

8 U.S.C. § 1427(a) (emphasis added) provides in part:

No person, except as otherwise provided in this subchapter, shall be naturalized unless such

Entry into the United States pursuant to a DPA visa by a person who was ineligible for

(1986). If the Court, viewing the evidence in the light most favorable to the nonmovant, determines that the movant has satisfied its burden, the burden then shifts to the nonmovant to adduce evidence establishing the existence of a disputed issue of material fact requiring a trial. *See id.* If the nonmovant fails to carry this burden, summary judgment is appropriate. *See id.*

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Budzyn on June 24, 1943, where he served in the Trawniki-trained guard detachment from June 24, 1943 until approximately late November 1943. There, too, he was armed and guarded Jewish prisoners. I have reviewed wartime records and postwar statements and testimonies that document Mykola WASYLYK's membership in a unit known as the SS Guard Forces of the SS and Police Leader in the Lublin District, his trainings ts

In response to this motion, defendant submits an affidavit stating:

1. I was born in Tyshkibtsi Ukraine on October 5, 1923.
2. In early 1943, the German Army invaded the area where I lived and ordered the village elders to deliver the names of teen age boys and young men.
3. I was taken as a slave worker or slave laborer to do work for the Germans in April, 1943.
4. I was transported by the German Military to the Trawniki camp in locked rail cars.
5. At Trawniki, I came under the control of Russian Prisoners of War who, in turn, were guarded by Germans.
6. At no time did I voluntarily participate in any activities ordered by the Germans.
7. I deny any claim or insinuation that I was an armed guard who knowingly and willingly persecuted civilians.

Defendant testified in part as follows (also see Appendix):

Q. Mr. Wasyluk, I just want to make sure that I am understanding what we have been talking about for the past, you know, half hour or whatever about Budzyn. Are you saying that -0.rng

eye of the conqueror or his deputies, coupled with the often demonstrated presence of both the means and the inclination to persistently inflict various indignities, physical a0021 Tc-0.0[(ey)qsputie(riou6(onsath,1739 T*

concentration camp guard); *United States v. Kairys*, 782 F.2d 1374, 1378 (7th Cir. 1986)

(armed guard at labor camp); *United States v. Demjanjuk*, 680 F.2d 32 (6th Cir. 1982) (armed

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guard at forced labor camp and extermination camp).

See *id.* at 505. Here, where the *Johannessen v. United States*, 243

Syracuse, New York



Q. Where were you when you saw them marching?

A. I was right in the front of my building where we were staying. I was on the sidewalk talking,

A. Okay.

Q. And what other guns were there?

A. And I'm saying that I was there and they was not -- even when we go anywhere they don't want to give us more than five bullets. Okay. That's single, single bullet goes into the rifle, Russian rifle, you don't need really much thing because you have to load it one by one.

Q. Uh-huh.

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A. No, never.

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Q. Okay. So you guarded the gate from 8 A.M. to 8 P.M.?

A. I said we have a premises that all those guys were sitting inside waiting for their turn to go to -- to watching, watch on the tower or whatever. That's what I am saying.

Q. Okay. So -- so at some point you are saying each person would guard the gate of the labor camp?

A. I didn't say that.

MR. GILDEA: He said watch.

BY MS. CHUBIN:

A. I told you honestly.

said it was next to the main gate?

A. Uh-huh.

Q. Okay. Was there another gate besides the main gate?

A. No.

Q. So every time a Jew left the camp they had to go through the main gate?

A. That gate, yes.

Q. So how is it that yf(s vthesaw5(J))-1.7(e)3(wsat g)9.()*-4.5(t g)9.7(t7(oug)9.hes the main g)4.5(e)3(8(tif

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APPENDIX

and another four you have in your pocket -- not pocket they have bullet --

Q. Holster?

A. Holster, something like that. You see that's what I mean. And, you know, but they -- they because nothing happened nowhere, you know, people -- people didn't -- didn't need it. But I am not saying that this is right or wrong, that was that they want. But if you come back to this little house, you put your rifle and bullet right to the guy in charge and you didn't have nothing. Okay. That's all.

Q. Okay. And you mentioned some of the jobs that the Jews at the camp did and you mentioned repairing clothing and shoes?

* * *

A. I am talking about these people from the prison camp that was professional in fixing the -- fixing or making new boots, jackets, teeth, or health, doctors. They was in that building and if we need anything guys there, we go to them. They don't charge us and they fix it. That's what I was saying. I am not saying that certain Jews didn't work here, there or there because I wasn't there to know where they working. I mentioned to you that in this factory that was marching there back when I saw it on my own eyes, that was probably uniform for German soldier. But I wasn't there and I don't know. That's it.

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