

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-3-1435

Date **APR 28 2010**

To: Chief, Criminal Section

Re: Unknown Subjects,
Snow Hill, Alabama - Subjects;
Archie Lee Wooden (Deceased) - Victim
CIVIL RIGHTS

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

Case Synopsis

On December 25, 1967, victim Archie Wooden, an 18-year-old African-American man, jumped or fell into a ditch and onto a sharp pointed sapling, which penetrated his groin and severed an artery. Wooden's mother heard him scream from inside their house and went to get help. When she returned home, Wooden had already died. The Wilcox County Coroner concluded that Wooden died of a hemorrhage of the femoral artery. The manner of death was classified as "accidental."

Shelly Ward
Attorney

To: Records Section
Office of Legal Administration

The above file has been closed as of this date.

Date

Chief, Criminal Section

FORMERLY CVR-3 FORM CL-3

Federal Investigation

The Federal Bureau of Investigation (FBI) initiated a review of the circumstances surrounding the victim's death February 20, 2009, based on media coverage of the incident. The investigation was opened pursuant to the Department of Justice's "Cold Case" initiative, which focuses on civil rights era homicides that occurred not later than December 31, 1969. As part of its investigation, the FBI attempted to obtain the results of the local investigation into the matter. However, because of the extended time period (42) years between the incident and the initiation of a federal investigation, and the lack of searchable computerized records from that era, Wilcox County officials were unable to locate any existing law enforcement reports pertaining to the incident.

The investigating agent also contacted the United States Attorney's Office for the Southern District of Alabama and learned that the office had no records on file for cases prior to 1980. According to a local media report, following the incident, the Mobile, Alabama FBI field office made a "civil rights violation inquiry" into the victim's death after receiving a complaint and turned the results of its investigation over to the Department of Justice for a determination of prosecutive merit. However, the FBI was unable to locate any records to corroborate that claim.

The investigating agent did locate the death certificate for the victim, which indicated that he died behind his home after jumping into a ditch and falling on a sharp stick, severing his femoral artery. The manner of death was listed as "accident." A contemporaneous newspaper article corroborates that account and states that the coroner found no indication of foul play. The newspaper article also states that the victim's mother heard the victim scream, and that she went for help, but the victim was already dead by the time she returned.

Legal Analysis

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. 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 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 provide a basis for federal prosecution under these other statutes.

Even if there was federal jurisdiction in this matter, due to the absence of the local investigative files and the federal files, a successful prosecution of this matter would be highly unlikely. Accordingly, the matter lacks prosecutive merit and should be closed. AUSA Vicki Davis of the Southern District of Alabama concurs in this recommendation.