

From the records thus made, it will be possible for both sides to thoroughly argue and brief the evidence for the Tribunal.

"In the light of these considerations, the Tribunal is of the opinion that the objections urged against the order of 23 July 1948 are without merit, and therefore the motion of defendants to rescind such order is denied. 17 August 1948. WCC"

Subsequent events have given emphasis to the statements made in the foregoing memorandum, for upon completion of the case the transcript record (exclusive of the judgment) comprised 28,085 pages, and there were in evidence a total of 9,067 documentary exhibits.

It must also be remembered that practically all of the oral evidence was offered in the first instance in the German language, which required translation. The value of inflections, emphasis, etc., on the part of the witness is therefore almost entirely lost on hearers who do not understand the German language and must rely on translation. This, of course, is as true of prosecution as defense witnesses.

We believe that the observations we have in the foregoing memorandum made with respect to the arguments and claims of defense counsel that his client did not have a fair trial by an unbiased Tribunal indicate the untenability of his contentions.

8. STUCKART—ORDER AND MEMORANDUM OF THE TRIBUNAL

ORDER

On 6 May 1949 a memorandum was filed in behalf of defendant Stuckart relative to alleged errors in the Tribunal's judgment in this case, in which judgment said defendant was convicted under counts five, six, and eight of the indictment. Said memorandum contained a prayer that said judgment be amended to adjudge said defendant not guilty under said counts. On 19 June 1949, the prosecution filed an answering brief to said memorandum, and on 28 June 1949, the defendant filed a rejoinder to said answering brief of the prosecution.

It appears that prior to the filing of the above memorandum the defendant joined in a petition for plenary session of the Tribunals, for the therein expressed purpose of "examining the judgment passed on 14 April 1949 by the Military Tribunal IV."

The Tribunal having considered said memorandum and the motion therein contained, the answering brief of the prosecution and the defendant's rejoinder thereto, and being advised in the premises,

IT IS ORDERED that the defendant's prayer for relief as contained in said memorandum be and the same is hereby in all respects denied.

Memorandum hereto attached is hereby made a part of this order.

Dated 12 December 1949.

[Signed] WILLIAM C. CHRISTIANSON
WILLIAM C. CHRISTIANSON
Presiding Judge

[Signed] ROBERT F. MAGUIRE
ROBERT F. MAGUIRE

Judge

MEMORANDUM

It will be noted that reference is hereinbefore made to the fact that the defendant joined in a petition for plenary session of the Tribunals, which petition could not be entertained by this Tribunal. The Tribunal, however, insofar as said petition contains arguments challenging the convictions in said judgment, has taken cognizance thereof in its consideration of the memorandum here for determination.

We will now consider the three counts under which defendant was convicted.

We have reviewed the evidence regarding Stuckart in connection with count five, under which he was convicted, and his motions to set aside this conviction. We do not find any errors or discrepancies of such materiality that would justify the Tribunal in amending the judgment in respect thereto. The record amply establishes beyond doubt Stuckart's participation in the crimes for which he was convicted under count five. His motion should be, and hereby is, overruled and denied.

With respect to count six, an examination of the arguments contained in said memorandum with respect to same does not convince the Tribunal that there are any errors or discrepancies of such materiality or substance so as to justify the Tribunal in amending said judgment with respect thereto. Here there are apparent great differences of opinion between the Tribunal and defense counsel as to the proper interpretation of the evidence. The Tribunal adheres to its findings on the basis of the evidence submitted with respect to said count.

A review of the evidence in view of the motions filed to set aside Stuckart's conviction under count eight discloses no error in fact or law. We adhere to the findings and conclusions expressed in our judgment relating thereto. His motion to set aside his conviction under count eight should be and hereby is overruled and denied.