

an opportunity is taken to find out what kind of illness he has. Mr. Kupke here agrees to any such examination.

THE PRESIDENT: If he desires it to be -- desires to have this request complied with, we will order it done.

JUDGE DALY: May I suggest that if he is particularly interested in this part of the case if without it any damage to him it might be done it might be done a little later. I don't know whether he is interested in this, if some point might come up which you will want to examine him on, it might be done a little later if it could.

DR. BEHRINGER: May I suggest that I contact the prosecution about what kind of evidence is going to be submitted here today, tomorrow and the day after tomorrow and the kind of witnesses that will be heard and then Mr. Kupke will decide whether he wants to be here or not.

THE PRESIDENT: That is a very good suggestion. We will let the matter remain in abeyance until you bring it up again.

MR. THAYER: May I suggest to the Tribunal and to Dr. Behringer this, that if it's to be a short examination with count I rather than slave labor on probably most of tomorrow. I don't know whether the examination will take some time or not.

THE PRESIDENT: Well, of course, we can't determine that. He just says that he wants him sent to the city hospital for one day. Now, when you get into the hands of the doctors, you don't know when you are going to get out. That has been my experience at least and we want to afford this defendant all the medical facilities that are available here if we can, but we do not want to do it against this wishes unless it's in accordance with his wishes.

MR. THAYER: Prosecution had just commenced the offer of exhibit 893, document NIK 10764, the affidavit of the defendant Kupke, page 37 of the English, 46 of the German. With respect to his statement with regard to Eastern workers, it was completely obvious to him that these workers did not come voluntarily but had been forcibly brought to Essen by Reich organizations. The admission is confined to particular ones.

That completes, your Honors, the presentation of document book 33. Prosecution is prepared at this time to offer the witness Josef Aubrecht, a Czech witness. Mr. Koessler will examine the witness.

THE PRESIDENT: Give him the earphones. Will you raise your right hand and repeat after me:

I swear a true oath --

Repeat after me again, please:

I swear a true oath. To all the questions I shall be asked before this Tribunal I shall answer the full truth, add nothing and knowingly withhold nothing.

(The witness repeated the oath.)

Have a seat

DIRECT EXAMINATION

QUESTIONS BY MR. KOESSLER

Q. Witness, I show you the photostat of a document which apparently bears your signature and dated the 12th of March 1947.

THE PRESIDENT: You better ask him his name first. Ask him his name first so we can get that in the record.

Q. Witness, will you repeat to the Court your full name?

A. Josef Aubrecht.

Q. What is your present residence?

A. Prague XIV, Berkova Street 56.

Q. What is your present profession?

A. I am a mechanic.

Q. What is your nationality?

A. I am a Czech.

Q. What was your nationality when you were working at Krupp's Berthawerk? Excuse me, what was your profession when you were working at Krupp's Berthawerk?

A. I worked as a carpenter.

MR. KOESSLER: May I now proceed, your Honor?

THE PRESIDENT: Yes, go on.

Q. Witness, I show you the photostat of a document which is apparently signed by you under the date of the 12th of March 1947 at Prague and I shall ask you whether you have signed this document and whether at the time when you signed this document it corresponded to your best belief to the full truth and whether at the present moment you still believe that it corresponds to the full truth?

A. Yes.

Q. May it please the Tribunal, we have an English and a German translation of this document, but unfortunately both contain errors of translation; some of them appear in both translations, some of them appear only in the English, some in the German. We have made an errata sheet and have mimeographs both of the English translation and the German. Unfortunately, they were just now ready, therefore, with the permission of the Tribunal I would distribute them now.

THE PRESIDENT: Where is this affidavit to be found?

Counsel, has the affidavit of this witness been introduced?

MR. KOESSLER: Prosecution offers now as Exhibit 894 on affidavit of the witness Josef Aubrecht which is contained in document book 41 B on page 30 of the English and page 36 of the German.

THE PRESIDENT: 41 E?

MR. KOESSLER: 41 B, page 30 of the English copy and page 36 of the German.

JUDGE WILKINS: What was the page in the English?

DR. MASCHKE: Mr. President, the document book 41 B, as far as I know was only distributed to the defense in the course of this morning --

I hear from my colleagues that I am mistaken, I apologize.

JUDGE DALEY: All right. Were these just distributed, 41 B?

Oh, we are getting one. All right, I see, I beg your pardon.

MR. KOESSLER: May I proceed, your Honor?

THE PRESIDENT: Go ahead.

MR. KOESSLER: Prosecution would like to ask a few questions. Part of these questions are necessary to clarify certain points in the affidavit, part are necessary to ask certain information of the witness which is not contained in his affidavit. Prosecution will be anxious to avoid any duplication of the testimony of the witness to be given here and the contents of the affidavit.

THE PRESIDENT: Well, now try to do that because there isn't any use of repeating. Go ahead. You declared a very good purpose, if you just stick to it.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. KOESSLER:

Q. Witness, will you tell me this, as a clarification of point 5 of the affidavit, will you tell me whether the following is a correct understanding of point 5 of your affidavit. When you arrived at Markstaedt, you were assigned to a camp which consisted of three parts, one part was surrounded by barbed wire, two parts were not surrounded by barbed wire. The part not surrounded by barbed wire housed one part Western workers, the other part Eastern workers. The part surrounded by barbed wire was again divided by barbed wire into two sub-parts or sub-sections. One of these sub-parts contained Russian prisoners of war, the other sub-part contained Jews. Russian prisoners of war and Jews were therefore not together but separated from each other by barbed wire. Shortly after your arrival the Russian prisoners of war were evacuated from the one sub-part which I described and you got your barracks near that part previously occupied and still for a certain time occupied by Russian prisoners of war, is that correct?

A. Yes, it is.

Q. Good. Now a point which is not mentioned in your affidavit. Is it correct that you stayed in Markstaedt from the 15th of January 1944, no, excuse me, your Honors, from the 2nd of August 1943 until the 21st of January 1945 with the exception that between the 15th of January 1944 until April 1944 you were not in Markstaedt for a reason which I shall indicate very soon?

A. Yes.

Q. Concerning this period of interruption of your stay in Markstaedt, is it true that you wanted to get a leave, the leave was denied to you, therefore, you went without a leave, so-to-say, you escaped to Prague. After one day you were arrested and after having been sent by the police to several camps you finally landed in a correction camp called Ruscinecz from where you were picked up by Krupp people and by those Krupp people brought back to Markstaedt. Is this correct.

A. Yes.

Q Is it correct - this is a clarification of several points of the affidavit - is it correct that when you came to Markstaedt you first found there among other foreign workers those Jews which we already mentioned who were occupying one of the barbed wire parts of the camp? Those Jews were at that time not concentration camp prisoners, were not wearing the clothes of concentration camp prisoners, but went around in ragged clothes. A certain period later all those Jews, not all at once but gradually, were transferred to the concentration camp proper which existed in Markstaedt, namely, the so-called camp "Fuenfteichen", and there became concentration camp prisoners proper clad in the garb or in the clothes of concentration camp prisoners, is this correct?

A Yes, it is.

Q Is it correct that you saw both those so-called Jews, that is at the stage when they were not yet concentration camp prisoners, and the concentration camp prisoners employed in Krupp's armament production in Markstaedt?

A Yes.

JUDGE WILKINS: I didn't understand the term you used. Was that "Sauckel Jew", what was the term you used before that?

MR. KOESSLER: So-called.

JUDGE WILKINS: So-called.

MR. KOESSLER: I mean, in the document they are distinguished as concentration camp prisoners. I refer to --

JUDGE WILKINS: I understand.

MR. KOESSLER: Yes. The document uses the term "Jews" and I used it for clarification.

BY MR. KOESSLER:

Q Is it true that with those so-called Jews as the concentration camp prisoners were very often mistreated in the Krupp plant both by their guards and by Krupp people, especially all their foremen, and that you had sufficient opportunity of witnessing such incidents?

A Yes.

Q Is it true that in view of the tremendous speed of work which was required from you by your German foreman and the kind of machinery with which you had to work accidents during the work occurred very frequently and were bound to occur very frequently?

THE PRESIDENT: Now, haven't you got all this in your affidavit? If you are going into it for clarification, this is a rather extensive clarification, I must say. I notice in casually going through it here that the affidavit records that the Jews were beaten and so forth.

MR. KOESSLER: I pass over to another question immediately, Your Honor.

DR. WOLF (Counsel for the defendant Lehmann): Mr. President --

THE PRESIDENT: Just a moment, please.

DR. WOLF: Mr. President, I object to the manner in which the questions are put. The Prosecutor has so far confined himself to merely stating the contents of the affidavit, and all the original testimony which the witness has so far given, is to have given his name and say "yes". I believe the purpose of the examination of a witness in direct and in cross examination is to gain a personal impression of the witness, of his credibility, and of the way in which he presents his evidence.

THE PRESIDENT: I think that objection is good. The questions are not only leading but they are certainly about as suggestive as they could possibly be as to what answer is desired. I don't think that is a permissible way to examine a witness.

MR. KOESSLER: Your Honor, I regret that the questions were at times leading.

THE PRESIDENT: Well, even they are suggestive, and it leaves nothing for the witness to say of his own initiative; but just make a response to a recitation of facts. We don't think that is the way to examine the witness, in direct examination especially.

BY MR. KOESSLER:

Q Witness, do you know whether French prisoners of war were working

on armament production in the Markstaedt plant?

A Yes.

Q Have you seen it yourself?

A Yes.

Q Do you know whether the mistreatment of Jews and concentration camp inmates occurred in the plant was witnessed by the responsible Krupp people, for instance, the plant manager?

A Yes.

MR. KOESSLER: I am through, Your Honor.

THE PRESIDENT: Cross examine him.

CROSS EXAMINATION

BY DR. WANDSCHNEIDER (Counsel for the Defendant Korschach):

Q Mr. Witness, how did you come to work at Markstaedt? Were you recruited by a labor office, and if so, by which labor office?

A The labor office in Prague.

Q All right. In your affidavit you stated that the camp was divided into three parts. You yourself had lived in one part of it with workers from Holland, and Belgium, and Bohemia, is that correct?

A Yes, that is correct.

Q In your view and according to your description this camp was not enclosed by barbed wire?

A No.

Q After you had finished work and if you applied in time for a pass could you leave the camp without any difficulties?

A Yes, we could go to our apartments.

Q Where was your apartment, Mr. Witness?

A In the camp.

Q Well, could you leave the camp without any difficulties?

A No, we could only leave the camp up to 10 kilometers.

Q But then without any hinderance?

A Yes, without being prevented from doing so.

Q If you wanted to go beyond 10 kilometers, did you have to make a

special application?

A Yes, I had to do that.

Q Was such an application generally approved?

A Yes, they asked us why we wanted to go beyond 10 kilometers.

Q You continued to say that in another camp, or in another part of the camp, Russian prisoners of war were lodged, rather, you say Poles and Eastern workers?

A Yes.

Q That is correct?

A Yes.

Q Was that camp for Poles and Eastern workers surrounded by barbed wire?

A No.

Q No; and the third part of the camp was that part which according to your description contained the Russian prisoners of war, and the Polish Jews?

A Yes, that part was surrounded by barbed wire.

Q That was surrounded by barbed wire. How do you know that in that camp Russian prisoners of war were lodged?

A Because we lived next door to them at the beginning, at least.

Q At the beginning. Which time are you referring to?

A When we arrived there.

Q Well, when was that?

A That was on the second or third of August 1943.

Q Second or third of August 1943, and how did you recognize those people were Russian prisoners of war?

A The Russian prisoners of war were soldiers.

Q Did you recognize them by their language or by any insignia on their dress?

A We recognized them by their language and from their dress they wore.

Q I put it to you that according to lists which have been submitted

in this trial, no Russian prisoners of war were lodged in Markstaedt. Does the possibility exist then that these people were not Russian prisoners of war, but that these were Russians who had been brought there in another way?

MR. KOESSLER: Your Honor, I object to this question because we have no documents which prove that there were no Russian prisoners of war.

THE PRESIDENT: That preliminary part of the question perhaps was not quite the proper approach, but he has a right to ask whether he wasn't mistaken about those being prisoners of war, entirely mistaken, or any possibility of it. Of course, the witness does not know which documents have or have not been introduced here. That is really not material. You can examine him whether there is a possibility of him not being mistaken there and see what you can find out about it.

DR. WANDSCHNEIDER: I will rephrase the question somewhat differently.

BY DR. WANDSCHNEIDER:

Q Is there a possibility that you made a mistake that they might be Russians but not Russian prisoners of war?

A I couldn't make a mistake because I talked to them myself at a time when the guards were more distant so that we could talk with them.

Q What could you assume from the discussions with them?

A They told me they were Russian prisoners of war.

Q Where are these Russian prisoners of war alleged to have worked?

A I don't know that.

Q I don't know that. The Russian prisoners of war didn't tell you anything about that?

A No.

Q You then went on to say - excuse me, witness, did you want to add anything to your statement?

A The soldiers took them from the camp to some place, and that is all I know.

Q How long did these Russian prisoners of war stay in this camp, from August 1943 onwards?

A I can't tell you exactly, but at least several months.

Q Several months. Mr. Witness, what about your own food, what sort of food did you get?

A The food was definitely defective and insufficient.

Q Could you tell me how much bread you got every day?

A We got about 250 to 300 grams of bread every day.

Q 250 to 300 grams every day. In the evenings, on every day or on several days a week, did you get additional food by way of sausage and bread, and jam, etc.?

A Yes.

Q Did you for lunch and at night get war soup in addition to the bread?

A For lunch we got a soup which we couldn't eat.

Q Mr. Witness, did you have the possibility of getting food parcels from your home, and did you actually receive any?

A Yes.

Q Were these parcels handed out to you regularly, or were you ever prevented from getting them?

A Nobody took them away, but I didn't get them regularly.

Q. If you didn't get them regularly, was the reason that they had been sent at irregular intervals by your relatives?

A. I believe that is the reason.

Q. You talked about concent ation camp inmates, or I don't know whom you meant by this, who were mistreated. Could you tell us again who has been mistreated in cases which you personally witnessed?

A. Yes, there were Jews who were beaten up and several times, I believe, twice, I saw that eastern workers were beaten.

Q. How often did you see that Jews were beaten?

A. That happened everyday.

Q. How long did you stay in Markstaedt?

A. I stayed there altogether for about 20 months.

Q. 20 months, then you must have seen 600 cases of mistreatment?

A. 600 times, at least, whenever I went about. I saw that they had been very badly treated, and that they were beaten up. For instance, during lunch we got soup which we wouldn't eat, but some workers had to eat it because they were so hungry. We got parcels, but other foreign workers from other nations didn't get any.

Q. Now, did these workers beat each other on these occasions?

A. No, of course the workers didn't beat each other. The Jews fought over the soup w ich they got.

Q. Witness, I have certainly an understanding regarding your being shocked by mistreatments, but when I asked you about the 20 months and everyday mistreatments occurred, you answered that they were always being badly treated. I'd like to ask you to make a distinction between bad treatment and mistreatment. After I have put this to you, would you kindly consider whether you can maintain your statement that mistreatments were witnessed by you everyday?

A. If I haven't seen it, my comrades have seen it, and then we talked about the treatment in general.

Q. Is it correct then that an essential part of your testimony regarding mistreatments is based on hearsay?