

CIVIL RIGHTS DIVISION

Notice to Close File¹

File No. 144-57-1781

Date APR 16 2010

To: Chief, Criminal Section

Re: XXXXXXXX
Cleveland, Ohio - Subject;
Reverend Bruce Klunder (Deceased) - Victim
CIVIL RIGHTS

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

A. Overview

On April 7, 1964, Reverend Bruce Klunder, the victim, was crushed by a bulldozer driven by XXXXXXXXXX the subject, during a civil rights demonstration opposing the construction of a segregated school in Cleveland, Ohio.² Per media reports, there were approximately 150 demonstrators gathered at the construction site, which was guarded by Cleveland Police Department officers. During the course of the demonstration, two women and a man rushed into the path of the bulldozer operated by XXXXXX. Meanwhile, Reverend Klunder laid down on the ground behind the bulldozer. In an effort to avoid hitting the individuals in front of the bulldozer, XXXXXX stopped the machine. XXXXXX reportedly looked around, but did not see Reverend Klunder, then drove the bulldozer in reverse. When XXXXXX stopped the bulldozer, he realized that he had crushed and killed Reverend Klunder. XXXXXX was subsequently attacked by several onlookers who charged past police.

Katherine Scheflen
Attorney

To: Records Section
Office of Legal Administration
The above numbered file has been closed as of this date.

4-16-10

Date

Chief, Criminal Section
FORMERLY CVR-3 FORM CL-3

¹ Memo amended on June 11, 2021.

² Reverend Klunder, like XXXXXX was Caucasian.

As a result of the events at the construction site, riots ensued in Cleveland, Ohio. Per news articles, XXXXXX was cleared of any wrongdoing in Reverend Klunder's death and there is no indication that any civil rights group or individuals, including Reverend Klunder XXXXXX, claimed otherwise. The April 8, 1964, edition of the West Lake County *News-Herald* contains excerpts of XXXXXX's statement to police investigators following the incident. XXXXXX reportedly claimed that he drove backward because when the three individuals lay down in front of his bulldozer, its shovel was still hanging over them. With respect to Reverend Klunder, XXXXXX reportedly claimed, "I didn't know another man was behind me." XXXXXX explained further, "I backed up all the way over him, and then I saw him lying in front of the tractor. That was the first I knew I had run over anybody." According to media accounts, XXXXXX was very upset and remorseful. XXXXXX also indicated that he could not hear shouting alerting him to Reverend Klunder's presence due to the loud noise produced by the bulldozer. The Cuyahoga County Coroner's Verdict classified Klunder's death as an accident.

B. Federal Review

The Federal Bureau of Investigation (FBI) initiated a review of the circumstances surrounding Reverend Klunder's death in April, 2009, pursuant to the Department of Justice's "Cold Case" initiative and the "Emmett Till Unsolved Civil Rights Crime Act of 2007," which focus on civil rights era homicides that occurred not later than December 31, 1969. As part of its review, the FBI queried appropriate local, state, and federal agencies for any records which might still exist as a result of the original investigation, such as county and state coroner's records and local law enforcement reports. The FBI obtained a copy of the Coroner's Verdict and autopsy report, as well as copies of newspaper articles from a number of Ohio newspapers referencing the death of Reverend Klunder. The FBI queried the Cleveland Police Department (CPD) for any records which might exist pertaining to Reverend Klunder's death, but no such records had been maintained by the CPD.

The FBI also attempted to identify and locate the subject, but he is either deceased or could not be located using the variety of public and law enforcement databases available to FBI investigators. The sole piece of identifying information in the available records was XXXXXX age, listed at XXXXX at the time of Reverend Klunder's death. No actual date of birth for XXXXXX was available. The FBI's search of public and law enforcement databases for individuals (over age sixty-six) named "XXXXXXXXXX" living in the Cleveland area revealed three men with birth dates that would be in the range of the subject, but all three are deceased.³ The available records pertaining to Reverend Klunder's death yielded no information as to whether the subject even remained in the Cleveland area following the incident.

³ When the FBI broadened this query to the entire state, the search resulted in a message that too many results were found.

C. Analysis of Prosecutive Merit

This matter does not disclose a prosecutable violation of the applicable federal criminal civil rights statutes which require that the government prove, beyond a reasonable doubt that the subject acted willfully, that is, with a bad purpose to violate the law. Screws v. United States, 325 U.S. 91 (1945). Here, the evidence is insufficient to prove that the subject intentionally struck and killed Reverend Klunder with the bulldozer. Rather, all of the available evidence indicates that Reverend Klunder's death was an accident which occurred as the subject attempted to move the bulldozer away from protesters who had positioned themselves in front of the machine. There is a lack of evidence to disprove the subject's reported claim that when he drove his bulldozer in reverse, crushing Reverend Klunder, he did not know that Reverend Klunder was behind the machine. As such, it cannot be proven that the subject acted with the requisite criminal intent. Accordingly, this matter lacks prosecutive merit and should be closed. AUSA Dean Valore of the Northern District of Ohio concurs in this recommendation.