

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-40-2142

Date JUL 7 2010

To: Chief, Criminal Section

Re: Garland Anderson (Deceased),
Okolona, Mississippi - Subject;
Donald Raspberry (Deceased) - Victim
CIVIL RIGHTS

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

Case Synopsis

On February 27, 1965, Donald Raspberry,¹ the 19-year-old African-American victim, was shot and killed by his employer, Garland H. "Dick" Anderson, the subject, inside Anderson's

Cristina Gamondi Attorney

To: Records Section
Office of Legal Administration

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

—5-17-2016—
Date

Chief, Criminal Section

FORMERLY CVR-3

FORM CL-3

¹ The victim's death certificate listed his name as "Don Raspberry *Adams*" and his XXXXXX told the FBI that XXX thought his real last name was Adams. However, he was raised by his XXXXXXXXXXXXXXX, and was generally known as "Donald Raspberry."

home in Okolona, Mississippi. In March 2009, XXXXXX, who was called to Anderson's home after the shooting, told the FBI that XXX had found the victim lying in the entryway of the den, with a gunshot wound to the chest. XXXXX stated that XXX also noted that the screen of the back porch window had been removed.

The subject was charged by the state with killing Raspberry and a preliminary hearing was held in the Chickasaw County Justice Court, on March 3, 1965. According to court dockets, Anderson pled self-defense. Additionally, according to XXXXXX, who testified at Anderson's hearing, Anderson claimed that he had come to suspect that someone was breaking into his home while he was away and, on the day of the shooting, Anderson decided to stay home to catch the thief. Anderson reportedly testified that he hid his vehicle to make it appear that he was not home. According to Anderson, the would-be burglar (the victim) removed the screen from a window and entered his home, at which point, Anderson shot and killed him. According to the docket, Justice Court Judge C. C. Johnston dismissed the charge against Anderson, after ruling that the shooting had been justified.

XXXXXX told the FBI that XXX had an uneasy feeling when XXX was called to Anderson's home on the day of the shooting because the Anderson family had a propensity for violence, although XXX did not cite any specific examples of that violence. XXXXX opined that the crime scene could have been staged by Anderson but Anderson was the only witness to the shooting and police investigators did not attempt to recover any fingerprints.

Anderson died on August 11, 1985.

As a result of an FBI press release soliciting information, XXXXXXX contacted the FBI and was interviewed. XXXXXXX alleged that the man XXXXXXXXXXXX, James Morgan Harris, and his friend, Dennis Northington, both members of the Ku Klux Klan, kidnapped and murdered the victim because they thought he had been flirting with their wives outside a liquor store in Okolona. XXXXXX alleged further that Harris and Northington called a another member of the Ku Klux Klan, XXXXXXX, who then drove XXXXXX and XXXXXX home to Smithville, Mississippi, while Harris and Northington murdered Raspberry.

The FBI located and interviewed XXXXXX, a resident of Lake, Mississippi, who denied ever having known Harris, Northington, or Raspberry. The FBI investigation did not produce any evidence to support XXXXXX allegations or indicate that anyone other than Anderson was responsible for the victim's death.

Harris died on May 21, 2002 and Northington died on May 4, 1972.

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.” Specifically, the FBI received a referral from the Southern Poverty Law Center (SPLC), in the form of documents retrieved from the Mississippi Department of Archives and History (MDAH) and from the Arkansas Delta Truth and Justice Center. The documents allege that Donald Raspberry had been shot to death by his “plantation boss” in February 1965.

The FBI interviewed XXXXXXX, who was called to Anderson’s house after the shooting, and a number of the victim’s friends and relatives. The FBI also interviewed XXXXXX, who alleged that the victim had been killed by James Harris and Dennis Northington, and XXXXXX, whom XXXXXX alleged aided Harris and Northington. The FBI also contacted various Mississippi law enforcement and government officials; conducted searches of the records of the FBI, SPLC, the MDAH, the University of Southern Mississippi library, and the internet for relevant references and media articles; sent letters to both the SPLC and the NAACP requesting information; and solicited information about the case via a press release that was published in local newspapers and broadcast on local television and radio stations.

The FBI interviewed XXXXXXXXX of the victim’s, who was XXXX as the victim at the time of the shooting. XXXXXX stated that XXX and the victim were XXXXXXXXXXXXXXXX XXXXX. Anderson usually treated XXXXXXX and Raspberry well, although Anderson “cussed like hell” if he was angry XXXXXXXXXXXXXXXXXXXX properly.

XXXXXX stated further that XXX and Raspberry had repeatedly broken into Fannie Carter High School in Okolona and stolen money from the office. In 1964 during a break-in, XXXXXX and Raspberry were arrested, charged, and eventually sentenced to three years probation.² XXXXXX stated that, after the arrests, XXX and the victim ceased their joint break-ins, however XXXXX did not know whether the victim continued to commit the crimes on XXX own.

XXXXXX did not witness the shooting but heard that Anderson shot the victim when the victim broke into Anderson’s home.

The FBI interviewed XXXXXXX, one of the victim’s classmates at Fannie Carter High School. Like XXXXX, XXXXXX did not witness the shooting but heard that Anderson shot the victim when the victim broke into his home and stole something. Like XXXXX, XXXXXX said that the Anderson family had a reputation for violence. In fact, years after Raspberry’s death, a member of the Anderson family had reportedly killed one of XXXXXX relatives.³

² The FBI obtained the relevant grand jury and circuit court dockets and determined that Raspberry XXXXXX had been indicted in April 1964 for burglary. XXXX pled guilty and XXXXXX sentenced to two years in jail, but XXXX were suspended and reduced to three years probation.

³ The FBI also interviewed XXXXX, another of the victim’s XXXX. However, like XXXXX and XXXXX, XXXX did not witness the shooting and heard the same account of the

The FBI reviewed the Chickasaw County Justice Court Criminal Docket Book and located two relevant dockets: # 380 - "State of Mississippi vs. Donald Raspberry" (a coroner's inquest)⁴; and #381- "State of Mississippi vs. Garland H. "Dick" Anderson.

Nine jurors were listed for docket #380: XXXXXXXXXXXXXXXXXXXXXXX, Billy Couch, Robert Harper, Harold Stevens (then a deputy sheriff and jailer), Justice Court Judge C.C. Johnston, and XXXXXX. Stevens and XXXXX were also listed as testifying for docket #381, as were Sam Watson (former Okolona Police Department Chief) and Charles Long. Additionally, according to the docket, Justice Court Judges Thermon Lowe and L. McCreights were present at the preliminary hearing.

XXXXXX told the FBI that Watson, Stevens, Long, Couch, Harper, and Judge Johnston are deceased. XXX stated that XXXXXX is still alive. XXXXX did not know jurors XXXX and XXXXXX or XXXXXXX.

The FBI interviewed Chickasaw County XXXXXXXXXXXXXXXXXXX. Like XXXXX, XXXXXXXX stated that Watson, Stevens, Long, and Harper are deceased and XXXXX is alive.

The FBI obtained the victim's death certificate from the Mississippi Bureau of Vital Records (MBVR). The certificate, which was signed by Dr. Harris, stated that the victim had died on February 27, 1965, of pulmonary hemorrhage due to a bullet wound to the left chest. The certificate had a slip attached that stated that the victim was "[a]lleged to have broken into a house, and was shot as a trespassing intruder."

The FBI obtained the subject's death certificate from the MBVR, indicating that he died as a result of a "massive myocardial infarction" on August 11, 1985, at the Okolona Community Hospital.

The FBI case agent also contacted officials at the OPD, Mississippi Department of Public Safety, the Mississippi Attorney General's Office, the Chickasaw County Sheriff's Department, and the local District Attorney's Office, and determined that none of those agencies had any records pertaining to the matter.

Allegations against James Morgan Harris and Dennis Northington

As a result of the FBI press release seeking information, XXXXXX, a resident of Oxford, Mississippi, contacted the FBI. XXXXX was interviewed in February 2009 and stated that XXXXXXXX was James Morgan Harris and XXXXXX was XXXXXX. XXXXX later

shooting as they had.

⁴ Docket #380 was dated February 27, 1965, the day of the shooting. Additionally, XXX XXX told the FBI that XXX was called to Anderson's house to serve as a witness for the state of Mississippi. It is possible, therefore, that the coroner's inquest occurred at Anderson's house.

learned that Harris was XXXXXX and surmised that was why Harris XXXXXXXX. XXXX stated that in 1965, XXXXXX and lived in Smithville, Mississippi. XXXXXX, Harris and Northington often traveled to Okolona for two reasons: first, to “give their hatred to black people” because Harris and Northington were members of the Ku Klux Klan and Smithville had no African-American residents; second, to purchase alcohol because Smithville was in a “dry” county.

One day, Harris, Northington, and their families traveled to Okolona after a day of shopping in Amory, Mississippi. Once in Okolona, Harris and Northington entered a liquor store, while their XXXXX remained outside in the car. XXXXXX that the car windows were rolled down because XXXX smoked. Harris and Northington were still in the liquor store when an African-American man exited the adjacent pool hall/bar, holding a pool stick. XXXXX stated that the man did not say anything to the women in the car. When Harris and Northington exited the store, however, they confronted the man, accusing him of “flirting” with the women. Harris harassed the man, threw him against the side of the building, and then brandished a pistol and threatened to kill the man. He and Northington threw the man down on the ground and then called another man, XXXXX, to come retrieve the women. Sometime later, XXXX arrived and drove the women home in XXX own vehicle. XXXXX stated that, like Harris and XXXXXXXXX was a resident of Smithville and a member of the Ku Klux Klan. The last time XXXXX saw the African-American man, Harris and Northington had placed him inside their car.

Later that night, Harris returned home drunk and bragged of killing “Donald Raspberry.” Harris said that he had hung Raspberry upside-down by his feet, urinated on him, and threatened to skin him alive. XXXXX stated that, despite Harris’s description of the murder, XXX believed that Harris had shot Raspberry. According to XXXXX, Harris and Northington showed XXX a bloody shirt that they claimed belonged to Raspberry.

Although Harris threatened to kill XXXX if XXX told anyone about the murder, XXXXX spoke to XXXXXXX about it later that night. The XXXXX told XXX that XXX could only pray for Raspberry and XXXXX stated that XXX wrote the name “Donald Raspberry” on a page in XXX bible. XXX told the FBI that XXX thought the bible might be in storage.⁵

⁵ XXXXX also told the FBI about an event XXX had witnessed in 1968, when XXXX XXXX years old. According to XXXXX, Harris had seen XXX waving good-bye to African-American classmates and had beaten XXX and called XXX a whore. To punish XXXXX, Harris and Northington had brought XXX to a wooded area to witness them and other members of the Ku Klux Klan killing an African-American man by skinning him alive, beating him, and then hanging him from a tree. When XXXXXXXX attempted to flee the scene, Harris and Northington tied XXX up and beat XXX. XXXXX stated that XXX heard that the dead man was from Detroit, Alabama. The FBI in Birmingham, Alabama, attempted to identify the murdered African-American man, but the investigation “produced negative results.”

The FBI interviewed XXXXXXX, a resident of Lake, Mississippi.⁶ XXXXX stated that XXXXXXXXX at Lake High School at the time of the shooting. Additionally, with the exception of two years spent XXXXXXX had never lived anywhere other than in Lake. XXXX stated further that had never known James Harris, Vernice Harris, Dennis Northington, or XXXXXX.

XXXXXX told the FBI that he did not know Harris, Northington, or XXXX.

XXXXXXX told the FBI that he was not aware of any connections between Anderson and the Ku Klux Klan. XXXXX added that Chickasaw County was also a "dry" county in 1965, thereby contradicting XXXXX claim that Harris and Northington went to Okolona to purchase alcohol.

The FBI obtained Harris's and Northington's death certificates indicating that Harris died on May 21, 2002 as a result of chronic obstructive pulmonary disease; and that Northington died on May 4, 1972, as a result of accidental drowning.

The FBI attempted to locate Vernice Harris and XXXXXXXX. The FBI determined that Vernice Harris died in December 2003, however a death certificate for Elvy V. Harris could not be located. The FBI found no records for XXXXXXXX.

Legal Analysis

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. First, the federal government cannot prosecute Anderson because he is deceased. Moreover, the weight of the credible evidence indicates that Anderson was solely responsible for the victim's death and that Harris and Northington were not involved. In any case, Harris and Northington are also deceased and, therefore, could not be prosecuted.

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

⁶ XXXXX told the FBI that XXX thought XXX last resided in Petal, Mississippi. A database search located a XXXXX, whose last known address was Petal. An additional search located a XXXXX residing in Lake, Mississippi.

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 Robert Coleman, Northern District of Mississippi, concurs in this recommendation.