

MEMBER: Thank you very much for your explanation. I have no further questions.

CHAIRMAN: You may proceed.

COUNSEL: Mr. Woods, please.

CHAIRMAN: Mr. Woods, would you stand, please, and raise your right hand? You are Mr. Edward Woods?

WITNESS: Yes, sir.

(A Witness, Edward Woods, was duly sworn by the Chairman.)

QUESTIONS BY COUNSEL OF WITNESS (Mr. Edward Woods):

Q Mr. Woods, at present you live in Lansdale, Pennsylvania, do you not?

A That is correct.

Q And you served your country in the Second World War in the United States Army, did you not?

A Yes, sir.

Q Among other duties during the latter part of the war you defended people who were charged with Army violations and participated in the defense of people at courts martial, did you not?

A I did, sir.

Q One of those persons was Eddie Slovik, was he not?

A Yes, sir.

Q You are not a lawyer by training, are you?

A No, sir.

Q And were not then?

A No, sir.

Q Did you participate in the Slovik case and on the day that he was tried, November 11, 1944, and sentenced to die?

A Except for attesting to the correctness of the transcript of the trial as defense counsel before it is signed by the President of the Court and the trial Judge Advocate.

Q Following that trial where you defended Private Slovik, did you then return to your unit and to combat?

A Yes, sir.

Q And were you in combat and in fact wounded in action?

A Yes, sir.

Q And captured by the enemy?

A The Germans and the Russians.

Q And have you in the last few years attempted on your own and with other people to try to do what you could to help Mrs. Slovik for the remaining years of her life?

A Yes, sir.

Q Why have you done that?

A Out of compassion, one human being for another.  
A colleague of mine, who will later be called to the witness stand, Mr. Robert DeFinis, happened to see Mrs. Slovik on a televised show from Detroit, in which she made a plea for help, and at that point in time Mr. DeFinis and I agreed that we would do what we could to help her in her desperate situation.

COUNSEL: Gentlemen, I have no other questions.

CHAIRMAN: Any questions by the Board? Mr. Woodside?

MEMBER: Yes, I have a couple of questions.

QUESTIONS BY MEMBER OF THE WITNESS (Mr. Woods):

Q Mr. Woods, as I recall the record of the trial, you counseled Private Slovik to remain silent. As I recall, the Presiding Officer explained to Private Slovik his options, his alternatives, and then he asked him whether he wanted to testify, remain silent, or what he wanted to do. Private Slovik apparently consulted with you and you advised him to remain silent. Would you tell us why you did that?

A I don't know where you got that information, sir, because the election to remain silent was strictly Private Slovik's decision and not mine.

MEMBER: May I ask the Secretary to read the part of the trial, which as I recall said that Private Slovik consulted with his counsel.



EXAMINER: "The court then at 10:50 o'clock A.M. took a recess until 11:00 o'clock A.M. Defense: Accused understands his rights as a witness and elects to remain silent but Defense requests that the Law Member advise the accused as to his rights as a witness. Law Member to accused: Private Slovik, it is my duty to explain to you that you have the legal right to: (1) Be sworn as a witness and testify in your own behalf under oath like any other witness and be subject to cross-examination on the whole substance of any particular specification concerning which you testify in explanation or denial; (2) Make an unsworn statement either written or oral. It may be made by you or counsel or both. It will be taken for what it appears to be worth in explanation, denial, or excuse, and you will not be subject to cross-examination on it; (3) Remain silent in which case no inference of your guilt or innocence will be drawn by the court nor will the trial judge advocate comment upon your silence in his closing argument. Take time to confer with your counsel and decide what you intend to do. At this point the accused conferred with his defense counsel. Private Slovik: I will remain silent. Defense: The defense rests."

MEMBER: Do you have any recollection as to why you would give him that advice at that time, or do you not remember?

WITNESS: Sir, I never advised the man to remain silent. There is nothing in the record to indicate that, and I have a vivid

recollection that it was his decision to remain silent.

COUNSEL: Is there some particular part of the record is indicating that it is his advice to Private Slovik to remain silent?

MEMBER: No. The reason I asked the question was that the record indicates that Private Slovik conferred with his counsel then announced that he had decided to remain silent. I assumed that the counsel must have advised him and I wondered why.

CHAIRMAN: Would you read that part of the record, please?

COUNSEL: Excuse me. I think he has indicated that he did not so advise him. Of course, Mr. Woods wasn't a lawyer, but many times a lawyer has a conference at a point and a decision is made and it is not necessarily based upon the recommendation of counsel. But to look at the record fairly I don't see anything in the record which indicates that Mr. Woods advised Slovik to remain silent. It is just a matter of interpretation.

MEMBER: I would agree; but then I have one more question.

CHAIRMAN: I would like to have that part of the record read.

EXAMINER: "At this point the accused" --

COUNSEL: Can I have the page number.

EXAMINER: It is on page 16.



COUNSEL: Okay; I have it.

EXAMINER: "At this point the accused conferred with his defense counsel. Private Slovik: I will remain silent."

CHAIRMAN: Thank you. I think at least that shows what the record reflects. And we have no testimony.

MEMBER: Mr. Woods, you have testified that you did not advise him to remain silent. Do you recall what advice you did give him?

WITNESS: As far as whether he should make one of these selections?

MEMBER: Yes.

WITNESS: I would have preferred that he take the stand in his own defense.

Q Did you so advise him?

A Yes, sir.

Q Did he indicate to you any reason why he decided not to do that?

A He said he would prefer not to.

Q But no reason.

A No, sir, he did not advance a reason. Of the several court martials where I was counsel for the defendant, maybe 20 in number, he was the only one who elected to remain silent.

Q And you say you had represented clients at about 20 court martials?

A Yes, sir.

Q Were any of those of as serious a nature as this one?

A Yes, sir; we had some desertion cases.

Q May I ask if you felt that you were well qualified to represent Private Slovik at this kind of case?

A Yes, sir; I feel now that I was and I feel that at the time I was.

Q Do you have any feeling that your handling of the case was inadequate at that time in any way?

A No, sir.

Q In your opinion did Private Slovik receive a fair hearing at the court martial?

A Yes, sir.

MEMBER: I have no further questions.

CHAIRMAN: Mr. Miller?

QUESTIONS BY MEMBER OF THE WITNESS:

Q I am just wondering if you could expand a little bit on this. You have said that you decided to assist Mrs. Slovik several years ago and you did several things to get help for her. Could you tell us what you did?

A Yes, sir.

Q Briefly.

A We saw Mrs. Slovik, I believe it was in May of 1974, which is a little over three years ago.

COUNSEL: Saw her on television.

WITNESS: Saw her on television; yes. And the first opportunity that we had to do anything in a positive manner was when Mr. Ford assumed the Presidency from President Nixon. Shortly thereafter he indicated that there was going to be a form of amnesty, and before amnesty became a fact -- this I believe was in September, but I am not sure today -- but it was several months after we had seen Mrs. Slovik on television -- the first thing I did was to send a telegram to now President Ford asking that any amnesty should include Private Slovik.

Do you wish me to speak further?

COUNSEL: Yes; sure.

MEMBER: I would like to know what the response was.

COUNSEL: Yes.

WITNESS: The response, we carbon copied that to two State Senators from Pennsylvania and our Congressman, and we didn't get any reply from the Congressman and we got a mimeographed or stereotyped replies from two Senators from Pennsylvania, Senator Scott and Schweikert, that they would look into this and we would hear from



them later, and we never heard from them. We contacted Father Theodore Hesberg (phonetical) who by this time was on the Amnesty Board. The word had become fact. We received a sympathetic response from him and he said he would do what he could and he took it up with whoever was then the Chairman of the Amnesty Commission. The only other person with whom we corresponded and the correspondence in and out between governmental offices and myself and Mr. DeFinis, numbers over 100 exchanges of correspondence, and the only one who really had any deep empathy for our situation was the now deceased Senator Phillip Hart.

MEMBER: In the extent of your correspondence in trying to get something to assist Mrs. Slovik --

A We went through all the known agencies. We got negative from the Justice Department, negative from the Personal Counsel to the President of the United States, negative from the Adjutant General of the Army. He said, in effect, that it was impossible to give Private Slovik a pardon because it could not be done posthumously. We have letters from the Judge Advocate General's Department who is the office of record on this case and who I was told had all the records. These I never saw before. We got a negative reply from them, that they did not have jurisdiction. Now I understand that they do have jurisdiction in this

case. We learned of the existence of your Board through two people. One was Mr. Charles Reno, whose great-uncle was vindicated by this very Board, and from one young gentleman of the Judge Advocate General's Department who was very helpful to us. And that is how we knew of the existence of this Board.

MEMBER: Thank you.

CHAIRMAN: Mr. Hise, any questions?

QUESTIONS BY MEMBER OF THE WITNESS:

Q Yes. For the record, Mr. Woods, in your mind at this point there is no doubt that you were qualified at the time as counsel to represent Private Slovik?

A Yes, sir. You don't keep score on this, but I had people who had benefit of my counsel -- there were four acquittals, and there was only one case tried after the Slovik case before I was captured. I think that record speaks for itself.

Q Based on the other desertion cases --

A Yes, we had at least several. One -- well, in all of the desertion cases it was possible for me, as far as I can remember -- we are going back a long time.--

Q I realize that.

A -- to get the sentence reduced to the lesser offense of absence without leave, which in effect was --



Q You mean plea bargaining before --

A There was no plea bargaining in the Army.

Q In other words, the charges were not reduced prior to trial, is what you are saying.

A No, sir.

Q You came in with a lesser conviction.

A That's right. The court arrived at that.

Q Right. Were any of these other cases -- what was the maximum sentence on the others? Do you recall?

A Yes. I think ten years was the maximum, at hard labor.

Q Did any of them involve desertion in the face of the enemy or while combat was going on?

A Yes, they were all desertions in the immediate combat area.

Q In other words, desertion from the unit in order to avoid combat.

A That's correct, sir.

Q As opposed to other types of desertion.

A Yes, sir.

Q In what period of time would that have been in comparison to Private Slovik's desertion?

A The court was constituted in -- you have the record there -- in the early part of 1944.

EXAMINER: 16 August 1944 this court was appointed.

A Yes, and it was appointed by General Cota, and it was the only court that I knew of between the time of that appointment in August, and when I was captured by the enemy the 23rd day of December 1944, was a period of less than six months.

MEMBER: So you had served as defense counsel for many cases previous to this particular court?

A That's correct.

Q Were you ever requested as defense counsel in addition to being appointed counsel?

A No, sir.

MEMBER: That's all I have.

CHAIRMAN: Mr. Stroud, do you have any questions?

QUESTIONS BY MEMBER OF THE WITNESS:

Q Yes. Mr. Woods, you were present at the trial?

A Yes, sir.

Q You were appointed the 15th of August?

A That's correct, sir.

Q Between the 16th of August and the 14th of November when he was convicted, how many times did you talk to Eddie Slovik?



A I think the conviction was the 11th of November.

Q How many times between the time of your appointment and the actual trial did you talk to Eddie Slovik?

A Did I talk to him?

Q Yes. Did you?

A Oh, yes, sir.

Q How many times?

A I talked to him a dozen times or maybe more.

Q You stated you felt you were qualified. Why do you feel that you were qualified? What background did you have to qualify you?

A Well, first of all, I was following a direct order from a General Officer of the United States Army when I was appointed to this Board.

Q That doesn't qualify you.

A That is correct, sir, but I do feel that he took the recommendation of someone other than his own.

Q What was your civilian background?

A I was in Management, Business Management, and I had studied business law, and it is required that every officer be familiar with military law.

Q I understand that.

A And I had been a summary court officer -- that's like a Captain's Mast in the Navy where you were a single officer. I had been the investigating officer for both the general court and the special court, and I was the trial judge advocate for the special court; so I had considerable experience in Military Justice.

Q Let's go back. At the Headquarters, what type of building in Germany was it? A tent out in the field, a bombed out building?

A No, sir. It was the City Hall in Rotgen, Germany.

Q The attendance, the people in the immediate company of Eddie Slovik, were they present, any of them?

A I don't understand the question, sir.

Q The company that Eddie Slovik had been in --

A Were they present at the trial?

Q Yes.

A Yes, sir, they were.

Q Now, the 28th had been in heavy combat. Was there an air of hostility toward Eddie Slovik on the part of the men in his company, because the trial sure was swift and final.

A No members of his company were Regiment, exhibited any hostility that I noticed.



Q Did you talk to any of them?

A Yes, sir, I believe I did.

Q What was the general attitude, would you say?

A I don't think they gave it very much thought at all. They didn't know the man. They didn't know him. He hadn't been with the company but a few hours. Nobody knew him.

Q Did you find out when he deserted supposedly from the 25th of August '44 to 3 October '44 for a period of 40 days -- where could he have gone -- and it was combat -- where could he have gone and not have been picked up? Did you ask him this? Where was he for 40 days?

A Well, it's a matter of record.

Q I am asking you.

A He was with the Canadian Military Police.

Q For 40 days?

A In that neighborhood of time; yes.

Q Why did it take them so long to get him back to his unit?

A Apparently somebody didn't do their job, because I know if it had been the American forces and we had a Canadian we certainly would have notified the Canadians.

Q At the time you defended Eddie Slovik he was 24 years old. How old were you, sir?

A I was a little less than two years older than Eddie.

MEMBER: Thank you.

QUESTIONS BY CHAIRMAN OF THE WITNESS:

Q Mr. Woods, may I ask you if you were the sole defense counsel at this court martial?

A I was in this particular case; yes, sir. But there was an assistant defense counsel, and in most cases he is present with me. But on this particular day the record will show that he was absent.

Q Was he with you in the preparation of the case before it came to trial?

A I don't remember. He probably was because I discussed it with him. I discussed all cases with him because it was always a possibility that I could become a casualty.

Q After Private Slovik was convicted, did you have any further counsel with him?

A No, sir, I did not. I seem to recall having seen him once afterwards, the next day, at the stockade where he was being held. And the only thing that after the sentence was announced, he asked if I would have a Catholic Chaplain visit him, and those arrangements I made.

Q Were you then relieved of any further duties?

A Except for the authentication of the record, yes, sir. In the military court once a determination has been made it is no longer the responsibility of the defense counsel or any other member of the court.

CHAIRMAN: Mr. Williams, do you have any questions?

EXECUTIVE SECRETARY: I have none, sir.

CHAIRMAN: Mr. Woodside has further questions.

QUESTIONS BY MEMBER OF THE WITNESS:

Q Mr. Woods, I don't want to ask you to breach your counsel-client relationship in the answer to this question. I am not sure if that would happen or not, but in your discussion with Private Slovik, did you discuss with him his reasons for desertion? Did he tell you this?

A That is privileged information.

Q If you feel it would be inappropriate for you to mention.

Now, the next question is: Mr. Stroud made a point of the length of the court martial.

A He did. I haven't read Guinness' Book of Records to see which is the shortest trial on record, but Chappaquiddick was one of them.



Q Do you feel, looking back on it now, do you feel that there was any information or anything that could have been presented that wasn't presented?

A No, sir.

Q Do you feel that there could have been any change in the result if you had spent more time?

A If Private Slovik had withdrawn his confession which he made voluntarily, it would not have given the prosecution, as they are called -- they had a dual role in the Army, to present the Government's case -- it would have given some means for the court to make a determination other than they did. But the most damning type of evidence or piece of evidence is a voluntary confession.

Q Did you advise Private Slovik that he could withdraw that confession if he so chose?

A Yes, sir.

Q What was his reply?

A He would not withdraw it.

Q Did he state any reason to you?

A No, sir. The record will attest that he was warned that this would be damaging, and he reaffirmed that he wanted the confession to stand.

CHAIRMAN: Mr. Hise has a further question.

QUESTIONS BY MEMBER OF THE WITNESS:

Q One more question on the matter of your qualifications: As an officer assigned duties in Military Justice, primarily as defense counse in these cases, you did have a requirement to be familiar with the Military Code.

A The Military Code was not in existence at that time. The Army Regulations and the Manual for Courts Martial 1928 --

Q Okay. You did have Articles of War?

A Yes, sir.

Q And you were familiar with the Articles of War?

A Oh, quite.

Q As you point out, it is different from the Military Code applicble to court martials now. Now, to your knowledge, in order to be assigned as a defense counsel in a general court martial during the time we are talking about now in 1944, it did not require an individual to be qualified as a lawyer.

A It wasn't mandated; no.

Q How many do you estimate you served as defense counsel on that preceded the Slovik trial? Were most of them prior?

A Most of them were prior. I only had one more defense.

Q So he really had better counsel than the first one you represented at that point.

A It was the same counsel.

MEMBER: That's all I have.

CHAIRMAN: There being no further questions --

COUNSEL: I have just a couple more suggested by the other questions:

QUESTIONS BY COUNSEL OF THE WITNESS:

Q Mr. Woods, did you make the argument to the people sitting in judgment of Eddie Slovik, that the return after the one-day separation perhaps was such as to indicate that he didn't have the intention, specific intention, to permanently desert from his unit.

A No, sir, I did not.

Q Were you aware generally that in desertion cases there is a specific intention required that the accused intended this to permanently separate himself from the service?

A The degree of permanence is academic. The intention not to return to the unit, be it fleeting for a couple of weeks or a couple of years, is academic. It is the intent not to serve with the unit to which you are assigned.

Q So you made no such argument based upon the statement you just made?

A That is correct.



Q You were asked about other desertion cases. Were there other desertion cases? You mentioned one that got ten years as a sentence. Were there other desertion cases where the person returned the next day and pleaded to have some alternate service that he might have rather than fire a gun, of which he was terrified?

A There was one such case that resulted in an acquittal. But the man was so physically unemotional that it was apparent that he was a boy without a great deal of education, but he was not as bright as Eddie Slovik. And in that case it was just so apparent to the court that they recommended that he be withdrawn from the Theater and he was given an acquittal.

Q And did you as his representative and his only representative, did you attempt to find out something about him by whatever means you had by checking with his former Commanding Officer, by checking into his background before he entered the Army, realizing that you were defending someone who faced a possible capital sentence? Did you do any of that?

A No, sir.

Q Did you, after the sentence of death, file any brief or appellate papers, or any attempt on his behalf to have the Reviewing Authority, who would determine whether or not clemency would be granted to him -- did you file any such paper to get whoever was going to look

at this fellow's background, to look a little bit more deeply than what was available to you when you defended him?

A No, sir, I did not.

Q That was not your job?

A No, sir.

COUNSEL: Thank you. That's all I have.

CHAIRMAN: I wonder if at this point -- now, we have talked about the intention to permanently remain away. Would you read Article of War 58 into the record, please?

EXAMINER: Article of War 58: "Desertion. Any person subject to military law who deserts or attempts to desert the service of the United States shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct, and, if the offense be committed at any other time, any punishment, excepting death, that a court-martial may direct."

CHAIRMAN: As I understand your testimony, you are saying the intent to remain away permanently is no part of the offense.

WITNESS: Oh, yes. I admit that. But it doesn't have to be permanently. It can be your state of mind at any particular point in time. Could I see that, please?

Of course, this may be misleading because it doesn't tell you what desertion is. It doesn't really tell you anything. First of all you have to prove they were AWOL.



EXECUTIVE SECRETARY: There is a brief sentence pertaining to a definition of desertion on page 142 of the Manual for Courts-Martial 19~~48~~<sup>2</sup>. It specifies that "Desertion is absence without leave accompanied by the intention not to return or to avoid hazardous duty or to shirk important service."

CHAIRMAN: So that is stated in the alternative.

WITNESS: AWOL is a lesser offense under Article of War 58.

CHAIRMAN: But this "or to avoid hazardous service." Please read that definition of desertion once again.

EXAMINER: "Desertion is absence without leave accompanied by the intention not to return or to avoid hazardous duty or to shirk important service."

CHAIRMAN: The reason I want to read this is that it bears on your testimony now which you need not repeat. We have your testimony about the intentions of remaining away. We have that in the record and we appreciate that. Are there any further questions?

MEMBER: Mr. Woods, I would like to pursue further Mr. Edelson's point about the fact that you did not indicate anything to the court about the time that Private Slovik remained away. As I recall, Mr. Edelson's point was that you did not point out to the court that he returned the following day.

WITNESS: That is apparent, sir.



MEMBER: Yes, but Mr. Edelson pointed that out. Let me ask one question regarding that. As I recall the record of the court martial the Company Commander testified that he had placed Private Slovik in arrest in the company area and within an hour or so after that Private Slovik returned to him and asked the question: If I were to leave now, would that be desertion? And as I recall the answer it was: Yes, it would be. And Private Slovik did then leave within a short period of time. And that was the day before, and then the testimony was that the next morning he turned himself in to a Canadian Company and voluntarily handed in the confession. Was it your feeling at that time that that testimony adequately provided to the court the knowledge that he had been absent for approximately 24 hours or less?

WITNESS: I don't understand what response you want.

MEMBER: Well, I guess all I am saying is: Mr. Edelson asked the question why you didn't point out the fact that Private Slovik turned himself in the following day, and I wondered whether or not you felt that testimony that I just recited provided the court with adequate information on that point, or if you had some other reason for not pointing it out, or do you remember?

WITNESS: I don't remember but I know that the record indicates that I did not.

MEMBER: All right; thank you.

CHAIRMAN: Are there any further questions of this  
witness?

(There were none.)

CHAIRMAN: Thank you very much, sir, for coming in and  
for your patience.

I think at this time we will take a 15 minute recess.

(A recess was taken.)



CHAIRMAN: The Board will come to order.

COUNSEL: Mr. DeFinis.

CHAIRMAN: Will the Witness please stand and state his name for the record?

WITNESS: Robert DeFinis.

(The Witness, Mr. Robert DeFinis, was duly sworn by the Chairman.)

QUESTIONS BY COUNSEL (Mr. Edelson) OF THE WITNESS (Mr. DeFinis):

Q Mr. DeFinis, you heard what Mr. Woods testified to as to your entry into this case, trying to help Mrs. Slovik? You heard that, did you not?

A Yes, I did.

Q And is that essentially correct, rather than your going over the same ground?

A Yes, sir, basically.

Q You made those efforts, and the efforts did not produce any tangible results; and then you came to me some time in the fall of 1976, did you not?

A That is correct.

Q Now, prior to your coming to me, did you attempt to get the complete records of Eddie Slovik from the Army?

A Yes, we did. We did on two occasions. The first

time we got the record of trial; and in my letter to the Judge Advocate General's Office I spelled out, I wanted all the complete records and all related information. We later found out that this was not given to us.

Q Did you later go back and get what other information had not been furnished to you at the outset?

A I believe it was in January 1976 we went to Falls Church, Virginia and met with Mr. Kemper, the Clerk of the Court, who allowed us to view the records as he had them; and during that period Major Woods and myself located another communication from the Army dated January 26, 1946, 363 days after Private Slovik was killed, that the Army was attempting to deliver the record of trial to him. He was dead.

Q Mr. DeFinis, there were a couple of communications that were marked earlier in this hearing, one a letter from the Chaplain to Mrs. Slovik, indicating the circumstances of her husband's death, and another a letter from the Army indicating that he had met his death because of willful misconduct. Were either or both of those communications in the material provided for your inspection about this case by the Army?

A According to my recollection, I did not see them, and they were not mentioned by Mr. Kemper, that they were there; and

we scrutinized that very well that day. To the best of my knowledge, we did not see them, sir.

Q Mr. DeFinis, do you have anything further to add that is significant to this case for determination by this Board?

A Yes, sir.

Q Go ahead if you do.

A If I could go back a moment. Mr. Shaw testified a while ago. He mentioned to me in a conversation or a letter that Private Slovik was appointed to an honor guard for a funeral. This would indicate to me that he was a good soldier. I just wanted to pass that remark on.

Q Was that during the period that he was in the United States before he was shipped overseas?

A I believe so, yes, sir.

COUNSEL: Does the Board have any questions?

CHAIRMAN: Mr. Woodside?

MEMBER: Not at this time.

CHAIRMAN: Mr. Miller?

MEMBER: No questions.

CHAIRMAN: I just want to clarify your relationship to the case, Mr. DeFinis.

WITNESS: If I may: Major Woods and myself both live in



Lansdale, Pennsylvania, for over twenty years. By unique coincidence we met nine days prior to the movie. On that occasion I found out who he was and became very interested in the matter. I do like American history. He invited me to view the movie at his home. After the movie was over I questioned: Where was the story? I saw a two-minute trial on television. I asked him if this was the way he defended Slovik; and he said, no, it wasn't. He proceeded to tell me. I became fascinated and said I would like to pursue the matter. We could. We did. Some time later, about six weeks, Mrs. Slovik appeared on television. At that point in time we decided to help her, because no one in this country had helped her for 32 years.

CHAIRMAN: You mentioned that Private Slovik had served as an honor guard. Is there any record of that, that you know of?

WITNESS: Only the paper Mr. Shaw saw, sir. I have no record, and I have never seen it, sir.

CHAIRMAN: Mr. Williams, do you have any questions?

EXECUTIVE SECRETARY: Mr. Chairman, if I may. Mr. DeFinis, with reference to the records that you did not receive, is there anything that is now available that would have changed any of your approaches to the case or your help to Mrs. Slovik?

WITNESS: We would have felt something was wrong a lot easier. We would have felt that an injustice was done 33 years ago

instead of two years ago.

SECRETARY: In other words, it is your contention that the records which were not made available to you contained information which supports your contention and Mrs. Slovik's contention?

WITNESS: Yes, sir, primarily because the communication from the European Theater of War, dated January 26, 1946 indicates to me that the Army must have felt it was important that Private Slovik get a record of trial; and they could not locate him as a prisoner of the Army. And I feel, in my opinion, that it must have been important to the Army. They didn't know where he was, but they found him for the execution date, though. And there are two unsigned copies of the record of trial that indicate that Private Slovik never got his record of trial, unsigned by Private Slovik.

EXECUTIVE SECRETARY: I have no further questions.

CHAIRMAN: Mr. Woodside?

MEMBER: Mr. DeFinis, you indicated that you visited the Army and viewed the records. What time was that? What year?

WITNESS: Let me go back first: In December 1974 we wrote to the Judge Advocate General's Office. The Clerk of the Court, I believe, at that time was Mr. Kemper -- I am not sure. And in my letter, which I have a copy of, we asked for all records, related and unrelated, on the Private Slovik case, records, documents,



whatever, be sent to us, because Major Woods and I were writing a book about it on the true, actual events of the trial and the surrounding circumstances.

MEMBER: In your letter to the Army did you explain to them why you wanted the records, or did you have to establish some need to know this information?

WITNESS: Yes, we did, sir.

MEMBER: What was that?

WITNESS: Well, there were about five or six telephone calls to the Department of the Army. I spoke with a General Pugh (phonetic) and a few other Generals down there, and I told them what the situation was, and they said: Providing you write a letter. It is a public document, and you are entitled to it. And I wrote on my own stationery, and I paid for the documents. I didn't get them for nothing. And I indicated at that time that we wanted everything that was available. We didn't want anything to be hidden or withheld from us for any reason, and I don't know to this day why it was.

MEMBER: Well, have you looked at the file that the Secretary has available, and could you tell us whether that looks like the file you looked at?

WITNESS: I could show you what they sent me, sir. I have it in my briefcase -- and hold it against what he has.



MEMBER: How about when you came down and looked at the file in Falls Church?

WITNESS: Let me put it to you this way, sir: At that time when the secretary carried out the records, along with other information, I said to Mr. Kemper: What is that? He said: That is the availability of the records. I said: That is not what you sent me, sir. He said: That is not what you asked for. I pulled out the letter dated December 17, 1974. I said: Now, if you read that correctly -- he tried to turn it around and said, no, it didn't read that way. I think I speak English fairly well, and I write fairly well. It did read that way.

MEMBER: Well, if you asked for all available records --

WITNESS: Yes, sir.

MEMBER: -- I think it is very inclusive.

WITNESS: I have a copy if the Board would like to have it.

MEMBER: At that time when you requested the records, did you feel then that there had been an injustice committed? You indicated earlier that had you had all the records, you maybe would have felt that there was an injustice earlier.

WITNESS: That is correct.

MEMBER: But you didn't feel there was an injustice in 1974?

WITNESS: In 1974, because my two brothers and myself served this country, I felt that Private Slovik was a deserting coward, deserved what he got. My opinion changed later on, sir.

MEMBER: Based on what you got from the record, or based on what other information?

WITNESS: My travel throughout Europe, desertion and what-not. I talked to many people throughout Europe; visited the gravesite and was denied rights to the gravesite. And I went to where the trial was held, spoke to people in town. It wasn't in the Stars & Stripes.

MEMBER: The people in town whom you visited, were they present? Did they have any personal knowledge of the case?

WITNESS: There was one person -- it was communicated by the gentleman who opened up city hall, which is now closed. He said that this woman was present usually during those proceedings, but was not allowed at the court martial. She was a German repatriate, or whatever.

MEMBER: As I remember the record, it indicated there were no civilian persons present at the court martial or the execution. What kind of information did you find from discussing this with people in Europe that would influence your opinion?

WITNESS: As I said, speaking to this one individual, we



called this woman that was present during the proceedings. She told me they were not allowed to attend these type of court martials. That to me was sort of like -- it was more like a cover-up that the Army was trying to produce, to me, because these documents were labeled Restricted, Confidential, and Secret. For what reason?

MEMBER: This lady you said was usually present, she was a German citizen?

WITNESS: That is right, sir. She worked for the Army, according to my information.

MEMBER: And what reason would she have to be present during any court martial proceedings?

WITNESS: I have no -- I really don't know, sir.

CHAIRMAN: Any further questions of this Witness? (No questions by the Board.)

Counsel, any further questions?

(Negative)

CHAIRMAN: There being no further questions, the Witness is excused.

At this time, Counsel, I would like to see if you can give us some light on the issue that raises itself after this Witness' testimony. In Section 131 of the Legislative Reorganization Act

of 1946, which is the Statute authorizaing this Board -- I take it you are familiar with that law?

COUNSEL: Yes, I am.

CHAIRMAN: There is a section in the law providing that no correction may be made if a request has not been made within three years after the discovery of the error or injustice, subject, however, of course, to this Board excusing the failure to file within three years after discovery, if this Board finds it to be in the interests of justice. Now, do you have some like that you can give to the Board relative to the lateness of the request in this case?

COUNSEL: The lateness of the request by Mrs. Slovik through me to make this claim --

CHAIRMAN: Yes.

COUNSEL: -- which was file in December 1976?

CHAIRMAN: Yes, many years after the execution of Private Slovik.

COUNSEL: Yes. Mrs. Slovik did not, from all the information available to me, and as she has sworn under oath today, learn until 1953 or 1954 how her husband met his death. She did not have the benefit of legal counsel. I am the first lawyer that ever represented her. There have been others over the past thirty years who have indicated that they would like to help her one way or another; however, I am the first lawyer to get into this case; and if we are correct



that the Army, for whatever reason, chose to execute this man without ever having provided him a lawyer, without ever adequately, properly, and honestly reviewing the available evidence to them, decided to withhold clemency and to make an example of him and execute him, and if this unfortunate woman has, for whatever reason, not chosen to go through legal channels before, we think that in the interests of justice the case should be heard now. It certainly doesn't hurt anyone to be heard now. The record, such as you have it, is here. The witnesses are here. You have heard from witnesses who knew Eddie Slovik, either directly or indirectly. You will hear further from Mr. Huie what his participation has been. And we feel that Congress, when it inserted this clause and when it gave this Board the power to grant this relief even after three years of the discovery of the event -- we feel that this case is one where the injustice is such that the Board can and should grant the relief that we request. The bottom line is that it is difficult for us to rely on strict errors of law. Yes, you might look at the specifications in the court martial and say: Well, there was a specification to shirk hazardous duty; and that may not require the specific intent to remain away forever. We could not prevail on that alone. Yes, at the time that Eddie Slovik, 24 years of age, was tried, it was not necessary for this government to provide a lawyer for him. It was

within the letter of the law to allow a 26 year old person who had no legal training to represent him; and, yes, it was also within the letter of the law to permit a review process to go on for weeks and weeks after a sentence of death without any person on his behalf to try to present the evidence which was favorable to him. All of that, unfortunately, then was within the letter of the law. But that is not the way we do things in America any more. And this blot on our history can now be taken away by you people. And that is why we are here.

CHAIRMAN: Thank you very much, Counsel. You may proceed.



COUNSEL: Mr. Huie.

(The Witness took the chair.)

CHAIRMAN: Will you please state your name for the record?

WITNESS: William Bradford Huie, H-U-I-E.

(The Witness, William Bradford Huie, was duly sworn by the Chairman.)

QUESTIONS BY COUNSEL OF THE WITNESS:

Q Mr. Huie, you are an author by reputation, are you not, and by profession?

A By practice, I would say.

Q And are you the author of the book entitled, "The Execution of Private Slovik"?

A Yes, sir.

Q When was that book published?

A In May 1954.

Q Did you, prior to the publication of the book, research the facts available about Eddie Slovik, his Army service, the problems that he got into in Europe, and his eventual court martial and execution?

A Yes, sir.

Q And did you also attempt to contact those people who knew Eddie Slovik before he entered the Army and while he was in the

Army; in order to find out you could before preparing to write your book?

A Yes, sir.

Q Will you tell me this, Mr. Huie -- you have been here during this hearing, have you not?

A Yes, sir.

Q And did you ask the Army to make available to you all the records concerning Eddie Slovik?

A Yes, sir. In 1946 I wrote a piece for "Liberty Magazine" about the desertion problem in the second World War, which I knew had been a very troublesome problem. While I was researching that here at the Pentagon, an officer in the Judge Advocate General's Office tipped me off secretly that there had been one execution, and that it was Top Secret. I then went to the Judge Advocate General and to the General in charge of Public Relations and asked them then to cooperate with me in reclassifying the file, and the Army cooperated with me (sic). They declined. They denied that any such execution occurred, or that they had any knowledge of it.

For six or seven years subsequently, each year, when I was at the Pentagon, I renewed my request of the Judge Advocate General and the Public Relations department of the Army. Each time I was turned down.



In 1953, I believe it was, I came here. There was a new Judge Advocate General. I told him that there had been an execution, or I had been informed that there was, of my interest in it, that I thought it was a story that I would like to write. I asked for the Army's cooperation. He called in a colonel. He told me that he thought that the story should be told. He ordered the colonel to clear it with Army Public Relations and to cooperate with me completely.

It was immediately, almost immediately, I was notified that the Army was standing ready -- the Judge Advocate General's Office was standing ready to cooperate with me. This book, which has sold something in excess of five million copies and which now sells 45 (hundred?) copies a year in the United States, which has been published in every major language, which was made into a film which, the year it was shown, had the largest motion picture audience of any film ever made for television, 58 million, according to the rating system, the first time it was shown, and 64 million the second time it was shown. It is now being shown in theaters throughout Europe. It will be shown every three or four years throughout the lifetime of anyone here.

Now, it is a semi-official book, gentlemen, because the Army worked with me, and I will describe how; the Army approved

every line of it. I went to see Mrs. Slovik. I obtained her cooperation. She and everybody who knew Eddie Slovik approved every line.

It was first published in 1954 in hard cover, paperback on the same day; 10,000 words in "Look Magazine." There have been two hard cover editions. It ran through several printings. There have been many paperback editions. And, as I say, no one has ever challenged one line of it as far as accuracy is concerned. It satisfied the 28th Division; it satisfied the Army.

I was asked to make one or two -- one concession, by the Judge Advocate General's Office.

Now, first of all, let me clarify this record. I never had this record in my hands. It was not ruled that I would be given the record. When I worked, the colonel had the record about like this gentleman has it here now. I asked him questions. He looked in the record, and he answered them. A few times he would turn the page and show me a paragraph. But I never had the record in my hands at all.

About the letter -- the question has been raised here -- that the Chaplain wrote, Chaplain Cummings -- I was not shown the letter at that time. Chaplain Cummings told me that he had written the letter. When I later went to see Mrs. Slovik and found her --



I had trouble finding her because I was sick when I got to Detroit. The Burns Detective Agency helped me find both Antoinette Slovik and Eddie Slovik's mother and sister, in Detroit. I met Mrs. Slovik. I told her what had happened. I called her and told her I wanted to talk to her about it; that I was from Washington and I wanted to talk to her about it. She was very nervous, but she did come to meet me. She is a woman of courage. I told her what had happened. We talked for an hour or so. She told me what information she had -- and all I can give you is a judgment. I have been in the writing business for 45 years, and I have written 21 books, a thousand magazine pieces. And certainly she had never received the Chaplain's letter. She told me she had not; and in my judgment from her reaction, certainly she had never received the Chaplain's letter.

Now, remember this: That the research alone on this book cost 45,000 dollars, an enormous amount of travel, an enormous amount of putting it together, an enormous amount of review I was aware that it was important. I was very much interested in the way that the Army had tried to meet the desertion problem. I knew that the Army had tried to meet it by sentencing men to death. Several hundred men were sentenced to death. The court martial that has been described to you here today was perfunctory. It was perfunctory because no member of that court had any idea whatever that the

sentence would ever be carried out. Everyone of them that I talked to, including the Presiding Officer of the Court, said: I couldn't believe it when I heard that Eddie Slovik -- we were actually going to have to execute -- that this man was going to be executed.

Eddie Slovik, it is true, had deliberately deserted. He did it in the full knowledge and belief that he would not be executed, whatever the sentence of the court. This, gentlemen, I tell you, was the common practice of the United States Army. And Justice Potter Stewart, right here in the Supreme Court right now -- one of the things that the people who are opposing capital punishment are using now, Justice Potter Stewart has what he calls "the Slovik situation," where certain States, believing that people now believe in capital punishment, are sentencing men to death; but Justice Stewart has raised the question: Do the people who are sentencing men to death and want them sentenced to death actually want them executed? This is the situation that the Army was in in the second World War. They had a terrific desertion problem, particularly in the European Theater. Time after time Division Commanders -- and if I had time, I would quote them to you. The 36th Division, which had it very tough -- they had an officer who refused -- who had just come in that night, a replacement officer, ordered to lead a patrol, night patrol, which separates the men from the boys in the war business. Well, they called



up the men, six men, to go with him on the patrol. The sergeant had them ready. He showed up, sat down, and said: I am not going. I just didn't figure this out. Let's face it. I am not going. The MP's arrested him. Two or three days later they took him to the General. They felt they had to do something. They convened a court and sentenced the man to death. The General talked with him. The officer said: General, you know and I know, sir, that nobody is going to be shot. You aren't going to execute me. All you are going to do is send me back. When this war is over, I am going to be alive; and six months after it is over, I will be free and I will get my voting rights restored. This is one of the cases I investigated. It is exactly true. The officer told me: I knew he was telling me the truth. There wasn't anything I could do except sentence him to death, announce it at the company formations the next day, and hope that it deterred somebody. But all we were using was the sentence of death. And that system prevailed, and I knew it prevailed. And the men in the Judge Advocate General's Office knew that it prevailed, and you gentlemen here know that it prevailed. This was the situation.

And it was only after the Battle of the Bulge, when we had 12,000 deserters in France, when one Division had broken entirely, when one regiment of the 28th Division broke. Now, it was

then that the officers in the JAG Office in Paris -- they prevailed on General Eisenhower at that time: We have got to shoot somebody because nobody is ever going to be shot and nobody believes anybody is going to be shot and there is no reason why anybody thinks they should be. And at that time General Eisenhower, who himself was under a cloud over the fact that our Army was unprepared to meet the German counterattack known as the Bulge Battle. The 28th Division itself was spread out, holding a Corps front.

Now at that time they decided, and the order was issued. You will note, if you will, the time that the order was signed, and you will note that it was during the Battle of the Bulge. Three men were ordered shot, not just Eddie Slovik. General Eisenhower signed three orders, ordering three men to be shot. The second man to be shot was to be shot by the 3d Division. And if you want corroboration on this, Henry Cabot Lodge is still living. Henry Cabot Lodge was present in the area, had dinner with the lieutenant general in that area the night before the Slovik execution. They had representatives of the 3d Division, you will find them there, who were present at the Slovik execution. And when it was over, they couldn't wait to get back and get in communication with Paris and say: My God, let's don't shoot -- who wants this job? Maybe theoretically it is good, but we don't want to shoot anybody.



Q Did he express to you any thoughts he had about going overseas?

A Nothing except he hated, he dreaded going. He did have one request, in case he did die on foreign soil that he buried on foreign soil.

Q Did you hear from him after he got overseas?

A Yes. I didn't hear as much from him, no, but I did have letters.

Q Did you hear from him when he was in France?

A I can't recall where those letters came from, what country they came from.

Q Did you hear anything from him about his court martial?

A No, I didn't.

Q There is an indication in the record that he had received quite a lot of correspondence.

A I did get a lot of correspondence while he was here in the States, but when he went overseas then I wasn't getting the letters.

Q So your testimony is that you didn't know he was being court martialed?

A I didn't know that he was being court martialed; no, sir. There was no way that I knew.

Q And he never wrote to you about his conviction?

A No.

CHAIRMAN: Mr. Williams, do you have any questions?

EXECUTIVE SECRETARY: I have none, sir.

COUNSEL: If the Board please, I would like to read into the record two letters received from P. E. Bannan who signs Director of Operations, Pennsylvania Bureau of Corrections, Camp Hill, Pennsylvania.

CHAIRMAN: They will be marked Exhibits C and D for the record. If Counsel would read those into the record.

COUNSEL: Yes, sir. The first letter is dated November 15, 1976 and it is addressed to me. "I am writing to you in response to a recent article concerning your effort to obtain a pardon for Eddie Slovik. I wish to commend you for this effort and offer you my support. I am very familiar with this case as I am originally from Ionia, Michigan, and my father worked at the reformatory where Slovik was incarcerated. We discussed this case on a number of occasions following the publication of William Bradford Huie's book. It was my impression from these discussions that he should never have been in a combat situation in the first place as he was not emotionally equipped to do so. Certainly this would be mitigating circumstances to be considered at his court martial. Please feel free to call upon me for whatever I can do."



CHAIRMAN: And that was signed by?

COUNSEL: Signed by Phillip E. Bannan, Director of Operations, Pennsylvania Bureau of Correction, Camp Hill, Pennsylvania.

And this letter is dated May 23, 1977, addressed to me: "Pursuant to your telephone conversation" -- parenthetically, when I asked whether he could appear before this Board -- "I am submitting this letter for possible use in the forthcoming hearing on the Eddie Slovik case. As I previously related to you, I have more than casual knowledge and interest in this case. My father was employed at the Michigan Reformatory in a number of capacities, including deputy warden during the time that Slovik served two terms there. When William Bradford Huie published his book 'The Execution of Private Slovik' both of us read it. The book had a significant impact on us. I particularly remember my father telling me that 'he should never have been in the Army, particularly in a combat situation in the first place.' His reason for this feeling was the fact that he knew Slovik as an emotionally vulnerable, unstable, person who would 'fall apart' in most stressful situations. He also expressed the feeling that he was executed because they could make an example of him as he had no one with any sort of influence. I have also talked with a number of inmates who knew Slovik. Their stories are pretty

much the same. He was inadequate and not emotionally equipped to handle things well. I would hasten to add that the inmates I spoke with were not the usual run of the mill, but rather particularly bright and articulate men with whom I worked for a number of years when I was employed at the State Prison of Southern Michigan. It is my most sincere feeling that an injustice occurred in this case. I strongly feel that Mrs. Slovik has suffered far too long and too much and is entitled to at least receive benefits if not compensation. I am sorry that previous commitments prevent me from being in Washington on the 15th of June to appear at the scheduled hearing. I hope that my letter will serve as support for Mrs. Slovik." Signed: Sincerely,  
P. E. Bannan, Director of Operations.

I call Mr. Edward Woods as the next Witness.

CHAIRMAN: The Board may have questions relative to these letters, so I wonder if we could call on you in just a moment, please?

COUNSEL: Certainly.

MEMBER: Mr. Edelson, I have a couple of questions on the second letter. In there Mr. Bannan makes the statement that he feels that they made an example of Private Slovik because he had no one with any influence to intercede for him, or words to that effect. Do you know whether Mr. Bannan had any reasons for making that statement or whether it is just his opinion, or what basis did he have, or do you know?



COUNSEL: I don't know, but from what I know of this case from the examination of the records, Eddie Slovik was a relatively poorly educated person of humble background. He came from a Polish immigrant family. Perhaps the case would have been different if he were someone well known. I don't know. We know that Mohammed Ali refused to serve at all, refused to even try to serve his country, and he is a multi-millionaire now. He wasn't even sent to jail. Eddie Slovik tried but he had no one behind him and he wasn't given the opportunity by the Army to get some help when his life was hanging by a thread and perhaps -- and I suppose history will judge whether or not he was chosen as an example by the people who reviewed his record and reviewed it unfairly and inadequately because he too -- this person and the other people at the Reformatory should have been contacted. The people who conducted the clemency review were not involved. They were in an office in Paris, France, and some more thorough attempt to find out what sort of person Eddie Slovik was should have been done before he was put up against the wall and executed.

MEMBER: Another statement in Mr. Bannan's letter said: It is my most sincere feeling that an injustice occurred in this case. Do you know whether Mr. Bannan's statement is based upon information other than what he received from his father about

Private Slovik's period in the Ionia Prison and perhaps his reading of the book which he says he did, or do you think, do you know, whether he had any additional information on what occurred at the court martial?

COUNSEL: As to the latter I am sure he had no further information. I spoke to him and I attempted to find out if he had any such information, and he didn't. No, he felt that an injustice occurred here because this isn't the way we do things in America. We don't shoot to death someone who is not a violent criminal. We haven't done it in a hundred years and we probably will never do it again. And he felt that this fellow just didn't have what you folks have. He didn't have the courage and the family background and the psychological makeup to serve his country, not because he didn't want to, not because he was a malingerer, and you heard that from Arnold Shaw, but because of his unfortunate background. He would have been all right in another situation. But he knew, as they all knew, that faced with a combat situation he would run. And he felt with that realization, with that information being available to the Army, he was not the person to have singled out from amongst thousands of deserters and the almost 50 who were convicted to die to be actually executed. That is the injustice in this case, and that is what he communicated to me in the letter and by telephone.