

CIVIL RIGHTS DIVISION

Notice to Close File¹

File No. 144-2-1425

Date: FEB 10 2016

To: Chief, Criminal Section

Re: Unknown Subject(s),
Burkville, Alabama;
Rogers Hamilton (Deceased) – Victim;
CIVIL RIGHTS

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

1. Date of the Incident: October 22, 1957
2. Synopsis of the Facts and Reasons for Closing:

On October 22, 1957, at approximately 1:30 a.m., Rogers Hamilton, the 18-year-old African-American victim, was fatally shot. According to the victim's mother, Beatrice Hamilton, one or two white men drove XXXXXX in a pickup truck and called out to the victim by name several times. The victim went outside and stood in the yard talking to one of

Shelly Ward
Attorney

To: Records Section
Office of Legal Administration

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

Date

Chief, Criminal Section

FORMERLY CVR-3 FORM CL-3

cc: USAO, Montgomery, AL
Chrono
Ward
Felte
re: T. 01/28/16

¹ Memo amended on June 11, 2021.

the white men for several minutes. The victim then got into the pickup truck, and the white man he had been talking to got in next to him. The truck drove a short ways down the road, and Hamilton followed it. Hamilton stated that she saw a white man who was standing outside the truck draw a pistol and shoot the victim in the forehead. The man then got back into the truck, and the truck drove away. The victim's death was investigated locally, but the subject(s) were never identified, nor were investigators able to determine the motive for the killing.

3. Federal Investigation

The Federal Bureau of Investigation (FBI) opened an investigation into the circumstances surrounding the victim's death on July 7, 2008, based on media coverage of the incident. The investigation was opened pursuant to the Department of Justice's "Cold Case" initiative, which focuses on civil rights homicides that occurred not later than December 31, 1969. As part of its investigation, the FBI searched for local investigative reports and records. The search met with negative results from the Lowndes County Clerk's Office, the Alabama Administrator of Courts, and the United States Federal Clerk's Office. An official from the Lowndes County Clerk's Office told the investigating agents that the building that was used to store old records burned down, destroying all of the records. Some investigative records were, however, located at the Alabama Department of Public Safety (DPS), which conducted a preliminary criminal investigation into the matter. According to the DPS report, Lowndes County Sheriff Frank Ryals requested DPS assistance with the investigation, and DPS Investigator Oscar K. Corley conducted a preliminary investigation. DPS then turned the investigation back over to the Lowndes County Sheriff's Office (LCSO).

The FBI searched for records identifying the Sheriff, the DPS investigator and Beatrice Hamilton on Accrnt, Lexus Nexus, Alacap and the Bureau of Vital Statistics. The records search for "Frank Ryals" failed to positively identify Sheriff Frank Ryals. Records were located for a Frank Ryals, date of birth July 3, 1905, and date of death April 12, 1971. The records search for "Oscar Corley" failed to positively identify DPS Investigator Oscar Corley. Records were located for an Oscar Corley, date of birth March 21, 1894, and date of death March 1978. No identifying information was located during the records search that would positively identify Beatrice Hamilton, the victim's mother.

4. Local Investigation

The DPS investigative file includes the victim's death certificate, which states the cause of death as a gunshot. The location of the wound(s) was not indicated on the death certificate, nor was an autopsy performed.

According to a case synopsis in the DPS investigative report, which was prepared by Investigator Corley, the victim was picked up at his home five miles west of Hayneville at approximately 1:30 a.m. on October 22, 1957. The victim was then taken .3 miles from his residence and fatally shot in the face. The victim's mother, Beatrice Hamilton, reported that she had witnessed the shooting.

Investigator Corley commenced his investigation on the afternoon of the shooting. According to his report, he first contacted the victim's employer, George McCurdy. McCurdy

stated that the victim had worked for him on his farm all of his life and that McCurdy had never known the victim to get into any trouble. McCurdy also stated that he knew very little about the victim's personal life or whereabouts when he was not working. McCurdy stated that between 1:30 and 2:00 a.m. on October 22, 1957, Beatrice Hamilton came to his house, woke him up, and said that the victim had been shot. Mrs. Hamilton asked McCurdy to call the Sheriff. According to Investigator Corley, McCurdy stated that Mrs. Hamilton said that she did not know who had shot the victim. At an unspecified later time, Mrs. Hamilton said that two white men in a truck had taken the victim from the house and carried him off.

Investigator Corley then interviewed XXXXXX, the victim's XXXXXX. XXXXXX, who lived in XXXXXX, stated that XXX heard a vehicle come up the lane to the house. XXXXXX heard someone call out to Rogers five times. The report does not indicate whether it was a male or female voice. XXXXXX stated that Beatrice Hamilton called the victim and told him to get up because someone outside wanted him. XXXXXX stated that the victim got up and went out onto the porch. A few minutes later, XXXXXX heard the vehicle's door slam and heard the vehicle drive back down the lane towards the road. Beatrice Hamilton got up from her bed and opened the door that led out of her room and onto the porch. Hamilton then came to the door of the room in which XXXXXX was sleeping and asked XXX to walk down the road with her to follow the truck. XXXXXX stated that XXX told Hamilton that there was no use in following the vehicle.

Investigator Corley interviewed XXXXXX and XXXXXX, two African-American girls who lived east of Hayneville. XXXXXX stated that XXX had been XXXXXX the victim for two years until about two months prior to the shooting. XXXXXX stated that XXX had never heard of any fuss or argument about the victim XXXXXX XXXXXX. XXXXXX confirmed that XXX had been XXXXXX the victim XXXXXX prior to his death.

Beatrice Hamilton stated in her interview that at approximately 1:00 a.m. on the morning of the incident, she was lying in bed smoking and heard a vehicle drive into their yard. Hamilton heard the vehicle turn around, and someone called out to Rogers twice. Hamilton also called out to the victim and told him to get up because someone outside wanted him. Hamilton went to the front door, but did not unlatch it. Hamilton then went to the victim's room and called him. The victim got up and went out his door onto the porch. Hamilton went back over to the front door, unlatched it, and cracked it open a bit. Hamilton stated that she saw a green pickup truck in the yard and a white man standing in the yard talking to the victim. Hamilton heard the victim and the man mumbling, but could not make out what they were saying.

After talking for a few minutes, the victim and the white man walked over to the pickup truck, leaned against it and talked some more. About five minutes later, the white man put his hand on the victim, and the victim got into the truck. The man got in beside the victim, and the truck drove down the lane. Hamilton called out to XXXXXX, XXXXXX, and asked XXX to get up and see where they were taking the victim. XXXXXX would not get up, so Hamilton followed the truck by herself. The truck drove down the lane and stopped in the road. Hamilton saw a man standing outside the truck. The man drew a pistol and pointed it at the victim. Hamilton screamed, "Lord, don't shoot my boy." The man fired the pistol, and the victim fell to the ground. The man got back into the truck and drove towards the highway. Hamilton walked over to the victim, turned on her flashlight, and shined it into the victim's face. When she saw that the victim had been shot in the forehead, Hamilton ran over to George McCurdy's residence

to summon help.

Investigator Corley concluded that although he believed Hamilton was sincere in her belief that her statement was accurate, her emotional state may have led her to perceive or remember some of the details inaccurately. For example, Corley noted that from the front door of the house, Hamilton would not have been able to see the victim talking to the white man in the front yard because there was a hedge blocking her view. Corley stated further that there were no clues as to the motive for the victim's killing. Corley stated that the African-American members of the community that he questioned regarding possible racial unrest, arguments or gambling problems did not provide any pertinent information.

5. Legal Analysis/Conclusion

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. Due to the lack of identifiable subjects and the destruction of the LCSO reports and records, a successful prosecution of this case would be highly unlikely.

Moreover, the applicable statute of limitations precludes prosecution of Rogers Hamilton's murder under the federal criminal civil rights statutes. Prior to 1994, federal criminal civil rights violations were not capital offenses, thereby subjecting them to a five-year statute of limitations. See 18 U.S.C. § 3282(a). In 1994, some of these 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 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, 611 (2003). While the Civil Rights Division has used non-civil rights statutes to overcome the statute of limitations challenge in certain cases, such as those occurring on federal land and kidnapping resulting in death, the facts of the present case do not lend themselves to federal prosecution under other statutes.

Accordingly, this matter lacks prosecutive merit and should be closed. AUSA Louis Franklin of the Middle District of Alabama concurs in this recommendation.