

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-41-3579

Date May 02, 2010

To: Chief, Criminal Section

Re: Deputy Herbert Sullivan (Deceased),  
Hinds County Sheriff's Office,  
Jackson, Mississippi - Subject;  
Silas Caston (Deceased) - Victim  
CIVIL RIGHTS

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

**Case Synopsis**

On March 1, 1964, Silas Caston, the 19-year-old African-American victim, was shot and killed by Hinds County, Mississippi, Sheriff's Office (HCSO) Deputy Herbert Hoover Sullivan, the subject, in Jackson, Mississippi. According to a contemporaneous article in the Jackson *Clarion Ledger*, the shooting occurred when HCSO deputies responded to a report of shots fired. On arrival, deputies saw two men fleeing the scene. Sullivan (who was not identified in the article) chased the victim into a café where, according to XXXXXXXX, the victim turned "as if to attack the deputy." At that point, Sullivan, who "had no way of knowing" that the victim was unarmed, shot him in the stomach. The victim died later that night at University Hospital.

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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.

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Date

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Chief, Criminal Section

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The FBI obtained the victim's death certificate that confirmed that he died on March 1, 1964, as a result of "intractable shock" due to "massive acute hemorrhage" due to a gunshot wound to the abdomen.

In December 2009, the FBI interviewed XXXX, the victim's XXXX. XXXX stated that XX and the victim's other XXXXXXXXXXXX, were both living in Wisconsin at the time of the shooting. However, XX was later told (by a source X did not identify) that the victim was in a club with two other teenagers "making some noise." When officers responded to a call from the club's owner, the two others fled, while the victim turned around and raised his hands in surrender, whereupon he was shot. XXXX did not recall the names of the two other teenagers but did recall that they were XXXX. According to XXXX, XXXXX afraid to pursue any charges against Sullivan and suffered several strokes, ultimately dying about a year after the shooting.

According to March 1964 memoranda from the Mississippi State Sovereignty Commission, the victim's mother gave permission to representatives of the NAACP and the Congress for Racial Equality (CORE) to file suit against Sullivan and the HCSO in the amount of \$100,000. The federal investigation did not uncover evidence indicating that the suit was ever filed.

Sullivan died on April 6, 1986.

### **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 the victim's XXXXXXXXXXXX. The FBI also contacted various Mississippi law enforcement and government officials; conducted searches of the records of the Southern Poverty Law Center (SPLC), the Mississippi Department of Archives and History (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.

As mentioned above, with the assistance of the Mississippi Attorney General's Office (MAGO), the FBI obtained the victim's death certificate from the Mississippi State Department of Health, Vital Records. The certificate stated that the victim died on March 1, 1964, as a result of "intractable shock" due to "massive acute hemorrhage" due to a gunshot wound to the abdomen.

The FBI also obtained the subject's death certificate, indicating that he died on April 6, 1986, in Eagle Lake, Mississippi.<sup>1</sup>

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<sup>1</sup> The FBI had initially been told by an HCSO official that the Herbert Sullivan involved in the shooting was still alive. The FBI then located a XXXXXXX who stated that he had never been

The FBI contacted officials at the HCSO, the MAGO, and the Mississippi Department of Public Safety, but none of those agencies had or maintained any records relevant to Caston's death.

### **Legal Analysis**

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. First, the federal government cannot prosecute the subject because he is 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. § 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.

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 Glenda Haynes, Southern District of Mississippi, concurs in this recommendation.

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employed by the HCSO but was aware of another Herbert Sullivan whose XXXXXXXX. The FBI then contacted XXXXXXXX, who stated that the Herbert Sullivan who worked for the HCSO and shot and killed someone in 1964 was XXXX and added that XXXX was deceased.