

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-40-2147

Date 05/24/2011

To: Chief, Criminal Section

Re: Unknown Subjects,
Ruleville, Mississippi;
George Love (Deceased) - Victim
CIVIL RIGHTS

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

Case Synopsis

On January 8, 1958, a 25-man posse shot and killed George Love, a 38-year-old African American accused of arson, robbery, and multiple murders. Newspaper articles from January 1958 reported that Love escaped arrest in Ruleville, Mississippi, by shooting a law enforcement officer four times, leaving him seriously wounded, but alive. Love fled after the shooting, prompting the organization of the posse and the manhunt that lasted through the night.

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

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The articles reported that the posse discovered Love hiding on a plantation several miles east of Ruleville. Reportedly, as the posse closed in, Love fired upon the posse, which returned fire. During the exchange of gunfire, Love was fatally shot. An NAACP press release from January 23, 1958, alleged that an investigation by Medgar Evers, NAACP field secretary for Mississippi, concluded that Love was shot in the back.

Federal Review

On January 8, 1958, a 25-man posse shot and killed George Love, a 38-year-old African American wanted by police for his reported involvement in recent multiple murders and arson. The shooting of Love occurred in the early morning hours on a plantation several miles outside of Ruleville, Mississippi. According to newspaper articles from January 1958, on the evening prior to the shooting, Love purchased expensive goods at a general store using scorched bills. The scorched bills and Love's "lavish spending" raised suspicions, and a Ruleville "night marshal" attempted to question and search Love. Reportedly, when the night marshal attempted to place Love under arrest, Love shot the night marshal four times before fleeing, prompting the police to form a posse to search for Love. The articles reported that as the posse closed in on Love the next morning, Love fired upon the posse, which returned fire, fatally shooting Love. The articles further noted that the pistol used by Love that morning matched the description of a pistol missing from the home of one of the murder and arson victims.

On January 23, 1958, the NAACP issued a press release regarding the incident. The president of the Mississippi State NAACP, C.R. Darden, noted in the press release that "Medgar Evers of Jackson, NAACP field secretary for Mississippi, stated that the fatal bullets entered Mr. Love's body from the rear." Mr. Darden suggested that Love "might have been running from the mob."

In 2008, the FBI initiated a review of the circumstances surrounding Love's death, 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. Outlined below are the steps taken by the FBI to investigate Love's death.

1. The 1958 FBI Case File

The FBI case file from the time of the shooting included four newspaper articles from *The Daily News* dated January 1958, published in the days and weeks after the shooting. The articles detailed the events leading to Love's death. According to the articles, Ruleville Police suspected Love was involved in the January 5, 1958 murder of Anthony and Estelle Porter and the arson of the Porter's home. Local authorities also suspected Love in a similar murder and arson committed several weeks earlier. In that case, Love was suspected of killing Mr. Q.L. King, Mr. King's wife, and his mother-in-law, and then burning the King's home in Ackerman, Mississippi.

On the evening before Love's death, a Ruleville XXXXXX named XXXXX, age XX, attempted to arrest Love outside a general store for the Porter murders and arson. The articles stated that Love shot XXXX four times, leaving him seriously wounded, but alive. Still armed, Love fled after shooting XXXX, prompting the organization of the posse and its manhunt that continued through the night.

The articles reported that Love was shot and killed at approximately 8:00 a.m. on the Sidney Livingston plantation several miles east of Ruleville, Mississippi. According to the articles, Love was shot while hiding "in the bushy top of a fallen tree," after exchanging gunfire with the posse as it "closed in" on him. Ruleville Police Chief G.W. Wachter is quoted as calling Love a "bad actor" and reported that Love was "armed with a 32-20 pistol," and recently had been jailed "on various charges." The articles reported that it was unknown who among the posse members fired the fatal shots, but did list several of the posse members by name, reporting that members included, "Sunflower County Deputy Sheriffs XXXXXXXX and XXXXXXXX, several highway patrol men, sheriff's deputies from adjoining Bolivar county and trustees from the state penitentiary at nearby Parchman." The articles did not describe the number or placement of Love's wounds.¹

Two of the articles dated January 22, 1958, explained that officials later cleared Love as a suspect in the King murders and arson. According to the articles, Love was still considered a suspect in the Porter murders, as was his XXXXX, XXXXX, and an alleged associate of Love's, XXXXXXXX, who were XXXXXXXX of Ruleville Police.

Additionally, the 1958 file included the NAACP press release, as well as several news articles and internal memoranda regarding a request from Representative Adam Clayton Powell and NAACP Washington Director Clarence Mitchell to the Department of Justice for the FBI to investigate the shooting. The file provided a memorandum from the FBI Memphis Division, outlining information reported in the local media about the shooting, and explaining that the Division had not received any complaints or any allegations of federal violations on the matter.

2. 2008 Investigation

Research conducted by the FBI revealed three more newspaper articles from January 1958 about the Love shooting: *Negro Slain in Manhunt After Shooting*, Enterprise-Tocsin, Jan. 9, 1958, at ¹; *Exie Jennings Shot By Mad Negro*, Sunflower County News, Jan. 9, 1958, at ¹; *Love's 2 Accomplices Make Signed Confession*, Enterprise-Tocsin, Jan. 16, 1958, at ¹. These articles reported that the pistol used by Love in the exchange of gunfire matched the description of the pistol missing from the Porter's home. The articles also reported that XXXXXXXX attempted to arrest Love for his involvement in the Porter murders and arson based on reports that Love recently

¹ The articles were likewise silent on the ages of the men involved in the posse. The NAACP press release, again citing a report by Medgar Evers, reported that the posse was made up "25 men and boys," with some members as young as "16 and 18 years old."

had purchased expensive goods with scorched bills. The articles further provided additional names of persons reported to have taken part in the posse, including Sunflower County Sheriff Ed Williams, Sunflower County Sheriff Deputies XXXXXX and XXXXXX, Highway Patrol Assistant chief W.L. Ellard, and the Livingston plantation XXXXX, XXXXX. Finally, the articles reported that Love's XXXX, XXXXXX, and XXXXXXXXXXX² confessed to being involved in the Porter murders and arson, claiming that Love killed the Porter couple and directed XXXXX and XXXXXXXX to assist in setting fire to the house.

Based on the names listed in the various newspaper accounts, the FBI contacted the following offices seeking further information about the named individuals and the Love shooting: Sunflower County Sheriff's Office; Ruleville Police Department; Sunflower County Library; the Sunflower County Circuit Court and Justice Court; Mississippi Department of Public Safety, Mississippi Bureau of Investigation; Mississippi Department of Corrections B Parchman; the District Attorney's Office for the 4th Circuit Court District; and the Office of Ruleville Mayor Shirley Edwards. None of the above offices could produce any documentation regarding the named individuals or the shooting.

The FBI learned from Sunflower County Sheriff James Haywood that there are no existing Sunflower County Sheriff files prior to 1970. According to Sheriff Haywood, his predecessor destroyed a large volume of old files, despite a requirement that files be maintained for 75 years. At the District Attorney's Office, there are no case files from before 1980. Those files were stored in a warehouse in Washington County, Mississippi, and destroyed in a fire several years ago.

Some of the individuals interviewed from the offices listed above were familiar with some of the named posse members, but believed them to be deceased. For example, during an interview with the FBI, Sheriff Haywood stated that he believed former Sheriff Williams to be dead. Captain Rusty Miley of the Mississippi Bureau of Investigation also believed former Sheriff Williams to be dead. In an interview with the FBI, Captain Miley's XXXXX, XXXXX (retired Mississippi Bureau of Investigation) stated that he believed W.L. Ellard to be dead. Similarly, a Sunflower County citizen XXXXXXXX, whose father worked for the Ruleville Police Department under Chief Wachter, believed that former Chief Wachter was dead.

Following an FBI interview the Ruleville Police Chief, Captain Amos Mitchner of the Ruleville Police agreed to drive the investigating FBI agent through Ruleville, introducing the agent to elderly citizens in the town. None of the citizens, however, were familiar with the named posse members or could remember the Love shooting. Similarly, at the conclusion of the interview with Mayor Edwards, the Mayor suggested that the FBI speak to XXXXXXXX and XXXXXXXX two elderly lifelong residents of Sunflower County who were knowledgeable about the County's history. The FBI did speak with them, however, unfortunately, neither XXXXXXXX nor XXXXXXXX could provide any information regarding the Love shooting or the posse members.

² The articles differ on the reporting of XXXXXXXX.

The FBI searched the Social Security Administration Death Index to verify the information from the interviews, and learn any additional information about the other reported members of the posse. Information in the Social Security database revealed that Exie Jennings (date of birth 11/19/1893) died in May 1973, and Billy Trimble (date of birth 10/20/1912) died in April 1988. No other information on the named individuals could be confirmed through the Social Security Administration Death Index, in part because the articles did not identify them with enough specificity to allow for dispositive review.

To further obtain information regarding Love, the named individuals, and other unknown subjects of the 25-man posse, the FBI reviewed the Southern Poverty Law Center Civil Rights Cold Case Family Member Data Base; searched records of the Mississippi Department of Archives and History; researched Bureau indices and Accurint for Law Enforcement; and conducted general searches through internet search engines.³ None of these searches produced relevant information.

Finally, the FBI contacted Keith Beauchamp, a documentary film maker and civil rights cold case historian. Mr. Beauchamp did not have any information regarding the Love shooting or the persons reported to be involved in the posse.

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. Second, even if a living subject could be identified, there is insufficient evidence to demonstrate that the subject or subjects involved acted with willfulness in shooting and killing Love, as is required by 18 U.S.C. § 242. Similarly, there is insufficient evidence to refute the version of events reported in the newspapers at the time indicating that the subject or subjects acted in self-defense or that the shooting was otherwise legally justified as a necessary use of force in the apprehension of a felon fleeing arrest. The only available accounts state that Love was a subject in multiple murders and two arsons, that he shot and seriously wounded a law enforcement officer who attempted to place him under arrest, that he fled the scene and was considered armed and dangerous, and that he fired upon the posse before he was fatally shot.

Finally, 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

³ In addition, the FBI sent letters to the Southern Poverty Law Center and the NAACP requesting copies of any records relating to this matter. To date, no information has been provided.

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