

CIVIL RIGHTS DIVISION

Notice to Close File¹

File No. 144-76-5075

Date

To: Chief, Criminal Section

Re: Unknown Subject
San Antonio, Texas - Subject
Preston Bouldin² (deceased) - Victim
CIVIL RIGHTS

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

I. Synopsis

At about 6 a.m. on May 8, 1953, the body of Preston Bouldin, a 21-year-old African-American man, was found near railroad tracks in San Antonio, Texas. Observers reported that he suffered a broken neck. Though investigators found witnesses to Bouldin's actions during the prior evening, they were unable to locate any witnesses to events immediately preceding his death. As further explained below, there is insufficient evidence to establish the identity of the person or persons responsible for the victim's death or to prove that the death was related to his race. Accordingly, this matter should be closed.

Karla Dobinski
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

¹ Memo amended June 16, 2021.

² In May 2021, it was first brought to our attention that the victim's last name was spelled "Bouldin" on his death certificate. The victim's last name was spelled differently in reports from various law enforcement agencies. We have changed the name to conform to the death certificate.

II. Local Investigation

The San Antonio Police Department along with the Bexar County District Attorney's Office conducted a contemporaneous investigation of the murder of Preston Bouldin. Its report is summarized in pertinent part as follows:³

Several residents who were acquainted with Preston Bouldin observed his actions in the hours before his body was discovered. These witnesses told the investigators that Bouldin, whose nickname was Mullins, had been in the company of friends and, at least for a part of the time, was gambling with them. Their accounts are summarized as follows:

XXXXXX: A XX-year-old acquaintance of the victim, XXXXXX was with XXXXXX and XXXXXX on the evening of May 7. They met Bouldin, who was being followed by several African-American men who were asking Bouldin for money. XXXXXX believed they had been in a "crap" game and Bouldin had won. XXXXXX, XXXXXX and XXXXXX joined the group and they ended up at Four Hour Cleaners, owned by Homer Rodgers who was present. Rodgers and the others jokingly engaged in a conversation, to the effect that Rodgers believed Bouldin liked Rodgers more than Bouldin liked all the other men in the group, so, Rodgers said, the other men should let Rodgers try to get Bouldin's money. Bouldin suggested to XXXXXX that XXXXXX grant one of the men's request for 50 cents, and that Bouldin would pay XXXXXX back for the 50 cents when Bouldin obtained change. Bouldin then pulled out a wad of money and straightened the bills up on the cleaner's counter. Some additional conversation occurred over this time. As they were leaving, Bouldin gave all of his money to Rodgers to keep on his behalf, and Rodgers went to get tape to hold the money together. XXXXXX went outside, gave 50 cents to repay XXXXXX and then walked down Chestnut Street. A XXXXXX man nicknamed XXXXXX was driving his 1941 Plymouth, so XXXXXX offered to pay XXX \$1.50 for a round-trip ride across town. At about that time, XXXXXX saw Rodgers and Bouldin get into Rodgers' Dodge and drive north on Chestnut Street. That was the last time XXXXXX saw Bouldin. During the rest of the evening, XXXXXX was in the company of XXXXXX and XXXXXX, as well as his XXXXXX, XXXXXX.

XXXXXX: XXXXXX, a XX-year-old man, was with XXXXXX when they saw some men coming down the street. Bouldin was in the lead, and was followed by XXXXXX and XXXXXX, who were asking Bouldin for money. XXXXXX heard others say that they had been in a "crap" game and Bouldin had "broke" the other two. When the group reached XXXXXX location, XXXXXX joined the group, also asking Bouldin for money. XXXXXX watched the group walk to the Four Hour Cleaners, after which XXXXXX did not see Bouldin again.

Jackie Lee Lyles: Lyles, a 48-year-old woman, knew Bouldin for about a year. On the evening of May 7, Lyles was asleep at home. After she had awakened, she heard noise outside

³ The passage of time and the archiving process have rendered portions of the reports substantially unreadable, however, the legible portions of the reports, while not complete, provide the basic facts concerning the investigation.

of her home and saw a group of men “shooting dice.” She recognized Bouldin, and five others (including XXXXXX, XXXXXX, and XXXXXX) plus two soldiers in uniform. She told the group not to gamble there or she would call the police. After the game ended, Lyles went out to the street where she spoke with Bouldin. He asked her not to call the police because he had “broke” the rest of the fellows and he pulled out a big handful of bills. Lyles thought there must have been several hundred dollars there. She saw Bouldin go down the street with the others, and never saw him again. She learned of his death the following morning.

Homer Rodgers: A 41-year-old man, Rodgers was the owner of Four Hour Cleaners. He told the investigators that Bouldin came to his business about 6:15 or 6:30 on the night before he was found dead. XXXXXX and XXXXXX followed Bouldin to the doorstep of the cleaners, where XXXXXX grabbed Bouldin by the wrist and tried to force Bouldin to go with him, saying “Come on man.” Rodgers told XXXXXX to leave Bouldin alone, XXXXXX said, “You have everything you need and you don’t want anybody else to make anything.” XXXXXX and his friends then went down the street, while Bouldin came inside and said the others wanted his money but he wasn’t “going to be fooled” into letting them have his money. Bouldin wanted to buy a shirt and pants from Rodgers but did not have enough money, partly because Bouldin owed his lawyer money. Bouldin asked Rodgers for a ride over to Jackie’s [Lyle] where Bouldin could get some money that was owed him. Rodgers then drove Bouldin over to Jackie’s. After about 15 minutes, Bouldin returned to the cleaners but looked like he had had a “shot of something” because he looked like he was going to go to sleep. Bouldin then declined to buy the new pants, and took only the pants that he had had pressed by Rodgers. Bouldin then stepped outside. As Rodgers was closing up the business, a XXX named XXXXXX alerted Rodgers to look at Bouldin. Rodgers then observed Bouldin, who was standing in the middle of the sidewalk, and yet appeared to be “sound asleep.” Rodgers continued to close up the shop for the night, and then drove home. He did not see Bouldin again.

XXXXXX: A XX-year-old acquaintance of the victim, XXXXXX told investigators that during the evening of May 7, between 4:30 and 5 p.m., he went into the E. Commerce Bar and Café, where he found Bouldin and XXXXXX. They all shot dice in the kitchen for about one and a half hours. XXXXXX broke even but XXXXXX lost about \$14 by the time the game ended. Sometime after, XXXXXX saw Bouldin and XXXXXX walk towards Chestnut Street, so XXXXXX followed them in order to play more dice. After about five minutes, Jackie [Lyle] yelled for them to quit playing or she would call the police. XXXXXX and XXXXXX determined that they had lost about \$3 between them, as Bouldin walked away. XXXXXX said he saw Bouldin standing alone at a taxi stand on E. Commerce St. XXXXXX spent the rest of the evening visiting either XXXXXX’s place or the Brown Skin Grill; he did not see Bouldin again.

Albert McKnight: Bouldin’s body was found by 39-year-old Albert McKnight. McKnight told investigators that at some time before 6 a.m. on May 8, he was walking along the railroad tracks. He found the body laying between the tracks, with the head pointing west. The man had a shoe on only his right foot. McKnight tried to wake the man but then noticed he was dead. McKnight then used a neighbor’s phone to call the police, who arrived soon after. McKnight was not acquainted with Bouldin.

Police Investigation: Officers XXXXXX and XXXXXX arrived at the scene and filed a report. Bouldin was found hatless and on his back, near the Southern Pacific Railway tracks. His left two-tone brown and white shoe was missing. Bouldin's shirt was pulled up. They observed that the victim had been struck in the front of the head, because his face was covered with blood. Among the items found in the victim's pockets was a pair of dice, and \$2.30 in cash, leading them to believe that robbery was not the motive for the murder. They interviewed other witnesses in the area who heard an argument but the participants appeared to be unrelated to any events surrounding the death of Bouldin. Special Officer XXXXXX reported that he saw an old model Plymouth with a canvas top at the scene at about 3:30 a.m.

Justice of the Peace M.D. (Buck) Jones ruled that the cause of death was murder at the hands of "some person or persons unknown." According to the police report, a Dr. G. D. Boyd said there was not a bruised spot on the victim, and his neck was broken at the third vertebra.⁴ There was no hemorrhage of the brain or lungs. The autopsy found that Bouldin's spine was severed at the base of the skull by a blunt instrument. The autopsy also resulted in a finding that Bouldin died at about 2:30 that morning.

According to the police report filed by XXXXXX and XXXXXX, XXXXXX and XXXXXX were booked on a vagrancy hold, and XXXXXX was scheduled to take a polygraph test. The investigation did not uncover any further information about developments of the arrest or the polygraph test.

III. Federal Investigation

In January, 2009, the Federal Bureau of Investigation (FBI) initiated a review of the circumstances of the victim's death, pursuant to the Department of Justice's "Cold Case Initiative." The FBI obtained contemporaneous newspaper articles concerning the death, as well as records from the Homicide Unit of the San Antonio Police Department. The FBI also contacted the Bexar County Medical Examiner's Office, the Bexar County Sheriff's Office, the Bexar County District Attorney's Office and the Texas Department of Public Safety, and was informed that none of these agencies had any records relating to Bouldin's death. Further, the FBI posted public notices on the internet and other media seeking witnesses as well as next-of-kin information; there has been no reply to the notices.

FBI agents located four articles from the San Antonio Express, published in the days following the death. According to the articles, the police theorized different motives underlying Bouldin's murder and provided some background details not reflected in the brief official police report. Police Lieutenant W. J. Robitsch theorized that Bouldin had been beaten somewhere else and then transported in a car to the railroad tracks, where his body was dumped on the ground. According to one article, an "old model car" had been parked at approximately the spot where the body was found at about 3:30 a.m. Friday, and tire marks were observed near the body, but no further information about the car was available.

⁴ There is no explanation in the file for the discrepancy in observations of the responding officers and Dr. Boyd, presumably the medical examiner. It is possible that the blood observed by the officers had been washed by the time Dr. Boyd observed the body, leading him to state "there was not a bruised spot on the victim."

Two of the articles refer to the victim as a part-time narcotics informer for the police department. One article says the police arrested an unnamed suspect within an hour after the body was found. The suspect reportedly heard Bouldin giving information to Lieutenant Robitsch earlier in the morning. However, a second article quotes Police Chief Joe Hester who said that Bouldin operated an “unusual racket” in that he sold keys to “gullible and amorous servicemen” that would supposedly unlock doors behind which “eager women” were waiting. Hester said the keys were “junk.” Police then theorized that one of Bouldin’s “suckers” tracked him down and murdered him for revenge. Police Lieutenant John Garoni said that other than the broken neck, there were no other marks on Bouldin.

The FBI located former Lieutenant John Garoni who is quoted in a contemporaneous news article but Garoni was unable to recall the murder. The FBI also determined that then-Chief W. J. Robitsch died in 1986.

Because there is insufficient evidence to establish that Bouldin’s death was a racially-motivated homicide and there is insufficient evidence to establish any federal jurisdiction, the FBI has declined to take further investigative measures.

IV. **Legal Analysis**

This matter does not constitute a prosecutable violation of any applicable federal criminal civil rights statute in effect in 1953, accordingly, there is no federal jurisdiction. Even if there was sufficient evidence upon which to bring a prosecution, prior to 1994, federal criminal civil rights violations were not capital offenses, thereby a five-year statute of limitations was in effect. 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 prosecution under these other statutes.

Second, there is no evidence to indicate that the murder was motivated by the victim’s race. The local investigation did not identify any subjects other than the acquaintances of the victim who were also African-American. Moreover, there is insufficient information to identify those responsible for the murder.

V. **Conclusion**

For the above reasons, this matter does not constitute a prosecutable violation of federal criminal civil rights statutes and, therefore, must be closed. Assistant United States Attorney Bill Bauman of the Western District of Texas concurs with this recommendation.