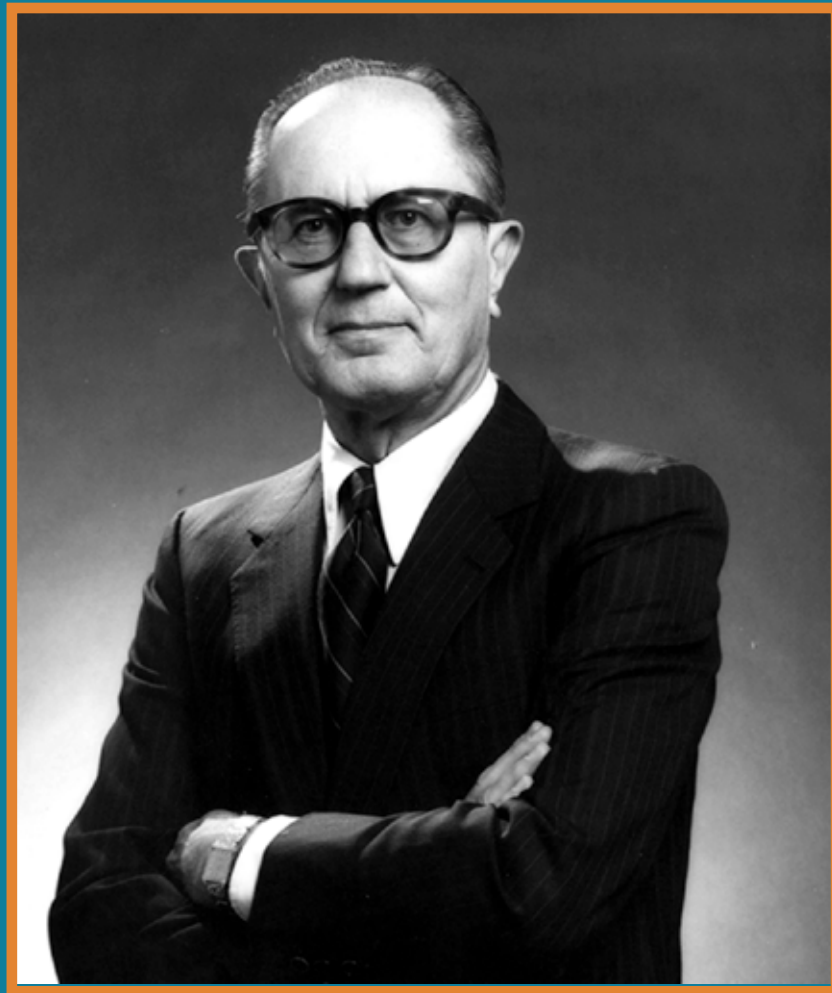


Correcting misremembered history:



**Dr. Donald W. Seldin
at the Dachau Trials**

Michael Emmett, MD, FACP

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Dr. Donald Wayne Seldin (ΑΩΑ, Yale University School of Medicine, 1943) is widely considered to be one of the greatest internists, nephrologists and chiefs of internal medicine of the 20th century.¹⁻¹⁰ He was the intellectual force responsible for transforming the medical school at Dallas from a collection of dilapidated World War II army shacks into the University of Texas Southwestern Medical Center (UTSW).⁶ As UTSW's chair of internal medicine, from 1952 to 1988, he had an uncanny ability to recognize individuals with great intellectual/academic potential, and stimulate, mentor, and guide them as they progressed through their academic careers. The list includes Nobel Laureates, members of the National Academy of Science, editors of major medical textbooks and journals, chiefs of departments of medicine and medical school deans. Eugene Braunwald (ΑΩΑ, NYU Grossman School of Medicine, 1951) called Seldin "the most influential and respected academic physician of this era."¹

I met Seldin soon after my arrival in Dallas in the mid-1970s. He invited me to collaborate on many projects, manuscripts, textbook chapters, and presentations at national and international venues, and we developed a close personal friendship. We spoke extensively about his post WWII experiences in Germany where he served as the associate chief of medicine at the 98th General Hospital in Munich, and was asked to be an expert witness at the Dachau trial of a Nazi physician involved with medical experimentation on prisoners. I was particularly interested in these events because my family had lived in

the Polish/Ukrainian region for centuries and the Nazis and their Ukrainian Nationalist allies murdered virtually my entire extended family including my older sister. They also clubbed my mother and my other sister into states of unconsciousness from which neither ever fully recovered. I was born in an Austrian displaced persons' camp shortly after the war ended.

As a result of our close personal relationship and my family history, Seldin often asked me to introduce him and provide background information when he presented lectures describing the horrors of Nazi medicine and his experience as an expert witness at the Dachau trial. Seldin's inaugural lecture of the Holocaust, Genocide and Contemporary Bioethics Program, at the University of Colorado's Center for Bioethics and Humanities titled, "The Moral Status of Nazi Medicine" can be viewed online at <https://www.youtube.com/watch?v=3Wf451KeXos>.¹¹

Seldin in Germany

Seldin was inducted into the United States Army during WWII while still a Yale medical student. Following an abbreviated period of post-graduate training in internal medicine (the 9-9-9 program), he was activated and assigned to the 98th General Hospital in Munich, where he re-organized the clinical laboratory and soon became the assistant chief of the medicine service.⁷ In that capacity, he was called as an expert witness for the prosecution (The United States Army) against a Nazi physician accused of participating in cruel and sometimes fatal human medical experiments at the Dachau concentration camp. Seldin's Dachau trial experience stimulated his life-long interest in the ethics of human experimentation and he later became a major contributor to the *Belmont Report*, which identified basic ethical principles and guidelines relevant to the conduct of research with human subjects.⁸



Dr. Donald Seldin is sworn in prior to his testimony at the Dachau trial of Dr. Rudolph A. Brachtel, December 9, 1947. Public domain



Klaus Schilling testifying at his Dachau trial, December 7, 1945. National Archives and Records Administration, College Park. Public Domain

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(Whereupon Lt. Maldane read Defense Exhibit 29, a deposition of Franz Huchba.)

LT. MALDANE: The last exhibit the defense has is a statement purported to be from Alois Huchbauer marked Defense Exhibit D-30 and D-30A being the original German and English translation respectively. It is offered on behalf of the accused Dr. Rudolf Brachtel for such probative value as it may have.

PROSECUTION: No objection.

PRESIDENT: Defense Exhibit D-30 and D-30A will be received in evidence and made part of the record and given such probative value as the court deems necessary.

(The documents heretofore marked Defense Exhibit Nos. 30 and 30A for identification were received in evidence as Defense Exhibit Nos. 30 and 30A, are attached hereto, and made a part of the record.)

LT. MALDANE: Should the defense read it at this time?

PRESIDENT: Yes.

(Whereupon Lt. Maldane read Defense Exhibit 30A, the English translation of the statement of Alois Huchbauer.)

LT. MALDANE: And that, if it please the court, concludes the defense's case. The defense rests.

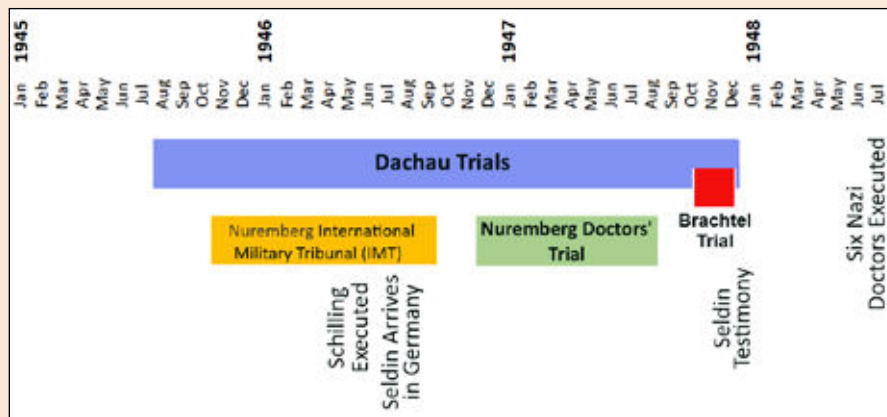
PROSECUTION: Would you like to commence with the rebuttal right now?

PROSECUTION: Does the court want to take a recess? I have two witnesses out there.

PRESIDENT: We will recess at 1015.

PROSECUTION: Captain Donald Silden is the next witness.

The first page of the testimony of Dr. Donald W. Seldin at the Dachau Trial of Dr. Rudolph A. Brachtel on December 9, 1947. Public domain



Timeline of trials and events.

Seldin first spoke publicly about his Dachau trial experience in 1981, during his Presidential Address to the Association of American Physicians, when he used “Nazi medicine” as an example of a societal problem rather than a medical problem.⁹ He related that the physician he had testified against had performed many liver biopsies without consent and without anesthesia on prisoner-patients who had been experimentally infected with malaria. Some of these biopsies resulted in death. Seldin stated, “the physician was convicted of murder and appropriately sentenced.”^{1,2,9} In later interviews and lectures Seldin said the physician had been executed by hanging.^{5,10}

Seldin was very proud of his memory and would often recite long poems, yet he told me that with the passage of time he had forgotten some details of the Dachau trial and asked me to attempt to identify the Nazi physician and try to locate the actual trial transcripts. He said the physician appeared to be about 40-years-old; was an internationally recognized scientist who had trained at outstanding institutions; had worked at the Robert Koch Institute; had received grants from the Rockefeller Foundation; and was an authority on the natural history and treatment of malaria, sleeping sickness and other parasitic disorders. He also told me, “...the Nazi physician spoke flawless English, personally participated in his defense, and argued with great lucidity.” The cross-examination of Seldin focused on his qualifications as an expert in the laboratory evaluation and treatment of liver diseases, his knowledge of the status of liver biopsy technique in Europe during the early 1940s, and his personal experience with percutaneous liver biopsy.

The post WWII trials

What most people know as the Nuremberg Trial was the International Military Tribunal or IMT, November 20, 1945 - October 1, 1946, at which the 21 most important surviving political, military, and economic leaders of Nazi Germany were tried by the four Allied Powers—U.S., United Kingdom, Soviet Union, and France. The acclaimed film “Judgment at Nuremberg,” 1961, popularized this trial. But this multinational trial was just one of hundreds of post-WWII trials that occurred before, during, and after the IMT.

In the same Nuremberg courtroom where the multinational IMT had been held, the U.S. alone subsequently conducted 12 trials. The first of these post IMT trials was the “Medical or Doctors’ Trial” (officially the United States of America v. Karl Brandt, et al.) which

took place between December 9, 1946 and August 20, 1947. Twenty-three Nazi medical personnel were tried on multiple charges including “performing medical experiments, without the subjects’ consent, in the course of which the defendants committed murders, brutalities, cruelties, tortures, atrocities, and other inhuman acts.”¹⁵ Seven of those defendants received death sentences and were executed by hanging at Landsberg Prison (all on June 2, 1948); seven were acquitted; and the remainder received prison sentences ranging from 10 years to life (although all were paroled and released early). The verdict of this trial generated what later became known as the Nuremberg Code: 10 points which define “permissible medical experiments.”

In addition to the IMT and the subsequent 12 U.S. only Nuremberg Trials, the U.S., Great Britain, Soviet Union and France also conducted many other trials which took place within the physical geographic zones of conquered Germany/Austria that each allied nation controlled. Within the U.S. zone, the most important trials, other than those conducted at Nuremberg, were held at the liberated Dachau concentration camp (The Dachau Military Tribunal) between August 1945 and December 1947. At this series of non-jury trials the proof of innocence burden was placed on the defense, and the verdicts were determined by a panel of seven military officers. Over the course of almost three years, at these Dachau Trials, 1,672 German alleged war criminals were tried in 489 separate proceedings, and 1,416 former members of the Nazi regime were convicted.¹²

Searching for Seldin’s trial testimony

An initial search led me to conclude that the physician Seldin described was Dr. Klaus Schilling. Schilling was an internationally renowned investigator of tropical diseases including sleeping sickness and malaria. Before WWII, he had conducted many human malaria experiments in Germany, Africa, and Italy. A professor of parasitology at the University of Berlin, and a member of the Malaria Commission of the League of Nations, he had received at least two grants from the Rockefeller Foundation and had worked at the Robert Koch Institute where he had been one of Koch’s students.

Schilling voluntarily went to Dachau to carry out a large series of human experiments in which he infected more than 1,000 prisoners with various strains of malaria. He was trying to discover methods to immunize individuals against the disease, and to study known and novel antimalarial medications—sometimes administered at toxic

Correcting misremembered history

and fatal doses.¹²⁻¹⁶ None of the prisoners had consented to the experiments, and most were forcibly inoculated with malaria. A number became jaundiced and underwent liver biopsies, and some died as a result of hepatic hemorrhage. Many other experimental subjects died of complications related to the malarial infections.¹²⁻¹⁶

Schilling was tried at Dachau, spoke English well, and participated in his own defense. He was convicted of “crimes against humanity,” sentenced to death and executed.¹²⁻¹⁶

It certainly seemed that Schilling was the physician Seldin had described; however, I soon discovered two facts that proved Schilling could not have been that physician. First, Schilling was clearly not in his 40s, as described by Seldin; he was 74-years-old at the time of his trial. Furthermore, Schilling was sentenced to death on December 13, 1945 and after denial of his appeal, was executed on May 28, 1946.¹¹⁻¹³ Seldin did not arrive in Munich until mid-1946 and was certain his testimony had occurred in 1947.⁷ However, Schilling's trial, guilty verdict and execution did play a major role in the subsequent trial that I discovered.

A second search

I then began a search of the actual Dachau trial records without much initial success. A large portion of the Dachau trial proceedings are available at Baylor University Law School in Waco, Texas. However, these records are in the form of thousands of microfiche pages without any indexing. Many hours of searching failed to identify Seldin's testimony.

Subsequently, I was able to obtain and search a much better version of the original Dachau trial testimony and associated documents from the U.S. National Archives. It turned out that Seldin's name had been misspelled as Dr. Donald Silden.¹⁷ Eventually, with the help of Ms. Trisha Murphy, a Mala and Adolph Einspruch Fellow at the Ackerman Center for Holocaust Studies at the University of Texas at Dallas, I was able to locate and review Seldin's original trial testimony, the entire trial documentation, and the verdict.

I discovered that the physician Seldin had testified against was Rudolph Adelbert Brachtel. He was tried, together with Karl Zimmermann, a prisoner “Kapo” or functionary, who worked in the infirmary. Brachtel was 35-years-old at the time of his trial. Compared with Schilling, he was a much less well-known and less accomplished physician. He had not done any significant medical research before arriving at Dachau in April 1941.

Brachtel, a Sudeten German, and a captain in the SS (Hauptsturm-Führer), was a rather minor player within the Dachau medical hierarchy.^{13,14,16}

Initially, Brachtel supervised the camp's X-ray unit, and later participated in an experiment comparing various forms of tuberculosis therapy. He was charged with using “standard allopathic medical therapy” to treat a group of 48 prisoner-patients who were suffering from pulmonary tuberculosis.¹⁶ The outcomes in this group were compared with outcomes in three other groups of prisoner-patients suffering from tuberculosis. A second group was treated with a homoeopathic medication called “Spenglersan,” a third group was treated with a homeopathic diet, and a fourth group served as a control.^{13,16} Brachtel's “standard allopathic therapy” group had the best outcomes, and for this he was “rewarded” by an assignment to the large-scale study of malaria (“Malaria-Station Dachau”) being carried out by Schilling.¹⁶

While assisting Schilling, Brachtel performed between 80 and 180 liver biopsies without consent or anesthesia. Some of these prisoner/patients hemorrhaged and died.¹³⁻¹⁶ He also performed liver biopsies on at least 10 “healthy” prisoners. But the greatest surprise was the fact that not only was Brachtel not convicted and executed, he was actually acquitted and then practiced general medicine in Giessen, Germany until he died of natural causes at the age of 78 in 1988.^{14,18}

The impact of Schilling's conviction and execution on Brachtel's acquittal

Schilling's conviction and sentencing generated very strong protests by the German and international medical and scientific communities.^{13,14,16} They argued that Schilling was an honest and humane scientist who was working to discover methods of malaria immunization and therapy that would benefit mankind. He had remained a civilian and had never joined the Nazi party.

Schilling's experiments were not as horrific as many other concentration camp experiments, i.e., freezing prisoners to death, killing them in low pressure chambers, etc. But of course, Schilling's experimental subjects had not provided voluntary consent; they were infected with malaria against their will on multiple occasions; some received lethal doses of anti-malarial medications; some suffered cruel and sometimes fatal liver biopsies, and many died. Despite the protests, Schilling's sentence was upheld after appeal, and he was executed.

The Nuremberg Doctors' Trial began on December 9, 1946, seven months after Schilling's execution,

and Schilling's trial, conviction, sentence, and execution played a major role in subsequent legal arguments defending Nazi physicians. Only after Schilling had been executed did it become generally known that the U.S. Army had conducted extensive malaria experiments on more than 800 U.S. prison inmates which were very similar to those carried out by Schilling. An article in *Life Magazine* (June 4, 1945) titled, "Prison Malaria," hailed the U.S. prison volunteers as "heroes."¹⁹

Questions related to potential coercion and exploitation of the U.S. prisoner volunteers were repeatedly raised at the Doctors' Trial by the Nazis' defense team. The U.S. Army prosecution's principal expert witness on the subject of medical ethics and voluntary consent was Dr. Andrew C. Ivy (AΩA, Northwestern University Feinberg School of Medicine, 1927) of Chicago. Ivy claimed that the U.S. prisoners who volunteered for malaria experiments did so without coercion or any promise of "excessive" reward.²⁰ He then referred to written guidelines outlining the principles of prison inmate consent which had been created by the Green Committee—named after Illinois Governor Dwight H. Green.²⁰ However, this was actually a committee in name only. Ivy had submitted the committee member names to Governor Green and then unilaterally created the guidelines. He did this only after the Nazi doctor's defense attorneys claimed that the U.S. prisoner malaria experiments were no different than those carried out at Dachau. Ivy was eventually forced to admit (and skirted perjury) that no written ethical or consent research guidelines existed in the U.S. before December 1946, and that the "AMA Principles" he had submitted in testimony were actually created by himself after the Doctors' trial had started.²¹

It is clear that the U.S. prisoner volunteers were given better accommodations, better food, special privileges, and special consideration for eventual parole.²¹ The most notorious U.S. prisoner malaria experiment volunteer at Statesville Prison near Chicago was Nathan Leopold Jr. Leopold and Richard Loeb had attempted to carry out the "perfect crime" in Chicago in May 1924. The thrilling kidnap and murder of 14-year-old Bobby Franks was called "the crime of the century."²² After their arrest, trial, and conviction, defense attorney Clarence Darrow delivered a famous 12-hour speech at their sentencing hearing and was successful in having them avoid the death penalty. Each man was sentenced to "life plus 99 years," which eliminated the possibility of parole.²² Loeb was murdered in prison in 1936. However, Nathan Leopold Jr. became a very prominent malaria prisoner volunteer at Statesville

Prison. In 1948, Illinois governor Adlai Stevenson commuted Leopold's sentence, "...largely on the grounds of his voluntary participation in war-time malaria experiments..." That commutation made him eligible for parole, and he was released from prison on March 13, 1958.^{23,24}

The fact that Schilling was convicted and executed before knowledge of the U.S. Army's similar, and in some cases even more dangerous, prisoner experiments became known to the German defense team, certainly created major problems and embarrassment for the U.S. prosecutors in reference to what constituted voluntary human experimentation. Nonetheless, seven of the Doctors' Trial Nazi defendants were sentenced to death, and executed June 2, 1948.¹⁵

Brachtel's trial at Dachau (Case No. 000-50-2-103 U.S. vs. Rudolf Brachtel et al) began several months after the conclusion of the Nuremberg Doctors' Trial, on November 24, 1947. Brachtel was charged with Violation of the Rules, Laws and Usages of War. Seldin testified on December 9, 1947 and was one of the last prosecution witnesses at the trial. Brachtel participated in his own defense and he cross-examined Seldin.¹⁷ As Seldin correctly recalled, he was interrogated regarding his knowledge of various liver function tests such as bromsulphalein clearance, cephalin flocculation, and bile foam testing. He was also interrogated about the use of fever therapy for various diseases, his knowledge regarding hepatitis, and the use of percutaneous liver biopsy for diagnosis and therapy. Schilling's malaria experiments and the fact that Schilling was a widely respected researcher who had been funded by the Rockefeller Foundation were also discussed with Seldin.

It was also discovered during the trial that Brachtel was responsible for the selection of sick camp prisoners for gassing, and had participated in some human freezing experiments.^{13-18,25} There is little doubt Brachtel would have been convicted, and possibly executed, if his trial had taken place before knowledge of the U.S. malaria experiments had become public. After the U.S. prison malaria experiments became widely known, several American physician groups lobbied against the conviction of Nazi physicians who had carried out, or participated in, experiments that were very similar to those performed in the U.S.^{14,16}

The Schilling case, his execution, and the subsequent publicity about U.S. malaria experiments all played a major role in Brachtel's acquittal. Seldin certainly knew about Schilling's conviction and execution, and those events were prominently discussed during his expert testimony. Brachtel had been one of Schilling's assistants and personally carried out brutal and sometimes lethal

experimentation. The revelations about the similar U.S. prison malaria experiments had made the Schilling case a “cause celebre” and this information had become a major focus of the defense strategy during subsequent trials of Nazi physician experimenters.²⁰

Seldin may not even have become aware of the final Brachtel verdict. The seven Doctors’ Trial defendants who were sentenced to death were executed about five months after Seldin’s testimony. Seldin may have incorrectly assumed Brachtel was convicted. He clearly conflated many facts about the Brachtel and Schilling cases, and their respective outcomes.

Seldin famously always sought to relentlessly seek the truth. I certainly regret that I did not uncover these facts before Seldin had died. My discovery would certainly have generated a fascinating discussion.

References

1. Roberts S. Dr. Donald Seldin, Who Put a Medical School on the Map, Dies at 97. *The New York Times*. May 1, 2018. <https://www.nytimes.com/2018/05/01/obituaries/dr-donald-seldin-who-put-a-medical-school-on-the-map-dies-at-97.html?searchResultPosition=1>.
2. Dirks JH. Donald W. Seldin, 1920-2018. *FASEB J*. 2019; 33(4): 4657-9.
3. Alpern R, Giebisch G. Donald Seldin: A Transformative Leader in Medicine and Nephrology. *J Am Soc Nephrol*. 2018; 29(8): 2029-30.
4. Greenberg RS. Donald Seldin: The Maestro of Medicine. Austin (TX): University of Texas Press; 2020.
5. Neill US. A conversation with Donald Seldin. *J Clin Invest*. 2012; 122(8): 2707-8.
6. Kling J. UT Southwestern: From Army Shacks to Research Elites. *Science*. 1996; 274: 1459-61.
7. Seldin DW. Donald Wayne Seldin, MD: a conversation with the editor. Interview by William Clifford Roberts. *Proc (Bayl Univ Med Cent)*. 2003; 16(2): 193-220.
8. Ryan JK, Brady JV, Cooke RE, Height DI, et al. The Belmont Report. Ethical principles and guidelines for the protection of human subjects of research. *J Am Coll Dent*. 2014 Summer; 81(3): 4-13.
9. Seldin DW. Presidential Address: The Boundaries of Medicine. *Trans Assoc Am Phys*. 1981; 94: lxxv-lxxxvi
10. Mooney MJ. The Father of Calls Medicine. *D Magazine*. September 17, 2013.
11. Seldin DW. “The Moral Status of Nazi Medicine” The inaugural lecture of the Holocaust, Genocide and Contemporary Bioethics Program, at the University of Colorado Center for Bioethics and Humanities. May 5, 2008. <https://www.youtube.com/watch?v=3Wf451KeXos>.
12. Greene J. Justice at Dachau: The Trials of an American Prosecutor. New York: Broadway Books; 2003.
13. Weindling P. Victims and Survivors of the Nazi Human Experiments: Science and Suffering in the Holocaust. New York: Bloomsbury Academic; 2015.
14. de Leeuw D. In the Name of Humanity: Nazi Doctors and Human Experiments in German Concentration Camps. *Holocaust and Genocide Studies*. 2020; 34(2): 225–52.
15. Weindling PJ. Nazi Medicine and the Nuremberg Trials: From Medical War Crimes to Informed Consent. New York: Palgrave MacMillan; 2006.
16. Wolters C. “Zur ‘Belohnung’ wurde ich der Malaria-Versuchsstation zugeteilt ...” : Die Karriere des Dr. Rudolf Brachtel, (translated: “As a reward I was assigned to the Malaria Wards”: The Career of Dr. Rudolf Brachten.) In: *Lagersystem und Repräsentation : Interdisziplinäre Studien zur Geschichte der Konzentrationslager*. Gabriel R, Koslow EM, Neuhofer M, Rieger E, Editors, Tübingen (Germany): Edition Diskord; 2004. 29-70.
17. Records of the United States Nuernberg [sic] War Crimes trials Interrogations, 1946-1949. *United States v. Rudolf A Brachtel, et al. Case No 000-050-0002-103*. Publication Number: M-1019. National Archives. Date Published: 1977. Available at: <https://www.archives.gov/files/research/captured-german-records/microfilm/m1019.pdf>.
18. Klee E. *Das Personenlexikon Zum Dritten Reich: Wer war was vor und nach 1945*. Frankfurt am Main (Germany): Weltbild; 2005.
19. Prison Malaria. *Life Magazine*. June 4, 1945. https://books.google.com/books?id=h0gEAAAAMBAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false.
20. Shuster, E. American Doctors at the Nuremberg Medical Trial. *Am J Public Health*. 108: 47-52. 2018.
21. Harkness JM. Nuremberg and the Issue of Wartime Experiments on US prisoners. *The Green Committee. JAMA*. 1996; 276(20): 1672-5.
22. Higdon H. Leopold and Loeb: The Crime of the Century. New York: Putnam; 1975.
23. Nathan Leopold Wins Early Parole in ‘53 Because He Volunteered for Malaria Tests. *New York Times*. September 23, 1949.
24. A “Changed” Man Nathan Leopold. *New York Times*. February 21, 1958.
25. *Dachauer Prozesse: NS-Verbrechen vor amerikanischen Militärgerichten in Dachau 1945-48*. Göttingen (Germany): Wallstein Verlag; 2007.

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