



Convicting Demjanjuk of No “Specific Crimes”

You might think someone found guilty of 28,060 counts of accessory to murder must have done something wrong. But columnist and TV commentator Pat Buchanan, long a defender of accused and now convicted war criminal John Demjanjuk, has noticed something missing in reports from the courtroom in Munich, where the verdicts against the Ukraine native and U.S. citizen were announced last week. You could find it, if you are attentive and persistent enough, in the BBC report under the headline: “John Demjanjuk Guilty of Nazi Death Camp.”



“Not until paragraph 17,” [Buchanan noted](#), “does one find this jolting fact: ‘No evidence was produced that he committed a specific crime.’ “

No evidence? No “specific” crime? How does that earn someone 28,060 convictions in any courtroom? Yet Demjanjuk, 91 and in deteriorating health, has now been sentenced to five years in prison for crimes he allegedly committed nearly 68 years ago, for which there are no living witnesses, on evidence supplied by the secret police of the former Soviet Union.

Demjanjuk, the BBC reported, was a soldier in the Soviet army when he was captured by the Germans in 1942. He was sent to the SS prison in Sobibor in Nazi-occupied Poland the following year. More than a quarter of a million people are said to have died at Sobibor, 28,060 of them during the time Demjanjuk was there. Demjanjuk claimed he was himself a prisoner of war there, fortunate to be among the survivors. The court found otherwise. “Prosecutors had argued he was recruited by the Germans to be an SS camp guard and that by working at a death camp he was a participant in the killings,” the BBC reported. “It was the first time such a legal argument was made in a German court.”

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Using a novel legal doctrine to convict someone when “[n]o evidence was produced that he committed a specific crime.” That, apparently, is how you get guilty verdicts on 28,060 counts of accessory to murder in a German courtroom. And how credible is the evidence that Demjanjuk was a guard at Sobibor? Recall that he was convicted and sentenced to death by an Israeli court in 1988 as “Ivan the Terrible”, the notorious gas chamber operator at the Nazi camp at Treblinka. He spent five years on death row before the KGB files of the former Soviet Union revealed “Ivan the Terrible” was Ivan Marchenko, who photos revealed to be an older and larger man. The Israeli Supreme Court ruled it a case of mistaken identity and overturned the conviction, freeing Demjanjuk to return to his home in Cleveland, Ohio, where he had moved with his wife, Vera after World War II and raised a family and was employed as an autoworker. Even considering the evidence of wrongful conviction, the reversal was a considerable act of courage on the part of the Israeli justices. Yoram Sheftel, the Tel Aviv lawyer who defended Demjanjuk told the British paper, the [Independent](#), that when he took on Demjanjuk as a



Written by [Jack Kenny](#) on May 18, 2011

client, "I knew I would be the most hated man in Israel."

But as it turned out, the case against Demjanjuk required moving the scene of the non-specific crimes and, at the same time, changing the venue for a trial. German authorities came after him with the charge that he was a guard at a Nazi camp, after all - -if not Treblinka, then surely Sobibor. This time they had their man. The government of the United States, his adopted homeland, agreed to have Demjanjuk extradited to Germany to stand trial in Munich.

For evidence, prosecutors produced a KGB summary of an interview with someone named Ignat Danlichenko, who claimed to have been a guard himself at Sobibor when Demjanjuk was there. There was also an ID card from the camp in Trawniki that trained the guards. But for years Moscow denied all requests from investigators in the West for access to Danlichenko, Buchanan said, and to cross examine him at the Munich trial would have been quite a trick, since he has been dead for some 25 years. Concerning the ID, Buchanan cited a recently unearthed 1985 report from the FBI office in Cleveland saying the card was "quite likely" a forgery. The report concluded:

Justice is ill-served in the prosecution of an American citizen on evidence which is not only normally inadmissible in a court of law, but based on evidence and allegations quite likely fabricated by the KGB.

Well, if you're going to convict a man on 28,060 counts of non-specific crimes, you probably don't need much in the way of specific evidence. Demjanjuk, it turned out, was not at Treblinka. But at least he was at Sobibor and 28,060 people died while he was there. So he is an accomplice in their murders. "Ifso fatso," as Archie Bunker used to say.

In Tuesday's *New York Times*, an op ed piece appeared titled "[Demjanjuk in Munich](#)." It was written by Deborah Lipstadt, a professor of modern Jewish and Holocaust studies at Emory University and author of *The Eichman Trial*. There was, she insists, "never much doubt that (Demjanjuk) had been a vicious prison guard under the Nazis"— somewhere.

"Unfortunately, prosecutors had misidentified him as a guard at the Treblinka camp known as Ivan the Terrible [Oops. Little error there], and Mr. Demjanjuk was released in 1993."

She rightly described the horrors of genocide and the need to bring its perpetrators to justice. But nowhere in her 800-word essay did she address the kind of issues that Buchanan raised in his column of similar length, namely the flimsy and highly questionable nature of the evidence used to convict the man of "no specific crimes." Is it possible they got the wrong man again? Does it matter?

"Last week's decision, then, was proof that the rule of law works, however slowly," wrote Lipstadt. Indeed, the rule of law is ever at work. But what it produces isn't always justice.



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