

CIVIL RIGHTS DIVISION

Notice to Close File¹

File No.: 144-54-1153 Date: 04/02/2009

To: Chief, Criminal Section

Re: Unknown Subject(s),
New Bern, North Carolina;
Will Owens - Victim
CIVIL RIGHTS

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

A. Synopsis of the Allegations and Investigative Findings

On March 5, 1956, William D. Owens died in New Bern, North Carolina as the result of a head injury. Allegations were raised that on March 3, 1956, New Bern Police Department (NBPD) officers arrested and subsequently jailed Owens for being intoxicated. It was further alleged Owens was found dead in his cell two days later as the result of a skull fracture caused by a fall.

The Federal Bureau of Investigation (FBI) initiated a review of the circumstances surrounding Owen's death on January 12, 2009, pursuant to the Department of Justice's "Cold

Katherine Scheflen
Attorney

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 May 24, 2022.

Case” initiative and the “Emmett Till Unsolved Civil Rights Crime Act of 2007,” which focus on civil rights era homicides that occurred not later than December 31, 1969. As part of its investigation, the FBI requested and obtained arrest records from the NBPD. The FBI investigation revealed that there is no record that an individual by the name of William D. Owens was arrested and held in custody at any point in March 1956. NBPD records indicate that a 55-year-old Black male named Will Owens was arrested in October 1967, for intoxication, and was released from custody without incident following payment of a court fine.

The FBI also obtained a death certificate from the North Carolina Office of Vital Statistics for William D. Owens. The death certificate confirms that William D. Owens of New Bern died on March 5, 1956, as the result of a head injury, but identified him as a white, disabled war veteran. The death certificate also indicates that Owens’ head injury was caused by a probable fall and that Owens died at a hospital, not while in police custody.

B. Analysis of Prosecutive Merit

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. It appears that the allegations forming the basis for the review resulted from conflating information regarding two separate individuals named Will Owens: one, a Black male who was arrested by the NBPD, but did not die in connection with his arrest, and the other a white male who was not arrested by the NBPD, but died in a hospital as the result of a head injury of unknown origin. Because there is no indication that either Will Owens died as the result of a federal civil rights crime, this matter lacks prosecutive merit and should be closed. 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 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 kidnapping resulting in death, the facts of the present case do not lend themselves to federal prosecution under other federal statutes. AUSA Robert J. Higdon, Jr., of the Eastern District of North Carolina, concurs in this recommendation.