

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-40-2151

04/07/2010
Date _____

To: Chief, Criminal Section

Re: Sheriff James Treloar (Deceased),
Yalobusha County Sheriff's Department,
Water Valley, Mississippi - Subject;
Woodrow Wilson Daniels (Deceased) - Victim
CIVIL RIGHTS

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

Case Synopsis

On June 21, 1958, Woodrow Wilson Daniels, the African-American victim, was severely beaten with a "blackjack" (a short, leather-covered club, consisting of a heavy head on a flexible handle) or a large club by Yalobusha County Sheriff James Gray "Buster" Treloar, the subject, after the victim objected to the subject's attempt to move him out of the "white section" of the Yalobusha County Jail. The victim was released from the jail at about 12:30 p.m. on June 22, 1958. He was first seen by a local doctor, then by a physician in Oxford, Mississippi, and finally taken to the John Gaston Hospital in Memphis, Tennessee, where he died on July 1, 1958.

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

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On July 29, 1958, the subject was indicted on manslaughter charges and tried a week later. The four-day trial ended on August 7, 1958 when an all-male, all-white jury deliberated less than 30 minutes and acquitted the subject.¹ The subject died on May 4, 2006 in Memphis, Tennessee.

State trial testimony

1) Prosecution witnesses

At the trial, **XXX** stated that on June 21, 1958, Treloar arrested him, placed **XXXX** in his squad car and, on his way to the jail, stopped to arrest the victim for drunkenness, reckless driving, and possession of whiskey. According to **XXX**, the subject struck the victim on the head with his blackjack at the arrest scene.

XXX, an elderly grocer and the victim's **XXXX**, attempted to post bond for him on the night of June 21, 1958. The subject told **XXX** that the victim could not be released that night. **XXX** testified that he heard the victim yell and, as he stood outside the jail, **XXX** heard what sounded like blows.

XXX and **XXXX**, who were detained at the jail on charges of forgery, which were later dropped, testified that they saw the subject beat the victim 10 to 12 times with a 3-foot club, after the victim tried to communicate with his **XXX**, **XXXX**.

XXX, another jail detainee, testified that, at one point, the victim darted into his cell and began yelling out the window whereupon subject Treloar pulled the victim out of **XXXX**'s cell and struck him three or four times with a 3-foot club.

Dr. Maubry McMillan testified that at about 2:30 a.m. on June 22, 1958, the subject called him to the jail to check on the victim. According to McMillan, the subject explained that he called the doctor because he (the subject) "had to tap [the victim] on the head." Dr. McMillan testified that he examined the victim and found a small bump on the victim's head. The victim was complaining of pain, so Dr. McMillan gave the victim a pain-killer. He added that the subject cursed at the victim, saying there was nothing wrong with him. He then saw the subject kick the victim in the leg. Dr. McMillan left the jail after about 10 minutes, but he saw the victim again at about 8:00 p.m. on June 22, after the victim had been released from the jail. At that point, the victim's face was swollen, he had a "pone swelling" under his right eye, and his nose was bleeding; the bump Dr. McMillan had found during the jail examination had become smaller. The next day, Dr. McMillan was consulted by phone², and he suggested that the victim be taken to a physician in nearby Oxford, Mississippi.

¹ The judge who presided over the Treloar trial was Judge Curtis M. Swango, the same judge who had presided over the trial of the murderers of Emmett Till.

² One of the newspaper articles stated that it was the victim's **XXXXX** who took him to a doctor in Oxford after he was released.

XXX, the XXXXX, testified that XXX posted bail for him on June 22, 1958. XXX stated that XXX heard the subject warn the victim not to tell anyone what had happened to him. XXX testified further that the victim's face was badly swollen and his nose was bleeding. Moreover, the victim's speech was incoherent.

XXX testified that XXX saw the victim when XXX stopped XXX car near the marshal, after picking up the victim at the jail. Like XXX, XXXX testified that the victim's face was swollen and his nose was bleeding.

Dr. Joe Miller, a neurosurgeon at the John Gaston Hospital, testified he performed a number of surgeries on the victim and that the victim was "in a constant state of confusion and irrational" throughout his stay at the hospital.

Dr. Walter Scott Gilmer, also a physician at John Gaston Hospital, testified that the autopsy revealed a small skull fracture and two areas of brain hemorrhage that had occurred sometime in the two weeks prior to the victim's death. According to Gilmer, the victim died as a result of brain injury.

2) Subject's testimony

Subject James G. Treloar acknowledged hitting the victim a number of times, but denied that he ever struck the victim in the head. Treloar testified that he slapped the victim in the squad car when the victim repeatedly leaned into the front seat. At the jail, the victim, like the other detainees, was allowed to walk around. At one point, the victim wandered into the "white section" of the jail, into XXXXX's cell, in order to yell out the window down to his XXX, who was at the jail intending to post the victim's bond. According to Treloar, he told the victim to move back to his own cell but the victim refused. When Treloar approached XXXXX's cell, with a blackjack in one hand and a flashlight in the other, the victim grabbed his hand. At that point, the subject yanked the victim out of the cell and struck the victim in the shoulder area with the blackjack, causing the victim to fall to the floor. The subject then struck the victim with the blackjack no more than five times on the "seat of his pants." Additionally, the subject acknowledged cursing at the victim during Dr. McMillan's examination of the victim, but denied that he kicked the victim. Instead, the subject nudged the victim with the toe of a shoe in order to get the victim to sit up for the exam. Treloar stated that he also slapped the victim in the face on the morning of June 22, 1958, because the victim complained that he had not been fed. According to Treloar, it was that slap that caused the victim's nose to bleed. As to the cause of the victim's fatal head trauma, the subject speculated that the victim might have fallen because he was intoxicated and struck his head on the floor or a piece of metal projecting from an elevator shaft.

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 case agents contacted various Mississippi and Tennessee (where the subject died) law enforcement and government officials; conducted searches of the Mississippi Department of Archives and History (MDAH) 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.

FBI case agents contacted officials at the **Mississippi Bureau of Investigation** and the **Mississippi Attorney General’s Office** and determined that neither agency had any records pertaining to the matter.

An official at the **Yalobusha County Circuit Court** stated that a large number of records had been purged in 2005. The remaining records had been warehoused. The official stated that the warehoused records had been placed in boxes in random order, and that a search would therefore require an inspection of each box. Moreover, the official stated that he doubted that any records pertaining to Daniels’s death would be among the warehoused records. Given that, as discussed in the legal analysis portion of this memorandum, the United States could not prosecute the subject because he is deceased, a search of the warehoused boxes is unnecessary.

Several **contemporaneous newspaper articles** were referred to the FBI by the SPLC. Additionally, through searches of the MDAH and the internet, the FBI case agents obtained a total of 10 relevant newspaper articles.³ The facts in the case synopsis above are based on those articles.

The FBI case agents obtained the **subject’s death certificate**, indicating that he died on May 4, 2006 in Memphis, Tennessee.

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

³ The articles obtained from the MDAH were from the Jackson, Mississippi, *Clarion Ledger*, the *Daily News*, and the *State Times*; the Grenada, Mississippi, *Daily Sentinel Star*; and the Memphis, Tennessee *Commercial Appeal*.

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 prosecution under other statutes.

Based on the foregoing, this matter lacks prosecutive merit and should be closed. Additionally, because there has already been a state prosecution and 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.