

CIVIL RIGHTS DIVISION

Notice to Close File<sup>1</sup>

File No. 144-33-2263

Date April 22, 2010

To: Chief, Criminal Section

Re: Zennie William Fuller (Deceased),  
William Herbert Fuller (Deceased)  
Monroe, Louisiana - Subjects;  
Albert Pitts (Deceased), David Pitts (Deceased)  
Marshall Johns (Deceased)<sup>2</sup>, Earnest McFarland (Deceased)  
Willie Gibson - Victims  
CIVIL RIGHTS

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

**Case Synopsis**

On July 13, 1960, Albert Pitts, David Pitts, Marshall Johns, Earnest McFarland, and Willie Charlie Gibson, the African-American victims, were shot by their white employer, subject Zennie (Robert) William Fuller ("Fuller"), with a shotgun. According to contemporaneous newspaper accounts, victims Albert Pitts, David Pitts, and Marshall Johns died immediately, while victims Earnest McFarland and Willie Gibson were critically wounded. McFarland reportedly died in the hospital of a head wound on the night of July 14, 1960. Gibson eventually recovered.

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Cristina Gamondi  
Attorney

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To: Records Section  
Office of Legal Administration

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

4-22-10

Date

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<sup>1</sup> Memo amended on June 11, 2021.

<sup>2</sup> Marshall Johns has been referred to as "Marshall *Johnson*" in some news accounts.

XXXXXXXXXXXXXXXXXXXX was in the house at the time of the shooting and was interviewed by the FBI on January 31, 2008. XXXXX stated that subject Zennie Fuller (aka Robert Fuller) owned a septic tank installation service and employed the victims. At the time of the shooting, Fuller was greatly in arrears on his employees' wages. XXXXX stated that the day before the shooting, July 12, 1960, subject William Herbert Fuller (William Fuller), Zennie Fuller's son, argued with one of the five victims, presumably over the outstanding wages and, during the altercation that ensued, struck the victim in the head with a shovel.

XXXXX told the FBI that on the morning of July 13, 1960, XXXXX was awakened by the sound of shotgun fire. XXXXX then saw Fuller standing outside with a shotgun and all of the victims except Willie Gibson lying on the ground. According to XXXXX, two or three of the victims were not yet dead. At that point, subject William Fuller, XXXXXXX, shot the dying men in the head with a pistol, to "finish them off."<sup>3</sup> Zennie Fuller then walked into the house, drank some coffee, and called Ouachita Parish Sheriff Bailey Grant, a close friend of his. According to XXXXX, Fuller said, "Bailey, this is Robert. You better get down to my house. I just shot five niggers." XXXXX opined to the FBI that Fuller, who was an extremely violent man, "snapped" when he saw the victims arrive at work that morning. He opined further that Fuller, who eventually became a Grand Dragon of the Ku Klux Klan, shot the victims because they were African-American.<sup>4</sup>

According to contemporaneous newspaper accounts, Zennie Fuller claimed that he shot the victims in self-defense when they attacked him with knives and curved linoleum hooks. According to Fuller, the victims were angry with him because, the day prior to the shooting, July 12, 1960, he had struck Willie Gibson for cursing at him. According to Fuller, the victims attempted to break into his house the night of July 12 but were frightened away by the screams of XXXXXXXXXXXX.

Zennie Fuller reportedly told responding officers that on the morning of July 13, 1960, the victims drove to his home and asked him to "come on down the road and talk a minute." When Fuller refused, one of the men swung three times at him with a knife. At that point, Fuller retreated to his truck, rapidly pulled out a shotgun, and fired it several times, reloading more than once.

According to newspaper accounts, one of the victims, likely Gibson, reportedly admitted to one of Fuller's XXXXXXXX that he and the other victims had intended to "hurt Mr.

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<sup>3</sup> The three victims shot by William were likely Albert Pitts, David Pitts, and Marshall Johns.

<sup>4</sup> According to XXXXXXX, Zennie Fuller was not a member of the Klan prior to the shootings but sought support from the Klan after receiving threats following the shootings. Fuller became very active in the Klan in the 1960's and ultimately became a Grand Dragon.

Robert” that morning. The newspaper accounts also stated that when deputies arrived at the scene they found several knives near the bodies and one of the wounded victims still clutching a knife in his hand.

XXXXXX told the FBI that XXX heard several additional details of the incident over the years. XXXXXX heard that Fuller had threatened to kill Gibson unless he gave an account consistent with Fuller’s claim of self-defense. XXXXX also heard that Fuller and William put knives in the hands of the victims. XXXXX stated that XXXXXXXX recalled seeing the knives in the hands of the victims and recognized the knives as coming from his house.

Fuller was taken into custody after the shooting and held on an “open charge” pending the results of the investigation. Fuller was never indicted, however.

Zennie Fuller died on March 7, 1987, and William Fuller died on November 6, 2005.

### **Federal Review**

In the fall of 2008, the Federal Bureau of Investigation (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 XXXXXXXXXX<sup>5</sup> The FBI also conducted thorough searches of various internet and other resources in attempts to locate Willie Gibson and any living relatives of the victims. Additionally, the FBI contacted various Louisiana law enforcement officials, a Southern Poverty Law Center (SPLC) investigator, and Monroe hospitals.

The FBI reviewed the records of the Ouachita Parish District Court and found no indictments or informations filed in the case.

The FBI contacted officials at St. Francis Medical Center and Greenwood Regional Medical Center (GRMC). However, GRMC was not in operation at the time of the shooting and St. Francis had no records pertaining to Willie Gibson receiving treatment there.

Contemporaneous newspaper articles indicated that victims Willie Gibson and Earnest McFarland resided on Calypso Street. The FBI visited Calypso Street and searched the Ouachita Parish Tax Assessor’s Office records but did not locate the numerical address listed in the paper or any record of any Gibson living on that street since 1994.<sup>6</sup>

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<sup>5</sup> The FBI case agent contacted XXXXXX via retired XXXXXXXX who had met XXXXXXXX at a Christian retreat ten years prior.

<sup>6</sup> XXXXXXXXX told the FBI that he thought Willie Gibson is deceased.

The FBI contacted officials at the Monroe Police Department (MPD) and the Ouachita Parish Sheriff's Office (OPSO). The MPD had no relevant records and the OPSO did not have automated records dating back to the time of the shooting. A preliminary search of the OPSO determined subject Zennie Fuller's date of birth as November 11, 1920.

The FBI obtained death certificates for Zennie and William Fuller from the Louisiana Center for Records and Statistics. According to the certificates, Zennie Fuller died on March 7, 1987, and William Fuller died on November 6, 2005.

### **Legal Analysis**

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. First, the federal government cannot prosecute the subjects because they are 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. § 245, 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 subjects are deceased, this matter will not be forwarded to the state for prosecutive review. United States Attorney William J. Flanagan, Western District of Louisiana, concurs in this recommendation.