

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-41-3690

Date: April 21, 2021

To: Chief, Criminal Section

Re: Clyde Briggs (Deceased) – Victim;
CIVIL RIGHTS

It is recommended that the above matter be closed for the following reasons:

1. Date of the Incident: January 18, 1965
2. Synopsis of the Facts and Reasons for Closing:

On January 16, 1965, Reverend Clyde Briggs, a veteran, church leader, and civil rights advocate, was admitted to the Veteran's Affairs Medical Center (VAMC) in Jackson, Mississippi for several underlying medical conditions. Briggs' condition deteriorated over the course of his hospitalization and he was pronounced dead on January 18, 1965 following an emergency tracheostomy.

Maura White
Trial Attorney

To: Records Section
Office of Legal Administration

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

April 21, 2021

Date

Barbara Bosserman
Deputy Chief Cold Case Unit

FORMERLY CVR-3 FORM CL-3

As explained more fully below, federal prosecution of anyone responsible for Briggs' death is not possible. Our review did not reveal any evidence to suggest that Briggs died as a result of foul play. Despite his family's understandable suspicions, all evidence suggests that Briggs died of natural causes. Further, our review did not identify any living witnesses who could testify about the circumstances surrounding his death. In addition, as a legal matter, even if we uncovered evidence suggesting that Briggs' death was from something other than natural causes, the statute of limitations has run on all potential federal civil rights violations and there is no other potential basis for federal jurisdiction. The Emmett Till Unsolved Civil Rights Crime Act¹ (Till Act) and its Reauthorization² authorize federal authorities to assist state and local jurisdictions in prosecuting cold cases. Given the lack of evidence suggesting that Briggs died as a result of foul play, the lack of leads about any living witnesses, and the passage of more than 55 years from Briggs' death, there is no basis to refer the matter to the state for investigation. For these reasons, the case is being closed without prosecution or referral to the state.

3. Background on Briggs' Life

Clyde Briggs was a Black United States Army veteran who graduated from Natchez College in 1947 after returning from World War II. That same year he became an ordained preacher. In the early 1960s, Briggs helped members of his community register to vote. In 1964, Briggs was a fulltime preacher, pastoring five congregations in southwest Mississippi, including the Roxie First Baptist Church (RFBC).

During his life, Briggs maintained a journal documenting what was going on in his congregations and his community, including Ku Klux Klan (Klan) activity in the community. In 1964, two young men, Henry Dee and Charles Moore, were kidnapped and killed by members of the Klan. The Klansmen tortured Dee and Moore because the Klansmen allegedly believed that the young men were members of a Black militant group and knew the whereabouts of firearms hidden in the community. Under torture, Dee and Moore told members of the Klan that they had hidden firearms at the RFBC. Local law enforcement searched the RFBC based on the information Dee and Moore provided. They found no weapons. Briggs' journal entry that documented the search of the church was admitted in evidence when Klansman James Ford Seale was tried for the murders of Dee and Moore. Additional information about the murders of Dee and Moore is available at *United States v. James Ford Seale*, 600 F.3d 473 (5th Cir. 2010).

During the *Seale* trial, the prosecution admitted additional evidence from Briggs' journal, documenting violence and threats of violence by the Klan and/or Klan sympathizers. These entries included information about how Briggs himself had been attacked and threatened. Specifically, the journal reflected that (1) on the night the bodies of Dee and Moore were found, someone shot into Briggs' home with a rifle; (2) on another occasion groups of white men attempted to detain

¹ Pub. L. No. 110-344, 122 Stat. 3934 (2008).

² Pub. L. No. 114-325, 130 Stat. 1965 (2016).

and follow Briggs;³ and (3) on another occasion, men shot into Briggs' home.⁴ According to Briggs, he reported each of these incidents to law enforcement officials in Franklin County, Mississippi, but no arrests were ever made.⁵

4. Briggs' Medical Treatment, Death, and Autopsy

On January 16, 1965, Dr. D.H. Mutziger treated Briggs in Natchez, Mississippi and referred him for admission to the VAMC due to severe rectal bleeding and anemia. Hospital records indicate that Briggs was admitted to the VAMC at approximately 1:50 p.m. that same day.⁶ According to Dr. Boyles, the admitting physician, Briggs presented with a history of having bleeding hemorrhoids for the past three or four weeks and having mild headaches for the past week. Briggs' family also reported that he had mild confusion and dizzy spells in the 24 to 48 hours prior to his admission. Dr. Boyles indicated that Briggs hesitated a short time before answering his questions, but that his answers were appropriate.

Following Dr. Boyles' initial examination, Briggs was admitted to the VAMC and given a blood transfusion. Within a few hours, "[Briggs'] sensorium became progressively more cloudy until he was considered obtunded and responded inappropriately to questions." Approximately six hours after his admission, Briggs developed "cogwheel rigidity and some stiffness of the neck" and his condition "rapidly deteriorated during the night." Briggs' body temperature rose to 103 degrees by the morning of January 17, 1965. Doctors performed two spinal taps and an emergency tracheostomy on Briggs. His condition continued to deteriorate and he died at 2:00 a.m. on January 18, 1965.

An autopsy was conducted following Briggs' death. The listed pathological diagnoses were: (1) fulminating acute suppurative meningitis; (2) thrombosis of vein of Galen; (3) pneumonia; (4) generalized arteriosclerosis; (5) small focus of fibrosis of left ventricular myocardium; (6) hypertrophy of left cardiac ventricle; and (7) hydrocele of left testicle. The immediate cause of death listed on Briggs' death certificate is terminal pneumonia due to acute suppurative meningitis.

³ According to Briggs' journal, on May 24, 1965, two carloads of white men tried to stop Briggs on the highway when he was coming home from a church service at the New Bethel Baptist Church near Roxie. Briggs did not stop for the white men and they followed him all the way to his home. XXX, one of men following Briggs, got out of the car and told him that "the next time they try to stop him, he better stop."

⁴ Briggs' journal documented how, on August 10, 1965, a carload of white men came to Briggs' home and shot two times at a light on his porch.

⁵ During the *Seale* trial, evidence was also admitted from Briggs' journal documenting that a "young Negro" was taken out of Meadville jail, after which the Klan took him, "beat him unmercifully and left him for dead." Briggs' journal likewise reported this incident but no arrests were made.

⁶ Notes in the medical records indicate that Briggs' XXXX was present at the hospital with him, that Briggs was unable to sign the admission paperwork, and that Briggs "should be interviewed when he can talk."

5. Federal Investigation

An eligible entity referred this matter to the Department of Justice for review under the Emmett Till Unsolved Civil Rights Crime Act, which charges the Department of Justice to investigate “violations of criminal civil rights statutes . . . result[ing] in a death” that “occurred not later than December 31, 1969.” Additionally, XXXX, XXX, reported that he believed that his XXX may have been poisoned by the Federal Bureau of Investigation (FBI) and/or the Klan. The Department reviewed available newspaper reports of Briggs’ life and death, FBI records, VAMC medical records, related testimony from the *Seale* trial, and conducted interviews of XXXX XXX XXX XXXX.

XXXX

XXXX was XX years old when XXXX died. XXXX testified in the *Seale* trial about XXX’s above-mentioned journal entries and her own observations surrounding those events. She testified that on the evening of May 24, 1964, XXX pulled his car into their XXX and another car pull in behind him. XXXX saw XXXXX get out of the car, walk around to the side of her XXX’s car door, say something to him, and leave. XXXX did not know what XXXXX said to XXX. According to XXXX, XXX was standing at their front door with a rifle for protection while XXXXX was speaking with Briggs. She did not know whether XXX saw the weapon.

XXXX also testified that on July 13, 1964, she recalled that her XXX was at a revival in Hattiesburg when shots were fired into XXXXX. XXXX came home the following day and reported the shooting to Kirby Schell from the Franklin County Sheriff’s Department. XXXX testified that she heard shots fired at her XXXX a second time and that a bullet broke a night light they had in their XXXXX.

XXXX also provided information regarding the events surrounding her XXX’s death. Prior to his death, XXXX recalled her XXX’s health as being good, but he seemed to always have a cold or a sinus issue. On January 16, 1965, her XXX told XXXX that he felt very sick and did not know what was going on. Her XXX felt weak, so XXX Percy⁷ took him to see Dr. Mutziger in Natchez. When her XXX returned from the doctor, he told XXXX’ XXX that the doctors were sending him to the VAMC. According to XXXX, her XXX seemed “out of it” when he returned from Dr. Mutziger. Her XXX sat down in front of a heater and XXXX brought him a glass of orange juice. Briggs drank the juice and stared ahead at the heater the entire time without looking at her. XXXX thought that this was very odd because she was close to XXXX and they frequently talked to one another.

XXX Percy returned later that day to take Briggs to the hospital. On January 18, 1965, XXX Percy called to tell them that Briggs died. XXXX could not believe how fast her XXX had died. She never got a chance to go to the hospital and say goodbye.

⁷ XXX Percy is deceased.

According to XXXX, a nurse named Ms. “XXXX”⁸ from the Franklin County Department of Health brought her family a bag of pills a few days after her XXX died. Ms. “XXXX” told her XXXX that they needed to take the pills because her XXX died of meningitis, which is very contagious. XXXX’ XXX threw out the pills that Ms. “XXXX” brought and no one in the XXX XXXX ever got sick. Although XXXX testified in the *Seale* trial that she had no reason to doubt the cause of death listed on her XXX’s death certificate, during our review she stated that she felt that circumstances of his death were suspicious.

XXXXX

XXXXX was XX years old when his XXXX died. Before his death, Briggs was a Baptist minister in Roxie, Mississippi. Briggs’ role as a Black leader in the community during the 1960s drew attention from the Klan and the family was always on edge. After the Klan shot up their XXXX, Briggs took his XXX to stay in Memphis, Tennessee with family members. Briggs stayed at the XXXX in Roxie during this time.

XXXXX recalled his XXX receiving a phone call in the middle of the night and hearing her say, “He passed?” At the time, XXXXX thought that his XXX meant that his XXX passed a medical test. The following morning, his XXX gathered XXXXX and his XXX and told them that their XXX died. XXXXX was shocked at the news and did not recall his XXX being sick in the weeks leading up to his death. XXXXX heard different stories over the years about how his XXX died, but he never personally researched the circumstances surrounding his XXX’s death.

XXXX

XXXX was XX years old when his XXX died. XXXX also testified in the *Seale* trial. XXXX testified regarding the above-mentioned journal entries and his own research into his XXX’s death. XXXX also provided information regarding the circumstances surrounding his XXX’s death.

XXXX recalled strange things happening to his XXX before his death. On one occasion, when his XXX was driving down the freeway after church, his XXX told them someone was following them. Briggs told XXXX, who was seated in the back of the car, to “get down.” His XXX never told XXXX who was following them. On another occasion, XXXX and his XXX had to go to Memphis because his XXX received threats.

In 1964, XXXX recalled his XXXX discussing that his XXX’s church in Roxie was searched. Later, XXXX was at his XXX’s church in Roxie when two well-dressed white men spoke with his XXX. XXXX did not recall what was discussed, but his XXX later told him that the two men were from the FBI.

Prior to his death, XXXX recalled his XXX as being a healthy 42-year old man. One of the last interactions XXXX had with his XXX was at his XXX’s home. His XXX called and

⁸ XXXX did not recall the nurse’s first name and was unsure of the correct spelling of her last name.

XXXX raced his XXX back to their home. Shortly after they got home, his XXX got sick and went to the hospital where he died days later.

According to XXXX, his XXX believed that his XXX was poisoned due to his civil rights work. XXXX also believed that his XXX's death was suspicious and started to do research into his XXXX's life and death in 2005. In doing his research, he spoke to XXXX Percy, who told him that he believed that Briggs' death was related to an ongoing oil and land dispute between the Briggs and XXXX families. In the *Seale* trial, XXXX testified that he believed that the FBI and the Klan were working together and poisoned his XXX. During our review, XXXX stated that he was not sure whether Briggs' death was caused by the FBI and Klan or as a result of the oil and land dispute. He also stated that he questioned the accuracy of Briggs' autopsy report and death certificate.

Identification of Medical Witnesses

The FBI attempted to locate Dr. Mutziger, the VAMC medical personnel who treated Briggs, and the nurse from the Franklin County Department of Health who came to the Briggs family home following Briggs' death. The FBI has determined through open source searches that some of the medical personnel who treated Briggs are deceased. The FBI was unable to confirm whether additional medical personnel were still alive due to the lack of identifiable information in the VAMC records. The Department requested additional identifiable information for the hospital personnel, but the VAMC no longer retained those records. Thus, all potential medical witnesses known to law enforcement are either deceased or unable to be identified.

6. Legal Analysis

This matter is being closed, as it cannot be federally prosecuted. First, our review did not reveal any evidence to suggest that Briggs died as a result of foul play. Briggs' medical records do not suggest that he was poisoned (or otherwise deliberately harmed) nor does Briggs' autopsy or death certificate suggest he was killed in such a manner. Although Briggs' family indicated that they found his death suspicious, none could point to a particular person or persons they believed responsible for Briggs' death or provide any other concrete leads that could be followed to find such a person. Finally, even if there was reason to suspect Briggs was poisoned, we could not trace his steps in the days prior to his hospitalization and therefore could not prove that he had contact with anyone who had motive or opportunity to poison him (or to otherwise harm his health).

Even if we were able to establish that foul play resulted in Briggs' death, there would be other barriers to prosecution. In 1965, at the time Briggs died, no federal hate crime laws existed. The only federal civil rights laws that existed in 1965 were Reconstruction-Era statutes that would have required proof that anyone charged for the offense acted under color of law.⁹ Since the time

⁹ Two civil rights statutes were available to prosecutors in 1965. Section 52 of Title 18 prohibited persons acting under color of law from willfully depriving others of constitutional rights. The provision was initially enacted as § 2 of the Civil Rights Act of April 9, 1866. Act of Apr. 9, 1866, ch. 30, § 2, 14 Stat. 27 (1866). Section 52, often

of Briggs' death, Congress has enacted several laws prohibiting bias-motivated violence. But even if there were living subjects in this case, none could be prosecuted for violating these more modern statutes because the Constitution's *Ex Post Facto* clause, art. I, § 9, cl.3, prohibits the government from prosecuting anyone for violating a law that was not in effect at the time of the alleged misdeed.

Similarly, even if we were able to establish that Briggs died as a result of foul play, no subject could be charged for violating the Reconstruction-Era civil rights statutes that *did* exist at the time of Briggs' death. The statute of limitations, which is essentially a deadline for bringing a criminal case, has long since passed. At the time of the Briggs' death, the Reconstruction-Era statutes were subject to a five-year statute of limitations period. *See* 18 U.S.C. § 3282(a). In 1994, these statutes were amended to eliminate the statute of limitations for certain death-resulting offenses.¹⁰ However, the Constitution's *Ex Post Facto* clause 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, however, does not support that he was transported over state lines prior to his death or that any foul play occurred on federal land.

The Till Act and its Reauthorization provide that the federal government can assist state or local governments in prosecuting cold cases when the cases cannot be prosecuted federally. Referral to the state is not appropriate here, as our review did not reveal any evidence to suggest that Briggs' death was the result of foul play.

In sum, the Civil Rights Division concludes that this matter should be closed without prosecution or referral to the state. The United States Attorney's Office for the Southern District of Mississippi concurs with this recommendation.

referred to in the 1940s as "Section 20" because it had previously been codified at Section 20 of the criminal code, was codified at 18 U.S.C. § 242 in 1948.

Section 51 of Title 18 prohibited conspiring to deprive others of rights or privileges secured to them by the Constitution or federal law. The provision was based upon Section 6 of the Enforcement Act of May 31, 1870. 16 Stat. 140 (1870). Section 51, often referred to in the 1940s as "Section 19" because it had previously been codified at Section 19 of the criminal code, was codified at 18 U.S.C. § 241 in 1948. Although this provision did not expressly contain a color-of-law requirement, it has been recognized, since the time of Reconstruction, that prosecutors may not charge private citizens with violating Constitutional provisions that served only to limit government power. It thus incorporates a color-of-law requirement for most racially motivated deaths.

¹⁰ This was accomplished by making certain offenses defined by 18 U.S.C. §§ 241 and 242 death eligible. *See* Pub. L. No. 103-322, 108 Stat. 1796 (1994); 18 U.S.C. § 3281 ("An indictment for any offense punishable by death may be found at any time without limitation.").