

T. 11/27/61

BM:DLS:sab

144-1-589 T. M.

NOV 28 1961

Reverend C. Herbert Oliver
Inter-Citizens Committee
Box 1443
Birmingham, Alabama

Dear Reverend Oliver:

I have your letter dated November 14, 1961,
concerning the matters involving the Phillip Travis
family.

This matter is being investigated by this Department
and should it develop that we can establish the
violation of a federal criminal statute, appropriate
action will be taken.

Thank you for your letter indicating your interest
in this matter.

Sincerely,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

cc: Records
Chron
Stephens

INSPTD AND MAILED
COMMUNICATIONS SEC.

NOV 28 1961 Q

CIVIL RIGHTS DIVISION

Date 11/21

From: Mr. John L. Murphy

Mr. Marshall:

The file is attached.
You will note, there
are, some, variations in
the descriptions of what
happened.

Yours
John L. Murphy

To Shurclough -
Thank you. Please
have letter airmailed.
JN

RE: MR. ROBERT P. WILSON

DECE

CIAIT WASH DC

Inter-Citizens Committee

Rev. J. L. Ware, President

Rev. J. C. Wilson, Vice-Chairman

Rev. G. L. Terrell, Treasurer

Rev. C. H. Oliver, Secretary

~~Rev. J. B. Thompson, Corresponding Secretary~~
Rev. H. D. Long, Ass't. Sec.

Box 1443
Birmingham, Alabama

Nov. 14, 1961

RECEIVED

NOV 20 1961

GEN. LIT. SECTION

Mr. Burke Marshall
Department of Justice
Civil Rights Division
Washington, D. C.

Dear Mr. Marshall,

144-1-589

I just learned today about the case of the Phillip Travis family. I understand that they have filed complaints with the local F.B.I. They did this on the advice of their white attorney, who seemed to be provoked enough by the incident to want to do something about it.

We hope that this unspeakable brutality will be thoroughly investigated and the culprits dealt with according to law.

For a better America,

Rev. C. Herbert Cliver

Rev. C. Herbert Cliver

144-1-589

4	NOV 29 1961	RECORDS BRANCH
CIV. RIGHTS DIV.		

Gen. Lit. Sec.

How 54-7-0825

S. J. L. Dugby -
what is the
about?
EM

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA)
)
)
 v.)
)
)
 DONALD P. JONES and)
 WILLIAM DOYLE KING,)
)
 Defendants.)
)

GOVERNMENT'S REQUESTED INSTRUCTION NO.

Evidence has been introduced in this trial on behalf of the defendants showing the existence of certain ordinances contained in the General City Code of Birmingham. Evidence has also been introduced that the defendant Jones, who alone is charged in the first count of the indictment, relied upon the authority conferred by one or more of these ordinances in forcefully entering the dwelling occupied by the Travis family. These ordinances are as follows:

Sec. 209. Arrest without warrant.

It is the duty of the chief of police and of every policeman, to arrest without warrant any person whom he has probable cause to believe guilty of the violation of any law or ordinance of the city. Said officers have authority to enter any house, enclosure or other place in which they have probable cause to believe that any person is committing, or about to commit, a violation of the city laws. (1930, §4902.)

Sec. 210. Duty and authority of officer in making arrest.

When arresting a person without a warrant, an officer must inform of his authority and the cause of arrest, except when such person is arrested in the actual commission of a public offense, or on pursuit; and an officer has authority to break upon an outer or inner door or window of a dwelling house, if, after

after notice of his office and purpose, he is refused admittance.

Under the court's duty to interpret the law for you ladies and gentlemen, I now instruct you that, inasmuch as no evidence has been introduced in this trial tending to show that a violation of any ordinance or law of the City of Birmingham was being committed or about to be committed in the Travis house, Officer Jones had no lawful authority, without a warrant, to enter the Travis dwelling to make an arrest therein.

That being so, the question which you ladies and gentlemen are called upon to decide is, did Officer Jones honestly, though perhaps mistakenly, entertain a belief that he had lawful authority under any of the ordinances I have mentioned to enter the Travis home to make an arrest for an offense not then being committed or about to be committed. In considering whether Officer Jones may have been honestly mistaken about his authority to enter the Travis house you may consider such evidence as has been introduced, if any, of the instructions given Officer Jones by his superiors regarding his authority to make arrests without warrants. You may also consider in this connection whether the language of the ordinance or ordinances is such as to permit reasonably, an interpretation by Officer Jones that he had such authority as he assumed to exercise in this instance. You may take into consideration in this regard the experience of Officer Jones as a police officer, his length and type of training, any evidence of general practice by officers of the City of Birmingham in similar circumstances and any other evidence which has been introduced which tends to show that Officer Jones had a reasonable basis, or a

Travis dwelling without a warrant for the purpose of making an arrest therein.

If you find that there was not a reasonable basis upon which Officer Jones, as an experienced police officer, could have concluded that he had lawful authority to enter the Travis house to make an arrest therein, you may consider this fact as bearing upon whether Officer Jones did in fact honestly entertain the belief that he had such authority. If you find, further, that Officer Jones did not in fact believe that he had lawful authority to enter the Travis house but nevertheless did so, well aware that he lacked such lawful authority, then you should find Officer Jones guilty of the offense charged in count one. On the otherhand, if you find that Officer Jones did honestly believe, though mistakenly, that he had lawful authority to enter the Travis house to make the arrest therein, then you should acquit him of the charge under count one of the indictment.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA)

v.)

DONALD P. JONES and)
WILLIAM DOYLE KING.)

Defendants.)
_____)

GOVERNMENT'S REQUESTED INSTRUCTION NO.

No police officer, at his whim, in the name of
law enforcement, can suspend or revoke the right of
a person to be secure against rude invasions, privacy
or the enjoyment thereof.

Swapp v. Ohio, 367 U.S. 643, 660.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA)
)
)
 v.)
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)
 DONALD P. JONES and)
 WILLIAM DOYLE KING,)
)
 Defendants.)
)

GOVERNMENT'S REQUESTED INSTRUCTION NO.

The indictment in this case charges the defendants with having violated a statute, or law of the United States, namely, Section 242 of Title 18, United States Code. This law makes it a criminal offense for anyone acting under color of the laws of any state to wilfully subject the inhabitant of any state to a deprivation of any rights secured and protected by the Constitution and laws of the United States.

This law was passed by Congress many years ago in order to carry into effect the provisions of the 14th Amendment of the Constitution of the United States. This amendment provides that "no state shall deprive any person of life, liberty or property without due process of law." This is not the whole of the amendment, but it is only that portion which relates specifically to this case.

This constitutional provision assures every person in the United States the right not to be deprived of his liberty without due process of law, by officers acting under color of any law, statute, ordinance, regulation or custom of any state. It is a guarantee against encroachment by the state, and its authorized officers and agents, upon the rights of any person under the Constitution of the United States. In other words, Congress intended to provide that no agency of a state, no officer or agent by whom its powers are asserted and carried into execution, should deprive any person of rights guaranteed by the Constitution.

See: United States v. Cruikshank, 92 U.S. 542

IN THE UNITED STATES DISTRICT COURT FOR THE
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UNITED STATES OF AMERICA,)
)
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 v.)
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)
 DONALD P. JONES and)
 WILLIAM DOYLE KING,)
)
 Defendants.)
)

GOVERNMENT'S REQUESTED INSTRUCTION NO.

The law prohibits anyone, acting under color of law, from denying to an inhabitant of any state his right to liberty without due process of law by inflicting on such person such punishment as he thinks should be given, or from coercing or compelling a confession, statement, or admission of crime by fear of hurt, torture, exhaustion or physical mistreatment, or by any other involuntary means. If you find from the evidence beyond a reasonable doubt that the defendants did beat, torture or otherwise mistreat the victim wilfully intending to deprive the victim of his liberty without due process of law, then your verdict should be guilty. In determining the intent of the defendants in so acting and whether they acted wilfully, you may consider the duration of the investigation, if any; the character and duration of the assault, and threats, if any; the time and manner in which it was carried out. All of these facts and circumstances may be taken into consideration by you from the evidence that has been

submitted for the purpose of determining whether the acts of the defendants were willful and for the purpose of depriving this victim of his constitutional right to be tried by a jury just like everyone else, and not to be summarily punished and tried by ordeal.

See: Williams v. United States, 341 U.S. 97, 102.

IN THE UNITED STATES DISTRICT COURT FOR THE
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UNITED STATES OF AMERICA)
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)
 Defendants.)
)

GOVERNMENT'S REQUESTED INSTRUCTION NO.

The word "willful" as used in Section 242 means more than intentional rather than accidental, it means an act done with a bad purpose, that is, a purpose to deprive a person of a specific constitutional right. One who does an act with such specific intent is aware that what he does is precisely that which the statute forbids. He is under no necessity of guessing whether the statute applies to him for he either knows or acts in reckless disregard of its prohibition of the deprivation of a defined constitutional or other federal right.

It is not necessary that such purpose be expressed; it may be reasonably inferred from all the circumstances attendant on the act.

In determining whether the requisite bad purpose was present you are entitled to consider all the attendant circumstances, the malice of the defendants, the weapons used in the assault, if any, its character and duration, provocation, if any, and the like.

See: Screws v. United States, 325 U.S. 91, 131.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA)

v.)

DONALD P. JONES and)
WILLIAM DOYLE KING,)

Defendants.)
_____)

GOVERNMENT'S REQUESTED INSTRUCTION NO.

You are instructed that an officer of the law undoubtedly knows that a person arrested by him for an offense has the constitutional right to a trial under the law, and if you believe from the evidence beyond a reasonable doubt that the defendants wilfully failed to accord to victim the opportunity for such a trial but substituted instead their own trial by ordeal, you will be justified in finding that such a denial of such constitutional right was consciously and wilfully made. One is generally presumed to have intended the normal and reasonable consequences of his acts.

See: Craws v. United States, 160 F. 2d 746, 750.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA)
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 DONALD P. JONES and)
 WILLIAM DOYLE KING,)
)
 Defendants.)
)

GOVERNMENT'S REQUESTED INSTRUCTION NO.

The Fourteenth Amendment of the Constitution of the United States applies to the several states of the Union and is directed towards each state within each state. This amendment reads in part as follows: "Nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Therefore, it guarantees to every person under state arrest the right not to be deprived of his personal security, except in accord with due process of law. The right of personal security is a right which is embraced within the word "liberty." Accordingly, a person under state arrest and detention is not only entitled to be tried and punished in the same manner as others accused of crime are tried and punished, but he is entitled to and has the right to protection from injury from the officers having him in charge.

See: Lynch v. United States, 189 F. 2d 476, 479.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA)

v.)

DONALD P. JONES and)
WILLIAM DOYLE KING,)

Defendants.)
_____)

GOVERNMENT'S REQUESTED INSTRUCTION NO.

The term "color of law" means simply a misuse of power, possessed by an officer by virtue of state law, which invests the officer with authority to act. So a misuse of this power, possessed by virtue of the state law, and made possible only because the wrongdoer is clothed with the authority of the state law, is action taken under color of state law.

See: United States v. Classic, 313 U.S. 299. 326
Williams v. United States, 341 U.S. 97

NEW ORLEANS BRANCH

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

1821 ORLEANS AVENUE

NEW ORLEANS 16, LOUISIANA

November 25, 1961

AIR MAIL SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Mr. Burke Marshall
Assistant Attorney General
Civil Rights Division
Department of Justice
Washington, D. C.

Dear Mr. Marshall:

Initially, let me thank you for your letter of October 2, 1961 in which you advised me of the fact that the Exell Ward matter is under consideration by your department. Any information concerning present developments in that case would be greatly appreciated.

My principal purpose for writing however, is to call your attention to another incident which may involve a violation of civil rights.

On November 21, 1961, a twelve (12) year old Negro boy was killed by two (2) deputy sheriffs of the Parish of Jefferson, State of Louisiana. The deputies had come to the boy's home to talk with him about the breaking of a window on a passenger train on November 16, 1961. They took the boy into custody and some three (3) hours later, the boy was dead, having been shot by one of the said deputies, Joseph W. McKenney by name. The other deputy was Ray A. Young.

Please advise.

Very respectfully yours,

Arthur J. Chapital, Sr.

Arthur J. Chapital, Sr.
President, New Orleans
Branch, N. A. A. C. P.

DEC 1 1961

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144-548

DEPARTMENT OF JUSTICE
14 NOV 29 1961
CIV. RIGHTS DIV.
Gen. Lit. Sec.
AJCsr/mj

GEN. LIT. SECTION

D/I SEARCHED

DOCKETED

See DJFile

NOV 30 1961

Docket No.

144-548-532

144-548-532

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DEC 1 1961

NANCH. N. A. C. P.
11 ORLEANS AVENUE
NEW ORLEANS 16, LOUISIANA

AIR MAIL
SPECIAL DELIVERY



REGISTERED
NO. 129936

RETURN RECEIPT REQUESTED

Hon. Burke Marshall
Assistant Attorney General
Civil Rights Division
Department of Justice
Washington, D. C.

Tension Up After Deputy Slays Boy, 12

KENNER, La. - Citizens of this growing suburban area of New Orleans were up in arms last week following the fatal shooting of 12-year-old Edward Little, 2017 Monette St., in Bunch Village.

Young Little was shot to death by Jefferson Parish Deputy Joseph W. McKinney, who was assisting a railroad detective investigate damages done to a moving train reportedly by a group of young Negroes.

Jefferson Parish's sheriff's office immediately announced the suspension of McKinney, and a fellow deputy, Ray A. Young, who was being held as a material witness to the shooting.

In the meantime, McKinney was booked with negligent homicide.

CHIEF DEPUTY GEORGE L. Gillespie told reporters that the young boy had been taken into custody by McKinney, and admitted his guilt in the manslaughter.

Reports show the shooting occurred later at Florida Ave. and the levee, behind Bunch Village, a Negro subdivision near Kenner.

Officers were unable to learn exactly how the shooting occurred. However, it was learned that young Little was the second Negro youth to be shot within three days by McKinney.

Edward Little
Victim

Geo. W. McKinney
Suspect
Ray A. Young

Pittsburgh Courier
Pittsburgh, Penna.
Date: 12/2/61

144-32-548

NEW

M. W.

144-32-548

DEC 1 1961

CIV. RIGHTS DIV.

Gen. Lit. Sec.

RECORD

Republican National Committee

1625 EYE STREET, NORTHWEST WASHINGTON, D. C. • NATIONAL 8-6800

LOUIS R. LAUTIER
SPECIAL ASSISTANT
TO THE CHAIRMAN

WILLIAM E. MILLER
CHAIRMAN

December 11, 1961

9243

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DEC 15 1961

DEC 12 1961

GEN. LIT. SECTION

The Honorable Burke Marshall
Assistant Attorney General
Civil Rights Division
Department of Justice
Washington, D. C.

Dear Sir:

I have just read in the LOUISIANA WEEKLY of December 2 the shocking story of the killing of a 12-year-old Negro boy by a Jefferson Parrish Louisiana deputy on November 21 and the statement that the boy was the third Negro to be shot by Jefferson Parrish officers in a three-day period. *Edward Little*
Joseph W. McKenney, Jr.

It occurs to me that the shooting of this boy may be a possible violation of the section of the Criminal Civil Rights Statute dealing with persons acting under "color of law."

I am aware that the Department can hardly prove willful intent to deprive the 12-year-old victim of his life at the time of the killing, but I believe that a preliminary investigation by the FBI into all of these police killings in New Orleans will tend to stop unnecessary killings by law enforcement officers there.

I enclose a copy of the story.

Sincerely,

Louis R. Lautier

DEC 15 1961

144-32-548

144-32-551	
DEPARTMENT OF JUSTICE	REC
22 DEC 13 1961	RD
RECORDS SECTION	
CIV. RIGHTS DIV.	

Gen. Lit. Sec.

INDEXED ON

~~NEW~~

Chgd & Kill
by my M.K.
12/14/61

To Mr. Murphy -
Please see that this
is properly acknowledged
in the file.

Tuesday urged Jefferson Parish Attorney Frank Langridge to make a thorough investigation into the slaying by a deputy sheriff of 12-year-old Edward Little, last week. The boy, according to Mr. Henry, was the stepson of a union member, Isaac Santee.

Aroused ministers and citizens at press time had scheduled a meeting with NAACP officials to plan a protest mass meeting in connection with the boy's death.

TAKEN FROM HOME

Edward Little, a fifth grade pupil of the Bunch Village school, according to relatives, was taken from his home without his mother's consent about 1:55 p.m. Tuesday by the deputies. The mother, Mrs. Mildred Santee, said she had been asked by McKenney if he could talk with the lad.

Mrs. Santee said the officers were talking with her son near their parked car next door to her home. She said the officers drove off with the boy without telling her they were leaving.

Jefferson authorities reported that the boy was accidentally shot and that "McKenney, accompanied by Ray A. Young, rushed the boy to the Foundation hospital, where he was pronounced dead at 2:50 p.m."

"NOT TOLD IMMEDIATELY"

Relatives of the slain boy told the Louisiana Weekly that despite the fact the killing occurred less than an hour after the boy was taken from his home, Mrs. Santee was not notified until about 5 p.m.

Mrs. Marie M. Buchanan, the boy's aunt who rushed here from her home in Santa Monica, California, this week, told the Louisiana Weekly that Mrs. Santee had become disturbed after the officers had taken Edward without telling her on Tuesday and had telephoned Jefferson police headquarters twice. Each time, she was told they knew nothing about the boy's having been taken into custody.

"THE BOY IS DEAD"

Relatives said two different officers came to the Santee home about 5 p.m. Tuesday and asked Mrs. Santee her name. They then asked her what was her relation to Edward Little.

"I'm his mother," Mrs. Santee replied.

(See BOY, 12, SLAIN - Page 7)

BOY, 12, SLAIN

(CONTINUED FROM PAGE 1)

"Your son is dead," the officer said. "He got killed in an accident."

The two officers left, according to the boy's relatives, and the mother had not been in contact with them as late as Saturday.

OFFICER CHARGED

Jefferson Parish chief criminal deputy George L. Gillespie late last week McKenney said he dropped his gun and it discharged when he picked it up to return it to his holster. The shooting occurred at Florida Avenue near the Levee, the officers said, with the bullet entering the child's side and emerging from under the armpit on the opposite side.

McKenney was booked at the East Bank jail late Tuesday with negligent homicide and Young was charged as a material witness. Both have been suspended indefinitely from the force, Gillespie said.

QUESTIONS UNANSWERED

Gillespie said McKenney has failed to explain why he had the gun from its holster during the investigation involving a 12-year-old boy.

"I am convinced that the shooting was accidental," Gillespie said. "However, the question involved is one of negligence and I haven't determined what degree of negligence there was."

At the time of the shooting, McKenney was described in reports as a deputy, however, in later news articles, he was referred to as a "juvenile officer."

"THREE-DAY PROBE"

Official statements failed to disclose that the boy was shot after the investigation of a train incident had been in progress three days.

Relatives of the boy told the Louisiana Weekly that the lad's mother and stepfather, Isaac Santee, operate a restaurant at 1821 Conti Street in New Orleans and that the child had often cared for his three brothers and two sisters, ranging from two to seven years of age.

Mingo Santee, the 70-year-old grandfather of the boy, told the Louisiana Weekly that police had been investigating the alleged placing of spikes on a railroad track and the throwing of rocks at a train for three days at the time Edward Little was killed.

"AN OBEDIENT CHILD"

The elder Santee said he was at home with the six children Sunday, Nov. 19, when Edward had asked permission to go and play about 3:30 p.m. He said Edward had helped with household chores, so permission was granted.

and began questioning him, the elder Santee said. Edward denied being involved in the incidents at the railroad track, Santee said. The boy did say he was in the railroad area on the previous Friday, the grandfather said. Officers claimed rocks had been thrown into a passing train on Thursday, but when the boy denied guilt, they said they would be back the next day, Monday, Nov. 20.

"TELLING THE TRUTH"

The officers returned Monday and questioned the boy again, relatives said. When they insisted that the boy had been in the area on Thursday instead of Friday, Edward said, "I'm telling the truth," relatives declared.

Again the officers left, saying they would "return tomorrow" members of the Santee family said. It was on their third visit to the Santee home Tuesday afternoon that the boy was taken away, relatives said.

Wake services were held Sunday night at the Majestic Funeral Home in New Orleans. The

Republican National Committee

1625 EYE NORTHWEST
WASHINGTON D. C.



U.S. POSTAGE

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NO POSTAGE
NECESSARY
IF MAILED
IN THE U.S.

The Honorable Burke Marshall
Assistant Attorney General
Civil Rights Division
Department of Justice
Washington, D. C.

T. 3-8-62
BM:DLs:rb 9243
144-32-548 G.E.

MAR 12 1962

AIR MAIL

Honorable Kathleen Ruddell
United States Attorney
New Orleans, Louisiana

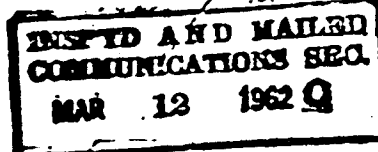
Re: Joseph William McKinney, Jr.,
et al;
Edward Lee Little - Victim
Civil Rights

Dear Miss Ruddell:

You will note by the enclosed copy of my memorandum to the Federal Bureau of Investigation the requested investigation. As soon as you have received this information and reviewed the same, I would appreciate your views as to how we should proceed with this case.

In my letter of January 4, 1962, to your predecessor, Mr. Marx, I indicated that the extent to which the State is vigorously pursuing the matter would bear significantly upon our decision. In order to avoid any unreasonable delay, the time is rapidly approaching when this Department has to make some disposition of this case.

Sincerely,



BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

cc: Records ✓
Chrono
Stephens

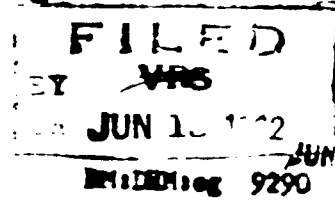
AIR MAIL

5-31-62
T. 6/11/62

Director
Federal Bureau of Investigation

Burke Marshall
Assistant Attorney General
Civil Rights Division

United States v. Clinton E. Savage
and William Kennedy, aka Moose.
Hammond Criminal 3285



144-26-96

J. I. K.

Reference is made to the letter from Special Agent [REDACTED] dated May 29, 1962, at Indianapolis directed to the Honorable Alfred W. Moellering, United States Attorney, Fort Wayne, Indiana, concerning the above-captioned case, a copy of which was forwarded to this Department.

Please interview [REDACTED] with respect to his alleged statement that the victim would be taken care of by Townsel's friends. Please have the interviewing agent read [REDACTED] the obstruction of justice statute, 18 U.S.C. 1503.

Enclosure

cc: Records
Chrono
Marlin
Murphy
USA, Ft. Wayne, Ind.



Dei
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T. 2x224-8/29/62

Director
Federal Bureau of Investigation

BM:DNM:sab 9290

Wesley Marshall
Assistant Attorney General
Civil Rights Division

144-26-96

E. F. S.

AUG 31 1962

Clinton E. Savage;
William Kennedy, aka;
James Lee Anderson - Victim
Civil Rights

Reference is made to your memorandum of June 22, 1962, with the report of Special Agent [REDACTED] dated June 19, 1962, at Indianapolis, attached.

We are readying the case of U.S. v. Savage, et al., for trial this fall. In this connection, please conduct the following investigation:

1. Please interview the victim and, from information he supplies and from viewing the terrain, please prepare a large map showing the route taken by the victim from the Gary Police Department Jail on November 20, 1961, until his return that afternoon. The jail and each place visited by the victim and the subjects should be shown, with particular emphasis on the area at which the victim was beaten. It is suggested that these places and the route be superimposed on a map of Gary. Also prepare a map or maps giving a detailed description of the area at which the beatings took place. All maps should be suitable for courtroom use and the originals should be deposited at the United States Attorney's office in Hammond, Indiana, with copies delivered to this Division.
2. Please furnish complete background information on both the subjects. In this connection, enclosed are two copies of an article that appeared in the Gary Crusader on May 19, 1962.
3. Determine whether the Gary Police Department has placed any restrictions on the assignments of the subjects since their arraignment on June 1, 1962, and obtain the results of any investigation into the beating of the victim that was conducted by local officials.

cc: Records
Chron
Marlin
Murphy

USA, Fort Wayne,

SENT BY MESSENGER
COMMUNICATIONS SEC.
AUG 31 1962 R.R.R.
Ind.

204
8/29/62
MML
8/30
8/31
JAN 8/31

- 2 -

4. Interview Inel Savage (as mentioned on page 23 of the report of Special Agent [REDACTED] dated December 22, 1961, at Indianapolis) and ascertain what she saw of the victim on November 20, 1961. Also determine her exact relationship to the subjects.
5. Please follow any leads that develop in the course of the investigation.

T. 9/21/62

Director
Federal Bureau of Investigation

Burke Marshall
Assistant Attorney General
Civil Rights Division

BM:DHM:sab 9290

144-24-96

F. B. I.

Clinton H. Savage;
William Kennedy, aka;
James Lee Anderson - Victim
Civil Rights

SEP 25 1962

RECORDED

Reference is made to the verbal request of David
M. Marlin of my staff to Mr. Fahl on September 21,
1962. Please conduct the following investigation:

1. Obtain from Claude Person (see p. 4 of the
report of Special Agent [redacted]
dated January 24, 1962, at Indianapolis)
the exact description of the place where he
went to tow the subject's car by having
Person view the scene. Note particularly
whether [redacted] could be mistaken and whether
the tow truck could have gone to the area
designated by the victim as reflected in your
last report on this case. Photograph the
place designated by [redacted].
2. Photograph the area of the beatings as designa-
ted by the victim.

SENT BY MESSENGER
COMMUNICATIONS SEC.
SEP 25 1962 P.P.R.

cc: Records
Chron
Marlin
Murphy
USA, Fort Wayne, Ind.

DM
9/21/62

Jhm
9/21/62
BM 425-62

Director
Federal Bureau of Investigation

John Dear
Acting Assistant Attorney General
Civil Rights Division

Edward L. Best, et al.;
Charles Edward Spencer - Victim
Civil Rights; Espionage

T. 3/23/61
JDeG:ash 7295
111-55-108 G. F.

MAR 27 1961

Reference is made to your memorandum of March 3, 1961,
with the report of Special Agent [redacted] attached.

In accordance with telephone conversation of March 17,
1961, between Special Agent [redacted] of your Bureau and Attorney
Jones of this Division, please send a copy of Special Agent
[redacted]'s report to the Alcohol and Tobacco Tax Division, Treasury
Department.

3/23/61

3/24

3/25

24

cc: Records ✓
Chrono
Jones
Hubbard
Murphy
Atty. Gen.
~~SA, [redacted], New Can.~~

SENT BY MESSENGER
COMMUNICATIONS SECTION
MAR 27 1961 C

Mr. Hubbard ✓
Mr. Jones ✓

March 15, 1961

John L. Murphy, Chief
General Litigation Section
Civil Rights Division

JLM:llh 7293
144-33-108 G

Edward L. Rast, et al.;
Charles Edward Spencer - Victim
Civil Rights; Impersonation

Mr. Dear advised me today that Mr. Marshall had reviewed the request for investigation in the above case and had advised Mr. Dear that the federal agency employing the agents, the Alcohol and Tobacco Tax Division of the Treasury Department, should be apprised of this matter and afforded an opportunity to take whatever action it deemed appropriate in the circumstances before we consider whether prosecution under Section 242 is required.

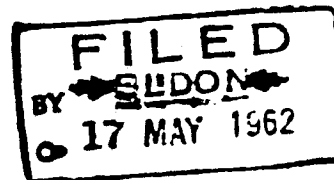
Accordingly, please advise the FBI to make available to the Director, Alcohol and Tobacco Tax Division, all the reports in this case. Meanwhile, I will contact the Director and request him to advise us of what action, if any, the agency expects to take following review of the FBI reports.

T. 4/19/62

BN:GJ:11h 7293
144-33-200

G.E.

MAY 10 1962



Honorable William Hodford
United States Attorney
Asheville, North Carolina

Re: Edward L. Rast, et al.;
Charles Edward Spencer - Victim
Civil Rights

Dear Mr. Hodford:

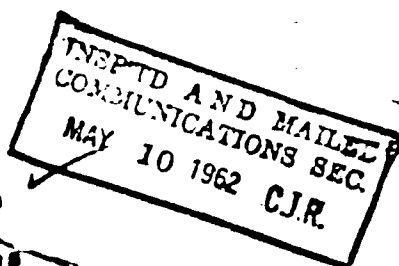
Reference is made to the report of Special Agent [redacted] dated February 20, 1961, at Charlotte, North Carolina.

The Department has contacted the Treasury Department concerning this and related matters involving its investigative agents. As a result that Department is undertaking a revised training program which is designed to orientate its agents thoroughly in the area of searches and seizures. Consequently, we are closing our file in this matter.

Sincerely,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

By: JOHN L. MURPHY, Chief
General Litigation Section



cc-Records
Chrono
Mr. Jones

T. 9-21-61
MM:GMJ:rb 6818
144-42-282

SEP 26 1961

Honorable D. Jeff Lance
United States Attorney
St. Louis, Missouri

Re: TROY FOWLER, aka;
VERLAN GRAHAM, aka - VICTIM
CIVIL RIGHTS

Dear Mr. Lance:

Reference is made to the reports of Special Agent
[redacted] dated January 9, April 6 and May 2, 1961,
in the above-captioned matter.

It appears from these reports that on the night
of December 5, 1960, the victim, Verlan Graham of Gideon,
Missouri, was apprehended by Troy Fowler, Night Marshal of
Gideon. It is unclear whether or not Fowler had a warrant
in his possession at the time; however, one had been issued
for Graham's arrest and after being informed of this, Graham
submitted to Fowler.

The arrest was made in a tavern. According to
several witnesses Fowler approached victim and after a brief
exchange of words between the men, Fowler struck victim in
the face with his gun. Victim then accompanied Fowler outside
the tavern, Fowler having his gun in his hand the whole time.

Two witnesses overheard the conversation between
Fowler and victim as they left the tavern. According to these
witnesses Fowler, to whom victim owed money, appeared annoyed
at victim for not having paid the money. Both witnesses state

Enclosures

cc: Records
Chrono
Jones

AIR MAIL

INSPTD AND MAIL
COMMUNICATIONS
SEP 26 1961

they heard Fowler threaten to kill victim because of the debt. It appears that at this moment victim ran and Fowler fired two shots at the fleeing figure. One hit its mark and victim died from the bullet wound.

The warrant which had been issued for victim's arrest was for a misdemeanor, charging reckless driving while drinking and no lights in violation of a City ordinance. A Coroner's Jury held a hearing in the case and found that victim was killed by Fowler but that the circumstances constituted justifiable homicide. There was no record made of this proceeding.

Under the Missouri statutes homicide is justifiable when committed by a person in any of three instances:

- (1) In resisting any attempt to murder such person, or to commit any felony upon him or her, or in any dwelling house in which such person shall be; or
- (2) When committed in the lawful defense of such person, or of his or her husband or wife, parent, child, brother, sister, uncle, aunt, nephew, niece, master, mistress, apprentice or servant, when there shall be reasonable cause to apprehend a design to commit a felony, or to do some great personal injury, and there shall be reasonable cause to apprehend immediate danger of such design being accomplished; or
- (3) When necessarily committed in attempting by lawful ways to defend any person for any felony committed, or in lawfully suppressing any riot or insurrection, or in lawfully keeping or preserving the peace. See Vernon's Annotated Missouri Statutes, Section 559.040.

I do not feel that a homicide under the circumstances of our case would be justified under the Missouri statute.

According to Missouri decisional law, the killing of victim likewise would not appear to be justified. The rule, as stated by the Missouri Supreme Court in State v. Salts, 131 Mo. 665, 56 S.W. 2d 21 at 24(1932), is:

In order that the act of an officer in shooting one whom he has arrested or is about to arrest may be justified, the act must be done in self-defense, or it must be done to prevent the commission of a felony. An officer is never justified in shooting another, charged with a misdemeanor, in order to arrest or to prevent the escape of the accused.

To the same effect is State v. McGehee, 308 Mo. 560, 274 S.W. 70(1925).

In view of the circumstances of the instant case, therefore, I feel that this matter should be presented to a Grand Jury as soon as possible. I am enclosing herewith a draft of a suggested form of indictment along with a list of possible witnesses to be subpoenaed.

Please advise me as soon as possible as to the earliest date this matter can be presented.

Sincerely,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

T. 1-31-62

BH:OMJ:rb 6818
144-42-282

FEB 1 1962

AIR MAIL

Honorable D. Jeff Lance
United States Attorney
St. Louis 1, Missouri

Attention: Frederick H. Mayer
Assistant U.S. Attorney

Re: Troy Fowler, aka;
Varlan Graham, aka - Victim
Civil Rights

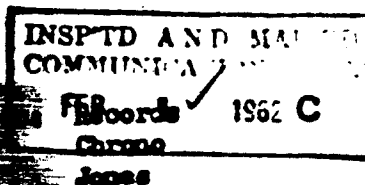
Dear Mr. Lance:

On December 27, 1961, we received from the Federal Bureau of Investigation a memorandum advising that the December 13th Grand Jury investigation in the above captioned matter disclosed a need for the testimony of three additional witnesses who would be called as soon as they could be scheduled.

Please advise us as to whether the Grand Jury has completed its investigation. If so, advise as to its findings. If not, advise as to the cause for the delay.

Sincerely,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division



AIR MAIL
JOHN L. MURPHY, Chief
General Litigation Section

CIVIL RIGHTS DIVISION

Notice to Close File

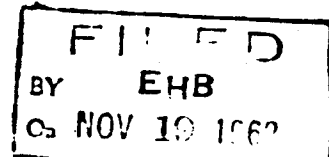
File No. 144-42-282

Date November 8, 1962

Deputy

To: Chief, General Litigation Section BM:GMJ:sab 6818

Re: Troy Fowler;
Verlan Graham, aka Bozo - Victim
Civil Rights



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

Victim was shot and killed by subject, Night Marshal of Gideon, Missouri, after victim had been arrested on a misdemeanor warrant. Subject claimed that victim attempted to escape but witnesses revealed that there had been an argument between the two relative to a personal matter just prior to the shooting.

Subject was indicted February 16, 1962, by a federal grand jury on a charge of violating 18 U.S.C. 242. After his arraignment and entering of a not guilty plea, and prior to trial, the subject changed his plea to nolo contendere. The court accepted the nolo plea over the Government's objection. Subject was placed on probation for two years and assessed costs.

144-42-282
DEPARTMENT OF JUSTICE
NOV 10 1962
Gerald W. Jones
Attorney

To: RECORDS ADMINISTRATION OFFICE BRANCH

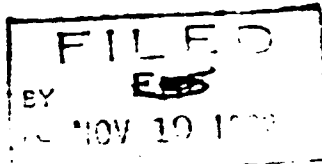
The above numbered file has been closed as of this date

11/9/62
Date

Harold M. Hubbard
Deputy Chief, Gen. Lit. Section

2. 11/9/62

BM:GWJ:sab 9290
144-26-96 **FE 24**



NOV 14 1962

Honorable Alfred W. Moellering
United States Attorney
Hammond, Indiana

Re: United States v. Clinton B. Savage
and William Kennedy, Hammond
Criminal #3285

Dear Mr. Moellering:

This will acknowledge your letter of November 5, 1962, with which you forwarded copies of defendants' Motions for a New Trial in the case of United States v. Clinton B. Savage and William Kennedy, Hammond Criminal # 3285.

Please ascertain whether the Court will require a hearing on the motions. If so, advise us as soon as possible so that we can prepare for argument.

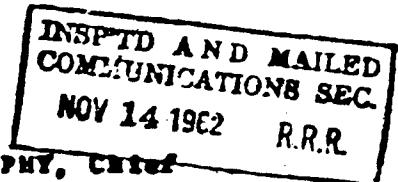
We again wish to thank you and your staff for the cooperation and kindnesses we received while in Hammond.

Sincerely,

cc: Records
Chron
Jones

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

By: JOHN L. MURPHY, Chief
General Litigation Section



5010-104

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Hubbard
Mr. Jones

FROM : John L. Murphy, Chief
General Litigation Section
Civil Rights Division

SUBJECT: Edward L. Rast, et al.;
Charles Edward Spencer - Victim
Civil Rights; Impersonation

DATE: March 15, 1961

JLM:llh 7295
144-55-108

noted

Mr. Doar advised me today that Mr. Marshall had reviewed the request for investigation in the above case and had advised Mr. Doar that the federal agency employing the agents, the Alcohol and Tobacco Tax Division of the Treasury Department, should be apprised of this matter and afforded an opportunity to take whatever action it deemed appropriate in the circumstances before we consider whether prosecution under Section 242 is required.

Accordingly, please advise the FBI to make available to the Director, Alcohol and Tobacco Tax Division, all the reports in this case. Meanwhile, I will contact the Director and request him to advise us of what action, if any, the agency expects to take following review of the FBI reports.*

144-55-108	
DEPARTMENT OF JUSTICE	
24	MAY 8 1961

* I called Dwight Aves this afternoon and told him to expect the reports and to let me know the reaction of his agency after reviewing the reports.

John
3/15/61

Memorandum

TO : The File

DATE: April 21, 1961

FROM : John L. Murphy, Chief
General Litigation Section
Civil Rights Division

JLM:11h 7295
144-55-108

SUBJECT: Edward L. Rast, et al.;
Charles Edward Spencer - Victim
Civil Rights

I received a telephone call from Mr. Bill Kohler (phoenetic) who stated that he was with the Inspection Service of the Treasury Department. The purpose of his call was to advise me of the present status of the above matter. He stated that there had been some delay in handling it because the FBI had supplied the Treasury only a summary of the facts. The Inspection Service, however, regarding it necessary that they have the complete report of the investigation made by the FBI, requested the entire report and now are in possession of same. Upon review of that report, Mr. Kohler has concluded that further investigation by the Inspection Service would not be fruitful. Accordingly, he is forwarding the report to the Regional Commissioner, of Alcohol & Tobacco Tax, at Atlanta since the latter official would have jurisdiction to take disciplinary proceedings against the offending agents. Mr. Kohler plans to advise the Commissioner that, in the event he has any further question or problem concerning the action to be taken by him, he is free to take it up with the Director of Alcohol & Tobacco Tax or other appropriate official at Washington, including the Director, Office of Law Enforcement Coordination, who in turn may wish to communicate further with the Civil Rights Division of the Department of Justice. He will further advise the Commissioner that the Department of Justice desires that consideration first be given to the taking of administrative disciplinary action by the Treasury Department before Justice comes to any conclusion in regard to the necessity of criminal prosecution.

FILE - GWJ

144-55-108	
DEPARTMENT OF JUSTICE	TO
APR 25 1961	
RECORDS BRANCH	

ROUTE SLIP

TO	
NAME	BUILDING AND ROOM
1. <u>Mr. Marshall</u> <i>TM</i>	<i>15162</i>
2.	
3.	
4.	
5.	

<input type="checkbox"/> SIGNATURE	<input type="checkbox"/> COMMENT	<input type="checkbox"/> PER CONVERSATION
<input type="checkbox"/> APPROVAL	<input type="checkbox"/> NECESSARY ACTION	<input type="checkbox"/> AS REQUESTED
<input type="checkbox"/> SEE ME	<input type="checkbox"/> NOTE AND RETURN	<input type="checkbox"/> NOTE AND FILE
<input type="checkbox"/> RECOMMENDATION	<input type="checkbox"/> CALL ME	<input type="checkbox"/> YOUR INFORMATION
<input type="checkbox"/> ANSWER OR ACKNOWLEDGE ON OR BEFORE _____		
<input type="checkbox"/> PREPARE REPLY FOR THE SIGNATURE OF _____		

REMARKS

The attached letter indicates that my informal talk with Bill Crewe, while I was in Atlanta, has borne fruit quickly. Crewe will certainly be a good spokesman for us at the conference with the investigators as he is well acquainted with the law of search and seizure as well as being familiar with the problems encountered by enforcement people in the field.

I spoke with Mr. Douglas, Mr. Sagalyn's deputy, concerning the setting up of a conference to be attended by the representatives of the Treasury investigative agencies. Mr. Douglas suggested that we confer initially with Alcohol and Tobacco Tax and the (over)

FROM		
NAME	BUILDING, ROOM, EXT.	DATE
John L. Murphy		2/5/62

Bureau of Narcotics, then at a later time
have a larger conference at which all of
the agencies would be present. Mr. Douglas
is going to make suitable arrangements for
the initial conference and will advise me
of the details.

A handwritten signature, possibly reading "J. Edgar Hoover", is written in dark ink over the typed text.

DEPARTMENT OF JUSTICE
ROUTING SLIP

TO	
NAME	BUILDING AND ROOM
1. Mr. Marshall	
2.	
3.	
4.	
5.	

<input type="checkbox"/> SIGNATURE	<input type="checkbox"/> COMMENT	<input type="checkbox"/> PER CONVERSATION
<input type="checkbox"/> APPROVAL	<input type="checkbox"/> NECESSARY ACTION	<input type="checkbox"/> AS REQUESTED
<input type="checkbox"/> SEE ME	<input type="checkbox"/> NOTE AND RETURN	<input type="checkbox"/> NOTE AND FILE
<input type="checkbox"/> RECOMMENDATION	<input type="checkbox"/> CALL ME	<input type="checkbox"/> YOUR INFORMATION
<input type="checkbox"/> ANSWER OR ACKNOWLEDGE ON OR BEFORE		
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144-55-108
MAY 1 1962
RECORDS BRANCH

REMARKS

It is somewhat disturbing that the reaction of the Regional Commissioner, Alcohol & Tobacco Tax, Treasury Dept., to the action taken by his agents in this case is almost commendatory. We think the conduct of the agents was close to being outrageous.

While no prosecutive action is recommended, or is indeed feasible because of the overstatement of the complainant, it appears inescapably that the agents stopped this vehicle and searched it without any semblance of probable cause.

Mr. Jones has drafted a letter to Treasury in moderate tones. Mr. Hubbard would be more admonitory. Perhaps you might consider

(over)

FROM	
NAME John L. Murphy	BUILDING, ROOM, EXT. DATE 1/19/62

calling Mr. Sagalyn. I don't think we should acquiesce in the statements made by the Regional Commissioner in any event.