CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-40-2229   Date _____

To: Chief, Criminal Section

Re: Seth "Sonny" P. Stanley (Deceased) – Subject;
        John Thomas (Deceased) – Victim;
        CIVIL RIGHTS

This matter should be closed for the reasons described below:

1. Date of the Incident: August 15, 1970

2. Synopsis of the Facts and Reasons for Closing:

        On August 15, 1970, John Thomas, Jr., an African-American man, was fatally shot by
Seth Stanley in West Point, Mississippi. The state arrested Stanley and charged him with
murder. The next year, on October 11, 1971, an all-white jury returned a verdict in favor of
Stanley, finding that he acted in self-defense when he shot and killed Thomas. For the reasons
stated more fully below, this matter should be closed without prosecution or referral. Stanley,
the only suspect ever identified, is now deceased, and therefore cannot be prosecuted by either
state or federal authorities. In addition, the statute of limitations has long run on any federal civil
rights crime and Mr. Thomas's death does not implicate any other federal crimes. Referral to the
state for prosecution is inappropriate both because the suspect is deceased and because the
Double Jeopardy clause of the United States Constitution would bar a subsequent state
prosecution.

                                        _____
                                                    Cameron A. Bell
                                                    Trial Attorney

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To: Records Section
Office of Legal Administration

The above numbered file has been closed as of this date.

_____   _____
Date   Barbara Bosserman
                                            Deputy Chief, Cold Case Unit Chief, Criminal Section
                                                    FORMERLY CVR - 3 FORM CL - 3

cc: Records   Chrono   Bell   T. 05-03-19
        XXXXXXXXXXXXXXXXX

3. <u>Factual Background</u>[1]:

In the summer of 1970, the mayor of West Point, Mississippi, died, setting the stage for a special election to determine his replacement. XXXXX decided to run. John Thomas, Jr., a well-known figure in West Point and a member of the black community, volunteered as part of XXXX campaign. According to news reports, Thomas drove a soundtruck "all over town, broadcasting a gospel tune entitled 'When Will We Get Paid for the Work We've Done?'"[2] When no candidate earned a majority of the votes on August 4, 1970, a run-off was scheduled for August 18, 1970—a run-off between XXXX and a white candidate.

After the first election but before the run-off, at around 1:30 pm on August 15, 1970, Seth P. Stanley, a white factory worker, shot and killed John Thomas, Jr. Thomas had been waiting in his car at the Southern Grocery on Highway 15 while XXXX purchased groceries inside. XXXXX told reporters that he observed Stanley approach Thomas's truck, reach into his pocket, withdraw a gun, and fire three shots into the cab of the truck. Another eyewitness, XXXX across the street from where the shooting occurred, said that XXXX saw Stanley shoot Thomas. Thomas was pronounced dead at the Veterans Hospital.

In October 1971, Seth Stanley was tried for Thomas's murder. According to a report from the Biloxi Daily Herald, Stanley testified at trial that he was on his way to the grocery store when he went up to a "strange black man" in the parking lot. Stanley testified that he wanted to ask the man—Thomas—what time it was, but Thomas replied, "I'm going to get me a white…" and reached under the seat of the truck and pulled out what appeared to be a firearm. Seeing this, Stanley pulled out a pistol and shot at Thomas, fatally wounding him. According to XXXX, Stanley explained that Thomas had "cussed him." Despite Stanley's claim that Thomas had reached for a firearm, law enforcement authorities did not find a weapon in Thomas's truck.

The trial lasted one day, and the all-white jury deliberated for approximately two hours before acquitting Stanley, based on his assertion that he was acting in self-defense when he fatally wounded Thomas.

4. <u>Legal Analysis:</u>

Evidence that Thomas was unarmed when he was shot, coupled with the fact that he was an African American who took on an active political role in a mayoral campaign, might suggest that the killing was not done in self-defense and was, instead, a racially motivated murder. Nonetheless, this matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. The FBI has determined that Stanley is deceased and therefore he cannot be prosecuted in either federal or state court. In any event, the statute of limitations, which is essentially a deadline the government has for bringing criminal cases, has long expired for federal prosecution of this incident, while state prosecution would be barred by Double Jeopardy.

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[1] The following is taken from books and contemporaneous news articles written about the case.

[2] Jack E. White, Jr., *John Thomas Was Killed 'fer Nuthin'*, DAILY IOWAN, Sept. 11, 1970, at 2 (reprinted from the RACE RELATIONS REPORTER) (available at http://dailyiowan.lib.uiowa.edu/DI/1970/di1970-09-11.pdf).

In 1970, at the time Stanley killed Thomas, federal civil rights violations were not capital offenses, thereby subjecting them to a five-year statute of limitations—a limitations period which has long since expired. *See* 18 U.S.C. § 3282(a). In 1994, many civil rights statutes were amended to provide the death penalty for violations resulting in death, thereby eliminating the statute of limitations. *See* 18 U.S.C. § 3281 ("An indictment for any offense punishable by death may be found at any time without limitation."). However, the *Ex Post Facto* Clause of the United States Constitution, art. I, § 9, cl.3, prohibits the retroactive application of the 1994 increase in penalties and the resultant change in the statute of limitations to the detriment of criminal defendants. *Stogner v. California*, 539 U.S. 607, 610 (2003).

The Department of Justice has used non-civil rights statutes to overcome the statute of limitations challenge in a small number of cases, such as those involving kidnapping across state lines, *see United States v. Seale*, 600 F.3d 473 (5th Cir. 2010), or offenses occurring on federal land, *see United States v. Avants*, 367 F.3d 433, 440 (5th Cir. 2004). The available evidence in this case does not support a finding that the victim was transported across state lines, nor does it support a finding that the victim was killed on federal land. For these reasons, no alternative basis for federal jurisdiction exists.

The Emmett Till Unsolved Civil Rights Crime Reauthorization Act (Reauthorization Act) permits federal prosecutors and agents to assist in state and local prosecutions when federal jurisdiction is unavailable. *See* Reauthorization Act, Pub. L. No. 110-344, 122 Stat. 3934 (2017). However, even if Stanley were alive, there are legal barriers that would prevent state prosecution of this matter. Stanley himself could not be retried by the state because the Double Jeopardy Clause of the United States Constitution prohibits the state from re-trying Stanley for Thomas's murder. U.S. Const., Amdt. 5. Moreover, the initial state investigation did not identify any subject other than Stanley, and neither the referral made to the government under the Reauthorization Act nor the Government's own research suggests that Stanley had any accomplices. Thus, there is no other responsible person that the state could prosecute for Thomas's murder.

5. <u>Conclusion:</u>

In sum, neither the state nor federal government can prosecute Stanley, as he is now deceased. In addition, the statute of limitations for any relevant federal civil rights statute applicable to this case expired long ago, and the Double Jeopardy Clause would bar the state from re-trying Stanley if he were still alive. For all of these reasons, this matter lacks prosecutive merit and should be closed. [3] The United States Attorney's Office for the Northern District of Mississippi concurs with this recommendation.

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[3] The Department of Justice, through the FBI, attempted to locate Mr. Thomas's next of kin to inform his family of the results of our review but, unfortunately, was unsuccessful. If anyone is aware of Mr. Thomas's next of kin, please contact attorney Angela M. Miller at 202-514-3204 so that the Department may appropriately notify his family of these findings.