

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-40-2152

Date APR 23 2010

To: Chief, Criminal Section

Re: Reese Marion Gipson (Deceased),  
Winona, Mississippi - Subject;  
Jessie Brown (Deceased) - Victim  
CIVIL RIGHTS

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

**Case Synopsis**

On January 23, 1965, Jessie Brown, the African-American victim, was shot and killed by his employer, Reese Marion Gipson, the subject, in Gipson's home in Winona, Mississippi. The subject told a Montgomery County Sheriff's Office (MCSO) deputy, who responded to the scene, that the victim had become intoxicated and attacked the subject with an ice pick, whereupon the subject shot him in self-defense. The victim sustained a fatal shotgun wound to the stomach.

Gipson was arrested for shooting the victim and, on January 24, 1965, the incident was investigated by a local district attorney, Chatwick Jackson. Based on Montgomery County

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Cristina Gamondi  
Attorney

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To: Records Section  
Office of Legal Administration

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

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Date

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Chief, Criminal Section

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Circuit Court records, no charges were ever presented to the local grand jury. The subject died on June 16, 1977.

### **Federal Investigation**

In the fall of 2008, the Federal Bureau of Investigation (FBI) opened an investigation into 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 contacted various Mississippi law enforcement and government officials. The FBI also interviewed a number of individuals who were in Winona at the time of the shooting, in addition to XXXXX (the victim's XXXXX) and XXXXX, (the subject's XXXXX); and conducted searches of archived records of the *Winona Times*, and the Mississippi Department of Archives and History (MDAH) for relevant media articles.

XXXXX, a former MCSO deputy, stated that he responded to the scene of the shooting. The victim was lying on the floor inside the subject's home with an ice pick lying near him. The subject, who shot the victim with a shotgun, said that he had fired in self-defense after the intoxicated victim threatened both him and XXXXX with an ice pick.

XXXXX, the victim's XXXXX, stated that XXX aware of the circumstances of his death, and that XXXXXX had always felt that there was more to the shooting than was revealed. XXXXX stated that although XXXXX was still alive, XXX was physically and mentally in bad health and XXXXX advised against contacting XXX.

XXXXX, the subject's XXXX, stated that what XXX recalled most about the shooting was that XXX parents were very worried over it and that the subject had always liked the victim. XXXXXX stated that XXXX had been buried in Winona City Cemetery.<sup>1</sup>

The FBI case agent contacted officials at the MCSO, the Winona Police Department, the Mississippi Bureau of Investigation, and the Mississippi Attorney General's Office and determined that none of those agencies had any records pertaining to the matter.

An official at the Montgomery County Circuit Court provided two relevant records to the FBI case agent. The first was the grand jury docket, listing "The State v. R.M. Gibson" with the charge of murder.<sup>2</sup> However, while the docket sheet named the testifying witnesses and indicated

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<sup>1</sup> The FBI case agent also interviewed XXXXX, an African-American man who was a Winona resident at the time of the shooting; XXXXX, who was XXXXX in Winona at the time of the shooting; XXXXXXXX (who signed the subject's bond); and XXXXX, but none of these witnesses had any specific recollection of the incident.

<sup>2</sup> The subject was referred to incorrectly as "R.M. Gibson" on both the court records and the *Winona Times* article.

whether the grand jury had returned an indictment with respect to the other two cases listed, it did neither as to the subject's case. Accordingly, it is likely that no charges were ultimately presented against the subject. The second document was the subject's bond that had been signed by the seven men who had posted his \$1000 bond.

The FBI case agent conducted a search of the MDAH, which indicated that the *Winona Times* was in circulation at the time of the shooting. The case agent then searched the archived records and found one relevant article indicating that the subject had been freed on bond.

The FBI case agent located the subject's tombstone at the Winona City Cemetery and determined that he died on June 16, 1977. The FBI then obtained the subject's death certificate.

### **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 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.