

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-67-2005

Date: APR 21 2014

To: Chief, Criminal Section

Re: Unknown Subject  
Edisto Island, SC – Subject;  
Fred Robinson (deceased) – Victim.  
CIVIL RIGHTS

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

**I. Synopsis**

On the afternoon of August 5, 1960, the body of Fred Robinson, a 12-year-old African-American youth, was found in the surf near Edisto Island, South Carolina. Robinson was last seen two days earlier after he had finished a day's work on a shrimp boat. Following a local investigation and an autopsy, the county coroner ruled the death an accidental drowning. As further explained below, there is insufficient evidence to refute the coroner's conclusion. Accordingly, this matter should be closed.

\_\_\_\_\_  
Karla Dobinski  
Attorney

To: Records Section  
Office of Legal Administration

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

2-2-2012  
Date

\_\_\_\_\_  
Chief, Criminal Section

FORMERLY CVR-3 FORM CL-3

## II. Local Investigation

The Charleston County (South Carolina) Police Department (CCPD) conducted a contemporaneous investigation of the circumstances surrounding Robinson's death. The CCPD interviewed relevant witnesses, including the shrimp boat owner for whom Robinson worked two days before his body was discovered, as well as an African-American man who was the last person to see Robinson alive. Their report is summarized in pertinent part as follows:<sup>1</sup>

Police Report. At about 4 p.m. on August 3, 1960, CCPD XXXXXX and XXXXXX received a call about a possible drowning. When they arrived at T.J. Lybrand's Shrimp Deck at Big Bay Creek, Edisto Island, Thomas Lybrand met them and reported that Fred Robinson was missing. Specifically, Lybrand told the officers that he could not locate the 12-year-old African-American youth who had come onto Lybrand's boat that day and returned to the dock with him. Lybrand said that after they had finished working, Lybrand and another man went to look at another boat, and left Robinson sitting on the dock. Lybrand was waiting for his XXX to arrive, after which he planned to take Robinson to his home. Lybrand told the officers that when his XXX drove up in the pick up truck, he went to look for Robinson but could not find him. Lybrand had his XXXX check at Robinson's house to see if Robinson had already returned home but he had not.

XXXXXXXXXXXX went to the home of Robinson's XXXXX, where Robinson had been staying. The XXXXX told the officers that Robinson was not home, he was out working on Mr. Lybrand's boat. XXX told the officers XXX did not know whether Robinson might have gone somewhere else after working. The two officers then went to various "juke joints" to search for Robinson but no one reported seeing him.

When the officers returned to the wharf, they asked the St. Andrew's Parish Voluntary Rescue League to drag the creek. The rescuers arrived within an hour and worked until 11 p.m., without finding the victim's body. On August 4<sup>th</sup>, the Coast Guard dragged the creek but did not find the victim's body. At about 2:30 p.m. on the following day, unknown fishermen discovered that the victim's body had washed ashore near the State Park at Edisto Beach. A local ambulance service transported the body to the local hospital.

Thomas Lybrand. Lybrand provided a signed sworn statement in which he described the events he had observed. A commercial fisherman, Lybrand stated that he had known "Freddie" Robinson for four or five years and that Robinson was "always asking" to go on the boat with Lybrand. On August 3, Lybrand's XXXX picked Robinson up and then Robinson and Lybrand went out shrimping until about 3 p.m. They then cleaned the net, washed the boat down and unloaded the shrimp. Lybrand went to get a soft drink and Robinson remained standing on the land in front of the dock. Lybrand returned about 15 minutes later and observed that Robinson was not there. Lybrand called for Robinson because he was ready to take Robinson

---

<sup>1</sup> The passage of time and the archiving process have rendered portions of the reports substantially unreadable, however, the legible portions of the reports, while not complete, provide the basic facts concerning the investigation.

home. He checked all of the docks as well as the nearby woods. He returned to his boat and traveled up and down the river looking for the youth. Lybrand sent his XXXX to Robinson's house to see if Robinson had returned home. When Lybrand learned that Robinson had not already returned home, he notified Charleston County Police Officer Clark. Lybrand stayed at the scene during the work of the Rescue League and on the following day, called the Coast Guard to send a boat to drag the water.

David Haynes. Haynes was an African-American employee of H.C. Fish, and worked on the dock next to Lybrand's deck. At about 8 a.m. on August 3, Haynes saw Lybrand and Robinson go out on Lybrand's boat. When they returned about 3 p.m., Haynes went over to the Lybrand deck and bought about \$1.20 worth of fish. Robinson told Haynes not to buy them all, because he wanted to take some home. Haynes then returned to his deck and saw Lybrand leave his own deck. Haynes thought Lybrand was going to look at a boat parked near the store. Haynes observed Robinson standing on the end of the deck next to the water. Haynes noticed that Robinson had one of his hands up in the air and was looking toward Haynes. About five minutes later, Haynes saw Lybrand on the land by the dock and heard him calling for Robinson. Lybrand asked Haynes if he had seen Robinson and Haynes replied that the last he had seen him, Robinson was on the water end of the deck, by himself. Haynes saw that Lybrand looked all over for Robinson, including taking his boat up the river to search.

Coroner Ruling. Jennings Cauthen, the Charleston County coroner, ruled the death an accidental drowning. No inquest was held.

Exhumation and Postmortem Examination. According to newspaper accounts, there was public pressure to investigate the death further. For instance, on August 24, 1960, the NAACP requested that Marion Schwartz, the director of the Charleston County Police Department re-investigate the death. Robinson's body was exhumed from the First Baptist Church cemetery.

Doctor Forde A. McIver of the Department of Pathology of the Medical College of South Carolina examined the body and provided a report dated August 25, 1960 and entitled "Necropsy Report." McIver found that the body was in a sufficient condition such that there was no indication of physical trauma other than consistent with the presumption that the victim died as a result of drowning. McIver found soft tissue damage consistent with marine life and the embalming process. The report stated that "The skull is intact. There is no suggestion of fracture."

Contemporaneous newspaper articles reported the discovery of the victim's body, several miles from the pier where he had been last seen.

### III. Federal Investigation

In February, 2009, the Federal Bureau of Investigation (FBI) initiated a review of the circumstances of the victim's death, pursuant to the Department of Justice's "Cold Case Initiative." The FBI obtained contemporaneous newspaper articles concerning the death, as well as records from the Charleston Police Department. The FBI also received information from

Booth Gunter of the Southern Poverty Law Center (SPLC), Montgomery, Alabama.

The FBI interviewed XXXXXXXXXXXX of Thomas Lybrand, who reported that Thomas died in 1972 from leukemia. XXXXXXXX had a vague memory of the incident in which Robinson died, but had no additional information to provide. The FBI also determined that David Haynes, a witness to a portion of the incident, died in 1975.

#### IV. **Allegation by family**

Gunter of the SPLC informed the FBI in an email that, based on his conversations with the victim's XXXXXXXXXXXX, the victim lived with his XXXXXXXXXXX, XXXXXXXXXXX. XXXXXX believes that XXX brother was murdered, because he was a great dancer and would "teach white girls to dance" at Edisto Beach. XXXX did not believe XXXXXXXX would go out into the water. The day before Fred went missing, a local shrimp boat operator asked both XXXXXX and Fred to go out and work on his shrimp boat, but their XXXXXXXX did not allow them to go. The next morning, August 3, XXXXXXXX came to their home in a truck and blew the vehicle's horn. Fred went out and entered the truck, which was the last time XXXXXX saw Fred alive.

According to Gunter, XXXXXX said the sheriff came to the house that evening asking if they had seen Fred, indicating that Fred could not be found. XXXXXX said the NAACP had the body exhumed and that a concussion was found. According to XXXXXX, there was never a law enforcement investigation.

In a March 11, 2007, article in the Charleston (South Carolina) Post and Courier, XXXX is quoted to say that XXX brother's head wound was not naturally caused. He believes XXXXXX was killed by someone objecting to XXXXXXXX dancing with young white women, to "make an example." Family members said that they believe Robinson was dead before he went in the water. The victim's XXXXXXXX, was also quoted in the newspaper as believing that XXXXXXXX death was suspicious.

#### V. **Legal Analysis**

This matter does not constitute a prosecutable violation of any applicable federal criminal civil rights statute in effect in 1960 accordingly, there is no federal jurisdiction. Even if there was sufficient evidence upon which to bring a prosecution, prior to 1994, federal criminal civil rights violations were not capital offenses, thereby a five-year statute of limitations was in effect. See 18 U.S.C. § 3282(a). In 1994, some of these civil rights statutes 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 or on the high seas, and

kidnaping resulting in death, the facts of the present case do not lend themselves to prosecution under these other statutes.

Second, there is no evidence to indicate that the cause of the victim's death was anything other than an accidental drowning. All of the witness statements are consistent with the coroner's conclusion. While the family's allegation of racial tensions in the area may well be historically accurate, there is simply no evidence that any person acted violently towards the victim. Indeed, the last person to observe the victim alive was an African-American man who worked on the adjacent pier. He observed the victim and then noted his disappearance five minutes later, rendering any speculation about foul play to be unsupported by inference as well as evidence.

**V. Conclusion**

For the above reasons, this matter does not constitute a violation of federal criminal civil rights statutes and, therefore, must be closed. Assistant United States Attorney Beth Drake of the District of South Carolina concurs with this recommendation.