

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-40-2141

04/07/2010  
Date \_\_\_\_\_

To: Chief, Criminal Section

Re: Patrolman Robert Wallace (Deceased),  
Mississippi Highway Patrol,  
Ruleville, Mississippi - Subject;  
Isaiah Taylor (Deceased) - Victim  
CIVIL RIGHTS

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

**Case Synopsis**

On June 26, 1964, at about 5:30 p.m., Isaiah Taylor, the African-American victim, was shot and killed by Mississippi Highway Patrol (MHP) Patrolman Robert Wallace, the subject. The subject claimed that he and Constable T.A. Fleming were searching for a state penitentiary escapee when they found the victim, who had a history of mental health problems, standing on the side of Highway 49, covering his face with his hands. The subject stated that when he asked the victim for identification, the victim cursed at him and then ignored repeated commands to pull his hands out of his pockets. According to Wallace, when the victim finally complied, the victim pulled out a switchblade knife with an 8-inch blade and attacked him. Wallace told the victim he was

\_\_\_\_\_  
Cristina Gamondi  
Attorney

To: Records Section  
Office of Legal Administration

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

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Chief, Criminal Section

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under arrest, fired two warning shots at the victim's feet, and then tried to disarm the victim using his blackjack - all to no avail. The victim continued to advance toward the subject and when he threw the knife at the subject, the subject fired the fatal shot that struck the victim in the chest. Wallace stated that the knife hit him on the side of the head before traveling about 50 feet and falling to the ground.

On June 27, 1964, County Judge J.B. Murphy held a preliminary hearing and then ruled that the subject was not guilty of manslaughter. In his opinion, Murphy outlined the subject's statement as summarized above.<sup>1</sup>

XXXXXX, who testified at the Murphy hearing and was the sole living witness to the shooting, was interviewed by the FBI and stated that the victim did not curse or brandish a knife. The victim took some time in complying with orders to pull his hands out of his pockets, but when he did, he raised them in surrender and was immediately shot. XXXXX denied that the subject fired any warning shots. Moreover, XXXXX opined that Constable Fleming, who grew up in the area, should have been able to easily recognize the victim and known that he was not the state penitentiary escapee.

The subject died on April 4, 2007.

### **Federal Review**

In the fall of 2008, the Federal Bureau of Investigation (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 interviewed XXXXXXX, the sole living witness to the shooting, and XXXXXXX, a friend of the XXXXXXX. The FBI also contacted various Mississippi law enforcement and government officials; conducted searches of the Mississippi Department of Archives and History (MDAH), FBI records, the Sunflower County Library, and the internet for relevant references and media articles; and sent letters to both the Southern Poverty Law Center (SPLC) and the NAACP requesting information.

Through a search of the **Sunflower County Circuit Court**, the FBI obtained the "judgment" of County Judge J. B. Murphy summarizing the testimony at the preliminary hearing that resulted in XXXXX ruling that the shooting was a justifiable homicide.

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<sup>1</sup> Judge XXXXX opinion discusses only two witnesses: the subject and Fleming. There are six witnesses listed for the state on the hearing docket sheet: Fleming, Leon Coleman, Curtis Williams, XXXXXX, J.W. Okeefe, and U.L. LNU (the last name is illegible). However, XXXXX told the FBI that he was the only witness to the shooting still living.

XXXXXXX, who was a friend of the XXXXX XXXX when they were in their 20's, stated that she remembered that the victim was often seen walking back and forth between Ruleville and Doddsville, where he lived. XXXX stated further that, over time, the victim began to develop physical and mental health problems: he had trouble hearing and would get confused. XXXX did not witness the shooting and stated that she did not believe that the victim had any living relatives in the Sunflower County area.

In an effort to **locate any living family** member of the victim, the FBI case agents conducted a thorough search of available resources, including searches of the SPLC's Civil Rights Cold Case Family Member database; FBI indices; and internet general and law enforcement search engines, including Accurint for Law Enforcement, but to no avail. Additionally, a case agent contacted Keith Beauchamp, Civil Rights Cold Case historian and filmmaker, who stated that he had no information concerning the shooting. The FBI also spoke to Ruleville Mayor Shirley Edwards. Finally, with the aid of RPD Captain Amos Mitchner, a case agent interviewed a number of elderly residents of Ruleville, but none had any information.

The FBI case agents contacted officials at the **Mississippi Bureau of Investigation**, the **District Attorney's Office for the Fourth Circuit Court District**, the **Mississippi Attorney General's Office**, the **RPD**, and the **SCSO** and determined that none of those agencies had any records pertaining to the matter.

As of the date of this memorandum, the **letters to the SPLC and NAACP** have also yielded no information.

### **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 Robert Coleman, Northern District of Mississippi, concurs in this recommendation.