

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-20-2026

Date _____

To: Chief, Criminal Section

Re: Officer Billy Carter (Deceased),
St. Mary's Police Department,
St. Mary's, Georgia- Subject;
Ernest Hunter (Deceased) - Victim
CIVIL RIGHTS

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

Case Synopsis

On September 13, 1958, at about 7:30 p.m., St. Mary's, Georgia, Police Department (SMPD) Officer Billy Carter, the subject, arrested Ernest Hunter, a 22-year-old African-American for "interfering" when the subject was writing Hunter's XXXXX, XXXXXX, a traffic ticket. The subject placed the victim in his patrol car and transported him to the city jail. The subject claimed that once inside the jail, the victim swung at him, struggled with him, and started to choke him and punched him. According to the subject, he then "blacked out." The subject stated that he could not recall drawing and firing his gun at the victim, fatally wounding him.

Cristina Gamondi
Attorney

To: Records Section
Office of Legal Administration

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

Date

Chief, Criminal Section

XXX

Three eyewitnesses corroborated the subject's account that the victim fought with him at the jail, and two of those witnesses stated that the victim was choking the subject when the subject fired the fatal gunshot. The subject is now deceased.

Local investigation

The shooting was investigated locally by a Coroner's Inquest held on September 15, 1958 in Camden County. The coroner's jury acquitted Carter, ruling that the shooting was justified.

Federal Investigation and Review

The Federal Bureau of Investigation (FBI) first opened an investigation into the shooting on October 29, 1958, at the request of the Civil Rights Division.

In the fall of 2008, the FBI initiated a review of the circumstances surrounding the victim's death, pursuant to the Department of Justice's "Cold Case" initiative and the "Emmett Till Unsolved Civil Rights Crime Act of 2007," which charges the Department of Justice to investigate "violations of criminal civil rights statutes . . . result[ing] in death" that "occurred not later than December 31, 1969." The FBI case agent retrieved from the National Archives and Records Administration (NARA) the 1958 FBI file relating to the incident; conducted searches of Georgia death records; and obtained the subject's death certificate.

1) The 1958 investigation

As part of the 1958 investigation, the FBI case agents obtained a voluntary signed statement from the subject on November 4 of that year. The FBI also interviewed three eyewitnesses to the shooting, and the victim XXXX, XXXXX.

Subject Billy Carter stated that, on September 13, 1958, at about 7:30 p.m., he stopped XXX car after XXX drove through a stop light. Carter was in the process of issuing XXX a ticket when the victim walked up and asked what was going on. When Carter replied that it was none of the victim's business and to "move on," the victim said that XXX was his XXX and "no white son-of-a-bitch" could tell him to "move on." The victim then took a swing at Carter and XXX moved between them and caught the blow. Carter took out his blackjack and the victim warned him not to use it. Carter told the victim he was under arrest, grabbed the victim by the back of the pants, and pushed him toward his patrol car. The victim initially refused to get into the car, and XXX begged Carter not to take the victim to jail.

The victim then got in the front seat of the patrol car and Carter drove to the jail. Upon arrival, Carter pushed the victim toward the entrance. At the entrance, the victim braced himself against the door and swung around to face Carter. Carter pulled the victim away from the door and they both entered the building. When the victim reached the steps leading to the second floor, he turned and punched Carter in the jaw causing Carter to fall to his knees. Carter pulled out his blackjack, whereupon the victim told Carter that "no white son-of-a-bitch" was going to strike him with a blackjack or put him in jail. As the victim then swung again at Carter, Carter struck him

three times with the blackjack. With the third strike, the blackjack was knocked from Carter's hand and fell to the floor. At that point, the victim began choking Carter with one hand while punching him in the head with the other. Carter stated that he then "blacked out" and he could not recall drawing his gun, firing it at the victim, or reholstering it afterwards. When Carter came to, he was holding onto the stair railing and SMPD Chief E.F. Geiger was asking him if he was alright. It was then that Carter saw the victim lying on the floor.

SMPD XXXXXX, XXXXXX (who was visiting XXXXXX,) and jail detainee XXXXXX all gave statements generally corroborating the subject's account.

XXX corroborated that the victim repeatedly said to the subject something to the effect of, "if you hit me with that blackjack you son-of-a-bitch, you better kill me," and that the victim swung at Carter. XXX stated further that the subject made about three "passes" with the blackjack at the victim but, each time, the victim reached under the subject's swing and struck the subject. XXX confirmed that after the blackjack was knocked from Carter's hand, the victim grabbed Carter by the throat. At that point, Carter drew his gun and XXX heard a gunshot and saw Hunter fall to the floor.

XXX gave an account similar to XXX. In particular, he confirmed that the subject and victim fought, and that the victim was choking the subject when the subject drew his gun and shot the victim.

XXX stated that he was sitting on the bottom of the steps when the subject and victim walked into the jail. XXX stated that he heard the victim say three times to the subject, "If you hit me with that blackjack, you will have to kill me." The subject and victim then began to struggle. XXX started up the stairs and was about half-way up to the second floor when he heard a gunshot.

XXXXX, the victim XXX, stated that she had not run the stop sign as the subject claimed and that he called XXX "n.r." She confirmed that the victim approached and asked the subject what was happening and that the subject replied that it was not his business. XXX contradicted the subject's account that he arrested the victim or that the victim resisted the arrest. XXX stated that the subject asked the victim to get into the patrol car and the victim did so. XXX asked Carter where he planned to take the victim, but Carter did not respond. At the victim's request, XXX followed Carter's car to the city hall building. XXX parked in front of the building and immediately heard a loud sound which XXX thought was the door being slammed. XXX sat in XXX car 20 to 30 minutes before being informed that XXX had been shot.

2) The 2008 review

Following a search of the Georgia death records database, the FBI case agent obtained a copy of the subject's death certificate, that indicates that he died as a result of a self-inflicted gunshot wound to the chest on July 15, 1987.

Legal Analysis

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. First, the federal government cannot prosecute the subject because he is deceased.

Second, 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 kidnaping resulting in death, the facts of the present case do not lend themselves to prosecution under other statutes.

Based on the foregoing, this matter lacks prosecutive merit and should be closed. Additionally, because the subject is deceased, this matter will not be forwarded to the state for prosecutive review. AUSA Joseph Newman, Southern District of Georgia, concurs.