

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-2-1429

Date April 28, 2011

To: Chief, Criminal Section

Re: Special Deputy Thomas Coleman (Deceased),
Lowndes County Sheriff's Office,
Hayneville, Alabama - Subject;
Jonathan Myrick Daniels (Deceased) - Victim
CIVIL RIGHTS

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

Case Synopsis

On August 20, 1965, Lowndes County Sheriff's Office (LCSO) Special Deputy Thomas Coleman, the subject, fatally shot Jonathan Daniels, the victim. Earlier that day, the 26-year-old victim, a white seminary student, was released from the jail in Hayneville, Alabama where he had been detained following a voting rights demonstration in Fort Deposit, Alabama. The victim was released from the jail along with XXXXXXXXXX, who was a XXXXXXXXXX, and two young African-American women.

Shelly Ward
Attorney

To: Records Section
Office of Legal Administration

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

Date

Chief, Criminal Section

As the group attempted to enter a store, the subject blocked the entrance and cursed at the two women. The subject then raised his shotgun in the direction of one of the women, and the victim pushed her aside. The subject fired a shot, fatally wounding the victim in the chest and abdomen at close range. The subject then fired a second shot at XXXX as he was running away, wounding XXXX in the back.

The subject was tried for manslaughter at the state level in September 1965 and acquitted following a jury trial during which the defense argued that the subject shot the victim and XXXX in self-defense after seeing that they were armed with a knife and a gun. The FBI determined that the subject died of cancer in 1997. An official death certificate for the subject is contained in the file. Neither the FBI, nor the LCSO, ever found any evidence to implicate anyone other than the subject in the shooting.

Federal Investigation

The Federal Bureau of Investigation (FBI) initiated a review of the circumstances surrounding the victim's death on August 21, 2008, based on media coverage of the incident. The review was initiated pursuant to the Department of Justice's "Cold Case" initiative and the "Emmett Till Unsolved Civil Rights Crime Act of 2007," which focuses on civil rights era homicides that occurred not later than December 31, 1969. As part of its review, the FBI obtained its investigative file from 1965, media reports pertaining to the incident, the victim's death certificate, and the subject's death certificate. No local investigative records were found at the Lowndes County Circuit Clerk's Office or at the Lowndes County Sheriff's Office, nor are there any court records for the indictment or the jury trial. The case agent learned that a fire had destroyed the building in which those records were housed. The agent also checked the Administrative Office of Records in Montgomery, Alabama, the Alabama Department of Public Safety, and the Federal Clerk's Office. No records were found at any of these offices.

According to the 1965 FBI file, a full investigation into the incident was commenced on August 24, 1965, at the request of the U.S. Department of Justice, Civil Rights Division. The investigation revealed that in August 1965, the victim, a white seminary student, was arrested along with approximately 30 other people during a voting rights demonstration in Fort Deposit, Alabama. The group member's were all taken to the jail in Hayneville, Alabama, where they were incarcerated for several days. The victim was released on August 20, 1965, along with XXXX XXXX, XXXXXXXX, and two young African-American women (XXXXXXXXXX).

A memorandum in the FBI file states that representatives of the Student Non-Violent Coordinating Committee used delaying tactics for "security reasons" in making possible witnesses to the shooting available for interview by FBI agents. Additionally, XXXXXXXX, XXXXXXXXXXXXXXXXXXXXXXX shooting, was "evasive" and reluctant to furnish any information pertaining to the shooting to FBI agents. XXXX told the FBI that he had witnesses who saw African-Americans bending over the bodies of the victims and taking from them the knife and/or gun reportedly seen by the subject.

However, XXXX would not identify these witnesses to the FBI.

Despite these tactics, FBI agents located and interviewed the individuals who had scattered from the scene after the shooting. The subject declined to be interviewed by the FBI, as did several civilian witnesses. The FBI was initially unable to interview XXX XXXX because he remained in serious condition. On August 31, 1965, XXXXX attorney, the XXXXXXXX, allowed FBI agents from the Boston field office to conduct a brief interview of XXXX at the Massachusetts hospital to which he had been transferred.

Numerous civilians claimed that they witnessed the shooting from a distance and saw the subject shoot both of the victims. Most witnesses claimed that they heard two shots, while a few claimed that they heard three shots. Of the two close eyewitnesses, one (XXXX) stated that he saw Daniels pull a knife and XXXX draw a gun, and the other (XXXX) refused to submit to an interview. None of the more distant witnesses corroborated the allegation that either of the victims was in possession of a weapon at the time of the shooting, and no weapons were ever recovered on or near the victims' bodies. The most pertinent witness accounts are summarized below.

XXXX stated that after being released from the jail, the protesters stood on the street for 30 to 45 minutes. XXXX then saw Daniels walking towards a store with two African-American women. XXXX followed them and was about 15 feet from the store when Daniels reached the front doorway to the store. The door to the store opened, and XXXX saw the subject standing on the inside threshold with a shotgun in his hand. The two women were now standing behind and to the side of Daniels. XXXX heard the subject say that the store was closed and curse at the group. Daniels asked the subject if he was threatening them, and the subject said, "Damn right I am." XXXX then saw the subject raise his gun in the direction of Daniels. As XXXX began backing away from the store, he heard a shotgun blast. XXXX started running away. As he did so, XXXX heard a second shot and was knocked to the ground.¹ XXXX stated that he was not in possession of a gun or a knife at the time of the shooting, nor was Daniels to his knowledge. XXXX stated that they were all searched for weapons when they were booked into the jail, but were not searched prior to their release.

In a more comprehensive FBI interview on September 16, 1965, XXXX confirmed his previous account of the shooting. XXXX stated that to his knowledge, none of the civil rights protesters, including the victim and himself, ever carried a knife or a gun while in

¹ According to an FBI investigation report, Dr. R. B. Adams, a pathologist at Baptist Hospital, advised that the shot entered XXXX from the right rear, traveling obliquely and coming out of the left front. XXXX was injured in the diaphragm, small and large intestines, and spleen.

Alabama during this period. XXXX stated further that the victim did not make any aggressive moves toward the subject, nor was the victim carrying a knife during his brief exchange with the subject.

XXXX was interviewed by the FBI on August 21, 1965. XXXX stated that after being released from the jail, they walked one block and remained there for 15 minutes. Daniels said that he wanted a soda, and the four walked to a store a block away. Daniels held the door open, and the two women went inside. Daniels followed them into the store. An unknown white man told them that the store was closed and threatened to blow their heads off if they entered. A second unknown white man was inside the store, and XXXX was standing outside the store. The two women saw that the first white man had a shotgun and ran out of the store. Daniels was standing in the doorway holding the door open for them. Daniels then pushed XXXX to the ground, while XXXX grabbed XXXX by the hand and pushed X down behind a car. The subject was now standing in the doorway pointing the gun at XXXX who was crawling on X knees and trying to get out of the way. XXXX began to run and heard a gunshot. X then saw Daniels grasp his stomach and fall backwards to the ground. XXXX heard a second shot, looked back, and saw XXXX fall to the ground. XXXX and XXXX ran to the corner and turned left. As they did so, XXXX heard a third shot come from the direction of the store. The women ran 1 1/2 more blocks and met up with a group of fellow protesters. XXXX stated that X and XXXX left Hayneville about 30 minutes after the shooting. XXXX stated that to X knowledge, neither Daniels nor XXXX had a gun or a knife at the time of the shooting.

XXXX was interviewed by the FBI on August 25, 1965. XXXX stated that as the four approached the store, they were faced by a white, middle-aged man carrying a shotgun. As XXXX reached the first or second step, the man said, "This store is closed. Get off this goddamned property before I blow your damned brains out." Daniels, who was immediately behind XXXX, pushed X aside causing X to fall down. The subject fired a shot, and Daniels fell backward. XXXX crawled to the side of the store. As X did so, the subject fired a second shot, and XXXX heard XXXX groan. A group of white people began gathering around the wounded men. XXXX got up and ran across the street. X and XXXX then left the area. XXXX stated that X did not see XXXX or Daniels in possession of weapons at the time of the shooting, nor did X hear them make any statements to provoke the subject. Rather, the shooting was in "cold blood."

XXXX was interviewed by the FBI on August 25, 1965. XXXX stated that on the afternoon of the incident, X was waiting to meet a friend outside the courthouse. A deputy came to the courthouse from the direction of the jail and told XXXX that the protesters had just been released from the jail and were not leaving town as they had been instructed to do. XXXX stated that X had heard loud singing all week and knew that the protesters had been tearing up the jail causing extensive damage to it. XXXX drove to the Cash Store to make sure that X relative XXXXXXXXXXXX, was safe.

XXXX arrived at the cash store and saw XXXX sitting on a bench in front of the store. XXXX sat down on the bench next to XXXX, who stated that he was also there to make sure there would be no trouble inside the store. Approximately ten minutes later, the subject drove up in his state car and exited it with a shotgun in his hand. The subject spoke to the men, then went inside the store. A few minutes later, the subject exited the store, still holding the shotgun, and sat down with the two men. Shortly thereafter, two white priests and two African-American women left the group of protesters and walked towards the store. The subject stood up and said, "I'm going to have XXXX close the store." The subject entered the store, while the two men remained outside on the bench. One of the white men (Daniels) stepped up onto the threshold of the door and put his right foot in the doorway. The subject told him that the store was closed, and he could not come in. Daniels said, "Are you threatening me?" XXXX then saw that Daniels had a knife with a three to four inch blade in his right hand. The subject replied, "Hell no! I'm trying to get you to leave." Daniels made a move forward as though he was attempting to enter the store. XXXX heard a shotgun blast and saw Daniels fall backward onto the cement. The other white man (XXXX) jumped up on the walk in front of the store and lunged towards the door. XXXX saw that XXXX had a silver object in this right hand that appeared to be the barrel of a Deringer pistol. XXXX heard a second shot and saw XXXX twist to his left side as if he was dodging something. XXXX then fell backwards against the front bumper of a car.

At this point, the two African-American women who had come to the store with the priests had disappeared, as did the other members of the group. The subject walked out of the store, handed XXXX the shotgun, and said, "Here, you may need this. I'm going to the Sheriff's Office." The subject then left the scene in his car. A few minutes later, several of the protesters returned to the scene and gathered around the wounded men. XXXX stated that he did not see either the knife or the pistol after the shooting. Shortly thereafter, XXXXXXXX and XXXXXXXX arrived at the scene along with some alcohol control agents. XXXXXXXX arrived at the scene and started tending to the wounded men.

Also inside the store was XXXX with X two grandchildren. XXXX told FBI agents that X saw the subject with the shotgun in his hand and heard the subject tell Daniels to get out of the store. XXXX realized that there was going to be trouble and turned away before the shots were fired, as did X grandson. XXXXX granddaughter, whose name was redacted from the FBI 302 witness statements, stated that she saw a white man (Daniels) come into the doorway of the store with two African-American women. The subject refused to allow Daniels to enter the store, and Daniels asked him, "Are you threatening me?" The subject did not answer Daniels, but fired a shot at Daniels. The witness stated that at no time did X see a weapon in the hands of Daniels or the two African-American women who were with him. The witness acknowledged that X "was not noticing every particular thing about them." After the shotgun blast, the XXXXXXXXX ran from the scene, and the subject left the store. The witness then heard a second shotgun blast.

XXXX was interviewed by the FBI on August 25, 1965. XXXX stated that after being released from the jail, he passed by a store and saw the subject sitting in front of it with a pistol on his right side and a shotgun leaning against the bench. Daniels walked to the store followed by two African-American women, then XXXX. When Daniels came within three feet of the front door, he pushed XXXX aside, and X fell to the ground. Immediately after, XXXX heard a shotgun blast and saw Daniels grab his stomach and fall backwards at least five yards. XXXX and the two women began running towards XXXX. XXXX turned back towards the store as he was running, and the subject stepped out of the doorway with the shotgun and yelled, "All you black bastards." The subject then fired a second shot at XXXX. XXXX jerked one of the women to the side and was hit by the shot in his side. XXXX fell to the ground. XXXX ran from the scene at that point.

XXXX was interviewed by the FBI on August 25, 1965. XXXX stated that X left the jail along with XXXX and saw Daniels, XXXX, XXXX and XXXX walk towards the general store. XXXX heard someone yell, "He's got a gun." XXXX saw Daniels push XXXX out of the way as X went up the steps. XXXX then saw a white man come out of the store with a shotgun in his hand. The man fired a shot at Daniels, and Daniels fell backwards and onto the ground. XXXX then grabbed XXXXXXX by the arm in an attempt to run X from the store. The subject pumped his gun one more time and took aim at XXXX as he was running away. The subject walked down the steps and fired a second shot at XXXX, hitting him in the back or the side. Before XXXX was shot, he pushed XXXX to the ground to protect X from being hit. XXXX stated that he never saw Daniels or XXXX with any type of weapon.

During the course of the contemporaneous federal investigation, the FBI discovered that the subject may not have been acting under color of law when he shot the victim, which was the basis for potential federal jurisdiction. Immediately after the shooting, the sheriff and a local prosecutor made certain statements, which appeared in the press, to suggest that the subject was acting as a deputy sheriff when he shot the victim. However, according to Lowndes County Sheriff XXXXXXX, the subject was not an authorized deputy or even a member of the auxiliary unit, although he sometimes aided the Sheriff's office in handling police matters and carried a Deputy's Commission Card in lieu of a gun permit. XXXX stated further that the subject had used a personally-owned weapon to shoot the victims.

The FBI determined that the subject was a highway engineer for the State Highway Department. The FBI interviewed the subject's supervisor, XXXXXXX, who confirmed that the subject's position did not provide him with any law enforcement powers except in dealing with convicts assigned to road camps.² In light of this information, Ben Hardeman, the United States Attorney for the Middle District of Alabama, placed the case in pending inactive status on December 9, 1966.

² On one occasion in 1959, the subject shot a convict at Camp Greenville in connection with a rebellious incident.

Local Investigation and Prosecution

The subject was indicted at the state level for manslaughter in September 1965. According to media reports, the Attorney General of Alabama, Richmond Flowers, was so outraged that the grand jury had not indicted the subject on the higher charge of murder, that he personally took over the prosecution. The trial judge refused to delay the trial until XXXX was well enough to testify, then removed Attorney Flowers from the case after a heated exchange in court. On September 30, 1965, the all-white jury found the subject "not guilty" after deliberating for only 63 minutes.

The FBI interviewed XXXXXXXXXXXX; XXXXXXXX. XXXXXXXX stated that XX felt that the state had proven beyond a reasonable doubt that the subject took the life of Daniels by shooting him with a shotgun. However, XXXX testified that X saw a shiny object in Daniels's hand just prior to the shooting which X believed to be a knife. XXXX testified that X also saw an object in XXXX's hand that he believed to be a gun. XXXX stated further that prosecution witness XXXX was very antagonistic towards the attorneys for both the prosecution and the defense. XXXX also admitted on the stand that X gave statements to the press that conflicted with X testimony while on the stand. XXXX opined that this may have hurt the state's case considerably. Finally, the defense put three witnesses on the stand (XXXX, XXXX, and XXXX) who testified that they observed civil rights workers around the bodies of Daniels and XXXX after the shooting, and these workers appeared to have put objects in their pockets that looked like a knife and a gun. XXXX also testified that after the shooting, X heard XXXX mumble, "Where is my gun?"³

According to a newspaper article, a state detective, XXXXXXXX, testified at the trial that the subject had told X about an hour after the shooting that he had opened fire because he thought Daniels was reaching for a knife and XXXX was running towards him.

Legal Analysis

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. The FBI investigation revealed that the subject is deceased and that no other individuals were directly involved in the shooting. Therefore, there are no prosecutable subjects in the present case.

³ The FBI interviewed XXXXXX on August 30, 1965. While XXXX told the agents that X saw several people standing in front of the store following the shooting, XXXX did not mention seeing any civil rights workers removing weapons from the victims' bodies, nor did X mention XXXX mumbling something about a gun.

Even if the subject were alive, the applicable statute of limitations would preclude prosecution under the federal criminal civil rights statutes for the killing of Jonathan Daniels. 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 kidnapping resulting in death, the facts of the present case do not lend themselves to prosecution under other statutes.

Accordingly, this matter lacks prosecutive merit and should be closed. AUSA Louis Franklin of the Middle District of Alabama of Alabama concurs in this recommendation.