

## **Justice served, but too late** **WWII soldiers cleared, but convictions still sting for kin.**

BY DAVID FLICK  
*The Dallas Morning News*

Barbara Stewart was happy when she heard that the Army had overturned her husband's conviction in what is believed to be the only case in which black men have been tried for a lynching.

She is not sure he would have had the same reaction.

"Nobody is ever happy who is wrongly accused," said Mrs. Stewart, 70, of Austin.

Les Stewart had been found guilty of participating in a 1944 riot at Fort Lawton, an Army camp in Seattle, that led to the lynching of an Italian prisoner of war. He was one of 28 men convicted of the 43 who stood trial. All of the defendants were black.

The court-martial derailed the lives of the 43 soldiers – 12 of whom were from Texas. And an official review of the case has now tarnished the image of the late Leon Jaworski, a Texas icon.

The case was largely forgotten until the 2005 publication of the book *On American Soil*, in which Seattle-based writer Jack Hamann recounted the riot and subsequent court-martial.

As a result of the book, Congress ordered a review of the case by the Army's Board for Correction of Military Records. In October, the board said the court-martial had been unjust and recommended that the convictions be overturned.

Mr. Jaworski, whose role as Watergate special prosecutor earned him a reputation for toughness and honesty, was chief prosecutor in the Fort Lawton case. In that capacity, the review concluded, he intentionally withheld evidence from the defense that might have cleared the accused soldiers.

Relatives of the soldiers, nearly all of whom are now dead, said the men seldom discussed the case during their lifetimes. Mr. Jaworski, too, was reticent on the subject, according to his grandson, Robert Draper.

In an oral history at Baylor University, Mr. Jaworski touched on the Fort Lawton case only briefly, even though it had helped launch his career, according to Mr. Draper, a writer who once wrote a tribute to his grandfather for *Texas Monthly*.

"He refers to it in maybe two sentences, and he said it was an unfortunate case. He clearly didn't make an effort to beat his chest about it," Mr. Draper said.

Mr. Draper said he believes his grandfather's actions were less a result of maliciousness than simply being on the wrong side of history.



ERIN PARKER/Special Contributor  
Vera Baker holds a photo of her cousin Arthur Hurks, one of 43 men accused in the 1944 riot and lynching of an Italian prisoner of war

“I do believe Leon Jaworski is a real hero,” he said. “This case was not one of his finest moments.”

Today, the handful of defendants’ relatives who were interviewed said they had no bitterness toward Mr. Jaworski. The defendants had managed to get on with their lives, they said.

“He must have been good,” Vera Baker said, referring to Mr. Jaworski’s achievements. “I guess we all make mistakes.”

#### KEY TEXAS PLAYERS

##### SGT. ARTHUR HURKS



(Nov. 30, 1921 – July 25, 1991)

**Role:** A ranking noncommissioned officer in the barracks when the rioting began; helped take an injured white officer to safety

**Accusation:** Characterized as a ringleader of the riot and charged with murder

**Sentence:** 12 years' hard labor (acquitted of murder but found guilty of rioting)

**Aftermath:** Granted clemency after serving two years; re-entered the Army; honorably discharged

##### PFC. JOHN HAMILTON



(Aug. 26, 1925 – April 4, 1999)

**Role:** Rescued a white soldier from the mob

**Accusation:** Among the rioters who attacked Italian prisoners

**Sentence:** Eight years' hard labor

**Aftermath:** Released in President Harry Truman's 1946 Christmas clemencies

##### TECH 5TH CLASS LESLIE T. STEWART II



(Nov. 27, 1925 – Oct. 4, 1992)

**Role:** Unclear; witnesses disagreed about whether he was even in a building that was attacked

**Accusation:** Participated in the riot

**Sentence:** Eight years' hard labor

**Aftermath:** Released in the 1946 Christmas clemencies; re-entered the Army; served in Korea; honorably discharged

##### LT. COL. LEON JAWORSKI



(Sept. 19, 1905 – Dec. 9, 1982)

**Role:** Lead prosecutor

**Accusation:** Intentionally withheld information from the defense that would have helped clear the soldiers

**Aftermath:** Prosecuted German war crimes; joined the Warren Commission investigation into the assassination of

President John F. Kennedy; president of the American Bar Association; special prosecutor in the Watergate investigation

SOURCE: Jack Hamann's *On American Soil*

#### ‘You never push’

Ms. Baker’s cousin, Arthur Hurks, a Houston resident for most of his life, was accused of being a ringleader in the riot and was charged with murder in the death of the Italian prisoner, Guglielmo Olivotto.

Mr. Hurks was acquitted of that charge in the subsequent court-martial but was found guilty of rioting and sentenced to 12 years of hard labor. He served two years before being transferred to a rehabilitation center.

He returned to Houston but came to live his last eight months with Ms. Baker in Baton Rouge, La., after receiving a diagnosis of metastatic prostate cancer.

“He was very silent on it,” Ms. Baker said. “If we tried to talk about it, he would just turn away. And there are some things you never push.”

According to Mr. Hamann, the trial of the Fort Lawton defendants was the largest and longest of any Army court martial of World War II and the only instance in which black men were ever tried for a lynching.

The Aug. 14, 1944, riot grew out of a crosscurrent of tensions, according to Mr. Hamann. Some white soldiers and civilians resented the presence of black soldiers in their midst. There was a feeling among soldiers of both races that the treatment of Italian POWs had been too lenient, and black soldiers felt that the Italians were granted some privileges that they themselves were denied.

A rumor that a black soldier had been struck on the head by a group of Italian soldiers led to an attack on Italian POW barracks by African-Americans. A few hours later, Mr. Olivotto’s body was found hanging from a steel cable on a bluff near the scene of the riot.

The black units involved in the riot were heavily populated with rural Southerners, but others were from Northern cities, chiefly Chicago. There was tension between the two groups, Mr. Hamann said.

Such tensions, no matter how trivial, may have led to false accusations, even by members of the same unit, he said. For example, one of the accusers of Mr. Hurks, a popular student at Houston’s Yates High School, attended archrival Wheatley High.

As a result, men who may not even have been present in the spot where the rioting occurred – such as Mr. Stewart – were identified as rioters. And some of the actions of those who were present were bizarrely twisted by their accusers.

One of the Texans, John Hamilton, was one of the evening’s heroes, rescuing a white officer and taking him to safety. Yet Mr. Hamilton was charged with rioting and subsequently convicted.

## Evidence withheld

In any case, the 43 men were represented by only two defense lawyers, who were given less than two weeks to prepare for the trial. Mr. Jaworski, moreover, knew something the defense lawyers didn't.

An inspector general's report immediately after the riot had concluded that the murder investigation had been sloppy, that crucial evidence had been destroyed or lost, and that there were indications that a white military police officer may have been responsible for the lynching.

Although required to share such evidence with the defense team, Mr. Jaworski never did so. When the defense lawyers learned of the report, the court-martial judges backed the prosecutor's refusal to turn it over.

Mr. Hamann said that only Mr. Jaworski knew his own motives, but the author believes that the prosecutor was an ambitious man who understood that a successful outcome would bolster his chances to participate in the high-profile war-crime trials in Europe.

"The case had become an international incident, and the White House and the Pentagon and the State Department were all concerned about the outcome," Mr. Hamann said. "He knew they wanted a conviction, and maybe that entered into it."

That explanation angers Mr. Jaworski's grandson, who said he otherwise admires Mr. Hamann's book.

"It presupposes that a man of Leon Jaworski's abilities and ambition would not have attained greater things if it had not been for this case," Mr. Draper said.

After winning the Fort Lawton convictions, Mr. Jaworski was picked for a prominent role in the war-crime trials. He later was appointed an investigator for the Warren Commission's report on the death of President John F. Kennedy. Still later, he served as president of the American Bar Association and – most famously – as special prosecutor in the Watergate case.

He died in 1982, long before Mr. Hamann's book uncovered his actions in the Fort Lawton case.

Camille Kea, Mr. Hurks' granddaughter, said last week she knew nothing of Mr. Jaworski's actions but blamed the case for turmoil in her family.

"I do feel that if he had not been in jail, if he had been around, my grandparents would not have divorced," she said.

Ms. Kea, 31, a public relations consultant in Alameda, Calif., remembers her grandfather as a strong-willed but friendly man who had a lot of character.

"He liked jazz," she said. "He drove a little white Cadillac. He was cool – not in the sense of being icy – but in the sense of 'with it.'"

What she doesn't know is what he thought of his wrongful conviction.

"He would never talk about it. Never, no," Ms. Kea said. "What I heard about the case, I heard from my grandmother, and she said they were very trying and very traumatic times."

The Army review recommended that relatives receive "all back pay and allowances due."

The only such payment so far has been to one of only two surviving defendants. That man received \$725. Some members of Congress are trying to obtain a larger payment.

Some defendants' families are unaware that they may be entitled to a payment, Mr. Hamann said, and others have been slow to apply.

"I have the forms, but I haven't filled them out yet," Ms. Kea said. "It's the holidays right now, and I've been pretty busy."

### RECOUNTING THE FORT LAWTON RIOT

- During World War II, both black and white soldiers feel Italian POWs at Fort Lawton, an Army camp in Seattle, are being treated too leniently.
- On Aug. 14, 1944, black soldiers attack Italian POW barracks after a black soldier reportedly was hit on the head by a group of Italian soldiers. Italian prisoner Guglielmo Olivotto is found hanged.
- Forty-three men – all blacks including 12 from Texas – stand trial; 28 are convicted on various charges, including murder.
- In 2005, more than 60 years later, a book recounting the riot and trial, *On American Soil*, is published.
- Congress orders a review of the case by the Army's Board for Correction of Military Records.
- In October, the board rules that the court-martial had been unjust and recommends that the convictions be overturned.
- A review concludes that Leon Jaworski, the chief prosecutor, intentionally withheld evidence from the defense that might have cleared the defendants.
- An Army review recommends that relatives receive "all back pay and allowances due." So far, the only payment has been to one of two surviving defendants, for \$725.

## Silent dignity

Some of the relatives remain angry.

“I don’t know why they did what they did to my husband,” Mrs. Stewart said, “but racism might have had something to do with it.”

According to Mr. Hamann’s book, when Mr. Stewart returned home after serving in Korea, his train was stopped at the Texas line, where he and the other black soldiers were ordered back to a car reserved for African-Americans.

He always particularly resented the charge that black people, who long had been victims of lynching, would have lynched a white man.

But most relatives of the defendants said the men dealt with the injustice with silent dignity.

Ms. Baker said her cousin, Mr. Hurks, died broke. She paid for her cousin’s funeral, including his burial clothes, but said she has been unable to afford a gravestone.

Though Ms. Baker said her cousin never expressed bitterness over the trial, he refused to return to Seattle, even though he had relatives there.

She believes he would have been pleased by the case’s outcome.

“It was a long time being overturned,” Ms. Baker said. “But at least he got cleared.”

