

RECORD OF TRIAL

of

slovik (Last name) Eddie N. (First name and middle initial) 36896415 (Army serial No.)
Private (Grade) Company G, 109th Infantry (Organization)
Rotzen, Germany (Station)

By

GENERAL COURT MARTIAL Appointed by the Commanding Officer

28th Infantry Division

Tried at

Rotzen, Germany

11 November - 1944

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TESTIMONY

NAME OF WITNESS	Direct Page	Cross Page	Redirect Page	Recross Page	Court Page	Recalled Page
Thompson, Pvt., George F.	8	11				
Hurd, 1st Lt., Wayne L.	12	-				
Grotte, Capt., Ralph C.	13	-				
Schmidt, Pvt., William G.	14	-				
Griffin, 2nd Lt., Thomas F.	15	-				

W. D., A. G. O. Form No. 111
January 5, 1943

SHOULD PROPERLY READ "ROETGEN", GERMANY

[Handwritten Signature]

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EXHIBITS, ETC., APPENDED

Description	Number	Page where introduced
True Extract copy of SC 94, Headquarters Third Replacement Depot, pertaining to Slovik	1	8
True Extract Copy of Special Orders No. 183, Headquarters 26th Infantry Division, pertaining to Slovik	2	8
True Extract copy of Special Orders No. 132, Headquarters 109th Infantry, pertaining to Slovik	3	8
Written confession of Private Eddie D. Slovik (Accused)	4	12

RECEIPT FOR COPY OF RECORD

I hereby acknowledge receipt of a carbon copy of the above described record of trial,

Fill in <u>place</u> and <u>date</u> →	, 19__
Slovik sign here →	(Signature of accused)

THE TWO VERTICAL LINES ON THE LEFT ARE PHOTO COPIES OF STAPLES.

THE ARROWS WERE TWO SEPARATE SHEETS OF PAPER.

VERY OBVIOUSLY PRIVATE SLOVIK NEVER DID SIGN THIS RECEIPT OR ANY RECEIPT.

HE SPECIFICALLY REQUESTED A COPY OF THE RECORD PLEASE REFER TO PAGE 18, Paragraph 7 and to page 58.

E.P.H.

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J. I. A

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RECEIPT FOR COPY OF RECORD

I hereby acknowledge receipt of a carbon copy of the above described record of trial, delivered to me at _____
 this _____ day of _____, 19_____

(Signature of accused)

AFFIDAVIT

29 November 1944

I, John I. Green, Captain, JAGD 02051818, hereby certify that on 15 November 1944 a copy of the Record of Trial was forwarded to Geine Disciplinary Training Center, APO 887, U. S. Army where the accused is presently confined, for service upon accused. To date no receipt has been received by this office. Upon receipt of same it will be forwarded for inclusion in the Record of Trial.

John I. Green
 JOHN I. GREEN
 Capt., JAGD
 Trial Judge Advocate
 Office of Division Judge Advocate

CAPTAIN JOHN IRA GREEN WAS A FINE OFFICER AND FRIEND. WHEN IN COURT NEITHER OF US ASKED OR EXPECTED ANY QUARTER.

HE WAS A CREDIT TO THE LEGAL PROFESSION WHEN I LEARNED OF HIS DEATH, THROUGH A MUTUAL FRIEND, JUST A FEW MONTHS AGO, I CRIED.

IN MY ADULTHOOD, COMMENCING AT AGE 18, I CRIED TWICE BEFORE FOR MOTHER AND FATHER WHEN THEY DEPARTED.

2 B
 EP 7

J-2A

PROCEEDINGS OF A GENERAL COURT MARTIAL

which convened at Reitzgen, Germany pursuant to the following orders:

SPECIAL ORDERS)
NUMBER 174)

HEADQUARTERS 28TH INFANTRY DIVISION,
APO 28, U. S. ARMY.
16 August 1944.

E X T R A C T

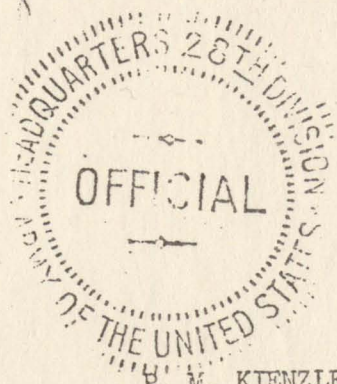
1. A General Court Martial is aptd to meet at Headquarters, 28th Infantry Division, APO 28, U. S. Army, or such other place as is convenient on 16 August 1944 or as soon thereafter as practicable for the trial of such persons as may properly be brought before it:

DETAIL FOR THE COURT

- ✓ LT COL GUY M WILLIAMS 0145910 FD Hq 28th Inf Div
- ✓ MAJ ORLAND F LEIGHTY 0274040 DC Hq 28th Inf Div
- ✓ MAJ HERBERT D WHITE 0278151 AGD Hq 28th Inf Div
- ✓ MAJ JAY M NAKEN 01693382 MC Hq 28th Inf Div...Law Member ✓
- ✓ MAJ ROBERT D MONTONDO 0435926 Inf Hq 28th Inf Div
- ✓ CAPT BENEDICT KIMMELMAN 0351208 DC Med Det Special Troops
- ✓ CAPT ARTHUR V PATTERSON 0347318 IGD Hq 28th Inf Div
- ✓ CAPT STANLEY H FRENCH 01534016 MAC Hq 28th Inf Div
- ✓ CAPT CLARENCE W WELCH 0445749 Inf Hq 28th Inf Div
- ✓ 1ST LT JOHN I GREEN 02051818 JAGD Hq 28th Inf Div...Trial Judge Advocate
- ✓ 1ST LT HAROLD C PATRICK 01002705 AGD Hq 28th Inf Div...Asst Trial Judge Advocate
- ✓ CAPT EDWARD P WOODS 0415575 Inf Hq Sp Tps.....Defense Counsel
- ✓ CAPT JOHN M COOKENBACH 0461636 FD Hq 28th Inf Div.Asst Defense Counsel

By command of Brigadier General COTA:

CHARLES H. VALENTINE,
Colonel, GSC,
Chief of Staff.



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

DISTRIBUTION: Special
Plus 50 - JA

considered

AS THE DATE INDICATES, VERY SHORTLY AFTER ASSUMING COMMAND OF THE 28TH INFANTRY DIVISION, GENERAL COTA CREATED THE GENERAL COURT PER THESE ORDERS. IT HEARD ALL CASES BROUGHT BEFORE IT, ABOUT 25 IN NUMBER. I WAS THE DEFENSE COUNSEL IN ALL, CAPTAIN COOKENBACH WAS PRESENT AT MOST IF NOT ALL, EXCEPT THE "SLOVAK CASE" JOHN DEFENDED IN ONE OR MORE CASES.

GENERAL THOMAS LINUS HOBAN WAS MY COMMANDING OFFICER, AND I WAS HIS EXECUTIVE OFFICER OF HQ. SPECIAL TROOPS & HIS ASST HEADQUARTERS COMMANDANT. He IS MORE COMPETENT TO DEFEND IN ALL MILITARY OFFENSES, AND I CONCUR. I WOULD NOT AND DID NOT DEFEND AN ACCUSED OF "MURDER--SODOMY, OR GRAND LARCENY.

GENERAL HOBAN ACTED AS SPECIAL COUNSEL IN THESE THREE CASES. BUT I WAS STILL "THE DEFENSE COUNSEL. GENERAL HOBAN WAS ON OFFICIAL LEAVE DURING THE WAR AS "PRESIDENT JUDGE OF THE COMMONWEALTH OF PENNSYLVANIA 45th JUDICIAL DISTRICT, SCRANTON, PENNSYLVANIA

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E. J. N.

J-VB
~~RESTRICTED~~

SPECIAL ORDERS)
SER 204)

HEADQUARTERS 28TH INFANTRY DIVISION,
APO 28 U.S. Army, 25 September 1944.
28TH - ROLL ON!

EXTRACT

12. 1ST LIEUTENANT BERLARD ALTMAN, 01319708, Infantry, Hq Co 28th Inf Div is detailed as law member of the General Court-Martial appointed by par 1 SO 174 Headquarters 28th Infantry Division 16 August 1944 vice MAJ JLY M NAMEN C1693382 MC Hq 28th Inf Div held as member and law member.

By command of Major General COTA:



CHARLES H. VALENTINE,
Colonel, GSC,
Chief of Staff.

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

DISTRIBUTION: Special, plus 40 cys JA

~~RESTRICTED~~

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MAJOR NAMEN WAS A SPECIALIST IN FORENSIC MEDICINE, I'M NOT SURE WHETHER HE WAS ALSO A LAWYER, BUT I ASSUME HE WAS.

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MAJOR NAMEN WAS REMOVED FROM THE COURT FOR WHAT I FEEL WERE POLITICAL CONSIDERATIONS.

PRIOR TO A TRIAL, A LETTER WAS READ BY THE PRESIDENT OF THE COURT. IT WAS FROM A HIGHER HEADQUARTERS, EITHER CORPS OR ARMY.

THE JIST OF THE LETTER WAS THAT ALL GENERAL COURTS, NOT NECESSARILY THE 28TH INFANTRY DIVISION WERE TOO SOFT IN THEIR DETERMINATIONS OF THE SENTENCES.

THIS PARTICULAR TRIAL WAS HELD IN A FIELD, SOMEWHERE IN NORMANDY. I STRENUOUSLY OBJECTED TO THE READING OF THE LETTER, BECAUSE I CONTENDED IT WAS PREJUDICIAL TO MY PRESENT AND FUTURE CLIENTS.

MAJOR NAMEN SUSTAINED MY OBJECTION AND WAS PROMPTLY REPLACED.

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E.P.N.

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f.r.c.
Rotgen, Germany ✓
11 November 1944 ✓

ORGANIZATION OF THE COURT

The court, met pursuant to the foregoing orders at 10:00 o'clock, A.M.

PRESENT

✓ LT COL GUY M WILLIAMS ✓	0145910°	FD	Hq 28th Inf Div
✓ MAJ ORLAND F LEIGHTY ✓	0274040°	DC	Hq 28th Inf Div
✓ MAJ HERBERT D WHITE ✓	0278151°	A7D	Hq 28th Inf Div
✓ MAJ ROBERT D MONTOMO ✓	0435926°	Inf	Hq 28th Inf Div
✓ CAPT BENEDICT KINSELMAN ✓	0351208°	DC	Med ret Special Troops
✓ CAPT ARTHUR V PATTERSON ✓	0347318°	I3D	Hq 28th Inf Div
✓ CAPT STANLEY H FRENCH ✓	01534016°	KAC	Hq 28th Inf Div
✓ CAPT CLARENCE W WELCH ✓	0445749°	Inf	Hq 28th Inf Div
✓ 1ST LT BERNARD ALTMAN ✓	01319708°	Inf	Hq Co 28th Inf Div....Law Member
✓ CAPT JOHN I GREEN ✓ (Formerly 1st Lt)	02051818°	JAGD	Hq 28th Inf Div...Trial Judge Advocate
✓ 1ST LT HAROLD G PATRICK ✓	01002705°	A3D	Hq 28th Inf Div...Asst Trial Judge Advocate
✓ CAPT EDWARD P WOODS ✓	0415575°	Inf	Hq Sp Trps.....Defense Counsel

ABSENT

X ✓ CAPT JOHN M COCKENSACH ✓ 0461636° FD Hq 28th Inf Div...Asst defense Counsel
Excused by verbal order of the Commanding General because of assignment to other military duties away from station.

The court proceeded to the trial of Private Eddie D. Slovik, 36896415, Company G, 109th Infantry, who, on appearing before the court, was asked by the trial judge advocate whom he desired to introduce as counsel.

The accused stated he desired to be defended by the regularly appointed defense counsel, Captain Edward P. Woods.

Staff Sergeant John S. Clapper was sworn as reporter.

Prosecution to accused, Private Slovik: Do you want a copy of the record?

Private Slovik: Yes sir.

The trial judge advocate then announced the names of the members of the court present and absent.

Prosecution:

The general nature of the charge in this case is a violation of the 58th Article of War. There are two specifications. The first specification alleges that the accused deserted the service of the United States on or about 25 August 1944 at Elbeuf, France with intent to avoid hazardous duty and to shirk

PRIVATE SLOVIK SPECIFICALLY ASKED FOR A COPY OF THE RECORD. THIS IS A COPY OF THE TRIAL PROPER, WHICH IS A PART OF THE "COMPLETE RECORD"

important service, to wit: action against the enemy, and remained absent in desertion until returned to U. S. military authorities on 4 October 1944. The second specification alleges that he deserted the service of the United States on 8 October 1944 with intent to avoid hazardous duty and to shirk important service to wit: action against the enemy, and did remain absent in desertion until he surrendered himself on 9 October 1944. The charges were preferred by Captain Ralph C. Grotte, Company G, 109th Infantry. The charges were investigated by Lieutenant Colonel William F. Train, 109th Infantry and forwarded by the commanding officer of the 109th Infantry; and no member of the court will be a witness for the prosecution. The records in this case disclose no grounds for challenge. If any member of the court is aware of any facts which he believes to be a ground for challenge by either side against any member, it is requested that he state such facts.

President: Apparently no member of the court has any ground for challenge to disclose.

Prosecution: The prosecution has no challenge for cause and has no challenge peremptorily.

Prosecution to accused: Private Slovik, you have the right to challenge any member or members of the court for cause, and any one member, other than the law member, peremptorily. Do you desire to challenge any member of the court for cause?

Defense: The accused has no challenge for cause.

Prosecution to accused: Do you wish to exercise the right to one peremptory challenge against any member except the law member? (The Law Member then explained in detail to Private Slovik his right to peremptory challenge.)

Defense: The accused has no peremptory challenge.

Prosecution to accused: Do you have any objection to any member of the court now present.

Accused: No sir.

The members of the court and the personnel of the prosecution were then sworn.

ARRAIGNMENT

The accused was then arraigned upon the following charge and specifications.

CHARGE: violation of the 58th Article of War.

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

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

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ARRAIGNMENT (Continued)

(Signature of accuser) Ralph O. Grotte
 (Name typed) ✓ RALPH O. GROTTÉ
 ✓ Captain, Infantry
 ✓ Cmdg Co 3, 109th Inf.

AFFIDAVIT ✓

Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above-named accuser this 19th day of October, 1944, and made oath that he is a person subject to military law and that he personally signed the foregoing charges and specifications, and further that he has personal knowledge of the matters set forth in specification 1 and 2 of the Charge and the Charge, and that the same are true in fact, to the best of his knowledge and belief.

(Signature) John E. McDonald
 (Name typed) ✓ JOHN E. McDONALD
 ✓ WOJG, USA, Assistant Adjutant
 ✓ 109th Infantry ✓

1ST IND. ✓

Headquarters 28th Infantry Division, APO 28, U.S. Army, 29 October, 1944.

Referred for trial to 1st Lt. John I. Green, JAGP, Hq 28th Inf Division, Trial Judge Advocate of GENERAL court-martial appointed by paragraph 1, special Orders No. 174, Headquarters, 28th Inf Division, 16 August 1944 as amended by paragraph 12, special Orders No. 204, Headquarters, 28th Inf Division, 25 September 1944.

By command of Major General COHA:

(Signature) P. M. Kienzie, Adjutant
 (Name typed) ✓ P. M. KIENZIE,
 ✓ Lt. Colonel, A.G.D.,
 ✓ Adjutant General

The charges were served on the accused on 30 October 1944.

SPECIAL PLEAS AND MOTIONS: None.

The accused then pleaded as follows:

- ✓ To Specification 1 of the Charge: "Not Guilty"
- ✓ To Specification 2 of the Charge: "Not Guilty"
- ✓ To the Charge: "Not Guilty"

Prosecution: Is the accused prepared to proceed with the trial at this time?

Defense: The accused is ready to proceed with the trial at this time. ✓

Prosecution: Does the court desire any parts of the Manual or any other publication read at this time?

President: The court does not.

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Prosecution: The prosecution does not desire to make an opening statement.

Prosecution: At this time it is stipulated by and between the prosecution, the accused, and the defense counsel that Prosecution Exhibits 1, 2, and 3 may be admitted in evidence without formal proof of the making, issuing, publication or distribution of the administrative Special Orders of which the exhibits are true extract copies. The Prosecution reminds the court that the extracts of the administrative orders showing an administrative transaction have no probative value to prove the accused's physical presence or transfer.

Defense: Defense joins in the stipulation.
Accused, Private Slovik: I consent to the stipulation.

Law Member: Subject to objection by any member, I rule that the oral stipulation will be accepted by the court and the three exhibits are admitted in evidence as Prosecution Exhibits 1, 2, and 3 respectively.

Defense: The number 745 refers to the accused's Army Specialty Serial Number which for the purpose of the record is Rifleman.

Prosecution: The prosecution calls as its first witness, Private George F. Thompson.

TESTIMONY FOR THE PROSECUTION

Private George F. Thompson, Company G, 109th Infantry, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

- Q. State to the court your full name, grade, and organization.
- A. George F. Thompson, Private, Company G, 109th Infantry.
- Q. Do you know this accused who sits by his counsel?
- A. Yes sir.
- Q. What is his name and organization?
- A. Eddie Slovik, Private, Company G, 109th Infantry.
- Q. When did you first make the acquaintance of Private Slovik?
- A. At Fort George Meade, Maryland.
- Q. When was that?
- A. The 25th of July, 1944.
- Q. Did you come overseas in the same group of replacements as Slovik?
- A. Yes sir.
- Q. Where did you come after you left the United States?
- A. We came through England and went from there to France.
- Q. Where did you land in France?
- A. At Omaha Beach.
- Q. What military organization did you go to after you landed in France?
- A. There were a couple different places. We finally wound up at the Third Replacement Depot.

IN THE ABSENCE OF LOST MORNING REPORTS THE TRIAL JUDGE ADVOCATE (THE PROSECUTION) HAD TO PROVE THAT PRIVATE SLOVIK WAS ACTUALLY ASSIGNED TO CO G 109th INF

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Q. Was the accused with you all during this time at the places mentioned?
A. Yes sir.

Q. Where did you go from the Third Replacement depot?
A. To the 28th Division.

Q. When was that?
A. About 25 August 1944.

Q. Did the accused come to the 28th Division with you?
A. Yes sir.

Q. Were you assigned to some Company in the 28th Division?
A. Yes sir, Company G, 109th Infantry.

Q. About what date was that?
A. It was the same date.

Q. How did you get down to your company?
A. By trucks.

Q. Where was the company at that time?
A. They were located at Elbeuf, France.

Q. You actually joined your Company at Elbeuf, France?
A. Yes sir.

Q. To the best of your memory, this was around the 25th of August?
A. Yes sir.

Q. At the time you came to the 28th Division did some orientation officer or the officer in command give a talk to the group of replacements which you were in?
A. Yes sir.

Q. Was Private Slovik in that group?
A. Yes sir.

Q. Do you know what Company G, 109th Infantry was doing at the time that you joined it?
A. Not definitely sir. We just imagined that it was fighting.

Q. Was ammunition issued to you?
A. Yes sir.

Q. Where was it that the ammunition was issued to the replacements?
A. I think the ammunition was issued at Division.

Q. Did you replacements talk among yourselves as to where you were going, your new unit, and what you might expect?

Defense: The defense objects on the grounds that the question is incompetent, irrelevant, and immaterial.

Law Member: Objection overruled.

A. We talked some but we didn't know what to expect and didn't come to any definite conclusion about where we were going.

Q. Did you know whether or not the 28th Division was engaged with the enemy?
A. Well sir, we had a pretty strong suspicion that it was.

MY OBJECTION WAS VALID AND SHOULD HAVE BEEN SUSTAINED BY THE LAW MEMBER. PLEASE REFER TO PAGE 97 paragraph

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EPH

Q. Did some officer talk to you to orient you at the 28th Division before you were sent to your company?

A. Yes sir.

Q. Was it common knowledge among the group of replacements as to what unit you were joining, where Company G was and whether or not it was engaged in combat?

A. I would say it was.

Q. Was it generally known and talked about among the replacements?

A. I would say generally.

Q. When you started down to Company G, 109th Infantry in trucks did you see anything along the way?

A. We saw some damage, some burned out vehicles and shelled places.

Q. When you got closer to Company G did you see any action?

A. No sir.

Q. Tell just what happened after you entrucked to go to Company G.

A. Well, we got on the trucks at Division and sometime after that, I don't know how long, probably two or three hours, we stopped at some place which seemed to be more or less of a rest camp or something. We dropped our packs off there and got on the trucks again and went to Elbeuf where we again detrucked.

Q. When was the last time you saw Private Slovik?

A. We detrucked and moved along the edge of the city a way and then we dug in about 11:00 o'clock that night in an open lot. About 11:30 we moved into the city to join our company.

Q. Was Slovik with the group when you dug in at this place?

A. Yes sir.

Q. You saw him there?

A. Yes sir.

Q. About how many replacements were in your group that were assigned to Company G, 109th Infantry.

A. About fifteen of us sir.

Q. Did you see him any time after that?

A. We moved into the city about 11:00 o'clock to join our company. It took quite awhile because there was a lot of confusion. We moved around some but stayed close together so none of us would get lost. That's the last time I saw him.

Q. Was there any action at that place?

A. There was a lot of troop movements and shelling.

Q. Have you been present for duty with Company G since that time?

A. Yes sir.

Q. What has Company G been doing since August 25th, 1944?

Defense: The defense objects because it is immaterial and improper to show what the company was doing while the accused was absent from it.

Law Member: Objection overruled.

A. Well, we stayed at Elbeuf the next day and in the evening the Canadian troops took over and we moved on to Paris and from there on we went to France, Belgium and Luxembourg and the Siegfried Line.

NONE OF THE REVIEWING AUTHORITIES ADDRESSED THIS OBJECTION. I FEEL IT WAS JUST AS VALID AS THE OBJECTION CITED ON PAGE 62.

Q. In all those countries you mentioned was there more or less continuous enemy action against the 109th Infantry?

A. There wasn't too much. Every once in a while there was some.

Q. You then went on into the Siegfried Line?

A. Yes sir.

Q. Do you recall where you were on 8 October 1944?

A. Not at present sir.

Q. Has your company ever been near Rocherath, Belgium?

A. I don't know sir, because I wouldn't recognize the place by name.

Q. Up until the present time, has your company been generally fighting and campaigning in this invasion?

A. Yes sir.

Q. During any of that time since August 25th until the present time, to your knowledge has Private Slovik been present with his company for duty?

A. Not that I know of.

Q. Do you know one Private John P. Tankey, Company G, 109th Infantry?

A. Yes sir.

Q. Do you know what has happened to him?

A. I understand he was wounded and has been evacuated.

Q. Do you know whether or not he was with Company G at the time?

A. Yes sir, he was. He was wounded and would now probably be in the hospital.

CROSS EXAMINATION

Questions by defense:

Q. Did you see Private Slovik at the orientation lecture?

A. Yes sir.

Q. Did you see him when you were on the truck which was taking you down to your company?

A. Yes sir.

Q. You say that you last saw him at approximately 2300?

A. It might have been a little bit later.

Q. You saw him at Elbeuf?

A. Yes sir.

Q. Was that after 2300?

A. It was probably a couple of hours after that.

Q. It was dark. How do you know that he was actually there?

A. I know his voice.

Q. You did recognize his voice at Elbeuf?

A. Yes sir.

Prosecution: Does the court have any questions?

President: The court has no questions.

There being no further questions, the witness was excused and withdrew.

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First Lieutenant Wayne L. Hurd, 109th Infantry, a witness for the prosecution was sworn and testified as follows:

DIRECT EXAMINATION

Questions by Prosecution:

Q. State to the court your name, grade, and organization.

A. Wayne L. Hurd, First Lieutenant, 109th Infantry.

Q. Do you know the accused who sits by his counsel?

A. Yes sir.

Q. What is his name Lieutenant?

A. Private Eddie Slovik, Company G, 109th Infantry.

Q. Did you have occasion to see him on or about 11 October of this year?

A. Yes sir, I did.

Q. I hand you Prosecution Exhibit marked number 4 and ask you if your signature appears on that instrument?

A. Yes sir, it does.

Q. Do you know whose signature that is there?

A. Yes sir.

Q. Whose signature is that?

A. Private Slovik's.

Q. You saw him sign that did you?

A. Yes sir.

Prosecution: The prosecution offers in evidence, subject to objection by Defense Counsel, Prosecution Exhibit #4, purporting to be a confession of accused.

Defense: Defense has no objections to Prosecution Exhibit #4.

Law Member: Prosecution's Exhibit #4 is admitted in evidence.

Q. Lieutenant do you know any other facts or circumstances about this case that you wish to tell the court?

A. No sir, except I can just tell how Slovik happened to come into my notice. At that time I was appointed temporary MP officer. The platoon leader had been taken out of the company to be a liaison officer and I assumed his duty temporarily. It was at this time that Slovik turned himself over. I was standing in front of the orderly room at Rocherath, Belgium when Staff Sergeant Bronberg brought Slovik in. He had evidently been over to 112th Military Government Detachment and Lieutenant Griffin had told the sergeant to bring him over when he drove over to the orderly room. He brought him to the orderly room where I was and asked where I wanted him put. Slovik handed me a green slip of paper. I read the green slip of paper and told the sergeant to take Slovik to the MP's and I would call for him later. I took the green slip of paper which Slovik had handed me and gave it to the Adjutant and then turned it over to Colonel Henbest. Later on Colonel Henbest called me down and in Slovik's presence Slovik signed the slip and then Colonel Henbest signed and also me.

Q. This happened on or about 11 October 1944?

A. Yes sir.

Q. At Rocherath, Belgium?

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

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Defense: No questions.

Prosecution: Does the court have any questions?

President: The court apparently has no questions.

There being no further questions, the witness was excused and withdrew.

Captain Ralph C. Grotte, Company G, 109th Infantry, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. State your full name, grade, and organization.

A. Ralph C. Grotte, Captain, Company G, 109th Infantry.

Q. What is your official military duty?

A. I am company commander.

Q. How long have you been company commander?

A. A month and a half.

Q. Do you know the soldier who sits by his defense counsel?

A. Yes sir.

Q. What is his name?

A. Eddie Slovik.

Q. Is he a member of your company?

A. Yes sir.

Q. When to your knowledge did Slovik physically join Company G and where was the company then located?

A. It was on October 8 but I do not remember the name of the city or town where we were located.

Q. What was your company doing at that time?

A. It was reorganizing.

Q. Were you in contact with the enemy?

A. Not at that time.

Q. Tell the court how you first made your acquaintance with this soldier.

A. Private Slovik reported to me. A Sergeant Major from the battalion brought Slovik to my C.P. and I assigned Slovik to the Fourth Platoon and turned him over to Lieutenant Owens who was the Platoon Leader. Lieutenant Owens took him over to his platoon and introduced him to the Squad Leader. I had forbade him to leave the company area unless he had permission from me.

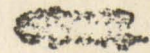
Q. What were the circumstances?

A. He had been absent without leave and had been returned to me through the battalion.

Q. As long as you were commanding officer of the company, had any permission been given Slovik to be absent?

A. No sir.

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- Q. If he wasn't present with the company, then there was none asked for him?
 A. No sir.
- Q. On October 8, 1944 did you give him any permission to be absent?
 A. No sir.
- Q. Did he ask for any permission to be absent?
 A. No sir.
- Q. Was he present for duty with Company G after October 8?
 A. He has never been present with the company for duty except on October 8 for a matter of one or two hours.
- Q. What happened then?
 A. He came to me and asked me if he could be tried for being absent without leave. I told him I would find out and had him placed in arrest and had him returned to his platoon area, and told him to stay in that area.
- Q. Did he remain there?
 A. No sir. He left me and was not seen in the company after that.
- Q. What did he do?
 A. About an hour later he asked me "If I leave now will it be desertion?".
- Q. When he asked "If I leave now will it be desertion?", what did you tell him?
 A. I said it would be.
- Q. Has he been present with your company for duty since that time? Since 8 October 1944?
 A. No sir.
- Q. What has your company been doing in reference to the enemy since you have had command of it?
 A. We have attacked once and have been in some pretty heavy fighting.
- Q. Would you say it has been campaigning generally since that time?
 A. Yes sir.
- Q. On occasions before and since 8 October 1944 has it been in close contact and fighting with the enemy?
 A. Yes sir.
- Q. Defense: No questions.

Prosecution: Does the court have any questions?

President: The court apparently has no questions.

There being no further questions, the witness was excused and withdrew.

Private William C. Schmidt, Military Government Detachment, 112th Infantry, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

- Q. What is your name, grade, and organization?
 A. William C. Schmidt, Private, Military Government Detachment, 112th Infantry.

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Q. Do you know this soldier who sits by his counsel here?

A. Yes sir.

Q. What is his name?

A. I don't know his name sir but I do recognize his face.

Q. When did he come into your notice?

A. I don't remember the date but it was the second day we were in Rocherath, Belgium.

Q. What were the circumstances?

A. I was detailed as a cook that day when about 8:30 this fellow came to the front door and handed me a green slip of paper with writing on it and said he had made a confession. I then asked him to come in and he came and I went on with my work. He came to the kitchen and asked for something to eat and so I gave him some and he helped wash dishes. I told the commanding officer about him and he came to the commanding officer and gave him the green slip of paper with the confession on it.

Q. How long was he around your detachment there before this?

A. About three hours.

Defense: No questions.

Prosecution: Does the court have any questions?

President: The court has no questions.

There being no further questions, the witness was excused and withdrew.

Second Lieutenant Thomas F. Griffin, Military Government Detachment, 112th Infantry, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. State your full name, rank, and organization.

A. Thomas F. Griffin, Second Lieutenant, Military Government, 112th Infantry.

Q. Do you know this soldier who sits by his counsel here?

A. Yes sir.

Q. Do you know his name and organization?

A. His name is Slovik and he is from the 109th Infantry.

Q. Have you ever seen him before this time?

A. I have, at Rocherath, Belgium.

Q. What was the approximate date and the circumstances?

A. It was on the 29th of October around 11:00 o'clock in town where our headquarters was set up. I had returned around 11:00 o'clock in the morning and Private Schmidt who was cook that day told me that this Private Slovik had come in earlier that morning and said that he told him he thought we were MP's and wanted to surrender to us. I called the S-1 of the 109th Infantry and told him that we had one of his men who was absent without leave and would they send someone to get him. About 12:30 or a quarter until One the Sergeant came over and took him back with him.

Q. In the statement which you made to the investigating officer, you have this date showing as the 9th of October, 1944?

A. Yes sir.

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Q. You said the 29th of October awhile ago.
A. It was the 9th instead of the 29th.

Q. Do you wish it corrected to show the 9th of October instead of the 29th?
A. Yes sir.

There being no further questions, the witness was excused and withdrew.
PLEASE SEE FOOTNOTE NUMBER 1

Prosecution: The prosecution rests.

The court then at 10:50 o'clock, A.M., took a recess until 11:00 o'clock, A.M. at which hour the personnel of the court, prosecution and defense, and the accused and the reporter resumed their seats as before.

Defense: Accused understands his rights as a witness and elects to remain silent but defense requests that the Law Member advise the accused as to his rights as a witness.

Law Member to accused: Private Slovik, it is my duty to explain to you that you have the legal right to: (1) be sworn as a witness and testify in your own behalf under oath like any other witness and be subject to cross-examination on the whole substance of any particular specification concerning which you testify in explanation or denial; (2) make an unsworn statement either written or oral. It may be made by you or your counsel or both. It will be taken for what it appears to be worth in explanation, denial, or excuse, and you will not be subject to cross-examination on it; or (3) remain silent in which case no inference of your guilt or innocence will be drawn by the court nor will the trial judge advocate comment upon your silence in his closing argument. Take time to confer with your counsel and decide what you intend to do.

At this point the accused conferred with his defense counsel.

Private Slovik: I will remain silent.

Defense: The defense rests.

The Prosecution made a closing argument.

The Defense made no closing argument. PLEASE SEE FOOTNOTE # 2

Prosecution: The prosecution has nothing further to offer.

Defense: The defense has nothing further to offer.

FINDINGS

Neither the prosecution nor the defense having anything further to offer, the court was closed, and upon secret written ballot, all of the members present at the time the vote was taken concurring in each finding of guilty, finds the accused:

Of Specification 1 of the Charge: "guilty"
Of Specification 2 of the Charge: "guilty" PLEASE SEE FOOTNOTE @3
Of the Charge: "guilty"

PREVIOUS CONVICTIONS, ETC.

The court was opened, and the trial judge advocate stated, in the presence of the accused and his counsel, that he had evidence of no previous convictions to submit.

(1) IT COULD APPEAR THAT THE DEFENSE COUNSEL WAS NOT AFFORDED THE RIGHT OF CROSS EXAMINATION OF THIS WITNESS. THIS WAS PROBABLY AN OVERSIGHT OF SGT. CLAPPER, THE COURT STENOGRAPHER AND COURT REPORTER. OTHERWISE THE TRANSCRIPT OF THE TRIAL BY SERGEANT CLAPPER WAS FLAWLESS. I PROBABLY WAS GIVEN THE OPPORTUNITY OF CROSS EXAMINATION. EVEN THEN I WOULD NOT HAVE CHALLENGED THIS YOUNG MAN'S TESTIMONEY. HE WAS A COMBAT VETERAN AND MY CHANCE TO PROVE MYSELF HAD YET TO COME DURING THE BATTLE OF THE BULGE.
(2) THERE WAS NOTING TO SUMMATE. I COULDNT PLEAD IMMATUREITY BECAUSE SLOVIK WAS ALMOST AS OLD AS HIS DEFENSE COUNSEL
69 (3) THE FINDINGS OF GUILTY CAME AS NO SURPRISE TO THE DEFENDENT OR HIS DEFENSE COUNSEL. E.P.J.