

# The Case of Anton Mayer

## A Half-Jewish Deserter from the Wehrmacht

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On 23 July, 1944, the sailor Anton Mayer, who had been sentenced to death for desertion by a naval court three days earlier, penned a four-page letter to Admiral Dönitz, Commander of the German Navy. Mayer pleaded to be given the chance to redeem himself by being dispatched immediately to the front. His letter (see illustration 1) concluded with the following passage:

I beg you to believe me when I say that I was always a good German; in earlier years I always suffered under the persecution which afflicted us as Germans in Romania. I was proud of my Germanness and in my work as a language teacher I transmitted German culture and German values! I ask you, Herr Admiral, to consider the fact that I am the only son of my elderly parents who sacrificed everything for my studies. I am their sole support in their old age and my disgraceful end would also mean their death! I beg you, Herr Admiral, to allow me the chance to prove myself under the most difficult circumstances! Long live our great Führer! Long live Greater Germany! <sup>1</sup>

As was the case for thousands of other German soldiers sentenced to death for desertion during World War II, Mayer's request fell on deaf ears. On 21 August, 1944 he was beheaded by guillotine in the prison of Brandenburg-Havel west of Berlin. This method of execution - as opposed to the normal method of death by firing squad - was considered particularly dishonourable and "unsoldierly" and was reserved for cases deemed especially heinous by the military leadership. In Anton Mayer's case it was apparently his racial origins which disqualified him from being executed by firing squad. In the grotesque racist terminology of the Third

Reich, Anton Mayer was a *Mischling*, first degree - a "half-Jew."<sup>2</sup> He thus belonged to those 100,000 or more individuals who found themselves uncomfortably stranded in a racial no-man's land carved out by the Nazis to separate Aryans on one side from *Volljuden* (full-Jews) on the other.

### Mischlinge and the German Military

Before we examine in more detail the tragic case of Anton Mayer, first it is necessary to survey the bizarre topography of that no-man's land inhabited by the *Mischlinge* and to chronicle their treatment by the German military. The category of *Mischling* was invented in late 1935, in the process of refining the stipulations of the infamous Nuremberg Laws issued in September of that same year. The First Regulation to the Reich Citizenship Law of 14 November 1935, singled out for discrimination a new group consisting of individuals of "mixed Jewish blood."<sup>3</sup> In general terms, *Mischlinge* of the first degree were persons who descended from two Jewish grandparents, while *Mischlinge* of the second degree had just one Jewish grandparent. According to a census taken in 1939 there were 64,000 *Mischlinge* of the first degree (half-Jews) and 43,000 *Mischlinge* of the second degree (quarter-Jews) in Germany, including the recently annexed territories of Austria and the Sudetenland.<sup>4</sup> It is unclear how many of the half-Jews were males of military age.

Dr. Bernhard Lösener, one of the notorious "experts" on Jewish affairs in the Interior Ministry, estimated in late 1935 that there were then some 45,000 half-Jewish men of military age in Germany.<sup>5</sup> The existence of this relatively substantial pool of potential soldiers may well have been one of the factors motivating the Nazi leadership to create a special category for half-Jews, thus preserving them for future use as soldiers for the Führer.

In its eagerness to demonstrate its loyalty to the principles of the new Nazi order, the German military had already dismissed its "full-blooded" Jewish officers and soldiers in the course of 1934, well before the promulgation of the Nuremberg Laws. The initial purging of Jews from the 100,000 man army involved a relatively small number of Jewish soldiers and officers, perhaps no more than 70.<sup>6</sup> In spring 1935, when Hitler reinstated compulsory military service - a blatant violation of the provisions of the Versailles Treaty - a new conscription law came into effect. Paragraph 15 of that law stipulated that "Aryan descent is a precondition for active military service."<sup>7</sup> A subsequent ordinance issued in late May 1935 defined as "non-Aryan" anyone who had one Jewish parent or grandparent. At the same time, the ordinance also stated that non-Aryans could petition for acceptance into the military, thus leaving open the possibility that exceptions to the harsh exclusionary policy might be approved.<sup>8</sup>

After the Nuremberg Laws were issued in late 1935, it became necessary for the military to revise its own definitions of non-Aryans in order to

bring them in line with the legal norms the regime had established. As a result, the revamped conscription law of June 1936 distinguished between Jews and *Mischlinge*. The former were categorically excluded from military service: "A Jew cannot carry out active military service".<sup>9</sup> All *Mischlinge*, by contrast, were required to serve in the German military. *Mischlinge* of the first degree, or half-Jews, were, however, prohibited from being promoted to the status of non-commissioned officer. Such advancement would put them in a position of command over Aryans, obviously an unacceptable situation from the racist point of view endorsed by the German military. Quarter-Jews enjoyed a slightly greater degree of equality with their Aryan comrades and could in exceptional cases become non-commissioned officers.

Helmut Krüger, a half-Jew born in 1913, commented in his memoirs that *Mischlinge* greeted the 1936 law with relief: "Many *Mischlinge* of military age between 18 and 25 joyfully volunteered for the Labor Service or the military in the belief that after fulfilling their 'duty of honour to the German people' they might anticipate some additional mitigation [of pressure] in their professional lives and above all more protection for their Jewish parent".<sup>10</sup> These hopes for better treatment in return for service to the Nazi fatherland were, however, sadly misplaced as the events of the coming years were to demonstrate.

During the first six months of the war Jewish *Mischlinge* fought alongside their Aryan comrades in the Blitzkrieg against Poland as well as in the *Sitzkrieg* in the West. Many, like Helmut Krüger, were promoted and decorated for bravery. Nevertheless, on 8 April, 1940, on the eve of the German occupation of Denmark and the invasion of Norway, Hitler ordered that all half-Jewish soldiers and all soldiers married to Jews or half-Jews be immediately dismissed from all branches of the Wehrmacht.<sup>11</sup> Quarter-Jews were allowed to remain, as were half-Jewish officers who had previously been declared by Hitler to be of "German blood" (*deutschblütig*). The order did allow for exceptions "in special

cases". Soldiers or their commanders could submit petitions to the Armed Forces Command requesting that individual half-Jews be permitted to remain soldiers (see illustration 2).

Hitler's secret order appears to have had little immediate impact. Some units apparently did not hear about the order, in others commanders simply ignored it. In those units where it did become known it triggered a surge of petitions as an army communication of August, 1940 indicated.<sup>12</sup> Some of these petitions did, in fact, receive Hitler's approval and such soldiers were issued a document which authorised them to remain in the Wehrmacht (see illustration 3). A month later Army High Command (OKH) complained that "again and again cases have come to the attention of the OKH in which Jewish *Mischlinge* of the first degree (50%) or soldiers married to such Jewish *Mischlinge* are still in active military service in violation of the order...of 20.4.40".<sup>13</sup> The OKH insisted that all active servicemen had to sign a declaration attesting to their racial status (see illustration 4).

It seems quite likely that from autumn 1940 on many half-Jews signed false Aryan declarations in order to avoid being expelled from the military. Others, unaware of their status as Jewish *Mischlinge*, also signed declarations affirming that they were of German blood and stayed with their army units. Their true status would only come to light when they later sought permission to marry - and were thus required to submit documented proof of their Aryan descent - or for some other reason came to the attention of the Nazi bureaucracy which policed racial purity in the Third Reich.

An undetermined number of *Mischlinge*, but most likely tens of thousands, remained in the German military despite Hitler's order for their dismissal.<sup>14</sup> Helmut Krüger, wearer of the Iron Cross, second class, was not expelled until April 1941. His brother Answald continued to serve in the army until the summer of 1942, by which time he had been wounded in Russia and, like his older brother, been decorated with the Iron Cross.<sup>15</sup> Many half-Jews sought to

remain in the military as a way of protecting themselves and their Jewish family members. By performing bravely on the battlefield they believed they could prove their loyalty and utility to the Nazi regime and thus pave the way for recognition and acceptance in German society once the war was over. Although these hopes ultimately proved unfounded, they were temporarily nourished by actions taken by Hitler and the military leadership in the course of 1941.

In July 1941, just weeks after Operation Barbarossa had been launched against the Soviet Union, Hitler endorsed a policy which allowed half-Jews who had already served in Wehrmacht and had been dismissed as a result of his order of April 1940, to apply to be recalled to military service if they had won a war decoration (the Iron Cross or a campaign citation).<sup>16</sup> Every single case had to be referred to Armed Forces Command for the Führer's personal approval.

What prompted such a policy change on Hitler's part? The introductory comments at the meeting at which the proposals were discussed provide some clues. The chair of the meeting noted "that the Führer has indicated that he wishes to show that he is not ungrateful toward *Mischlinge* who have fought and bled for the Third Reich and wishes to avoid [a situation] in which after the war front fighters (possibly with war decorations) express publicly at home and abroad their anger and discontent. It is also intended that 25% *Mischlinge*, who exhibit certain characteristics, may be treated after the war as Germans [*Deutschblütige*]." <sup>17</sup> Manpower considerations, which would not become acute until Barbarossa foundered at the end of 1941, certainly were not the reason for recalling *Mischlinge* at this point. Hitler and the entire Nazi leadership were convinced in July 1941 that victory could be expected within a matter of weeks or at most a few months. This victory euphoria evidently encouraged the sudden concern with "post-war" considerations.

(continued on page 12)

M. V. Josef Anton Mayer Spandau, 23.7.4  
 A. Z. F. II 54/44

An den Herrn Großadmiral Dönitz!

Gesuch:

Ich bitte den Herrn Großadmiral, das am 20. VII. 44 vom Gericht der Kriegsmarine in Berlin ausgesprochene Todesurteil in eine langfristige Freiheitsstrafe umzuwandeln!

Begründung:

Bis jetzt hatte ich 4 Verhandlungen und 3 Gerichte erkannten mir eine Freiheitsstrafe, da sie für mich Milderungsgründe fanden und diese

1

Oberkommando der Wehrmacht  
 Nr. 121/10-20 J (1c)  
 Nr. 524/40 geb.

Beim, den 8. April 44

**Geheim!**

Betr.: Behandlung jüdischer Mischlinge in der Wehrmacht

Der Führer und Oberste Befehlshaber der Wehrmacht hat nachstehende Entscheidung getroffen:

- 50%ige jüdische Mischlinge oder Männer, die mit 50%igen jüdischen Mischlingen oder Jüdinnen verheiratet sind, sind je nach Lebensalter (§§ 10 und 11 des Weh) der Truppiereite II bzw. der Banden II zu überschreiben, jedoch mit dem jeweiligen Zusatz zu 2. u. 2.a. (nicht zu verwechseln), um sie von den übrigen Wehrpflichtigen dieser Kategorien grundsätzlich zu unterscheiden.  
 Ausgenommen bleiben hierunter die Offiziere, die auf Grund der Führerentscheidung (DRW - WZ (III) J - Nr. 651/39 vom 13.3.39) in der Wehrmacht verblieben sind.  
 In besonders gelagerten Fällen behält sich der Führer Ausnahmen vor, die über DRW zu beantragen sind.
- 25%ige Mischlinge und Wehrmachtangehörige, die mit 25%igen Mischlingen verheiratet sind, verbleiben in der Wehrmacht und können während des Krieges ausnahmsweise befristet und als Vorgesetzte verwendet werden, wenn eine besondere Beauftragung zuzulassen ist.  
 Außerdem können ehemalige Unteroffiziere, Beamte und Offiziere, die 25%ige Mischlinge sind, oder solche, die mit 25%igen Mischlingen verheiratet sind, bei ausreichender Begründung während des Krieges in der Wehrmacht verwendet werden.  
 Jeder Beförderungsbewerber bzw. Wiedereinstellungsantrag ist dem Führer über DRW zur Entscheidung vorzulegen.

Im beschleunigten Durchführen der angeordneten Maßnahmen sicherzustellen, wird um umgehende Bekanntgabe vorliegender Befugnisse gebeten.

Die Verfügungen DRW Nr. 150/40 J (1c) vom 16.1.40 und DRW Nr. 280/40 J (1c) vom 20.1.40, letztere mit Ausnahme der für Heimwehre geltenden Bestimmungen, werden hiermit aufgehoben.

Der Chef des Oberkommandos der Wehrmacht  
 Keitel

2

Abschrift

Der Führer und Oberste Befehlshaber  
 der Wehrmacht


Joh genehmige, daß der Oberführer  
Rüdiger von B  
 weiter im aktiven Wehrdienst verbleiben und zum  
 Vorgesetzten befördert werden kann.

Nach Abschluß des Krieges werde ich bei  
 voller Bewährung über die Deutschblütigkeit mit allen  
 daraus sich ergebenden Rechten und Pflichten  
 entscheiden.

Berchtesgaden, den 29. November 1940.

gez. Adolf Hitler.

Für die Richtigkeit der Abschrift:  
 Berchtesgaden, den 29.11.1940.


  
 Hauptmann und Adjutant der  
 Wehrmacht beim Führer.

3

Allenstein den 16. 1. 1941

**Erklärung!**  
 (Beim Truppierteil auszufüllen)

Nach sorgfältiger Prüfung der mir zur Verfügung stehenden Unterlagen erkläre ich pflichtgemäß, daß ich - meine Ehefrau - deutschblütig -  jüdischer Mischling - bin.  
 Über den Degree jüdischer Mischling in diesem Zusammenhang bin ich durch meinen Disziplinarorganeleiter belehrt worden.  
 Mir ist bekannt, daß ich Strafverfolgung zu gegenwärtigen habe, falls sich die Erklärung als unrichtig erweisen sollte.  
 Mir ist eröffnet worden, daß ich, falls ich durch unrichtige Angaben meine Vorgesetzten täusche in der Absicht, mich der Erfüllung des Wehrdienstes zu entziehen, wegen Zerklebung der Wehrzeit mit den höchsten Strafen, unter Umständen mit dem Tode bestraft werden kann.



(Mitteltagebuches ist zu füllen.)

(Nach der Entlassung durch die We. E. J. Dienstelle auszufüllen.)

(Ort und Datum)

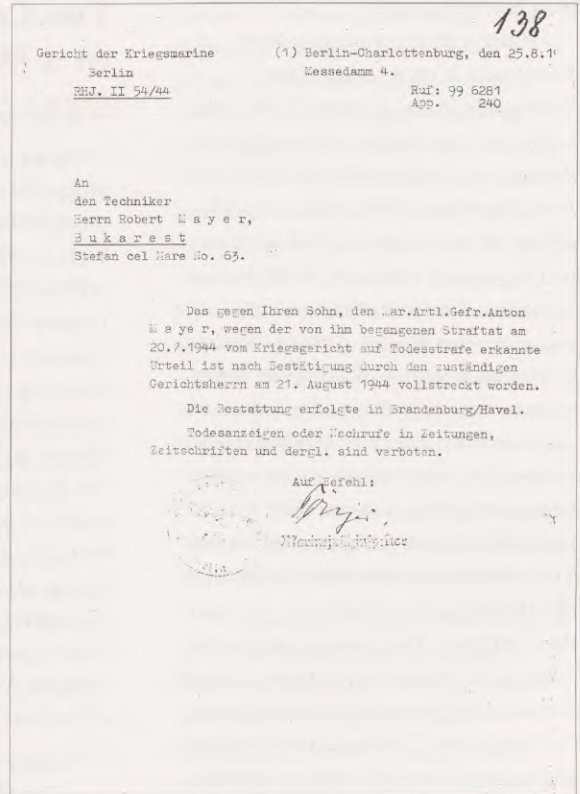
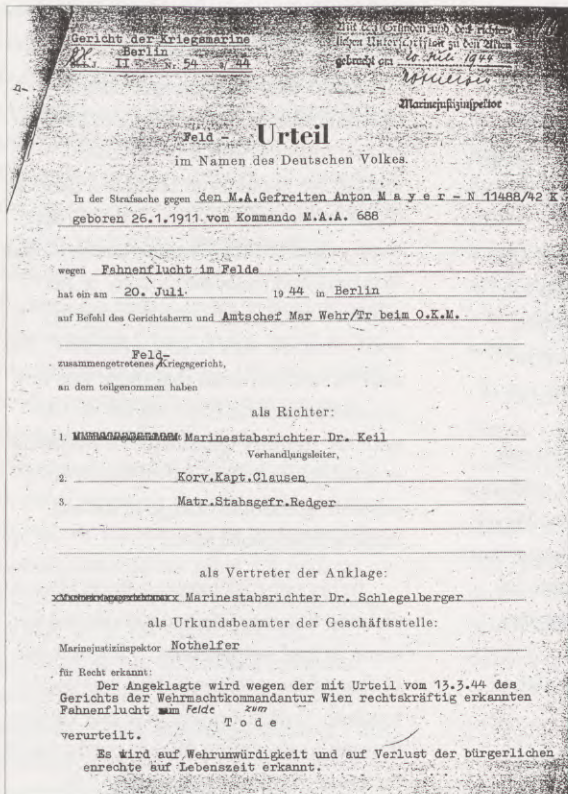
Die Richtigkeit der vorstehenden Angaben ist durch Nachprüfung der Geburts- bzw. Taufurkunden bis zu den Urakten einschließlich festzustellen.

(Dienstpost)

(Name, Dienstpost und Dienststelle)

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## Illustrations

**Illustration 1:** First page of letter to Admiral Dönitz from Anton Mayer requesting that his death sentence for desertion be commuted to a prison sentence which would allow him to redeem himself on the front.

**Illustration 2:** Copy of Hitler's secret order of 8 April 1940 which ordered the dismissal of all half-Jews from the Wehrmacht.

**Illustration 3:** Copy of an authorisation from Hitler allowing *Mischling* Rüdiger von B. to remain in the army and stating that he is eligible to be considered for promotions.

**Illustration 4:** An Aryan declaration form. All soldiers were required to fill out such a declaration and indicate whether they and/or their wives were of German blood or were *Mischlinge*. A *Mischling* would have to stipulate which category he belonged to: 25 or 50% Jewish *Mischling*.

**Illustration 5:** First page of the court-martial verdict dated 20 July 1944 which sentenced Anton Mayer to death for desertion.

**Illustration 6:** Notice sent to Anton Mayer's father informing him of his son's execution on 21 August 1944, with the warning that no public announcements of the death were permitted.

(continued from page 9)

Hitler's decision to allow some Jewish *Mischlinge* to rejoin the Wehrmacht in the summer of 1941 may well have been linked to his project of arriving at a "Final Solution" of the Jewish problem. While historians still debate the exact details of the decision-making process which set the Holocaust in motion, there seems to be a broad consensus that the key decisions leading to the extermination of European Jewry were taken in the course of spring or summer 1941. The issue of what should be done with the *Mischlinge* proved to be one of the thorniest and most intractable for the racial planners of the Third Reich. From the Nazi perspective, the *Mischlinge* were not Jews, nor were they Germans. They were a troublesome "third race" whose very existence marred the simplistic binary divisions between "us" and "them," between racial comrade and racial other which were so central a feature of the Nazi world view. In order to bring recalcitrant reality into line with this world view it was necessary to resolve the *Mischling* issue. Since war was the ultimate testing ground of worthiness, Hitler may well have decided to let it function as the final arbiter of the *Mischling* issue.<sup>18</sup>

A year later the situation had changed. The Eastern front had turned into a war of attrition, and the prospects for a German victory had evaporated. Fantasies about the post-war era gave way to premonitions of defeat and ruin. From the summer of 1942 on, policy toward *Mischlinge* became harsher. At the end of September 1942, the Armed Forces Command issued an order once again calling for the dismissal of all half-Jews still in the military.<sup>19</sup> Only those half-Jewish officers who had earlier been declared to be of German blood were allowed to stay. But in late 1944, these officers were expelled as well.<sup>20</sup> On 28 November, 1944, the Armed Forces Command, in response to a request from the Security Police, ordered that any half-Jews still discovered in the military were to be expelled and arrangements made so that they would "be picked up without delay" by the Gestapo.<sup>21</sup>

## The Court-Martial of a Mischling Deserter

If we return now to the case of Anton Mayer we can begin by observing that he should never have been in the Wehrmacht. At the time of his call-up (via the German embassy in Budapest) in January 1942, half-Jews were barred from serving in the military. Born in Budapest in 1911, Mayer was the son of an Austrian father and a Jewish Hungarian mother. Rather than reveal that he was a half-Jew, however, and thus endanger himself and his parents, Mayer told officials at the German embassy that he was of Aryan descent. In breach of procedure, he was never asked by the military authorities to fill out the standard Aryan declaration required of all soldiers.

Mayer served during 1942 as an army interpreter in France. His unit commander praised his intelligence but noted that "as a soldier [he is] too soft" and that his attitude toward the Third Reich was less than enthusiastic. He had no previous criminal record in civilian life and had had only one minor brush with the military discipline system when he received three days confinement to quarters for lying about the whereabouts of his boots.

On home leave in Bucharest with his parents in December 1942, Mayer became ill and did not depart on time for his return to France. After overstaying his leave by three weeks he finally boarded a train on 12 January 1943, headed for France via Vienna. He detrained, however, in Budapest and visited his fiancée and various friends and relatives. He stayed in Budapest and passed himself off as a German interpreter stationed in the harbour. Five months later, on 22 June 1943, he was arrested on a city street by a military police patrol. Mayer attempted to run away but was quickly recaptured. Two days later he suffered serious injuries when he jumped out of a fourth floor window of the military jail in an attempt to escape by way of the roof of neighbouring house. His interrogation

and trial were pushed back while he recovered from his injuries.

At the time of his arrest, Anton Mayer admitted that he was a *Mischling*, and so from the outset of his court-martial the racial issue became a central factor in the deliberations. The military court contacted the German authorities in Romania and requested a copy of his mother's birth certificate in order to verify that she was in fact a full Jew. The court also discovered that there was no Aryan declaration from Mayer on file with the military authorities in Budapest or with his unit. This saved him from a possible additional charge of having made a false declaration.

In his pre-trial interrogations Mayer claimed that once he had overstayed his leave he had not returned to his unit out of fear of the punishment he was bound to incur. "I didn't really give any further thought to my future fate, in particular to the issue of rejoining the army." In response to the question whether he had intended to desert, Mayer said he could give no satisfactory answer and went on to comment: "Two thoughts continually went through my head: one, that I should permanently escape from military service; the other, that I should turn myself in. Both thoughts constantly struggled within in me without either winning the upper hand." Throughout all of the subsequent court-martial proceedings Mayer never admitted any intention to desert. He argued at one point that he feared being punished more severely for his absence without leave because of he was a half-Jew and therefore did not dare to return to his unit. But at the time of his desertion the German military authorities had no knowledge of his racial background. This became known to them only after Mayer himself revealed it to them following his arrest.<sup>22</sup>

Mayer's fear of punishment once he had overstayed his leave was quite understandable and justified, given the harsh punishments which were commonly meted out for AWOL and desertion. Just why he overstayed his leave in December, however, remains a mystery. Mayer admitted in court that his illness at the end of December had

not been so severe that he could not have returned on time to his unit, and he had failed to consult either a military or a civilian doctor. One is left to speculate that he decided at some point in December or even January - as a result of conversations with his parents or friends, or after seeing his fiancée in early January? - not to return to his unit. Perhaps his failure to leave Bucharest on time was due simply to his desire to see his fiancée in Budapest. (He had missed seeing her when he travelled through Budapest on his way home in December.) Perhaps he had already decided weeks or months before that he would use his leave as an opportunity to turn his back on the navy. Or perhaps, as his comments in his interrogations seem to hint, he never really "decided" to desert at all, but let himself be driven along by events, partially paralysed by a mixture of indecisiveness and fear. The available records do not permit any resolution of this issue.

From the perspective of the military justice system, Mayer's motives were in any event only of secondary importance. The primary concern was to determine not *why* but *whether* he had deserted, that is, whether he had sought to separate himself permanently from the army. What his precise motivation might have been was a matter that did not demand definitive clarification. The military judges who dealt with Mayer's case found little difficulty in deciding that he was guilty of desertion. They were persuaded by the length of his absence (over five months) and by his failure to contact any military office during that time that he had indeed deserted.<sup>23</sup> The fact that he had continued to wear his military uniform in Budapest was interpreted not as an indication of his intention to return at some point to military service, but rather as a tactic to protect him from police scrutiny and enable him to make social contacts which would aid him in prolonging his desertion.

Anton Mayer's court-martial was, nevertheless, no simple matter. His status as a *Mischling*, first degree, proved to be a serious complicating factor when it came to determining the appropriate

punishment.<sup>24</sup> During 1944 he was, in fact, subjected to the ordeal of undergoing four court-martial proceedings on the charge of desertion. Multiple trials proved necessary because the naval Commander (*Oberbefehlshaber*) refused after each of the first three trials to confirm the prison sentences which had been handed down, insisting that the death penalty was required.<sup>25</sup>

In each of the first three trials Mayer's status as a *Mischling* ironically worked to his advantage. At his first trial in Vienna in January 1944, the judge argued that "since he is a Jewish *Mischling*, first degree, this does not qualify as a crime worthy of death. If the actual situation had been known, the defendant would not have become a soldier." Mayer was therefore sentenced to ten years in prison. In the confirmation process this reasoning was sharply attacked in the legal opinion supplied by the military judge attached to the Commander of Naval Operations West: "the fact that the defendant is a Jewish *Mischling*, first degree, is in no way sufficient to justify a more lenient judgment". Very much in line with prevailing practice, he argued that the death penalty was the only appropriate penalty. The commander endorsed this view and called for a second trial in Vienna.

In the second trial in March the military prosecutor, taking his cue from the obvious wishes of his superiors, called for the death penalty. The judge, however, suggested that part of the blame fell on the military officials who failed to secure an Aryan declaration from Mayer as they were required to do. He argued that since half-Jews had been dismissed from the military by Hitler's order in 1940, this case of desertion was different from other desertion cases. A sentence of 15 years in prison was deemed appropriate. Admiral Warzecha of the Navy High Command refused confirmation and ordered a new trial in Berlin.

In the third trial held in June 1944, the judge adopted the same line of reasoning that had been presented at the

first trial. "Although the weight of the defendant's guilt makes the death penalty appear appropriate, the court could not decide to apply it since the defendant would not have been used in military service if his *Mischling* status had been known to the military office responsible for his induction." The legal section of Navy Supreme Command found this argument no more convincing now than it had back in January. It rejected the verdict, insisting that "it cannot be permitted that [the defendant] is given preferential treatment vis-à-vis soldiers of German blood on the grounds that he is a *Mischling*". In order to avoid such an "unsatisfactory outcome" Mayer was ordered to stand trial yet again.

We have no evidence to indicate just how this continuous series of court-martials affected Anton Mayer, but it seems safe to assume that the psychological stress must have been incredibly severe. After his first three sentences were rejected as too lenient (although 15 years imprisonment was, in practice, the maximum prison sentence imposed for desertion), he must have sensed that his chances for survival were very slim indeed. Brought before a court-martial for the fourth time on 20 July 1944, the day of Hitler's 55th birthday, Mayer was finally sentenced to death (see illustration 5). The judge now dutifully echoed the line of his military superiors: "to give him preferential treatment because he is a *Mischling* would be an injustice to soldiers of German blood." At last, the naval leadership had achieved its goal of having Mayer's desertion punished with death. In doing so it had also defended the "principle" that *Mischling* status could not be invoked as a way for half-Jewish deserters to gain "preferential treatment" over Aryan deserters. On 5 August, the death sentence was confirmed and sixteen days later, at 10:56 am (the exact time meticulously noted by the court clerk) on 23 August, 1944, Anton Mayer was beheaded. His father in Bucharest was notified four days after the execution. The terse note contained a reminder that since his son's death had been dishonourable, "the placing of death notices or obituaries in

newspapers, magazines, etc. is forbidden” (see illustration 6).

Anton Mayer’s case is perhaps the most dramatic and well-documented of a handful of desertion cases involving half-Jews which I have discovered among the surviving court-martial records of the Third Reich. Not all half-Jewish deserters suffered the same fate as Mayer. One was executed by firing squad in December 1941. Another, sentenced to death in December 1943, had his sentence commuted to 12 years in prison and was sent to the concentration camp in Emsland (where nearly all convicted soldiers were confined). Two other half-Jews, both of whom, interestingly, had been involved with the Nazi movement in the early 1930s (one as a party member and SA man, the other as a contact man between the right-wing veterans organisation *Stahlhelm* and the SA) were given prison sentences of four years and eight years respectively. And in 1940, one young half-Jewish man who had failed to arrive on time at the collection point for his induction and then stayed in Berlin for five weeks was tried for desertion but ultimately sentenced to a five year prison term for being AWOL.

As these examples indicate, the treatment of half-Jewish deserters by the military justice system was not uniform. But in all but one of the cases, the racial status of the defendants was a factor which the courts-martial took into account in rendering their judgments. In several of the verdicts the judges invoked crude Jewish stereotypes or made denigrating remarks about the racial inferiority of the defendant. Those half-Jews who were given prison sentences were also treated differently than other military convicts in one crucial respect: because they were *Mischlinge* they were prohibited from being sent back to the front in so-called penal battalions. Service in such battalions theoretically offered the opportunity of rehabilitation and possible reintegration into the regular army (although this rarely happened). Since half-Jews had been denied the right to serve in the military, they were also considered unsuitable for the convict battalions. Here the twisted logic of the

Nazi racial state actually worked to the advantage of the half-Jews, since the death rate in the convict battalions was undoubtedly higher than in the camps in Germany. Ironically, then, discrimination against these convicted *Mischlinge* greatly enhanced their likelihood of survival.

Ironies and paradoxes pervade the story of Jewish *Mischlinge* in the Third Reich, as is typically the case with groups posed uneasily along the fault lines of a society. The uncertain, changing, ambiguous treatment of

*Mischlinge* by the Wehrmacht accurately mirrored the shifting and often confused policy toward *Mischlinge* in the Reich at large and reflected the Nazi regime’s own difficulties in finding a solution to a “problem” of its own invention. The history of the *Mischlinge*, unfortunately, remains a rather neglected aspect of the Third Reich. The case of Anton Mayer provides one small way of opening up a part of this history and allowing us to examine a very revealing dimension of the terrible reality of Hitler’s racial state. ♦

## Notes

- 1 Letter of 23 July 1944 in BA-ZNS RM123-35944. All the material cited in this article on the Mayer case is drawn from this file contained in the German Bundesarchiv branch in Kornelimünster.
- 2 In this article I have retained the distasteful words *Mischlinge* and half-Jew without quotation marks as *terminus technicus* of the Third Reich.
- 3 An English translation of the Regulation can be found in *Inside Hitler’s Germany*, Lexington: D.C. Heath and Company, 1992, ed. by Benjamin Sax and Dieter Kuntz, pp. 404-406. Half-Jews who practiced the Jewish religion or were married to a Jew were considered to belong to the category of full-Jews. The Nazi legal definition of *Mischlinge* has been summarised by Raul Hilberg in the following terms: “(1) any person who descended from two Jewish grandparents (half-Jewish), but who (a) did not adhere (or adhered no longer) to the Jewish religion on September 15, 1935, and who did not join it at any subsequent time, and (b) was not married (or was married no longer) to a Jewish person on September 15, 1935, and who did not marry such a person at any subsequent time (such half-Jews were called *Mischlinge* of the first degree), and (2) any person descended from one Jewish grandparent (*Mischling* of the second degree)”. Cited in Hilberg’s *The Destruction of the European Jews*, New York: Harper and Row, 1961, p. 48.
- 4 Hilberg, *Destruction*, p. 268.
- 5 Cited in Hilberg, *Destruction*, p. 47.
- 6 Manfred Messerschmidt, “Juden im preußisch-deutschen Heer” in *Deutsche Jüdische Soldaten 1914-1945*, edited by the Militärgeschichtlichen Forschungsamt, Freiburg, 1982, p. 115. Jewish soldiers who were veterans of World War I were initially allowed to remain in the army. (An estimated 100,000 German Jews had served in World War I; about 12,000 were killed, just under 30,000 were decorated, and 2,000 became officers.) The purge process was initially set in motion by an order issued on 28 February 1934 by Minister of Defense General Werner von Blomberg. Non-Aryan soldiers were to be expelled from the military on grounds of “unfitness for duty.” See Rolf Vogel, *Ein Stück von uns: Deutsche Juden in deutschen Armeen 1813-1976. Eine Dokumentation*. Mainz: Hase & Koehler Verlag, 1977, p. 222.
- 7 Paragraph 15 is reprinted in Vogel, Stück, p. 231.
- 8 *Ibid*, p. 232.
- 9 Messerschmidt, “Juden,” p. 118.
- 10 Helmut Krüger. *Der halbe Stern. Leben als deutsch-jüdischer “Mischling” im Dritten*

- 11 OKW Az 12i 10-20J (Ic) Nr. 524/40 geh. 8 April, 1940.
- 12 Allgemeine-Heeres-Mitteilung 1940, Ziff. 849, dated 7 August, 1940, cited in Krüger, *Stern*, pp. 75-76.
- 13 Allgemeine-Heeres-Mitteilung 1940, Ziff. 1041, dated 18 September, 1940, cited in Krüger, *Stern*, p. 76.
- 14 The exact number of *Mischlinge* who served in the Wehrmacht is unknown. In his memoirs Helmut Krüger notes that documents he had consulted listed a total of 80,000 in 1943/44. This figure almost certainly includes *Mischlinge* of both first and second degree as well as soldiers married to *Mischlinge*. Krüger, *Stern*, p. 75, note 30.
- 15 Krüger, *Stern*, p. 71.
- 16 Aktenvermerk detailing a meeting of OKW section I, (Ic) held in Berlin 10 July 1941. BA-ZNS Sammlung jüdische Mischling. The proposals outlined at this meeting were issued 6 days later and distributed throughout the Wehrmacht. OKH Nr. 6840/41 g PA 2 (Ic) 16 July 1941. An airforce communication (Merkblatt 99) dated 26 February 1942 also followed the policy outlined in the July 1941 meeting.
- 17 Aktenvermerk detailing a meeting of OKW section I, (Ic) held in Berlin 10 July 1941. BA-ZNS Sammlung jüdische *Mischling*.
- 18 This line of interpretation is reinforced by an order issued just three weeks later on 2 August, 1941, in which Hitler directed that all *Mischlinge* who had been given permission to remain in service or allowed to rejoin be sent *immediately* to units fighting on the Eastern front. Their conduct in combat would serve as the basis for deciding whether they would be given equality with Germans after the war. OKH Br. 7486/41 PA 2 (I/Ic) 4 August 1941, BA-ZNS Sammlung jüdische *Mischling*.
- 19 Cited by Messerschmidt, "Juden," p. 118.
- 20 Heerespersonalamt Nr. 13 640/44 g Ag P 2/3b, 26 October, 1944, BA-ZNS Sammlung jüdische *Mischling*.
- 21 OKW Az. 1 i 20.12 NSF W/4 (J) Ib, dated 28 November, 1944, BA-ZNS Sammlung jüdische *Mischling*.
- 22 Mayer explained that he had revealed his half-Jewish background because he believed it might help to exonerate him. Perhaps he was hoping that if his background were known the military would simply dismiss him rather than court-martial him for desertion.
- 23 Mayer's lawyer advanced a very clever defence in an attempt to have his client sentenced for AWOL rather than desertion. Dr. Postlsen argued that since Mayer was a half-Jew and was therefore not allowed to serve in the military, he could not fulfill the subjective condition of intending to withdraw permanently from military service. Since he could at any time, simply by pointing out his racial status, immediately effect his release from military service, why would he take the much more dangerous method of desertion? The difficulty with this approach was that Mayer himself stated quite explicitly in both his first and second trials that he was unaware that he would have been dismissed from the military if his racial status were known.
- 24 Under German military law desertion was normally punishable by either a (usually lengthy) prison sentence or by death. The desire on the part of Hitler and the military leadership to "maintain manly discipline" in the Wehrmacht and prevent the disintegration which they believed had occurred at the end of World War I meant that the death penalty came to be regarded as the "standard" punishment for desertion. Of 1314 desertion cases which I have studied, 894 or 68%, resulted in death sentences.
- 25 If a military court sentenced a defendant to death or to a prison term of more than one year the decision had to be referred to one of the Commanders of the appropriate branch of service. A military judge attached to the staff of the Commander had to draft a legal opinion commenting on the case and indicating whether he thought the sentence should be confirmed. If the Commander gave his confirmation, the sentence became legal and binding. If the sentence was not confirmed, another court-martial had to be convened and the matter retried. The top military leadership in the Third Reich thus had the final say in determining how soldiers charged with serious offenses (like desertion and subversion) would be punished. In my sample of 889 desertion cases 100, or some 11%, were ordered to be retried. In 94 of these 100 cases the reason was that the penalty was considered too lenient. Anton Mayer's case was one of only four in my sample, however, which were tried a total of four times before being resolved.