

SIEVIR, Eddie D., Pvt.

(name of accused)

GCM RECORD CHECK SHEET

R/R

1. RH Enter in GCM Data Book.
2. RH Stamp "CM ETO" number on all pages of record, accompanying papers, and exhibits.
3. RH "IN" Stamp is on record.
4. RH Place "Checked & Passed" Stamp on record.
5. RH Record involves 1 accused.
6. RH Prior CM ETO Record No. Attached - None.
7. RH White - ~~Colored~~ (strike out one).
8. CM Withdraw copy of GCMO for TJAG.
9. CM Withdraw copy of GCMO for Jurisdiction File. (For B/R cases only)
10. RH Prepare Receipt Card.
11. RH Prepare Index Card.
12. RH Delays checked to date of trial. 33 days
13. RH Delays checked and recorded to date of action. 49 days.
14. CM Record of Trial and "Field Action" entered on Form #19.
15. RH To: - ~~MILITARY JUSTICE~~ -- BOARD OF REVIEW (strike out one).
16. Date Legally Sufficient CARD - LETTER sent (date)
(a) If by letter, send copy to SJA of parent unit.
17. CM BOARD OF REVIEW CASES ONLY:
 - (a) Forward original holding & copy.
 - (b) Send copy to B/R for file.
 - (c) Send copy to M/J for file.
 - (d) Copy of holding in suspense file.
 - (e) Copy of holding (green) with signature of members of B/R to be attached to record.
 - (f) File record temporarily in proper jacket awaiting published orders.
 - (g) Complete GCMO entry on Index card.
 - (h) Complete GCMO entry on GCM Data Book.
18. RH BOTJAG with ETO "Action" completed on form #19, etc. 6 - JAN 1945
19. CM Has Chief Examiner or Chairman B/R signed GCM Data Sheet & R/T Cover?
20. CM Has "Legally sufficient" stamp been placed on four (4) copies of GCMO and one for each additional accused?
21. CM Review of Staff Judge Advocate in triplicate (3), all signed?
22. CM Arrange the record of trial and accompanying papers as indicated on the reverse side of this check sheet.
23. CM Record examined by AJAG.
24. CM Enter date of final action of this office in GCM Data Book.
25. Examined by Clemency Section.
26. CM File Record.

:
 :
 : Key :
 :
 : AJAG INITIALS :
 :
 : TO BE DIGESTED :
 : Yes - No :
 : :
 : (initials) :

THERE IS EVERY INDI-
 CATION THAT CLEMENCY
 WAS NEVER CONSIDERED
 BY THE ABSENCE OF
 INITIALS ON ITEM 25

1 FEB 1945

15 555

~~SECRET~~

HEADQUARTERS 28TH INFANTRY DIVISION
APO 28, U. S. Army.

1 February 1945 C

201-Slovik, Eddie D.

SUBJECT: Execution by Shooting.

TO : Commanding General, European Theater of Operations, United States Army, APO 887, U.S. Army (Thru Channels)

Transmitted herewith is the Report of the officer who directed the act of execution of Private Eddie D. Slovik, 36896415, formerly Company G, 109th Infantry, with Report of Proceedings at the Place of Execution attached in triplicate. One copy of each is enclosed for intervening headquarters.

For the Commanding General:

J. L. Gibney
J. L. GIBNEY
Colonel, GSC
Chief of Staff

2 Incls:
Incl 1-Rpt Div PM (trip) c
Incl 2-Rpt of Recorder (quint) c

201-Slovik, Eddie D. 1st Ind. NLL/oek
HQ XXI CORPS, APO 101, U S Army, 5 February 1945. c

TO: Commanding General, European Theater of Operations, United States Army, APO 887, U.S. Army
THRU: Commanding General, Seventh Army, APO 758, U.S. Army.

LSS
L. S. SILBERNAGEL
CAPT AGD
Asst AG

2 Incls:
Incl 1-Rpt Div PM (dup) (1 copy w/d)
Incl 2-Rpt of Recorder (Quad) (1 copy w/d)

~~SECRET~~

It IS INTERESTING TO NOTE THAT AFTER PRIVATE SLOVIK'S EXECUTION. THE ARMY STARTS GOING THROUGH CHANNELS. PRIOR TO THE EXECUTION ALL COMMUNICATIONS WERE DIRECTLY BETWEEN DIVISION AND HQ EUROPEAN THEATRE OF OPERATIONS; WHY? IT IS STANDARD PROCEDURE (THRU CHANNELS)

~~SECRET~~

1876

B/L 201 Hq 28th Inf Div 1 Feb 45 Execution by Shooting.

AG 201-Slovik, Eddie D. (Enl) JA 2nd Ind. PGM/wm
 (1 Feb 45)
 HQ SEVENTH ARMY, APO 758, U. S. ARMY, 8 February 1945.

To: Commanding General, European Theater of Operations, APO 887, U.S. Army.

H.A.S.
H. A. S.

2 Incls:
n/c

RECEIVED
 FEB 15 1945
 HQ COM. Z

AG 201 Slovik, Eddie D. (Dec)MPEB 3rd Ind.
 Hq, European Theater of Operations, APO 887. 15 February 1945.

To: Assistant Judge Advocate General, Branch Office The Judge Advocate General
 with European Theater of Operations, APO 887.

Forwarded for your information and records.

For the Theater Commander:

2 Incls:
n/c

16 FEB 1945
 DIAGO-ETO

R. A. McWilliams
 R. A. McWILLIAMS,
 Lt. Col., A.G.D.,
 Asst Adj General.
 FEB 15 1945

WE ARE STILL GOING THROUGH NORMAL COMMAND CHANNELS
 WHY DIDN'T ALL COMMUNICATIONS BEFORE AFTER AND
 DURING THE TRIAL GO (THRU CHANNELS). THIS HAS
 BEEN STANDARD OPERATING PROCEDURE FOR HUNDREDS OF YEARS

~~SECRET~~

~~SECRET~~

HEADQUARTERS 28TH INFANTRY DIVISION
OFFICE OF THE PROVOST MARSHAL

APO 28, U.S. Army
31 January 1945

SUBJECT: Report of Execution by Shooting.

TO : Commanding General, European Theater of Operations,
APO 887, U.S. Army.

THRU : Channels.

1. Pursuant to paragraph 9b SOP No 54, "Execution of Death Sentence Imposed by Courts-Martial", Headquarters ETOUSA, 14 December 1944, the undersigned, as the officer charged with the act of execution, submits the following report of the execution by shooting of Private Eddie D. Slovik, 36896415, formerly Company G, 109th Infantry.

2. The undersigned directed the execution at the time and place and in the manner prescribed by General Court Martial Orders No. 27, Headquarters, European Theater of Operations United States Army, 23 January 1945, a copy of which is attached hereto as a part of the Recorder's Report of Proceedings at the Place of Execution.

3. Through the Military Government Section, this headquarters, arrangements were made for the use of civilian premises at No 86 Rue du General Bourgeois, Ste. Marie-Aux-Mines, France and the occupants evacuated 30 January 1945.

4. Against a wall of the court yard of these premises a heavy wooden panel was erected and a 6 inch square post put in the ground, 30 January 1945, by a detail of the 103rd Engineers Combat Battalion.

5. The undersigned assembled the Firing Squad and the principals of the Execution Party at the premises 30 January 1945 and explained and rehearsed with them the procedure to be followed.

6. The condemned was delivered to the undersigned at his office at Ste. Marie-Aux-Mines, France at 0730 hours 31 January 1945 by Cpl. Leon Hinkle, 6987555, a military policeman of the Provost Marshal's Office, Headquarters, Seine Base Section, pursuant to orders of the Commanding General, Seine Base Section, that he be delivered not later than 30 January 1945. The undersigned immediately read to the condemned the entire General Court Martial Order above mentioned, informed him that he would be shot by a firing squad at 1000 hours that day and asked him if he desired the services of Chaplain (Captain) Carl P. Cumming, 109th Infantry, who was then present. He replied that he did. The condemned appeared calm and resigned.

~~SECRET~~

THIS IS THE FIRST CLEARLY VISIBLE CLASSIFICATION "SECRET"
IT WAS PROPERLY CLASSIFIED BY THE 28TH DIVISION PROVOST
MARSHAL, BECAUSE ANY DISCLOSURE OF THE EXACT WHEREABOUTS
OF ANY TROOPS, ESPECIALLY FRONT LINE COMBAT TROOPS IS
CONSIDERED "SECRET" A VIOLATION OF THIS IS PUNISHABLE
BY TRIAL FOR "TREASON AGAINST THE UNITED STATES OF AMERICA."

LT COLONEL P. M. KIENZLE, ALSO PROPERLY MARKED HIS
LETTER OF 31 JANUARY 1945 "SECRET", BECAUSE BOTH
COMMUNICATIONS SPECIFICALLY LOCATE 109TH INFANTRY
REGIMENT, 28TH DIVISION AT ST. MARIE AUX MINES
DEPARTMENT OF THE UPPER RHINE, FRANCE.

EPZ

~~SECRET~~

7. He was taken to the premises where the execution was to be held at 0800 hours where he remained with the Chaplain and guard in 2 rooms set aside for their use until 0956 when marched into the court yard for execution. During that time the Chaplain talked with him, heard his confession, and held a mass of the Roman Catholic Church. The condemned read a few of a bundle of letters received by the undersigned from the military policeman who delivered him to this Headquarters. These and the remaining letters were later delivered to the Graves Registration Officer with his effects.

8. The proceedings at the place of execution are correctly described in the Report of the Recorder, attached hereto in triplicate.

9. At 1130 hours, 31 January 1945, the undersigned dispatched a TWX to the Commanding General, ETOUSA, notifying him that the condemned had been shot to death by a firing squad at 1005 hours, 31 January 1945, at Ste. Marie-Aux-Mines, France. A copy of the same is attached hereto as exhibit A.

William Fellman

WILLIAM FELLMAN 2nd
O-322317, Maj, CMP
Provost Marshal, 28th Inf Div
Director of Execution.

1 Incl - Rpt. Proceedings
at Place of Execution (Trip)

BILL FELLMAN AND I WERE GOOD FRIENDS, ARMY BUDDIES;
BUT MORE THAN THAT CONFIDANTS, EACH ONE TO THE OTHER.

IN SPITE OF OUR CLOSE RELATIONSHIP, HE WOULD NOT
DISCUSS THE SLOVIK CASE WITH ME--NOR AS I UNDER-
STAND, WITH ANYONE.

FOR THIS HE WAS CASTE, UNFAIRLY I MIGHT ADD, AS
A HARD-HEARTED COP, WITHOUT ANY SYMPATHETIC EMOTION.

FEW KNEW HIM BETTER THAN I DID. WHAT MAY I ASK,
IS THE HEAD OF THE MILITARY POLICE SUPPOSED TO
APPEAR?-- An ANGELIC CHERUB, WITH A HALO.

TRUE BILL DID LOOK AND APPEAR TOUGH. UNDER
THAT HARDWOOD VENEER BEAT A HEART AS WARM AS
ANY MAN I HAVE EVER KNOWN.

IF HE WAS BITTER ABOUT BEING CHOSEN AS THE "EXECUTIONER,"
I EMPATHISE WITH HIM. I COULD NOT HAVE DONE IT

~~SECRET~~

SECRET

HEADQUARTERS 28TH INFANTRY DIVISION
Office of the Judge Advocate
APO 28, U. S. Army

31 January 1945

SUBJECT: Report of Execution by Shooting.

TO : Commanding General, 28th Infantry Division.

1. Pursuant to paragraph 9A, SCP No. 54, "Execution of Death Sentence Imposed by Courts-Martial", Headquarters ETOUSA, 14 December 1944, the undersigned submits the following report as Recorder, describing the proceedings at the place of execution of Private Eddie D. Slovik, 36896415, formerly Company G, 109th Infantry.

2. The authority for the execution was the approved sentence of a general court martial promulgated in General Court Martial Orders No. 27, Headquarters ETOUSA, 23 January 1945, a copy of which is attached hereto as Exhibit A.

3. The date and place of the execution was 31 January 1945 at civilian premises, No. 86 Rue du General Bourgeois, St. Marie aux Mines, Department of Upper Rhin, France. By Letter Order, this headquarters, 31 January 1945, attached hereto as Exhibit B, St. Marie aux Mines, France, and its immediate vicinity had been designated as an area of the 109th Infantry for the purpose of execution. The premises consisted of a private dwelling extending entirely across the front of a large court yard enclosed by a high stone wall. The civilian occupants had been evacuated and a post erected in front of a heavy wooden panel of boards placed one foot from the court yard wall for the purpose of arresting ricochettes.

4. Present were all of the execution officials listed on Special Orders No. 16, this headquarters, 27 January 1945, attached hereto as Exhibit C, all members of the firing squad as designated in Special Orders No. 17, this headquarters, 28 January 1945, attached hereto as Exhibit D, and additional military witnesses, whose names, rank, serial numbers and organizations are listed on the attached Exhibit E. No civilians were present.

5. The Division Commander and witnesses assembled in the court yard at 0950, the enlisted personnel forming in ranks on the left side of the place to be occupied by the firing squad and the Commanding General and officer witnesses forming on the right flank. Paths and places for the witnesses had been shovelled through the snow, which was about 15 inches deep. The firing squad was assembled in a room of the house opening on to the court yard.

6. The execution party formed in the main hall of the house, the prisoner being brought from a side room with his hands already tied behind his back. At 0956 the party marched into the court yard at slow step, lead by the Director of the Execution, with the Chaplain on his left. They were followed by the condemned and the prisoner escort guard of 6 members of the 28th Division Military Police Platoon, a 7th military policeman carrying the collapse board. Following them were the Recorder

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and the Recorder's Stenographer and the 3 Medical Officers. The Commanding General called all witnesses to attention when the party appeared in the court yard.

7. The party reached the post at 0957. The condemned stood with his back to the post, facing the witnesses and flanked on each side by members of the execution party. The Director of the Execution announced, "Attention to orders" and read the entire General Court Martial Order, attached hereto as Exhibit A. During the reading the accused stood steady, his lips moving apparently in prayer. The reading of the order was completed at 1001.

8. The Director then addressed the condemned, "Private Slovik, do you have a statement to make before the order directing your execution is carried out?", to which the condemned replied, "No". The Chaplain then addressed the condemned, "Private Slovik, do you have a last statement to make to me, as a Chaplain, before your death?", to which the condemned replied in the negative. The Director then ordered the Escort Guard to, "Prepare the condemned for execution". The Escort Guard secured the condemned to the post by straps across his chest and around his shoulders, and a strap above his knees and tied his feet to the post with rope.

9. The condemned having been secured, a black hood was placed over his head at 1004 while the Escort Guard and Execution Party marched to the right and left flanks respectively and the Chaplain made a short prayer. At the same time the Firing Squad was marched into the court yard by the Sergeant in command and formed a single rank 20 paces from the condemned man.

10. The Chaplain and the Director withdrew to the right flank. The Director took over the firing squad and commanded, "Squad. - Ready - Aim - Fire". At the command "Fire", each member of the squad, excepting the Sergeant in command, discharged his M-1 rifle at the prisoner's heart, the volley being fired at 1005.

11. The body stiffened at the impact of the bullets. Blood and pieces of flesh splattered from the prisoner's back on to the board panel behind the post and the body then slumped forward, supported by the straps. The 3 Medical Officers immediately went forward and examined him. About 5 seconds after the shots the condemned's body straightened up, his head and shoulders raising about a foot and dropping back. About 3 seconds later he again raised about 6 inches. At the order of the Director, the 2 Assistant Directors passed down the rear of the rank of the Firing Squad, reloading the rifles. The Medical Officers continued to examine the body and at 1010 Major Rougelot, the senior medical officer reported to the Director, "We pronounce this man dead". The Director then faced about and reported to the Commanding General, "Sir, the execution is completed". The Commanding General replied, "Dismiss the witnesses", whereupon at the order of the Director, the Firing Squad and enlisted witnesses were marched from the court yard and the officers were dismissed and withdrew.

12. The body was removed from the post by the Graves Registration Officer and the Chaplain gave the condemned the last sacraments of the Roman Catholic Church from 1015 to 1030.

13. At 1030 the Medical Officers examined the body for bullet wounds

SECRET

3. EVIDENCE.

a. Narrative summary - The evidence indicates that the accused came overseas as a replacement, passed through England, landed in France on Omaha Beach, passed through several replacement units and was finally assigned to the 28th Infantry Division from the Third Replacement Depot about 25 August 1944 (R-8 and 9 and Prosecution Exhibit No. 1). He was processed through division replacement channels and assigned as a rifleman to Company G, 109th Infantry (Prosecution Exhibits No. 2 and 3). On 25 August 1944, at Division Headquarters he was issued ammunition and dispatched with other replacements to join his company (R-9). While the group didn't know definitely what Company G was doing, they "just imagined it was fighting" and "had a pretty strong suspicion that the Division was engaged with the enemy" (R-9 and 10). They left Division Headquarters and travelled by truck for two or three hours noting "burned-out vehicles and shelled places" enroute. They made one stop at a "rest camp or something" where they dropped off their "packs" and then proceeded on to Elbeuf where they detrucked (R-10). They walked a short distance along the edge of the city and then dug-in at about 2300 in an open lot. At 2330, the group assigned to Company G, about 15 in number, moved into the city to join the company. At that time there was considerable troop movement and shelling going on in the city (R-10 and Prosecution Exhibit No. 4). The accused remained in his foxhole "scared", when the other replacements moved out (Prosecution Exhibit No. 4 and R-10). The following day when the shelling had quieted down, he walked into the city, stayed over night in a French hospital and then according to his own story, "turned myself over to the Canadian Provost Corps". He remained with the Canadians until they finally turned him over to American Military Police about "six weeks later" (Prosecution Exhibit No. 4). The Canadians had taken over Elbeuf from the 109th Infantry about 27 August and the 109th Infantry with the 28th Division had continued on through Paris, Belgium, Luxembourg, and to the Siegfried Line (R-10). The Company was "generally fighting and campaigning" from that time to the date of trial (R-11 and 14). The accused finally returned to his company 8 October 1944 and was assigned to a squad by his company commander. Within an hour or so he again presented himself to his company commander and asked "if he could be tried for being absent without leave". His company commander told him he "would find out" and placed the accused in arrest in his platoon area (R-14). About an hour later he again returned and inquired of his company commander "if I leave now will it be desertion?", assured that it would be, he immediately went absent without leave again (R-14). His company was at that time "reorganizing" (R-13) and was actually in the vicinity of Rocherath, Belgium. Although there is no direct testimony on the latter, it may be inferred as hereinafter explained in paragraph IV Opinion. The following morning at about 0830 he knocked at the door of a billet occupied by the Military Government Detachment of the 112th Infantry in the town of Rocherath and asked for something to eat. He handed the cook "a green slip of paper with writing on it and said he had made a confession". The S-1 of the 109th Infantry was called by telephone (R-15). He sent a guard who brought the accused to Regimental Headquarters, also located in Rocherath (R-15). There the accused again exhibited his "green slip of paper", handing it to 1st Lieutenant Wayne L. Hurd (R-12). He turned it over to Colonel Henbest. On 11 November 1944 in the course of investigation, some additional notations were indorsed on the back of the "green slip" and signed by the accused, Colonel Henbest and Lieutenant Hurd, after "everything that appears on the green slip of paper was made very clear to the defendant" (R-12). The green slip and the signature of the accused thereon were identified by Lieutenant Hurd and admitted in evidence at the trial as Prosecution Exhibit No. 4, the defense expressly stating that it had "no objections to Prosecution Exhibit No. 4" (R-19). For the purpose of record, it is noted that this Exhibit is a confession written in ink on the back of a printed Post Exchange Flower Order blank. On the back of the confession and across the printing on the order blank, the notations dated 11 October are written in ink.

CM Form Form 9 (Slovik) Cont'd

The confession reads:

"I Pvt. Eddie D. Slovik #36896415 confess to the desertion of the United States Army. At the time of my desertion we were in Albuff in France. I come to Albuff as a replacement. They were shilling the town and we were told to dig in for the night. The following morning they were shilling us again. I was so scared nerves and trembling that at the time the other replacements moved out I couldn't move. I stayed there in my fox hole till it was quite and I was able to move. I then walked in town. Not seeing any of our troops so I stayed over night at a French hospital. The next morning I turned myself over to the Canadian Provost Corp. After being with them six weeks I was turned over to American M.P. They turned me loose. I told my commanding officer my story. I said that if I had to go out there again I'd run away. He said there was nothing he could do for me so I ran away again AND ILL RUN AWAY AGAIN IF I HAVE TO GO OUT THERE.

SIGNED Pvt. Eddie D. Slovik
A.S.N. 36896415"

The ink notations on the reverse side read:

"Rocherath, Belgium
Oct 11, 1944

This statement is made in the presence of
Lt Col Ross C. Henbest 0257158 and 1st Lt
Wayne Hurd, O-463853.

I have been told that this statement
can be held against me and that I made it
of my own free will and that I do not have
to make it.

Signed:
Eddie D. Slovik

Above Statement was signed in the presence
of the undersigned:

Ross C. Henbest (Signature)
Ross C. Henbest (Printed)
Lt Col, Infantry

Wayne L. Hurd (Signature)
Wayne L. Hurd (Printed)
1st Lt Inf"

b. The accused having been advised of his rights as a witness elected
to remain silent and called no witnesses on his behalf (R-17).

4. OPINION.

a. The record of trial is legally sufficient to support the findings
and sentence and is free of any error injuriously affecting the substantial rights
of the accused.

b. While the essential elements of proof of desertion to avoid hazar-
dous duty are fully established, the record leaves much to be desired so far as
proof of details is concerned. In explanation, this Division has been in practically

PLEASE REFER TO THE COMMENTS ON PAGE 24. THERE IS
NO MENTION MADE TO THE AMMENDMENT OF PRIVATE SLOVIK'S
ORIGINAL CONFESSION

continuous combat from 29 July 1944 to date. At the time the accused was sent down as a replacement to Company G, his unit had recently completed fighting across the south end of the "Falaise Pocket" and was then engaged in helping to close the "Second Pocket" and prevent German retreat across the Seine. He was never picked up on Morning Reports of his company and consequently no documentary proof of his absences was available. One of the prosecution's leading witnesses, a Private Tanky, whose statement appears in the Report of Investigation as CM Form 5, Sheet 10, was evacuated as a casualty and unavailable to testify at the trial. He had been with the accused during the latter's stay with the Canadians and had been returned with him to Company G through American Military Police channels. Battle casualties in Company G, 109th Infantry have been 132 from 29 July to 9 October and from 9 October to 15 November have been 58. The witnesses came into court directly from the front lines with clothes torn and muddy and with very poor memories as to past dates and places. The Trial Judge Advocate was repeatedly forced to lead witnesses and refresh their memories in order to obtain what the record shows.

c. Presence of the accused with Allied military forces did not constitute a "return to military control" (Bull JAG Sep 1942, AR 745 p 251; and Bull JAG Jan 1944 sec 419).

d. There is no direct testimony to support the allegation contained in Specification 1 that the accused was returned to military control "at or near Brussels, Belgium". Under the circumstances, however, the place of return to military control is not an essential element of the offense (rig Op JAG, 1912-40 sec 416 (5), (10) and (14)). While there is no direct proof that his return to military control was "on or about 4 October 1944", this allegation may be readily inferred from the accused's written confession, wherein, after referring to the Canadians he states "after being with them 6 weeks I was turned over to American M.P." (Prosecution Exhibit No. 4). In addition, there is the testimony of the accused's company commander that the accused physically rejoined Company G on 8 October 1944 (R-13 and 14). Date of return is not an essential element in desertion to avoid hazardous duty. The offense is complete when the soldier leaves his unit with the requisite intent (ETO Board of Review Opinion No. 1249, 7 Mar 44, (Marchetti) T. *OK EON*

e. While the accused was not physically present with his company when he left the group of replacements at Elbeuf, it may be inferred that he was under military control of officers of his regiment from the fact that he had passed through Division Headquarters and was enroute to join his company (Bull JAG Jan 1944, sec 385). The fact that the orders of assignment, Prosecution Exhibits 1, 2 and 3, are dated subsequent to accused's actual departure is due to the delay incident to issuing written orders confirming verbal orders. *OK EW*

f. There is no direct evidence to support the allegation in Specification 2 that the accused deserted "at or near Rocherath, Belgium". The company commander testified that he "did not remember the name of the city or town where they were located at that time". He added that the company was "reorganizing" (R-13) and had "been in some pretty heavy fighting" (R-14). However, the fact that Company G was located in the vicinity of Rocherath may be inferred from the following circumstances: The accused left his company on the night of 8 October and at 0830 the following morning surrendered to the Military Government detachment of another Regiment of this Division, the 112th Infantry, which detachment was billeted in Rocherath (R-15). The Military Government Officer telephoned the S-1 of the 109th Infantry who sent a guard for the accused and took him to the Regimental Command Post which was likewise in Rocherath (R-12 and 15). The location of the Military Government detachment and the 109th Infantry Command Posts are definitely fixed by witnesses and it is reasonable to infer that Company G was probably in the vicinity of its Regimental Command Post and the accused could

THE DEFENSE COUNSEL REALIZED THAT THE PROSECUTION WAS LEADING HIS WITNESSES. FOR ME TO HAVE OBJECTED FOR "OBJECTIONS SAKE" WOULD HAVE SERVED NO USEFUL PURPOSE TO PRIVATE SLOVIK AND COULD HAVE DRAGGED ON INDEFINITELY. *OK EW*

not have travelled very far during the short time he was absent without leave and during which time he apparently wrote his "confession" on the "green slip". The company was actually a mile or two East of Rocherath when the accused left. *OK 5/10/44*

g. The strongest evidence that the accused intended "to avoid hazardous duty and shirk important service, to wit: action against the enemy" as alleged in both specifications, is his declared intent contained in his confession "And I'll run away again if I have to go out there". The fact that Elbeuf was being shelled when the accused failed to go in with the other replacements is also significant. That he intended to desert and apparently wanted to be tried by court martial for that offense, is indicated by his request that he be court martialled for AWOL when he first returned to his company, followed by his inquiry a little later, "If I leave now will it be desertion?", and his prompt departure when assured that it would be. In connection with "hazardous duty", the court and the Reviewing Authority may take judicial notice of the fact that Rocherath, Belgium is on the western edge of the Monschau Forest, about 3 miles from the German border and Siegfried Line (Wharton's Criminal Evidence, 11th Ed, par 18 and 35 and MCM, 1928, par 125).

h. A report of examination of the accused by the Division Neuropsychiatrist, 26 October 1944, in which he concludes that the accused was at the time of the offense and is now mentally sane and responsible, is attached to the Report of Investigation as CM Form 5, Sheet 11. *R E D W*

i. The accused's military records indicate that he was born in Detroit, Michigan; had 8 years of grammar and 1 year of high school; is aged 25; married; and worked as a receiving and shipping checker for the Detroit Motor Division, Chrysler Corporation for one year at \$40.00 per week immediately before induction. Prior to that he worked as a plumber's helper for 1 year at \$34.00 per week. He was inducted 3 January 1944 at Detroit, Michigan. His APT score is 94 III, Aptitude Test score III Class II. Military organizations and stations are noted as: 1 Feb 44 IRTG, Camp Wolters, Texas (Rifle); 24 July 44 AGD RD 1 Ft George Meade, Md; 15 Oct 44 GPRS - ETC; 19 Aug 44 Third Replacement Depot; 30 Aug 44 Company 2, 109th Infantry. His Service Record contains a Parole Board Order from the Michigan Parole Board, Department of Corrections, State Office Building, Lansing, Michigan, 22 October 1943, discharging the accused from parole for the purpose of induction into the Federal Service and during the actual period of service.

j. The accused's criminal record from the Federal Bureau of Investigation is attached hereto. An analysis of the several entries indicates that the accused was put on one year probation on 5 different occasions by the Juvenile Court of Detroit between 1932 and 1938 for 4 offenses of breaking and entering and one of assault and battery. He was arrested by the Detroit Police 16 November 1937, convicted of embezzlement of \$49.46 and sentenced to imprisonment for a term of 6 months to 10 years. He apparently served something less than a year in the State Reformatory at Ionia because on 3 January 1939, he was again arrested by the Detroit Police, this time charged with and convicted of unlawful driving away auto. On this he was sentenced to serve from one to 5 years in the State Prison. He was transferred to the Ionia Reformatory where he was recorded as having a sentence of 2½ to 7½ years, probably the result of additional time charged against him for violation of his first parole. It is understood from statements made by the accused to officers of this Division, that there was a "shooting" involved in this latter offense. (1)

k. The sentence is excessive in that there is no authority for a court martial to impose dishonorable discharge and total forfeitures in addition to death, for violation of AW 58. However, the reviewing authority may approve the legal portion of the sentence. Attached hereto is a TWX advice to that effect from the Judge Advocate's Section of Headquarters European Theater of Operations, received this date. Attached also is the TWX of this headquarters, 19 November 1944, directed to the Branch Office of the Judge Advocate General, inquiring concerning this legal point.

THIS WAS STRICTLY HEARSAY EVIDENCE AND WAS UNFAIRLY INCLUDED IN THIS REPORT BY THE DIVISION STAFF JUDGE ADVOCATE

IT COULD NOT DO ANYTHING BUT PREJUDICIALLY HARM THE DEFENDENT IN SUBSEQUENT REVIEWS BY EISENHOWER'S STAFF *R P W*

AW 20
1. The death sentence is deemed appropriate in this case. The accused is a habitual criminal. He has never seen combat, has run away twice when he believed himself approaching it and avows his intent to run again if he has "to go out there".

5. RECOMMENDATION.

a. It is recommended that only that portion of the sentence which provides that the accused be shot to death with musketry be approved and that the record of trial be forwarded for action under the 48th Article of War.

b. A form of action designed to accomplish the foregoing recommendation is submitted for approval and signature.

Henry J. Sommer
Henry J. Sommer
Lt Col., JAGC
Division Judge Advocate

THIS IS UNFAIRLY UNTRUE. PRIVATE SLOVIK HAD BEEN SUBJECTED TO DIRECT ENEMY ACTION ENROUTE TO JOIN COMPANY "G", 109th INFANTRY REGIMENT. THIS IS SUBSTANTIATED BY HIS OWN CONFESSION, AND WITNESSES AND PRIVATE TANKEY ALL PART TO THE "RECORD OF TRIAL PROPER".
E O T.

JOHN EDGAR HOOVER

91
Federal Bureau of Investigation
United States Department of Justice
Washington, D. C.

Form T-2

Nov. 15, 1944

The following is the record of FBI number 1427400

J. E. Hoover
Director.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
FD, Detroit, Mich.	Eddie Slovik #36189	11-15-37	G. I.	12-21-37 to 12-27-37
SP of Co, Mich. Jackson, Mich.	Eddie Slovik #41395-J	12-27-37	sub. \$48.46.	1-10-38 to 1-27-38 sent to Ionia Pen
Mich., Ionia, Mich.	Eddie Slovik #41395-J1	1-27-38 in trans. from SP of So Mich. Jackson, Mich.	embezz. (\$9.56).	3 mos. 10 yrs no rec. in par at parole?
FD, Detroit, Mich.	Eddie Slovik #36189	1-2-39	UDAA unlawful driving away auto	1-29-39; 1-6-40 wa. SP, Jackson, Mich.
St. Pr. of Sov. Mich., Jackson, Mich.	Eddie Slovik #44208-J	2-2-39	U. D. A. A. 2nd felony.	2 1/2 - 7 1/2 yrs. trans. to Ionia Pen.
SOB, War Dept.	Edward Don Slovik #40-300-9	checker 12-19-42		
War Dept., Washington, D.C.	Eddie Don Slovik #36896415	inducted 1-2-44		

5 one year probation by Juvenile Court Board and 2 months confinement 2 offenses only. (1) Embezzlement and (2) Unlawful driving away auto.

H. J. Pennington
H. C. G. J. P.

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* Represents notations unsupported by fingerprints in FBI files.

NOTICE: THIS RECORD IS FURNISHED FOR OFFICIAL USE ONLY

92
 Federal Bureau of Investigation
 United States Department of Justice
 Washington, D. C.

The following is the record of FBI number 1487459

J. E. Hoover
 Director.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
<p>1932, 1 yr. Prob. Div. Ct., Detroit, B. and E., 1932. 1933, 1 yr. prob. Div. Ct., Detroit, B. and E. (Above notations as on prt. #1487459, Sheriff, Louis, Mich.) 1937, On pro. Wayne Co., Mich., Div. Ct., B. and E.; 1 yr. 1937, On pro. Wayne Co., Mich., Div. Ct., A. and E.; 1 yr. 1938, On pro. Wayne Co., Mich., Div. Ct., B. and E.; 1 yr. An Eric Slovik, #1487459, 2-9-39, unlawfully taking my auto., 4-15-42, paroled to Detroit, Mich. on 4-15-42.</p>				
<p>THIS AND THE PRECEDING PAGE ARE QUITE ILLEGIBLE. ALL OF THE CHARGES WERE PETTY. (PLEASE REFER TO PAGE 15, PARAGRAPHS 3, 4; and 5.</p> <p>IT WAS JUST ANOTHER TOOTH IN THE COG OF THE BIG GEAR THAT GRINDS ON RELENTLESSLY UNDER THE FALSE GEAR BOX "EQUAL JUSTICE FOR ALL"</p> <p style="text-align: right;"><i>E. J. Hoover</i></p>				

* Represents notations unsupported by fingerprints in FBI files.

GENERAL COURT-MARTIAL J. A. SHEET

Slovik Eddie D. 35806415 Pvt. Co G, 109th Infantry
(Last name) (First name) (Middle initial) (Army serial No.) (Grade) (Company, regiment, or arm of service)

J. A. G. O., C. M. No. _____

	TRIAL J. A.		STAFF J. A.		4498	
	Yes	No	Yes	No	Yes	No
1. Was court ordered by proper authority?.....	+		X		✓	
2. Are all orders showing membership of court properly entered in record?.....	+		X		✓	
3. Were there less than five members detailed or present at any meeting?.....		+		X		✓
4. Was the law member of the court designated by convening order?.....	+		X		✓	
5. If the presence of the law member was specifically required by the convening authority, was he present at each session?.....						
6. Did the court have jurisdiction of person and offense?.....	+		X		✓	
7. Does the record show place, date, and hour court convened?.....	+		X		✓	
8. Are all members of the court, trial judge advocate, assistant trial judge advocate, defense counsel, and assistant defense counsel accounted for as present or absent?.....	+		X		✓	
9. Was accused asked whom he desired as counsel?.....	+		X		✓	
10. Was reporter sworn?.....	+		X		✓	
11. Was interpreter sworn?.....						
12. Was accused extended right of challenge as to each member of the court, and was he instructed as to his right to exercise one peremptory challenge against any member except the law member?.....	+		X		✓	
13. Was action of court upon challenges regular and properly taken?.....	+		X		✓	
14. Was the court sworn?.....	+		X		✓	
15. Was any officer sitting as a member of the court the accuser, a witness for the prosecution, or, upon a rehearing, one who sat as a member on the former trial?.....		+		X		✓
16. Was the personnel for the prosecution sworn?.....	+		X		✓	
17. Was the accused properly arraigned?.....			X		✓	
18. If pleas of guilty were explained was accused's response, if any, recorded?.....			X		✓	
19. Does each specification state an offense under the Articles of War?.....			X		✓	
20. Are there copied into the record—						
(a) Charges and specifications?.....	+		X		✓	
(b) Name, grade, and organization of the person signing charges?.....	+		X		✓	
(c) Affidavit to the charges and specifications?.....	+		X		✓	
(d) Name of the person who administered the oath verifying the charges, and his official capacity?.....	+		X		✓	
(e) The order of reference for trial?.....	+		X		✓	
21. If the accused was advised of his right to plead the statute of limitations, was his response, if any, recorded?.....						
22. Are pleas of accused regularly entered?.....	+		X		✓	
23. Were the witnesses sworn?.....	+		X		✓	
24. Are the findings properly entered?.....	+		X		✓	
25. Was the vote upon each finding by secret written ballot?.....	+		X		✓	
26. Was sentence reached by secret written ballot?.....	+		X		✓	
27. Did at least two-thirds of members present at the time the vote on each finding was taken concur therein?.....	+		X		✓	

	TRIAL J. A.		STAFF J. A.		J. A. G. O.	
	Yes	No	Yes	No	Yes	No
28. In each case of finding of guilty where death sentence was mandatory, did all members present concur in each finding?						
29. Did members present concur in sentence, as follows: To death, all members; to life imprisonment or confinement for over ten years, at least three-fourths of members; to any other punishment, at least two-thirds?	+		X		✓	
30. Does the evidence sustain the findings of the court?			X		✓	
31. Are the findings legal?	+		X		✓	
32. Is the sentence legal? (AS APPROVED)	+		X		✓	
33. Does any ruling of the court on the admission of evidence or other matters injuriously affect the substantial rights of accused?				X		✓
34. Did all members who participated in proceedings in revision vote on original findings and sentence?						
35. At proceedings in revision are the trial judge advocate, assistant trial judge advocate, defense counsel, assistant defense counsel, the accused, and the individual counsel, if any, accounted for as present or absent?						
36. Is the record properly authenticated?	+		X		✓	
37. Is action of reviewing authority properly entered in record and signed?			X		✓	
38. In case of adjournment or continuance, are each day's proceedings properly signed by trial judge advocate?						
39. After each adjournment during trial, is presence or absence of members of court, trial judge advocate, assistant trial judge advocate, defense counsel, assistant defense counsel, accused, his individual counsel, and the reporter properly accounted for?	+		X		✓	
40. Is the action of the reviewing authority legal and properly taken?						
41. Is clemency recommended?		+		X		✓
42. Is the action of the confirming authority legal and properly taken?					✓	?

John L. Green 14 Nov 44
 Trial Judge Advocate. (Date)
 Capt. J.A.G. Hq. 28th Inf. Div.

Henry J. Sumner 27 Nov 44
 Staff Judge Advocate. (Date)
 Lt. Col. JAG

Fred R. Robert 8 December 44
 Major, JAGD - Officer Reviewing Record. (Action) (Date)
 Asst Staff Judge Advocate
 Hq European T of Opns

Edward L. Stevens, Jr. LEGALLY SUFFICIENT. 6 JAN 1945
 Member, Board of Review (Action) (Date)
 EDWARD L. STEVENS, JR.

NOTE.—Questions 13, 17, 18, 19, 21, 30, 33, 37, and 40 not to be answered by the trial judge advocate. Question 40 not to be answered by the staff judge advocate, JAGD.

6 JAN 1945
 LEGALLY SUFFICIENT.
 B. FRANKLIN RYER
 COLONEL JAGD
 CHAIRMAN, BOARD OF REVIEW.

THE QUESTION MARKS ON ITEMS 28 and 42 WERE NOT MADE BY ME: BUT I FEEL IT INQUMBENT TO ADDRESS THEM. THEY ARE IN MY OPINION LEGAL.

PLEASE REFER TO ITEM 41 "THE UNAMITY OF NO CLEMENCY RECOMMENDED." ALSO PLEASE REFER TO PAGE 17 paragraph 6.

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HEADQUARTERS
EUROPEAN THEATER OF OPERATIONS
UNITED STATES ARMY

United States)

v.)

Private Eddie D. Slovik, 36896415,)
Company G, 109th Infantry.)

REVIEW BY

STAFF JUDGE ADVOCATE

1. Trial. The accused was tried at Rotgen, Germany, on 11 November 1944 by a general court-martial appointed by paragraph 1, Special Orders No 174, Headquarters, 28th Infantry Division, 16 August 1944, as amended by paragraph 12, Special Orders No 204, same headquarters, 25 September 1944.

2. Charge and Specifications. The offenses involved were (R 6):

	<u>Pleas</u> (R 7)	<u>Findings</u> (R 16)
Charge : Violation of Article of War 58.	NG	G
Specification 1: Desertion to avoid hazardous duty, 25 August 1944.	NG	G
Specification 2: Desertion to avoid hazardous duty, 8 October 1944.	NG	G

3. Sentence. a. The accused was found guilty by unanimous vote of the members present and on 11 November 1944 was sentenced by unanimous vote of the members present to be dishonorably discharged the service, to forfeit all pay and allowances due or to become due, and to be shot to death with musketry (R 17).

b. The convening authority approved only so much of the sentence as provides that the accused be shot to death with musketry, on 27 November 1944, and forwarded the record of trial for action under Article of War 48 (page following R 17).

4. Service Data. a. The accused is 25 years of age; he was inducted 3 January 1944. There were no previous convictions (R 16).

b. Accused is now at Paris Detention Barracks, Seine Section, Paris, France.

5. Prosecution Evidence. a. Accused was inducted in January 1944 and attached to an infantry training battalion for five months (R 17). He came overseas as a member of the Ground Force Replacement System, cleared through England, landed on Omaha Beach, and in August 1944 was assigned through the Third Replacement Depot to Company G, 109th Infantry, 28th Infantry Division (R 8, 9). On 25 August he went along with fifteen other replacements destined for the 109th Infantry to a point near Elbeuf, France, where Company G was located (R 9, 10). Some officer had given the replacements an orientation lecture, ammunition was issued to them at the division, and they went up by truck, going past burned-out vehicles and shelled places (R 9, 10). The group of replacements had left their packs at a rest area and ultimately detrucked at about 11 o'clock on the outskirts of Elbeuf where they dug in (R 10). At that time Private Thompson, who knew the accused, who was also assigned to Company G, recognized the accused as being there because he knew his voice (R 10, 11). There was a lot of confusion, troop movement, and shelling, but most of the men stuck together for fear of getting lost (R 10). The accused was with the group when they dug in (R 10, 11). At about 11:30 the group moved into the town to join their company. That was the last time that Private Thompson saw the accused (R 11).

b. Accused did not again physically join his company until 8 October when the company was reorganizing in Belgium (R 13). He went to Captain Grotte, who was then in

THE ACCUSED WAS WITHIN WALKING DISTANCE OF THIS HEADQUARTERS. WHY DIDN'T SOMEONE SEE IF SLOVIK WAS A "CIVILIAN MONSTER" DISGUISED IN A U.S. ARMY PRIVATE'S UNIFORM.

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command, and reported. The captain assigned him to the fourth platoon and turned him over to the platoon leader, forbidding him to leave the area without his personal permission which he never gave (R 13). Accused asked the captain if he could be tried for being absent without leave and the captain informed him that he would find out (R 14). Accused was then returned to the platoon area where he was placed in arrest and told not to leave the area (R 14). About an hour later he asked the captain, "If I leave now, will it be desertion?" and the captain replied that it would be (R 14). Accused was not seen in the company area after that (R 14).

c. On 9 October accused appeared at the kitchen of the Military Government Detachment, 112th Infantry, at Rocherath and handed to the cook, Private Schmidt, a green slip of paper with writing on it, and said that he had made a confession (R 15). Schmidt told this to Lieutenant Griffin, who talked to the accused and the accused in turn gave him the green slip (R 15). The lieutenant called S-1 of the 109th Infantry, and in about an hour and a half a sergeant came over and picked up the accused and took him back with him (R 15). A few days later Lieutenant Hurd of the 109th Infantry, who was then acting as temporary military police officer, was standing in front of their orderly room at Rocherath when the accused was brought in by a staff sergeant. Lieutenant Hurd testified as follows (R 12):

"He (accused) had evidently been over to 112th Military Government Detachment and Lieutenant Griffin had told the Sergeant to bring him over when he drove over to the orderly room. He brought him to the orderly room where I was and asked where I wanted him put. Slovik handed me a green slip of paper. I read the green slip of paper and told the Sergeant to take Slovik to the MP's and I would call for him later. I took the green slip of paper which Slovik had handed me and gave it to the Adjutant and then turned it over to Colonel Henbest. Later on Colonel Henbest called me down and in Slovik's presence Slovik signed the slip and then Colonel Henbest signed and also me.

Q. This happened on or about 11 October 1944?

A. Yes sir.

Q. At Rocherath, Belgium?

A. Yes sir. Everything that appears on the green slip of paper was made very clear to the defendant."

Prosecution's Exhibit 4, the green slip, is as follows:

"I Pvt. Eddie D. Slovik #36896415 confess to the desertion of the United States Army. At the time of my desertion we were in Albuff in France. I come to Albuff as a replacement. They were shilling the town and we were told to dig in for the night. The flowing morning they were shilling us again. I was so scared nerves and trembling that at the time the other replacements moved out I couldn't move. I stayed their in my fox hole till it was quite and I was able to move. I then walked in town. Not seeing any of our troops so I stayed over night at a French hospital. The next morning I turned myself over to the Canadian Provost Corp. After being with them six weeks I was turned over to American M.P. They turned me lose. I told my commanding officer my story. I said that if I had to go out their again Id run away. He said their was nothing he could do for me so I ran away again AND ILL RUN AWAY AGAIN IF I HAVE TO GO OUT THEIR.

SIGNED Pvt. Eddie D. Slovik
A.S.N. 36896415"

The ink notations on the reverse side read:

PLEASE REFER TO PAGE 24. AGAIN
NO REFERENCE TO THE AMENTMENT. *100*

"Rocherat, Belgium
Oct 11, 1944

This statement is made in the presence of Lt Col Ross C. Henbest 0237158 and 1st Lt Wayne Hurd, O-463853.

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I have been told that this statement can be hold against me and that I made it of my own free will and that I do not have to make it.

SIGNED Eddie D. Slovik

Above statement was signed in the presence of the undersigned:

PLEASE REFER TO PAGE 24.
AGAIN NO MENTION OF THE
AMMENDMENT TO THE ORIGINAL
CONFESSION

Ross C. Henbest (Signature)
Ross C. Henbest (Printed)
Lt Col, Infantry

Wayne L. Hurd (Signature)
Wayne L. Hurd (Printed)
1st Lt Inf"

d. Ever since the invasion and since 25 August 1944, Company G, 109th Infantry, was generally fighting and campaigning, and proceeded from the beaches up to the Siegfried line (R 9, 10, 14). On occasions before and since 8 October 1944 the company had been in close contact and fighting with the enemy, had attacked once, and had been in some "pretty heavy fighting" (R 14).

6. Defense Evidence. The rights of accused were duly explained to him and he elected to remain silent (R 16). He offered no evidence on his behalf.

7. Discussion. a. The confession by the accused (Pros Ex 4) was written by him spontaneously. His desire to confess, in fact, to be tried, was obvious. Even if there were any doubt of the voluntary nature of accused's confession at the time he submitted it on 9 October, the effect and purport of the paper was made clear to him on 11 October and he signed an indorsement reaffirming its voluntary character. While the alleged intent might be inferred from the facts, his confession leaves no possible doubt that both desertions were to avoid hazardous duty within the meaning of Article of War 58. All the elements of both offenses are established beyond any doubt, as accused apparently desired them to be. (L)

b. As noted by the Staff Judge Advocate of the convening authority, there are instances of leading questions, none of which go to the essential issues or injure any substantial rights of the accused. The ruling by the law member on page 9 of the record appears in error on its face since the conversations among the replacements were not closely identified with the accused. Since the trial judge advocate, however, was endeavoring to prove the basis for the intent to avoid hazardous duty, and since this intent was admitted by accused, his rights were not injuriously affected. (2)

c. The following irregularities not mentioned in the original review and not affecting any substantial right of accused are noted. It does not affirmatively appear at page 16 that the defense was afforded an opportunity to cross-examine the witness. The formal data in the first indorsement to the charge sheet is not copied exactly into the record. A copy of this review will be furnished the Staff Judge Advocate of the convening authority.

8. Opinion of Staff Judge Advocate. The record of trial is legally sufficient to support the findings and the sentence as approved by the convening authority, and discloses no error injuriously affecting any substantial right of accused.

9. Clemency. The power to exercise clemency is a trust; it is not to be granted as a matter of course in any class of cases, but its exercise should depend upon the facts and considerations of military discipline. The record of the accused in civil life indicates that between 1932 and 1938 he was convicted five times by the Juvenile Court of Detroit for four offenses of breaking and entering and for one instance of assault and battery. In each case he was placed on parole. In 1937 he was sentenced to six months to ten years for embezzlement, and in 1939 he was again confined for unlawfully driving away an automobile. The report of the Federal Bureau of Investigation attached to the record does not indicate how much time the accused actually served either in the reformatory or in the State prison, but his own letter requesting clemency states that he was in jail five years. He was released from parole to be inducted into the military service. These prior offenses are not of sufficient gravity to influence

(2) PLEASE REFER TO PAGE
24. AGAIN NO ADMISSION
OF THE AMENDMENT TO THE
97 ORIGINAL CONFESSION

(3) PLEASE
REFER TO PAGE 15
PAR #3

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my recommendation in the instant case. However, they indicate a persistent refusal to conform to the rules of society in civilian life, an imperviousness to penal correction and a total lack of appreciation of clemency; these qualities the accused brought with him into his military life. He was obstinately determined not to engage in combat, and on two occasions, the second after express warning as to the results, he deserted. He boldly confessed to these offenses and concluded his confession with the statement, "so I ran away again AND ILL RUN AWAY AGAIN IF I HAVE TO GO OUT THEIR." There can be no doubt that he deliberately decided that confinement was preferable to the risks of combat, and that he deliberately sought the safety and comparative comfort of the guardhouse. To him and to those soldiers who may follow his example, if he achieves his end, confinement is neither deterrent nor punishment. He has directly challenged the authority of the government, and future discipline depends upon a resolute reply to this challenge. If the death penalty is ever to be imposed for desertion it should be imposed in this case, not as a punitive measure nor as retribution, but to maintain that discipline upon which alone an army can succeed against the enemy. There was no recommendation for clemency in this case and none is here recommended.

10. Recommendation of Staff Judge Advocate. I recommend that the sentence as approved by the convening authority be confirmed, and submit herewith an appropriate form of action. Upon such confirmation it is requisite that the order directing the execution of the sentence be withheld and the record of trial forwarded for action by the Board of Review and Assistant Judge Advocate General, Branch Office with the European Theater of Operations, pursuant to Article of War 50 $\frac{1}{2}$.

Frederick J. Bertolet
 FREDERICK J. BERTOLET
 Major, JAGD
 Assistant Staff Judge Advocate

Having read the record of trial, I concur.

Ed. C. Betts
 ED. C. BETTS
 Brigadier General, USA
 Staff Judge Advocate

23 December 1944.

MAJOR BERTOLET IN MY OPINION IS THE ONE PERSON MORE THAN ANY OTHER RESPONSIBLE FOR THE EXECUTION OF PRIVATE EDDIE D. SLOVIK. BY THE TIME BERTOLET FINISHED DOING HIS NUMBER ON HIM, EDDIE DIDN' HAVE A CHANCE. I HAD DEFENDED MORE FLAGRANT DESERTERS THAN EDDIE SLOVIK AND THEY WERE GIVEN A LIGHT SENTENCE OF NO MORE THAN 20 YEARS AT HARD LABOR. THEY WERE OUT IN A FEW YEARS OR MORE AFTER THE END OF THE WAR.

[Signature]

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HEADQUARTERS
EUROPEAN THEATER OF OPERATIONS
UNITED STATES ARMY

In the foregoing case of:

Private Eddie D. Slovik, 36896415,
Company G, 109th Infantry,

the sentence, as approved, is confirmed. Pursuant to Article of War 50 $\frac{1}{2}$, the order directing the execution of the sentence is withheld.

Dwight D. Eisenhower

DWIGHT D. EISENHOWER
General
United States Army
Commanding.

23 December 1944.

THIS DATE WAS SIGNIFICANT TO PRIVATA SLOVIK AND TO ME. IT COINCIDED WITH MY CAPTURE BY MEMBERS OF THE AFRICA CORPS, THE ELITE OF THE GERMAN ARMY. DURING THE "BULGE"

GENERAL EISENHOWER HAD HIS HANDS FULL WITH THE BATLE. OF THE BULGE AND A POSSIBLE MAJOR DEFEAT OF THE WHOLE EUROPEAN THEATRE OF OPERATIONS.

IT COINCIDED WITH THE DATE OF MAJOR BERTOLET'S DECISION AND COULD HAKE CONCEIVABLY BENN THUST IN FRONT OF HIM

E.P.W.
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~~CONFIDENTIAL~~

HEADQUARTERS
EUROPEAN THEATER OF OPERATIONS
UNITED STATES ARMY

AG 201 Slovik, Eddie D. (Enl)MPEB

APO 887
25 Dec 1944

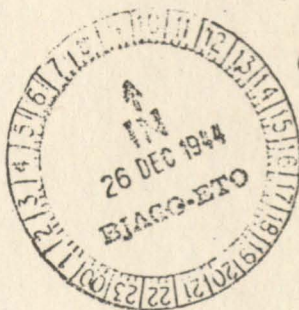
SUBJECT: Record of trial by General Courts-Martial.

TO : Assistant The Judge Advocate General, Branch Office The Judge
Advocate General with European T of Opns, APO 887.

Forwarded for action under Article of War 50 $\frac{1}{2}$.

For the Theater Commander:

1 Incl:
Record of Trial by
GCM, dtd 11 Nov 44.



R. A. McWilliams
R. A. McWILLIAMS,
Lt. Col., A.G.D.,
Asst Adj General.

DEC 25 1944

~~CONFIDENTIAL~~

(151)

Branch Office of The Judge Advocate General
with the
European Theater of Operations
APO 887

BOARD OF REVIEW NO. 1

6 JAN 1945

CM ETO 5555

UNITED STATES)

28TH INFANTRY DIVISION

v.)

Trial by CCM, convened at Potgen,
Germany, 11 November 1944. Sentence:
To be shot to death with musketry.

Private EDDIE D. SLOVIK
(36896415), Company G, 109th
Infantry)

HOLDING BY BOARD OF REVIEW NO. 1
RITER, SARGENT and STEVENS, Judge Advocates

1. The record of trial in the case of the soldier named above has been examined by the Board of Review, and the Board submits this, its holding, to the Assistant Judge Advocate General in charge of the Branch Office of the Judge Advocate General with the European Theater of Operations.

2. Accused was tried upon the following Charge and specifications:

CHARGE: Violation of the 58th Article of War.

Specification 1: In that Private Eddie D. Slovik, Company G, 109th Infantry did, at or near Elbeuf, France, on or about 25 August 1944, desert the service of the United States by absenting himself without proper leave from his organization, with intent to avoid hazardous duty and to shirk important service, to wit: action against the enemy, and did remain absent in desertion until he was delivered to United States military authorities by Canadian military authorities at or near Brussels, Belgium, on or about 4 October 1944.

(152)

~~CONFIDENTIAL~~

Specification 2: In that * * * did, at or near Rocherath, Belgium, on or about 8 October 1944, desert the service of the United States by absenting himself without proper leave from his organization, with intent to avoid hazardous duty and to shirk important service, to wit: action against the enemy, and did remain absent in desertion until he surrendered himself at or near Rocherath, Belgium, on or about 9 October 1944.

He pleaded not guilty and, all of the members of the court present at the time the vote was taken concurring, was found guilty of the Charge and both specifications thereunder. No evidence of previous convictions was introduced. All of the members of the court present at the time the vote was taken concurring, he was sentenced to be dishonorably discharged the service, to forfeit all pay and allowances due or to become due, and to be shot to death with musketry. The reviewing authority, the Commanding General, 28th Infantry Division, approved only so much of the sentence as provided that accused be shot to death with musketry and forwarded the record of trial for action under Article of War 48. The confirming authority, the Commanding General, European Theater of Operations, confirmed the sentence, as approved, and withheld the order directing execution thereof pursuant to Article of War 50 $\frac{1}{2}$.

3. Uncontradicted evidence for the prosecution showed substantially the following:

Sometime after 25 July 1944 accused came overseas from Fort George G. Meade, Maryland, as a member of a group of replacements (R8). The group proceeded via England to Omaha Beach, France, thence to "a couple of different places" and thereafter to the Third Replacement Depot (France), where accused was assigned to the 28 Infantry Division. On 25 August the group went to the division headquarters and accused, together with 14 other replacements, was assigned to Company G, 109th Infantry (R8-9,10; Pros. Exs. 1,2,3). At division headquarters an officer gave the group, including accused, an orientation lecture (R9,10,11) and ammunition was issued to them (R9). According to the testimony of one of their number, Private George W. Thompson, it was a matter of common knowledge and general conversation among the members of the group as to what company they were to join, where the company was and whether or not it was engaged in combat (R10). Witness explained that the members of the group "didn't know what to expect and didn't come to any definite conclusion about where we were going", but "had a pretty strong suspicion" that the division was engaged with the enemy. They did not know definitely what Company G was doing but "just imagined that it was fighting" (R9).

~~CONFIDENTIAL~~

(153)

On the same day, 25 August, according to Thompson's testimony, the group entrucked at division headquarters for Company G, then located at Elbeuf, France (R9,10). (Elbeuf is approximately 80 miles west-northwest of Paris). En route, the replacements including accused, "saw some damage, some burned out vehicles and shelled places", but saw no action (R10,11). After proceeding for about two or three hours they stopped at what apparently was a rest area, left their packs, and continued on the trucks to the outskirts of Elbeuf, where they detrucked. After moving along the edge of the city they reached an open lot where they "dug in" at about 2300 hours. Thompson saw accused with the group at this time. Between 2300 and 2330 hours the replacements, including accused, entered the city of Elbeuf to join Company G (R9,10). There were "a lot of troop movements and shelling" and

"it took quite a while because there was a lot of confusion. We moved around some but stayed close together so none of us would get lost" (R10).

Thompson knew accused was at Elbeuf with the group about 0100 hours 26 August because he knew and recognized accused's voice. This was the last time he "saw" him, however, and so far as he knew, accused was not present for duty with his company at any time thereafter (R11). The company remained at Elbeuf on 26 August until Canadian troops "took over" and it then proceeded through Paris, Belgium and Luxembourg to the Siegfried line (R10). During this movement occasional enemy action was encountered and up until the time of trial the company was engaged generally in fighting and campaigning in the invasion (R11).

Captain Ralph O. Grotte, company commander of Company G, 109th Infantry, testified that at the time of trial 11 November he had been in command thereof for a month and a half and that accused physically joined Company G on 8 October when it was reorganizing and not in contact with the enemy. Accused "had been absent without leave and had been returned to me through the battalion". Witness never granted accused permission to be absent (R13), and no permission was requested. Accused was never present with the company for duty except on 8 October for one or two hours (R14). On that day a battalion sergeant major brought him to the company command post where witness assigned him to the 4th platoon, turned him over to the platoon leader and forbade him to leave the company area unless he had permission from witness. The platoon leader conducted accused to his platoon and introduced him to his squad leader (R13). Thereafter accused came to witness and inquired of him if could be tried for being absent without leave. Grotte told him he would find out and caused him to be placed in arrest and returned to his platoon area, where Grotte directed him to stay. About an hour later accused witness "'If I leave now will it be desertion?'" and witness replied that it would be. Accused left and thereafter he was not seen in

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(154)

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the company nor was he present with the company for duty. On 8 October accused did not request permission to be absent, nor did witness grant him the same. Since the time Grotte assumed command, the company campaigned generally and both before and after 8 October engaged in fighting, during which it attacked the enemy on one occasion (R14).

About 0830 hours 9 October accused came to the Military Government Detachment, 112th Infantry, which since the preceding day was located at Rocherath, Belgium, handed a cook a green slip of paper containing handwriting, and stated that he, accused, had made a confession. The cook informed his "commanding officer", Second Lieutenant Thomas F. Griffin, of the matter when the latter returned to the detachment about 1100 hours. Griffin thereupon telephoned the S-1 of the 109th Infantry and requested that someone call for accused (R14-16). About 1230-1245 hours a sergeant arrived (R15) and drove accused to the orderly room of the 109th Infantry, where he handed the green slip of paper to the temporary military police officer, First Lieutenant Wayne L. Hurd. The latter testified that he read the slip and directed the sergeant to deliver accused to the military police for temporary custody. Hurd then delivered the slip first to the adjutant and then to Lieutenant Colonel Ross C. Henbest. Subsequently on the same day accused signed the slip in the presence of Hurd and Henbest, both of whom also signed the same (R12; Pros.Ex.4). The green slip of paper, a U.S. Army Post Exchange flower order form, with writing in ink on each side thereof, was admitted in evidence as Pros.Ex.4. The defense stated it had no objections to the admission of the exhibit (R12) which reads as follows:

[Handprinted in ink]

"I Pvt. Eddie D. Slovik #36896415 confess to the Desertion of the United States Army. At the time of my Desertion we were in Albuff in France. I come to Albuff as a Replacement. They were shilling the town and we were told to dig in for the night. The following morning they were shilling us again. I was so scared nerves and trembling that at the time the other Replacements moved out I couldn't move. I stayed their in my fox hole till it was quite and I was able to move. I then walked in town. Not seeing any of our Troops so I stayed over night at a French hospital. The next morning I turned myself over to the Canadian Provost Corp. After being with them six weeks I was turned over to American M.P. They turned me lose. I told my commanding officer my story. I said that if I had to go out their again I'd run away. He said their was nothing he could do for me so I ran away again AND ILL RUN AWAY

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AGAIN IF I HAVE TO GO OUT THERE.

Signed Pvt. Eddie D. Slovik [Handwritten]
A.S.N. 30896415".

[Reverse side, on printed form, handwritten in ink]:

"Rocherath, Belgium
Oct 11, 1944*"

This statement is made in the presence of
Lt. Col Ross C. Henbest O237158 and 1st Lt
Wayne Hurd, O-463053

I have been told that this statement can
be held against me and that I made it of my
own free will and that I do not have to make
it.

Signed:*
Eddie D. Slovik

Above statement was signed in the presence
of the undersigned:

/s/ Ross C. Henbest
Ross C. Henbest *
Lt Col, Infantry

/s/ Wayne L. Hurd
Wayne L. Hurd *
1st. Lt. Inf"*(Pros. Ex. 4).

*Handprinted.

Hurd testified "Everything that appears on the green slip of paper
was made very clear to the defendant" (R12).

4. After full explanation of his rights to testify, make
an unsworn statement or remain silent, accused elected to remain
silent. The defense introduced no evidence (R16).

5. Specification 1 of the Charge as originally drafted charged
in part that accused absented himself without leave

"with intent to avoid hazardous duty, to wit:
action against the enemy, and did remain absent
in desertion until he surrendered himself to
the 507th MP Battalion, at or near Brussels,
Belgium".

Acting on behalf of the appointing authority, the Staff Judge Advocate,
28th Infantry Division, subsequent to the investigation under the
70th Article of War, amended the above quoted portion of the Specification
to read as follows:
"with intent to avoid hazardous duty and to shirk

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HAD THE DEFENSE COUNSEL KNOWN OF THE EXISTENCE OF
THE AMMENDMENT TO THE ORIGINAL CONFESSION,
HE WOULD HAVE PROPERLY ENTERED IN EVIDENCE AS
A DEFENSE EXHIBIT
PLEASE REFER TO PAGE 24

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(156)

important service, to wit: action against the enemy, and did remain absent in desertion until he was delivered to United States military authorities by Canadian military authorities at or near Brussels, Belgium, on or about 4 October 1944".

Specification 2 of the Charge as originally drafted charged in part that accused absented himself without leave

"with intent to avoid hazardous duty, to wit: action against the enemy, and did remain absent in desertion until he surrendered himself to military authorities at or near", etc.

The Staff Judge Advocate, subsequent to the investigation under the 70th Article of War, amended the above quoted portion of the Specification to read as follows:

"with intent to avoid hazardous duty and to shirk important service, to wit: action against the enemy, and did remain absent in desertion until he surrendered himself at or near", etc.

Paragraph 34, Manual for Courts-Martial, 1928, page 22 reads in part:

"Action by officer exercising court-martial jurisdiction.-

*

*

*

the charges may be redrafted over the signature thereon, provided the redraft does not involve any substantial change or include any person, offense, or matter not fairly included in the charges as received"

The addition to each Specification of the words "and to shirk important service" amounted essentially to no more than an additional description and characterization of the essential object which accused was charged with intending to avoid, namely, "action against the enemy". It added nothing that was not fairly inferable from the specifications as a whole as originally drafted. The alteration from the allegation of surrender to a military police organization to that of delivery by Canadian military authorities to United States military authorities (Specification 1) and the elimination of the words "to military authorities" following the words "surrendered himself" (Specification 2) were not substantial modifications. As the offense of desertion is complete when the person absents himself without authority from his place of service with the requisite intent (MCM, 1928, par.67, p.52; par.130a, p.142), and since the maximum punishment for desertion however terminated is now death (AW 58; E.O. 9048, 3 Feb. 1942, (sec. IV, Bull.6, WD, 9 Feb 1942, MCM, 1928, par.104c, p.97, note)), the

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A CONTINUATION FROM PREVIOUS PAGE

PLEASE REFER TO PAGE 14.

THE DEFENSE COUNSEL IS IN TOTAL DISAGREEMENT.

WITH THE CONCLUSIONS MADE BY THIS BOARD OF REVIEW
ON THIS PARTICULAR PAGE.

NO ATTEMPT WAS MADE TO VERIFY THE VARIOUS PRECEDENTS
CITED, AS IN MY OPINION THEY WERE VERBOSE. *E. J. T.*

manner of termination is not material (Cf: CM ETO 2473, Cantwell). In view of the foregoing it is concluded that the redraft involved no substantial change and did not include any offense or matter not fairly included in the charges as received.

The pleading of both specific intents under Article of War 28 in the specification was proper and left the prosecution free to prove either or both of the intents alleged (CM ETO 2432, Durie; CM ETO 2461, Horton; CM ETO 3234, Gray), and in any event, as above inferred, it seems clear that the hazardous duty alleged, to wit: action against the enemy, necessarily involved important service.

6. The question for determination is whether the record contains substantial competent evidence of each of the four elements of each offense charged, namely:

- (1) that accused absented himself or remained absent without leave from his place of service, as alleged;
- (2) that his unit "was under orders or anticipated orders involving either (a) hazardous duty or (b) some important service" (ICM, 1921, para 09, p.344);
- (3) that notice of such orders and of imminent hazardous duty or important service was actually brought home to him; and
- (4) that at the time he absented himself he entertained the specific intent to avoid hazardous duty or shirk important service (CM ETO 2368, Lybrand and authorities therein cited; CM ETO 3234, Gray).

(a) As to Specification 1:

(1) That accused absented himself without leave at sometime on the night of 25-26 August 1944 is established by the testimony of one of the other replacements in his group that accused was with the group when it joined Company G, 109th Infantry, at the city of Elbeuf, France, but was not present with them after about 0100 hours 26 August. The company commander testified that accused did not physically join the company until 8 October and that he had no permission to be absent prior to that date. In his voluntary confession accused stated that he was separated from his unit on the night in question, spent the night at a French hospital, surrendered to the "Canadian Provost Corp" on the following morning, passed six weeks with them and was then turned over to "American M.P.". The fact that the record does not show clearly that accused was physically present with his company at the time he absented himself does not constitute an essential variance from the allegation that he absented himself without leave from his organization, as he was under military control of divisional or regimental officers and under orders to join his company (CM ETO 5555

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PLEASE REFER TO THE PREVIOUS PAGE
THE SAME COMMENTS APPLY TO THE BLOCKED PORTION
OF THIS PAGE

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1259 (1944), Bull. JAG, Vol.III, no.1, Jan 1944, sec.305, pp.7-8). He was not effectively returned to military control until his delivery to the United States Military Authorities (AM615-300, 25 Mar 1944, par.14; CPJGA 251.22, Sept 2, 1942, Bull. JAG, Vol.I, No.4, Sept 1942, pp.145-155, p.251; CPJGA 1943/19359, 31 Dec 1943, Bull. JAG, Vol.III, No.1, Jan.1944, sec.419 (2), p.9). The lack of proof of the allegation that accused was delivered "at or near Brussels, Belgium", is immaterial as is also the lack of specific proof that this occurred on or about 4 October (251.19, Jan 9, 1919, Dig.Op.JAG, 1912-1940, sec.416 (14) p.271; CI ETO 2473, Cantwell; Cf: CI ETO 2444, Warner).

(2) The evidence is not clear whether or not when accused so absented himself he had become attached to Company G or was still a member of the group of 15 replacements engaged in the process of joining Company G. Assuming the latter in accused's favor, the evidence leaves no doubt that his unit, the group, was under orders to join Company G, which on the day following the group's arrival, proceeded from its station near Elbeuf through France, Belgium and Luxembourg to the Siegfried Line, encountering enemy action en route, as was reasonably to be anticipated. It is thus evident that both the orders mentioned and future orders to be anticipated with respect to Company G's movements involved the hazardous duty and important service of action against the enemy.

(3) Accused was a member of a group of replacements which had come together from the United States, through England, to France and there to a replacement depot where they were assigned to the 28th Infantry division. At division headquarters accused and the other members of the group heard an orientation lecture and were issued ammunition. En route to the company to which accused and the others were assigned they saw no current enemy action but saw the unmistakable effects of past enemy action - "some damage, some burned out vehicles and shelled places". The group, including accused, stopped and left their packs at a rest area and continued on to the vicinity of the company to which they had been assigned, where they "dug in". When the group, which according to some prosecution testimony still included accused, proceeded to join Company G, there were "a lot of troop movements and shelling". In accused's confession he stated "They were shilling the town" when the group "dug in" and again the following morning.

Notice of the orders and anticipated orders involving the hazardous duty and important service of action against the enemy could hardly have been more forcefully brought home to accused, who obviously knew what was in store for him and the others and who, according to his own statement, "was so scared nerves and trembling that at the time the other Replacements moved out", he "couldn't move".

(4) Accused absented himself without leave on 25 or 26 August and his group either joined or were about to join Company

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G under the circumstances above described. He remained absent until 8 October, at which time the company was reorganizing and was not in contact with the enemy. The company commenced its forward movement sometime on 26 August, less than a day after the commencement of accused's unauthorized absence, and, as stated, encountered expected enemy action on its course through France and Belgium. Accused's absence was calculated to and did result in his avoidance of the hazardous duty and shirking of the important service of action against the enemy. At the trial accused offered no explanation of his absence. Even apart from his confession, the foregoing evidence supports an inference of intent on accused's part at the time of absenting himself to avoid such duty and to shirk such service. His confession specifically states that he confesses "to the Desertion of the United States Army" at "Albuff" and that he told his commanding officer "that if I had to go out their again I'd run away". His commanding officer testified that when accused came to the company on 8 October he asked if he could be tried by court-martial for absence without leave. The confession and this evidence remove any reasonable doubt, if any exist, that accused's intention, when he absented himself without leave on 25 or 26 August 1944, was to avoid the hazardous duty and important service of action against the enemy. (1)

The Board of Review is of the opinion that the evidence convincingly establishes all elements of the offense alleged in Specification 1 of the Charge and fully supports the court's findings of guilty thereof (CM ETO 3473 Cantwell; CM ETO 2368, Iybrand; CM ETO 4743, Gotschall; CM ETO 5117 DeFrank; CM ETO 5293, Killen and authorities cited in those cases). (2)

(b) As to Specification 2:

(1) The testimony of Captain Grotte, company commander of Company G, establishes that accused absented himself on 8 October after being present with the company for only one or two hours, and that he neither requested nor was granted permission to leave. He remained absent until about 0830 hours 9 October when he surrendered to the Military Government Detachment, 112th Infantry, at Eocherath, Belgium. It is reasonable inferable from the evidence that Company G was located at or near that place, as alleged, when accused absented himself. (1)

(2) At the time accused absented himself, his company, according to the testimony of its commanding officer, "was reorganizing" and although not then in contact with the enemy, it thereafter engaged in close contact and fighting therewith. Thompson testified that the company proceeded from Belgium through Luxembourg to the Siegfried Line and that the 109th Infantry encountered occasional enemy action en route. The company on 8 October was obviously under orders or at least anticipated orders involving the hazardous duty and important service of action against the enemy.

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PLEASE REFER TO PAGE 106. THE SAME COMMENTS APPLY
PLEASE REFER TO PAGE 24. AGAIN THE ABSENCE OF THE
AMMENDMENT TO PRIVATE SLOVIK'S ORIGINAL CONFESSION

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(3) When accused came to Company G on 8 October, he knew that it had advanced from Elbeuf, France, to the vicinity of Rocherath, Belgium. At the company command post he was assigned and physically conducted to the 4th platoon and introduced to his squad leader. Accused knew that he was at that point an integral part of a fighting organization which in all likelihood would not remain static but would press forward against the enemy. The evidence points unmistakably to the conclusion that notice of the orders or anticipated orders involving the hazardous duty and important service of action against the enemy was directly brought home to accused before he absented himself without leave on 8 October.

(4) Shortly after coming to Company G on 8 October, accused asked if he could be tried for absence without leave. Having in mind the facts and circumstances mentioned in (3), supra, and after being placed in arrest by his company commander, accused asked him "If I leave now will it be desertion" and received an affirmative answer, after which he left the company, wrote out and signed his confession and surrendered the following day to the Military Government Detachment, 112th Infantry. Coincidentally with his surrender he delivered his confession to military authorities and later affirmed and signed the statement in the presence thereof. In the confession accused stated that he told his commanding officer his story and

"said that if I had to go out their agains
I'd run away. He said their was nothing
he could do for me so I ran away again.
AND ILL RUN AWAY AGAIN IF I HAVE TO GO
OUT THEIR". (1)

This evidence leads inevitably to the conclusion that accused deliberately absented himself on 8 October with the intent of deserting the military service so that he would be tried by court-martial and incarcerated and thus avoid the hazardous duty and shirk the important service of action against the enemy.

The Board of Review is again of the opinion that the evidence convincingly establishes all elements of the offense alleged in Specification 2 of the Charge and fully supports the court's findings of guilty thereof (CM ETO 2473, Gantwell; CM ETO 2368, Lybrand; CM ETO 4743, Gotschall; CM ETO 5117 DeFrank; CM ETO 5293, Killen; and authorities cited in those cases).

7. Careful and painstaking examination of the record of trial reveals that accused was accorded fully due process of law as provided by the Articles of War (Cf: United States ex rel Innes v. Hiatt 141 Fed. (2nd) 664; CM ETO 2297 Johnson and Loper), and fails to show any action, or ruling by the trial court which prejudiced in any degree the substantial rights of accused. Eleven days elapsed between the service of charges upon him and the date of trial (R5), at which defense counsel specifically stated that accused was "ready" (2)

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(1) THIS IS UNFAIRLY TAKEN OUT OF CONTEXT. AGAIN, NO MENTION OF THE AMMENDMENT TO THE ORIGINAL CONFESSION CLEARLY PREJUDICING THE RIGHRS OF THE ACCUSED. (PAGE 24)

(2) THE DEFENSE ADMITS "CAREFUL AND PAINSTAKING EXAMINATION OF THE RECORD OF TRIAL. BUT FLATLY REFUTES THAT THE ACCUSED WAS AFFORDED DUE PROCESS OF THE LAW. HE FURTHER CONTENDS THAT THIS WAS DONE TO PROTECT THE U.S. GOVERNMENT AND HE WAS DENIED DUE PROCESS (PAGE 18)

to proceed with the trial at this time" (R7). The voluntariness of his confession is attested by the evident fact that he himself wrote it on the flower order form and signed it wholly on his own initiative before submitting it to military authorities. Under the circumstances it constituted a particularly credible and damning piece of evidence, as accused obviously intended it should be. In view of the clear evidence of accused's guilt of each Specification, the presence of leading questions in the record of trial may not be deemed to have injuriously affected his substantial rights (CFR ETC 4320, Skovan). There is nothing in the record of trial to indicate that accused was other than sane and responsible for his acts either at the times of the offenses or at the time of trial. The statement of the division neuropsychiatrist dated 26 October 1944, and contained in the accompanying papers, is an affirmative indication of accused's sanity and responsibility at those times.

8. The charge sheet shows that accused is 24 years eight months of age and was inducted at Detroit, Michigan, 3 January 1944 and subsequent service as follows:

"assigned D-59 Inf Tng Cn, Cp Wolters, Tex 31 Jan 44; attached GFD #1 Ft Meade Md 11 July 44; attached to GFRS 14 Aug 44; attached to 3rd Replacement Depot 19 Aug 44; assigned to Co G, 109 Inf"

9. The court was legally constituted and had jurisdiction of the person and offenses. No errors injuriously affecting the substantial rights of accused were committed during the trial. The Board of Review is of the opinion that the record of trial is legally sufficient to support the findings of guilty and the sentence.

10. The penalty for desertion committed in time of war is death or such other punishment as the court-martial may direct (AR 58).

[Signature] Judge Advocate
[Signature] Judge Advocate
[Signature] Judge Advocate

IN MY OPINION THIS WAS A MASTERFUL LEGAL DOCUMENT.
 HAD THESE OFFICERS KNOWN OF THE EXISTENCE OF
 AMMENDMENT TO THE ORIGINAL CONFESSION (PAGE 24)
 THEY WOULD HAVE RULED DIFFERENTLY

THE MAIN CRUX OF THE CASE FOR THE DEFENSE IS ³⁰
 WHERE WAS THE OFFICIAL DOCUMENT (THE AMMENDMENT
 PAGE 24); AND FURTHER WHEN AND BY WHOM WAS IT
 INSERTED INTO THE RECORD?

[Signature]

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(162)

1st Ind.

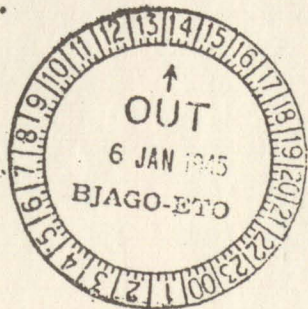
War Department, Branch Office of The Judge Advocate General with the European Theater of Operations. **6 JAN 1945** TO: Commanding General, European Theater of Operations, APO 887, U.S. Army.

1. In the case of Private EDDIE D. SLOVAK (36896415), Company G, 109th Infantry, attention is invited to the foregoing holding by the Board of Review that the record of trial is legally sufficient to support the sentence, which holding is hereby approved. Under the provisions of Article of War 50, you now have authority to order execution of the sentence.

2. This is the first death sentence for desertion which has reached me for examination. It is probably the first of the kind in the American Army for over eighty years, - there were none in World War I. In this case, the extreme penalty of death appears warranted. This soldier had performed no front line duty. He did not intend to. He deserted from his group of fifteen when about to join the infantry company to which he had been assigned. His subsequent conduct shows a deliberate plan to secure trial and incarceration in a safe place. The sentence adjudged was more severe than he had anticipated, but the imposition of a less severe sentence would only have accomplished the accused's purpose of securing his incarceration and consequent freedom from the dangers which so many of our armed forces are required to face daily. His unfavorable civilian record indicates that he is not a worthy subject of clemency.

3. When copies of the published order are forwarded to this office, they should be accompanied by the foregoing holding, this indorsement and the record of trial which is delivered to you herewith. The file number of the record in this office is CM ETO 5555. For convenience of reference, please place that number in brackets at the end of the order: (CM ETO 5555).

4. Should the sentence as imposed by the court and confirmed by you be carried into execution, it is requested that a full copy of the proceedings be forwarded to this office in order that its files may be complete.



E. C. McNeil

E. C. McNEIL,
Brigadier General, United States Army,
Assistant Judge Advocate General.

1 Inc[]:
Record of Trial

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PLEASE REFER TO PAGES 16 and 17 "CLEMENCY"

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ETOUSA

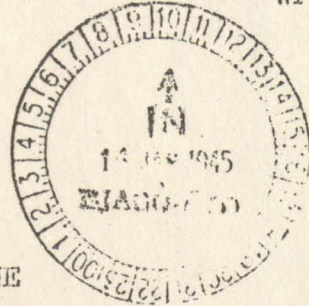
STAFF MESSAGE CONTROL

OUTGOING CLASSIFIED MESSAGE

WFH/hf

42822

DATED JAN 13 1429A '45



~~CONFIDENTIAL-ROUTINE~~

PROM : Eisenhower
ACTION TO : 28th Infantry Division
REF NO : E-85620

Sentence of death imposed on Pvt Eddie D Sloyik, 36896415, Company G, 109th Infantry by General Court appointed by you has been confirmed and Article of War 50 $\frac{1}{2}$ complied with.

The Provost Marshal, 28th Infantry will direct the execution under your supervision. Request designation of time and place of execution in order to permit publication of General Court Martial Order.

Not less than 7 days should be allowed for transportation of prisoner now held at this Headquarters, publication and transmittal of General Court Martial Order.

ORIGINAOTR : JA Section
INFO : S/GS
G-1
TPM
AG Mil Pers
Branch Office TJAG
Log
Summary

COPY No. 10

CONFIDENTIAL EXACT COPY OF THIS MESSAGE IS FORBIDDEN ETO OUT 42822

AC 201 Slovik, Eddie J. (GP)EFEB 2nd Ind.
Headquarters, European Theater of Operations, APO 887. 26 January 1945.

To: Assistant Judge Advocate General, Branch Office The Judge Advocate
General with European Theater of Operations, APO 887.

Returned herewith Record of Trial and 12 Confidential copies of
General Court-Martial Orders No 27, this headquarters, dated 23 Jan 1945.

For the Theater Commander:

2 Incls:
Added 1 Incl.
Incl 2 - GCMO #27, this
hq, dtd 23 Jan 45,
(12 copies).

W. A. McWILLIAMS,
Lt. Col., A.C.G.,
Asst Adj General.

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HEADQUARTERS
EUROPEAN THEATER OF OPERATIONS
UNITED STATES ARMY

Received
27 JAN 1945 / dhrs,
Board of Review
BOTJAG-ETO

General Court-Martial
Orders No 27

23 Jan 1945

Before a general court-martial which convened at Rotgen, Germany, on 11 November 1944, pursuant to paragraph 1, Special Orders No 174, Headquarters, 28th Infantry Division, 16 August 1944, as amended by paragraph 12, Special Orders No 204, Headquarters, 28th Infantry Division, 25 September 1944, was arraigned and tried:

Private Eddie D. Slovik, 36896415, Company G, 109th Infantry.

CHARGE: Violation of the 58th Article of War.

Specification 1: In that Private Eddie D. Slovik, Company G, 109th Infantry did, at or near Elbeuf, France, on or about 25 August 1944, desert the service of the United States by absenting himself without proper leave from his organization, with intent to avoid hazardous duty and to shirk important service, to wit: action against the enemy, and did remain absent in desertion until he was delivered to United States military authorities by Canadian military authorities at or near Brussels, Belgium, on or about 4 October 1944.

Specification 2: In that Private Eddie D. Slovik, Company G, 109th Infantry did, at or near Rocherath, Belgium, on or about 8 October 1944, desert the service of the United States by absenting himself without proper leave from his organization, with intent to avoid hazardous duty and to shirk important service, to wit: action against the enemy, and did remain absent in desertion until he surrendered himself at or near Rocherath, Belgium, on or about 9 October 1944.

PLEAS

To the Specifications and the Charge:

NOT GUILTY

FINDINGS

Of the Specifications and the Charge:

GUILTY

SENTENCE

To be dishonorably discharged the service, to forfeit all pay and allowances due or to become due and to be shot to death with musketry. (No previous convictions considered)

The sentence was adjudged on 11 November 1944.

The action of the convening authority is:

290498

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~~CONFIDENTIAL~~

(GCMO 27, 23 Jan 1945, contd)

"HEADQUARTERS, 28TH INFANTRY DIVISION
APO 28, U. S. ARMY
27 November 1944

In the foregoing case of Private Eddie D. Slovik, 36896415, Company G, 109th Infantry, only so much of the sentence as provides that the accused be shot to death with musketry is approved and the Record of Trial forwarded for action under Article of War 48.

s/ Norman D. Cota **27 JAN 1945**
t/ NORMAN D. COTA
Major General, U.S.A.
Commanding
Record of trial examined by the Board of Review with the concurrence of the Assistant Judge Advocate General, Branch Office of TJAG, with ETO and found legally sufficient to support the sentence.
[Signature]
Chairman, Board of Review

The action of the confirming authority is:

"HEADQUARTERS
EUROPEAN THEATER OF OPERATIONS
UNITED STATES ARMY

In the foregoing case of:
Private Eddie D. Slovik, 36896415,
Company G, 109th Infantry,
the sentence, as approved, is confirmed. Pursuant to Article of War 50 $\frac{1}{2}$, the order directing the execution of the sentence is withheld.

s/ Dwight D. Eisenhower
t/ DWIGHT D. EISENHOWER
General
United States Army
Commanding.

23 December 1944."

The sentence having been modified and approved by the convening authority, confirmed by the Commanding General, European Theater of Operations, and Article of War 50 $\frac{1}{2}$ having been complied with, will be carried into execution on 31 January 1945, at 109th Infantry Area, France.

The act of execution will be under the direction of the Provost Marshal, 28th Infantry Division.
(CM ETO 5555).

By command of General EISENHOWER:

R. B. LORD,
Major General, GSC, Deputy Chief of Staff.

OFFICIAL
EUROPEAN THEATER OF OPERATIONS
UNITED STATES ARMY
OH-EUROPEAN THEATER OF OPERATIONS
OFFICIAL
[Signature]
R. B. LOVETT,
Brigadier General, USA, Adjutant General.

THIS IS THE DIRECT ORDER
TO EXECUTE PRIVATE SLOVIK.
IT DOES NOT STATE THAT "IKE" SIGNED

DISTRIBUTION: M
(Special)

~~CONFIDENTIAL~~

(To be retained as part of file)

~~CONFIDENTIAL~~

CM ETO 5555 NAME Pvt. EDDIE D. GIOVIL ORG. Co. G, 109th Inf.
(36896415)

TRIED 11 Nov 1944, at Otzen, Germany. At time of commission of offense
accused was 24 years 8 mos. of age, having completed 7 yrs. 7 mos. service.

OFFENSES OF WHICH CONVICTED

CHARGE : Violation of AM 58

Spec 1: Desertion to avoid hazardous duty

Spec 2: Desertion to avoid hazardous duty

MAXIMUM AUTHORIZED SENTENCE, DD, TF, CH L Death YRS. - MOS.
SENTENCE IMPOSED 11 November 1944, DD, TF, CHL Death / by musketry YRS. - MOS.
REDUCED BY R.A. 27 November 1944, TO DD, TF, CHL DEATH YRS. - MOS.
PREVIOUS CONVICTIONS None

FIELD REVIEW ADOPTED? No as to summary of evidence only.
RECORD LEGALLY SUFFICIENT AS TO FINDINGS? Yes SENTENCE? Yes
CLEMENCY RECOMMENDED? No

REMARKS:

[Signature]
CHAIRMAN FOR BOARD OF REVIEW

~~CONFIDENTIAL~~

~~RESTRICTED~~

SPECIAL ORDERS)
NUMBER 16)

HEADQUARTERS 28TH INFANTRY DIVISION
APO 28, U. S. ARMY, 27 January 1945
28TH - ROLL ON

E X T R A C T

1. The following listed personnel are detailed for duty as follows in connection with the execution of a sentence of death by shooting imposed by a General Court-Martial upon Private Eddie D Slovik 36896415 Co "G" 109th Inf. Personnel so designated will report for duty to the Director of the Execution at the Office of the Provost Marshal, this hq, at 310830 Jan 1945, or such other time as specified by the Director of the Execution:

MAJ WILLIAM FELLMAN 2ND 0322317 CMP	- Hq 28th Inf Div	-- Director of Execution
1ST LT ZYGMONT E KOZIAK 01286506 CMP	- Hq 28th Inf Div	-- Assistant Director of Execution
2ND LT JOHN J HUCKER 0533262 CMP	- Hq 28th Inf Div	-- Assistant Director of Execution
CHAP (CAPT) CARL P CUMMING 0416665 ChC	- 109th Infantry	-- Chaplain
LT COL HENRY J SOMMER 0321396 JAGD	- Hq 28th Inf Div	-- Recorder
S Sgt John S Glapper 20305981	- Hq 28th Inf Div	-- Recorder's Stenographer
MAJ ROBERT E ROUGELOT 0335793 MC	- Hq 28th Inf Div	-- Medical Officer
MAJ DONALD W LYDDON 026413 MC	- 109th Infantry	-- Medical Officer
CAPT MARION B DAVIS JR 0441358 MC	- 109th Infantry	-- Medical Officer
CAPT CHARLES E GALT 0387153 MC	- 103d Med Bn	-- Medical Officer
LT COL JAMES E RUDDER 0294916 Inf	- 109th Infantry	-- Witness
LT COL VINCENT KEATOR 021283 Inf	- 109th Infantry	-- Witness
LT COL HERMAN A PETERSON 0336122 IGD	- Hq 28th Inf Div	-- Witness
MAJ ORLAND F LEIGHTY 0274040 DC	- Hq 28th Inf Div	-- Witness
CAPT JOHN M COOKENBACH 0461636 FD	- Hq 28th Inf Div	-- Witness
CAPT ROBERT J HUMMEL 0423785 CE	- Hq 28th Inf Div	-- Witness
1ST LT CLARK E MILLER 0447467 Inf	- 109th Infantry	-- Witness
1ST LT PAUL M GALLAGHER 0487002 Inf	- Hq 28th Inf Div	-- Witness

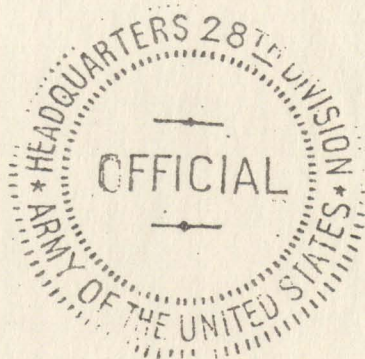
CO, 28th MP Plat will furnish necessary security guard and Prisoner Escort Guard.

**

**

**

By command of Major General COTA:



J. L. GIBNEY,
Colonel, GSC,
Chief of Staff.

P. M. KIENZLE,
Lt Colonel, AGD,
Adjutant General.

Distribution: Special

~~RESTRICTED~~

RESTRICTED

SPECIAL ORDERS)
NUMBER 17)

HEADQUARTERS 28TH INFANTRY DIVISION
APO 28, U. S. ARMY, 28 January 1945
28TH - ROLL ON

EXTRACT

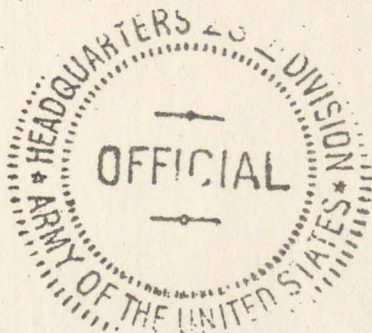
1. The following listed EM are detailed for duty as members of the firing squad to execute the sentence of death by shooting imposed by a General Court-Martial upon Private Eddie D Slovik 36896415 Co "G" 109th Inf. EM will report for duty to the Director of the Execution at the Office of the Provost Marshal, this hq, at 310830 Jan 1945, or such other time as specified by the Director of the Execution:

S Sgt Albert H Bruns	36027946	Co "F", 109th Inf - IN COMMAND
Pvt Aaron Morrison	35656274	Hq Co, 1st Bn, 109th Inf
Pvt James K Baker	35132803	Co "A", 109th Inf
Pfc Oscar R Kittle	33607832	Co "D", 109th Inf
Pfc Earl J Williams	33366036	Co "B", 109th Inf
Pvt John R James	35815616	Co "F", 109th Inf
Pvt Clarence M Revlet	35815637	Co "F", 109th Inf
Pvt Robert A Irons	37644124	Co "G", 109th Inf
Pvt Charles E McDaniel	34936344	Co "G", 109th Inf
Pfc Trinidad Sanchez	36266351	Hq Co, 3d Bn, 109th Inf
Pvt Cass W Carper	36455522	Hq Co, 3d Bn, 109th Inf
Pvt Frank Nawrocki	12182922	Hq Co, 3d Bn, 109th Inf
Pvt Thomas E Keresev	31264843	Hq Co, 3d Bn, 109th Inf

**

**

By command of Major General COTA:



J. L. GIBNEY,
Colonel, GSC,
Chief of Staff.

P. M. KIENZLE,
Lt Colonel, AGD,
Adjutant General.

Distribution: Special

RESTRICTED

- 1 -

EXHIBIT D

~~SECRET~~

HEADQUARTERS 28TH INFANTRY DIVISION
APO 28, U. S. Army

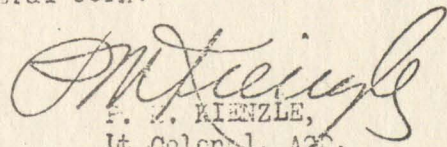
31 January 1945

SUBJECT: Designation of 109th Infantry Area.

TO : To Whom It May Concern.

Department of Upper Rhin, France
Stc. Marie aux Mines/and its immediate vicinity is designated as
an area of the 109th Infantry for the purpose of execution by shooting of
Private Eddie D. Slovik, 36396415, Company G, 109th Infantry on 31 January
1945.

By command of Major General COTA:


F. V. KIENZLE,
Lt Colonel, AGC,
Adjutant General.

PAUL M. KIENZLE, WAS A GOOD FRIEND AND A VERY
COMPASSIONATE NEWSPAPER EDITOR FROM TYRONE PENNSYLVANIA.
HE, COLONEL GUY M. WILLIAMS, MAJOR WILLIAM FELLMAN
AND MYSELF WERE THE FEW REMAINING MEMBERS OF HEADQUARTERS
28TH INFANTRY ORIGINAL STAFF, AS ORIGINALLY CONSTITUTED.

I AM SURE IT WAS WITH A HEAVY HEART THAT PAUL AFFIXED
HIS SIGNATURE TO THIS FATAL DOCUMENT.

AFTER THE TRIAL I HAD NO OFFICIAL CONNECTION WITH THE
CASE, I WOULD HAVE CONTESTED THE SHOOTING, AS I AM
SURE MY COMMANDING OFFICER, THE PRESIDENT JUDGE
FROM SCRANTON, PENNA. WOULD ALSO HAVE DONE. (COLONEL
THOMAS LINDS HOBAN)

I, NOR, COLONEL HOBAN WERE UNDER U. S. ARMY CONTROL. 1/31/45
HE WAS SERIOUSLY WOUNDED DURING THE BATTLE OF THE "BULGE")
AND A PRISONER OF WAR OF THE GERMANS IN A GERMAN HOSPITAL.
I WAS ONLY SLIGHTLY WOUNDED AND TAKEN PRISONER ALSO
A WEEK LATER BY THE GERMANS. HAVING GOTTEN AWAY FROM
THE "THIRD REIGHT" THEN THE RUSSIANS HAD ME IN "HOUSE
ARREST (OUR ALLIES OF CONVENIENCE) IN ODESSA, RUSSIA.

COLONEL HOBAN AND I HAD DISCUSSES THIS CASE, BEFORE AND
AFTER THE TRIAL, AND AGAIN WHEN WE WERE BOTH RETURNED TO
THE STATES FOR REST AND REHABILITATION. HE WAS, AS I WAS
EMPATHETIC, BUT BEING SOLDIERS WERE NOT SYMPATHETIC TO
SLOVIK.

COLONEL HOBAN MIGHT HAVE BEEN ABLE TO INFLUENCE GENERAL
COTA. GENERAL COTA STOOD BY HIS DECISION TO HIS DYING
DAY, AND ORDERED ANOTHER SOLDIER SHOT TO DEATH FOR DESER-
TION, AFTER THE SLOVIK CASE. 34

~~SECRET~~
HAD I BEEN PRESENT FOR DUTY AT THE TIME OF EXECUTION,
I NOT ONLY WOULD NOT HAVE WITNESSED IT, IF SO ORDERED, EXHIBIT B
BUT WOULD HAVE RESIGNED MY COMMISSION IN DISGUST. E.J.H.

LIST OF ADDITIONAL MILITARY WITNESSES
PRESENT AT EXECUTION OF
PRIVATE EDDIE D. SLOVIK, 36996415
COMPANY G, 109TH INFANTRY
31 JANUARY 1945

<u>Name</u>	<u>Rank/Grade</u>	<u>ASN</u>	<u>Organization</u>
Norman D. Cota	Maj Gen, USA	05284	Hq, 28th Inf Div
Charles Stanceu	1st Lt	01295618	Co M, 110th Inf
Milton W. Mueller	S/Sgt	20221361	Co E, 110th Inf
Raymond F. Stivison	1st Sgt	20305577	Co C, 110th Inf
Michael Duda	1st Lt	01321109	Co B, 112th Inf
George Patrick	T/Sgt	12189289	Hq Co, 2nd Bn, 112th Inf
Victor F. Fabiani	S/Sgt	33694101	Co M, 112th Inf
Herbert L. Franklin	Captain	01173952	Btry A, 107th FA Bn
William J. Nagy	S/Sgt	32071482	Btry B, 107th FA Bn
Millard H. Dunnam	Sgt	34135259	Btry C, 107th FA Bn
James W. Hagood	1st Lt	01163699	108th FA Bn
Henry Guz	Sgt	33050021	108th FA Bn
John S. Jankowski	Sgt	37077353	108th FA Bn
Joseph L. Minter	Captain	040820242	109th FA Bn
Nick Gozik	S/Sgt	20314261	109th FA Bn
Tony DiMichele	S/Sgt	20313945	109th FA Bn
James B. Carter	1st Lt	01175069	Btry B, 229th FA Bn
Henry F. Martin	S/Sgt	20315934	Btry B, 229th FA Bn
Jackson E. Breish	Sgt	20315935	Btry C, 229th FA Bn
William F. Thomas	Major	0396646	103rd Engr (C) Bn
James J. McGroarty	S/Sgt	33022828	Co B, 103rd Engr (C) Bn
Joseph L. Viterise	Cpl	32550293	Co A, 103rd Engr (C) Bn
Brice E. Hall	1st Lt	01101855	Hq, 103rd Engr (C) Bn
James W. Hess	Sgt	20300531	28th MP Platoon
Frank J. McKendrick	Sgt	33029048	28th MP Platoon
Orrin W. Fluck	Cpl	33028627	28th MP Platoon
Virgil M. Beetschen	Pfc	36439173	28th MP Platoon
Auburn Kunkester	Pfc	20303180	28th MP Platoon
Gerald A. Corwin	Pfc	36743183	28th MP Platoon
Russell Stanton	Pvt	20301837	28th MP Platoon
Stephen J. French	Pfc	36376600	28th MP Platoon
Joseph Byrnes	Pfc	32600016	28th MP Platoon
James F. Shaughnessy	Pvt	42130323	28th MP Platoon
Steve N. Bucco	Pvt	20306744	28th MP Platoon
Harry R. Jenkins	Pfc	20305783	28th MP Platoon
Ray J. Stevens	Pfc	16127274	28th MP Platoon
Harold E. Mitchell	Pfc	20319621	28th MP Platoon
N. R. S. Thompson	Major	0125089	Hq, 28th Inf Div
Robert E. Milbier	Tec 5	31097011	28th Hq Co
James E. Hawkins	1st Lt	01313602	46th QM GR Co
S. Maita	Sgt	39025540	46th QM GR Co
James L. Hardy	Pfc	35497084	46th QM GR Co
Thomas W. Turner	Pfc	35463843	46th QM GR Co
Sergius P. Peachin	Captain	0516932	Co D, 103rd Med Bn
Edward L. R. Elson	Chap (Col)	0276662	Hq, XXI Corps
K. M. Bigelow	Captain	0344307	Hq, XXI Corps
Robert L. Broward	M/Sgt	34024870	XXI Corps MP Platoon
Wm. H. Ellsworth	Lt Col	0318424	Hq, 3rd Inf Div
Ralph J. Smith	Chap (Lt Col)	0387339	Hq, 3rd Inf Div
James K. Watts	Major	0314309	Hq, 3rd Inf Div
Lloyd E. Langford	Chap (Maj)	0349150	Hq, 3rd Inf Div
James W. Taylor	Captain	01300883	Hq, 3rd Inf Div

EXHIBIT E

AP0 887

BOTJAG-E 016

In reply refer to;
CM ETO 5555

1 February 1945

SUBJECT: CM ETO 5555, Private FDDIE D. SLOVIEK (96896415),
Company G, 109th Infantry.

TO : Staff Judge Advocate, Headquarters 28th Infantry
Division, APO 28, U. S. Army.

1. Herewith transmitted is copy of the holding of the Board of Review in the case of the soldier named above. You will note that the Board found the record legally sufficient to support the findings of guilty and the sentence. I approved the holding of the Board of Review.

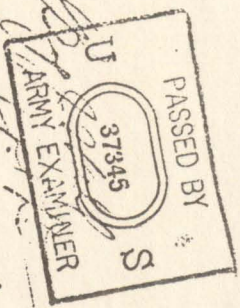
2. The General Court-Martial Order ordering execution of the sentence at 109th Infantry Area, France, on 31 January 1945, was published by Headquarters European Theater of Operations (COMO No. 27, dated 29 January 1945).

E. C. McNEIL,
Brigadier General, United States Army,
Assistant Judge Advocate General.

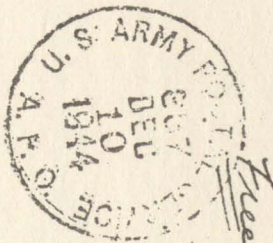
1 Incl;
Copy Holding of
Board of Review.



Pat. Estate D. Blouck
A. S. N. # 36 896 415
Co. H. 109th Inf.
A. P. Co. 28th
75 Parkman New York N.Y.



Charles Judge Albrecht
Section
F. T. O. U. S. A. A. P. O. 887
U. S. Army



Free
5555

5555

General Eisenhower: Dec 9th.
Board of Reviewing.

Dear Sir:
I Private Eddie D Slovick
A.S.N. #36896415 was convicted
the 11th day of November year 1944
Armed Day by General Court
Martial to be shot to death for
desertion of the United States Army

Dear Sir:
The time of my conviction
or before my conviction I had no
intentions of deserting the army
whatsoever, for if I intended
too I wouldnt have given or
surrendered myself as I did. I
have nothing against the United
state army whatsoever. I
merely wanted a transfer from
the line. I asked my C.O. when I
came back if there was a possible
chance of my being transferred
cause I feared hazardous duty to
5555

4/11 8-4

5555

to myself, and because of my nerves.
I'll admit I have some awfull bad
nerves, which no doubt in my mind
we all have. I was refused this
transfer.

Dear Sir:

I must tell you more about
my past, I assume you have my
records of my past crimnall life
in my younger stage of life, after
being released from jail I was
put on a two year parole after
spending five years in jail. In
them two years that I was on
parole I got myself a good job
cause I was in class 4-F the
army didnt want anything to
do with me at the time. So
after five months out of jail I
decided to get married which I
did. I have a swell wife now
and a good home. After being
married almost a year and a half
I learned to stay away from bad

5555

26

company which was the cause of
my being in jail. Then the draft came,
I didn't have to come to the army
when they called me. I would ~~not~~
went back to jail. But I was ~~not~~
sick of being locked ^{up} all my life so
I came to the army. When I went
down to the draft board, I was
told that the only reason they
were taking a chance on me in
the army was cause I got married
and had a good record after being
out of jail almost two years. To
my knowledge sir I have a good
record in the past two years,
I also have a good record as a
soldier up to the time I got in
this trouble. I tried my best to do
what the army wanted me to
do till I first ran away or
should I say left the company. 27

Dear Sir:

I don't believe I ran away tho

5555

first time as I stated in my first
confession. I came over to France as
a replacement; and when the enemy
started to shelling us I got scared
and nervous that I couldn't move out
of my fox hole. I guess I never did
give myself the chance to get over
my first fear of shelling. The next
day their wasn't any American
troops around so I turned myself
over to the Canadians M.P.s. They
in turn were trying to get in
touch with my outfit about me.
I guess it must have taken them
six weeks to catch up the
American troops. Well sir, when
I was turned over to my outfit
I tried to explain to my C.O. just
what took place, and what had
happened to me. Then I asked for
a transfer. Which was refused. Then
I wrote my confession. I was then
told that if I would go back out

28

5555

the line they would destroy my confession, however if I refused to go back on the line they would have to hold it against me which they did.

Dear Sir:

How can I tell you how humbly sorry I am for the sins I've committed. I didn't realize at the time what I was doing, or what the word desertion meant. What it is like to be condemned to die. I beg of you deeply and sincerely for the sake of my dear wife and mother back home to have mercy on me. To my knowledge I have a good record since my marriage and as a soldier. I like to continue to be a good soldier.

Anxiously awaiting your reply, which I earnestly pray is favorable. God bless you and in your work to victory.

I Remain yours for
Victory 5555

Pat. Eddie D. Slovik

SLOVIK WAS WELL AWARE OF THE ELEMENTS OF DESERTION. THEY WERE EXPLAINED TO HIM IN EXPLICIT TERMS BY THE DIVISION STAFF JUDGE ADVOCATE, MYSELF, AND I AM SURE BY THE INVESTIGATING OFFICER.

HE FIRST REALIZED THE GRAVITY OF HIS SITUATION WHEN THE COURT SENTENCED HIM TO DEATH.

HAD HE WITHDRAWN HIS CONFESSION OR TAKEN THE STAND AS A WITNESS IN HIS OWN BEHALF, IT WOULD HAVE BEEN ALMOST ROUTINE FOR ME OR ANY DEFENSE COUNSEL TO GET HIM OFF WITH BEING "AWOL". BUT HE WANTED A LONG JAIL SENTENCE--BUT NOT "DEATH"

HEADQUARTERS
EUROPEAN THEATER OF OPERATIONS
UNITED STATES ARMY

· APO 887
19 Dec 1944

AG 201 - Slovik, Eddie D. (Enl)MPES

SUBJECT: Clemency

TO : Private Eddie D. Slovik, 36896415

THRU : Commanding Officer, Paris Detention Barracks, Paris, France.

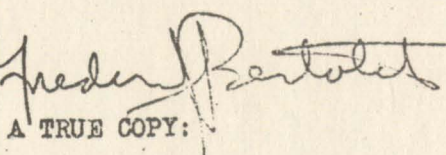
1. Receipt is acknowledged of your letter of 9 December 1944 requesting that the Theater Commander exercise clemency and reduce the sentence for the offenses of which you were found guilty by general court-martial.

2. The evidence in every case tried by an Army court-martial is carefully and thoroughly reviewed before the sentence is carried out, and the question of clemency is given due consideration in every case where the circumstances so warrant.

3. Final action has not been taken upon your case, but you may be sure that the evidence in the record of trial and the matters which you have presented in your letter will be carefully examined and that your plea for clemency will be given every possible consideration before final action is taken. (1)

By command of General EISENHOWER:

s/ R. A. McWilliams
R. A. McWILLIAMS
Lt. Colonel, AGD
Asst Adj General


A TRUE COPY:
FREDERICK J. BERTOLET
Major, JAGD (2)

31

- 1 -

- (1) IN THE SEVERAL PAGES PRECEDING, WHEREIN PVT SLOVIK IS LITERALLY PLEADING FOR FORGIVENESS AND MERCY, HE IS ASSURED, ALBEIT NOT GUARANTEED, CONSIDERATION AS A SUBJECT OF CLEMENCY BY VIRTUE OF THIS LETTER.
- (2) ENTER MAJOR BERTOLET AGAIN. HE COULD HAVE MORE PROPERLY BEEN CAST AS A "CLOAK & DAGGER MAN" IN THE INTELLIGENCE CORPS, RATHER THAN THE MUNDANE ROLE OF AN ASSISTANT JUDGE ADVOCATE GENERAL. HE COMPLETELY IGNORES THIS LETTER RELATING TO CLEMENCY. HE APPEARS, TO ME, TO JUDGE AND JURY, AND IN MY OPINION COULD HAVE VOLUNTEERED TO PLAY THE ROLE OF THE "EXECUTIONER".

CPH