

1944 Conviction of Black G.I.'s Is Ruled Flawed

Army Panel Finds Crucial Evidence Was Withheld

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SEATTLE, Oct. 26 — Guglielmo Olivotto, an Italian prisoner of war, died with a noose around his neck, lynched at a military post on Puget Sound 63 years ago. Samuel Snow, 83, hopes that people will stop blaming him and the 27 other black soldiers convicted of starting the riot that led to Mr. Olivotto's death. It was one of the largest Army courts-martial of World War II.

This week, a review board issued a ruling that could lead to overturning the convictions of all 28 soldiers, granting honorable discharges and providing them with back pay.

The board found that the court-martial was flawed, that the defense was unjustly rushed and that the prosecutor, Leon Jaworski, a young lieutenant colonel who went on to fame three decades later as a Watergate special prosecutor, had important evidence that he did not share with defense lawyers.

All of the 28 have died except for Mr. Snow and another soldier.

"It means a lot to me that it's going to come out in the paper," Mr. Snow said Friday from his home in Leesburg, Fla. "Now people are going to see that I wasn't a villain. And I'm not a villain."

Mr. Snow's son Ray, 55, said his father came home from prison "highly disappointed."

"He walked with it all his life," Ray Snow said.

Samuel Snow, who said he spent 45 years working as a janitor in Leesburg after serving one year in a military prison for his conviction on the rioting charge, requested the review, as did the families of three of the dead soldiers, Pvt. Booker M. Townsell, Pvt. William G. Jones and Cpl. Luther L. Larkin. Private Jones and Corporal Larkin were also convicted of manslaughter.

United States Representative Jim McDermott, a Democrat whose Seattle district includes Fort Lawton, where the riot occurred, said a senior military officer in charge of the review told him that the convictions of all four men would be overturned.

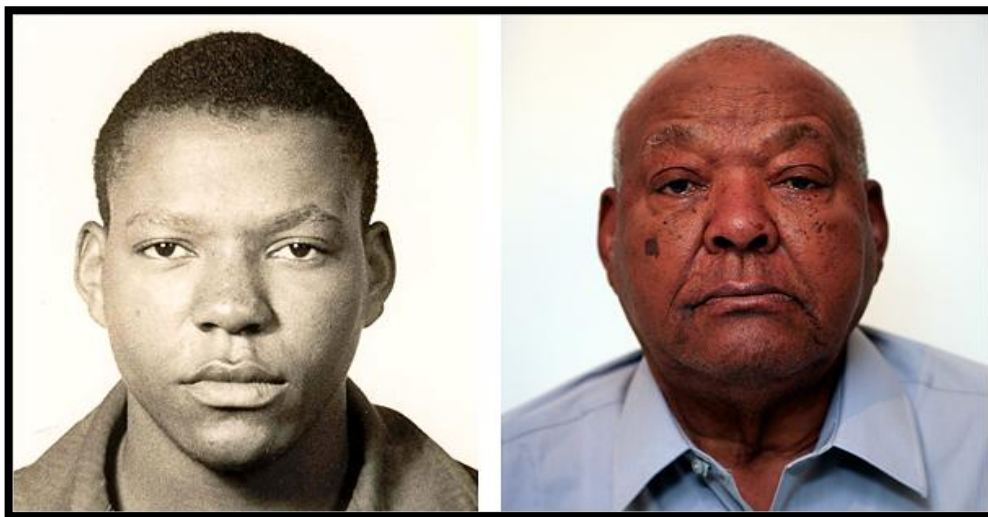
The ruling, by the Army's Board for Correction of Military Records, specifically set aside the conviction of Private Townsell, and an Army spokesman said Friday that he could confirm only that the one conviction had been overturned.

Last year, the House, led by Mr. McDermott and Representative Duncan Hunter, Republican of California, passed a measure directing the Army to open the review after the 2005 publication of a book, "On American Soil," by a Seattle author and journalist, Jack Hamann. The book detailed evidence from the case that had not been made public.

Mr. McDermott has suggested that the convicted soldiers were "victims of racial injustice."

The case could be the largest Army court-martial of World War II. The largest court-martial of the war is thought to be that of 50 black sailors who were convicted of mutiny and sentenced to 15 years in prison for refusing to load ammunition aboard a ship at Port Chicago, a Navy depot 30 miles northeast of San Francisco.

The 28 soldiers in the Puget Sound case were stationed at Fort Lawton on Aug. 15, 1944, when Mr. Olivotto was found dead after a night of fighting among American and Italian soldiers on the base. Some American soldiers — white and



NATIONAL ARCHIVES, LEFT AND CHRIS LIVINGSTON FOR THE NEW YORK TIMES

Pvt. Samuel Snow in his booking photograph on charges in 1944 and Mr. Snow in his home in Leesburg, Fla., yesterday.

black — objected to what they saw as lenient treatment of the scores of Italian prisoners held there.

The 28 black soldiers were among 43 initially charged with rioting, but charges were dropped against 2 of the 43 and the other 13 were acquitted.

Two defense lawyers, representing all 43 initially charged, had 13 days to prepare for trial. According to the board's ruling, they did not have full access to a confidential Army inspector general's report that Mr. Jaworski had seen, which suggested that evidence at the scene had been destroyed, and that white military policemen with animosity toward the Italians may have played a role in the riot.

"Under military law as it stands today, people would laugh," said John Tait, an Army lawyer who reviewed the case for the board. "You don't have two people represent 43 people. It just doesn't happen. And when three people are charged with murder? No."

The board's decision instructs the Army to set aside Mr. Townsell's conviction, and to change his dishonorable discharge to honorable, making his family eligible to receive back pay. Members of his family did not immediately respond to requests for comment on Friday.

The analysis used by the board in reaching its decision about Mr. Townsell would apply "to anybody who was convicted in that court-martial," Mr. Tait said.

Soldiers or their families must request that their case be reviewed. Mr. Townsell's family requested the review after hearing Mr. Hamann discuss the case in a radio interview.

Mr. Hamann, a former reporter for CNN, said he struggled to locate many of the families during his research, which he conducted with the help of his wife, Leslie.

"There are still a lot of families out there that have never heard about this," he said. "They're all over the United States."

It was not immediately clear what kind of back pay or benefits the soldiers or their families might receive. The ruling says Mr. Townsell or his estate should receive "all back pay and allowances due as a result of the above corrections."

Col. Dan Baggio, chief of media relations for the Army, said late Friday: "I'm not really sure how much that is going to amount to. I'm sure there are folks who are going to look at what is the right and equitable thing to do."

The ruling does not say that the convicted soldiers were not guilty, but that the process by which they were convicted was unjust.

The ruling notes that white military police were lax in quelling the riot. And it suggests that Mr. Jaworski, who died in 1982, would have been aware of testimony, which he did not share with the defense, that suggested a white military policeman could have been involved in the Olivotto killing.

One black soldier had told an investigator that a white military policeman had threatened to "bust" the skull of an Italian soldier.

In his book, Mr. Hamann said the evidence pointed to a white military policeman who had been present at every critical moment in the days leading up to the lynching, and who discovered Mr. Olivotto's body. The policeman, who is deceased, was convicted of going absent without leave.