

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-17M-3164

07/13/2011
Date _____

To: Chief, Criminal Section

Re: Earl J. Brooklyn (Deceased),
Tillman H. Belvin (Deceased),
Joseph Cox (Deceased),
Edward L. Spivey (Deceased) – Subjects,
Mims, Florida;
Harry T. Moore (Deceased),
Harriette V. Moore (Deceased) - Victims
CIVIL RIGHTS

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

Case Synopsis

On the evening of December 25, 1951, a bomb exploded under the house of Mr. and Mrs. Harry T. Moore in Mims, Florida. The explosion killed Mr. Moore instantly. Mr. Moore's wife, Harriette V. Moore, died nine days later from injuries incurred during the explosion.

William E. Nolan
Trial 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

The Moore's XXXXX, XXXXXX, was also in the home at the time of the explosion, but uninjured. Mr. and Mrs. Moore had just celebrated Christmas and their 25th wedding anniversary before retiring to their bedroom for the evening. The bomb, constructed of dynamite, was placed directly under the Moore's bedroom. The Moore's other XXXXXX, XXXXXXX, was on her way to her XXXXXX's home when the bomb exploded.

Harry Moore, an African-American, was an active participant in the early civil rights movement of the 20th century. He started the Brevard County chapter of the NAACP in 1934, and served as the NAACP's first statewide Executive Secretary. His civil rights advocacy was well known in the area. He spoke out against lynchings, police brutality, inequalities in the criminal justice system, and fought for voting rights and pay equality. Mr. and Mrs. Moore were teachers in the segregated public schools in Brevard County, Florida, from 1925 through 1946, the year that the school district did not renew their contracts -- a common tactic of intimidation used to silence those who fought for civil rights.

Since the night of the explosion in 1951, five separate criminal investigations have been initiated and completed. The first investigation was headed by the FBI beginning on the night of the explosion and concluding in 1955. The second investigation was a joint investigation by the Brevard County Sheriff's Office and Brevard County State Attorney's Office in 1978. The third investigation took place in 1991 by the Florida Department of Law Enforcement ("FDLE"). In 2004, a fourth investigation was commenced by the Florida Attorney General's Office of Civil Rights. In 2008, the FBI again investigated the Moore homicides as part of the Department of Justice "Cold Case Initiative."

In total, the five criminal investigations revealed evidence implicating four subjects in the bombing. The four subjects were known to be high ranking members within the Ku Klux Klan in the central region of Florida. The first of the four, Earl J. Brooklyn, was a Klansman with a reputation for being exceedingly violent and described as "a renegade" after being expelled from a Klavern of the Ku Klux Klan in Georgia for engaging in unsanctioned acts of violence. Brooklyn reportedly was in possession of floor plans of the Moore home, and was said to be recruiting volunteers to assist in the bombing. The second subject, Tillman H. "Curley" Belvin, was also reported to be a violent member of the Klan and a close friend of Brooklyn. Joseph Cox, another Klansman, was implicated in the bombing by a fellow Klansman, Edward L. Spivey. Spivey implicated Cox in a deathbed confession while suffering in the late stages of cancer in 1978. Cox committed suicide in 1952, one day after being confronted by the FBI.

The investigation revealed that Mr. Moore's civil rights advocacy made him a known target of the Klan. No arrests were ever made in the case. All four of the subjects are deceased.

Federal Review

The FBI immediately began an investigation of the bombing of the Moore's home as a civil rights crime. The initial FBI investigation continued through 1955. Over 50 years later, in 2008, the FBI re-opened the matter as part of the Department of Justice "Cold Case Initiative."

As part of the 2008 investigation, the FBI reviewed all of the preceding federal, state, and county criminal investigations into the bombing. The combined efforts of all of the criminal investigations produced evidence implicating four subjects, none of whom were ever arrested, and all of whom are deceased.

1. The 1951 FBI Investigation

The initial FBI investigation began hours after the explosion and continued through 1955. The investigation was extensive; nearly eighty FBI agents conducted over 1,000 interviews in Florida, Georgia, North Carolina, South Carolina, and California. The FBI collected evidence through telephone surveillance, XXX and forensic testing of physical evidence. From the start, the investigation focused primarily on the activity of the Ku Klux Klan in the central Florida region. The investigation revealed that the Klan was aware of Mr. Moore and his civil rights advocacy.

Mr. and Mrs. Moore were well respected educators in their community. Mr. Moore was said to have a passion for politics and fought tirelessly for voting rights. In addition to his teaching profession, Mr. Moore owned and tended a small tract of orange groves. In 1934, Mr. Moore organized the Brevard County chapter of the NAACP. In 1946, Mr. Moore was elected as the first, full time, paid Executive Secretary of the Florida state conference of the NAACP. During his time with the NAACP, Mr. Moore fought against lynchings, police brutality, unequal treatment of the criminal justice system, unfair labor practices against African-Americans, and illegal interference with the right to vote.

In 1944, Mr. Moore formed the Progressive Voters League (“PVL”), a voter registration and education organization. The PVL soon became a powerful force locally and statewide. The PVL was organizing African-American voters, and as an organization was viewed as an important voting block large enough to affect the outcome of an election. Reportedly, Mr. Moore and the PVL had registered over 100,000 African-American voters.

The success of the PVL, as well as Mr. Moore’s civil rights advocacy in other areas, made him known to the Ku Klux Klan. In the early 1950’s, the Ku Klux Klan was large and active in central Florida. It was common knowledge that prominent members of the community, such as business owners, elected officials, and law enforcement officers were members of the Klan, or closely associated with Klan members. Two important civil rights accomplishments in particular, may have led to Mr. Moore being a target of the Klan. First, in the year before the explosion, Mr. Moore and the PVL campaigned against Andrew Fortenberry’s reelection as Chair of the County Commission. When Fortenberry, a 20-year political veteran, lost the election, Mr. Moore was reportedly threatened by other county officials. Second, several weeks prior to the explosion, Mr. Moore launched an aggressive campaign against nearby Lake County Sheriff Willis McCall, because of his agency’s involvement in the shooting deaths of two handcuffed African-American prisoners.

dynamite under the Moore's home. Spivey insisted that Cox's actions were not sanctioned by the Klan. Spivey then told the detective that he was dying of cancer. The BCSO detective considered his conversations with Spivey to be deathbed confessions.

Joseph Cox, also a member of the Ku Klux Klan, was investigated during the FBI's initial investigation. Cox was known to be a longtime member of the Klan and the FBI questioned him hoping he could provide further information on Brooklyn and Belvin. Cox was first interviewed on March 10, 1952, and denied any knowledge of the bombing, but did provide some background information on Brooklyn and Belvin. The FBI interviewed Cox a second time on March 29, 1952, and he again denied any knowledge of the Moore's or the bombing. Cox did, however, inquire several times during the interview whether the FBI's evidence "would hold up in court." The next day Cox killed himself with a shotgun he borrowed from Spivey.

Cox's suicide was investigated by Winter Garden Police XXXXXXXX, who advised the FBI that Cox did not leave a suicide note. XXXXXXXX was also reportedly a member of the Klan.

Spivey explained that Cox came to his house the day after Cox's second interview with the FBI and told Spivey that he "had done something wrong." According to Spivey, Cox told him that the Klan paid him \$5000 to kill Harry Moore. Cox claimed to have used the money to pay off his mortgage, and was reportedly afraid that the FBI would find out about his mortgage payment.¹ He then borrowed Spivey's shotgun and returned home.

Spivey denied any personal involvement in the shooting, but provided such detailed accounts of the bombing that the BCSO believed Spivey must have been present when Cox planted the bomb. Prosecutors from the Brevard County State Attorney's Office attended several of the Spivey interviews. The State Attorney's Office was preparing to take the case against Spivey to the grand jury when the State Attorney lost his reelection bid. Spivey was never prosecuted and the case was closed. Spivey died in August 1980 of cancer.

3. The 1991 Florida Department of Law Enforcement Investigation

In 1991, the Governor of Florida ordered the Florida Department of Law Enforcement ("FDLE") to investigate new information regarding the bombing. XXXXXXXX claimed that XXXX, XXXXXXXX, told XXX on six to eight occasions that he was present at the bombing. The FDLE interviewed XXXXXX, and then located and interviewed XXX former XXXXX. XXXXXXXX admitted to being a member of the Klan during the late 1950's and early 1960's, but denied any knowledge of, or involvement in, the bombing. XXXXXXXX later submitted to, and passed, a polygraph examination.

The FDLE looked into several other leads, including a recanted confession by XXXXXXXX during the initial FBI investigation, as well as the possible involvement of former XXXXXXXX. The FDLE investigation did not result in any credible information against XXXXXXXX or

¹ The investigations were not able to confirm whether Cox paid off his mortgage during the relevant time period.

XXXXXX, and thoroughly discredited XXXXX's original confession.

4. The 2004 Florida Attorney General's Office of Civil Rights Investigation

In 2004, Florida Attorney General Charlie Crist announced that his office was reopening the investigation to review the history of the case and seek any new witnesses or information that could lead to identifying those individuals responsible for the bombing. The Attorney General's Office of Civil Rights interviewed over 100 persons and conducted a complete excavation of the site of the Moore's home. Attorneys and investigators for the Attorney General's office re-interviewed many of the people originally interviewed by the FBI, as well as many other neighbors of the Moore's not interviewed at the time of the bombing. The Attorney General's investigation was extensive and concluded that Brooklyn, Belvin, Cox, and Spivey were likely responsible for the bombing.

5. The 2008 FBI Investigation

In 2008, the FBI initiated a review of the bombing that killed Mr. and Mrs. Moore, pursuant to the Department of Justice "Cold Case Initiative" and the Emmett Till Unsolved Civil Rights Crime Act of 2007, Pub. L. No. 110-344, 122 Stat. 3934 (2007), which charges the Department of Justice to investigate violations of criminal civil rights statutes that occurred prior to 1970 and resulted in death. The FBI reviewed the prior four investigations and files. The review of the previous investigations identified ten former members of the central Florida Ku Klux Klan who may have had pertinent information about the bombing. Further investigation involving interviews and research of death certificates revealed that eight of the potential witnesses were confirmed to be dead, and two were unable to be located, but suspected to be dead.

An exhaustive review conducted by the FBI and attorneys from the Department of Justice Civil Rights Division did not produce any new leads. Instead, the review suggests that the most probable subjects involved in the bombing were Brooklyn, Belvin, Cox, and Spivey. All four subjects are deceased.

Legal Analysis

This matter does not constitute a prosecutable violation of federal criminal civil rights statutes. First, despite extensive efforts, no living subject has been identified. All four of the identified primary subjects are deceased.

Second, even if a living subject could be identified, the statute of limitations has expired. 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, including 18 U.S.C. ' 242, 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 involving kidnapping resulting in death, the facts of the present case do not lend themselves to prosecution under other such statutes.

Based on the foregoing, this matter lacks prosecutive merit and should be closed. AUSA Carlos Perez, Middle District of Florida, concurs in this recommendation.