

Lore of the Corps

Tried for Treason: The Court-Martial of Private First Class Dale Maple

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On 24 April 1944, at a general court-martial convened deep inside the U.S. Disciplinary Barracks at Fort Leavenworth, Private First Class (PFC) Dale Maple was found guilty of desertion and lending aid to the enemy. His sentence: to be hanged by the neck until dead. But Maple did not know that he had been sentenced to death, because the court-martial panel, which had conducted its proceedings in secret, had been ordered by the War Department to keep its verdict secret as well—even from the accused. What follows is the true story of the trial of PFC Maple, the first American-born Soldier in the history of the Army “ever to be found guilty of a crime that fits the Constitutional definition of treason.”¹

Born in San Diego, California, in September 1920, Maple was fifteen years old when he graduated from high school, first in his class. A “musical prodigy” with “many recitals to his credit,” Maple also was an accomplished equestrian, surfer, and swimmer.² He decided to continue his education at Harvard, and continued to excel as a student: Maple graduated Phi Beta Kappa with a B.A., *magna cum laude* at age nineteen. His strength was languages. Dale Maple spoke, “with varying degrees of proficiency,” Russian, Polish, Hungarian, Italian, French, Spanish, Portuguese, Danish, Swedish, Icelandic and Dutch. But his first love was German, and, while studying it at Harvard and associating with other students studying German, Maple soon gained the reputation of being a German cultural sympathizer. After he sang the Nazi Party’s Horst Wessel Song at the Harvard German Club in the fall of 1940, however, and loudly and publicly declared that National Socialism was “infinitely preferable to democracy,” the local media proclaimed that Maple “was the recognized Nazi leader of Boston.”³ While Maple would later insist at his court-martial that these pro-Nazi statements were nothing more than attempts to curry favor with the German government in order to obtain a scholarship to study at the University of Berlin, no one else saw it that way at the time.

¹ E. J. Kahn, Jr., *Annals of Crime: The Philologist (Part IV) Who Wants to Go to Germany in Wartime*, NEW YORKER, April 1, 1960, 62, at 66.

² Lieutenant Colonel Bernard A. Brown, Judge Advocate Gen. Dep’t., Assistant Judge Advocate, Post Trial Review, *United States v. Dale Maple*, CM 257165, at 18 (21 May 1944); E. J. Kahn, Jr., *Annals of Crime: The Philologists (Part I)—A Trip to Old Palomas*, NEW YORKER, MAR. 11, 1950, 35, 36.

³ Kahn, *supra* note 1, at 72.

Hitler’s declaration of war on the United States in December 1941 dashed Maple’s hopes for post-graduate work in Germany. He now decided that he should enlist in the Army, and he did, on 27 February 1942. For more than a year, he was an instructor in radio at Fort Meade, Maryland. Then, without any explanation, Maple was re-assigned to the 620th Engineer General Service Company, and he found himself living in barracks at Camp Hale, Colorado. The roughly two hundred Soldiers assigned along with Maple to the 620th were all men whom the Army believed were “unsympathetic, if not downright opposed, to the war aims of the Allies.”⁴ Some of these allegedly disloyal Soldiers were native born, like Maple. Others were naturalized U.S. citizens; a few were aliens; many were German or of German ancestry.

Maple was assigned to the unit because the Army believed that the pro-Nazi statements he had made at Harvard made him unsuitable for the sensitive radio work he had been doing in Maryland. That also explains why Maple and the other Soldiers assigned to the 620th did work of a menial, and insensitive, nature: cutting wood, digging ditches, and making camouflage netting. Maple was unhappy about this work, which he felt was oppressive, and about his assignment to the 620th, which he viewed as degrading.

Maple soon learned that he and his fellow Americans were not alone at Camp Hale. On the contrary, residing nearby were several hundred German prisoners of war (POWs). These were men from Rommel’s vaunted Afrika Korps who, after being captured in North Africa, were now sitting out the war in Colorado.

Maple was soon fraternizing with these German POWs, and his fluency in their language and knowledge of their culture made him a popular figure. Within a short period of time, Maple was talking about helping some of these Afrika Korpsmen to escape. He initially decided to help ten Germans escape. Ultimately, however, Maple chose to help two German sergeants flee to Mexico. Maple purchased an automobile and a pistol, borrowed money from his parents, and, on 15 February 1944, drove from Camp Hale with the two enemy POWs. There was no fence around Camp Hale; Army investigators later concluded that the Germans simply slipped away from their work detail when the guard was not

⁴ *Id.* at 62.

paying attention and walked away to their rendezvous with Maple.

Maple and the two German POWs, having discarded their uniforms and now dressed in civilian clothing, began driving south. After covering more than six hundred miles, the men were but seventeen miles from the border with Mexico when their car ran out of gas. Maple and the two Germans then walked the rest of the way. On 18 February 1944, they were three miles inside Mexico when they were apprehended by a suspicious Mexican customs officer.

Maple and the two Germans were returned to U.S. authorities within days. The Germans were not punished because, under the law of armed conflict, they had a right to escape. For PFC Maple, however, it was a different story. He was taken into custody by the Federal Bureau of Investigation, indicted on the charge of treason, and arraigned in U.S. District Court in New Mexico. But the criminal proceedings against Maple in federal court went nowhere, since the Army decided that it should prosecute Maple. The result was that Maple was charged with desertion under the 58th Article of War and with two specifications of “aiding the enemy” by “harboring and protecting escaped prisoners of war . . . and affording them shelter and automobile transportation in his private automobile.”⁵ The Army could not try Maple for treason because, under the Articles of War, treason was not enumerated as a crime. Consequently, Maple was charged under the 81st Article of War, which made it a crime to relieve, correspond with, or aid the enemy. That article was the “military statute that most nearly approximate[d] the civil treason law.”⁶

On 17 April 1944, a general court-martial convened at Fort Leavenworth heard Maple’s case. The twelve members selected by the convening authority were almost certainly the highest ranking panel in history to hear a case involving a private first class: a major general (MG) (president of the court), a brigadier general, seven colonels, and three lieutenant colonels. The trial judge advocate (JA)—as the prosecutor was then called—was not a member of the Judge Advocate General’s Department (JAGD). He had, however, practiced law in Texas before World War II.

Maple had three defense counsel: a major who was not a lawyer, a lieutenant who was a lawyer (but not a member of the JAGD), and civilian counsel, who Maple had hired three days before his trial started. Maple had made a good choice in selecting this civilian lawyer, as the man had previously served as a JAGD captain and consequently was

very familiar with court-martial proceedings and the Articles of War.

The proceedings were closed to the public, and the secret nature of the trial meant that Maple’s father and mother were not permitted to attend. After Maple entered pleas of not guilty to all charges and specifications, the trial JA presented the Government’s case. Testimony from the two German POWs, who testified through interpreters, and the Mexican customs official who had apprehended the accused and the two escapees, left little doubt as to the accused’s guilt. Additionally, after an Army psychiatrist testified that Maple had an I.Q. of 152 and, in his expert opinion, understood without question that his actions were treasonous, the likelihood of a guilty verdict must have seemed strong to all in the courtroom.⁷

After the Government rested, Maple took the stand. Under oath, he made a 7000 word statement in which he explained that he had no intent to desert the 620th. Rather, he had left his unit with the two German POWs hoping that he would be caught and tried for treason at a public trial in federal court. Maple insisted that this public forum would give him an opportunity to publicize the abusive and degrading treatment he had suffered in the 620th.

After closing arguments from both sides, the panel adjourned to consider the evidence. On 24 April 1944, the members unanimously concluded that Maple was guilty and that he should be hanged by the neck until dead. But, since the War Department had instructed the court-martial panel that it was not to announce its findings and sentence in court, Maple did not know that he had been sentenced to death. Not until seven months later did Maple learn that he had escaped the hangman’s noose when he was informed that President Roosevelt had commuted his sentence to life imprisonment at hard labor, forfeiture of all pay and allowances, and a dishonorable discharge.⁸

It seems that The Judge Advocate General of the Army, MG Myron C. Cramer, was responsible for saving Maple’s life. In reviewing the record of trial and providing a post-trial recommendation for the White House, Cramer wrote that

On the face of the record there appears to be little or nothing to suggest mitigation. But the accused is only 24 years of age, and is inexperienced. While he is undoubtedly legally sane and responsible for his despicable acts, under all the circumstances I am unable to escape the

⁵ U.S. Dep’t of Def., DD Form 458, Charge Sheet, *United States v. Maple*, CM 257165 (28 Mar. 1944).

⁶ Kahn, *supra* note 2, at 48.

⁷ Kahn, *supra* note 1, at 77.

⁸ War Department, Gen. Court-Martial Order No. 639 (28 Nov. 1944).

impression that justice does not require this young man's life. I feel that the ends of justice will better be served by sparing his life so that he may live to see the destruction of tyranny, the triumph of the ideals against which he sought to align himself, and the final victory of the freedom he so grossly abused.⁹

In November 1944, Roosevelt took action in Maple's case—likely influenced by Cramer's recommendation that

the condemned man be spared. Maple was then transferred from the Army's Disciplinary Barracks to the nearby U.S. Penitentiary in the town of Leavenworth. In April 1946, the Army decided unilaterally to drastically reduce all sentences imposed by courts-martial during World War II, and it cut Maple's sentence to ten years. He was paroled in early 1951.¹⁰ While Maple's case is almost forgotten today, his place in history is assured as the first native-born American Soldier to be court-martialed for the military equivalent of treason.

More historical information can be found at

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<https://www.jagcnet.army.mil/8525736A005BE1BE>

⁹ Kahn, *supra* note 1, at 78.

¹⁰ *Id.*