

B 1683 255

DISPOSITION FORM

For use of this form, see AR 340-15, the proponent agency is TAGCEN.

REFERENCE OR OFFICE SYMBOL	SUBJECT
SFMR - SLOVIK, EDDIE D. (Deceased) 36896415	Correction of Military Records

TO TAGO/RCPAC RCPAC Liaison Office Mr. Jack Miller, Rm 2E541	FROM OSA/ABCMR Room 1E-517, The Pentagon	DATE 12 Aug 77	CMT 1 Bemusdaffer/78431
--	---	----------------	-------------------------

Forwarded herewith for appropriate action under the provisions of Paragraph 21, AR 15-185, 4 June 1974, are the decision of the Assistant Secretary of the Army/M&RA and the records in the case of the above-named individual(s).

- a. Request that the Board Proceedings and Memorandum of the Assistant Secretary of the Army/M&RA be placed in the Official Military Personnel File. In view of the denial of the application, no further administrative action is required.
- b. Request the necessary administrative action be taken to effect the correction of record indicated. If appropriate, furnish the Chief, Field Services Office, Attention: FINCY-AD, U. S. Army Finance and Accounting Center, Indianapolis, Indiana 46249, a certified copy of the Memorandum for The Adjutant General and such other information as required to effect settlement of claim for pay. Further request that the individual(s) concerned be advised of the correction and that this office be furnished a copy of the action taken.

Raymond J. Williams
 Raymond J. Williams
 Executive Secretary
 Board for Correction
 of Military Records

- 2. Incl
- 1. DD 149 w/allied papers
- 2. OMPF



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, D.C. 20310

11 AUG 1977

SFMR-SLOVIK, EDDIE D., (Deceased)
36896415

MEMORANDUM FOR: THE ADJUTANT GENERAL

Having approved the findings, conclusions and recommendation of the Army Board for Correction of Military Records, and under the provisions of 10 U.S.C. 1552, it is directed:

That in the case of EDDIE D. SLOVIK, the application for correction of military records be, and hereby is denied.

A handwritten signature in cursive script, reading "Robert L. Nelson", is positioned above the typed name.

Robert L. Nelson
Assistant Secretary of the Army
(Manpower and Reserve Affairs)

DEPARTMENT OF THE ARMY
ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

PROCEEDINGS

IN THE CASE OF:
SLOVIK; EDDIE D., (Deceased)
36896415

DATES: 15 and 29 June 1977
DOCKET NUMBER: AC-77-02357
INDEX NUMBER: 105.01

I certify that hereinafter is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in the case of the above-named individual. A quorum was present during the hearing and deliberation. The following findings, conclusions and recommendations were adopted by the Board.

Applicant requests correction of military records as stated in application to the Board and restated herein.

The Board convened at the call of the Chairman on the above date and, following consideration of the case and having made its determination thereof, proceeded to other business.

Present:	Mr. Gordon M. Hobbs	Chairman
	Mr. Charles R. Woodside	Member
	Mr. Jack N. Miller	Member
	Mr. James C. Hise	Member
	Mr. James L. Stroud	Member
	Mr. Raymond J. Williams	Executive Secretary
	Mr. Watts P. Tyler	Examiner

Applicant (did) (~~XXXXXXXX~~) appear before the Board. She (was) (~~XXXXXXXX~~) represented by counsel.

The Board considered the following evidence:

- Exhibit A - Application for correction of military records.
- Exhibit B - Military Personnel Records
- Exhibit C - Case Summary
- Exhibit D - Transcript of the Hearing
- Exhibit E -

THE BOARD FINDS:

1. That the application was timely filed or the Board has found it to be in the interest of justice to excuse failure to timely file; that the applicant has exhausted all administrative remedies afforded by existing law or regulations.
2. That it incorporates in these proceedings and adopts by reference thereto so much of the Exhibits above, as pertains to the factual showing of the Department of the Army records which generally reflect:

a. that the service member is deceased; that the application is filed by the widow, Mrs. Antoinette Slovik, who requests that the deceased's records be corrected to show that she is entitled to the proceeds of his National Service Life Insurance (NSLI) of \$10,000, plus interest from the date of his death; that further that the Department take other incidental action to ease the pains of the deceased's death, such as moving the body from the place where it now lies, next to murderers and rapists in an unmarked dishonored place in France, to a more suitable resting place;

b. that the applicant has engaged an attorney who has filed a lengthy brief on her behalf; that the substance of the brief is contained in the case summary attached as Exhibit C;

c. that the deceased who was born on 18 February 1920, was inducted into the Army on 3 January 1944 and entered on active duty on 24 January 1944; that he had nine years schooling;

d. that an allotment of \$6.70 was initiated by the deceased in January 1944 for payment of premiums on \$10,000.00 NSLI; that the service record shows that the allotment was discontinued on 31 December 1944;

e. that the deceased underwent basic training at Camp Wolters, Texas, from 29 January to 10 July 1944 and was then reassigned to duty in Europe as a rifleman; that the service record shows that his character was "excellent", and efficiency "satisfactory" during basic training; that he was a "skilled" rifleman; that he was granted furlough from 10 July 1944 and reported to Fort George G. Meade, Maryland on 24 July 1944 for shipment overseas;

f. that on 11 November 1944 the deceased was convicted by a General Court-Martial (GCM) at Headquarters, 28th Infantry Division, Rotgen, Germany for violation of the 58th Article of War (Desertion); that the first specification indicated that the deceased deserted the service on or about 25 August 1944, to avoid action against the enemy, and remained absent until on or about 4 October 1944; that the second specification indicated that he again deserted the service on or about 8 October 1944, to avoid action against the enemy, and remained absent until on or about 9 October 1944; that he was sentenced to be dishonorably discharged, total forfeitures, and to be shot to death with musketry;

g. that the record of trial shows that the deceased departed the United States on 7 August 1944 as a member of a group of replacements; that the group proceeded via England to Omaha Beach, France, thence to "a couple of different place" and thereafter to the Third Replacement Depot (France), where he was assigned to the 28th Infantry Division; that on 25 August the group went to the division headquarters and the deceased, together with 14 other replacements, was assigned to Company G, 109th Infantry;

that the deceased was last seen with the group at Elbeuf (France) at about 0100 hours on 26 August; that 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; that 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;

that the 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 the deceased physically joined Company G on 8 October when it was reorganizing and not in contact with the enemy; that the deceased "had been absent without leave and had been returned through the battalion;" that the deceased was never present with the company for duty except on 8 October for one or two hours; that on that day a battalion sergeant major brought him to the company command post where he was assigned to the 4th platoon, and turned over to the platoon leader who forbade him to leave the company area unless he had permission; that the platoon leader conducted the deceased to his platoon and introduced him to his squad leader; that thereafter the deceased inquired if he could be tried for being absent without leave; that he was told that he could, was placed under arrest, returned to his platoon area, and directed to stay; that about an hour later the deceased stated, "If I leave now will it be desertion?"; that he was told that it would be; that the deceased then left and thereafter he was not seen in the company, nor was he present with the company for duty;

That at about 0830 hours 9 October the deceased reported to the Military Government Detachment, 112th Infantry, which since the preceding day had been located at Rocherath, Belgium, handed a cook a green slip of paper containing handwriting and stated that he had made a confession; that the cook informed his "commanding officer" of the matter when the latter returned to the detachment about 1100 hours; that about 1230-1245 hours a sergeant arrived and drove the deceased to the orderly room of the 109th Infantry, where he handed the green slip of paper to a military police officer; that the latter testified that he read the slip and directed the sergeant to deliver the deceased to the military police for temporary custody; that subsequently on the same day the deceased signed the slip in the presence of witnesses; that the green slip of paper, a United States Army Post Exchange flower order form, with writing in ink on each side thereof, was admitted in evidence at the trial; that the paper read 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'd 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 overnight 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 so I ran away again AND ILL RUN AWAY AGAIN IF I HAVE TO GO OUT THEIR.

Signed Pvt. Eddie D. Slovik (handwritten)
A.S.N. 36896415".

(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 0237158 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:

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

/s/ Wayne L. Hurd
Wayne L. Hurd
1st. Lt. Inf"

h. that the deceased was examined by a psychiatrist on 26 October 1944 (Captain Arthur L. Burks); that his comments were as follows:

" I have this date interviewed Pvt. Eddie D. Slovik, 36896415 Co. G, 109th Inf. and find him to show no evidence of mental disease at this time and I consider him sane and responsible for his actions at this time.

From his story there is no evidence that he was other than sane and responsible at the time of his alleged offenses. He has never sought medical attention regarding any physical or nervous complaints by his own admission."

i. that on 27 November 1944 the convening authority approved only so much of the sentence as provided for the deceased to be shot to death with musketry;

j. that on 9 December 1944 the deceased wrote a letter to General Eisenhower stating that he had no intentions of deserting the Army, but merely wanted a transfer from "the line," because of his nerves; that he could have avoided the draft, but chose to go into the Army because he was sick of being locked up all his life; that for the sake of his wife and mother, he asked that the General have mercy upon him; that he had a good record since his marriage and as a soldier;

k. that the deceased's record of trial was reviewed by the Staff Judge Advocate, Headquarters, European Theater of Operations on 23 December 1944; that it was stated, pertinently, that: "There can be no doubt that he (deceased) 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 a 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;"

l. that on 23 December 1944 the Comanding General, European Theater of Operations approved the deceased's sentence by the GCM of 11 November 1944, as modified by the convening authority; that the deceased's case was further reviewed by a Board of Review in the Branch Office of The Judge Advocate General (In Europe) on 6 January 1945; that this Board determined that the court was legally constituted; that no errors injuriously affecting the substantial right of the deceased were committed during the trial, and that the record of trial was legally sufficient to support the findings of guilty and the sentence; that he was shot to death by a firing squad at Saint Marie Aux Mines, France, at 1005 hours on 31 January 1945;

m. that on 1 March 1945 the Catholic Chaplain, 10th Infantry, wrote a letter to the applicant advising her that he had attended the deceased on the day of his death; that the letter, in pertinent part, stated " He displayed as great a courage as any soldier I saw go into battle and die. In my opinion, it was too bad that this display of courage was not directed down the proper channels so that if God called Eddie in battle he would have had the honor of making the supreme sacrifice of his life, like so many thousands of soldiers, in dying for the policies of their country"; and

n. that the deceased came from a poor family of Polish ancestry; that he was a juvenile delinquent; that between 1932 and 1938 he was put on probation on five separate occasions - four for breaking and entering and one for assault and battery; that in addition he had been sentenced to imprisonment for six months to 10 years on 16 November 1937 for embezzlement and on 3 January 1939 had been convicted of "unlawfully driving an auto away" and sentenced to two and one-half to seven and one-half years in the reformatory.

3. That information developed at the hearing disclosed that the deceased's record of trial came up for review when the American Forces were sustaining severe losses at the Battle of the Bulge and that the number of deserters had reached alarming proportions; that other pertinent testimony is contained in the Transcript of the Hearing attached as Exhibit D.

4. That the Manual for Courts-Martial (MCM) of 1928, in effect at the time under consideration, was established by an Executive Order of 29 November 1927 and authorized by Acts of Congress of 3 June 1916 and 4 June 1920; that the MCM stated under Article 58, that 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. That the MCM defines desertion as absence without leave accompanied by the intention not to return, or to avoid hazardous duty, or to shirk important service. That the same provisions are currently contained under Article 85 of the Uniform Code of Military Justice, now in effect.

5. That Public Law 801, 76th Congress (now 38 U.S.C. 711) provided a two fold barment to the payment of life insurance in the deceased's case; that the first is that any person guilty of desertion shall forfeit all right to NSLI, and the second is that no insurance shall be paid for death inflicted as lawful punishment for crime.

6. That 36 U.S.C. 121 provides the American Battle Monuments Commission with responsibility for maintaining military cemeteries in foreign countries; that Section 122B of the same code further provides that the Armed Forces shall have the right to re-enter any cemetery for the purpose of making exhumation or reinterments, should they deem such action necessary; that, however, Public Law 80-368 has precluded any further transfer of remains of World War II dead within such cemeteries since 31 December 1951.

THE BOARD CONCLUDES:

1. That the Board finds no error in the deceased's record of trial and conviction; that the record clearly shows that he did in fact desert the service in order to avoid combat duty against the enemy; that there is no convincing evidence to show that he was mentally incompetent, unable to adhere to the right, or so emotionally unstable that he was unable to control his actions; that the record of trial was reviewed by several judicial agencies, to include the highest authority in the European Theater of Operations, before action was taken to execute the deceased.

2. That the evidence shows that he deliberately took actions to avoid combat, apparently assuming that such actions would lead to his conviction by court-martial and would result in his being confined within the relative safety of the stockade; that contrary to the suggestion that he was emotionally unstable, the evidence indicates that he displayed unusual courage and emotional stability immediately prior to his death.

3. That although the records tend to show that the deceased may not have been furnished a copy of the record of trial, as required by the Manual for Courts-Martial, there is no showing as to what action he may have taken, had he been furnished such; that the Board feels that the error did not deprive the deceased of any substantial right which might form the basis for a change, or altering, the findings and sentence of the court, as approved.

4. That it is apparent that the legislators who enact the laws of our Government intended to provide that a soldier may suffer death when he deserts the service to avoid combat with the enemy; that, therefore, there is no basis for a correction of records, merely because the deceased was the only soldier to be executed for desertion since the Civil War; that in maintaining the security of the Nation there must be a fatal deterrent to those who would desert the field of battle in the face of the enemy; that it is apparent that those who enact the laws of this country feel there are circumstances whereby the death penalty is a just punishment for such an offense; that the death sentence was within the maximum punishments authorized under the MCM.

5. That it should be noted that at the time of the deceased's trial, the Nation was engaged in total war with an enemy whose sole purpose was to gain complete control over the country; that, in fact, at the time his sentence was approved the Armed Forces had sustained a serious set back at the Battle of the Bulge and testimony provided to this Board shows the number of deserters had reached alarming proportions; that the outcome of the war was still in doubt at the time of his execution.

6. That the Board does have much sympathy and compassion for the widow, particularly in view of her present physical condition; that, however, it is the clear intent of the law that no NSLI will be paid to the beneficiaries of those military personnel who are convicted of desertion, or suffer death as a result of lawful punishment for a crime; that, therefore, it would be inappropriate, simply out of compassion for the applicant, to correct the records in some fictitious manner to circumvent the intent of the law, and place her in a position to apply to the Veterans Administration for payment of the insurance; that under the law the applicant would not have been entitled to the proceeds to the deceased's NSLI at any time subsequent to his conviction for desertion, his execution for such notwithstanding.

7. That so much of the applicant's request, as pertains to movement

of the deceased's remains to another portion of a cemetery in France, is actually not a matter for consideration by this Board, as it does not constitute a correction of military records.

8. That in view of the foregoing findings and conclusions, no basis had been found for the correction of military records to show the applicant to be entitled to the proceeds of the deceased's NSLI.

THE BOARD RECOMMENDS:

That in the case of EDDIE D. SLOVIK, the application for correction of military records be denied.

GORDON M. HOBBS
Chairman

1977 -- did you copy the account that you wrote in your autobiography?

A Yes, sir.

Q Now, I ask you please to read the last three paragraphs of that letter, starting where it says, "The winter of 1944-45 ..."
I am going to ask you to read that. If I ask you the questions about what your recollection was, would it be fair to say that your recollection was as keener in 1969, when you wrote this account, than it would be today, in 1977?

A I think that would be a fair assumption.

Q Then why don't you read what you wrote back in 1969?

A I would like to give one word of explanation, if I might, before I read.

Q Please.

A When I was writing this, of course, I was writing not for a purpose such as we have today; I was simply writing a historical narrative. I would like, if I might, to briefly state the circumstances under which -- the background of this.

Q Would you please?

A It might be misinterpreted if I just read it out flat. To the best of my recollection, I was summoned by the Corps Chaplain on, I believe -- I am not quite sure -- on 20 January 1945 and told that he had just had a call from the 7th Army Chaplain,

asking that I be sent to 7th Army Rear for the purpose of being oriented on procedure, that I was to spend with a Jewish soldier who was going to be shot for desertion his last hours, in an attempt to comfort him; and that I would be present at his execution. That was a VOGC from 7th Army.

And so, I must say, with a rather heavy heart I proceeded back quite a distance. I would estimate that distance to be about 75 or 80 miles, to the best of my recollection. Our Corps Headquarters at that time was either in Luneville or Saarebourg, in Alsace, and I believe that the 7th Army Rear was in Epinal, France. I may be wrong, because my log only shows unit names; it doesn't show places. I got back there the next day, and the Chaplain told me I could relax, that the execution had been called off. When I asked: What is the poop? What is the story back of this? Either he himself -- and this I cannot state with assurance -- told me this story or he took me to G-1 and they told me. I am not sure of this, but this, to the best of my recollection, is the story that was told me at 7th Army Headquarters, the reason why the Jewish soldier was not to be shot. So I can say with assurance that I was called back to be at the execution of a Jewish soldier; and that when I got there, they told me that the execution was called off. But from there on it is purely hearsay; it is what these people told me.

Q What did they tell you?

A That is what is written here.

Q Would you please read that?

A Oh, we were in Saarebourg. I had it and didn't know it.

"The winter of 1944-45 was spent in Eastern France in the Vosges Mountains area in an endless round of activities for military personnel and for Jewish civilians who had either been hidden in the area or had returned to their homes from other hiding places. Our Headquarters was in Luneville until November 30 and then we moved to Saarebourg, 35 miles northeast.

"No American soldier had been executed for desertion in the fact of the enemy since the American Civil War. During the Battle of the Bulge, December 16 to 30 (during which I was with a forward unit, the 103d Infantry Division, that was completely isolated for almost a week), thousands of green American troops, who had been placed in what was thought to be a quiet sector, fled to the rear. To prevent a future recurrence of this kind of debacle, General Eisenhower's staff persuaded him that one deserter must be shot to convince would-be deserters what might possibly happen to them. The military prisons were combed to find deserters who had thrown down their arms and fled from the enemy on two or more

occasions. Six such were found. By some method, one was selected. He was a Jewish soldier from Philadelphia..." -- that is my recollection. Maybe he was from somewhere else, but that at least is what I think was told me -- "...the only Jew among the six. Preparations were begun for his execution. I was notified" -- and then I have a number of things in brackets that weren't in the original manuscript but I thought ought to be included for clarity. So I will indicate the bracketed portions. "I was notified"-- bracket: on 19 or 20 January 1945 by the Chaplains Section of Headquarters 7th Army Rear -- unbracket -- "that I was to be his spiritual comforter during his last hours on earth and was also to be present at his execution" -- bracket: and I was instructed to report to Headquarters, 7th Army Rear as soon as possible for further instructions -- unbracket. "Bracket: Prior to my being summoned to Headquarters, 7th Army Rear -- unbracket -- "General Eisenhower ordered that all six should be given an intensive psychiatric examination. A number of the six -- bracket: I do not know how many -- unbracket -- "including the Jewish soldier, were declared to be mentally unbalanced." Bracket: I was given this information by the 7th Army Chaplain, Chaplain Donnelly. -- this could be in error. This might have been the Army G-1. I am sure Chaplain Donnelly took me to the G-1. I am positive that I reported to Chaplain Donnelly. His first name,

I believe, was Matthew. I have been trying to comb my head, but I am sure you gentlemen could find out, Chaplain Donnelly, Chaplain of the 7th Army -- Bracket: I was given this information by Chaplain Donnelly when I arrived at his office either late on Saturday, 20 January, or on Sunday morning, 21 January 1945 -- unbracket.

The reason, I might add, that I was clear about the date is that Chaplain Donnelly said to me: "We have been without a Jewish Chaplain since December." The old Chaplain went back, and the new one didn't come until May 1945; and that is why periodically I was called back for various reasons. He said: "As long as we have got you, we haven't had a Jewish service here for quite some time, and I have announced the service for this evening." And I said I would be glad to conduct it. So my daily log, which I kept in order to get data for my monthly report to the Army Chief of Chaplains -- that log shows that I conducted a service at Headquarters, 7th Army Rear on 21 January with 40 people present. Since that was a good, I am sure, 75 miles in back of where I was at the time, it is inconceivable that I would have been ordered back 75 miles just to conduct the service.

"So the Jewish lad was not executed; but one of those who were given psychiatric 'clearance,' a Private Slovik, was shot. William Bradford Huie tells much of the story in his

brilliant book, The Execution of Private Slovik. What I have just written he does not tell. I do not think he knew. If he had known, I believe he would have told. It should not be difficult to imagine my feeling of relief at not having to be part of this gruesome ordeal. A number of years later, I heard that the condemned Jewish soldier had ultimately been released from military custody, placed in a mental institution and remained there until he died."

Now, I heard this from somebody who was in the 7th Army, and he said that is what he heard. I can't stand warrant for this at all, but this is what I wrote. Somewhere along the line somebody had told me. Again I say I can't vouch particularly for the veracity of this last sentence.

Q Rabbi, why did you wait until June 16, 1977 before indicating to anyone this information?

A Well, I have to say this. I hope it won't be considered immodest on my part to say it. In 1960 I was asked to write a book, entitled Rabbis in Uniform, celebrating the 100th anniversary of the commissioning of the first Jewish military Chaplain by Abraham Lincoln in 1861. I collected stories from Jewish Chaplains who had been in service, hundreds of stories, to be the basis of this book. I wrote up a number of my own stories, and I deliberately did not put this one down because I just at that time felt, frankly,

[001-03]

that it was something that perhaps had better be left unwritten. I didn't feel too happy about making this a matter of public record.

When Dr. Marcus asked me to write this thing in 1969 and told me that it was going to be published posthumously, I thought maybe the time had come to put it on the record, so many years have elapsed. And I read in the paper of this case that is before this Board. I felt that the time perhaps had come to put this information on the record; that possibly the Board might not have it, and I felt possibly it should become a matter of the Board's knowledge. I am trying to be as objective as I possibly can. I am not trying in any way, I hope, in anything I have said -- trying to influence the Board one way or the other. But I do feel that what I have said may be pertinent, and therefore I felt it ought to be told.

COUNSEL: Thank you. I have no further questions.

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

MEMBER: Rabbi, did you have any contact at all with Private Slovik or with the arrangements for his execution?

WITNESS: No, none whatsoever. Until I read Mr. Huie's book, I did not know about Eddie Slovik.

MEMBER: Then you have answered my further questions.

WITNESS: I knew a soldier had been executed -- at least

I heard so; but who it was, I didn't know.

MEMBER: You did hear of it?

WITNESS: Yes, I heard. I don't remember how, when, or where; but following my being sent on this abortive mission, I heard another soldier had been selected and had been executed, but I couldn't tell you when or how I heard that.

MEMBER: But you do recall hearing that a soldier was actually executed?

WITNESS: That a soldier had been executed for desertion, yes.

MEMBER: But you don't remember when or how you got that information?

WITNESS: I am fairly positive, not completely positive, but fairly positive it was after I had returned to civilian life. In other words, it wasn't during my Army tenure. It was not during 1945.

MEMBER: So you feel fairly sure that you did not know of this while you were in the immediate area?

WITNESS: Yes. Since I was summoned back on 21 January and then when I read Mr. Huie's book I saw that the soldier had been executed on 31 January, then I felt fairly confident in my own mind. Of course, I can't prove that in any way whatsoever.

MEMBER: I think you have answered my question. My question related to whether or not you learned of the execution about the time that it occurred.

WITNESS: No, sir.

MEMBER: That is all the questions I have.

CHAIRMAN: Mr. Miller?

MEMBER: Did you know that Eddie Slovik was one of the six that were being considered for this?

WITNESS: No, no, sir. When I read Mr. Huie's book, it said he deserted twice; so on the basis of the information that was given me, I assumed he was one of the six.

MEMBER: So we don't know for sure that he was one of the six who were chosen?

WITNESS: No. As I mentioned in the passage I read, I was told that they were looking for people who had deserted two or more times. That is what I was told.

MEMBER: From what source did you get the information that someone was supposed to be executed?

WITNESS: This was either told me by the 7th Army Chaplain, and I assume that he was told this by G-1, who would be the logical person; or maybe that he took me to G-1, and he told me the story. You know, it is 32 years ago, and that part of it is a little vague.

It was a story that you don't forget very easily; and at the time I made no written notes at all.

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

MEMBER: I have no questions.

CHAIRMAN: Mr. Stroud?

MEMBER: Rabbi, going back the 32 years, the casualty rate at this time was rather high?

WITNESS: Yes, sir.

MEMBER: What were your personal feelings about desertion?

WITNESS: Well, this is a very difficult question to answer. It is very difficult for me to answer it at this stage because I was in combat for ten months, rather close to the lines. And then immediately -- well, during the war I was with the troops that liberated the first concentration camp in France. I worked in that camp for a while. I was literally with the troops that took Dachau; and I came in one day after with the troops that took Mauthausen, in Austria. I was in charge of the Jewish section in Dachau the first ten days after it was taken. And it is very difficult for me on the basis of all of this to put myself back into the mental frame of mind of where I was in January 1945. But I hope that I would have felt that if this was done, it was only done because it was a matter of military necessity. And I was there, an officer,

and having seen what I had seen and gone through what I had gone through, I knew that there were certain measures that had to be taken under certain conditions; and I can't stand as a person not privy to all the circumstances to stand up against the judgment of what I presume is the reasoned judgment of the Staff of General Eisenhower. I cannot do that. I know that I felt pretty uncomfortable with the 103d the eight days we were cut off.

MEMBER: May I pursue that point a little further, Rabbi? I believe you indicated in your earlier testimony that there were large numbers of deserters at the Battle of the Bulge. You were there and had had a lot of military experience. Do you now feel, in reflecting, that this was a unique and very serious situation for the military, the decision at that time?

WITNESS: I hate to play military analyst. But I think it is very common knowledge that, number one, this was the last gasp of the Germans and that they put everything they had into it; and, number two, their intelligence was somewhat defective and so was ours. I know that firsthand because the 103d was sitting there with only Infantry and no support, no Artillery and no tanks, no nothing. If the Germans had had any good g-2'ing, they could have come and taken us any time they wanted; but they didn't. We expected to be taken, but they didn't. So their G-2 wasn't of the

best. From what I have read -- I have no inside information -- but from what I have read, when this attack came it also was rather a surprise to our side too. They went through San Deet (phonetic), and caught troops with no combat experience at all; and these guys just literally lay down their arms and ran.

MEMBER: Do you recall the feeling of the people involved that you associated with at that time, whether they felt that the Germans really represented a serious threat to the survival of the units and perhaps the outcome of the war, or was it the feeling that this was a serious battle, but in the long run there would be no problem to overcome?

WITNESS: Well, the feeling around where I was, was that they had put these inexperienced troops who had just recently come over from the States into what they thought was a quiet sector, and these were not battle-hardened individuals and the shock was too much for them. I don't think they considered all of these things that you have mentioned. They just weren't prepared for it. They thought they were sitting there where it was quite safe; and all of a sudden all hell broke loose. I might say this for whatever it is worth, that after the Battle of Bastogne I was sent by our Corps to the rest area, where the 101st Airborne was recuperating. They went into that battle with 225 Jewish men; they came out with 75.

[4267]

So 150 were either killed or wounded. And I was sent to this rest area to counsel the 75, and I have never been with a group of men who were more -- I don't know how to explain it to you -- just down. They had given the last ounce of strength, physically and mentally; and I had quite a job convincing them that it had all been worth while. You know, they had seen a lot of their buddies get killed and all this. And I was used, I don't know how successfully, as a morale-builder for this particular group. And these were hardened guys. These were guys who had been in practically since D-Day, some of them anyway. So you can imagine if they got battle-fatigued and shocked as they did, ^{and fortunately stood firm} what it must have done and been like for these green guys.

MEMBER: Rabbi, I don't really want to encourage you, as you say, to be a military expert; but I am interested in your impressions from the point in which you were -- realizing you were on General Eisenhower's staff --

WITNESS: I beg your pardon?

MEMBER: I said: I realize you were ^{not} on General Eisenhower's staff and didn't know the total picture, but I am really interested in whether or not you felt that the people involved in the local area, such as the people you were with, felt that the Battle of the Bulge represented a serious threat to the security of the Army, or

the Division, or the unit they were associated with. My reason for that, of course, is that your statement, involving the large numbers of deserters and how they viewed that situation, because I believe it is relevant to us.

WITNESS: The only recollection I have with regard to our unit and General Haislip, God bless him, a wonderful commander, was that in order to straighten out the lines he was ordered to pull back our units. And he was a very well disciplined individual, who usually did what he was told, but he argued like the dickens with General Patch, who was the 7th Army Commander, pleading, because he had never given up an inch of territory since we had broken out of Avranches during the Normandy campaign. He just didn't want it on his record that he had ever gone back an inch. But General Patch had the last word, and he had to go back. So if I have to recollect, I would have to say that we were kind of used to winning. We had been on the point for General Patton all the way across France; and then we were switched in September to General Patch' 7th Army when he came up from South France, and we were a pretty prideful outfit, and it didn't make us feel very good that somewhere up to the north of us someone (had broken?). It was that kind of thing.

CHAIRMAN: Rabbi Eichhorn, the Board appreciates very much your coming in, because we do need light on this issue. Now, the

testimony you have given us, I think, is not based on your personal knowledge; but, as you testified, it was information that was really told you by someone else.

WITNESS: Yes, sir.

CHAIRMAN: I think it would be important for us to know exactly the relationship of the people you were talking with about this.

WITNESS: Well, as I say, I can't say certainly who it was that told me. I would have to give an educated guess that it was either the 7th Army Chaplain, or that he said: Let's go and find out what the story is and took me to G-1, which might have happened, and the folks over there told me this story. Now, I am not sure about this at all.

CHAIRMAN: Yes, but you talked with either the 7th Army Chaplain or their G-1; but they were not connected with the 109th Infantry that Private Slovik was with. What I am trying to get at is --

WITNESS: No. I assume -- I never was given the name of the Jewish soldier, and I must assume that he was with some 7th Army unit, that he was in some 7th Army prison.

CHAIRMAN: I am trying to explore this a little bit. Did the Chaplain or the G-1 that you talked to have firsthand knowledge

of some kind, or were they speaking also from something that they had heard?

WITNESS: I have to -- you know, I can only guess that they were probably given -- that when the call came saying that this execution was called off, they were given some kind of explanation, and that this is what they were told.

CHAIRMAN: But you don't know exactly where they got their information either?

WITNESS: No.

CHAIRMAN: Then, looking at the substance of your statement here itself, they told you that they thought it was an effort to find a single individual to execute?

WITNESS: Well, what they said was that General Eisenhower has been reluctantly convinced that it has to be done. I might say this: I don't know if it is pertinent, but it is a fact that Johnny Eisenhower, General Eisenhower's son, was my roommate going over on the Queen Mary. Johnny had just graduated from West Point and was on thirty days leave from his father's headquarters prior to reporting for advanced Infantry training to Fort Benning. And they put eight Jewish Chaplains and six West Point graduates in this suite that Winston Churchill had occupied coming to the Breton Woods Monetary Conference. There were six West Pointers

in one room and eight Chaplains in the other. And I didn't know -- we called each other by our first names -- and I didn't know this was John Eisenhower, except the third day out I was taking a bath and Johnny was standing in front of the mirror, shaving; there was a knock on the door and a fellow walks in and says: Are you Lieutenant Eisenhower? Yes. And they went into parlez-vous'ing that I couldn't understand, for about ten or fifteen minutes, and then the other man went out. Johnny turned to me and said: Dave, please forgive us . That was West Point jive talk that we were talking. We naturally fall into it. We weren't talking about you, and so on. And so I said: Is your name really Eisenhower? And he said yes. I said: Are you related to the old man? And he said: He is my old man -- at which I did a double-take. And I at that time spent a good half-hour asking him questions about General Eisenhower, rather personal questions. And the picture of General Eisenhower that I got from his son was -- I mean, not on this particular subject, but in general -- was that he wasn't the kind of a man that would do this very lightly. He was a man of deep moral principles.

CHAIRMAN: But you were told this by the 7th Army Chaplain or somebody. But did they say that they had this firsthand from General Eisenhower, or that perhaps they had heard this from somebody else? There are so many rumors in the Army that get around --

Was it that sort of thing?

WITNESS: Sir?

CHAIRMAN: Was this sort of a rumor that they had heard?

WITNESS: You know, I mean, when the 7th Army Chaplain or the 7th Army G-1 or somebody like that tells me this, I assume that it is based on solid knowledge. And whoever it was, he gave me such an exact story -- this is a rather well-fitting story. I mean, it is not just something you pull out of the air.

CHAIRMAN: But you didn't write this down until 1969?

WITNESS: No, I didn't. What I have done, sir, I have been combing my mind and have written down the names of a number of people who were in my Chaplain Section at the time and a number of ranking Jewish officers at 15th Army Headquarters to whom I am sure I must have told this story. I will be happy to present you with their names, if you want to call them up. I don't know which of them is still living.

CHAIRMAN: But you didn't reduce this to writing until 1969?

WITNESS: No. To the best of my knowledge, I didn't. This is only one of a number of rather classified stories. Of course, again I hope I won't be accused of being self-serving; but at the time I came out of the Army, at the end of '45, until December 1,

1968 I was the ecclesiastical supervisor of all the Rabbis who worked for the Federal Government. So in our files in our office in New York I did write up a number of these stories and put them in envelopes in the proper historical files, saying "for eyes only after my demise" or something like this. So there is a chance that this story is in the files. I would have to go back and hunt.

CHAIRMAN: But you do remember quite clearly? There is no question but that this is what you recollect?

WITNESS: This is the story that was told me. It was etched rather strongly on my recollection. Of course, I did write it up in 1969, which is eight years ago.

CHAIRMAN: Now, according to the statement there were a number of prisoners who had been selected out for possible execution because they had been convicted of desertion; but you say they were all being treated equally insofar as they were all given psychiatric examinations?

WITNESS: Yes, sir. As I say, they used as their criteria that they had deserted two or more times and whether -- after, before -- I don't know what the time-sequence was, but this Jewish soldier was selected and General Eisenhower had ordered that these men be given psychiatric exams; and the Jewish soldier -- and of course, any others, I don't know -- had been declared mentally

incompetent and had been removed from that group. How many others were removed, I have no knowledge, if any.

CHAIRMAN: I think what is important here is: It seems like all the deserters at this time were being treated equally, including Private Slovik.

WITNESS: I don't know what method they used to select. That is why I rather carefully said "by some method." I just don't know how they did it. Whether Private Slovik was considered to be more culpable than the others, I just don't know. I am not privy to this kind of information at all.

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

EXECUTIVE SECRETARY: I have none, sir.

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

CHAIRMAN: You are excused, Rabbi.

COUNSEL: May I recall Mr. DeFinis for one or two short questions?

CHAIRMAN: Yes.

Do you wish to testify under oath?

WITNESS: Yes.

CHAIRMAN: Would you please repeat your name?

WITNESS: Robert DeFinis.

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

QUESTIONS BY COUNSEL OF THE WITNESS:

Q Mr. DeFinis, did you prior to the time that you asked me to help you with this case, some time late in 1976 -- did you and Mr. Woods write and ask the Army for all of the relevant information and material in their files concerning the circumstances under which Eddie Slovik was executed?

A We did.

Q And were you furnished with the entire file or what was labeled as the entire file by the Army?

A They classified this as the total file.

Q Was there any psychiatric evaluation of Private Slovik in that file other than the one that Dr. Burk made that is referred to in the record of court martial?

A The only one I saw was a two-paragraph statement by Dr. Burk.

Q As to the 49 people who were sentenced to death for desertion, did you ask the Army for the files on all of those people so that you might study them?

A I asked Mr. Kemper if we could have access to the files. He asked me for the names, and I told him I had no way of knowing who they were.

Q Did he give you those files?

A No, he did not.

COUNSEL: That is all I have.

CHAIRMAN: Any questions by the Board?

Mr. Woodside.

MEMBER: Mr. DeFinis, when you wrote to the Army requesting the total file on Private Slovik, did you explain to the Army the reason for your interest? Did you explain to them that you had been authorized by Mrs. Slovik to get this information, or anything like that?

WITNESS: Well, I thought my letter was quite clear. At that time Major Woods and I were preparing to write a book. I asked Major Woods if I could have his authority to write to the Department of the Army to get these records so that we could document all the information, with dates, and the information would be totally accurate. My letter is right before me now. I wrote on two occasions. If I may read it --

MEMBER: Please do.

WITNESS: This is to General Prugh, Judge Advocate General's Office, Department of the Army -- on my stationery, sir.

(Reading) Dear Sir: I am requesting a copy of a trial transcript or the record of trial of Private Eddie D.

Slovik, November 11, 1944. Edward P. Woods, who was discharged
from the Army as a Major, ^{who} /was the appointed Defense Counsel of
Private Slovik, is now writing a book and wants to document all the
information about the trial and related incidents. The transcript
and any other available pictures or information will be greatly
appreciated.

Cordinally, Robert Definis.

MEMBER: The purpose of my question, Mr. DeFinis, was,
of course, some of the information in this file was rather personal
and may well have been considered embarrassing to the family of Private
Slovik; and therefore I was wondering whether or not you had indicated
in any way that you were working in their behalf so that the Army
would have some way of knowing that perhaps you would not embarrass
Mrs. Slovik in some way.

WITNESS: Well, there were several telephones to the Depart-
ment of the Army; and at that particular time we were more interested
in writing a book, sir, than we were in finding out what happened
to Private Slovik. This became a factor later on because we contacted
the Army in December 1975, and I wrote to Mr. Kemper again and I
clearly stated that we needed all the records and all the information
because we felt we didn't have them all and they were not the
original records. We contacted the Department of the Army at Falls

Church, Virginia; and at that particular time we discovered there was a communication from the European Theater dated January 29, 1946. So here they were trying to locate Private Slovik --

REPORTER: Mr. Chairman, may we have a little quiet. I can't quite hear the Witness.

CHAIRMAN: Please will everyone in the room be quiet.

REPORTER: (Reading): "... from the European Theater dated January 29, 1946."

WITNESS: They were trying to locate Private Slovik to deliver to him the record of trial. Well, at this point -- Private Slovik was shot January 31, 1945 and was dead for 363 days. Following this discovery, my suspicion became more curious that there were other records. So we went to Washington and saw something similar to that, that letter over there, along with many other letters of communication; and I questioned Mr. Kemper why it wasn't sent to me. He said: You didn't ask for it. I said: I think I clearly did; that we were doing something of research value and we needed all the facts. Also I believe there are approximately two hundred letters written by people of various -- throughout the country to the Judge Advocate General's Office, and I asked him if I could have those. He said: They come under the Privacy of Information Act and you cannot have them. And I felt at that time they may be

helpful to uncover further information in the case; but we did not have access to them. And most of the letters were favorable to Mrs. Slovik.

CHAIRMAN: Mr. Miller?

MEMBER: No questions.

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

EXECUTIVE SECRETARY: Mr. Chairman, this question was raised at the original hearing, about the suggestion that all the records were not made available to Mr. DeFinis and possibly to Counsel, Mr. Edelson.

Mr. Edelson, this, what we have on the table, is the official military personnel file. You have been offered access to it previously, at the time the case was first scheduled for a hearing. There is a suggestion, if I can use that term, on behalf of Mr. DeFinis that there was an attempt to keep him from having the records or some information. I want to assure you that this is not the intent; that everything that we have would be made available to you. How you use that information is up to you. I can see from the request that was made that, in my opinion, it was interpreted as only requesting the record of trial; and that is what he was furnished. We have nothing, as far as the Correction Board is concerned -- have nothing to do with the furnishing of records. But

I want to assure you that the staff stands ready to make available to you any information that we have . There is no intent at all to suppress records or information.

COUNSEL: Yes, I understand that, thank you.

MEMBER: May I comment on that? Mr. Williams, wasn't it also a practice of the Board and did you not in this case, when the case was scheduled for hearing, to write a letter to the Counsel, informing him that he had access to all the files? And as I understand it, this was probably the first time that we were aware that Mr. DeFinis was interested in the records in response to helping Mrs. Slovik as opposed to writing a book. As I interpret his testimony, the first time he asked, he was asking for records to write a book. But when the hearing was scheduled on Mrs. Slovik's application, did we not inform her by letter that they could have access to all of his files?

EXECUTIVE SECRETARY: This is correct. When we sent a notice of formal hearing to Mr. Edelson, we informed him that all the records the Correction Board had available would be at their disposal prior to the date of the hearing, to go through and make notes, or for whatever other purpose they might utilize them.

COUNSEL: That is certainly true. Every courtesy and access to the records has been extended to me by the Board. I wish

to state that as a matter of record.

Thank you very much.

CHAIRMAN: Are there any further questions by the Board?

There being no further questions, the Witness is excused.

COUNSEL: May I quickly sum up?

You remember the arguments that we presented in written form in our petition and those that I made at the conclusion of the hearing on June 15, the arguments that we feel clearly show that, as to my client, Mrs. Slovik, the denial of the insurance proceeds under the circumstances that you have heard is an injustice, and that justice requires that the body be moved from the place where it lies and that the insurance proceeds be made available to her.

Now, if I may, to answer the suggestions which flow from some of the questions we have heard today: We do not minimize the seriousness of the military situation at the time of and immediately following the Battle of the Bulge. The judgment, if that were the judgment, of the Commanding General Staff that an execution was necessary for military reasons is a judgment that I will not comment upon, because I don't have to and it is not important for me to do so.

We are here because we can prove that Eddie Slovik

was no more guilty and that his record was no worse than the many others who did as much if not more than he. We went further, though; and our point is that Eddie Slovik really was not guilty of a crime because he was put into a situation that he should not have been put into. And that is not Mr. DeFinis telling you this; it is Arnold Shaw, who has no axe to grind, and who tried, as best he could, to get the Army to put this man where he deserved to be, and that is out of the combat situation. Therefore he ~~was~~ not guilty of any crime, because he did not have the capacity to fight.

And when we asked ~~to~~ about the rest of the file, if there is any other file, and there might not be, we would like to see that psychiatric evaluation that was done of Slovik and of the others. We would like to see what that shows because, from all that you have before you, Eddie Slovik had only one failing at the time he was judged by the Clemency Review Board, and that was that he had an incurable fear of combat which made him unable to summon whatever it is necessary to fight as a soldier.

Slovik was not treated equally as were the other deserters. The question which suggested that he was-- we say that he was not treated equally because he of the thousands was executed. If you talk about what was militarily necessary, then you are not talking about what we are here for. We are talking now,

many years later, to determine whether or not what happened to him, whether his death, was proper insofar as equal justice. And if equal justice means anything in this country, and it does, his justice was not equal to the other 48 and to the thousands of others.

If an injustice is judged by what the people think, certainly my experience has been, from the people that I know on the street to lawyers, to judges, people that know me, from the letters that I have gotten, from the letters that I understand have been received, people feel that this was an injustice, notwithstanding the military facts at the time, and from the editorial writers throughout this land. If one may judge what is considered to be an injustice -- and I don't say this disrespectfully -- but I say this -- because what is an injustice? That is a tough word to analyze, to describe, to really understand. If the people who write the newspapers, who have no love for me -- they don't know me -- but if they say, the Philadelphia Daily News, the papers in Detroit -- if they say that they view this as an injustice that this woman's sole support, this sick woman's sole support, was chosen out of the thousands to be the sacrifice because of military necessity, that it seems to them unfair that she be denied her husband's insurance -- if they say that this is an injustice, then perhaps that is another way to judge whether it was or not.

There is no reason to disbelieve Rabbi Eichhorn, and I am sure that the purpose of the question was not to suggest that. He came forward. We are sure if you believe that he is trying to give you his best recollection of what was told to him -- and this was not, gentlemen -- this was not beer talk about something of inconsequence. He was ordered to console a soldier who was to be executed for desertion ten days before Slovik's execution. And he was given an explanation by the people who gave him the order to do that. The fact that he cannot recall now who it was who said that is a fact. But, again, this Board is not limited and constricted to the rules of evidence, which say that you must have personal knowledge. There are others out there, we are convinced, who have some knowledge about the lottery process or whatever process by which one was selected to die. Whatever the military reasons, whatever the military necessity, Mrs. Slovik pleads to you to decide quickly that in this year of 1977, that Eddie Slovik, who could not fight and who was made to sacrifice for the greater good, that perhaps his death was for the greater good, and that that fact may now be understood in the military historical perspective; but that to have selected him from all of the others who did no less nor more, that as to her, this was an injustice; and we hope that your decision will be speedy and received by her so that we can provide some

encouragement for her.

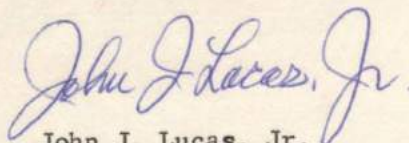
Thank you.

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

Counsel?

COUNSEL: No, sir.

CHAIRMAN: There being nothing further, the Board will be closed.



John J. Lucas, Jr.
Reporter, OSA
1 July 1977

DEPARTMENT OF THE ARMY
ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

PROCEEDINGS

IN THE CASE OF:
SLOVIK, EDDIE D., (Deceased)
36896415

DATES: 15 and 29 June 1977
DOCKET NUMBER: AC-77-02357
INDEX NUMBER: 105.01

I certify that hereinafter is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in the case of the above-named individual. A quorum was present during the hearing and deliberation. The following findings, conclusions and recommendations were adopted by the Board.

Applicant requests correction of military records as stated in application to the Board and restated herein.

The Board convened at the call of the Chairman on the above date and, following consideration of the case and having made its determination thereof, proceeded to other business.

Present: Mr. Gordon M. Hobbs	Chairman
Mr. Charles R. Woodside	Member
Mr. Jack N. Miller	Member
Mr. James C. Hise	Member
Mr. James L. Stroud	Member
Mr. Raymond J. Williams	Executive Secretary
Mr. Watts P. Tyler	Examiner

Applicant (did) (~~did not~~) appear before the Board. She (was) (~~was not~~) represented by counsel.

The Board considered the following evidence:

Exhibit A - Application for correction of military records.
Exhibit B - Military Personnel Records
Exhibit C - Case Summary
Exhibit D - Transcript of the Hearing
Exhibit E -

THE BOARD FINDS:

1. That the application was timely filed or the Board has found it to be in the interest of justice to excuse failure to timely file; that the applicant has exhausted all administrative remedies afforded by existing law or regulations.

2. That it incorporates in these proceedings and adopts by reference thereto so much of the Exhibits above, as pertains to the factual showing of the Department of the Army records which generally reflect:

a. that the service member is deceased; that the application is filed by the widow, Mrs. Antoinette Slovik, who requests that the deceased's records be corrected to show that she is entitled to the proceeds of his National Service Life Insurance (NSLI) of \$10,000, plus interest from the date of his death; that further that the Department take other incidental action to ease the pains of the deceased's death, such as moving the body from the place where it now lies, next to murderers and rapists in an unmarked dishonored place in France, to a more suitable resting place;

b. that the applicant has engaged an attorney who has filed a lengthy brief on her behalf; that the substance of the brief is contained in the case summary attached as Exhibit C;

c. that the deceased who was born on 18 February 1920, was inducted into the Army on 3 January 1944 and entered on active duty on 24 January 1944; that he had nine years schooling;

d. that an allotment of \$6.70 was initiated by the deceased in January 1944 for payment of premiums on \$10,000.00 NSLI; that the service record shows that the allotment was discontinued on 31 December 1944;

e. that the deceased underwent basic training at Camp Wolters, Texas, from 29 January to 10 July 1944 and was then reassigned to duty in Europe as a rifleman; that the service record shows that his character was "excellent", and efficiency "satisfactory" during basic training; that he was a "skilled" rifleman; that he was granted furlough from 10 July 1944 and reported to Fort George G. Meade, Maryland on 24 July 1944 for shipment overseas;

f. that on 11 November 1944 the deceased was convicted by a General Court-Martial (GCM) at Headquarters, 28th Infantry Division, Rotgen, Germany for violation of the 58th Article of War (Desertion); that the first specification indicated that the deceased deserted the service on or about 25 August 1944, to avoid action against the enemy, and remained absent until on or about 4 October 1944; that the second specification indicated that he again deserted the service on or about 8 October 1944, to avoid action against the enemy, and remained absent until on or about 9 October 1944; that he was sentenced to be dishonorably discharged, total forfeitures, and to be shot to death with musketry;

g. that the record of trial shows that the deceased departed the United States on 7 August 1944 as a member of a group of replacements; that the group proceeded via England to Omaha Beach, France, thence to "a couple of different place" and thereafter to the Third Replacement Depot (France), where he was assigned to the 28th Infantry Division; that on 25 August the group went to the division headquarters and the deceased, together with 14 other replacements, was assigned to Company G, 109th Infantry;

that the deceased was last seen with the group at Elbeuf (France) at about 0100 hours on 26 August; that 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; that 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;

that the 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 the deceased physically joined Company G on 8 October when it was reorganizing and not in contact with the enemy; that the deceased "had been absent without leave and had been returned through the battalion;" that the deceased was never present with the company for duty except on 8 October for one or two hours; that on that day a battalion sergeant major brought him to the company command post where he was assigned to the 4th platoon, and turned over to the platoon leader who forbade him to leave the company area unless he had permission; that the platoon leader conducted the deceased to his platoon and introduced him to his squad leader; that thereafter the deceased inquired if he could be tried for being absent without leave; that he was told that he could, was placed under arrest, returned to his platoon area, and directed to stay; that about an hour later the deceased stated, "If I leave now will it be desertion?"; that he was told that it would be; that the deceased then left and thereafter he was not seen in the company, nor was he present with the company for duty;

That at about 0830 hours 9 October the deceased reported to the Military Government Detachment, 112th Infantry, which since the preceding day had been located at Rocherath, Belgium, handed a cook a green slip of paper containing handwriting and stated that he had made a confession; that the cook informed his "commanding officer" of the matter when the latter returned to the detachment about 1100 hours; that about 1230-1245 hours a sergeant arrived and drove the deceased to the orderly room of the 109th Infantry, where he handed the green slip of paper to a military police officer; that the latter testified that he read the slip and directed the sergeant to deliver the deceased to the military police for temporary custody; that subsequently on the same day the deceased signed the slip in the presence of witnesses; that the green slip of paper, a United States Army Post Exchange flower order form, with writing in ink on each side thereof, was admitted in evidence at the trial; that the paper read 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'd 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 overnight 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 so I ran away again AND ILL RUN AWAY AGAIN IF I HAVE TO GO OUT THEIR.

Signed Pvt. Eddie D. Slovik (handwritten)
A.S.N. 36896415".

(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 0237158 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:

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

/s/ Wayne L. Hurd
Wayne L. Hurd
1st. Lt. Inf"

h. that the deceased was examined by a psychiatrist on 26 October 1944 (Captain Arthur L. Burks); that his comments were as follows:

" I have this date interviewed Pvt. Eddie D. Slovik, 36896415 Co. G, 109th Inf. and find him to show no evidence of mental disease at this time and I consider him sane and responsible for his actions at this time.

From his story there is no evidence that he was other than sane and responsible at the time of his alleged offenses. He has never sought medical attention regarding any physical or nervous complaints by his own admission."

i. that on 27 November 1944 the convening authority approved only so much of the sentence as provided for the deceased to be shot to death with musketry;

j. that on 9 December 1944 the deceased wrote a letter to General Eisenhower stating that he had no intentions of deserting the Army, but merely wanted a transfer from "the line," because of his nerves; that he could have avoided the draft, but chose to go into the Army because he was sick of being locked up all his life; that for the sake of his wife and mother, he asked that the General have mercy upon him; that he had a good record since his marriage and as a soldier;

k. that the deceased's record of trial was reviewed by the Staff Judge Advocate, Headquarters, European Theater of Operations on 23 December 1944; that it was stated, pertinently, that: "There can be no doubt that he (deceased) 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 a 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;"

l. that on 23 December 1944 the Comanding General, European Theater of Operations approved the deceased's sentence by the GCM of 11 November 1944, as modified by the convening authority; that the deceased's case was further reviewed by a Board of Review in the Branch Office of The Judge Advocate General (In Europe) on 6 January 1945; that this Board determined that the court was legally constituted; that no errors injuriously affecting the substantial right of the deceased were committed during the trial, and that the record of trial was legally sufficient to support the findings of guilty and the sentence; that he was shot to death by a firing squad at Saint Marie Aux Mines, France, at 1005 hours on 31 January 1945;

m. that on 1 March 1945 the Catholic Chaplain, 10th Infantry, wrote a letter to the applicant advising her that he had attended the deceased on the day of his death; that the letter, in pertinent part, stated " He displayed as great a courage as any soldier I saw go into battle and die. In my opinion, it was too bad that this display of courage was not directed down the proper channels so that if God called Eddie in battle he would have had the honor of making the supreme sacrifice of his life, like so many thousands of soldiers, in dying for the policies of their country"; and

n. that the deceased came from a poor family of Polish ancestry; that he was a juvenile delinquent; that between 1932 and 1938 he was put on probation on five separate occasions - four for breaking and entering and one for assault and battery; that in addition he had been sentenced to imprisonment for six months to 10 years on 16 November 1937 for embezzlement and on 3 January 1939 had been convicted of "unlawfully driving an auto away" and sentenced to two and one-half to seven and one-half years in the reformatory.

3. That information developed at the hearing disclosed that the deceased's record of trial came up for review when the American Forces were sustaining severe losses at the Battle of the Bulge and that the number of deserters had reached alarming proportions; that other pertinent testimony is contained in the Transcript of the Hearing attached as Exhibit D.

4. That the Manual for Courts-Martial (MCM) of 1928, in effect at the time under consideration, was established by an Executive Order of 29 November 1927 and authorized by Acts of Congress of 3 June 1916 and 4 June 1920; that the MCM stated under Article 58, that 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. That the MCM defines desertion as absence without leave accompanied by the intention not to return, or to avoid hazardous duty, or to shirk important service. That the same provisions are currently contained under Article 85 of the Uniform Code of Military Justice, now in effect.

5. That Public Law 801, 76th Congress (now 38 U.S.C. 711) provided a two fold barment to the payment of life insurance in the deceased's case; that the first is that any person guilty of desertion shall forfeit all right to NSLI, and the second is that no insurance shall be paid for death inflicted as lawful punishment for crime.

6. That 36 U.S.C. 121 provides the American Battle Monuments Commission with responsibility for maintaining military cemeteries in foreign countries; that Section 122B of the same code further provides that the Armed Forces shall have the right to re-enter any cemetery for the purpose of making exhumation or reinterments, should they deem such action necessary; that, however, Public Law 80-368 has precluded any further transfer of remains of World War II dead within such cemeteries since 31 December 1951.

THE BOARD CONCLUDES:

1. That the Board finds no error in the deceased's record of trial and conviction; that the record clearly shows that he did in fact desert the service in order to avoid combat duty against the enemy; that there is no convincing evidence to show that he was mentally incompetent, unable to adhere to the right, or so emotionally unstable that he was unable to control his actions; that the record of trial was reviewed by several judicial agencies, to include the highest authority in the European Theater of Operations, before action was taken to execute the deceased.

2. That the evidence shows that he deliberately took actions to avoid combat, apparently assuming that such actions would lead to his conviction by court-martial and would result in his being confined within the relative safety of the stockade; that contrary to the suggestion that he was emotionally unstable, the evidence indicates that he displayed unusual courage and emotional stability immediately prior to his death.

3. That although the records tend to show that the deceased may not have been furnished a copy of the record of trial, as required by the Manual for Courts-Martial, there is no showing as to what action he may have taken, had he been furnished such; that the Board feels that the error did not deprive the deceased of any substantial right which might form the basis for a change, or altering, the findings and sentence of the court, as approved.

4. That it is apparent that the legislators who enact the laws of our Government intended to provide that a soldier may suffer death when he deserts the service to avoid combat with the enemy; that, therefore, there is no basis for a correction of records, merely because the deceased was the only soldier to be executed for desertion since the Civil War; that in maintaining the security of the Nation there must be a fatal deterrent to those who would desert the field of battle in the face of the enemy; that it is apparent that those who enact the laws of this country feel there are circumstances whereby the death penalty is a just punishment for such an offense; that the death sentence was within the maximum punishments authorized under the MCM.

5. That it should be noted that at the time of the deceased's trial, the Nation was engaged in total war with an enemy whose sole purpose was to gain complete control over the country; that, in fact, at the time his sentence was approved the Armed Forces had sustained a serious set back at the Battle of the Bulge and testimony provided to this Board shows the number of deserters had reached alarming proportions; that the outcome of the war was still in doubt at the time of his execution.

6. That the Board does have much sympathy and compassion for the widow, particularly in view of her present physical condition; that, however, it is the clear intent of the law that no NSLI will be paid to the beneficiaries of those military personnel who are convicted of desertion, or suffer death as a result of lawful punishment for a crime; that, therefore, it would be inappropriate, simply out of compassion for the applicant, to correct the records in some fictitious manner to circumvent the intent of the law, and place her in a position to apply to the Veterans Administration for payment of the insurance; that under the law the applicant would not have been entitled to the proceeds to the deceased's NSLI at any time subsequent to his conviction for desertion, his execution for such notwithstanding.

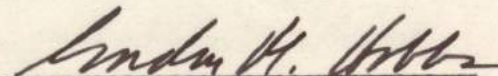
7. That so much of the applicant's request, as pertains to movement

of the deceased's remains to another portion of a cemetery in France, is actually not a matter for consideration by this Board, as it does not constitute a correction of military records.

8. That in view of the foregoing findings and conclusions, no basis had been found for the correction of military records to show the applicant to be entitled to the proceeds of the deceased's NSLI.

THE BOARD RECOMMENDS:

That in the case of EDDIE D. SLOVIK, the application for correction of military records be denied.



GORDON M. HOBBS
Chairman



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, D.C. 20310

SFMR - SLOVIK, ANTOINETTE
(SLOVIK, EDDIE D. (Deceased))
36896415

12 August 1977

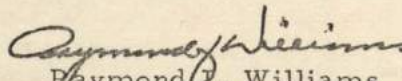
Mr. Bernard Edelson
115 North Jackson Street
P.O. Box 525
Media, PA 19063

Dear Mr. Edelson:

Further reference is made to the application for correction of military records submitted by your office in behalf of the above-named individual.

Under the provisions of paragraph 21b, Army Regulation 15-185 (8 May 1977), there is inclosed a copy of the decision in the matter.

Sincerely yours,


Raymond J. Williams
Executive Secretary
Board for Correction
of Military Records

Inclosures
Copy of Directive
Copy of Proceedings
Copy of Transcript of
Hearing



SFMR - SLOVIK, ANTOINETTE
(SLOVIK, EDDIE D. (Deceased))
36896415

12 August 1977

CF:

Applicant

Honorable Richard S. Schweiker, United States Senate
Honorable John H. Glenn, Jr., United States Senate
Honorable Hubert H. Humphrey, United States Senate
Honorable Edward M. Kennedy, United States Senate
Honorable Robert P. Griffin, United States Senate
Honorable Donald W. Riegle, Jr., United States Senate
Honorable Birch Bayh, United States Senate
Honorable Abner J. Mikva, House of Representatives
Honorable Charles C. Diggs, Jr., House of Representatives
Honorable Frank Annunzio, House of Representatives
Honorable John P. Murtha, House of Representatives
Honorable Harold L. Volkmer, House of Representatives