

# Germany: neo-Nazi killer acquitted on “self-defense” grounds

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On April 4, the provincial court in Halle, eastern Germany, acquitted a 20-year-old neo-Nazi, Andreas P, of killing a 60-year-old pensioner on the grotesquely implausible grounds that P was acting in self-defense. (The defendant's last name has not been divulged by the media in keeping with the German practice of withholding the names of defendants unless and until they are convicted of a crime).

The trial in Halle was the second to deal with the death of Helmut Sackers. The first trial, in the Magdeburg provincial court, also ended in Andreas P's acquittal. That ruling was overruled by the German High Court, which found there was sufficient evidence to warrant a retrial, which was subsequently held in Halle.

Five years ago, on the evening of April 29, 2000, Sackers notified the police in the eastern German city of Halberstadt, in Saxony Anhalt, that Andreas P was playing prohibited Nazi music in his apartment, including the Nazi SA's notorious Horst-Wessel song.

The police arrived and told P to lower the volume. According to their statements, the police did not understand what sort of music was being played. Sackers, agitated, interrupted the discussion between P and the police and threatened P with a criminal action. An hour after the police left the apartment block, Sackers lay dead on the staircase, stabbed four times by P.

The police and state prosecutor subsequently insisted that an argument had broken out between P and Sackers simply over the playing of loud music. They stressed that P's possession of over 80 CDs containing fascistic war songs, dozens of fascistic cassettes and videos, and 90 neo-Nazi magazines found later in P's apartment had nothing to do with Sackers' death. They also insisted that a video explicitly advocating the killing of

“reds” did not indicate the existence of political motivations in the crime.

In the first trial, the Magdeburg provincial court based its ruling on the account given by the only survivor of the violent confrontation—Andreas P himself. He claimed that when he walked downstairs to say goodbye to a friend, Sackers, who was standing in the foyer, set his dog loose on P, and then attacked P. himself. The court rejected a motion by the plaintiff that it consider evidence that P had been heard playing neo-Nazi music.

In the second trial, in Halle, the court upheld this motion. The Halle provincial court established that P had denounced the slightly built, asthmatic Sackers as a “communist,” that P struck Sackers several times in the face with his fist, breaking his nose, and then stabbed him four times. The court ruled that the claim made by P and his wife that Sackers had let his dog loose was not credible.

Sacker's companion had issued a statement that the small and easily frightened dog was incapable of such an attack. This was confirmed to be the case by an expert. Another expert examined the jacket worn by P at the time of the killing and found that there were no traces of a struggle having taken place.

Yet, despite this evidence, the Halle judge accepted as credible the defendant's story: that he attacked Sackers out of fear of being pushed down a basement staircase (less than two meters high) by the shorter and weaker pensioner. The fact that P was carrying a 17-centimeter-long knife, while supposedly seeing off a friend, and that he used it several times against Sackers, even though the elderly man was rendered incapable of defending himself after being repeatedly hit in the face by P—all this the court attributed to P's “mental instability,” supposedly compounded by a 10-year-long

suppressed “trauma” resulting from a knife injury from an unknown assailant.

The *Frankfurter Rundschau* investigated this latter claim and wrote: “Social workers recall that Andreas P was a member of a group that went around attacking people—sometimes left-wingers in Quedlinburg, sometimes foreigners in Magdeburg. When the railway mechanic P, on one of these forays, landed in hospital suffering from knife wounds, his work colleagues said that one of his victims had fought back.”

Such, evidently, was the source of the “trauma” suffered by the fascist thug Andreas P.

The court praised Sackers’ “civic responsibility,” and then proceeded to clear his killer, arguing that the benefit of the doubt had to be given to the defendant. It upheld P’s claim that Sacker’s death was the result of an “excess arising from self-defense.”

Legally, “excess arising from self-defense” means that the perpetrator exceeds “the boundaries of self-defense, due to confusion, fear or fright.” But for this to apply, it must first be established that the defendant was, in fact, acting in self-defense. In this case, the evidence argues that it was Sackers, not P, who was acting in self-defense.

The lawyer for the prosecution, Wolfgang Kaleck, who was instrumental in a recent attempt to prosecute US Defense Secretary Donald Rumsfeld for war crimes, described the Halle court ruling as “absurd, contradictory and speculative.” Kaleck listed seven different points on which P and his wife either lied or misled the court.

Following the ruling, the chairman of the German Association of Judges, Wolfgang Arenhövel, expressed anger—not at the judgment, but rather at the criticism it provoked, including a statement by the president of the German Bundestag (parliament), Wolfgang Thierse, who called the judgment “scandalous.”

Arenhövel called such comments unreasonable and inappropriate. Elected officials, he lectured, should not speak unthinkingly, but rather, when doubts exist, keep silent.

These court proceedings recall the fateful period of the German Weimar Republic. During the 1920s and 1930s, the judiciary and police customarily dealt brutally and harshly with left-wingers. But of the more than 300 murders committed by right-wing radicals during this period, over 90 percent of the crimes went

unpunished. At that time too, many of the fascist thugs defended their actions on the grounds of self-defense.

Then, as well, judges made a practice of reprimanding liberal and left-wing critics for “politicizing” the judiciary.



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