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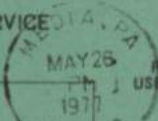
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C21477

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

TRANSCRIPT OF HEARING

CASE OF: EDDIE D. SLOVIK (Deceased). Application is filed by the former service member's wife, 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 \$10,000.00, plus interest from the date of his death.

36 896 415

DATE OF HEARING: 15 June 1977

EXAMINER: Watts P. Tyler

COUNSEL: Bernard Edelson
Media, Pennsylvania

CO-COUNSEL: Leonard A. Sloane,
Media, Pennsylvania

PLACE: Room 2E687, The Pentagon, Washington, D.C.

EXECUTIVE SECRETARY: Raymond J. Williams

CHAIRMAN: The Board will come to order. The Army Board for Correction of Military Records is ready to proceed with the case of Eddie D. Slovik, the Applicant being his widow, Mrs. Antoinette Slovik. Mrs. Slovik does request personal appearance. She does request counsel, designating Mr. Bernard Edelson and Mr. Leonard A. Sloane as Co-Counsel.

Are you Mrs. Antoinette Slovik?

APPLICANT: Yes.

CHAIRMAN: The Reporter will please rise and be sworn.

(The Reporter, John J. Lucas, Jr., was duly sworn by the Chairman.)

CHAIRMAN: Mrs. Slovik and Counsel, have you had the

14-00

opportunity to examine the brief and the records in the case, and are you ready to proceed with the consideration of the case??

COUNSEL (Mr. Edelson): I have, and I am.

CHAIRMAN: The order appointing this Board is published, and copies are available. If there is no objection, we will dispense with reading the order.

COUNSEL: There are no objections.

CHAIRMAN: The Members of the Board are: James L. Stroud, James C. Hise, Jack N. Miller, Charles R. Woodside, and Gordon M. Hobbs. We are all civilian employees of the Department of the Army as required by law. Do you object to any Member of the Board?

COUNSEL: I do not.

CHAIRMAN: Do you wish to have Mrs. Slovik testify under oath and be subject to examination by Members of the Board?

COUNSEL: Yes, sir.

(The Applicant, Mrs. Antoinette Slovik, was duly sworn by the Chairman.)

CHAIRMAN: Counsel may now proceed to present such information as you desire.

COUNSEL (Mr. Edelson): Thank you.

May I ask first of the Board as to how many of you, if any, have read the book, "The Execution of Private Slovik"? None?

(Negative)

CHAIRMAN: No Members have read the book.

COUNSEL: And there has been a television documentary movie of sorts which was based upon this book. I wonder if I may ask whether any Members of the Board have seen that movie?

CHAIRMAN: No Members have viewed that movie.

COUNSEL: Thank you. That will help us determine the extent to which we get into some of the facts in both the book and the movie. We would hope that we would be able to present to you fully and fairly our case within the next two hours.

If I may, I would like to tell you why I am here and what we expect to prove.

May I sit down, or is it your normal practice for me to stand?

CHAIRMAN: It is perfectly all right. You may sit down or stand, as you wish.

COUNSEL: If I may sit, then I will if this is not taken as any disrespect. It is easier for me to read from here than standing.

This is a case without parallel in the history of our government. You Members of the Board are here because Congress has ordered that such a tribunal be available for a case such as this, a case which has resulted in an error and an injustice. And it is my job and it is Mrs. Slovik's hope that this Board will correct that

injustice.

Passing through this city and through the halls of this building and being mindful that yesterday was Flag Day, noting the Hall of Heroes in this building and the many memorials to the people of whom we are proud in this country, I want to make one thing clear: that we do not seek to elevate Eddie Slovik's position in history to that of a hero; but we do want you to consider whether or not, considering everything that happened in his life, the singling out of this one person to be executed for desertion, the only one since 1864, the only one of some -- the figure varies -- maybe twenty thousand deserters during World War II, the only one of 49 approved death sentences for desertion -- we want you to examine whether or not that was justice. In this country even in wartime we do not subscribe to the belief that the end justifies the means. I believe that, studying the record and the facts at the time, the only conclusion that is reasonable is that Eddie Slovik was executed as an example.

Our position is that whatever justification there was in that determination that there should be an execution to serve as an example, to keep others from deserting in 1944, that it was certainly unfair to have singled out this man; and we will show from the records of the trial, from Eddie Slovik's records both from his induction into the service and before, that it was a perversion of justice to have

singled him out for this unequaled dishonor.

We can't bring Eddie Slovik back to life; and the injustice here is to Mrs. Slovik, who, because of terrible problems of poor health, has been a virtual cripple and recluse for more than the last ten years. She has lived under terrible circumstances in a nursing home in Detroit, Michigan, under an assumed name, in order to avoid the degradation and the insults that this case has brought to her, the execution of her husband; and she asks today, among other things, not for retribution, not for any large sums of money that are not due here; what she asks for is the proceeds of the life insurance policy that her husband purchased and paid for up until the time of his death. The government has indicated that there are some legal, technical reasons which suggest that the proceeds should not have been paid to her. We will prove that those reasons are not applicable to this case. Thus what she is asking for is what she is entitled to as the beneficiary of that policy that her husband paid for, the face amount of the policy which, if paid at the time of death, January 1945, was ten thousand dollars, that plus interest from that date to now, which would be approximately seventy thousand dollars. We would also make some requests at the end as to certain incidental actions that this Board might order in order to ease the pain that these memories continue to bring to her.

CHAIRMAN: May I interpose? Are you then amending your application at this point to include incidental relief?

COUNSEL: Yes, we are, such as taking the body from the place where it lies, next to the murderers and rapists, in an unmarked, dishonored place in France, to a more suitable resting place.

Maybe I should start first by looking at the last thing that the government says. And I would like you to consider this proposition, which exemplifies the horror of this case. The next to the last sentence in the summary prepared, reads as follows, and I quote: "There were 54 others who were executed for such offenses as murder and murder and rape." Eddie Slovik never murdered anybody, never raped anybody, and, so far as everyone knows and so far as you will hear today, notwithstanding some problems he had as a child, growing up, was on his way to becoming a good citizen. Notwithstanding the fact that the official record that was reviewed by every member of the reviewing authorities who denied clemency to Eddie Slovik, which characterizes his character and service record in the Army as poor, you will find right here in Mr. Tyler's case summary, and I refer to page 4, paragraph 5, the service record, and I quote again, shows that his character was "excellent" and his efficiency, "satisfactory" during basic training, that he was a skilled rifleman. The reference to the characterization of his service record, gentlemen, is: Review

of the Staff Judge Advocate, character of service: Poor.

Now that alone, those few facts alone are such that lead us to conclude that the people who judged whether Eddie Slovik would live or die were looking at a record that did not fairly reflect his performance.

Ours is a system of individual justice. The fact that the Army may have needed, and the country may have needed, an example at that time does not make what happened right. What happened was wrong; and now you have a chance, after the passage of these years, to look at him as an individual to determine whether or not his execution resulted from an essential lack of due process.

After a trial that took an hour and a half at the court martial, he was sentenced to death, back in November of 1944. At the time he was represented by an Edward Woods, a major in the Army, who is present today. Mr. Woods ended his participation in the case when the court martial ended that day in November. From that time on no one was available to help Eddie Slovik. Not only was no one available, but he was not given what the law entitled him to have. The appropriate code of military justice at the time mandated that he receive a copy of the notes of testimony, if requested. He did so request the copy of the notes of testimony; and I read from the Manual, which says: "The accused will be asked if he desires a copy of the

record of trial. Each person tried by the court who desires one, a record, will be furnished a copy of the record of trial." This was not done. And you may think, well, what would he have done with the record, this fellow who dropped out of school in the ninth grade, what would he have done with the record if they had given it to him?

That is not a proper argument to be made now, because that's like saying, well, if a fellow falls over the side of a ship and there is a life preserver and the life preserver is not thrown to him, there is no indication that he would have seized the life preserver and saved his life. We think that is a very serious element in the denial to him of any chance to protect himself, because maybe he would have gotten some help, maybe if his family was notified they would have gotten him some help. All that he had going for him after that sentence of death was the review of the various people in the military, whose review, as you will see, leaves something to be desired.

If an example was to have been made of Slovik's execution, the circumstances following it certainly are strange because after perhaps the briefest announcement of the execution, this record was put into a drawer marked Top Secret, not reveal to anyone. His widow never learned of his death, the circumstances of his death until William Bradford Huie told her almost nine years after he died. For

some reason the example was then put into a drawer and that drawer was sealed completely.

The fact of the desertion itself -- let me briefly refer to that. There were two periods, one a period where -- how he got separated from his unit is somewhat equivocal. The second was a one-day period where he rejoined his outfit. He left, came back the next day, the next day, mind you, and turned himself in. Many of the cases talk about desertion and urge and state that desertion required an intention to permanently separate himself from the Army. This fellow came back the next day.

Eddie Slovik never should have been in the Army. After he was inducted into the Army, he never should have been put into a combat position. Having been put in a combat position where the Army knew that he couldn't function, they knew it and we will prove it today from the next witness, no one ever looked at his make up, no one ever asked the people who knew him best to see whether a tragic mistake had not been made to put him into a position where he couldn't function and where the fact that he would not be able to fire a rifle was absolutely pre-ordained. That appears nowhere in the record, and not to have determined that, is again another example of this monstrous injustice.

I would like to present Arnold Shaw, who was Eddie Slovik's Commanding Officer during 17 weeks of basic training in 1944 in Texas.

CHAIRMAN: The rules of the Board require that all testimony be given under oath. Will you please stand and raise your right hand?

(A Witness, Arnold Shaw, was duly sworn by the Chairman.)

QUESTIONS BY COUNSEL OF THE WITNESS:

Q Mr. Shaw, you now reside in Lufkin, Texas, and at the time that Eddie Slovik was inducted into the Army and transferred to Texas to Camp Wolters for basic training, were you his Commanding Officer?

A That's true.

Q Will you tell the Board what your contacts were, both with Eddie Slovik and with the people who knew him best during those 17 weeks of basic training? Tell the Board what you told me this morning, the problems that were brought to your attention, what you did about those problems, what you tried to do, and the result of your efforts.

A My first recollection of Eddie Slovik was in the second week of our training cycle. The Army's schedule calls for the company to go on the rifle range during that week, and when we returned that night we had our normal usual critique with the other officers and

platoon leaders and non-commissioned officers to see how the resources were. The platoon leader, who was a 2nd Lieutenant and his platoon sergeant stayed behind and told me they had a man in their company, or in their platoon, rather, who, if I recall correctly, had a deadly fear of his rifle. Well, to have a trooper have a dislike for his rifle or not be familiar with it wasn't unusual, but to have one be afraid of it was a new term to me. So of course this boy they referred to was Eddie Slovik. What happened, if I may elaborate, is he bolo'd, or failed to meet the minimum point requirements on the range. So this man will be sent back to another company who is firing a day or two later or maybe a week later, and re-fire. I knew he went back on the range accompanied by one of our non-commissioned officers each time to score for him. I knew he went back several times, and according to Mr. Huie's book it was four times when he qualified with the necessary 140. However, several weeks later, possibly six weeks later, or five weeks, his platoon leader and non-commissioned platoon sergeant again talked with me and in their opinion, and they were both superior men in judgment in my opinion, and intelligence and ability -- Private Slovik was ineffective in a combat unit. They didn't believe he could cut it. So they requested -- Private Slovik didn't do this -- they requested that I put in an

application for a dependency discharge for this man. They knew from letters from his home of his situation there, of his wife's illness and his, I believe, \$55 a month allotment didn't cover their needs, and I then had my first meeting with Private Slovik and I talked to him and I was impressed with the young man and they were impressed by his willingness to work and his excellent attitude. He was never a disciplinary problem of any kind. You might say he was an excellent garrison soldier and a very poor field soldier. I agreed with them and the request for a dependency discharge was sent up through channels. It was not acted upon and more weeks passed and these new men insisted we might go another route and try to get Private Slovik transferred into a non-combat or rear echelon unit, or Quartermaster or Signal or anything. Because he was ineffectual where firearms were concerned, mortars, grenades, machine guns, rifles, bayonets, anything of that nature. And this was done.

To go back just a moment: Before the dependency discharge was applied for I went to the Chaplain. He in turn got in touch with the local Red Cross and they in turn got in touch with the Detroit Red Cross, and the report we got from the Detroit Red Cross -- this is no indictment of them in any way -- it was inconclusive. It didn't support, give us the necessary proof we felt

for the domestic situation. But notwithstanding, we proceeded to put through the request for a discharge on his ineptness in a combat unit. The request for transfer was not acted upon either, and that left us right there.

Q Mr. Shaw, after Eddie Slovik was sent overseas, did you follow him to the European Theater of Operations?

A Yes, in another unit.

Q And were you wounded twice and received two Purple Hearts as a result of combat in Europe?

A Yes.

Q Did you write this letter to me dated November 18, 1976 -- or to us, rather -- conveying in that letter your recollection of the circumstances of what you did and your contact with Eddie Slovik?

A That's true.

COUNSEL: May I show that? And offer that as an Exhibit in this case.

CHAIRMAN: The letter dated 18 November 1976 will be marked Exhibit A.

QUESTIONS BY COUNSEL OF THE WITNESS:

Q Were you ever contacted by anyone in the Army after Eddie Slovik was sentenced to death November 11, 1944 until the time of his execution January 31, 1945 by anyone, particularly in the Clemency

Review that was done at various levels? Were you ever contacted?

A No.

CHAIRMAN: Do any of the Board members have questions of Mr. Shaw?

MEMBER: Mr. Shaw, do feel it would be normal for someone to contact the Company Commander of the Basic Training Company in the case of any disciplinary problems later on in your service, or was there any particular reason in this individual case that you would be contacted?

A I am sorry -- you mean after we parted?

Q Yes.

A And were in the European Theater?

Q Yes.

A Would there be any reason why they should?

Q Would it be normal procedure for them to go back and contact the Company Commander of the Basic Training Company in that situation?

A Sir, I am not that familiar with Army procedure. I don't know whether that is standard operating procedure or not.

COUNSEL: I will put another question along those lines: Knowing what you do about the Army, if the Army were to address itself to a situation where for the first time in a hundred years they were to

decide that a particular person who was found guilty of desertion should be executed for that desertion, would it have been in any way inappropriate for the Army to have tried to find out what kind of soldier he was before he was shipped overseas.

A No.

Q And the actions that you took and that you testified to, were those actions in writing and were they part of his military file?

A They should have been. There again, of course, it would be a guess on my part, how far up my request went. Did it go past Battalion? Did it clear Regiment? How far did it go?

Q And those were formal records which you prepared in accordance with Government and Army Regulations.

A Right.

COUNSEL: I have nothing else.

CHAIRMAN: Let me ask this, Mr. Shaw: You were at Camp Wolters, Texas, for how long?

A I was there from December 23rd until the latter part of May.

Q So that is approximately six months.

A Yes, sir, and this training cycle was 17 weeks.

Q How many trainees did you have under your command at Camp Wolters?

A Approximately 250.

Q Do you remember all of these trainees?

A No, sir; not all of them. This is an excellent question. But this man, young Slovik, became somewhat of a company pet, you might say, or a platoon pet. There were remarks made that I do remember. I remember the 1st Sergeant said one time, and he was Regular Army, and he said in all his experience Private Slovik was the first GI he had ever known who preferred KP to any other duty, and I heard the Mess Sergeant one time giving a good chewing out to some of the KPs, and he said, I want those table tops scrubbed as clean as the floor under Private Slovik's bunk. Well, you don't forget those things.

Q In other words, he was such an unusual individual that you remember him?

A He was so completely out of his element that maybe pity entered into it, maybe there was some affection. I know this platoon leader of his, the platoon sergeant, felt some responsibility that went further than basic training. They felt that if this man got overseas he not only would endanger himself but that troop on his right and on his left. They didn't feel he would be responsible for his position.

Q You are not saying he was kept on KP the whole time he was in training?

A No, sir. The Mess Sergeant asked me, that he would like to keep him on KP permanently, but we wouldn't do it like that.

Q But Private Slovik did receive the same training as the others?

A All the others; yes, sir.

Q Did he complete the training in one cycle?

A Yes, he completed it in 17 weeks.

Q It is interesting because the counsel referred to the record on page 4, paragraph 5, which refers to him as a skilled rifleman.

A No, that is not true. That is barely qualifying; 140 is the minimum.

Q So you think the record is questionable, then, the service record, because the service record speaks of his character as "excellent" and his efficiency as "satisfactory" and that he was a skilled rifleman.

A He was not a skilled rifleman.

Q How about the others, where it says his character was "excellent" and his efficiency was "satisfactory?" Would you say that was a true statement?

A Yes, sir, I will agree with that.

Q But he did qualify as a rifleman in Basic Training?

A He did qualify as a rifleman. According to his service record he qualified with 140 points.

Q 140? Is that a pretty high score?

A That's the lowest.

Q The lowest score?

A That's the minimum.

Q Did he earn any kind of a medal for that? Was he a marksman, or an expert?

A No, sir, he wasn't. There were marksman medals and sharpshooter medals. You had to shoot 200 or better.

Q But he did go through basic training and qualify as an infantryman?

A Yes, sir.

Q Except that he had shortcomings as far as rifle -- did he have any problem with the grenade training?

A Anything that went bang he had trouble with, yes, sir. On the grenade range, for instance, his platoon leader -- the dummy grenade looks exactly like the live grenade. When all the troops are throwing you don't know whether yours explodes or not. Private Slovik threw dummy grenades. When we went through the infiltration course a non-com was on each side of him because we didn't know what his reaction

might be. We had had people stand up and be cut in two.

Q You had problems with other troops going through training course.

A Yes, sir. This didn't happen in any personal command of mine but I know it has happened.

Q You were always careful to see that the troops did not get injured.

A If we had any troops that we were apprehensive about we tried to safeguard him to keep him from panicking, and it has happened in the training circles, in the training camps.

Q Do you remember any other trainees for any reason? Was Private Slovik the only one you remember?

A Oh, no, sir. I remember quite a few of them, the good, the mediocre, the bad. I would like to inject this, if I may. We had an exceptional company, the best I ever helped train, not physically. They were older men. Many of them were older than I. But they were smart and they found the easy way to do things, and they developed a pride. We had leaders down in the ranks that I had never seen before, the trainees, and the cadre was good, superior in my opinion.

Q Well, you say Private Slovik was well liked by his buddies in the training.

A Yes, sir; he was.

Q And even within his own squad?

A That's what clinched it for us, sir, that he wasn't a malingerer or a goldbrick. When his own platoon mates like a man, he's all right, 99 percent of the time.

Q So in all respect he was normal except for this fear of firearms?

A Yes. He was non-aggressive.

Q Did he train with the machinegun?

A Yes, sir. Any weapon he fired was with some awful close supervision.

Q Did he train with the BAR?

A Yes, sir, he fired the BAR.

Q He fired all of these weapons?

A Yes, sir, he fired them all.

Q The bazooka?

A Yes, he fired the bazooka. He was a loader more than firer.

Q And the mortars? Did he train on the mortars?

A Yes, sir, he trained on the mortars. He didn't set the sights on any of them.

Q Now, with respect to your not having heard about him after the training, did you hear about any of your trainees? Did anybody ever write to you about any of them?

A I had some letters, a few, from some of the boys, the trainees, for 12 months, maybe two years afterwards. They were in various outfits and what had happened to so-and-so. It wasn't anything big. It was normal, I think.

Q Were any of the other trainees fearful?

A No, sir; not in this sense; no, sir. We had a certain percentage who would never be good marksmen, who were not good in the field.

Q Did you have any others who got this 140 score?

A We had some 140s.

CHAIRMAN: Are there any further questions by the Board?

QUESTIONS BY MEMBER OF THE WITNESS:

Q Mr. Shaw, you indicated that you were not aware of how far up the chain of command your recommendation for discharge went. Was it your company's responsibility to maintain Private Slovik's personnel records during the training period?

A No, sir. That was camp headquarters.

Q Camp headquarters.

A Yes, sir.

Q Was it normal that you would not receive any reply from a recommendation for discharge?

A It happened sometimes on other matters that we didn't receive replies, but for the most part we would. It would come down through channels, with either an indorsement or turned down.

Q But in this case you had no response as to the action that was taken on your recommendation.

A No, sir.

Q But you did have a response from your request to the Red Cross for information to support that recommendation?

A A response from the Detroit Red Cross?

Q Yes.

A Yes, sir. We did hear from them, but as I say, it was inconclusive. It didn't give us substantiation for what we actually were asking.

Q Do you remember whether or not you included that with your recommendation?

A Yes. It was enough to verify what Private Slovik had told us, that there was illness at home. But the extent of it we couldn't ascertain.

Q You also mentioned that you had received some letters from former members of your company for a year or so after they had

left. Were those letters personal letters, or did you receive any official communication?

A No, these were just personal notes.

MEMBER: I have no further questions.

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

EXECUTIVE SECRETARY: Mr. Chairman, if I may:

Q Mr. Shaw, just to clarify a point: You testified that you left Camp Wolters when?

A The latter part of May, 1944.

Q And you were the CO of Company D of the 59th Training Battalion?

A Yes, sir.

Q Just to clarify a point, Mr. Shaw, the service record shows that Private Slovik qualified with the M1 rifle as a marksman on 4 March 1944. That was in your command?

A Yes, sir. But not within our company. That would have been with another company.

Q But the service record shows that he was a marksman.

A Well, 140 would make him a marksman. That's qualification.

Q With reference to your statement about Private Slovik's conduct, the service record also contains an entry subsequent to your leaving there. This entry was made on 10 July '44 apparently contemporaneous with his transfer to Fort Meade, where the entry indicates he was not favorably considered for the Good Conduct Medal.

A I don't know where that originated.

Q This would have been subsequent to your --

A I was gone.

Q But only insofar as the remark might be relevant to his conduct subsequent to your association with him I offer that. Somebody else subsequently, apparently, didn't think that his conduct qualified him for the award of a Good Conduct Medal.

A Well, it's possible. If someone graded him on his work in the field he wouldn't be awarded the Good Conduct Medal. But if he was judged on his work in garrison he would be.

EXECUTIVE SECRETARY: I have no further questions.

COUNSEL: Just one last one: The machinery did exist in the Army at the time that you recommended that Slovik either be separated from the Army or transferred to a non-combat unit, so that that could have been put into effect; did it not?

WITNESS: Yes, sir.

COUNSEL: That's all.

CHAIRMAN: The Witness may be excused.

COUNSEL: I would like to call as my next witness, Mrs.

Slovik.

QUESTIONS BY COUNSEL OF THE APPLICANT (Mrs. Slovik):

Q Mrs. Slovik, what is your age?

A Sixty-three.

Q And you met Eddie Slovik and married him about a year before he went into the Army; is that correct? You were married about a year before he went into the Army.

A Yes. We were married just a little over a year when he left for the service.

Q Now, you were aware when you met him and began to court that he had come from a prison; isn't that correct?

A Yes.

Q And he was, in fact, on parole during your courtship, was he not?

A Yes.

Q Did that cause you some hesitation to consider him as a husband?

A No.

Q Why not? Would you explain what you found out about Eddie Slovik, both from your time with him before you were married and from others who knew him well, such as his parole officer and others at the prison?

A Well, he came to work -- while on parole he came to work at the same place where I was working, is the way I got to know him and I got to know the people that he reported to while he was on parole. I also met Mr. Dimmick who was in charge of him while he was at the prison, and I just couldn't see where it would be anything but happiness. He was jolly. He was good. He had no problems. We were married a little less -- well, about 15 months is what I had.

Q While you knew him and a year or so before you married him, did he work steadily.

A He worked every day and never missed a day.

Q Did he have any problems, such as drinking, or any other problems?

A He didn't drink nor did he smoke.

Q And did you discuss whether or not you should marry with his parole officer?

A I did.

Q And did the parole officer give permission for that?

A Right.

Q And did you find out from his parole officer whether his adjustment in prison was a good one?

A It was.

Q So that for the year or so that you courted he was on probation with you too, was he not?

A More or less, yes. It was in the eyes of the law, yes.

Q And in your eyes too, and he passed that probationary period?

A Yes, with flying colors.

Q And in the year or so that you were married did he continue to work steadily?

A Absolutely. He changed jobs in order to better himself.

Q In all the time that you knew him did he have any problems whatsoever with the law?

A Never.

Q You knew that he had a record, that he grew up in the suburbs, a suburb of Detroit, Michigan and that he was in trouble early in life with the law during the depression years; you knew that, did you not?

A Yes. He told me about it and I also heard it from the people at the Ionia Reformatory.

Q It was described by Mr. Shaw that after your marriage and after Eddie was inducted into the Army that your health problems got worse, and that as a result of those health problems you were not able to work. Is that what, in fact, happened?

A Yes; right.

Q And did those health problems include among other things having been born with one leg several inches shorter than the other?

A Yes. I have a congenital hip.

Q And did you suffer polio as a child as well?

A I had polio.

Q And after your husband was inducted into the service and after he left, at that time you were working, were you not?

A Yes.

Q Were you pregnant during the year or so that he was in the Army for some period of time?

A I was pregnant when he left.

Q Did you suffer a miscarriage?

A Yes.

Q Did the condition of epilepsy which had plagued you throughout your life become worse during this period?

A It keeps getting worse as the years go by, yes.

Q Was that one of the health problems which kept you from working during the time that Eddie went into the service?

A Yes. That is my biggest problem.

Q Was there anyone else to support you other than your husband and yourself after you were married?

A No, nothing, nobody.

Q You know now how your husband met his death?

A I found out through Mr. Huie.

Q Is it true that you did not learn that your husband was executed by the Army until sometime almost eight or nine years after the fact.

A Nine years after the execution, is when I found out.

Q Were you ever notified by the Army that your husband was under a sentence of death for some two months?

A No. All I got from the Army was a telegram telling me that he died in the European Theater of War, and a letter following that to return the \$55 allotment check, which I did. Other than that I had nothing.

Q And after you met with Mr. Huie and learned the circumstances of your husband's death, did you make efforts on your own to try to among other things see to it that the insurance proceeds of which you were beneficiary would be paid to you?

A I tried.

Q What sort of efforts did you make? What did you do?

A I went to the VA. The first time I wrote to the VA and they wrote back and the correspondence read that due to the conditions under which he died they were unable to pay the proceeds of the policy.

Q That was before you met with Mr. Huie and learned that your husband had been shot to death?

A No, this was later, and I also made a plea in person and I was told the same thing.

Q Did you come to Washington from Detroit, Michigan and attempt to see President Eisenhower?

A I sure did.

Q When was that?

A While he was President. I don't remember the year.

Q Did you see President Eisenhower?

A No, I was unable to see him.

Q Did anyone else from the White House see you that day?

A I talked to the Vice President.

Q Vice President Nixon?

A Right. He told me that President Eisenhower had left his office, and therefore I was unable to go in.

Q Now, did you, in one of your trips, speak to General Cota, General Cota being the Commanding Officer of Eddie Slovik in Europe at the time of his death?

A Yes.

Q Did you speak to General Cota?

A Yes.

Q Where and when?

A In Philadelphia. In a hospital in Philadelphia. I am sorry, I don't know the name of the hospital. It was in April of '54.

Q And did you discuss your problem with General Cota?

A Well, he was gravely ill. There wasn't too much conversation, but he did tell me that he was very happy that I was able to get the insurance and get benefits. He said, we can't bring him back, but at least you got the insurance. I said, I didn't get the insurance.

Q What did he say to that?

A He was stunned.

Q Were you there with his wife at the time?

A I was there; yes.

Q Did he ever say why he was surprised that you had not gotten the insurance?

A I can't recall the exact conversation that went on,

but he was very surprised. I later learned that this was put in the trial, the record of trial.

Q Changing of your husband's sentence, you mean?

A That this part was supposed to be upheld, that I was to get the insurance and the benefits.

Q Mrs. Slovik, would you describe to the Board your condition in the last several years, whether you have been able to work, where you live, the conditions under which you live?

A Due to my health I haven't been able to work. I have lived in a nursing home most of the time and with no other income but welfare. Just very recently, about three months ago, I got Social Security in the amount of \$112 a month. That is the first moneys I have had since I haven't been able to work in better than ten or twelve years. When I was working I wasn't able to work steady because the more I worked the more pressure it put on me, epilepsy, and therefore I had to quit.

COUNSEL: Gentlemen, do you have any questions?

MEMBER: Yes, I have a few:

Q Mrs. Slovik, you testified that you were not notified of the circumstances of your husband's death other than a telegram from the Army saying he died in the European Theater.

A Right.

Q Did you receive a letter from the Division Chaplain?

A No.

Q I believe in the record there is a letter from the Chaplain explaining the circumstances of his death. Do you know of any reason you didn't receive that?

A I didn't get it. I had no correspondence except that telegram and the letter for me to return the check.

COUNSEL: May I see that? I am not aware of such a letter. I have never seen a copy of it.

CHAIRMAN: Yes, certainly. I would like to have the letter identified for the record, please. After you have identified it for the record, let Counsel examine the letter.

EXAMINER: Marked as Exhibit B.

CHAIRMAN: I would like to have it identified, and also if there is an identification of how the letter was sent through the mails.

EXAMINER: There is no indication how it was sent through the mail, Mr. Chairman. It was dated 1 March 1945. This is a carbon copy, addressed to Mrs. Antoinette Slovik, at 6320 Turns in Dearborn, Michigan. It says: "Dear Mrs. Slovik: I wish to express my sympathy and condolence to you, the wife of Eddie D. Slovik, Private" -- and it gives the Serial Number -- "who was executed by musketry in France on 31 January 1945. I officiated at his burial in a cemetery in France. As the Catholic

Chaplain of the Regiment to which your husband, Eddie, was assigned, it became my duty to prepare him for death. I first met your husband at 7:30 a.m. on the fatal date. When he was introduced to me his first question was, 'Father, can I receive Holy Communion this morning?' My reply was, 'You will have time for Confession, Mass, and Holy Communion.' An hour later Eddie went to Confession, attended Mass, and received Holy Communion. He said his Rosary at the Mass with me, then read one of your letters. He made no last statement to me after the Provost Marshal. He displayed as great a courage as any soldier I saw going to the battle and dying. 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 other soldiers in dying for the policies of their country. Before the medical officer had time to pronounce Eddie dead I administered the Sacrament of Extreme Unction. Before the body was removed I pronounced a Prayer for the Dead. May his soul and all the souls of the faithful departed through the mercy of God rest in peace." It is signed by Father Cummings, the Catholic Chaplain of the 10th Infantry.

CHAIRMAN: Are there any markings on the letter at all?

EXAMINER: No, not really, sir. There is nothing to show a dispatch stamp, if that is what you are talking about.

EXECUTIVE SECRETARY: Mr. Chairman, this is a carbon copy of what purports to have been an original letter.

CHAIRMAN: There is no indication it was sent by registered mail or anything of that kind?

EXAMINER: No, sir; not by registered mail.

CHAIRMAN: What is the date of that letter again?

EXAMINER: It's dated 1 March 1945.

CHAIRMAN: You may now present the letter to Counsel.

Mr. Woodside will proceed with his questions.

MEMBER: Mrs. Slovik, in the telegram that you received, did it give you any indication of the circumstances of his death, or did it merely say he died in the European Theater?

A Your husband, Eddie Slovik, such-and-such a serial number, died in the European Theater of War.

MEMBER: I believe there is also a copy of a telegram in the file that had words to the effect that he died in the European Theater due to his own misconduct, or words to that effect. Would you please let that be shown to the Counsel?

CHAIRMAN: Does the Examiner have a copy of that telegram in the file?

EXAMINER: A letter.

CHAIRMAN: Would you please identify it?

EXAMINER: This is a letter to Mrs. Slovik by the Adjutant General 27 February 1945 addressed to Mrs. Antoinette Slovik, 6321 Ternes Street, Dearborn, Michigan. It says: "Dear Mrs. Slovik: This letter is to confirm the report previously sent you that your husband died on 31 January 1945, in the European Theater of Operations. Death was due to husband's local misconduct."

There is a telegram that was sent to Mrs. Slovik on 24 February 1945, same address. It says: "Official report received states your husband, Private Eddie D. Slovik, died 31 January in the European Theater of Operations. Confirming letter follows." That's the letter I just quoted to you. It is also signed by the Adjutant General.

CHAIRMAN: Were there any markings on the telegrams to indicate how they were sent?

EXAMINER: It says it was dispatched on 24 February 1945. It has the AGO stamp on it.

CHAIRMAN: Were all of these communications sent to the same address?

EXAMINER: All sent to 6320 Ternes Avenue, Dearborn, Michigan.

COUNSEL: May I say for the record that my previous statement that I had examined the records of this case needs now to be amended because neither I nor anyone working with me has seen these last mentioned documents. I have discussed and met with Mr. Huie, William Bradford Huie, who will testify today, and he turned over to me and discussed with me those parts of the Army file that he saw. Unfortunately there are parts of the file which were not shown to him and he will testify under oath as to whether or not copies of these documents last mentioned were ever seen by him. He indicates that he has not seen them. So to the extent that there are parts of this record that have not been made available to him during his conferences with the Army to obtain all of the records so that he might write this book and to the extent also that I have not had the opportunity to see those parts of the record which for some reason have not been made known to him, then my previous statement will have to be amended, and I might at the conclusion of the hearing ask leave to look at the entire record. I thought we had been provided with the entire record.

EXECUTIVE SECRETARY: Mr. Chairman, there was no intent to keep any of the military records from Counsel. I hand Counsel a copy of the Notice of Hearing that was mailed on the 24th of May 1977 in which we expressly state that the records are available for review.

COUNSEL: Yes, I understand that. We got that letter but we thought that the records of this case had been made available to Mr. Huie and my preparation of this case was based almost entirely on the information that was available to him. So if information is not available to him, I didn't have it. In defense and explanation, Mrs. Slovik is as you have seen, without the funds to employ people to travel throughout the country to spend the time to perhaps prepare this case as it might otherwise be prepared, and that's not her fault. I am sure the Board will allow us additional time if we need it later. But neither she nor I nor Mr. Huie ever knew about these last few letters of communication.

Excuse me for the interruption, Mr. Woodside.

MEMBER: Mr. Edelson, my purpose is to bring out all of the records here so that you will be aware of all of the information. As I recall reviewing the record, along in the mid-fifties Mrs. Slovik visited Washington, the Pentagon, I believe, to review the records, and Mr. Huie was with her, and she requested that the record be -- copies of the record be provided to Mr. Huie. If I recall correctly, it is not policy to provide this type of information other than to the next of kin or someone with a relationship that would justify it. I am sure you can understand the embarrassment that might be present for someone getting this kind of information. However, I believe that Mrs.

Slovik at that time reviewed the record, if I remember the file correctly.

COUNSEL: Well, yes, she did give authorization to Mr. Huie, and Mr. Huie who prepared the information and went through the records for the research to prepare the book, I assume looked and examined all the records that were made available to him by the Army, and we will hear from him in a few moments as to whether or not these documents were made known to him.

QUESTIONS BY MEMBER OF THE APPLICANT:

Q Mrs. Slovik, I believe you testified that your first application for payment of the insurance benefits was after your consultation with Mr. Huie in the preparation of the book, which was sometime around 1954. Is that correct?

A I can't rightfully remember. I couldn't say exactly when I tried the first time. But it was at a time when I wasn't able to work.

Q Well, could you remember whether you made application for payment of the insurance a year or two after your husband's death, or was it four or five years after?

A I would say about two years.

Q Do you recall any reason you waited that long?

A I wasn't working. I had stopped working. So I applied for the insurance.

Q In your visit with General Cota in the hospital you indicated that Mrs. Cota was present.

Mr. Edelson, have you contacted Mrs. Cota, or is she still alive? Do you have any indication from her of the transaction at that time?

COUNSEL: None whatsoever. I have not contacted Mrs. Cota and I don't know whether she is living or dead.

MEMBER: Again, if I remember the records correctly, the indication of General Cota was that the part of the sentence referring to pay and allowance be eliminated. Is it your contention that allowances would include insurance also, or did General Cota specifically mention insurance?

COUNSEL: No, he did not specifically mention insurance. It is our contention that when he deleted that part of the sentence which had to do with pay and allowances, he did so with the specific intention that the next of kin would be entitled to and receive the insurance proceeds.

MEMBER: Normally in the military pay and allowances, the allowances refer to allowance for quarters and subsistence, and I was trying to find out whether he specifically mentioned insurance as one

of the things he had in mind.

COUNSEL: He did not mention that any place in the record, but Mr. Huie will address himself to his conversations with General Cota.

QUESTIONS BY MEMBER OF THE APPLICANT:

Q Mr. Slovik, you also, I believe, testified that your income has been limited mostly to welfare and Social Security.

A State Aid.

Q State Aid. Did you receive any income from the royalties on the book or movies or anything in return for your agreement to --

A Mr. Huie gave me a check for a thousand dollars. I got nothing for the movie.

COUNSEL: So your total compensation for anything that appeared either from the book or the movie was a total of a thousand dollars?

A Right.

MEMBER: I have no further questions.

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

MEMBER: I just have one, Mrs. Slovik:

Q At the time your husband was drafted, you had been married 16 or 18 months, I believe you said. What was his reaction and what was his reaction when he received the draft notice? Did he have apprehensions? I am sure everybody had apprehensions. But was he extremely upset?

A Well, these were his words: Since Uncle Sam wants me, I will try to make the best soldier I know how,

Q He didn't express to you any fears that he had?

A He didn't say anything.

MEMBER: Thank you.

CHAIRMAN: Mr. Hise?

QUESTIONS BY MEMBER OF THE APPLICANT:

Q Mrs. Slovik, you indicated you were unable to see General Eisenhower when he was President on your trip to Washington?

A Right.

Q But you were able to see Mr. Nixon when he was Vice President?

A Yes.

Q What if anything did he have to say to you other than to say you couldn't see the President?

A Nothing.

Q Was that the extent of it?

A Yes, sir.

MEMBER: That is all I have.

CHAIRMAN: Mr. Stroud?

MEMBER: I have no questions.

QUESTIONS BY CHAIRMAN OF THE APPLICANT:

Q Mrs. Slovik, you have testified as to your husband's reaction when he got his draft notice. Did he write to you while he was going through training?

A He wrote every day.

Q Do you remember anything that he told you about his reaction to the training?

A Yes. He did write of his doings in the Army; yes; he had problems with his shooting. I don't know exactly what it was that he wrote. I don't have any of those letters any more.

Q Do you remember whether he was proud to be in the Army, proud to serve his country? Did he write anything of that nature?

A Well, I don't believe they had any problems with him, so I think he did behave himself. I think he did try to serve the best he knew how.

Q Did he write to you at the time he received his overseas orders?

A What was that, sir?

Q Did he write to you at the time he received his orders to go overseas?

A Yes, he was home on furlough for a week. And when he left home then he went to his Camp of Embarkation, Fort Meade.

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.

(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. Hen best 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"

The deceased was examined by a psychiatrist on 26 Oct 44
(Captain Arthur L. Burks). 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."

On 27 Nov 44 the convening authority (CG, 28th Inf Div, MG
Norman D. Cota) approved only so much of the sentence as pro-
vided for the deceased to be shot to death with musketry.

On 9 Dec 44 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.

The deceased's record of trial was reviewed by the SJA, HQ, European Theater of Operations on 23 Dec 44. 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 as retribution, but to maintain that discipline upon which alone an army can succeed against the enemy. There was no recommendation for clemency in this case and none is here recommended."

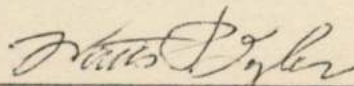
On 23 Dec 44 the Commanding General, European Theater of Operations (Gen. Eisenhower) approved the deceased's sentence by the GCM of 11 Nov 44.

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 Jan 45. This Board determined that the court (GCM of 11 Nov 44) 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. He was shot to death by a firing squad at St. Marie Aux Mines, France at 1005 hours on 31 Jan 45.

7. The deceased came from a poor family of Polish ancestry. He was a juvenile delinquent. Between 1932 and 1938 he was put on probation on five separate occasions - four for breaking and entering and one for assault and battery. In addition he had been sentenced to imprisonment for 6 months to 10 years on 16 Nov 37 for embezzlement and on 3 Jan 39 had been convicted of "unlawfully driving an auto away" and sentenced to 2½ to 7½ years in the reformatory.
8. Public Law 801, 76th Congress (now 38 U.S.C. 711) provides a twofold barment to the payment of life insurance in his case. The first is that any person guilty of desertion shall forfeit all right to NSLI. The second is that no insurance shall be paid for death inflicted as lawful punishment for crime.
9. Prior rulings by the Attorney General of the United States, with regards to the authority of ABCMR to change the findings

and sentence of a court-martial, have been essentially that the Board cannot reopen the proceedings, findings, or judgments which would disturb the conclusiveness of the court-martial action. However, the Attorney General has suggested in later cases that the authority under 10 U.S.C. 1552 was broad enough to base corrective actions on error or injustice in court-martial proceedings. Moreover, the Comptroller General has rendered a decision that 10 U.S.C. 1552 provides authority to remove a record of court-martial conviction, and that thereafter the member would not be regarded as having been convicted for purposes of the Hiss Act (removing the statutory forfeiture of retired pay resulting from conviction). Office, The Judge Advocate General (OTJAG) (Administrative Law) has opined that "where petitioner seeks invalidation of the conviction itself because of legal error, the Board may recommend Secretarial action to set aside the conviction --- only where --- specification fails to state an offense --- or the court lacks jurisdiction. A "lack of jurisdiction" may arise from a denial of due process in the proceedings, amounting to fundamental unfairness. (Burns v. Wilson, 346 U.S. 137 (1953)). However, OTJAG, has further opined that they are "unaware of any basis for invalidating the conviction in this case".

10. The deceased was the only soldier to be executed for desertion during World War II and the first since the Civil War. However, he was not the only soldier executed as a result of a sentence by court-martial. There were 54 others who were executed for such offenses as murder and murder and rape. The designated beneficiaries for those individual's also failed to receive the member's NSLI.



WATTS P. TYLER
Examiner

SLOVIK, EDDIE

PS Form 3811, Jan. 1975

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- RESTRICTED DELIVERY.
Show to whom and date delivered..... 65¢
- RESTRICTED DELIVERY.
Show to whom, date, and address of delivery 85¢

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SIGNATURE Addressee Authorized agent

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