

CIVIL RIGHTS DIVISION

Notice to Close File¹

File No. 144-41-3571

Date 4/7/2010

To: Chief, Criminal Section

Re: Officer Britten F. Elmore (Deceased),
McComb Police Department,
McComb, Mississippi;
Eli Brumfield (Deceased) - Victim
CIVIL RIGHTS

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

Case Synopsis

On October 13, 1962, Eli "Shuge" Brumfield, the African-American manager of a tire recapping plant in Tylertown, Mississippi, was shot and killed by McComb, Mississippi, Police Department (MPD) Officer Britten Elmore. According to the Southern Poverty Law Center (SPLC) Elmore stopped the victim's car for speeding. Elmore reportedly claimed that he shot the victim in self-defense when the victim jumped from his car, holding a pocket-knife. A local Coroner's Jury reportedly ruled that the subject fired in self-defense.

According to three witnesses who had known the victim, a rumor developed over time that Elmore shot the victim because they had both been dating the same African-American

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To: Records Section
Office of Legal Administration

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

Date

Chief, Criminal Section

¹ Memo amended on June 11, 2021.

woman but they did not know her name. A fourth witness, former MPD Officer XXXXXXXXXX, stated that two weeks prior to the shooting, Elmore and the victim had been involved in a physical altercation that arose because they had both been dating a woman named XXX (phonetic). Finally, Pike County Coroner Percy Pittman told the FBI that he thought that the victim dated a woman whose first name was XXX.

The FBI located and interviewed XXX who confirmed that she had dated the victim, albeit casually, but she did not know the subject nor had she witnessed the shooting. She opined, however, that the victim had likely been killed by the police as a result of his bootlegging activities. XXX told the FBI that an unknown MPD officer had told her that there had been an unidentified African-American woman in the victim's car on the night of the shooting but she had jumped out of the car and fled on foot when Elmore initiated the traffic stop.

Luzern Dillon told the FBI that he was working at the Washington Funeral Home in McComb when the victim's body was brought in: the victim was only wearing underwear and had gunshot wound near his left nipple.

According to XXXXXXXX, the only witness to the shooting was MPD Officer Huey "Buddy" Miller. However, the FBI determined that Miller died in 2003.

According to retired MPD Officer XXX, within a year or two of the shooting, the subject was permanently disabled when a shotgun accidentally discharged into his stomach, and the subject resigned from the MPD. The subject died on March 31, 2007.

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 several witnesses who knew the victim; contacted numerous Mississippi law enforcement officials; conducted searches of the Mississippi Department of Archives and History (MDAH), the internet, the University of Southern Mississippi library records, relevant print media stored at the McComb Public Library, and records of the SPLC; and sent letters to both the SPLC and the NAACP requesting information.

The FBI interviewed former MPD Officer XXXXXXXXXXXX. XXXXX stated that, about two weeks prior to the victim's death, the victim and the subject were involved in an altercation over a woman named XXX (phonetic). During the fight, Elmore reportedly slapped or struck the victim, but no official action was taken. XXXXX did not specify the source of this information. XXXX told the FBI that MPD Officer Huey "Buddy" Miller had reportedly witnessed the shooting. The FBI determined, however, that Miller died in 2003 in Clinton, Mississippi.

The FBI interviewed **XXX**, who stated that she dated the victim, whom she knew as “Shuge” only casually. **XXX** stated that the victim lived with a woman but frequently “discretely dated” several other women at the same time. The victim had a good job as manager of a tire plant in nearby Tylertown, but was also a bootlegger and made illegal whiskey. He was handsome, “a sharp dresser,” charming, had a nice car, and was “a lot of fun to be around.” He also always carried with him a large roll of cash. He would “flash” the money and freely spent it on the women he was dating. **XXX** opined that the victim was killed as a result of his bootlegging activities. **XXX** stated that the morning following the shooting, an unknown MPD officer came to her home and questioned her and her family about her whereabouts the prior night. **XXX**’s family confirmed that she had been home all night. The officer then said that there had been an unidentified African-American woman in the victim’s car immediately before he was stopped by Elmore. According to the officer, the unidentified woman had jumped out of the car and fled the scene on foot when Elmore initiated the traffic stop.

The FBI interviewed **Luzern “Sunny” Dillon**, who was only 12 years old at the time of the shooting, but Dillon was already working at the Washington Funeral Home. Dillon stated that the victim was wearing only underwear when he was brought in and had a gunshot wound to the chest.

According to Dillon, the mortuary driver who transported the victim’s body to the funeral home reported that he had picked up the body in the parking lot of a discount bread distributor at the intersection of Highway 98 and Locust Avenue in McComb. The driver also reported that the victim was lying on his back, just outside the open door of his car. Dillon did not identify the driver, but he stated that the man was deceased.

Dillon stated that he had known the victim, and like **XXX**, he referred to the victim as “Shuge.” Dillon’s description of the victim was similar to **XXX**’s description, including the fact that the victim always seemed to have a lot of money.

According to Dillon, the victim shot and killed a distant relative of Dillon’s, Roston Dillon, as a result of a dispute over the victim’s wife. He could not recall the name of the victim’s wife’s but stated that she died years prior to the victim. Dillon stated further that the victim’s employer at the tire plant, Ralph McGee, was an influential businessman and Dillon suspected that McGee used his influence to help the victim avoid criminal charges in the shooting of Roston Dillon. Dillon also stated that over the years, rumors developed that Elmore had shot the victim because they both dated an unidentified African-American woman.

The FBI interviewed retired pastor **Luther E. McEwen, Sr.** McEwen stated that he recalled the victim having shot another man in a dispute over a woman and that the victim’s employer had ensured that the victim would not face criminal charges in the shooting. McEwen confirmed **XXX**’s statement that the victim had an illegal still and that he, too, had heard the rumors that the shooting death of the victim had resulted from a dispute with the subject over the woman they were both dating.

XXX, who knew the victim, stated that XXX had heard rumors in the local community that Elmore shot the victim because they had been dating the same woman.

XXX told the FBI that he knew the victim but he could not provide any additional information concerning the shooting.

The FBI interviewed retired MPD Officer XXX, who stated that he worked the day shift on October 10, 1961², and recalled that the shooting occurred the prior evening or early morning hours, but XXX could provide no additional information. XXX stated, however, that he was not aware of any evidence or rumors that contradicted Elmore's claim of self-defense. XXX said that he did not know Elmore very well because they always worked opposite shifts. Additionally, within a year or two of the shooting, the subject was permanently disabled when a shotgun discharged into his stomach during a XXXXX, and he was forced to resign from the MPD.

The FBI also interviewed **Joe Piggot**, who served as the Pike County Prosecutor from 1955 through 1962. Piggot recalled the shooting but was not aware of any grand jury proceedings or other court hearings related to the case. Moreover, Piggot searched his daily ledgers and grand jury notes but found none related to the shooting. Like XXX, Piggot did not recall anyone ever questioning the subject's claim that he had shot the victim in self-defense.

The FBI contacted officials at the Pike County Circuit Clerk's Office (the case agent also personally conducted a search of the docket books and other records); the **State District Coroner's Office in Jackson**; the **Pike County District Attorney's Office**; the **Pike County Sheriff's Office**; the **MPD**; the **Pike County Coroner**; the **Mississippi Department of Public Safety**; **Mississippi Attorney General's Office** and determined that none of those offices had records pertaining to the shooting.

With respect to locating any living **next-of-kin**, the FBI learned from McEwen that the victim had five brothers and one sister, all of whom are deceased. Moreover, both Dillon and Reverend McEwen stated that the victim had no children. The FBI case agent also contacted 12 people named Brumfield listed in the McComb directory, but all stated that they were not related to the victim.

An FBI search of **SPLC** records found no records relevant to the victim's death. As of the date of this memorandum, the **letter to the NAACP** has also yielded no information.

The FBI obtained the subject's death certificate and determined that he died on March 31, 2007.

Legal Analysis

² This recollection is incorrect as the date of the shooting was October 13, 1962.

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