanks up to now.

(Sievers - Cross)

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Q You did not say on direct examination that you would drive ahead swiftly and would not pay any attention to your flanks?

A That I said that we were not to bother about what happens on the left and on the right side of the road.

Q Well, isn't that the same thing as not paying any attention to your flanks, Sievers?

A Well, it is the same, but I didn't know what you meant with "flanks".

Q Now, if you didn't know what the situation was on your flanks, you were still just going to let the prisoners of war who had surrendered walk down the road towards the rear, along the route of your advance, is that right?

A Yes.

Q And it was no concern of yours whatever if these prisoners who had been captured returned to enemy lines?

A They couldn't go back to the enemy lines, because they had to march along our marching columns, and I already said that our marching column had a length about 15 to 20 kilometers.

Q And your infantry behind - on foot behind, was going to be right behind the last vehicle in the column, is that right?

A They came behind on foot, all on vehicles, and we also had a parachute regiment.

Q There was no urgency about getting these prisoners back to the Division C.P. was there?

A They were taken over right away by the infantry and the infantry had to direct them.

Q Now, you say Mr. Thon and Lt. Perl, the interrogators who questioned you at Schwaebisch Hall, never did fool you, is that right?

A Well, they even mistreated me.
(Sievers - Cross)

Q You understood that they were putting on an act, in an effort to convince you to tell the story about the orders and prisoners of war who were shot in this Offensive?

A Well, I told them that I did not know such an order, and this P-25 was forced with a false statement.

Q How tall are you, Sievers?

A One meter and eighty-three.

Q And what do you weigh?

A I don't know that.

Q Well, about how much do you weigh?

A A hundred and fifty pounds.

PROSECUTION (CAPT. SHUMACKER): Would you mind standing out on the rug, in front of the witness chair (to Lt. Perl)?

DEFENSE (LT. COL. DWINELL): May I ask what the purpose of this is? I would like to ask the Court, I would like to find out from the Prosecution what the purpose of this demonstration is, what real or relative value it has and what probative value?

PROSECUTION (CAPT. SHUMACKER): I understand that the accused is testifying before this Court that he was forced to sign a statement, and it is implied that Lt. Perl here is the man who forced him to sign it. I would think it might be interesting for the Court to look at these two men and compare their sizes to determine the credibility of this witness' testimony.

DEFENSE (LT. COL. DWINELL): I believe the Court has been able to see the accused, Sievers, and Mr. Thon for several days in Court.

LAW MEMBER: The Court will take notice of those facts.
The objection is sustained.

QUESTIONS BY PROSECUTION (CAPT. SHUMACKER):

Q Now, I believe you were asked on direct examination about (Sievers - Cross)

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these prisoners of war who were shot in Stoumont, according to Sprenger's statement and according to Hofman's statement on 19 December 1944?

A Yes.

Q And you said that that is the first time you have heard about that case, is that right?

A The case - Sprenger - yes.

Q What did you mean by your answer? When was the first time you heard about that case? Was it when it was mentioned in court here the other day?

A No.

Q When you heard Sprenger's statement read in Court?

A No.

Q Well, when was the first time you heard about it?

A I heard about that right in Stoumont, on the 19th of December. It was even reported to me.

Q In other words, you do know then that prisoners of war were shot by Sprenger in Stoumont on the 19th of December 1944, is that right?

A I heard it.

Q And what disciplinary action did you take against Sprenger?

A When that was reported to me by the Sgt. Schaefer, I first did not believe it, and in the second place I was - we were in operations, and on the 21st I detached myself from the enemy and went into position again on the 22nd, and on the 23rd I moved out of the encirclement.

Q Now, would you mind answering my question, what disciplinary action did you take against Sprenger?

A None at all, because I didn't believe that he shot anybody there.

Q Where were you in Stoumont when you were told about the (Slevers - Cross)

shooting of these Fw's?

A In the castle, I believe.

Q That is the castle on the west side of Stoumont?

A Yes.

Q And that was about four or five hundred meters from this little pathway where these prisoners were shot?

A I don't know where the prisoners were shot.

Q What did Schaefer tell you when he reported to you about it?

A I had sent Schaefer to Oberscharfuehrer (Sergeant) Beutner with an order, and later on Schaefer related to me about those matters.

Q And how many did he tell you Sprenger shot?

A I don't know that any more today, two or three, and I didn't put it into my statement either. I believe I wrote down, two -- I don't know any more how many Schaefer said.

Q Sievers, I am not asking you about what you wrote down, I am asking you how many prisoners Schaefer told you Sprenger had shot. Do you know or not?

A Two or three.

Q And you just shrugged your shoulders and didn't believe, and consequently didn't make any investigation?

A I want to add something. I am not through yet with my sentence.

Q Go ahead.

A At that time I learned from Schaefer in Stoumont that somebody had been shot, but at that time I didn't know yet by whom. Later on I only found out in Zuffenhausen that Sprenger had shot some, and therefore I assumed that those were the ones who had been shot by Sprenger. And that is the way I put it down in my statement, in the firm belief it was the truth.

Q And so, at the time Schaefer made this report to you, you didn't know that the man he was talking about was a member of your (Sievers - Cross)

Company, did you?

A Yes.

Q You did know he was a member of your company?

A Yes.

Q But you didn't know his name?

A I heard that somebody had been shot, but I did not know exactly by whom.

Q And you didn't ask Schaefer who shot him?

A No.

Q And you didn't find out until you got to Zuffenhausen in November or December 1945, is that right?

A Then I assumed that those could be the ones.

Q But Schaefer told you that the man in your Company had only shot two or three?

A Yes.

Q Now, you deny that you were at that road intersection, in front of the store when these two groups of American prisoners of war were brought in? I am talking about the two groups mentioned in Spronger's statement. You remember those, do you not?

A I was not there at the time Spronger shot them and didn't see it either.

Q Were you there when the two American prisoners brought a wounded German to the road intersection in Stoumont, shortly before noon on 19 December 1944?

A I did not see them.

Q You were not present in the group with Sprenger, Hofmann, Rose and Fichler?

A No, not at that time.

Q Those names I have mentioned are names of men in your Company, are they not?

A Yes.

(Sievers - Cross)

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Q And you were not present about a half hour later when two more Americans, bringing a third wounded American on an improvised stretcher, showed up at the same intersection?

A I stayed with the vehicles only about fifteen minutes, and the matter Capt. Shumacker wants to bring up is somewhat different.

Q I am asking you, Sievers, if you were present on a street intersection in Stoumont, on 19 December 1944 with two American prisoners of war who brought a third wounded prisoner in on an improvised stretcher?

A Yes, I saw them.

Q And what did Schaefer say to you as to what should be done with these prisoners?

A Schaefer came to me and asked me what he should do with the prisoners of war, that is, with the wounded one, and I ordered that he was to be brought to the aid station.

Q And what was done with the other two?

A I don't know that.

Q And you didn't hear Schaefer give Sprenger and Billoschetzky orders on that occasion to take these three down and bump them off at the same places - at the same place he had killed the two a half hour before?

A No.

Q And if Schaefer gave such an order as that, it was not in your presence and you did not approve?

A I never heard Schaefer give such an order.

Q Do you deny that Schaefer, on this occasion, asked you if these prisoners shouldn't be bumped off?

A I don't remember this any more today, from the 19th of December.

Q You know that Schaefer was the group leader of your Company, do you not?

(Sievers ← Cross)

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A Yes, the Company group leader.

Q He certainly knew how to handle prisoners of war, did he not?

A Yes.

Q There would be no reason for him to ask you if these prisoners shouldn't be bumped off, was there?

A No reason? I don't understand the question.

Q I hand you a paper and ask you if you remember writing and signing that statement?

A Yes.

Q I will ask you if that statement contains the following paragraphs: "On the 19th December 1944, in Stoumont, Oberscharfuehrer Willi Schaefer asked me if he should shoot the two American prisoners of war. His words were: 'Obersturmfuehrer, shall these two be bumped off', pointing to the prisoners. About this question I was remorsefully moved, because I knew there existed an order not to incommode ourselves unnecessarily with prisoners of war."

Followed by these two paragraphs: "Therefore, I would have without doubt forbid Schaefer to shoot the prisoners if I could have acted out of my own will and conclusion."

Now you admitted that that was true, to Lt. Perl, up to that point did you not?

A This was dictated by me that way, by Lt. Perl, and I was even supposed to write something else.

Q And this is what else you were supposed to write, isn't it? You were supposed to write in the next paragraph that because you were remorsefully moved you did not want to have these prisoners shot, but you saw Diefenthal coming down the street, and you weren't sure about his attitude, so you told Schaefer to go ahead and have them bumped off. But instead of writing that, you wrote the following (Slevers - Cross)

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paragraph, didn't you? "Unhappily at this moment Sturmbannfuhrer Diefenthal came towards me. I didn't know Diefenthal's ideas on the question of shooting of prisoners. Exclusively, for this reason, I said in response to Schaefer's question if he should bump off the prisoners that they should be sent to the dressing station, but apparently nodding". Now, is that true or not?

A The whole statement was dictated to me, and what it contains in substance is correct, that Schaefer asked me what was to be done with the prisoners and that I ordered that they were brought to the aid station, and then I went away with Diefenthal to the curve. But let Lt. Perl dictated it to me that way, and if I wouldn't have objected, something else would be contained in the statement.

Q Now, Sievers, until you told Lt. Perl about seeing Diefenthal up the street, he certainly didn't know that Diefenthal was anywhere around that intersection, did he?

A I related it to him the way I just said it here now, and then it was dictated to me the way the statement reads now.

Q How did you learn at Zuffenhausen, in November or December 1945, that it was Sprenger who had shot these prisoners in Stoumont?

A I already said before that I assumed it, in this statement, and that I found out in Zuffenhausen that Sprenger had shot two people and assumed that it was he who did it.

Q Well, I am asking you, Sievers, how did you find out and how did you learn in Zuffenhausen that it was Sprenger who shot the prisoners of war in Stoumont?

A Because I heard about some shooting by Sprenger in Zuffenhausen.

(Sievers - Cross)

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Q From whom did you hear it?

A From Hofmann.

Q That is the same Hofmann whose statement you heard read here in court, is it not?

A Yes.

Q Now that was before either you or Hofmann or Springer were interrogated by Lt. Perl or anybody else with reference to what happened in Stoumont, was it not?

A Will you read the question?

(Whereupon the question was read by the reporter).

A Yes, it was prior to the interrogation.

Q How long had Schaefer been a member of your company prior to 19 December, 1944?

A He already was with the company when I got there.

Q You had confidence in him as a leader, did you not?

A I had to have confidence in him.

Q Can you explain to the court why he should have to ask you what to do with three prisoners of war, one of whom was wounded?

A At that moment T/Sgt Sievers probably did not know what he should do with the prisoners.

Q Is that the best explanation you can make?

Yes; and then he asked me what he was supposed to do with them and I told him that they were to be brought to the aid station.

PROSECUTION (Capt Shumacker): No further cross.

DEFENSE COUNSEL: No redirect examination.

PRESIDENT: Any questions by the court?

LAW MEMBER: Do I understand you withdraw your reservation?

DEFENSE COUNSEL (Lt. Col. Dwinell): Yes, sir; I am not going to ask that question.

PRESIDENT: There being no questions by the Court, the witness is excused.

(Whereupon the witness was excused and resumed his seat.)

PRESIDENT: There being no questions by the court, the witness is excused.

DEFENSE COUNSEL: The Defense calls as its next witness Oskar Trott. Col. Dwinneel, on behalf of the defense, will conduct the direct examination.

OSKAR TROTT, called as a witness for the Defense, was sworn and testified through an interpreter as follows:

QUESTIONS BY DEFENSE COUNSEL (Col. Dwinneel):

DIRECT EXAMINATION

Q What is your name?

A Trott. Oskar.

Q During the Eifel Offensive in December 1944 and January 1945, to what unit did you belong?

A To the 3rd Panzer Pioneer Company of the 1st SS Panzer Regiment of the LSSAH.

Q To what platoon in the company did you belong?

A To the first platoon.

Q Who was your company commander?

A Obersturmfuehrer Franz Sievers.

Q Is he an accused in this case?

A Yes.

Q If you saw him again, would you recognize him?

A Yes.

Q Take a look at the prisoners in the dock on your left and see if he is among those present?

A No. 59.

Q Who was your platoon commander?

A Untersturmfuehrer August Seitz.

Q On the 15th of December 1944 was there a meeting of your company?

A No, there was no meeting.

Q Was there a meeting of your platoon?

A No, not that, either.

Q On that day, what were your duties?

A I was commander in an SPW.

Q Who was your squad leader?

A Sgt. Dextra.

Q Did Dextra give you any instructions on that day about the offensive?

A No.

Q Did he say anything about the treatment of prisoners of war?

A No.

Q On the 15th or 16th of December, did Seitz have a platoon meeting?

A No.

Q On the 15th of December, or the 16th of December, 1944, did any officer or noncommissioned ^{of-}ficer tell you that prisoners of war would be shot in the coming offensive?

A No.

Q Or that the enemy resistance would be broken by terror?

A Not that, either.

Q Or that Belgian civilians would be shot?

A No.

DEFENSE COUNSEL (Col. Dwinne1): No further questions.

PROSECUTION: No cross examination.

PRESIDENT: Any questions by the Court? Apparently none.

The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

DEFENSE COUNSEL: Defense calls as its next witness Rudolf Kaempfe. Col. Dwinne1, on behalf of the defense, will conduct the direct examination.

RUDOLF KAEMPFE, a witness called on behalf of the Defense, was sworn and testified through an interpreter as follows:

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(Trott - direct)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Col. Dwinne1):

Q What is your name?

A Rudolf Kaempfe.

Q During the Eifel Offensive on December 1944 and January 1945, to what unit did you belong?

A The 3rd Panzer Pioneer company of the Pioneer Battalion of the SS Leibstandarte.

Q To what platoon did you belong?

A Third platoon.

Q Who was your company commander?

A 1st Lt. Sievers.

Q Is he an accused in this case?

A Yes.

Q Would you be able to recognize him if you saw him again?

A Yes.

Q Take a look at the prisoners in the dock on your left and see if he is among those present?

A PROSECUTION (Capt. Shumacker): If the court please, if it will save time, the Prosecution will concede that the accused is wearing 59.

A Yes, I see him.

Q Did you command the third platoon?

A Yes.

Q On the 15th of December, 1944, was there a meeting of your company?

A No.

Q Did you have a meeting on the 16th?

A No, not that either.

Q Did you have a meeting of your platoon on the 15th?

A No.

Q On the 15th of December, 1944, did you receive any orders from anyone concerning the treatment of prisoners of war?

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A No.

Q During the 15th or 16th of December did anyone tell you that during the Offensive, prisoners of war were to be shot?

A No.

Q Or that the resistance of the enemy was to be broken by terror?

A No.

Q Or that Belgian civilians would be shot?

A No.

DEFENSE COUNSEL (Col. Dwinell): No further questions.

PROSECUTION: No cross examination.

PRESIDENT: Any questions by the Court?

COL. WEYLAND: Did the men of your company, or your platoon, gather around the fires during the night of the 15-16 December 1944?

A No.

LAW MEMBER: At any time, did you orient the men of your platoon with respect to the Eifel offensive?

A No.

PRESIDENT: Any other questions by the Court? Apparently not. The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

DEFENSE COUNSEL: Capt. Narvid, on behalf of the accused, Hans Hendel, has a stipulation to offer.

DEFENSE COUNSEL (Capt. Narvid): The Defense offers in evidence a stipulation entered into by the Prosecution and the Defense, dated the 7th of May, 1946, and asks that it be attached to the record and marked Defense Exhibit D-4.

PROSECUTION: No objection.

PRESIDENT: There being no objection, the Exhibit offered in evidence will be admitted in evidence and marked Exhibit D-4.

(Kaempfe - direct)

(Whereupon the document referred to above was marked Defense Exhibit D-4 for identification, was received in evidence as Defense Exhibit D-4, and the same is attached hereto and made a part of the record.)

DEFENSE COUNSEL: Defense asks permission to read Exhibit D-4. Captain Narvid.

PRESIDENT: Granted.

(Whereupon Defense Exhibit D-4 was read as follows:

"It is hereby stipulated and agreed by and between the attorneys for the prosecution and the attorneys for the defense, that upon the trial of Hauptscharführer HEINZ HENDEL, 2nd Platoon, 11th Panzer group Company, 3rd battalion, 2nd Panzer group Regiment, LSSAH, an accused, the following facts will not be disputed;

"1.) The said accused was wounded in his neck some time in the afternoon of the 17 December 1944 at Lignusville.

"2.) The said accused was evacuated to the rear on 18 December, 1944, at about 1000 hours from Stavelot, Belgium, and sent to Berlin to be hospitalized.

DATED 7 May 1946."

(signed) "Willis M. Everett, Jr., Col. M.I.
Chief Counsel for Defense
"Burton F. Ellis, Lt. Col., A.G.D.
Chief Counsel for Prosecution."

PROSECUTION: One correction there, Captain. You read the abbreviation "Gr.", group; I think that should be "Grenadier".

DEFENSE COUNSEL (Capt. Narvid): Panzer Grenadier Regiment.

DEFENSE COUNSEL: AT this time Lt. Wahler desires to get a ruling from the court.

DEFENSE COUNSEL (Lt. Wahler): May it please the Court, at this time we would like to have the court give us a ruling concerning the latitude of cross examination, where an accused is called merely as a witness in behalf of another accused, his testimony on direct examination being restricted only to testimony concerning a state of facts of the particular accused in question. That is, not the witness, but the accused for whom he is testifying. In addition to that, we have one further phase. In such an instance we would like to have the Court rule whether or not this accused, who will be testifying purely as a witness and not as an accused, whether under

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such conditions he has the privilege of testifying under oath before this Court. That is all.

PROSECUTION: If the court please, I didn't know before that that was the proper way to get a ruling from the court. I thought you had the thing presented and then an objection was made and then we went into it from that on.

LAW MEMBER: Of course, this is a pretty good time to close the court for the day.

PROSECUTION: If the court please, I would like to be heard on it.

LAW MEMBER: You would like to be heard now?

PROSECUTION: It is immaterial, whether now or in the morning.

LAW MEMBER: Suppose you go on and then we can determine it and rule in the morning. Let us get it translated as we go along.

PROSECUTION: I will make mine very brief. I would like to point out that for the Court to give a favorable ruling to the Defense on this matter would be giving them an edge in the use of witnesses which could not be had by the Prosecution. For the simple reason that the Prosecution cannot call an accused, even as a witness. We would have liked very much to have called the accused Stock to tell about the target practice in LaGleize--

DEFENSE COUNSEL (Lt. Wahler): If the court please, that is not proper argument.

PRESIDENT: The court will take consideration.

PROSECUTION: The accused--it is fundamental in the law of evidence when the accused takes the stand he takes the stand as an accused, not as a witness. He is an accused when the charge is served upon him and we can't call him for something else, and cross-examination of an accused when he is on the witness stand is not limited by the few things that he may choose to testify on. I believe

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that is basic and elemental.

DEFENSE COUNSEL (Lt. Wahler) If the court please, I differ with counsel's use of "basic" and "elementary". The rules of the court do not propound--do not set forth the procedure in the instance that I have requested a ruling in. And in due justice to each defendant here, before we call him as a witness to testify for an incident in which he is not a participant or an accused in the particular incident that he will testify to, we are requesting the court to grant a ruling in this matter, and the court has the power and authority to do that. Under the rules of the court here, the court has the rule-making power to establish methods of trial procedure before the court, and we are requesting that the procedure be announced and passed upon before we jeopardize the rights of any accused in putting them on the stand. That is all I have to say.

PROSECUTION: A few words more, maybe. In the Particulars under the Charge each one of these accused is alleged to have committed various crimes: the crimes of murder, etc., and at all these places: Malmedy, Stoumont, Ligneville, Honsfeld, and LaGleize. We are not limited to them committing an offense in one or two or three different vicinities and places; we allege they committed an offense in every one of them.

LAW MEMBER: Rather than close the court and try to reach a decision on this point this afternoon--are you through?

PROSECUTION: That is about all I have.

LAW MEMBER: --the Court will reserve the decision until the opening of the session tomorrow morning.

PRESIDENT: The Court will adjourn until 0830 tomorrow morning.

(Whereupon the Court at 1650 hours adjourned.)

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Camp Dachau

28 June 1946

(Whereupon Court reconvened at 0830 hours.)

PRESIDENT: Take seats. Court will come to order.

PROSECUTION: If the Court please, let the record show that all the members of the Court, all the members of the Prosecution, with the exception of Lieutenant Colonel Crawford, who is absent on business of the Prosecution, and Captain Byrne, who has been excused by verbal orders of the Commanding General, all the members of the Defense, with the exception of Dr. Rau, Dr. Leiling and Dr. Pfister, who are absent on business of the Defense, all the defendants and the reporter are present.

LAW MEMBER: At the close of the session yesterday afternoon the Defense requested the Court to rule on two subjects as follows:

1. That an accused be permitted to take the stand and testify with respect to another accused concerning incidents with which the accused taking the stand is not connected and that such accused, while on the stand, be given the privileges of a witness, namely, that he be subject to cross examination only on the matters taken up on direct examination.

2. That if such an accused take the stand for the above purpose he be permitted to be sworn.

The second of these two requests will be disposed of first by the Court. There is no doubt that the authorities responsible for formulating the rules governing Military

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Government Courts intended that continental practice to be followed with respect to the taking of an oath by an accused when he testifies. In two specific instances, one, 10(5) which is contained on page 36 of the Technical Manual for Legal Prisoners and Officers, it is stated that in connection with the interrogation of an accused by the Court, "If an accused chooses to testify at a later stage of the trial he may do so but he may not be required to do so and shall not be sworn."

Again in the Guide to Procedure contained in the same volume on Military Government Courts, Section 12 on page 44, it is set forth that, "If the accused elects to take the stand in his own behalf he is not permitted to take the oath. This provision represents a concession to continental practice where the accused is not sworn."

By virtue of the above rules as set forth, the accused will not be permitted to take the oath.

With respect to the first request wherein it is desired by the Defense to use certain accused as witnesses, the following situation presents itself: An accused upon taking the stand to testify subjects himself to the wide latitude of cross examination permitted under the law. To limit cross examination of an accused to those matters propounded by the Defense on direct examination, even if only with respect to another accused, deprives both the Court and the Prosecution of the fundamental privileges of the wide scope of cross examination as stated above. In the Manual for Legal and Prison Officers at page 44, the Court is specifically reminded that it should, in its interrogation of an accused which is permitted at the

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beginning of the trial, "Bear in mind that the accused may choose not to give evidence at a later stage and that there may be no further opportunity to examine."

Again in the Technical Manual, Rule 27 sets forth "that where no procedure has been directed in any matters in a Military Government Court, that court may adopt such procedurs as it sees fit, provided no injustice is thereby done to the accused."

As to the question whether or not an injustice will be done to the accused by not permitting him to take the stand as an ordinary witness, in that case, the Court feels that an injustice will not be done in that the apcused always has the privilege of taking the stand or of making a statement. The request for this ruling on behalf of the Defense is denied.

DEFENSE COUNSEL: May it please the Court, to clarify the record, it is desired to announce that Number 51, who is the accused Max Rieder, is sick and not in the dock.

LAW MEMBER: Who is representing him?

LT. COLONEL SUTTON: I am, sir.

LAW MEMBER: Let the record show that Lieutenant Colonel Sutton is representing the accused Max Rieder during his absence while he is sick in the hospital.

DEFENSE COUNSEL: May it please the Court, at this point in the presentation of the defense, it is respectfully requested that the Court be adjourned for thirty minutes, due to my opinion as Chief Defense Counsel, to rest the case. It will be necessary to poll the accused in this

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case to accomplish this action on account of the right of an accused to take the stand in his own behalf. It is further requested that the courtroom be cleared for this adjournment and that no press release be issued in this matter.

PROSECUTION: No objection on the part of the Prosecution.

LAW MEMBER: To all members of the press who are present: No statement will be released by any member of the press until further notice of this court.

PRESIDENT: The courtroom will be cleared and there will be a recess until 0930 hours.

(Whereupon court recessed at 0850 hours until 0930 hours.)

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(Whereupon Court reconvened at 0930 hours.)

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PRESIDENT: Take seats. Court will come to order.

PROSECUTION: If the Court please, let the record show that all the members of the Court, all the members of the Prosecution, with the exception of Lieutenant Colonel Crawford, who is absent on business of the Prosecution, and Captain Byrne, who has been excused by verbal orders of the Commanding General, all the members of the Defense, with the exception of Dr. Rau, Dr. Leiling, Dr. Pfister, who are absent on business of the Defense, all the defendants with the exception of Max Rieder, number 51, who is sick in the hospital, and the reporter are present.

DEFENSE COUNSEL: May it please the Court, the defendants desire to continue with the case and at this time the Defense having completed the subject of Orders and assemblies at the Blankenheim Forest, we will now proceed to the area around Honsfeld on the 17th of December 1944.

The Defense calls as its next witness the accused Ernst Goldschmidt. Mr. Walters on behalf of the Defense will conduct the direct examination. The Defense contemplates recalling this accused.

ERNST GOLDSCHMIDT, an accused, took the stand and testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the German counsel and the accused.)

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Tk #282-SR-6/28-2

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (MR. WALTERS):

MR. WALTERS: May it please the Court, counsel for the Prosecution.

Q State your full name and age.

A Goldschmidt, Ernst, 26 years.

Q Are you married?

A No.

Q State the number of the platoon and regiment to which you belonged during the Eifel Offensive.

A 10th Panzer Pioneer, 2nd Platoon, Pioneer Battalion.

Q Who was your Company Commander?

A 1st Lieutenant Sievers.

Q Who was your platoon leader?

A Sergeant Beutner.

Q In whose vehicle did you travel during the Eifel Offensive?

A In Beutner's SPW.

Q And who else was in that SPW besides yourself and Beutner?

A Dickmann, Hammerer, Dibbert, Muehlberger, Schlingmann, Hankes or Schneider, one of the two, I don't know which.

Q Where did your platoon assemble just before the offensive?

A We were in the forest of Blankenheim before the offensive.

Q At about what time and on what day did you leave Blankenheim?

(Goldschmidt-Direct)

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A It must have been December 16th.

Q On what day and at about what time of the day did your platoon arrive at Honsfeld?

A We passed through Honsfeld at night.

Q Did you stop at Honsfeld proper?

A No -- in Honsfeld, I don't know. We stopped shortly outside of Honsfeld in the morning after it got light.

LAW MEMBER: Mr. Walters, may I interrupt you? I forgot that at the conclusion, just before the recess, we told the press they could make no further statement. Mr. Rosenstock, you may notify the members of the press they can now release stories.

(Whereupon the interpreter did as directed.)

MR. WALTERS: Will the reporter please read the last answer?

(Whereupon the last answer was read by the reporter.)

QUESTIONS BY DEFENSE COUNSEL (MR. WALTERS):

Q For what reason did you stop just outside of Honsfeld?

A The whole column stopped.

Q Were there combat conditions existing at that time?

A Yes, fire was opened up from Honsfeld after we had stopped for a while already.

Q Was there an air raid attack?

A No, not at that time.

Q Was the point of which you are now speaking on the outside of Honsfeld to the west or to the east?

A West.

(Goldschmidt-Direct)

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Q Did you get out of your SPW when you stopped?

A No.

Q Did you see any American prisoners of war in Honsfeld?

A No.

Q Did you see any at the point where you have testified you stopped?

A No, I didn't see any.

MR. WALTERS: You may cross examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q Goldschmidt, you say you got in Honsfeld during the night of 16 to 17 December, is that right?

A Yes.

Q Do you remember about what time you got into Honsfeld?

A No, I don't know that.

Q Did you stay in the town of Honsfeld proper until it got light before you started out of Honsfeld in a westwardly direction?

A No, when it got light we were standing outside of Honsfeld already.

Q This place where you stopped outside of Honsfeld was some three or four hundred meters from the town itself, was it not?

A I can't say how far it was outside of town.

Q After you left the town of Honsfeld, did you notice the artillery pieces on the righthand side of the road about 50 to 100 meters from the road junction?

A I didn't see any.

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Q Did you notice any American anti-tank pieces in that same location I have mentioned?

A No.

Q Did you notice these two houses on the righthand side of the street just as you left the town of Honsfeld?

A I don't remember any houses in Honsfeld.

Q Do you remember the cemetery on the righthand side of the street just as you left Honsfeld?

A No.

Q Did you see the two houses or the three houses on the lefthand side of the street as you left Honsfeld?

A No, I don't remember.

Q You say it was light enough for you to see when you were stopped at this place you have described?

A It was light enough.

Q Do you remember when Sprenger's SPW passed your SPW as you were stopped there at that location?

A No, I don't know about him passing me by.

Q You were awake while you were there at your SPW, were you not?

A I was awake.

Q Do you remember that some five or six hundred meters beyond this place where you stopped there was a row of trees on both sides of the road some 10 or 15 meters from the road?

A Yes.

Q And it was at that point that one platoon took cover and concealment on one side of the road and the other platoon on the other side of the road, is that not true?

(Goldschmidt-Cross)

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A Yes.

Q And it was at that point where the column was subjected to an air attack, is that correct?

A Yes, that was the place.

Q Do you recall that Max Hammerer, who was in your SPW got out of your SPW and walked up the road towards the vehicles ahead?

A I don't know whether he went out front.

Q You don't deny that he left your vehicle and went up the road, do you?

A I don't know.

Q You were not present then when according to Sprenger's statement he told Sprenger that the men of your SPW had shot those 14 prisoners of war on the lefthand side of the road, just opposite where your SPW was parked?

A I don't know anything of a shooting there.

Q I say, you were not present when Hammerer made that statement to Sprenger?

A No.

Q Do you deny that those 14 American prisoners of war were lying on the lefthand side of the road in a heap just opposite where your SPW was parked?

A I didn't see any.

Q It was daylight?

A It was light.

Q You could see at least 100 meters, could you not, down the road and to either side of the road?

A Yes, you could see.

CAPTAIN SHUMACKER: No further cross.

(Goldschmidt-Cross)

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Tk #282-SR-6/28-7

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (MR. WALTERS):

Q Goldschmidt, did you ever make a written statement for the Prosecution before the opening of this trial?

CAPTAIN SHUMACKER: If the Court please, we object to that question on this ground: The witness, who is an accused, is here in person, able to testify, and the Prosecution has offered no statement by the accused in evidence. Whether or not this accused ever made a written statement for the Prosecution or anybody else is absolutely immaterial.

PRESIDENT: Objection is overruled.

QUESTIONS BY DEFENSE COUNSEL (MR. WALTERS):

Q What is your answer?

A I did make a statement.

Q Was that statement made under oath?

A Yes.

MR. WALTERS: I hand the reporter a statement and ask that it be marked Defense Exhibit D-5 for identification.

(Whereupon the document referred to was marked Defense Exhibit D-5 for identification by the reporter.)

MR. WALTERS: I now hand you Defense Exhibit marked number D-5 for identification and ask you if that is the sworn statement to which you have just referred, or a photostatic copy thereof?

THE WITNESS: It is.

MR. WALTERS: I offer the sworn statement of the defendant Goldschmidt in evidence and ask that it be marked as Defense Exhibit D-5.

(Goldschmidt- Redirect)

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CAPTAIN SHUMACKER: If the Court please, I would like to be heard on this question. We object to the introduction of a written statement made by this witness on the stand at any time because it violates two elementary rules of evidence and procedure. In the first place, it is not the best evidence because the witness is present in court and able to testify about any facts at issue in this case. In the second place, any statement that an accused or a witness has made at any time prior to his appearance in court which he introduces himself is a self-serving declaration and is not admissible. We respectfully submit that any statement that an accused has made which he himself attempts to introduce is incompetent and not admissible for those reasons. We object to the admissibility of this statement for the reasons stated.

PRESIDENT: Have you any argument, Mr. Walters?

MR. WALTERS: In the first place, if your Honor please, the witness, the defendant on the stand is not sworn. This is a sworn statement and is a higher type of evidence than he can give on the stand. In the second place, this court has ruled and has cited many times during this trial, and has adhered to that, that the Court may and will admit any evidence and give it such probative value and weight as the Court deems fit. I believe on those two grounds, either one of them is sufficient to admit this in evidence.

CAPTAIN SHUMACKER: I would like to reply to that argument, if the Court please. As I understand it, the introduction of this sworn statement that is proposed by the Defense is ^asubterfuge by them to get around the rule that

(Goldschmidt-Redirect)

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the accused himself is not permitted to make a sworn statement in court and the argument now advanced by the Defense is very inconsistent with the position it initially took in this case. Going back to this proposition of a self-serving declaration, if it please the Court, if this statement is admitted before this court in evidence, any accused would then be permitted to hand the reporter and introduce in evidence any statement that he has written out in his cell or in his barracks at any time since December 1944 with respect to what happened during this offensive. If he has made a statement for the benefit of his counsel, whether under oath or not, he would be allowed to file that in evidence and offer it in evidence before this court. The fact that he made this statement to the investigators in this case is absolutely immaterial. We respectfully submit the evidence is incompetent and should not be permitted before this court.

PRESIDENT: Any further remarks by the Defense?

MR. WALTERS: Just this, if the Court please:

A sworn statement is admissible here if the sworn statements of the accused in this case were admissible at the beginning by the Prosecution because it is the same type of evidence. Secondly, I believe it is also admissible because it has a bearing on the issues in this case and under the broad rules of evidence in this case, the Court should admit it.

PRESIDENT: Court will recess until 1030 hours.

(Whereupon court recessed at 1000 hours until 1030 hours.)

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(Whereupon Court reconvened at 1030 hours.)

PRESIDENT: Take seats. Court will come to order.

PROSECUTION: If the Court please, let the record show that all the members of the Court, all the members of the Prosecution, with the exception of Lieutenant Colonel Crawford, who is absent on business of the Prosecution, and Captain Byrne, who has been excused by verbal orders of the Commanding General, all the members of the Defense, with the exception of Dr. Rau, Dr. Leiling, Dr. Pfister, who are absent on business of the Defense, all the defendants with the exception of Max Rieder, number 51, who is sick in the hospital, and the reporter are present.

DEFENSE COUNSEL: The Defense recalls the accused Ernst Goldschmidt.

ERNST GOLDSCHMIDT, an accused, resumed the stand and testified through an interpreter further as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the German counsel and the accused.)

LAW MEMBER: Before ruling on the admissibility of Exhibit D-5 for identification, Mr. Walters, will you qualify the statement as to signature and authenticity? You failed to do that.

MR. WALTERS: I thank you for your suggestion, your Honor.

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REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (MR. WALTERS):

Q I now hand you again Defense Exhibit D-5 for identification and ask you if that is signed by you?

A It was signed by me.

Q Was it sworn to by you?

A Yes.

Q Before whom?

A Before Captain Shumacker.

Q One further question, if the Court please.

Is that in your own handwriting?

A Yes, that is my handwriting.

Q Goldschmidt, is this a true and correct facsimile of the original statement which you wrote and signed?

A Yes, it is correct.

LAW MEMBER: With respect to the question and objection on the admissibility of Defense Exhibit D-5 for identification, the Court will admit the exhibit under rule 12 and will place upon it such probative value as it deems fit.

(Whereupon the document referred to, having previously been marked Defense Exhibit D-5 for identification, was received in evidence as Defense Exhibit D-5.)

MR. WALTERS: I present and ask the reporter to mark as Defense Exhibit 5-A, a true and correct English translation of Exhibit D-5, ask that it be admitted in evidence, and if admitted, that the Defense be allowed to read it.

(Whereupon the document referred to was marked Defense Exhibit D-5-A for identification.)

CAPTAIN SHUMACKER: Prosecution objects to
(Goldschmidt-Redirect)

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this exhibit on the same grounds as previously stated.

PRESIDENT: The objection is overruled. The exhibit offered by the Defense is accepted in evidence and will be marked Exhibit D-5-A. It may be read.

(Whereupon the document referred to, having been previously marked Defense Exhibit D-5-A, was received in evidence as Defense Exhibit D-5-A, is attached hereto and made a part hereof.)

MR. WALTERS: If the Court please, I will read the entire statement and ask that the entire statement be translated, is that all right?

PRESIDENT: Go ahead.

(Whereupon Mr. Walters proceeded to read Defense Exhibit D-5-A as follows:

"I, Ernst GOLDSCHMIDT, being first duly sworn, make the following statement, under oath:

During the EIFEL Offensive in December 1944, I was a Rottenfuehrer in the 2nd platoon and 3rd Panzer Pi. Co., 1st Pi. Bn. LSSAH. My Company Commander was Obersturmfuehrer Franz SIEVERS and my platoon leader was Unterscharfuehrer Max BEUTNER. During this offensive I drove the SPW of Unterscharfuehrer Max BEUTNER.

I have never heard of any order that prisoners of war will not be taken either prior to the offensive or while the offensive was in progress. It was my understanding that if prisoners would be made they would be treated in accordance with the rules of the Geneva Convention. I believe the offensive started on 16 December 1944. On the 2nd day of the offensive during the morning hours, we passed through HONSFELD, an airfield that was to the left of the road and BUELLINGEN, where we gassed up. After BUELLINGEN we drove cross-country and through the woods and arrived in the early afternoon hours at a large road crossing. After we had turned to our left I saw a pasture or field to the right of the road in which, according to my estimation, about 60 dead American soldiers were lying. I donot know how or why these people had been shot. Prior to our arrival at the above mentioned road crossing I did not see any dead American soldiers who lay huddled in a group. My SPW did not stop at this road crossing. I did not see these American soldiers shot nor did I participate in the shooting nor did I hear any shooting at the crossroads.

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(Statement-Goldschmidt)

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crossroads.

Our company arrived in STOU MONT on 19 December 1944 and stayed there about two days. Whether or not it was two days I am not able to say with certainty. During our stay in STOU MONT I did not shoot nor fire at any American prisoners nor did I see anyone else shoot at American prisoners of war.

I was in LA GLEIZE from about 21 December to 23-24 December 1944, and while there I did not see how prisoners were shot. I also did not see any who were shot or any that were about to be shot.

From 16 December until the 24th of December 1944 I belonged to the same SPW. Our SPW was armed with a triple-barrelled A.A. gun. I myself was armed with a machine pistol and a Belgian Army pistol. The people who rode in the SPW with me were as follows:

Unterscharfuhrer Max BEUTNER
Unterscharfuhrer DICKMANN
Rottenfuhrer Max HAMMERER
Rottenfuhrer Georg DEIBBERT
Rottenfuhrer HANKES or Rottenfuhrer SCHNEIDER
Sturmmann MUEHLBERGER
Sturmmann SCHLINGMANN
Rottenfuhrer Ernst GOLDSCHMIDT

This statement consisting of three pages was made voluntarily by me, uninfluenced by force, duress, threats, or promises of any kind.

I swear before God that the statement I have made here is true and I am prepared to repeat same under oath before any court of justice.

Ernst GOLDSCHMIDT, Rottenfuhrer
30 March 1946

Sworn to and subscribed before me this
30th day of March 1946 at Schwabebisch Hall,
Germany.

RAPHAEL SHUMACKER
Capt CMP"

MR. WALTERS: You may examine.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q You say then, Goldschmidt, that you never saw any prisoners of war shot and that you do not know anything

(Goldschmidt-Recross)

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about orders not to take prisoners of war or to shoot them, is that correct?

A That is correct.

Q You were in the SPW commanded by Max Beutner, the platoon leader of your platoon?

A Yes.

Q And Rottenfuehrer Max Hammerer, one of the accused in this case, number 20, was in your vehicle, is that right?

A Yes.

Q He was the messenger, is that right?

A He was messenger, yes.

Q I read to you from the statement of Max Hammerer, dated 11 April 1946, being Prosecution Exhibit Number P-110.

"On the 17th of December 1944 at about 1:30 o'clock in the afternoon, coming from Buellingen, we came to a road crossing at which the street turned sharp to the left in the direction of Engelsdorf. At this time I was messenger in the SPW of Unterscharfuehrer Max Beutner. At this crossroad, immediately behind the crossing on the part of the road which leads to Engelsdorf, our SPW came to a halt, and I was present as American prisoners of war were shot."

Were you with Max Hammerer on the afternoon of 17 December 1944 when he passed this crossroads south of Malmedy in Beutner's SPW?

A Yes.

Q And did you likewise see the prisoners shot there?

(Goldschmidt-Recross)

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A No.

Q What did you see?

A I saw dead American soldiers lying there.

Q On the righthand side of the road?

A On the righthand side of the road.

Q About how many of them?

A According to my estimate, it might have been

60.

Q Did it look to you like it might have been

combat?

A They were lying rather close together.

Q Did you see any weapons on them?

A No.

Q Did you see some helmets lying among those

American soldiers with a red cross painted on it?

A No.

Q Was Beutner with you at the time?

A He was in my vehicle.

Q Your vehicle was the lead vehicle in the 2nd platoon, was it not?

A Yes.

Q And the vehicle of Bode was right behind you, was it not?

A I don't know if he was right behind me at that time.

Q He was supposed to be right behind you?

MR. WALTERS: "Supposed to be" -- We are trying to get at facts, not what was supposed to be. The question is objectionable.

(Goldschmidt-Recross)

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CAPTAIN SHUMACKER: I will rephrase the question.

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q Was the order of march that Bode travelled behind the SPW of Beutner?

A Yes.

Q And behind Bode was Hofmann's SPW, is that right?

A I don't know if according to the order of march he came behind Bode.

Q You do know that Beutner was the platoon leader of the second platoon, do you not?

A Yes.

Q And the platoon leader had only one SP W?

A Yes.

Q You know that Bode was the group leader of the 1st group of the 2nd platoon, do you not?

A If Bode had the first group I can't say with certainty.

Q Normally there were two vehicles in each group, were there not?

A I believe so.

Q How long had you been in the 3rd Panzer Pioneer Company?

A Since June '44.

Q And you do not know how many vehicles there were in each group of each platoon?

A I did know it.

Q And Unterscharfuehrer Witkowski, Sgpp Witkowski, was group leader of the 2nd group of the 2nd platoon, was he not?

(Goldschmidt-Recross)

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A I can't say with certainty.

Q And Untercharführer Altkrueger was the group leader of the 3rd group of the 2nd platoon, was he not?

A I can't say that with any certainty.

Q Do you know any of the group leaders of the 2nd platoon of the 3rd Panzer Pioneer Company at the time of this offensive in December 1944?

A Yes, I know the group leaders.

Q Who were they?

A Bode, Witkowski and Altkrueger.

Q Did you see Joachim Hofmann, one of the accused, number 26, at the crossroads south of Malmedy when you passed by there?

A No.

Q Did you see Gustav Neve, number 40, one of the accused, at the crossroads south of Malmedy on 17 December 1944?

A No.

Q Did you see Gustav Sprenger, number 61, one of the accused, there at the crossroads south of Malmedy on 17 December 1944?

A No.

Q Did you see Siegfried Jaekel, one of the accused, number 28, at the same place on the same date?

A No.

Q Did you see Friedel Kies, one of the accused, number 30, at the same place on the same date?

A No.

(Goldschmidt-Recross)

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Q Did you see Willi Schaefer, one of the accused, number 55, at the same place on the same date?

A No.

Q Did you see Friedel Bode, number 2, one of the accused, at the same place on the same date?

A No.

Q As I understand it, you know that your vehicle was in the lead of the 2nd platoon but you are not sure now of the order of the vehicles behind you, is that right?

A Yes.

Q What German soldiers or German vehicles did you see there in the vicinity of this field where you saw approximately 60 dead American soldiers?

A I do not remember any vehicles nor soldiers.

Q What time did you pass there?

A I can't give you the time any more.

Q I will ask you whether or not it was during the early afternoon hours?

A According to my estimate, it must have been later.

Q Did you not just testify a moment ago that the facts stated in your sworn statement you introduced as Defense Exhibit D-5 were true?

A Yes.

Q Well, to refresh your recollection, I will read one sentence from that statement: "After Bellingen, we drove cross-country and through the woods and arrived in the early afternoon hours at a large road crossing." Do you think that is correct, Goldschmidt?

(Goldschmidt-Recross)

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A As I already said, I don't remember the exact time.

Q Do you know the accused Gustav Sprenger?

A Yes.

Q How long had you known him at the time of this offensive?

A I believe since the summer or fall of '44.

Q Was there any other Rottenfuehrer Ernst Goldschmidt in the 2nd Platoon of the 3rd Panzer Pioneer Company in December 1944?

A No.

Q I will read to you a portion of the statement of Gustav Sprenger, being Prosecution Exhibit P-44-A. This portion of the statement deals with the incidents that took place at the crossroads south of Malmedy:

"After I had finished firing I saw Goldschmidt, who was then standing at a point shown by the little "g" with a circle drawn around it marked 27, firing with his machine pistol into a group of American soldiers who lay on the ground."

Were you armed with a machine pistol on the afternoon of 17 December 1944?

A I did have a machine pistol.

Q I will read to you a portion of the statement of Joachim Hofmann, dated 6 March 1946, being Prosecution Exhibit P-47-A. This portion of the statement deals with what took place at the crossroads south of Malmedy:

(Goldschmidt-Recross)

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"At the same time I saw Rottenfuehrer Ernst Goldschmidt standing somewhat in front of the Mark IV at a point indicated on my sketch by a small black circle and the numeral 14, firing into the American prisoners with his machine pistol."

Is that correct?

A No.

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Q I read you from the statement of Siegfried Jaekel,
dated 1st March 1946, being Prosecution's Exhibit P-49-A:

"I saw Rottenfuehrer Goldschmidt, who was armed with
a machine pistol. I also saw him fire with his machine
pistol into the Americans. After I saw Goldschmidt shoot-
ing with his machine pistol I saw him going through the
clothing of an American."

You say that's untrue?

A That is not true.

Q I read you from the statement of Gustav Neve, being
Prosecution's Exhibit P-48-A:

"After we had come to a halt I heard Beutner tell
Witkowski that the weapons should be loaded and made
ready so we could 'bump off' the American prisoners."

Do you deny that Beutner gave that order to Witkowski?

A I never heard any such order.

Q Do you deny that he gave it?

A I don't know whether this order was given or not.

Q Witkowski was under Beutner's command, was he not?

A Yes.

Q And he took his orders from Beutner, did he not?

A Yes.

Q Reading further from the statement of Gustav Neve,
Prosecution's Exhibit P-48-A:

"I saw Rottenfuehrer Ernst Goldschmidt among the
Americans shooting with his machine pistol."

Is that true?

A No.

Q What is your nickname, Goldschmidt?

A I had one nickname, Bubi.

Q I read you, Goldschmidt, from the statement of Willi
Schaefer, being Prosecution's Exhibit P-109-A:

"I saw Uscha, Max Beutner shooting with his machine
pistol; I saw Uscha, Bubi Goldschmidt shooting at the
prisoners with the machine pistol; I also saw in the
field Rttf. Max Hammerer, Uscha, Sepp Wittkoroski, Uscha,
Edgar Dieckmann, Stm. Gustav Sprenger, Rttf. Biloschaetzky,
Uscha, Altkrueger, Stm. Oskar Tratt, Opion. Willi Taut, and
still several others whose names I cannot remember any more."

Is that true?

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(Goldschmidt - Cross)

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A I didn't see anyone at the Cross Roads.

Q Did you understand the last question?

A Yes.

Q I asked you if that portion of the statement of Willi Schaefer's was true?

A No.

Q Now, Goldschmidt, tell us about the prisoners that you and Hofmann saw behind the school house in La Gleize.

DEFENSE COUNSEL (Mr. Walters): There was nothing in the direct testimony about seeing prisoners behind any school house. It was not brought out in direct.

LAW MEMBER: On cross-examination -- I think the accused said it on cross-examination.

DEFENSE COUNSEL (Mr. Walters): I'm just asking for the court to rule on it.

LAW MEMBER: It's overruled.

Q Will you tell the court just what you and Hofmann saw there in La Gleize?

A We were in a cellar in La Gleize during our stay there. From the cell I went to the church a few times to see our wounded and in the evening hours of the 22nd we buried a few dead comrades.

Q Go ahead, tell us about the prisoners that you and Hofmann saw behind the school house?

LAW MEMBER: Captain Shumacker, I think you will help the court and everyone else if you will say which Hofmann you mean. There are two Hofmanns.

PROSECUTION (Capt. Shumacker): I beg the court's pardon. I am talking about Joachim Hofmann, one of your comrades in the 3rd Panzer Pioneer Company.

A I didn't see any prisoners in La Gleize.

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Q You didn't see those prisoners behind the school house when you and Hofmann walked up to the church to bury your comrades?

A No.

Q . When I asked you a moment ago to tell about that incident why did you start telling about going up to the church to bury these dead comrades?

A Because they were dead and were lying in the church and they had to be buried.

Q They weren't prisoners of war, were they?

A No.

Q I read you a portion of Prosecution's Exhibit P-47-A, being the statement of Joachim Hofmann:

"I stayed in the cellar of this house until late afternoon, when someone came and told me that Unterscharfuhrer Witkowski, who was wounded, wanted to see me in the church. I then left the house and walked up the street towards the church. As I walked up the street, I met Rottenfuhrer Ernst Goldschmidt and Sturmamm Ernst Schaeffler. When the three of us reached a point on the street in front of the church as shown by three circles and the numeral 13, we saw 80 to 100 American prisoners of war standing on the school ground behind the school building across the street. They were being guarded by some German soldiers as I have indicated on my sketch by a line of small circles and the numeral 12. The American prisoners are shown by some crosses and the numeral 11. On my sketch I have enclosed this group of prisoners with a drawing of a fence, but actually there was no fence around them except possibly in the rear. Then Goldschmidt, Schaeffler and I entered the church and after I had been in there a short while I heard machine pistol and rifle fire coming from the direction of the school. I do not know how to estimate the number of rounds or bursts that I heard but there was a good deal of shooting. I was in the church about 15 or 20 minutes and I left with Schaeffler."

Now, do you know why it was that you started telling about going up to the church when I first asked you about the prisoners of war you saw behind the school house?

A I didn't see any prisoners of war in La Gleize.

Q I want to know why it was you started telling about going up to the church when I first asked you about the prisoners of war you saw there?

DEFENSE COUNSEL (Mr. Walters): Just a minute, if your honor please. This is just to put some words into the mouth of

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(Goldschmidt - Cross)

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the witness that he didn't say. He distinctly said a minute ago that he did not see any prisoners of war in La Gleize. And he has said that two or three times before. Now counsel says to him in a question, the prisoners of war that you saw in La Gleize, and I object to him putting words into the witness' mouth that weren't there.

PROSECUTION (Capt. Shumacker): If the court please, the first question I asked this witness on this subject was as follows; to tell us about the prisoners of war that you saw and Hofmann saw behind the school house in La Gleize. And his reply was, in substance that on the night of the 22nd, I believe he said, he went up to the church to bury some of his comrades. And I'm now asking the witness, after reading this portion of Hofmann's statement, why it was that he told about his trip to the church in response to my questions about prisoners of war because Hofmann says that that was the route they took.

PRESIDENT: The objection is overruled.

DEFENSE COUNSEL (Mr. Walters): I would like to say this: That when counsel asked him the question and he made the answer that counsel said he did, that he was going up to bury some wounded, the obvious conclusion is that the witness misunderstood the question.

PRESIDENT: That conclusion is not obvious. The objection is overruled.

Q You now say, Goldschmidt, that you and Hofmann didn't even see any prisoners behind the church?

A No.

Q You never did see a prisoner of war at any time during your stay in La Gleize, did you?

A I didn't see any.

Q As far as you know there weren't any prisoners in La Gleize, were there?

A Whether there were or not I can't say. I didn't see any.

Q You didn't see any American prisoners of war bearing American dead or German dead, did you?

A No.

Q You were in the cellar all the time with the rest of the drivers, such as Neve and Hofmann, and others?

A Yes.

Q Were you there when Rumpf came there from Maute on the detail from the 9th Panzer Pioneer Company?

A I don't know anything about that incident.

Q Do you know Maute?

A I just became acquainted with him here. I didn't know him before.

Q Did you know Rumpf at the time you were in the cellar in La Gleize?

A No.

Q Well, you don't know whether Rumpf came from Maute or not, do you?

A No, I don't know.

Q Now, who was this man Dalbertin your company?

A He was a driver.

Q In which platoon?

A He was in the 2nd Platoon.

Q That's your platoon, is that right?

A Yes.

Q I read to you from the statement of Siegfried Jaekel, being Prosecution's Exhibit P-49-A, which has to do with what took place in Stoumont, Belgium:

"We entered Stoumont on the La Gleize road as shown in the upper righthand corner of Exhibit 'D', made a sharp left turn, just beyond the Panzer which I have numbered 16, and Hofmann parked out SFW near the store, near which Sprenger also parked his SFW."

Is that part of the statement correct?

A Where was that?

Q In Stoumont. Do you remember entering Stoumont on the road leading from La Gleize and making a lefthand turn at the edge of the town to go down in the vicinity of the store?

A Yes.

Q That much of the statement is correct then, is that right?

A That's correct.

Q (Reading)

"We then dismounted and stood around about 5 minutes and then started walking up the road leading to the woods as shown in the upper lefthand corner of my Exhibit 'D'."

Now, you do know that Jaekel and some other men of your platoon did go up and take positions in those woods, do you not?

A I don't know that.

Q You don't know that any of your men were in position up in those woods?

A I don't know where the positions were.

Q Do you know that some men of your platoon did go into position shortly after you got in the town?

A After we arrived in the town we all went into position later.

Q I'll read further from Prosecution's Exhibit P-49-A:

"Walking with me were Pioneer Toedter and Pioneer Storch."

Were Pioneer Toedter and Pioneer Storch in your platoon?

A I can't say.

Q How long had you been in the 2nd Platoon.

A I don't know for sure when -- since November.

Q I'll read further from Prosecution's Exhibit P-49-A:

"As we reached the point shown by three dots and the numeral 5, I saw Rottenfuehrer Ernst Goldschmidt and Rottenfuehrer Deibert across the street in a field shoot 4 American prisoners of war. Both of them had machine pistols. The 4 Americans were unarmed, and had their hands above

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their heads in a sign of surrender. The Americans were not making any attempt to escape nor did they do anything to provoke the shooting. When Goldschmidt and Deibert fired into them they were standing approximately 7 meters from the Americans. When I witnessed this I was approximately 25 meters from Goldschmidt and Deibert."

Is that true?

A No.

Q You didn't see any prisoners of war in Stoumont, did you Goldschmidt?

A One.

Q Who shot him, Goldschmidt?

DEFENSE COUNSEL (Mr. Walters): Just a minute. It's a leading question and he's trying to put words into the mouth of the witness. He didn't say anything about shooting. He said he saw a prisoner of war in Stoumont.

LAW MEMBER: Leading questions are certainly permitted on cross-examination, Mr. Walters.

DEFENSE COUNSEL (Mr. Walters): I agree with you there but that kind of a question of trying to put words in the witness' mouth that weren't there, I believe is improper.

LAW MEMBER: I assume that it is a leading question. Otherwise, it wouldn't be asked. The objection is overruled.

Q At the time of this offensive I'll ask you whether or not your comrades --

LAW MEMBER: Captain Shumacker, are you withdrawing the question? The objection is overruled.

Q Strike that question. Will you answer the question, Goldschmidt? I'll withdraw the beginning of the last question. Don't bother, Miss Reporter. The last question, Goldschmidt, had reference to this one prisoner of war that you said you saw in Stoumont. I ask you who shot him?

A Who shot him?

Q That's what I asked you.

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(Goldschmidt - Recross)

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A I don't know that he was shot.

Q What did you do with him?

A I don't know. I didn't do anything with him.

Q Who had him at the time you saw him?

A He was standing at the SPW with Dickmann and he said he came up there and asked, he said he needed a cap, he didn't have a cap on, and Dickmann exchanged a few words with him and then he left.

Q Does Dickmann speak English?

A Yes.

Q Do you remember the affidavit read in this case being the statement of one of the survivors of the Honsfeld killing who referred to an officer or a non-com who spoke English?

A That's possible. I can't say for sure.

Q Dickmann was in your SPW when you were just outside Honsfeld, was he not?

A He was in the SPW the entire time.

Q None of you ever got out on the road?

A I don't know. We dismounted frequently.

Q When you got out on the road did you hold your machine pistol in your hand ready to fire?

A I never got out with my machine pistol.

Q Well, what weapon did you have when you got out of the SPW?

A When I dismounted where?

Q In Honsfeld.

A In Honsfeld I didn't dismount.

Q You didn't dismount?

A No.

Q Now, Goldschmidt, did you see Gustav Sprenger about this offensive in January 1945?

A Yes.

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Q That was in Eschweiler, was it not?

A Yes.

Q I read you from the statement of Gustav Adolf Sprenger, Prosecution's Exhibit P-44-A, which has reference to the shooting of prisoners of war in the vicinity of Buellingen on 17 December 1944:

"At a later date, during the first few days of January, 1945, Rottenfuehrer Goldschmidt, driver of Beutner's SWP, told me in Eschweiler that they had shot this group of prisoners. I know Goldschmidt was talking about this group of prisoners because we discussed the location and he told me that when they came around the curve they interrupted them, took them in a field and shot them. I could not tell from the conversation what members of Goldschmidt's crew actually did the shooting: Goldschmidt just used the word "we".

Is that the conversation you had with Sprenger in Eschweiler in January 1945?

A We didn't have any conversation. We didn't have any such conversation. That's just a figment of Sprenger's imagination. I don't know how he wrote that. I don't think it derived from his thoughts.

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Q You didn't see me in Eschweiler, did you, in January 1945?

A I didn't understand?

Q Well, I will repeat the question. You didn't see me, Capt. Shumacker, in Eschweiler in January 1945, did you?

A No.

Q I wouldn't have any way of knowing whether you or Springer were in Eschweiler unless either you or he told me, would it?

A I don't know how it came to be.

Q Now you heard portions of statements read from the affidavits of Sigmund Jaekel, No. 28; Max Hammerer, No. 20; Joachim Hofmann, No. 26; Willi Schaefer, No. 55; Gustav Neve, No. 40; all of which say that you were present and some of which say you participated in the shooting of prisoners of war at the cross roads south of Halwedy on 17 December 1944 and in Stoumont, Belgium, on 19 December 1944. Do any or all of these men whose names I have just mentioned bear any ill will toward you for any personal reason?

A No, I couldn't say.

PROSECUTION (Capt. Shumacker): Nothing further.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Mr. Walters):

Q If it please the court, I believe, Goldschmidt, you testified that you were the driver of Wagner's SPW?

A Yes.

Q What were your duties as the driver of that SPW?

A I drove the SPW. I was responsible for the maintenance of the vehicle.

Q When other members of the crew of the SPW got out and took positions of fighting, was it your duty to get out or stay with the vehicle?

PROSECUTION (Capt. Shumacker): If the court please, we object to that question as clearly leading. This is redirect examination.

(Goldschmidt redirect)

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LAW MEMBER: Rephrase it.

Q DEFENSE COUNSEL (Mr. Walters): Was it your duty to take position of the rest of the crew?

PROSECUTION (Capt. Shumacker): Object to that question on the same ground.

LAW MEMBER: We will let him answer it.

INTERPRETER: Will you put it again, please?

DEFENSE COUNSEL (Mr. Walters): Let her read it.

(Whereupon the question was read by the reporter.)

PROSECUTION (Capt. Shumacker): Let him ask what his duty was and let the witness answer.

INTERPRETER: I haven't put it yet.

LAW MEMBER: Will you ask the question again?

DEFENSE COUNSEL (Mr. Walters): Very well, I will ask the question. When the rest of the crew went into position what were your duties.

A We had to stay with the vehicles.

Q Goldschmidt, at the beginning of the cross examination by Capt. Shumacker, he read to you the following passage from Springer's statement:

"After we had finished firing I saw Goldschmidt, who was then standing at a point shown by the letter "G", with a circle drawn around it marked 27, firing with his machine pistol into the group of American soldiers who lay on the ground."

Thereupon Capt. Shumacker asked you what kind of a weapon you had in your hand and you answered: "A machine pistol, if I am not mistaken." Now, referring to the quotation I have just read from Springer's statement, is it true that you were firing with your machine pistol into the group of American soldiers who lay on the ground?

A No. I think that's an error there.

Q If he wants to explain, he may.

A I think when you asked me if I was asked if I had a machine pistol in my hand, I think that is an error, because I believe I was

(Goldschmidt - redirect)

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asked if I had been in the position of a machine pistol, and also another question. With reference to LaGleize I was asked what I had seen in LaGleize and not what I had seen when I walked to the church with Hofmann.

Q Goldschmidt, were you driver of the SPW of Bautner?

A Yes.

Q When you were in Stoutmont?

A Yes.

Q I read you another quotation from the statement of Springer. After saying that they left for LaGleize on the night of the 20th to the 21st of December and that they arrived in LaGleize at dawn of the 21st of December, he makes this statement:

"On the day we arrived in LaGleize and while I was in the house I have marked No. 1 on Exhibit "F", Sturmman Albert Losenski told me at about three or four p. m. that he had seen Obersturmfuehrer Sievers, Oberscharfuehrer Schaefer, Unterscharfuehrer Bautner, Rottenfuehrer Max Hammerer and men of the first platoon of the 3rd Panzer Pioneer company shoot nine American prisoners of war by the schoolhouse."

Is that true? If you know?

A No.

Q Where was Bautner on the 21st of December 1944?

A Bautner was dead.

Q How do you know that Bautner was dead on that date?

A I was present when he died.

Q When did he die?

A On the 20th of December.

Q What was the cause of his death?

A He had been wounded. Shot in the lung.

Q Did you have anything to do with bringing Bautner from the spot where he was wounded to an aid station, or any place where he was treated?

A Yes. We bandaged him in the house in which the drivers were stationed. He died shortly after he was bandaged. We loaded him on my SPW and the next day I took him to the main first aid

(Goldschmidt - redirect)

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station because we didn't have any opportunity to bury him.

DEFENSE COUNSEL (Mr. Walters): You may examine.

RE-RE-CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q This was the aid station in Stoumont?

A Before Stoumont. In front of Stoumont, between LaGleize and Stoumont.

Q That was the nearest aid station to Stoumont, was it not?

A Yes.

Q And you took Bcutner there at what time on what date?

A On the 21st of December; I can't give you the exact time.

It must have been before noon.

Q How many American prisoners of war did you see at the aid station?

A None.

Q You are sure about that?

A Yes.

PROSECUTION (Capt. Shumacker): That is all.

DEFENSE COUNSEL (Mr. Walters): That is all, if the Court please.

PRESIDENT: Any questions by the Court? Apparently not. The witness is excused.

DEFENSE COUNSEL (Mr. Walters): Wait a minute.

PROSECUTION (Capt. Shumacker) Before the redirect, let me ask him another question or so. How big was this aid station that you took Bcutner to?

A That was a building similar to a castle.

Q And that was the castle between Stoumont and LaGleize?

A Yes.

PROSECUTION (Capt. Shumacker): Nothing further.

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RE-REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Mr. Walters):

Q I believe, Goldschmidt, that you testified that you buried some comrades of yours on the 22nd. Is that correct?

A Yes.

Q While you were burying them did you see any dead American prisoners of war lying in the cemetery?

A No.

Q At the time you buried your comrades, as you have just testified, did you see any dead Americans lying in the cemetery?

A No, I didn't see any.

RE-RECROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker): As a matter of fact, Goldschmidt, the first time you heard about any prisoners of war being shot during this offensive was when you got to Zuffenhausen, isn't that true?

A No. I saw it at the time at the cross roads.

Q And you never heard about any others being shot until you got to Zuffenhausen?

A No.

Q You are confident those that you saw lying in the field at the cross roads, though, were prisoners of war?

A I don't know that with certainty.

Q That is what it looked like, wasn't it, Goldschmidt?

A I assumed so.

Q And when you got to Zuffenhausen, what was it that Hofmann told you about the prisoners that were shot in Stoumont?

A Hofmann?

Q Joachim Hofmann?

A He didn't tell me anything.

Q None of your comrades spoke to you at Zuffenhausen?

(Goldschmidt-reredirect and/re-cross)

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A Yes, we talked among ourselves.

Q What did they tell you about prisoners of war other than those at the cross roads?

A I heard that from Springer.

Q What did Springer tell you?

A Springer himself he didn't tell me anything.

Q Well, he told you something about Springer--

INTERPRETER: That was an error in my translation; instead of saying "I heard that from Springer" it should be "I heard that about Springer".

Q My next question is: Who told you about Springer?

A Hoffmann.

Q And what did he tell you about Springer?

A He told me that he already had an interrogation at Ebensee and he said the Americans already knew that Springer had shot two in Stoumont.

Q Did Hoffmann tell you he witnessed that shooting?

A No.

Q What else did he tell you?

A Nothing more about this matter.

Q What did he tell you about other prisoners of war that he shot? Other than those at the cross roads?

A He didn't tell me anything.

Q Well, those two and two at the cross roads are all you personally know about?

A Yes.

Q You didn't follow the order of your company commander, Sievers, to search the houses in Stoumont for the enemy? For prisoners of war?

A I was never told to do that.

Q All you did all the time you were in Stoumont was sit in your SPW, is that right?

A I couldn't get away from the SPW very far.

Q You stayed with your SPW all the time?

A In the vicinity of my vehicle; yes.

Q Always within your sight?

A I didn't always have it within my sight, because I was in the house part of the time.

Q Don't you know, as a matter of fact, Goldschmidt, that they had roving guards to watch your SPWs and that Nevo was on guard duty at the time he saw Springer and Billoschetzky shoot the second group of American PWs in the alleyway?

A No. There were guards during the night.

Q But you are sure that they were not on duty during the day?

A I didn't see any.

Q I am asking you if you know that there were no roving guards to protect the vehicles during the day. Will you tell that to the court, as a matter of fact?

A Normally there were no guards with the vehicles during the day because the drivers were supposed to stay in and around the vehicles. It may be that it was ordered that guards were to be there during the day, but I don't know about it.

PROSECUTION (Capt. Shumacker): Nothing further.

PRESIDENT: Any questions by the defense.

DEFENSE COUNSEL (Mr. Walters): It is getting late, your honor, I would like to ask him one more question.

PRESIDENT: Go ahead.

RE-REDIRECT EXAMINATION

QUESTIONS BY THE DEFENSE (Mr. Walters):

Q Where was the aid station that you referred to in your testimony?

A It was east of Stoumont about, approximately one and one-half kilometers from Stoumont.

(Goldschmidt - recross, redirect)

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Q What kind of a building?

A A building similar to a castle.

Q Do you know approximately how many rooms were in the schloss?

A I don't know.

Q Did you go on through the castle?

A No.

DEFENSE COUNSEL (Mr. Walters): Nothing.

PRESIDENT: Any questions by the court? Apparently none. The witness is excused. The Court will recess until 1330 hours.

(Whereupon the court at 1200 hours took a recess.)

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CAMP DACHAU, GERMANY

AFTERNOON SESSION

(Whereupon Court reconvened at 1330 hours.)

PRESIDENT: Take seats. The court will come to order.

PROSECUTION: If the court please, let the record show that all members of the Court, all members of the Prosecution, with the exception of Lt Col Crawford, who is absent on business of the Prosecution, and Captain Byrne, who has been excused by verbal orders of the Commanding General, all members of the defense with the exception of Lt Col Dwinell, Dr. Rau, Dr. Pfister and Dr. Leiling, all of the defendants, with the exception of Reider, No. 51, who is sick, and the reporter are present.

DEFENSE COUNSEL: The defense calls as its next witness the accused Anton Motzheim. Mr. Walters on behalf of the defense will conduct the direct examination and the defense contemplates recalling this witness--correction, does not contemplate recalling him.

ANTON MOTZHEIM, one of the accused, called as a witness in his own behalf, took the stand and testified through an Interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the accused and to the German counsel.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE (Mr. Walters):

Q What is your full name and your age?

A Anton Motzheim.

Q How old are you?

A Twenty-two years old.

Q State the number of the platoon and the company of which you were a member during the Wifel Offensive.

A 12th Company KWK Platoon, 3rd Battalion, 2nd Panzer Grenadier Regiment of the LSSAH.

(Motzheim - Direct)

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Q Who was your company commander?

A Hauptscharfuehrer Thiele.

Q Who was your platoon leader?

A Oberscharfuehrer Pfalzer.

Q Who were the rest of the members of your platoon?

A The platoon was divided into three groups. In charge of the first group was Technical Sgt. Schwambach. I, myself, was in charge of the second group and the third group was under the command of Technical Sgt. Hendel. The group of my own people were the following: Driver, Leo Moser, first gunner, Pfc. Wesch, second gunner, Cpl. Pammeraning, Medical Sgt. Richter and myself. The group of my second people was under the command of Cpl. Leo Hoesser and I do no longer remember the names of the rest of the group. And some members of other groups were among others: Cpl. Rodenburg, Pfc. Grafmuller, Pfc. Bartkelde. I do no longer remember the rest of them.

Q On what day and what hour did you arrive in Honsfeld?

A Early in the morning between eight and nine o'clock on the 17th of December 1944.

Q Did your SPW stop as you went through Honsfeld?

A Shortly before we left Honsfeld the column driving ahead of me stopped. Several American airplanes were circling above the locality and the column moved forward very slowly. I reached Honsfeld in my vehicle and came to the first big curve of the road. In this curve two German anti-aircraft pieces were standing still burning and I had to conclude that there was an enemy anti-tank around.

Some members of the crew of the knocked out anti-aircraft told me when I drove by that the enemy had offered some resistance in the place and that parachute troops were just about to break this resistance. Thereupon I ordered my crew to make the vehicle ready for combat. Then I drove on not faster than as if walking and reached

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a big straight road in Honsfeld. About 100 meters away from the curve where I saw the German anti-aircraft piece standing I noticed an American anti-tank piece on the righthand side of the road.

MR. WALTERS (To the Interpreter): Was there anything in his answer about it had been knocked out? Maybe I misunderstood.

INTERPRETER: No.

A (Continuing) Near the American anti-tank piece there were the attacking German parachute troops. Then the German air force had found that they did not know that there were still American forces in the place and still offered resistance and we had to undergo the heaviest air attack through American fighter bombers.

Thereupon I ordered the members of my crew and the following vehicle to turn to the right, to stop, to have the crew dismount and to go in cover. I, myself, jumped down from the vehicle with a machine pistol in my hand. When I reached the ground, I saw an American soldier and shot. I did not shoot upon any orders; I did not shoot in the assumption that this soldier would surrender to us. I shot because in the excitement of the action which was caused (a) by enemy resistance, (b) by very heavy air attacks, (c) by the sudden appearance of this soldier. After I had shot I kept running towards the house in order to get shelter against the enemy bombing. The air attack lasted for about half to three-quarters of an hour. During this time the parachute troops kept taking the place but later on succeeded in occupying the place.

After about one hour I ordered my men to get on the vehicle and we drove on in the direction of Buellingen.

Q I am going to read you a sentence from your sworn statement which has been admitted in evidence as Prosecution's exhibit 67:

"The American soldier was facing me, hands extended to the side, but not over his head and I assumed that he wanted to surrender. I was about five or eight meters from the American and as far as I could see he did not have any weapons."

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Is that statement true, and if not what part of it isn't true?

A It is incorrect. The part which isn't correct is the sentence where I wrote I assumed he wanted to surrender. At that time when the soldier appeared before me suddenly I did not have time to look whether or not he was wearing weapons. It was my duty to break every enemy intention which he had.

Q How much time elapsed from the instant that you stood on the ground and you saw the American standing in front of you?

A I saw him and shot, maybe one second.

Q Is it true, the phrase in your statement that the American's hands were extended by his side?

A I wasn't in the position to see and to understand the position of the American or the way he was standing.

Q Why did you write this portion of the statement which you now claim is false?

A I was in Schwabisch Hall in an extremely hard situation. I was locked up for three months in a cell together with three other soldiers without having any opportunity to move. I was firmly convinced that during the Eifel Offensive I never made myself culpable of any incorrect action and therefore I said to myself, "Well, the gentleman interrogating officer that might come, that I was ready to use everything to write what I knew about the Eifel Offensive, to write it down real interesting."

On 19 March I was interrogated for the first time. Mr. Elowitz came into my cell with an interpreter and he asked me what I knew about the Eifel Offensive. Thereupon I answered, "Nothing positive what could interest you." Thereupon Mr. Elowitz said to me, "Is that your last word?" And I said, "Yes". Then Mr. Elowitz went out of the cell and I heard how he called the first name of "Harry" outside in the hallway. And then Mr. Thon came into my cell and he remained ten or fifteen minutes in my company. To me he said,

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"So you did the shooting? You shot a prisoner of war." And I replied to him, "That is impossible, I never shot a prisoner of war." "Can you take an oath on that?" and I said, "Yes". Thereupon I was sworn. But I neither participated in a shooting nor did I see any, and that I did not mistreat an American or a Belgium civilian either.

Mr. Thon got very angry about that, that I did not give any particular answer upon his questions and he also accused me of having hanged an American soldier in the command post and that I had killed two soldiers in La Gleize. And I answered, "That is impossible. I never saw a division command post nor did I see any prisoners of war in La Gleize." Thereupon I was beaten.

Q How much were you beaten?

A At 2 o'clock I was taken to my cell. The first interrogation continued by Mr. Elowitz and might have lasted for five minutes and the questioning and the being sworn through Mr. Thon also five minutes. And then I was beaten for about a quarter of an hour. And Mr. Elowitz and Mr. Thon went out and after a short while 1st Lt Perl and Mr. Thon appeared in my cell again. Mr. Thon introduced 1st Lt Perl as the Belgium liason officer and 1st Lt Perl addressed me in the French language, "Mr. Motzheim, what your name?" I pretended not to understand it, of course. Thereupon 1st Lt Perl said to me in very broken German, "We were looking for you for 12 months. Now we have finally found you, you murderer."

Thereupon Mr. Thon said to me, "I will fire your bones. I will lead you towards tortue and slow but certain death and you will wurse the day on which you get acquainted with me."

Never in my life have I had anything to do with trials and I thought it was funny, strange. Since I was quite sure that I did not shoot a prisoner of war and since they tried to get me down through their methods, the last will for resistance awoke in me. Then 1st Lt Perl and Mr. Thon beat me for half an hour. 1st Lt Perl yelled, "Where

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did you shoot?" And Mr. Thon shouted, "Who gave the order?"

Thereupon I replied, "I neither had an order nor did I shoot." Thereupon 1st Lt Perl kicked me four times in my sexual parts and Mr. Thon kicked me on my leg. This went on for about half an hour. Then they left the cell and a black hood was put over my head and I had to stand in the corner of my cell for about an hour. After about half an hour Mr. Thon reappeared in my cell and asked me who had prisoners of war in Parkani Pusta. I didn't know that. Then he said to me, "You have committed perjury." Then he went out again and I was taken back to my own cell.

The next day at 4 o'clock I was taken back again. I was taken to a cell, then Mr. Thon again came to see me and he told me, "There is one chance left for you. If you don't say that you shot a prisoner of war or that you had the order, you will be hanged." Then the former Sergeant Pluschke came into my cell and he said to me, "I have told them." He said that I had told him that I had shot a prisoner of war in Stoumont. Then he was taken out again. I knew exactly that I never was in Stoumont but my vehicle was knocked out outside of Stoumont on the 19th and I said, "Is everything the other way around?" Thereupon Mr. Thon handed me a sheet of paper and a pencil. I was brought back to my cell and then I started writing.

(Mutzheim - Direct)

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Q Did anybody dictate that statement to you as you wrote it?

A Mr. Elowitz dictated the statement to me.

Q And I ask you, again referring to the portion of your statement that I have just read, are the following words your own words:

"I assumed that he wanted to surrender."

A No.

Q Whose words are they?

A The words of the gentleman who performed the interrogation through the interpreter.

Q Who was that?

A Mr. Kirschbaum.

Q Motzheim, after you had shot the American soldier as you have testified what did you then do?

A I shot and kept on running towards the house ^{get} to/away from the bombing.

Q Did anybody take cover with you?

A Suddenly a whole crowd was in that house, I guess the rest of the crowd of the CWK Platoon who were driving behind me.

Q Do you know whether the American that you shot was killed or not?

A I shot at him; I don't know more about it.

DEFENSE COUNSEL (Mr. Walters): You may examine.

RE-CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Mr. Elowitz):

Q Do you know Unterscharfuhrer Schwambach?

A Yes.

Q Do you remember after you made your statement that was introduced in evidence as Prosecution's Exhibit P-67 you were confronted with Unterscharfuhrer Schwambach?

A Yes.

(Motzheim - Recross)

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Q You told Unterscharfuehrer Schwambach that you shot an American prisoner of war at Honsfeld? Just a minute, answer that question, answer it yes or no.

A I can't answer this yes or no.

PRESIDENT: Slow down a minute.

PROSECUTION (Mr. Elowitz): If it please the court, I would like to have the witness instructed to answer the question yes or no and then qualify his answer, whichever way he wishes.

PRESIDENT: Do you understand that?

THE WITNESS: Yes.

PRESIDENT: Read the last question.

(Whereupon the reporter did as requested.)

A I never said that I shot a prisoner of war and, furthermore, if we came into a cell and were confronted with somebody else, we were ordered outside what answer we had to give and in the atmosphere which existed in Schwaebisch Hall nobody dared oppose that.

Q Didn't you tell Schwambach that you shot an American who wanted to surrender in Honsfeld?

A No.

Q What did you tell Schwambach?

A I told Schwambach I was asked whether or not I had the order and I said: "Yes." And when I had given the answer: "Yes" I was taken out again.

PROSECUTION: I believe he said: "I was asked if I ever executed the order," and I answered 'yes'."

A I was asked whether I had the order and I said: "Yes" Then I was asked whether I had carried out the order and I answered "Yes" to that too.

Q What order? Can you answer it?

A Not to take prisoners of war.

Q And when you answered "Yes, I executed the order not to take prisoners of war", that meant you shot prisoners of war, is

(Motzheim - Rucross)

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that correct?

A No.

Q Well, what did you mean by answering, "Yes, I executed the order."?

A At that moment I did not have a personal opinion, that was ordered to me.

Q Were you beaten before you were confronted in Schwaebisch Hall with Schwambach at that time?

A No.

Q Yet you volunteered to go into Schambach's cell, confront him and tell him just what he testified to?

A No.

Q Well, when it was requested of you to do that you agreed to do it?

A I was not requested to do so, I was ordered.

Q You made no objection to the request or order, or whatever it is you call it, is that right?

A I don't think I had an opportunity to do so.

Q Very well -- you know Unterscharfuehrer Pluschke, do you not?

A Yes.

Q Do you remember Pluschke stating to you at Schwaebisch Hall that Pluschke had heard you say on December 29, 1944, at Petit Thier, that you had shot American prisoners of war in Stoumont?

A Yes, I heard that.

Q And do you remember answering that the only place you had shot prisoners of war was at Honsfeld, as you had stated in your confession?

A I never said this.

Q You never said that?

A No.

Q Don't you remember ever making that statement to anyone?

A I never talked about prisoners of war.

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Q Do you remember making it in your confession?

A In my confession I didn't say anything about a prisoner of war either.

Q Do you remember this statement in your confession, Motzheim:

"Just as I was standing there, Stumbannfuhrer Poetschke said to Oberstumbannfuhrer Peiper:

'Oberstumbannfuhrer, here are two more prisoners of war.'

"Peiper answered in an indifferent and disdainful manner:

'As usual.'

"From Oberstumbannfuhrer Peiper's answer, I concluded that both prisoners of war would be bumped off."

Do you remember making that statement?

A The last part of this statement is not derived from my own recollection but was dictated.

Q Do you remember volunteering that information?

A No.

Q Did the interrogator know that Poetschke said to Peiper:

"Here are two more prisoners of war", in Stoumont?

DEFENSE COUNSEL (Mr. Walters): I object, how can this man know what the interrogator knew in his mind?

LAW MEMBER: I don't know what he knows but he can answer if he knows. Objection overruled.

A I was talking about the last part of the statement which you just read to me.

Q I'm talking about the whole statement I read to you. Didn't you volunteer that information to the interrogator?

A With the exception of the conclusion, yes.

Q And do you remember why you volunteered the information to the interrogator?

A Because it is the truth.

Q It wasn't because you were beaten, was it?

A I don't understand that.

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Q Well, that's clear enough. Answer the question.

A I do not understand.

Q You didn't volunteer this information because you were beaten, did you?

A I wrote down my confession because: (a) Part of it is the truth, and (b) because they helped me to do it but through beating.

Q Well, what part of your description does this statement I just read you fit; is that the truth or is that because you were beaten?

A The first part is the truth.

Q Don't you remember you volunteered that information because you stated you received orders to bump off prisoners of war, otherwise you would never have done it?

A I already stated before that I did not do the shooting in Honsfeld upon orders but because of a first reaction which I would have repeated under the same circumstances at once.

Q And, as a matter of fact, didn't you cite the case of these two prisoners of war to show that your superior officers were doing the same thing they ordered you to do; isn't that true?

A The question is not clear to me.

PROSECUTION (Mr. Elowitz): Read the question.

(Whereupon the reporter did as requested.)

A I didn't want to show anything.

Q Well then why did you bring up the incident of the two prisoners of war that you heard Poetschke turn over to Peiper?

A That is the truth.

Q What is the truth?

A What I wrote in the first part of the statement you read me.

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Q Why did you volunteer the information about the two prisoners of war Poetschke turned over to Peiper if it wasn't for the reason I asked you in my previous question?

A I did not write this statement; I did not volunteer to write this statement, but they brought it about to play the enlisted men and the non-commissioned officers against each other and everything which one knew about the officers or another enlisted man was of particular importance for the interrogating officer.

Q Motzheim, you have testified that this bit of information was something you volunteered, that it was the true part of your statement and now you insist that the information was supplied to you by the interrogator?

A I did not say that.

Q Motzheim, I'm going to ask you a question once more and I'm going to ask you this and please answer it if you can without going off onto side issues. Why did you tell the interrogator about the two prisoners of war that you saw Poetschke turn over to Peiper in Stoumont if it was not for the purpose of giving color to your story that you shot prisoners of war only on orders?

DEFENSE COUNSEL (Mr. Walters): I object to the question. Counsel has put this question four or five, maybe six times, and he's gotten answers, the last time particularly he got an answer from the witness, and I object to the repetition.

PROSECUTION (Mr. Elowitz): If it please the court, the witness has done everything but answer that question.

LAW MEMBER: The court feels the same way. Will you please tell the witness if he cannot answer the question, say he

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cannot answer it but he is taking up needless time of the court in evading answering the question. Now he has the privilege of saying he cannot answer.

PRESIDENT: Ask the witness if he understands those instructions?

THE WITNESS: Yes.

PRESIDENT: All right, go ahead.

PROSECUTION (Mr. Elowitz): Read the last question. (Whereupon the reporter did as requested.)

A It was never necessary for me to give color for my act. I am responsible for everything that I did myself and the other questions I cannot answer.

Q Very well, now, Motzheim, can you give me the names of the three other men you were locked up with in Schwaebisch Hall while you were having this hard time you described?

A Do you mean the time between the 15th of December up to the 19th of February?

Q Well, the one I mean, Motzheim, if you recall in direct examination you stated that you had a very hard time at Schwaebisch Hall and you were locked up with three other men in a cell?

A There were four; Ochmann, Koewitz, the third one was from the Headquarters Company of the Panzer Regiment, I do not now remember his name, the fourth was I, myself.

Q Do you know if Koewitz and the man whose name you no longer remember, ever made a confession stating that they shot prisoners of war?

A I don't know that.

Q Do you know if Koewitz or the man whose name you are unable to identify are accused in this case?

A No.

Q Do you think they had just as hard a time as you did?
(Motzheim - Recross)

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A I don't know that because I was not present during their interrogation.

Q Motzheim, you were on very good terms with your Company Commander, were you not, Hauptsturmfuehrer Thiele?

A I was on very good terms with Hauptsturmfuehrer Thiele as my superior.

Q Well, he spoke to you about things that he normally wouldn't talk to men under him about, didn't he?

A He discussed with me exactly the same matters as he would have discussed with every other member of the company.

Q Well, do you think Obersturmfuehrer Thiele would normally tell an enlisted man under him that he knows that a certain military action is going to take place on the orders of the regimental commander? Did you understand the question?

A Since I didn't know anything about the regimental order and as far as I remember Obersturmfuehrer Thiele never spoke about the regimental order to the company.

Q Well, Motzheim, I read you this paragraph from your confession, and ask you if it is true?

A "Then I asked Obersturmfuehrer Thiele if he knew what had been done with a large group of the American prisoners of war that were taken to Stoumont, as I saw many groups of American prisoners of war this same morning. Thiele answered: "They are being collected somewhere in a hollow in the rear and there all will be bumped off." He didn't say who gave the order for the massacre and he didn't mention any other facts about it.

Q Now, Motzheim, did the interrogator tell you about that or did you tell the interrogator about it?

A I wrote it down.

Q Yes, and before you wrote it down you supplied the information orally, didn't you?

A No.

Q You mean the interrogator told you the whole story?

A I already stated that on the second day of my interrogation I was sent back to my cell with a sheet of paper and a pencil.

Q Then you wrote this?

A Yes, then I wrote this.

Q Voluntarily?

A I hardly believe that you can call this voluntary. If you call it voluntary, I do not.

Q Were you alone in your cell when you wrote it?

A Yes.

PROSECUTION (Mr. Elowitz): That is all.

PRESIDENT: Any questions by the defense?

DEFENSE COUNSEL (Mr. Walters): No further questions.

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PRESIDENT: Any questions by the Court? Apparently none, the witness is excused.

DEFENSE COUNSEL: The Defense calls as its next witness Ernst Grafmueller. Mr. Walters, on behalf of the Defense, will conduct the direct Examination.

ERNST GRAFMUELLER, called as a witness for the Defense, was sworn and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Mr. Walters):

Q Give your full name.

A Grafmueller, Ernst.

Q How old are you?

A Twenty years old.

Q In which platoon and which company were you during the Eifel Offensive?

A In the 12th Company, 1st K.W.K. Platoon. It was a platoon of Pfalzer.

Q Do you know the accused Anton Metzheim?

A Yes.

Q Did you see Metzheim during the offensive?

A Yes.

Q Did you see him at or near Honsfeld?

A Yes.

Q In the column, where was Metzheim's vehicle, in relation to your vehicle?

A In Honsfeld?

Q Yes.

A The tank of Metzheim was driving ahead of me.

Q On what day and about what hour did you pass through Honsfeld?

A It was in the morning, between eight and nine o'clock on the 17th of December.

(Grafmueller - Direct)

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Q Was there any enemy combat action in Honsfeld at the time?

A Yes.

Q Did you stop in the town of Honsfeld?

A Yes.

Q How long?

A Twenty minutes.

Q Was there an air raid attack at the time you stopped?

A Yes.

Q On which side of the road did you stop?

A On the right hand side of the road.

Q Did you see any American anti-tank guns at that place?

A Yes, in a yard on the right and on the left side of the road.

Q How many?

A One. On each side, one.

Q Will you describe briefly what the air attack was at the time?

A Yes; the planes were attacking us from the right side and we jumped down from our vehicles and looking for cover in a house that was on the right side of us.

Q Did you see defendant Motzheim at that time?

A Yes. He was present too.

Q When you parked your vehicle where was Motzheim's vehicle in relation to yours?

A It was standing right ahead of me.

Q Where did you meet Motzheim on the road when you started to take cover?

A At that time Motzheim had already dismounted.

Q Were there bombs falling around you and Motzheim at that time?

A Yes, very close to us.

(Grafmueller - Direct)

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Q Was there a wall in front of the house where you took cover?

A No.

Q Did you see any American soldiers there at the time, with their hands raised above their heads?

PROSECUTION (Mr. Elowitz): If the court please, the counsel has been asking leading questions right along and Prosecution certainly objects to the continuation of it. And we object to this question for that reason.

PRESIDENT: Objection is sustained.

Q Did you see any American prisoners of war there?

A Yes.

Q Did you see any prisoners of war shot at the time?

A No.

Q Did you ever see an American prisoner of war shot in Honsfeld?

A No.

DEFENSE COUNSEL (Mr. Walters): You may examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Mr. Elowitz):

Q What is your rank?

A Pfo.

Q Did you see any Americans in Honsfeld who were not prisoners of war but who were in the act of surrendering?

A I only saw prisoners of war who were already taken by parachute troops.

Q So you arrived in Honsfeld much later than Metzheim, didn't you?

A Yes.

PROSECUTION (Mr. Elowitz). That is all.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Mr. Walters):

Q How many minutes after Metzheim stopped his automobile, or his vehicle, did you park yours behind his?

(Grafueller - cross, redirect)

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A Might have been about twenty minutes.

PROSECUTION (Mr. Elowitz): Nothing on recross.

PRESIDENT: Anything further by the Prosecution?

PROSECUTION: Nothing further by the prosecution.

PRESIDENT: Any questions by the court?

EXAMINATION BY THE COURT

LAW MEMBER: What was the position of your vehicle in the line with respect to the remainder of the regiment?

A I didn't understand. Would you read it back, please?

Q Was it in the advance element or the regiment, in the main body, or the rear element?

A It was in the rear.

Q Metzheim's vehicle was in front of yours all the time, is that right?

A Yes.

Q About how many prisoners of war did you see in Honsfeld?

A About a hundred.

Q What time was this?

A When we drove through, between eight and nine o'clock.

PRESIDENT: Any other questions by the court? Apparently none. The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

DEFENSE COUNSEL: The Defense recalls as its next witness Oskar Maurer. Dr. Hertkorn, on behalf of the Defense, will conduct the redirect examination.

OSKAR MAURER recalled as a witness for the Defense, having been previously sworn, testified further through an interpreter as follows:

PRESIDENT: Just remind him he is still under oath.

PROSECUTION: The witness is reminded he is still under oath.

(Grafmueller - by Court)
(Maurer - redirect)

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REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Dr. Hertkorn):

Q Laurer, you are already interrogated as a witness for the defense.

A Yes.

Q Where were you on the 17th of December, 1944, at noon?

A In the area of Honsfeld.

Q Where was the company?

A The company closed formation shortly before Honsfeld.

Q Where was the company commander?

A The company commander must have been further ahead of us, since the platoon leader went to the front in order to report to the company commander that two vehicles of the third platoon were knocked out.

Q Did you see the company commander?

A In Honsfeld? No.

Q What did the company do in Honsfeld?

A The part of the company refueled.

Q Who gave the order for refueling?

A The company commander.

Q How do you know that?

A The company commander is the only one who can give the order.

Q When did you leave Honsfeld again?

A It might have been shortly after noon.

Q Do you know when the first Lt. Christ left; together with you?

A Yes. 1st Lt. Christ was driving ahead of my vehicle on the road between Honsfeld and Boullingen.

Q Did you see him in his tank?

A Yes.

DEFENSE COUNSEL (Dr. Hertkorn) No further questions.

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DEFENSE COUNSEL: You may cross examine.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker): What platoon were you in?

A In the third platoon.

Q What was your company order of March?

INTERPRETER: The order of march?

Q That is what I mean. The order of march?

A The first and second platoon takes the lead, then the company commander, then the Third platoon.

Q And when you were there in Honsfeld the platoon leader of the third platoon had to go up to the head of the column to find the company commander? Is that right?

A Yes.

Q So he wasn't on the first and second platoons there, was he?

A No, that was on the way between Honsfeld and Buellingen.

Q Up to that time he had been at the head of the column?

A I can't say that.

Q The first time you saw him was between Honsfeld and Buellingen?

A Yes.

Q And that was at what time?

A It was shortly after 12:00 o'clock at noon.

Q What time? 12:15?

A I can't say that exactly.

Q How do you know it was after twelve o'clock.

A Because two of our tanks were knocked out shortly before noon and we stayed in Honsfeld for a little while.

Q You looked at your watch when those two tanks were knocked out, didn't you?

A No.

Q What time were the two tanks knocked out?

(Maurer - recross)

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A I can give you only the approximate time. I only know that at 11:00 o'clock we were standing in the forest outside of Honsfeld. Then OBERsturmfuehrer Sievers gave the order, "Ready for combat."

Q Is that when you looked at your watch?

A I did not look at my watch, but 1st Lt. Koch did.

Q And after that you drove on toward Honsfeld and toward Buellingen?

A Yes.

Q Who else was in Christ's tank?

A The driver, Otto Lessau, first gunner Hans Pletz, the loading gunner, Flepp, and a second soldier, Helmut Pletz.

Q What was your position in your tank?

A 1st gunner.

Q You sat right next to the driver, did you not?

A No.

Q Where did you sit?

A I was sitting below the commandant.

Q And you had clear visibility ahead and outside of the tank?

A I could not see what happened outside of my tank.

Q But you saw Christ right ahead of you?

A After we passed Honsfeld, yes.

Q The situation was different then?

A Yes.

Q You could see out of your tank very plainly then?

A Yes.

PROSECUTION (Capt. Shumacker): That is all.

DEFENSE COUNSEL: Nothing further on redirect.

PRESIDENT: Any questions by the court? Apparently none,
the witness is excused.

(Laurer - recross).

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(Whereupon the witness was excused and withdrew from
the courtroom.)

PRESIDENT: The Court will recess until 1530 hours.

(Whereupon the Court at 1500 hours took a recess).

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(Whereupon the Court reconvened at 1530 hours.)

PRESIDENT: Take seats. The court will come to order.

PROSECUTION: If the Court please, let the record show that all members of the Court, all members of the Prosecution with the exception of Lt Col Crawford, who is absent on business of the Prosecution, and Captain Byrns, who has been excused by verbal orders of the Commanding General, all members of the defense, with the exception of Lt Col Dwinell, Dr. Rau, Dr. Leiling, who are absent on business of the defense, all of the defendants, with the exception of Rieder, who is sick, and the reporter are present.

DEFENSE COUNSEL: The defense calls as its next witness Otto Lessau. Dr. Hertkorn on behalf of the defense will conduct the direct examination.

OTTO LESSAU, a witness for the defense, was sworn and testified through an Interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the accused and to the German counsel.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE (Dr. Hertkorn):

Q State your full name to the court, please.

A Lessau, Otto.

Q When and where were you born?

A June 1, 1925.

Q How long have you been in the 1st SS Panzer Regiment?

A I have been in the 1st SS Panzer Regiment since October 1942.

Q What company were you in during the Eifel Offensive?

A 2nd Company.

Q Who was your company commander of that company?

A My company commander was 1st Lt Christ.

(Lessau - Direct)

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Q What were your military duties during the Eifel Offensive?

A I was 1st Lt Christ's tank driver during the Eifel Offensive.

Q Do you remember where the company was located in the morning of 17 December 1944?

A We were in Honsfeld about noon of the 17 December.

Q What was your company doing there?

A We drove into Honsfeld and as far as I could observe myself the vehicles refueled.

Q Was the company commander, 1st Lt Christ, with the company at the time?

A Yes, 1st Lt Christ was with the company at the time.

Q Do you know about what time of day it was that you left Honsfeld on that day?

A We were delayed in Honsfeld for about 45 minutes.

Q In what direction did you leave Honsfeld?

A As far as I knew we left Honsfeld towards Buellingen.

Q Do you know when the company reached this cross roads south of Malmedy?

A I, myself, did not have a watch at the time but as far as I remember and drawing conclusions from the darkness, it was about three-thirty.

Q Had it started getting dark already?

A You couldn't say it had started already, but it didn't take long after that.

Q Did 1st Lt Christ leave the company from the march from Honsfeld to the cross roads?

A He did not get separated from the company formation. At any rate he was in that tank most of the time. He certainly was in the tank whenever the tank was moving.

Q Do you know whether 1st Lt Christ perhaps drove away in another vehicle maybe during the break in the march?

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(Lessau - Direct)

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A I don't know.

Q Did you in your tank of the commanding officer ever drive past the point of the column between Honsfeld and the cross roads?

A I never got past the point of the column. There was always somebody in front of you moving even though the distance between tanks got quite long at times. I always found another vehicle in front of me whenever we slowed down.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Mr. Elowitz):

Q When you arrived at the cross roads it was clear daylight wasn't it?

A Yes, it was clear daylight.

Q And you stopped at the cross roads, did you not?

A We didn't stop at the cross roads.

Q Just before you got to the cross roads didn't you stop?

A If, as I said there might have been some slow downs in the marching column which are usual in the way the marching column spreads out and closed up again, but I don't remember any stop.

Q Just about where were you in relation to the cross roads when Christ left the tank either for a few minutes or a longer period of time?

INTERPRETER: Could you read the question back, please?
(Whereupon the Reporter read the last question.)

A When Christ for the first time after Honsfeld left the tank for an extended period of time—I think it was 15 or 20 minutes-- we were outside of Engelsdorf at a sharp right turn.

Q Were you near the cross roads when he left the tank for a short period of time?

A I don't remember.

Q It is possible though that while your tank was proceeding slow and the column that Christ might have left the tank for a short

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(Lessau - Direct)

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period of time?

A That might have been a matter of minutes at the most when perhaps he might have gone to some other officer to get some information or something like that.

Q There was quite a bit of excitement going on at the cross roads when you passed there, wasn't there?

A No, there wasn't anything going on any more.

Q Were you ever at Zuffenhausen?

A Yes.

Q When?

A From November 5, 1945, until December.

Q Did you ever speak to Christ at Zuffenhausen?

A Yes, I talked to Christ in Zuffenhausen.

Q When was that?

A I don't remember.

DR. HERTKORN: I object. In direct testimony I did not ask Lessau about Zuffenhausen or about whether he talked to Christ at any time.

MR. FLOWITZ: If the Court please, it is obvious that on direct examination counsel for Christ is attempting to establish an alibi to account for his presence or absence at the cross roads. And we submit that we are perfectly entitled to interrogate the witness to attempt to destroy the alibi. My next few questions will throw light on the purpose for which I am asking the witness these questions.

DR. HERTKORN: If this is to attack the credibility of Lessau, I can only state that Lessau himself is a prosecution witness.

LAW MEMBER: We will proceed with the questions, and if they do not connect themselves with the direct testimony, the court will disregard this part of the examination.

(Lessau - Direct)

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MR. ELOWITZ: Did he answer the last question?

QUESTIONS BY PROSECUTION (Mr. Elowitz) (Cont'd):

Q Do you know when you spoke to Christ at Zuffenhausen?

A Yes.

Q When was it?

A It must have been in the first days of December, the 1st of December or the 2nd.

Q Do you know Unterscharfuehrer Billoschetzky?

A Yes, I know him.

Q Did Christ tell you that he was interrogated by the Americans at that time?

A That was commonly known that he had been sitting in the bunker here in Dachau.

Q Did Christ warn you that in the event you were interrogated by the Americans you should remain silent about the fact that he had left Billoschetzky with his panzer at the cross roads when his company passed that point?

A That wasn't at the cross roads where he left Billoschetzky, that was at the point on the main road where we entered the main road. We had been on a side road and then hit the main road and turned left.

Q How far from the cross roads was that?

A I don't know that for sure any more. It could have been one also two kilometers.

MR. ELOWITZ: I will ask the witness to step down and come over to Prosecution's exhibit 3, the map on the wall, and point out the place of which he is speaking, in order to refresh the witness's memory point out Thirimont and the cross roads where the testimony has shown the American prisoners of war were shot.

Q Will you please point out the place where you were just referring that Christ had left Billoschetzky's panzer?

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(Lessau - Cross)

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A I can't give you the exact spot because I didn't work with that map before.

Q Approximately.

A It must have been along this piece of road (indicating). We came along from this way.

Q Can you point out with a little more exactness the approximate place where you came out on the main highway?

A Not with greater exactness.

Q I want to call your attention to the scale placed on the bottom of the map here (indicating). Keeping that in mind, can you point out with more exactness the place?

A I have said before, it might have been 2 km. or it might have been one. I can't really say.

Q Do you remember going through Thirimont?

A I don't remember any towns, the names of towns after Honsfeld.

MR. ELWITZ: All right, you may resume the stand.

(Whereupon the witness returned to the witness stand.)

MR. ELWITZ: That is all. Did the witness answer that last question? I will ask it again.

Q Did Christ tell you not to reveal to the Americans the fact that he had left Billoschetzky's panzer on guard at the point when his company went by?

A Christ did say that. I ask the court to be permitted to describe that in greater detail.

MR. ELWITZ: The prosecution has no objection.

A I had not met Christ since the surrender. And since we in Zuffenhausen all knew what the score was, I talked with Christ about the localities some. And in order to get a point on which to base other localities on I asked Christ whether this cross roads they were talking about was the one next to the place where he had

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stopped Billoschetzky and given him the order to secure the road towards the right side and at the end to join the company again with the turret of his vehicle turned toward 6 o'clock. And Christ said that he could not remember this order any more, and that being so I should not mention it either.

MR. ELOWITZ: That is all.

DEFENSE COUNSEL: Nothing further on redirect examination.

PRESIDENT: Any questions by the court? Apparently not, the witness is excused.

(Whereupon the witness was excused and withdrew from the court room.)

DEFENSE COUNSEL: At this time the defense having completed the area around Honsfeld, we will now proceed to the area of Bulingen on 17 December. The defense calls as its next witness the accused Marcel Boltz. Col Sutton on behalf of the defense will conduct the direct examination. The defense does not contemplate recalling this witness.

MARCEL BOLTZ, one of the accused, called as a witness in his own behalf, took the stand and testified through an Interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the accused and to the German counsel.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE (Col Sutton):

- Q What is your full name?
A Marcel Boltz.
Q Your former military organization?
A 3rd Panzer Pioneer Company, 1st Bn. LSSAH.
Q Which group were you in?
A 2nd Platoon, 3rd Group.

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Q When did you come into the army?

A October 10, 1943.

Q Did you volunteer or were you drafted?

A I was drafted.

Q What was your age on 17 December 1944?

A 18 years old.

Q What is your birth date?

A 11 September 1926.

Q Where were you born?

A In Reiningue in Alsace.

Q What is your legal address?

A Also Reiningue, Alsace.

Q How were you demobilized?

A On November 22, 1945, I was demobilized by the French authorities in Colmar.

Q What did you declare on the occasion of your demobilization?

A I declared that I saw the dead bodies on the right side of the road near Malmedy cross roads.

Q Who did you give that information to?

A The French authorities.

Q What did you do after your demobilization?

A I went home and started working in a mine.

Q What, if anything, happened in January relating to this case?

A Late in January I was interrogated by Captain Byrne about the Malmedy at my home.

Q Who interrogated you?

A Captain Byrne.

Q Is that the same Captain Byrne who has been over at the Prosecution's table part of the time?

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(Boltz - Direct)

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A Yes, he was a 1st Lieutenant at the time.

Q Where did that interrogation take place?

A In my apartment.

Q What did you say to him?

A That I had seen the bodies of the Americans on the right side of the road near the cross roads near Malmedy.

CAPTAIN SHUMACKER: I want to object to this line of examination for the reason that he is testifying about a conversation he had, which is in the nature of a self serving declaration. If this witness is allowed to testify as to any conversation that he had with any persons between December 1944 and to-day when he is here on the witness stand able to testify, he is at perfect liberty to relate to this court what he might have told his parents about it and what he might have written his friends about it, and that is the reason that self serving declarations are not admissible. Another reason that they are not admissible is that an accused after the commission of a crime is most inclined to spread word of his innocence, and he can then come into court were such statements competent and relate to the court a hundred or a thousand people to whom he proclaimed his innocence.

The witness is present here in court and able and apparently willing to testify. We most respectfully submit that his testimony should be confined to what happened and not what he has said that happened sometime between the criminal acts alleged and to-day.

LAW MEMBER: Have you anything to say on the question?

COL SUTTON: May it please the court, this is not an attempt to elicit a self serving declaration. It is leading up to the time when he was questioned by Captain Byrne. That was a part of the investigation. The court will recall that evidence was put in by Captain Shumacker pertaining to what transpired in Col Ellis' office in questioning the accused. It is respectfully submitted

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that a question concerning the interrogation of the accused is proper and fitting.

LAW MEMBER: Was the interrogation by Captain Byrne under oath? Will you ask that question?

QUESTIONS BY DEFENSE (Col Sutton) (Cont'd):

Q Was the interrogation by Captain Byrne under oath?

A Yes.

CAPTAIN SHUMACKER: I don't know, if it please the court, if this question is a predicate for the introduction of some statement that he might have given Captain Byrne. I would like to read this to the Court, if I may? It is taken from the Outline of Procedure for the Trial of Certain War Criminals by General and Intermediate Military Government Courts, prepared by the Theater Judge Advocate, under the subject of rules of evidence, paragraph (b):

"The court shall in general require the introduction of the best evidence available. Hearsay evidence including the statement, sworn or unsworn, of a witness not produced, is admissible. But if the matter is important and controverted, every effort should be made to obtain the presence of a witness and an adjournment may be ordered for that purpose. The guiding principle is to admit only evidence that will aid in determining the truth.

And we respectfully submit, if it please the court, that the best evidence this witness can give about the facts in issue is his testimony in open court here today. If the witness is allowed to testify as to facts he related to Captain Byrne he would likewise be allowed to introduce in court any letter that he might have written to any person proclaiming his innocence from December 1944 until today, and I don't see how the court could exclude it.

LAW MEMBER: The court is the best judge of what it will admit and will not admit under those circumstances. Counsel for defense has stated that he is now going to bring out the substance of a conversation which took place more in the nature of an investigation which was under oath, by one of the official

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investigators of War Crimes and not as a mere self-serving declaration. If, after the evidence has been related on the stand, the court determines that it is a self-serving declaration it will be excluded. The objection is overruled.

QUESTIONS BY DEFENSE COUNSEL (Lt. Col. Sutton)(Continuing):

Q Will you tell the court the substance of the conversation between yourself and Captain Byrne?

A Captain Byrne asked me whether I knew anything about the Americans being shot near Malmedy. I told him that near Malmedy on the right side of the road I saw Americans who had been shot and the man in the tank behind me shot at the Americans with a small American rifle.

Q Now, Boltz, was anything else in particular said at that particular meeting?

A Yes, it is possible I don't remember the exact conversation any more.

Q What occurred after that conversation with Captain Byrne?

A I was sworn and a statement was taken and I signed it.

Q Was that statement taken at your home?

A Yes.

Q What occurred after that?

A On the 12th of March, 1946, I got a temporary pass from the French authorities in order to --

PROSECUTION (Captain Shumacker): I object to this. I don't see that it has anything to do with the issues in this case. The jurisdiction of the court as to this accused and all accused has been settled.

DEFENSE COUNSEL (Lt. Col. Sutton): If it please the court, Ordinarily the question of jurisdiction is raised at the

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beginning of a trial. In this instance it is believed justified to bring the point of jurisdiction up at this time for a decision by the court. The defense will tend to prove that the accused is a French citizen and, further, in its motion it will state that the French held jurisdiction over him.

LAW MEMBER: If this is a question of jurisdiction, the court has already ruled that it has jurisdiction over all these accused and that motion will be denied immediately.

DEFENSE COUNSEL (Lt. Col. Sutton): If the court please, this particular question was not raised in the ^{original} motion dealing with jurisdiction.

LAW MEMBER: Except that the court ruled that it had jurisdiction over all of the accused even though it was only raised at that time as to some of the accused, with respect to the Belgian cases. The court will add that there are two reasons why the motion will be denied; one is that jurisdiction should have been raised at the beginning of the trial and is now brought out of turn, and the second, because the court has already decided that it has jurisdiction over all of the accused. Should some form of surprise testimony arise with respect to this witness before the conclusion of the case, the defense may reserve its right to renew its motion on the jurisdiction.

DEFENSE COUNSEL (Lt. Col. Sutton): If the court please, a question is anticipated at a later time, perhaps by the French Government.

LAW MEMBER: Well, if such question does arise the court will consider it when it is brought up but not at this time.

DEFENSE COUNSEL (Lt. Col. Sutton): If the court please, may the record show that a proffer was made of written evidence

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to show citizenship and discharge papers, etc.?

LAW MEMBER: Well, is it being made?

DEFENSE COUNSEL (Lt. Coll Sutton): Well, I would have made it had you not said that the court is with jurisdiction.

PROSECUTION (Captain Shumacker): If the court please, I believe the witness has testified that he was an Alsatian and if such evidence were offered we would certainly object to it as being immaterial because the question of the right of the French to claim jurisdiction is a right of the French Government to raise and not this accused, and I don't believe the French Government has legal counsel present.

LAW MEMBER: If the issue is raised you may make your proffer at that time and we will take up the entire matter as one transaction.

QUESTIONS BY DEFENSE COUNSEL (Lt. Col. Sutton)(Continuing):

Q Boltz, how far did you go in school?

A Eight years.

Q What was your profession or occupation in civil life?

A I was a miner.

Q What instructions, if any, have you received during your military career concerning the Geneva Convention?

A That soldiers with the red arm bands were not to be shot at, that ambulances were not to be fired at.

Q Have you had any instructions on the treatment of prisoners of war?

A No.

Q When were you captured or apprehended?

A May 7, 1945, by the Russians. I was captured in Dresden.

Q When were you released by the Russians?

A May 25th or 26th.

(Boltz - Direct)

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Q When did you come into the custody of the Americans?

A On 3 June in Koeditz near Hof.

Q When and in what places have you been imprisoned?

A From 3 June until August 1 in the Camp Koeditz from 1 August until 10 October in Stalag, then Landwasser near Neurnburg, then from March 13 until April 16 in Schwaebisch Hall and ever since April 16 here in Dachau.

Q When were you first interrogated regarding this case?

A The end of January for the first time.

Q Was that the same interrogation that you spoke about a few minutes ago?

A Yes, March 16th in Schwaebisch Hall.

Q Who was present at the interrogation on the 16th of March in Schwaebisch Hall?

A In the morning of March 16 I was taken into an interrogation cell. Shortly thereafter Captain Shumacker and Mr. Thon came into the interrogation cell. After a few minutes Captain Shumacker left the interrogation cell again.

Q What took place then?

A Mr. Thon then told me: "We know that you fired; we also know that you had orders to do so. If you admit that you fired then nothing much can happen to you. In three months at the most you will be back in France, but if you will deny then I'll consider myself forced to strike out that order and then you'll be a War Criminal and I don't think you want to be that."

Q Was anything said about Dietrich?

A Yes.

Q What was it?

A Mr. Thon told me: "We don't want you, you're just a small Private; we don't want Altekruieger because he was just a little Sergeant; we don't want Sievers because he was only a 1st Lieutenant; we don't even want Peiper." He then asked me: "Do

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you know who we want?" I answered: "No." Mr. Thon then said:
"We want Sepp Dietrich."

Q What took place after Mr. Thon said they wanted Sepp
Dietrich?

A Then Mr. Thon took me out to the office of Lt. Col.
Ellis.

Q What happened there?

A In the office of Lt. Col. Ellis, Mr. Thon asked me
whether I had fired at a prisoner of war south of the Cross
Roads of Malmedy.

Q Who was present at that time?

A Lt. Col. Ellis, Capt. Shumacker, one lady, and two
or three more persons sitting at a long table.

Q What else, if anything, happened at that meeting?

A Mr. Thon asked me whether I fired at prisoners of
war at the Cross Roads? I answered: "No". And then Mr.
Thon asked me: "Do you want me to get Sprenger?" I answered:
"Yes." Mr. Thon went out and came back with Sprenger and he
asked Sprenger: "Did you fire at the Cross Roads?" Sprenger
answered: "Yes." And he asked Sprenger: "Did you have an order
to do that?" Sprenger answered: "Yes." And he asked Sprenger:
"Sprenger, did Boltz shoot at the Cross Roads?" Sprenger answered:
"Yes." And then he asked: "Did Boltz have orders to do that?"
Sprenger answered: "Yes."

Q What happened next?

A Mr. Thon gave Sprenger a cigarette and took him back
to his cell. When Mr. Thon came back he said, "Boltz, there's no
sense in you denying it. Sprenger just told us, Jakel and Hofmann
will say the same thing. I can only advise you to admit it. I
will ask you one more time, did you fire at the Cross Roads or
not?" And I admitted it.

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Q Did you shoot at the Cross Roads?

A No.

Q Then why did you say you shot when you did not?

A I never before had anything to do with any court and I was told what Sprenger, Hofmann, Jakel and Neve had testified to, and when I was then confronted with Sprenger, and when he told me in my presence that I had fired at the Cross Roads, then I thought that a trial would take place against me in a very few days. I also thought that these witnesses would appear as prosecution's witnesses.

Q Where did that interrogation take place?

A In the office of Lt. Col. Ellis.

Q What, if anything else, did Mr. Thon say?

A After I had admitted it Mr. Thon took me out of the office of Lt. Col. Ellis again and took me back to the interrogation cell.

Q Before taking you out of the office did Mr. Thon say anything else in regard to yourself?

A It's possible but I can't recall at the moment.

Q When were you last interrogated?

A I was then taken out of Lt. Col. Ellis' office and taken back to the interrogation cell. Mr. Thon gave me a piece of paper, a map of the area of Malmedy, and a pencil, and he told me: "We won't be working this afternoon. You'll have time to write everything down what you know on Sunday. I'll again advise you to admit everything and don't forget anything, and don't spare any officers because all they want to do is get their men in trouble." And he left, and I was taken back into my own living cell.

Q Were you interrogated again?

A I was again taken in the interrogation cell on the

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morning of March 18.

Q Who was present?

A Mr. Thon came in the cell and picked up the paper and he said: "I'll translate this and then I'll be back."

Q Did he come back very soon?

A Thon didn't come back that same day. In the evening I was taken back into my living cell again.

Q Who talked to you next about this case?

A In the afternoon of Tuesday, March 19, I was again taken to the office of Lt. Col. Ellis.

Q What took place at that interrogation?

A Captain Shumacker called Sprenger, Captain Shumacker said something about "You wrote down some villages and towns down here which you never went through. Sprenger's memory is better than yours. He'll tell all the towns you went through and what happened there in the whole march route." Sprenger explained the route of march to me and told me what was supposed to have happened in the various towns. Captain Shumacker called a typist and dictated the statement which I made to her, and I was taken back to my cell again.

Q Were you shown the statements of anyone else during that interrogation?

A On March 16 Mr. Thon showed me the testimony of Sprenger, Jakel, Neve and Hofmann and different sketches of the area.

Q Did these statements contain in effect what you said in the statement that has been offered in evidence?

A Yes, I couldn't remember any details at all.

Q Would you have made such a statement had you not seen those statements?

A No, I couldn't remember any details.

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Q About how long were you questioned on the 16th of March?

A The time which I was interrogated was about two or two and a half hours.

Q About how long did it take to dictate the statement?

A It might have taken an hour and a half.

(Bolts - Direct)

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Q Who dictated the statement?

A Capt. Shumacker dictated to a stenographer.

Q During this meeting were any promises made concerning admitting the shootings?

A I have already said that on the 16th Mr. Thon told me that if I admitted it nothing much could happen to me, I would be back in France within three months.

Q As a result of that promise, did you make the statement that has been offered in evidence?

A Yes.

Q Who was your company commander on the 17th of December, 1944?

A Obersturmfuehrer Franz Sievers.

Q Who was your platoon commander?

A Sgt. Max Boutner.

Q Who was Lt. Seitz?

A 2nd Lt. Seitz was a platoon leader of the first platoon in the 3rd Panzer Pioneer company.

Q Did he make a talk to the company relative to taking or not taking prisoners of war?

A 2nd Lt. Seitz made a speech on the 13th or 14th of December in the forest near Sateway. He at that time read an order from the Fuehrer. In that Fuehrer order it said, among other things, that comrades who wanted to desert to the enemy were to be shot. He didn't say anything about the offensive or about prisoners of war, because nothing was known about the offensive at the time.

Q Why did you put in your statement that you heard Seitz say that no prisoners of war would be taken?

A I couldn't remember at the time when I was interrogated in Schwabisch Hall, and Springer told me that Lt. Seitz had said that prisoners of war were to be shot.

(Boltz - direct)

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Q Do you remember Lt. Sievers saying anything about not taking prisoners of war?

A Sievers didn't make any speech.

Q Was there a meeting of group leaders with Lt. Sievers' company commander?

A December 16 in the morning before the attack, 1st. Lt. Sievers called the platoon leaders to him.

Q What position did Altkreuger hold in your platoon?

A Altkreuger was my group leader. He was in charge of my group.

Q Was Altkreuger present at that platoon meeting?

A Not at that meeting. Platoon leaders later called their group leaders in.

Q Now did Altkreuger make any mention regarding the taking of prisoners of war?

A Yes.

Q Who was present at that meeting?

A Altkreuger was called to the platoon leader Sgt. Max Boutner. When he returned he assembled the third group and he said, "the offensive will start this morning. A German battalion with American weapons and American uniforms has already broken through the front lines. As of today we will have air superiority again, as well as artillery support. No prisoners will be taken; they will be shot."

Q What do you think would have happened to you if you had not carried out an order to shoot prisoners of war?

PROSECUTION (Capt. Shumacker): If the court please, I object to that as calling for an opinion and conclusion of the witness.

PRESIDENT: Translate that.

INTERPRETER: I haven't got the question yet.

Q What do you think would have happened to you if you had not carried out an order to shoot prisoners of war?

(Boltz - direct)

INTERPRETER: Will you read the objection, please?

(Whereupon the objection was read by the reporter).

PROSECUTION (Capt. Shumacker): I withdraw the objection, if the Court please.

A We were told again and again that refusing an order, that if an order was refused out at the front that would be refusing an order before the enemy and that that would be punished by death.

Q At this time I am going to read a part of the record from page 716 and 717, and ask you what transpired at this meeting in Col. Ellis' office:

"Q. Captain Shumacker, do you remember the details of the taking of the statement of Marcel Boltz?

"A. Yes, I do.

"Q. Will you describe them?

"A. Mr. Thon and I interrogated him for about ten minutes in one of the interrogation cells. He told us substantially the same story that is contained in the statement just read. Then he was brought into our office there, and there he repeated his story in the presence of Major Schirman, the French War Crimes Liaison Officer. She was interested because he is an Alsatian, and because we had gotten him from the French. After that he was sent back to his room, and a few days later-- I don't remember how many--I got him back in the office and dictated the statement."

"Do you recall if there was anyone else present in my office other than the people you just named?"

"A. you were present, sir, Mr. Thon, Boltz, Major Schirman, two or three interpreters who were working at a long table, and I.

"Q. Do you mean interpreters or translators?

"A. I mean translators.

"Q. Is there any difference between the statement as given by Boltz and what he told at this interrogation in my office?

"A. One rather material difference.

"Q. What was that?

"A. He first told Mr. Thon and me, and also repeated in your presence and in the presence of Major Schirman, that he shot this man on the right hand end of the group, near Buellingen. When we went to dictate the statement, he changed it and insisted that he really didn't shoot him, he shot to the left of him and tried to miss him, and that is the way it was put in the statement."

(Whereupon the above was read in the German language by the interpreter for the benefit of the German Counsel and the accused).

Q Did you make a statement that you shot prisoners of war

(Boltz - direct).

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at Buellingen in Lt. Col. Ellis' office?

A No.

Q What did you say?

A The day I was interrogated about Buellingen, Major Schirman wasn't in Schwaibisch Hall any more. I merely admitted firing but I didn't fire at the prisoners of war. I never told either Capt. Shumacker or Mr. Harry Thon that I had shot the prisoner standing at the left end of the group.

Q About what time did you arrive in Buellingen?

A December 17, between ten-thirty and eleven.

Q At that time who were the members of your SPW crew?

A Sgt. Altkreuger, Sgt. Heinz Rose, he was a company medic, Sturmann Pfo. Gustave Springer, the driver, Cpl. Schneider, Cpl. Gerhardt, Pfo. Bukissevitz, and I.

Q Who was the assistant driver?

A Pfo. Gunther Mans.

Q How long were you in Buellingen?

A We stopped at Buellingen twice. Once going into Buellingen and the other time going out of Buellingen. In all about an hour and a half.

Q How long was the first stop?

A Twenty minutes, or a half hour.

Q What happened the first time you stopped?

A We stopped at a house that was standing on the left side of the road five meters away from the road.

Q Did you see any prisoners of war the first time you stopped?

A Yes. I got out with Pfo. Sigmund Kohler and ^{to-}we/gether went into the house in order to get something to drink. When we got into a hall there was a staircase going up at the right. On top of the step came a man with his wife was standing. I first asked him in German whether we could get something to drink. He didn't answer so I thought he didn't speak any German and asked him in French. He didn't answer that either. The man was very excited and the woman
(Boltz - direct)

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cried. So I told Kohler, "Let's go on." And when we left the man followed us out and told us that Americans were hidden in the cellar. We wanted to get into that cellar but at the same moment an American came out already and they had their hands above their heads. They left their weapons in the cellar. Only one man was present and he still had his pistol on. There was seven or eight American soldiers. And they got out of the cellar Sgt. Altkrouger joined the group. We lined them up. Altkrouger told us to search them for weapons and to take out all knives with a solid handle. We searched them for weapons and took their knives with solid handles away from them. Now the other groups, the first group and the second group, had also taken prisoners in Buellingen. They were all collected in one point. Sgt. Dittmann came to the group and he asked whether an officer was among them, but nobody reported. So he asked nothing else and then one soldier reported who had a horizontal white bar on the back of his helmet. Sgt. Dittmann talked to him and told him to march to the rear in the direction of Honsfeld with the prisoners. Shortly thereafter we drove on and we stopped at the place where Buellingen ends. At that spot we refueled and were surprised by artillery. When the artillery fire slowed down some we got into our vehicles and left the town of Buellingen as rapidly as possible. In Buellingen the assistant driver, Pfc. Gunther Mans, was wounded.

Q Did you shoot any prisoners of war in Buellingen?

A No.

Q Did you shoot any prisoners of war anywhere near Buellingen?

A No.

DEFENSE COUNSEL (Col. Sutton): That is all.

DEFENSE COUNSEL: This is a good place to rest, if you wish.

PRESIDENT: Court will adjourn until 0830 tomorrow morning.

(Whereupon the court, at 1650 hours adjourned.)

(Boltz - direct)

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CAMP DACHAU, GERMANY

29 June 1946

MORNING SESSION

(Whereupon Court reconvened at 0830 hours.)

PRESIDENT: Take seats. The court will come to order.

PROSECUTION: If the Court please, let the record show that all members of the Court, all members of the Prosecution, with the exception of Lt Col Crawford, who is absent on business of the Prosecution, and Captain Byrne, who has been excused by verbal orders of the Commanding General, all members of the Defense, with the exception of Dr. Rau, who is absent on business of the Defense, all the defendants, with the exception of Rieder, No. 51, and Kies, No. 30, who are represented by Lt Col Sutton who is present, and the Reporter are present.

DEFENSE COUNSEL: The Defense recalls the accused Marcel Boltz.

MARCEL BOLTZ, one of the accused, resumed the stand and testified further through an Interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY DEFENSE (Lt Col Sutton):

Q Boltz, you have previously testified about the alleged incidents at Buellingen, have you not?

A Yes.

Q Was your company commander the same at Buellingen as it was in the forest up in Blankenheim?

A Yes.

Q Your platoon commander, was he the same?

A Yes.

Q And your group leader Altkrueger?

A Yes, sir.

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Boltz - Direct)

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Q Was there any change in the crew?

A No, no change only the assistant driver by the name of Gunther Muntz was wounded in Buellingen.

Q Was he still in the vehicle at the time you left Buellingen?

A Yes, 200 meters behind Buellingen we vanished him and sent him back.

Q Which platoon were you in at that time?

A In the second platoon.

Q Do you know whether or not the first platoon was anywhere near Buellingen immediately before the second platoon left?

A Yes.

Q Where was the first platoon?

A The first platoon left Buellingen one half hour before the second platoon.

Q Approximately at what time did the second platoon leave Buellingen?

A Between twelve and twelve-thirty.

Q Was there any artillery fire on Buellingen and on the road between Buellingen and the cross roads north of Engelsdorf?

A North of Buellingen and a little ways behind Buellingen we received artillery fire.

Q What was the condition of the road between Buellingen and the cross roads?

A They were bad roads.

Q Approximately what time did your vehicle arrive at the cross roads?

A Between three and four o'clock in the afternoon.

Q Did Altkrueger give you an order to shoot prisoners of war at the cross roads?

A No.

Q Did you shoot prisoners at the cross roads?

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(Boltz - Direct)

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A No.

Q Did you shoot at any of the bodies of the prisoners at the cross roads?

A No.

Q Can you tell the court what your position was in the vehicle at the time you were at the cross roads?

A At the time we reached the cross roads I was sitting at the left side of the SPW.

Q In what direction was your vehicle traveling, using as a point on Prosecution's exhibit 3, which is the map, between the points of the cross roads and Engelsdorf?

A In a southern direction.

Q Did you observe anything immediately after you passed the cross roads?

A After the cross roads we stopped. Before we stopped I saw Rottenfuehrer Billoschetzky, who had a small American carbine, shooting at the prisoners.

Q Did you observe any prisoners passing near the cross roads?

A They had already been shot at the time we arrived there; they were already lying on the ground.

Q On which side of the road were the prisoners lying down on?

A On the right side of the road.

Q Did your vehicle stop near the cross roads?

A Yes.

Q Did it stop more than one time?

A We stopped once before we reached the cross roads.

Q About how far before the cross roads did your vehicle stop the first time?

A I can't say exactly, but I assume it was 300 or 350 meters.

Q About how long did your vehicle stop the first time?

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A Ten or fifteen minutes.

Q How long did your vehicle stop at or near the cross roads the second time?

A The second time we did not stop very long, at the most three or four minutes, because we had already stopped when the column started moving.

Q What type of vehicle were you in at the time?

A In an SPW.

Q Could you see the prisoners of war in the field?

A Yes.

Q How many SPWs, if any, were at the cross roads at the same time you were?

A I only saw one vehicle in front of me which was driven by Rottenfuehrer Hofmann, and one vehicle in back of me which was driven by Rottenfuehrer Oettinger.

Q Were there any types of vehicles there of any kind except the two vehicles which you have just mentioned?

A I do not remember having seen any other vehicles.

Q Were there any American vehicles parked anywhere near the pasture where the Americans were lying?

A It is possible, but I do not remember having seen any.

Q Tell the court what took place at the cross roads from the time you arrived there until you left.

A Shortly before we reached the cross roads about 300 or 350 meters Altkrueger told Sturmman Sprenger to stop because he had heard machine gun fire. He thought that a battle would take place at the cross roads. We stopped about ten or fifteen minutes, then we drove on to the cross roads, turned left and stopped when we reached the dead Americans. Before we stopped I saw Rottenfuehrer Billoschetzky, who was shooting on the prisoners with a short American rifle. We had not stopped very long, about three or four minutes, at

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the cross roads when the column started again. That is, the vehicle in front of me started and we drove on and only stopped again shortly before we reached Engelsdorf.

Q You mentioned Billoschetsky, where was his vehicle in relation to yours?

A It was twenty-five or thirty meters behind me.

Q You also mentioned still another vehicle. Where was it in relation to your vehicle?

A The vehicle which was driven by Sturmman Hofman was also 30 meters in front of me.

Q Was any one standing in the field or pasture at the cross roads when your vehicle was there?

A No, no one was standing in the field.

Q Was there any firing at the cross roads before you arrived there?

A Yes.

Q Where was the firing coming from?

A From a southwest direction.

Q Was that firing very heavy or light?

A I assumed at that time that it came from two machine guns.

Q About how long did it last?

A About ten or fifteen minutes.

Q Did you or any members of the crew of your SPW fire on American prisoners dead or alive at or near the cross roads north of Engelsdorf?

A With the exception of Billoschetsky nobody shot.

Q What type of weapon did Billoschetsky use?

A It was a short American rifle just like the sentries are carrying here now.

LT COL SUTTON: I ask the Court to indulge us just a moment while I get Prosecution's exhibit P-51.

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(Boltz - Direct)

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PRESIDENT: All right.

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LT COL SUTTON: I hand the witness Prosecution's exhibit

P-51 and I will ask him some questions concerning it.

QUESTIONS BY DEFENSE (Lt Col Sutton):

Q Prosecution's exhibit P-51 includes the following. I am going to quote in part and ask you whether or not the statements contained therein are true: (reading)

"During the Eifel Offensive in December 1944 I was a Sturmman in the 3rd Group of the 2nd Platoon of the 3rd Panzer Pioneer Company, 1st Pioneer Battalion, LAH. My group leader was Unterscharfuhrer Max Beutner. My Company Commander was Obersturmfuhrer Franz Sievers. During the Eifel Offensive I rode in a SPW commanded by Unterscharfuhrer Altkruger. The driver of my SPW was Sturmman Gustav Sprenger; the assistant driver was Sturmman Guenther Mang; Unterscharfuhrer Rose was the company medic, who also rode in our SPW; Rottenfuhrer Gerharz was a rifleman; I was machine gunner; and Sturmman Franz Vukissewitz was my loader."

Is that true?

A Yes.

Q Reading further from exhibit P-51 (reading):

"I remember that a few days prior to the offensive, probably around the 13th or 14th of December 1944, our company was bivouaced in the woods near Satzvey (Bonn 27.2-25.2). Before leaving this area, I recall that the company was assembled and Untersturmfuhrer Seitz, platoon leader of the 1st Platoon, made a speech to us about the coming offensive. His speech was substantially as follows:

'This is an order that has come down from the Fuhrer. It is the duty and the obligation of every man, should he see a comrade go over to the enemy, to shoot him. In the coming offensive no prisoners of war will be taken but will be shot immediately.'

Is that statement true?

A No.

Q Was there anything said by Lt. Seitz?

A No. At this time there was nothing known about the offensive and he did not talk about prisoners of war.

Q Reading further from exhibit P-51:

"Untersturmfuhrer Seitz also spoke about the support

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we would have in the offensive."

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Is that true?

A No.

Q Reading further:

"I no longer remember the details of what he told us."

Is that true?

A Yes, that is true.

Q Reading further:

"But I do remember his order about prisoners of war which I have set forth above."

Is that true?

A No, that is not true.

Q Reading further from exhibit P-51:

"From Satzvey we moved to another assembly area in woods near Blankenheim (Bonn 23-05)."

Is that true?

A Yes, that is correct.

Q Reading further:

"I remember that the offensive began on the morning of 16 December 1944 and that immediately before we started forward in the advance the group leaders were called to a meeting with their respective platoon leaders. Before the group leaders were called the platoon leaders had met with the Company Commander, Obersturmfuehrer Sievers."

Is that correct?

A Yes, that is correct.

Q Reading further:

"Our group leader, Unterscharfuehrer Altkrueger, went to this meeting and came back to us and repeated to the men in his group substantially the same order we had received from Untersturmfuehrer Seitz in Satzvey. I remember distinctly that he repeated the order that prisoners of war were not to be taken."

Is that true?

A That is only partly true.

Q What part of that is true and what part is not true?

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(Boltz - Direct)

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A Unterscharfuehrer Altkrueger could not have repeated the order of Seitz at Satzvey because there was nothing known in Satzvey about the coming offensive and there was nothing said about prisoners of war.

Q Who is Altkrueger?

A Altkrueger is the group leader of the 3rd Group of the 2nd Platoon.

Q Did Altkrueger tell you that prisoners of war would not be taken?

A Yes.

Q Reading further:

"We passed through the town of Honsfeld around 8 o'clock in the morning 17 December 1944. I remember that as we left the town of Honsfeld we made a right turn in order to proceed in the direction of Buellingen."

Is that true?

A Yes.

Q Reading further:

"Just before making this right turn, I remember hearing some shooting that came from our right not far away."

Is that true?

A No, that is not true.

Q Reading further:

"It was my impression that it was machine gun fire."

Is that true?

A No.

Q (Reading) "Also before we made this turn to the right I remember an American Studebaker truck that was parked on the righthand side of the road."

Is that true?

A Yes, that is correct.

Q Reading further:

"After making the turn to the right I remember a house that was on the righthand side of the road near the

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intersection."

Is that true?

A Yes.

Q Reading further:

"I also remember seeing the dead bodies of about 15 or 16 American soldiers which lay on the ground on the left side of the road, perhaps 200 meters from the intersection."

Is that true?

A No, that is not correct.

Q Reading further:

"This group of American soldiers had no weapons about them that I could see and they obviously had not been killed in combat, as they lay too close together."

Is that correct?

A No.

Q Reading further:

"I do not remember seeing blood on the bodies of these soldiers as we passed by but they certainly appeared to have been shot from the positions of the bodies."

Is that correct?

A No.

Q (Reading) "I do not recall seeing any other German vehicle on the road near where these American soldiers had been killed."

Is that correct?

A That I did not see any other vehicles there— that is true.

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Q (Reading) "I do not recall seeing any other German vehicle on the road near where these American soldiers had been killed."

Is that correct?

A That I did not see any other vehicles there -- that is true.

Q Did you see any dead American soldiers?

A No.

Q (Reading) "I would not say, however, that no other vehicle was there, as my attention was directed entirely to these American soldiers as they lay in the pasture."

Is that correct?

A No.

Q I am going to read the question again and ask it over. (Reading):

"I would not say, however, that no other vehicle was there, as my attention was directed entirely to these American soldiers as they lay in the pasture."

Did you see any other vehicles there?

A No, I do not remember having seen other vehicles there.

Q Did you see any dead Americans there?

A No.

Q Reading further: "A short distance down the road we halted because the column ahead of us had stopped."

Is that correct?

A Yes, that is correct.

Q Reading further: "I remember that Rottenfuehrer Max Hammerer from Beutner's SPW (Beutner's SPW was driven by Rottenfuehrer Ernst Goldschmidt) walked past our SPW at this place where we stopped and Sprenger asked him if those prisoners (meaning the 15 or 16 we had seen lying on the side of the road) had been shot by his SPW, meaning the crew of Hammerer's SPW."

Is that correct?

(Boltz-Direct)

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A No, Rottenfuehrer Hammerer did not pass our SPW.

Q Reading further: "Hammerer replied, 'Yes, they were bumped off.' Shortly thereafter, the column moved forward again but we had not gone very far when we were strafed from the air by the enemy and I remember that we took cover along the edge of some woods on the righthand side of the road."

Is that correct?

A Yes, that's true.

Q Reading further from P-51: "After the air raid attack had ceased, we started forward again, continuing in the direction of Buellingen. About a kilometer or so before reaching Buellingen, there was a small airfield on the left side of the road. Between this airfield and the town of Buellingen, I remember that we stopped in front of a house that was located on our left side of the road. This was a large house located about five meters off the edge of the road. I remember that it had a large door which was old and weathered."

Is that correct?

A Yes, that's correct.

Q Reading further: "The SPW of Rottenfuehrer Billoshetzky had stopped on the road at this point behind us. Sturmman Sigmund Koehler from Billoshetzky's SPW and I walked over to this house to get something to drink. We entered the house and talked to a man and a woman who were standing inside on the staircase. We asked them for something to drink and they became very excited. The man was shaking and the woman was crying. We went out of the house and the man followed us and then told us that some Americans were in the cellar. Just about this time 7 or 8 American soldiers came up from the cellar and surrendered to us. They left their weapons in the cellar and when they first appeared they had their hands raised above their heads in a sign of surrender."

Is that true?

A Yes, that is right.

Q Reading further: "Just before before the Americans had appeared, Unterscharfuehrer Altkrueger had come over, and when the Americans came from the cellar and surrendered, Altkrueger gave us an order to search them."

Is that true?

(Boltz-Direct)

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A Yes, that's true.

LAW MEMBER: Colonel Sutton, may I ask the purpose of this line of questioning?

LT. COL. SUTTON: The reason is that this statement has been put in and I was going down through the statement in order to show what the true facts are in contrast to what is in the statement.

LAW MEMBER: The statement is in front of the Court, the statement is in front of the accused and the translator. Is there any reason why we cannot save time by having the accused go through the statement and say what is true and what is not? We went through this testimony yesterday.

LT. COL. SUTTON: If it please the Court, I might suggest that the accused read it sentence by sentence and state whether or not it is correct.

LAW MEMBER: That is all right. Anything in order to save the time of the Court because the Court is familiar with all the circumstances.

CAPTAIN SHUMACKER: If the Court please, as I understand, the witness is going to read through the statement himself and when he comes to a sentence that is untrue or incorrect he is going to point that out to the Court. Is that correct?

LAW MEMBER: That would be better. In other words, let him read through it and when he comes to a portion that is incorrect, let him say, "This portion is incorrect."

THE WITNESS: (Reading): "I attempted to talk to one of the prisoners and Altkrueger hollered at me, asking me if I had forgotten the order that had been given."

This sentence is not correct.

(Boltz-Direct)

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(Continuing reading): "Then on Altkrueger's order, these 7 or 8 American prisoners were lined up in a single rank some 2 or 3 meters from the house with their backs to the house."

This sentence is not correct either.

(Continuing reading): "Altkrueger, Koehler and I stood facing them about twelve meters away."

This sentence is not correct either.

(Continuing reading): "Altkrueger was standing to my left and Koehler was standing to Altkrueger's left."

This sentence is not correct either.

(Continuing reading): "Altkrueger asked me ironically if I would like to shoot right away."

This sentence is not correct.

(Continuing reading): "I made no answer and Altkrueger started shooting at the prisoners himself with his machine pistol and I followed, firing at them with a pistol. I fired two shots but I purposely tried to avoid hitting the man who was standing in front of me, aiming to his left. He remained standing after I had fired but fell when Altkrueger fired some more with his machine pistol."

This paragraph is not correct.

CAPTAIN SHUMACKER: If the Court please, if it will save time, the Prosecution will concede that this witness has already testified that he did not shoot at this group of prisoners, that Altkrueger did not shoot at them, and that they went to the rear. I believe he testified to that yesterday.

LT. COL. SUTTON: That is agreeable, sir.

CAPTAIN SHUMACKER: We agree that the witness testified to that, -- not that it is true.

LT. COL. SUTTON: To further assist the Court, I would suggest, in view of the fact that there is nothing material, that the witness start in with the paragraph, "From Buellingen we travelled to Thirimont."

(Boltz-Direct)

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THE WITNESS: (Reading) "From Buellingen we travelled to Thirimont and from Thirimont we travelled northwestwardly on a small unimproved road until we came out on the road leading from Malmédy to Walmes. As we came out on this road our SPW stopped and I heard machine gun fire coming from a crossroads some 600 or 700 meters ahead of us. We halted here perhaps 10 to 15 minutes and then proceeded on to the crossroads where we turned to our left to proceed in the direction of Engelsdorf. I remember that after making a left turn there was a house at the intersection on our righthand side of the road and south of the house there was a hedge row which formed the northern boundary of a pasture. In the pasture I could see what appeared to be over 100 American soldiers lying on the ground, many of whom were still turning and twisting."

This paragraph is correct.

(Reading further): "As we approached this pasture it was obvious to me that the soldiers who lay in the field were American prisoners of war who had been shot. I could tell they were Americans by their uniforms."

This paragraph is correct.

(Continuing reading): "Altkrueger gave me the order to shoot at those who were still turning and twisting and I then fired with the rear machine gun, aiming at those Americans who lay on the ground moving and turning. To do this I rested the rear machine gun on the top of the right side of the SPW. I fired 2 or 3 bursts from the machine gun, or a total of 25 or 30 rounds. I am unable to tell how many of my shots were effective but I aimed at those who were still moving, turning or otherwise showing some signs of life."

This paragraph is incorrect.

LT. COL. SUTTON: May it please the Court, I believe that covers both incidents, Buellingen and Malmédy. No further questions.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHYMACKER):

Q Boltz, I believe you testified on direct examination that you were drafted into the SS on October 10, 1943, is that correct?

(Boltz-Cross)

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A. In October '43.

Q And you were in the SS from that time until the capitulation?

A Yes.

Q And during that time you never had any instructions on the treatment or handling of prisoners of war?

A Not about the treatment exactly, but that prisoners of war were not to be shot. That, of course, was clear to every soldier.

Q I did not ask you what was clear to every soldier. I asked you if you had any instructions with respect to prisoners of war except that you were not to fire on medic personnel or ambulances, about which you testified yesterday.

A About prisoners of war, yes, that they were not to be shot, but not exactly how to treat them.

Q Is that all they told you -- prisoners were not to be shot?

A Yes.

Q When were you told that?

A During my basic training in October and November '43.

Q And after that time you had no further instructions?

A At any rate, I don't remember.

Q Did you attend all the company orientation classes and other classes of instruction after you joined the 3rd Panzer Pioneer Company of the 1st Panzer Division LAH?

(Boltz-Cross)

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A I did not participate in all instructions.

Q You attended just about as many classes as anyone else in the company, did you not?

A Yes.

Q You were in this company, the 3rd Panzer Pioneer Company of the 1st Pioneer Battalion of LAH from May 1944 up until the time of this offensive, were you not?

A Yes, from the 10th of May 1944.

Q Boltz, do you remember that shortly before the town of Losheim along your route of march there was a railroad bridge that was knocked out?

A Yes, that is true.

Q And you reached that point about midnight of the 16th, did you not?

A If that was about midnight, I don't remember. At any rate, it was dark.

Q It was sometime on the night of the 16th or 17th of December 1944, was it not?

A Yes, that's correct.

Q And you know that between the place where this bridge was knocked out and the town of Losheim men of your company, the 3rd Panzer Pioneer Company did clear some mines from a pasture through which your column had to go through, is that correct?

A Yes.

Q You say that you passed through and left the town of Honsfeld around eight o'clock in the morning 17 December 1944?

A Yes.

Q And before making the righthand turn to proceed in the direction of Buellingen, you do remember this

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Studebaker truck that was parked on the righthand side of the road?

A Yes, I remember that truck.

Q And you remember the house on the righthand side of the road just after making that turn?

A Yes, that is true.

Q And you remember the three anti-tank pieces on the righthand side of the road between that house and the second house on the righthand side of the road?

A No, I did not see any anti-tank guns.

Q Do you deny that they were there?

A I cannot deny that. At any rate I didn't see anything.

Q You say that you do not remember this group of 14 or 15 American prisoners of war that lay on the lefthand side of the road approximately 100 meters from this intersection?

A I did not see any group of American soldiers.

End Tk #293
Dotty follows

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Q And you deny that after you stopped up the road several hundred meters that Hammerer passed your SPW, the accused Max Hammerer, and Sprenger asked him about who bumped these prisoners off?

A Yes, Rottenfuehrer Hammerer did not pass our SPW, at any rate I do not remember.

Q Boltz, to refresh your recollection, don't you remember that you and I had a grave discussion about the exact words that Hammerer used when your statement was dictated? Don't you recall that Sprenger had said that in answer to his inquiry that Hammerer had said: "We bumped 'em off?" And you insisted that Hammerer didn't use the word "we" but that he had said: "Yes, they were bumped off." And we used the word "they were bumped off" in your statement because you insisted that those were your exact words, is that not true?

A Yes, we had that conversation but Rottenfuehrer Hammerer never said any such thing.

Q Well, if he didn't say any such thing at all, why were you so insistent as to the choice of the words that he had said?

A Because I knew that he had not said that at all and I didn't want to make him a bad man by admitting that.

Q Now, at this house where you say Hammerer had no conversation at all with Sprenger, the column was subjected to an air attack, was it not?

A Not at that spot.

Q Well, a few hundred meters down the road you and your platoon took cover on the right side of the road and the first platoon on the left side of the road, is that right?

A How far we had driven I cannot tell you any more with any certainty but we were attacked from the air and the second

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(Boltz - Cross)

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platoon took cover on the right side of the road and the first platoon on the left side.

Q Now , referring to these 7 or 8 prisoners that were captured in the house on the lefthand side of the road just as you were entering the town of Buellingen, did you ever see in either Sprenger's statement or Heve's statement, or Joachim Hofmann's statement, or Jakel's statement, that you shot those prisoners of war?

A They did not write down that I had shot them.

Q Did Sprenger ever tell you to your face that you shot them?

A No, but Jakel wrote in his statement that Altekruieger at the exit of Buellingen when we were shot at by artillery, had come into the cellar to him and had told him that the third group had shot the prisoner which we had taken at that house.

Q And that's what influenced you to tell the story, is that right?

A Yes.

Q Dcn't you know, Boltz, referring now to your interrogation at Schwaebisch Hall, that you were interrogated within a very few minutes after you go t to the interrogation room, having been brought there from the cell where you lived?

A Captain Shumacker and Mr. Thon came into this cell. Captain Shumacker asked two or three questions, in which company I was, who my Company Commander was, and who my driver was. Then he left the cell.

Q Will you answer my question, Boltz. I asked you if you weren't interrogated within a very few minutes after you arrived in this interrogation cell?

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A Yes, I was interrogated.

Q And you were interrogated by Mr. Thon and me, a matter of ten or fifteen minutes, you told us about the shooting at Buellingen that you participated in and also that you shot at the prisoners of war at the Cross Roads, and I left to see if Major Schirman could see you and could hear your story and I came back in less than one minute, and then you were taken into --

DEFENSE COUNSEL (Lt. Col. Sutton) If the court please, I would suggest that the prosecution give the witness an opportunity to answer a question. At least three different questions have been put in this one question that the prosecution is putting forward at this time. It is almost impossible for any of us to carry a long, lengthy, involved statement in our minds which might require an affirmative answer and a negative answer in part to that sentence. I would suggest that it would be fair to the witness to ask questions and not make them so lengthy and involved and such as will require in part a negative and part an affirmative answer.

PROSECUTION (Capt. Shumacker): The witness, of course, doesn't have to answer the question "yes" or "no", he can answer it any way he wants to and make any explanation he wants but I want to state the situation that happened and ask him whether it's true or not.

Q And then I came back to your interrogation cell and brought you in to Col. Ellis' office where Major Schirman, the French War Crimes Liaison Officer, was sitting, is that not true?

A No, that's not quite true.

Q You say it's not quite true; well, why is it not true?

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A I was not interrogated for 15 minutes in the interrogation cell and after you left the cell you did not come back. It was not Capt. Shumacker but Mr. Thon who led me into the office of Lt. Col. Ellis and the first time I was not asked about Buellingen nor the Cross Roads in the cell.

Q What did we ask you about -- who your Company Commander was?

A Yes.

Q And who your group leader was?

A Yes.

Q And who your platoon leader was?

A Yes.

Q And you gave us the correct information?

A I still remember at that time that with my Company Commander --

DEFENSE COUNSEL (Lt. Col. Sutton): If the court please, would it be proper to request the court to instruct the prosecution to let the witness answer the question before another question is asked and also not to come in and interrupt the witness when he is answering a question the prosecution has put to him?

LAW MEMBER: Because of the nature of these questions at the present time I think it would be best if you give the accused an ample opportunity to answer them. If he wishes to enlarge upon his answers, let him do so.

PROSECUTION (Capt. Shumacker): Very well, sir.

Q So when you were taken into Col. Ellis' office where Major Schiman was seated the information you had to impart consisted of the names of your Company Commander, your Platoon Leader and your Group Leader, is that right?

A No, that's not true.

Q Well, what is true?

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(Bolts - Cross)

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A When I was taken into the office of Lt. Col. Ellis, Mr. Thon asked me if when I arrived at the Cross Roads I had shot at the dead soldiers, that is at the soldiers that were lying on the field. I answered him: "No". Mr. Thon said to me: "Do you want me to get Sprenger?" I said: "Yes". Mr. Thon left and got Sprenger. When he came back he asked Sprenger: "Sprenger, did you shoot at the Cross Roads?" Sprenger answered: "Yes." And he asked him then: "Did you have an order for that?" Sprenger answered: "Yes". Then he asked him: "Sprenger, did Boltz shoot at the Cross Roads?" Sprenger answered: "Yes." Then Mr. Thon asked Sprenger: "Did Boltz have an order for that?" Sprenger answered: "Yes." Then Mr. Thon gave Sprenger a cigarette and sent him out again. When he came back Mr. Thon told me that it would be of no use for "you" to keep denying things. "The same things that Sprenger just said are being said by Jakel and Hofmann. I can only advise you to admit everything. It would be better for you." Then he said: "I'm now asking you, did you shoot at the Cross Roads?" And at that time I admitted it.

Q Boltz, don't you know that as a matter of fact you weren't in Col. Ellis' office all more than two or three minutes?

A I was in there longer than two or three minutes.

Q And don't you know that the first statement you wrote was written over the week-end by you with a pencil on some paper that Mr. Thon had given you?

A Yes, that's true.

Q And you wrote that statement in your own room and it was not dictated to you, was it?

A No, that was not dictated.

Q And the choice of the words and the composition of the statement you wrote over that week-end were your own?

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(Boltz-Cross)

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A Yes.

Q And don't you know that you never did say anything about shooting to the left of this man who was in front of you -- I'm referring to the 7 or 8 prisoners at Buellingen -- until the time your statement was dictated by me?

A I did not understand the question.

Q Referring to these 7 or 8 prisoners that were captured in the house on the lefthand side of the road as you entered the town of Buellingen, in your statement which has been read in court, Prosecution's Exhibit F-51, you say that these 7 or 8 prisoners were lined up near the house, that Altkrueger shot at them with a machine pistol and you shot at the man standing directly in front of you but you purposely aimed to his left and tried to miss him. Now, you never did say anything about shooting to the left of that man until time came to dictate your statement, did you?

A I said that at that time when the statement was dictated that was in the afternoon of the 19 of March and Major Schirman was not in Schwabisch Hall on that night.

Q Will you please answer my question now, Boltz. I ask you if you ever said anything about shooting to the left of that man before your statement was dictated?

A That is correct.

Q And because you never had said anything about shooting to the left of that man you and I had quite an argument about it and I interrogated you further on that point, did I not? Is that not true?

A I didn't quite understand it.

Q When you insisted at the time your statement was being dictated that you shot to the left of this prisoner of war, did not you and I have quite an argument on that point and I interrogated you further on that particular point?

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A Yes, that's correct.

Q And you insisted that you shot to the left of him and that's the way it appeared in your statement, Prosecution's Exhibit P-51?

A Yes, at that time I said to myself: Well, if they're going to accuse me, that is the third group anyway, that we had shot these prisoners and that I can't do anything else and have to admit it, then I just can say I missed him.

Q Well, did you miss him?

A I didn't shoot at all.

Q And Altkrueger was with you?

A Yes.

Q And Altkrueger was the man who gave the order on the morning of the 16th not to take any prisoners of war but to shoot them, is that right?

A Altkrueger did give that order but I don't believe that he received this order from Untersturmfuehrer Beutner --

PROSECUTION (Capt. Shumacker): If the court please, I object to that answer as not being responsive and if the witness doesn't know who he received the order from I move that his answer be stricken from the record and not be accepted by the court.

DEFENSE COUNSEL (Lt. Col. Sutton): May it please the court, here again the prosecution has interrupted the witness. His answer is responsive to the question. That point which the prosecution has just brought up has been covered at least twice before by the defense.

PROSECUTION (Capt. Shumacker): I asked the witness if this Altkrueger who captured these 7 or 8 prisoners with Boltz was not the same Altkrueger who gave this order not to take prisoners of war but to shoot them.

DEFENSE COUNSEL (Lt. Col. Sutton): If the court please --
(Boltz-Cross)

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PROSECUTION (Capt. Shumacker): Will you let me finish my argument please, sir. And the witness' answer was "yes" and then he went into an explanation as to what he believed -- as to from whom he thought Altkrueger might have gotten his order. We insist that's not responsive to the question.

LAW MEMBER: You will caution the witness that he will answer the questions to the best of his ability. If he cannot answer the question he will state that he cannot answer it.

DEFENSE COUNSEL (Lt. Col. Sutton): May it please the court, in order to save time I would suggest that the question be read back to the witness and let him answer it.

LAW MEMBER: The question will be read back but the part of the answer which was not responsive will be stricken. Now, in order to keep this thing going straight and in continuity will you repeat your question?

QUESTIONS BY PROSECUTION (Capt. Shumacker)(Continuing):

Q My question, Boltz, was in substance as follows: Was not the Altkrueger who captured the 7 or 8 prisoners with you at this house in Buellingen the same Altkrueger who you said gave the order on the morning of 16 December 1944, not to take prisoners of war that they would be shot?

A Yes, he was the same Altkrueger.

PRESIDENT: The court will recess until ten-thirty,
(Whereupon the court took a recess at 1000 hours.)

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(Whereupon Court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: If the Court please, let the record show that all the members of the Court, all the members of the Prosecution, with the exception of Lieutenant Colonel Crawford, who is absent on business of the Prosecution and Captain Byrne, who has been excused by verbal orders of the Commanding General, all the members of the Defense, with the exception of Dr. Rau, who is absent on business of the Defense, all the defendants with the exception of Max Rieder, number 51 and Friedel Kies, number 30, who are sick in the hospital and are represented by Lieutenant Colonel Sutton who is present, and the reporter are present.

DEFENSE COUNSEL: The Defense recalls the accused Marcel Boltz.

MARCEL BOLTZ, an accused, resumed the stand and testified further through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the accused and the German counsel.)

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q Boltz, referring further to these seven or eight prisoners of war that were captured at the house in Buellingen on 17 December 1944, I will ask you if you did not write the following concerning that incident, in your cell over the weekend after your first interrogation:

"The American prisoners came out at once.

There were seven or eight, and surrendered right

(Boltz-Cross)

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away without any resistance. We had to search them on orders of Altkrueger for weapons. I wanted to talk to one for I believed he could speak French but Altkrueger cursed me. It was the second time he had to remind me of the orders which were given prior to the offensive, and it would be the last time; otherwise, I would know what was going to happen to me and he gave me the orders once more, the orders to shoot. I only had a pistol with me and from fear alone, that I would be shot, I shot. Altkrueger shot with his machine pistol."

Is that what you wrote in your own cell over the weekend after your first interrogation?

A Yes, I wrote it.

Q As I understand it, you claim that this statement, part of which has just been read, and your other statement which is in evidence as Prosecution's Exhibit P-51, were both made because Mr. Thon promised you that that was the best thing to do and you would only serve three months, is that what you testified to yesterday?

A Yes.

Q Is that true?

A Yes.

Q Yesterday, Boltz, on direct examination you testified that when I started dictating your statement, which is Prosecution's Exhibit P-51, that you were unable to remember the names of the towns that you went through, so I called Sprenger down to the room, is that correct?

A No, I didn't say it that way.

Q Well, Sprenger came down and did go over the maps that I handed you with you?

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A Sprenger was taken into the office of Lieutenant Colonel Ellis and explained the route of march to me on the map.

Q After he had gone over the route of march on these maps with you, I told you that in your statement I did not want you to mention a single town unless you remembered it yourself, regardless of what Sprenger said about it. Isn't that true?

A Yes.

Q And I even studied these two maps with you and checked with you to see if you understood map coordination before we even put map coordination in your statements, did I not?

A Yes, that is true.

Q Boltz, will you come over here and look at Prosecution's Exhibit P-3, which is the map on the wall? You have mentioned in your direct testimony, if I remember correctly, the towns of Honsfeld, the town of Buellingen, the town of Thiermont, the cross roads north of Engelsdorf and the town of Engelsdorf, or as it appears on this map, Lignuville itself. Now I point to a road crossing northeast of the cross roads on Prosecution's Exhibit P-3, which is the intersection of the road leading northwest from Thirumont to the Malmedy-Wanne road and I ask you if it was not at this intersection that you and Sprenger stopped in your SPW on orders of Altkreuger before you proceeded to the cross roads?

A Yes, that is the place.

Q Will you resume the stand, please. And it was at this place that you heard the machine gun fire coming from general direction of the cross roads itself.

(Boltz - cross)

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A Yes, that is true.

Q And you were there from ten to fifteen minutes?

A Yes.

Q Now where was it that the first platoon passed the second platoon and traveled ahead of you?

A In Buellingen.

Q And they left Buellingen, you say, approximately a half an hour ahead of you?

A It might have been more than half an hour; I can't say that exactly.

Q Well, did you ever by-pass or overtake the first platoon at any time between Buellingen and the cross roads?

A No. From Buellingen on the first platoon was constantly ahead of us.

Q Now your platoon leader, as you have testified, was Unterscharfuhrer Max Buetner?

A Yes. Unterscharfuhrer Max Buetner.

Q And in addition to your platoon leader's vehicle, there were three groups in your platoon, were there not?

A Yes.

Q The group leader of the first group was Unterscharfuhrer Friedl Bode, an accused, No. 2 in this case? Is that not right?

A Yes, that is correct.

Q The group leader of the second group was Unterscharfuhrer Sopp Witkowski; is that not true?

A Yes.

Q And the group leader of the third group, your group, was Unterscharfuhrer Altkreuger; is that not true?

A Yes, that is correct, too.

Q And your platoon order of march was the platoon leader's vehicle first, followed by the two vehicles of each group, the first group, the second group, and the third group, in that order?

(Boltz - cross)

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A No, that is not quite correct.

Q All right; what is correct?

A At that time the group of Bode had only one vehicle.

Q Sievers had his other SPW, didn't he?

A Yes, that is true.

Q And in the 2nd group one of the Spws had fallen out and all the members of that crew had gotten in the SPW driven by Hofmann, with the exception of Guyerhofer, the driver, and the assistant driver, who remained behind with the SPW; is that not true?

A I can no longer say with one hundred per cent certainty if a vehicle had fallen out in the second group, but it is possible.

Q Is that your best recollection about it?

A Yes.

Q So then actually there was only one vehicle in the first group, either one or two vehicles in the second group, one vehicle and Erdinger's vehicle in which Billoschetsky was riding, traveling behind you?

A Yes, that is correct.

Q Well, now, was that the order of march, then, of your platoon?

A Yes, that was the march order of the second platoon.

Q Now, in your vehicle with you, in addition to others, was the accused Adolf--Gustav Adolf Sprenger, no. 61, is that right?

A Sprenger was the driver of my vehicle.

Q And in the SPW in front of you, which was the second vehicle in the second group, was the accused Joachim Hofmann, No. 26; the accused Sigfried Jaekel, No. 28, and the accused Gustav Neve, No. 40; and the accused Heinz Stickel, No. 63, if he had transferred from Witkowski's vehicle into Hofmann's vehicle?

A I don't know if Stickel was in the vehicle of Hofmann, but the others were there.

Q And you know that in the vehicle of Bode the accused No. 2, rode the accused Johann Wasenberger, No. 70, and the accused Friedl (Bolts - cross)

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Kies, No. 30?

A Yes, I know that.

Q Boltz, do you remember exactly what it was the Beutner said, or yelled, to Altkreuger, your group leader, as you pulled to a halt behind Joachim Hofmann's SPW there in front of the field?

A May I ask you where we halted?

Q In front of the field there at the cross roads?

(Whereupon the question was interpreted to the accused in the German language).

PROSECUTION (Capt. Shumacker) No, I didn't say that.

In front of the field there at the cross roads. If the court please, I am advised that my initial question was not fully and accurately translated. I would like permission to restate it.

PRESIDENT: Translate that last remark.

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q Now, do you remember exactly what it was that Beutner said, or yelled, to Altkreuger, your group leader, as you pulled to a halt behind the SPW of Joachim Hofmann in front of the pasture at the cross roads north of Engelsdorf?

A I did not see Beutner in front of the pasture north of Engelsdorf at the cross roads, and Beutner never spoke to Altkreuger.

Q Did Altkreuger speak to Billoschetzky, the man with the small American rifle, in the SPW behind you?

A No, Altkreuger did not talk to Billoschetzky.

Q He didn't give Billoschetzky any specific order at that time and place to shoot at the Americans?

A No.

Q This man in the SPW behind you shot them without any order whatsoever, is that right? Any specific order given at that place?

A Yes, that is correct.

Q Isn't it true that Billoschetzky shot and that you shot, and that Altkreuger shot, and that Sprenger shot, because everybody else was shooting?

(Boltz - cross)

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A No, that is not correct.

Q You say you deny that you took the rear machine gun and rested it on the right hand side of the SPW and fired into the American prisoners?

A Yes, I deny that. I was the gunner of the front machine gun, of the machine gun in the front, and was standing at the machine gun in the front.

Q Which means that you didn't even know how to operate the rear machine gun; is that correct?

A I did know that. The rear machine gun was operated the same manner as the machine gun in the front.

Q And it was the same type of weapon?

A Yes, it was the same type of weapon.

Q Now these prisoners--some of these prisoners that you saw in the field were still alive, as you could tell by the movement of the bodies; is that correct?

A When Billoschetzky did the shooting, some of them were still moving; that is true.

Q You mentioned yesterday on direct examination, having been interrogated in your home, I believe you said by Capt. Byrne, in January 1946; is that right?

A Yes, that is correct.

Q You were not arrested at that time?

A No.

Q And Capt. Byrne made no promises to you?

A No.

Q And you told Capt. Byrne the absolute truth?

A I told Capt. Byrne the truth as far as I could remember it at that time.

Q You were questioned by Capt. Byrne and also interrogated by Mr. Thon and Me at Schwaibisch Hall on these following subjects, were you not: Whether or not you shot any prisoners of war during this

(Boltz - cross)

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offensive; if you saw or knew of anyone else shooting prisoners of war during this offensive; who they were; where it took place; and when; and the proposition of orders about prisoners of war given prior to the offensive. Is that not true?

A Yes, that is true.

Q Boltz, you recall, after you signed your statement at Schwaibisch Hall, Prosecution's Exhibit P-51, that you sent word to Col. Ellis and to the investigators generally, stating that you had given your testimony, and practically demanding your right to return to France; is that not true?

A I did not send a note.

DEFENSE COUNSEL (COL. SUTTON): May it please the court, the court has ruled on this question and I don't think it is proper to bring it out by the Prosecution. The question of jurisdiction, sir.

LAW MEMBER. Is that the purpose of this line of questioning?

PROSECUTION (Capt. Shumacker): No, sir, it is not. You will find out, the next question, I believe, Col. Sutton, that it is not.

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q You say you did not send a note?

A Yes.

Q And that was the substance of it?

LAW MEMBER: I do not know whether the accused understood the former question when he said he did. Will you repeat the question, sir.

PROSECUTION (Capt. Shumacker): Yes. I ask you again, Boltz, after you made the statement in Schwaibisch Hall which is Prosecution's Exhibit P-51, if in some way you did not communicate to the investigators the fact that you had given your testimony, and practically demanding your right to return to France?

A Yes, that is correct.

Q And that was at Schwaibisch Hall?

(Boltz - cross)

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A Yes.

Q I believe you testified on direct examination that you came to Dachau on or about 18 April 1946?

A Yes, that is correct.

Q And I believe your statement, Prosecution's Exhibit P-51, is dated 21 March; is that correct? 1946?

A Yes.

Q Boltz, how did you figure that you were entitled to be released so you could go home in less than a month, if you signed that statement on Mr. Thon's promise that you were going to serve three months term in jail?

A I did not figure that. Mr. Thon gave me the idea.

Q So you didn't rely on his promise, did you?

A I did not understand the question.

Q If you didn't believe that you were going to spend three months in jail, you didn't rely on Mr. Thon's promise that that was the punishment you would get?

A Mr. Thon did not say to me that if I would admit it I would only have to serve three months. Mr. Thon told me that if I would admit, nothing would happen to me at all and he told me that it would last as long as this trial was going to last.

PROSECUTION: If the court please, we have a correction on that translation. Didn't he say it would take three months until the trial would come up?

A As long as the trial was going to last.

LAW MEMBER: That is what he said.

Q So Mr. Thon didn't say anything to you about if you signed this statement your punishment would be three months?

A No, Mr. Thon did not say that.

(Boltz - cross)

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Q So Mr. Thon did not say anything to you about if you signed this statement your punishment would be three months?

A No, Mr. Thon did not say that.

Q Do you now say that you have not told that story in substance right here in this court?

A I still haven't answered the first question.

Q What question is it that you have not answered?

A You asked me whether or not Mr. Thon told me that if I would sign the statement I would get only three months in jail for punishment. You asked me whether or not Mr. Thon said it.

Q I will ask you again whether or not he said it.

A Mr. Thon told me that if I would admit everything I can be in France within three months but he didn't say to me that I would get three months in jail for punishment.

Q How did you figure that you were entitled to go to France between March 21st 1946 and April 16th 1946 if Mr. Thon promised that you would be in France three months after you made your statement?

A I don't understand the question.

Q As I understand it, Boltz, you now claim that what Mr. Thon promised you was that if you signed this statement you would be in France three months after you signed it. Is that correct?

A Mr. Thon did not say to me that I would be in France in three months if I would sign the statement but he

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told me if I would admit everything.

Q Well, you figured you had admitted everything, had you not, Boltz?

A This question I do not understand at all.

Q Did you conclude after making your statement dated 21 March 1946 Prosecution Exhibit P-51 that you had given sufficient information to justify your return to France in three months?

A Yes, I concluded this.

Q Now I ask you again if you concluded that you were to go to France three months after your interrogation or three months after the date of your statement, whichever you prefer, how did you figure you were entitled to be returned to France prior to April 16 1946?

A I never was talking about a right or being entitled. I only requested to return.

Q You would not have requested it had you not felt you were entitled to go home, would you?

A I only asked for it because Mr. Thon had told me nothing would happen to me and I could be at home three months later.

Q This was within one month after you were first interrogated, was it, that you made these requests?

A Yes.

Q You have told the absolute truth here in court from the witness stand, have you not, Boltz?

A Yes, I did so.

Q When questioned here in court by your own counsel about orders, you testified that you did not hear anything about prisoners of war at Satzvey and that the first time you heard the order was from your group leader

(Boltz-Cross)

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on the morning of 16 December 1944. Is that the truth?

A Yes, that's the truth.

Q Now I will read to you three questions and answers from the sworn statement you gave to Captain Byrne, which I believe you say is also the truth. This is the portion of your statement in which you were talking about the prisoners shot at the crossroads.

"Q Before you saw these people shot, had you received an order to take no prisoners?

"A No, not before.

"Q Did you ever receive an order to take no prisoners?

"A Yes, later in Stoumont on the 21st or 22nd of December.

"Q The first you knew of the order to take no prisoners was the 21st of December 1944, is that right?

"A Yes, on the 21st or 22nd of December. It was on the day we took Stoumont.

"Q How did you receive the order to take no prisoners?

"A From my squad leader. He, the squad leader, said that by order of the Regimental Commander of the 1st Regiment to whom we were attached, no prisoners will be taken.

"Q What was the squad leader's name?

"A Unterscharfuhrer Altkrueger."

Now, I will ask you, Boltz, when you told the truth -- when you testified here in court or when you made this sworn statement to Captain Byrne about orders?

A I told the truth here before this court and at that time when I made the statement to Captain Byrne, my recollection was not better and I thought it was in Stoumont when Altkrueger gave me this order.

Q Well, he also gave you an order in Stoumont, did he not?

A No.

(Boltz-Cross)

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Tk #297-SR-6/27-5

Q He did not?

A No, he did not give me an order in Stoumont.

Q You say when you talked to Captain Byrne in January 1946, your memory failed you about the order that Altkrueger gave in the Blankenheim Woods on the morning of 16 December 1944?

A That was the first time that I was interrogated about this case and at that time I was working on the night shift and came home at four o'clock in the morning and at eight o'clock Captain Byrne arrived and wanted to interrogate me about this case.

Q Will you answer my question now, Boltz?

A I couldn't remember better and believed that this order was given in Stoumont. Later on, in Hall, when I had enough time to think it over, I remembered that this order was given somewhere in the forest in the morning prior to the attack and then when Sprenger explained to me where we had been, it was clear to me that this was the Blankenheim Forest.

Q Boltz, even before Captain Byrne came down to interrogate you, you had reported some information relative to the prisoners being shot in this offensive to the French police, had you not?

A That was no police troops, that was French armed forces.

Q Anyway, you had reported it, had you not?

A Yes.

Q So this interrogation about what happened during the offensive came as no surprise to you, did it?

(Boltz-Cross)

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A No, it was no surprise to me.

Q And although you had voluntarily made a report about it, it had just never occurred to you to recall this order that Altkrueger had given prior to the offensive on the 16th of December?

A When I was discharged on the 22nd of November 1945, I was asked whether or not I had seen at any time at some place prisoners of war who had been shot. I answered that I did not see how they were shot but that I saw dead bodies lying on the righthand side of the road south of Malmedy.

Q Boltz, will you please pay attention to my questions and just try to answer the questions? I asked you if despite the fact you made this report voluntarily prior to your interrogation by Captain Byrne if this order given by Altkrueger on 16 December 1944 completely escaped your memory.

A At any rate, I don't think of it any more.

Q Was it very usual for you to receive an order prior to an offensive not to take prisoners of war and to shoot them?

A No, that was not usual.

Q Was it very unusual?

A Yes.

Q And you still do not remember it?

A No.

Q You were in Stoumont Belgium, were you not, around the 20th or 21st of December 1944?

A We took Stoumont on the 19th of December.

Q Were you there on the 20th of December 1944?

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(Boltz-Cross)

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A Yes.

Q I will read to you a paragraph from your statement Prosecution Exhibit P-51:

"Between 0900 and 1000 hours 20 December 1944 I was in a store in Stoumont when two American prisoners appeared carrying a wounded American comrade on a stretcher. Altkrueger, Vukissewitz and Koehler were also there. When I first saw these three Americans they were already in Altkrueger's custody in the store itself. At this time an artillery barrage was in progress and when it had lifted, Altkrueger ordered me to come along with him. Then Altkrueger and I marched the prisoners down a street approximately 250 meters, turned left into a pasture by the side of a house on the left-hand side of this street and there Altkrueger shot these 3 prisoners with his machine pistol. I did not participate in the shooting of these prisoners."

Is that correct?

A Yes, that is correct.

Q And Altkrueger and you were in the 3rd Panzer Pioneer Company commanded by Obersturmfuehrer Sievers at that time on that date, is that right?

A Yes.

Q Boltz, going back to the scene at the crossroads north of Engelsdorf, do you know who gave the order to shoot these American prisoners of war?

A At the time when I arrived at the crossroads the prisoners had already been shot and I don't know who gave the order.

Q Were you able to reach any conclusion as to who gave the order, either from what you saw or what you heard?

LT. COL. SUTTON: May it please the Court, an objection is made because it calls for a conclusion of the witness.

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CAPTAIN SHUMACKER: If the Court please, the witness can state a conclusion if it is based on facts that he saw or things that he heard. If I say the sky is blue and I say so because I look at it, that is a conclusion.

LAW MEMBER: Read the question, please.

(Whereupon the question was read by the reporter as follows:

"Were you able to reach any conclusion as to who gave the order, either from what you saw or what you heard?"

LAW MEMBER: Suppose you ask him if from what he knows or what he saw he gave the order.

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q In conversation with your comrades, Boltz, what information did you gather as to who gave the order to shoot these prisoners at the crossroads?

A I never had any conversation with my comrades as to who was supposed to have given this order.

Q There was no talk about it, is that correct?

A We did not talk about who was supposed to have given the order.

Q In other words, you deny now that there was any talk as to who gave the order to shoot the prisoners at the crossroads north of Engelsdorf, is that right?

A I did not want to deny it but we didn't talk about it.

Q Is that your signature on this statement dated 30 January 1946?

A Yes, that's my signature.

Q I will read you some questions and answers from that statement, being the one you gave to Captain Byrne that you have talked about.

(Boltz-Cross)

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"Q Do you know who ordered these 100 to 150 Americans shot?

"A I assumed that it was Peiper.

"Q Did anyone tell you that Peiper ordered them shot?

"A It was the general talk.

"Q Do you know anyone who might know for a certainty whether Peiper gave this order?

"A No, but it couldn't have been anyone else but Peiper.

"Q Why do you say it couldn't have been anyone else but Peiper?

"A Because he was in charge of the Panzer Regiment, of the 1st Panzer Regiment and only the 1st Panzer Regiment was in this vicinity this day. There were no other groups in front of us."

Now, Boltz, which is true -- that you told Captain Byrne under oath on 30 January 1946, that there was talk as to who gave the order or what you testified to less than 5 minutes ago?

A I already stated that I told Captain Byrne the truth as far as I could remember it; that Peiper was supposed to have given this order -- that was only a conclusion of my own.

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Q Now was it a conclusion of your own, that that was the general talk?

A Yes.

Q You mean you didn't hear any talk?

A No. At that time I didn't have any time to make conversations, we were in the Offensive, and soon after that we had -- we forgot the incident at the Cross-Roads.

Q Well, why did you swear under oath that that was the general talk?

DEFENSE (LT. COL. SUTTON): If it please the Court, I object to that because it is argumentative, sir, and in addition to that I believe the question has been answered before.

LAW MEMBER: Of course, if it has been answered before, it isn't argumentative. The objection is overruled.

QUESTIONS BY PROSECUTION (CAPT. SHUMACKER):

Q Why did you swear under oath, Boltz, that that was the general talk?

A Because that was a conclusion of my own, and at that time I believed that the other members of my Company had drawn the same conclusion as I did, and that they also thought that it was Peiper who had given the order - this order.

Q Now, I read another two more questions and answers from your statement dated 30 January 1946:

"Q Did you at any time during the Ardenne Offensive see American prisoners of war shot?

A Yes. Later on, in Stoumont, on the 21st or 22nd of December my squad leader, Unterscharfuhrer Altkrueger, shot three American prisoners of war. They were two stretcher bearers and one wounded man who obviously lost a leg. Altkrueger said: 'I will kill those fellows', and he first killed the two stretcher bearers and then the wounded man.

Q How did he kill them?

A He killed them by pistol shots. He told the two stretcher bearers to stand up, with their faces

(Boltz - Cross)

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sh-2

towards the wall and then he shot them, and then he went to the stretcher and shot the wounded American".

Now, those are the same three prisoners that you mentioned in your statement dated 21 March 1946, Prosecution's Exhibit P-51?

A Yes, those are the same.

Q And that happened on the 20th day of December, the second day of your stay in the town of Stoumont?

A Yes.

Q Did those prisoners do anything to provoke the shooting or justify the shooting?

A I didn't see any such thing.

Q Altkrueger just stood them up against a wall and shot them, is that right?

A Yes.

Q What part of the body did he shoot them at?

A I cannot say that; he used a machine pistol.

Q And after he shot the two that stood against a wall, then he finished off the one who was on the stretcher, is that right?

A Yes.

Q This house - where this took place - was off the main road leading down to the railroad station, is that right?

A That is correct.

PROSECUTION (CAPT. SHUMACKER): No further cross.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE (LT. COL. SUTTON):

Q On cross examination, in answer to a question you replied substantially as follows: "I can only advise you to admit everything. It will be better for you". Who made that statement to you?

A Mr. Thon.

Q Was anyone else present?

(Bolts - Redirect)

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sh-3

A No.

Q Capt. Shumacker remarked during cross examination that he had had an argument with you about the alleged shooting in Buellingen. Is that true?

A Yes.

Q Did you have other arguments with Capt. Shumacker?

A Yes, we argued about the Cross-Roads.

Q Did Altkrueger give you an order to shoot prisoners of war in Buellingen?

A No.

Q Did you shoot prisoners of war in Buellingen or anywhere else?

A No.

Q It has been brought out on cross examination about a promise that you would be released in three months if you would make a statement. Were you influenced in any other manner than that promise that you would be released in three months?

A Yes.

Q What was that influence?

A Mr. Thon told me that if I would not admit, he would be forced to strike out the words: "upon superior orders".

Q Was anything else said?

A He told me that there was no sense in denying, since he had enough witnesses.

Q Did you know the route of march, described in your statement, before being questioned by the Prosecution, as described on cross examination, when Sprenger confronted you and gave you the route of march?

A At that time I could only remember three towns; they were Stavelot, Stoumont and LaGleize.

(Boltz - Redirect)

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Q Who supplied that information for you?

A Pfc. Sprenger. Sturmman Sprenger then explained the places to me through which we had driven, and after that I could remember it too.

Q Now, you have testified on cross examination that you were at the front machine gun. Which side of the vehicle is that located on?

A The front machine gun is right in the middle of the vehicle.

Q What is the amount of traverse for that machine gun? How far can that machine gun be traversed -- approximately how many degrees?

A A little more than 45 degrees, maybe a little more than 45 degrees.

Q Did you volunteer to go over and tell the American authorities about the incident at the Cross-Roads or did the American authorities pick you up and take you to Baden-Baden?

PROSECUTION (CAPT. SHUMACKER): I think it is immaterial as to whether he volunteered or whether we went after him.

LAW MEMBER: The Court is interested in knowing. Objection overruled.

DEFENSE (LT. COL. SUTTON): Will the reporter please repeat the last question?

(Whereupon the reporter read the last question by the Defense)

A No, they did not come to me. I was asked by French authorities whether I was ready to repeat the declaration I had made before American authorities in Germany, and I said I would do so, and I obtained a permit to go to Baden Baden.

Q What did Mr. Thon say, that you would be free in three months if you would admit everything as being the truth?

A He did not use the word "free", but he told me, "If you admit everything, you can be in France within three months".

(Boltz - Redirect)

Q Now, did Altkrueger issue an order to shoot prisoners of war before the Offensive?

A In the morning of the 16th of December.

Q Now, referring to the alleged incident in Stoumont, did Altkrueger order you to go along with him and others to shoot the three Americans?

A Yes, Altkrueger did order me to come along, but he did not say to come along in order to shoot them, because at that time I did not know yet what was going to happen to those Americans

Q Did you go along with Altkrueger?

A Yes.

Q Did you shoot any of those prisoners?

A No.

DEFENSE (LT. COL. SUTTON): No further questions, your witness.

RE-CROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPT. SHUMACKER):

Q When that incident happened, you had been in Stoumont something over a day had you not, approximately a day?

A It wasn't quite a day.

Q Well, you got into Stoumont on the morning of the 19th of December, did you not?

A Yes.

Q And this happened around noon on the 20th, did it not?

A No, it was in the morning.

Q So it was 23 hours or 22 hours instead of a day, is that right?

A Yes.

Q Prior to this incident, had you taken any of your wounded comrades to the aid station?

(Boltz - Recross)

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STIPULATION.

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the prosecution and the attorneys for the defense, that upon the trial of Hauptscharfuehrer

HEINZ HENDEL, 2nd Pl. 11th Pz.Gr.Co., III Bn., 2nd Pz.Gr.Regt., L.S.S.A.H., an accused, the following facts will not be disputed:

- 1.) The said accused was wounded in his neck some time in the afternoon of the 17 December, 1944 at Ligneville.
- 2.) The said accused was evacuated to the rear on 18 December, 1944, at about 1000 hours from Stavelot, Belgium and sent to Berlin to be hospitalized.

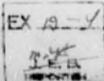
DATED 7 May, 1946.

William H. Evered, Esq. MT

CHIEF COUNSEL FOR DEFENSE.

Burton J. Ellis, Esq. MT

CHIEF COUNSEL FOR PROSECUTION.





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D. 5-A
6/28/46
SR

I, Ernst GOLDSCHMIDT, being first duly sworn, make the following statement, under oath:

During the Eifel Offensive in December 1944, I was a Rottenfuhrer in the 2nd platoon and 3rd Panzer Pi. Co., 1st Pi. Bn. LSSAH. My Co. Commander was Obersturmfuhrer Franz SIEVERS and my platoon leader was Unterscharfuhrer Max BEUTNER. During this offensive I drove the SPW of Unterscharfuhrer Max BEUTNER.

I have never heard of any order that prisoners of war will not be taken either prior to the offensive or while the offensive was in progress. It was my understanding that if prisoners would be made they would be treated in accordance with the rules of the Geneva Convention. I believe the offensive started on 16 December 1944. On the 2nd day of the offensive during the morning hours, we passed through HONSFELD, an airfield that was to the left of the road and BUELLINGEN, where we gassed up. After BUELLINGEN, we drove cross-country and through the woods and arrived in the early afternoon hours at a large road crossing. After we had turned to our left I saw a pasture or field to the right of the road in which, according to my estimation, about 60 dead American soldiers were lying. I do not know how or why these people had been shot. Prior to our arrival at the above mentioned road crossing I did not see any dead American soldiers who lay huddled in a group. My SPW did not stop at this road crossing. I did not see these American soldiers shot nor did I participate in the shooting nor did I hear any shooting at the crossroads.

Our company arrived in STOU MONT on 19 December 1944 and stayed there about two days. Whether or not it was two days I am not able to say with certainty. During our stay in STOU MONT I did not shoot nor fire at any American prisoners nor did I see anyone else shoot at American prisoners of war.

I was in LA GLEIZE from about 21 December to 23-24 December 1944, and while there I did not see how prisoners were shot. I also did not see any who were shot or any that were about to be shot.

From 16 December until the 24th of December 1944 I belonged to the same SPW. Our SPW was armed with a triple-barrelled A.A. gun. I myself was armed with a machine pistol and a Belgian Army pistol. The people who rode in the SPW with me were as follows:

- Unterscharfuhrer Max BEUTNER
- Unterscharfuhrer DICKMANN
- Rottenfuhrer Max HAMMERER
- Rottenfuhrer Georg DEIBBERT
- Rottenfuhrer HANKES or Rottenfuhrer SCHNEIDER
- Sturmmann MUEHLBERGER
- Sturmmann SCHLINGMANN
- Rottenfuhrer Ernst GOLDSCHMIDT

This statement consisting of 3 pages was made voluntarily by me, un-influenced by force, duress, threats, or promises of any kind.

I swear before God that the statement I have made here is true and I am prepared to repeat same under oath before any court of justice.

Ernst GOLDSCHMIDT, Rottenfuhrer
30 March 1946.

Sworn to and subscribed before me this
30th day of March 1946 at Schwabisch Hall,
Germany.

RAPHAEL SHUMACKER
Capt CMP

EX D-SA
I.E.B.
OFFICER