

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-41-3565

05/26/2011
Date _____

To: Chief, Criminal Section

Re: Deputy John Grant,
Hinds County Sheriff's Department,
Crystal Springs, Mississippi;
Eddie James Stewart (Deceased) - Victim
CIVIL RIGHTS

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

Case Synopsis

On July 9, 1966, Eddie James Stewart, a 22-year-old African-American cabinet maker, was shot and killed by Hinds County Sheriff's Department (HCSD) Deputy John Grant inside Stewart's home in Crystal Springs, Mississippi. According to Grant, he shot Stewart when Stewart lunged at him, trying to grab Grant's service pistol; Grant struggled to hold onto the gun and fired it.

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

FORMERLY CVR-3

FORM CL-3

A local Coroner's Inquest was held on July 9, 1966, and resulted in a verdict of justifiable homicide because the victim was "resisting arrest after firing at officers."

On August 24, 1966, the victim's wife, Bertha Stewart, filed a federal civil suit alleging that the victim was beaten on the head and then shot to death.¹ The suit was dismissed on January 31, 1967 at the motion of Ms. Stewart.

2008 Federal Review:

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 interviewed the subject; contacted numerous Mississippi law enforcement officials; conducted searches of law enforcement databases, the Mississippi Department of Archives and History (MDAH), the internet, the University of Southern Mississippi (USM) McCain Library and Archives records, and records of the Southern Poverty Law Center (SPLC); sent letters to both the SPLC and the NAACP requesting information; and solicited information about the case via a press release that was published in local newspapers and aired on local radio and television stations. The FBI also sought information concerning civil rights era racially-motivated homicides during the Veterans of the Mississippi Civil Rights Movement conferences in March 2009 and March 2010.

The FBI contacted the Mississippi Department of Public Safety (MDPS) and obtained a number of investigative reports. A search of the USM library also produced the investigative reports as well as several documents relating to the federal civil suit filed by the victim's wife.

Among the civil suit documents was a "Summary of the Facts," followed by a list of "possible legal questions" pertaining to the case.

The following brief summary of the events leading up to and including the shooting is based on the "summary of facts" and MDPS documents, which are generally consistent in relevant detail.

On the evening of the shooting, the victim, who lived in Crystal Springs (Copiah County) went to a bar in Hinds County, where he caused a disturbance which prompted the owner to call the HCSD. HCSD Deputy Percy Price responded to the bar and tried to arrest Stewart, who was drunk. Stewart drove off in his 1959 Buick and Price gave chase. Just north of the county line,

¹ The suit named as defendants Mississippi Commissioner of Public Safety Colonel T.B. Birdsong, Mississippi Highway Patrol (MHP) Chief A.D. Morgan, MHP Patrolman L.L. Oglesby, Hinds County Sheriff Fred N. Pickett, Copiah County Sheriff Herbert Deaton, Copiah County Deputy Sheriff FNU Walker, Crystal Springs Police Department Chief Boyce Ferguson, as well as three insurance companies. It is unclear why the subject was not a named defendant in the suit.

Stewart crashed his car. Before Price arrived, Stewart left his car and, with help, returned home where he picked up his shotgun and then returned to the crash scene in a different car.² In the interim, Deputy Price requested the help of Mississippi Highway Patrolman W. L. Brent. As Price and Brent were investigating the crash, Stewart approached and said that the crashed car was his but that it had been stolen. Price, however, recognized Stewart and arrested him using handcuffs he borrowed from Brent. Price then placed the victim in the rear of his patrol car but, as he turned to take Brent's handcuffs key, Stewart jumped out of the car and ran off. Price searched for Stewart but did not find him.

Stewart went to the Green Parrot bar where, according to witness XXXXX, he obtained the help of XXXXX to remove the cuffs. He then reportedly got in his black Chevrolet and started driving south, toward his home in Crystal Springs. About 30 minutes after Stewart's escape from Deputy Price's patrol car, Patrolman Brent received a report that the victim had been spotted driving south in a black Chevrolet. Brent called the MHP substation in Brookhaven and asked that Patrolman L. L. Oglesby be on the lookout for Stewart at the intersection of Highways 27 and 51.

About three minutes after Oglesby stationed his car at the requested location, he saw a car approaching from the north, which he thought might be the victim's car but Oglesby was not sure because of a reported difference in the description of the car's radio antenna. Oglesby pulled into the intersection with his lights and sirens on. The car, which was being driven by the victim, did not stop and Oglesby initiated a pursuit. Shortly thereafter, after the victim had made a number of dangerous maneuvers (including forcing Oglesby to drive into a ditch) and failed to stop, Oglesby became convinced that he was, in fact, pursuing the person mentioned in the BOLO. At that point, Oglesby requested the assistance of the Crystal Springs Police Department (CSPD).

Shortly after the radio call, Stewart stopped his car outside his home and exited. Oglesby pulled up behind Stewart's car and, as he began to exit his own car, he yelled at Stewart that he was under arrest. Stewart, who was about seven yards away from Oglesby at that point, fired a shotgun blast at Oglesby that was reportedly heard over the radio by CSPD officers. Oglesby took cover and began exchanging shots with the victim. The victim eventually took cover behind a small tree and continued to exchange shots with Oglesby. At some point during the exchange, Stewart fell to the ground, and Oglesby reportedly assumed that Stewart was ducking down.

As Stewart continued to fire at Oglesby, a CSPD car arrived. At about the same time, the subject and HCSO Deputy Emmett Adams also arrived. At about that time, Stewart appeared to surrender and stood at a corner of his house with his hands behind his head. Stewart did not comply with orders to come out into the light so the officers approached him. As the subject approached, the victim unsuccessfully grabbed at the subject's rifle. Adams grabbed the victim, turned him against the house, and searched him. The officers asked the victim where he kept his guns and he eventually told them the guns were in the house. Stewart then led Adams, who was

² MHP investigator H.D. Ellis reported that he learned from FBI SA XXXXX that the victim's XXXX was home when he returned to pick up his shotgun and other car.

holding onto Stewart's collar and the seat of his pants, Grant, and Oglesby, into the house. As they walked toward the front porch, the officers noticed a trail of blood on the ground leading into the house. Stewart eventually led the officers into the kitchen, pointed to one of the rooms, and then tried to break away to enter the room. Adams pulled the victim by the shoulder down to the floor and told him not to move. Adams stepped over Stewart and entered the front room, but the door swung shut behind him.

Stewart then reportedly kicked Grant's right arm and moved into a crouch. Stewart grabbed Grant's right arm and the barrel of Grant's pistol. During the ensuing scuffle, Oglesby was not able to help Grant because the kitchen table was in the way. Oglesby opined that Grant was losing his grip on the pistol when he fired a shot at the victim. The victim did not let go of the gun, and Grant fired a second shot, at which point the victim fell to the floor, apparently dead.

The FBI interviewed the subject telephonically on April 13, 2009. He stated that on the night of the shooting, the HCSD called him and told him to pick up Deputy Adams and respond to a call of an MHP trooper (Oglesby) taking fire. Upon arrival, Grant and Adams exited their vehicle and crawled over to assist Oglesby. The victim then came out of the house and said he was surrendering. Grant confirmed the summary account above that Adams asked Stewart to show them where he kept his guns and that he led them into the house. Grant stated that when the victim pointed at a room, Adams entered it and the door closed behind him. Grant confirmed that it was then that the victim lunged at him and tried to grab his pistol. Grant confirmed further that as he struggled to hold on to the gun, he pulled the trigger. Grant said that the victim fell to the ground; he did not mention the second shot.

According to a report filed on the night of the shooting by two Mississippi Bureau of Identification (MBI) investigators, they recovered an Ithaca .12 pump gun, a Winchester .22 caliber rifle, and three recently fired shotgun shells. The MBI reports include photographs of the guns.

At the scene, investigators recovered a bullet on the floor under the victim's body. They also determined that the victim had sustained a graze wound on his head, presumably during the exchange of shots with Patrolman Oglesby. The victim also had a handcuff on each wrist, the cuffs having been broken apart.

The MBI report states further that the victim's body was examined at the funeral home where he was taken after the Coroner's Inquest. Investigators recovered one bullet from the victim's back; the bullet had entered and traveled through his chest. They also discovered that the victim had sustained a gunshot wound to the right hand.³

³ In the initial part of the report, the investigators describe the events as they heard them on the radio from Oglesby on their way to the scene. As part of that radio communication, they heard that the subject fired three shots into the victim's chest and one into his stomach. Investigators recovered only one bullet at the scene and one at the funeral home, and describe only two wounds from the funeral home examination. More importantly, photographs of the victim's body appear to show only gunshot wound to the chest and none to the stomach. Accordingly, it appears that

The FBI contacted officials at the **Mississippi Attorney General's Office** and the **Copiah County Circuit Clerk's Office** and determined that none of those offices had records pertaining to the shooting.

An FBI search of **SPLC** records found a July 10, 1966, *Clarion-Ledger* article stating that, based on unconfirmed reports, an African-American man was shot after escaping from the custody of unnamed officers who had arrested him on a minor charge. The article stated that either the victim or an accomplice had fired at a pursuing police car with a high-powered rifle.

As of the date of this memorandum, the **letter to the NAACP** has also yielded no information.

The FBI obtained the victim's death certificate that indicated that he died as a result of gunshot wounds that he sustained by "resisting arrest while firing at officers."

No additional eyewitnesses have been identified by the FBI. Further investigation would not produce additional documentary of forensic evidence relevant to this matter.

Legal Analysis

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. First, there is a lack of evidence to contradict the subject's assertion that he fired at the victim after the victim tried to pull his gun from him.

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. AUSA Glenda Haynes, Southern District of Mississippi, concurs in this recommendation.

the subject shot the victim twice, not four times.