

CIVIL RIGHTS DIVISION

Notice to Close File

MAR 28 2011

File No. 144-2-1431

Date _____

To: Chief, Criminal Section

Re: Marvin L. Segrest (Deceased),
Tuskegee, Alabama;
Samuel L. Younge, Jr. (Deceased) –
Victim
CIVIL RIGHTS _____

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

Case Synopsis

On January 3, 1966, at approximately 11:55 p.m., Samuel Younge, Jr., the 21-year-old African-American victim, was fatally shot by Marvin Segrest, a 68-year-old, white gas station attendant, after an argument over use of a restroom. An autopsy was performed, and the medical examiner concluded that the victim died of hemorrhaging and central nervous system shutdown due to a gunshot wound beneath the left eye.

Shelly Ward
Attorney

To: Records Section
Office of Legal Administration

Date

Chief, Criminal Section

FORMERLY CVR-3

FORM CL-3

The state investigation revealed that the victim was a Navy veteran, a civil rights activist, and a college freshman at the Tuskegee Institute. The shooting touched off a public demonstration in Tuskegee that was attended by approximately 2,000 college students and faculty members. The subject was tried at the state level on charges of second-degree murder and acquitted by an all-white jury in December 1966. According to the subject's death certificate, he died of natural causes in 1986.

Local Investigation and Prosecution

The incident was investigated locally by the Alabama Department of Public Safety (DPS). The subject was interviewed by DPS investigators on January 7, 1966, at the Macon County Jail. The subject refused to give a statement regarding the actual shooting, but told investigators that he had had problems with the victim on several prior occasions. On one occasion, the victim did not pay enough for his gas. The subject stated that when he asked the victim for additional money, the victim threw some money on the ground and said, "There's the goddamn money. You can kiss my goddamn ass." The subject stated that this incident was witnessed by XXXXXX, another service station employee. On another occasion, the station did not have the kind of gas that the victim wanted. The victim became angry upon hearing this, told the subject that he was old, and threatened the subject with physical harm.¹

Several civilians witnessed the shooting and were subsequently interviewed by DPS investigators. Three Tuskegee Institute students witnessed the incident from inside a car at a nearby bus station. XXXXXXXX stated that he borrowed his father's car on the night of the incident and drove XXXXXXXX to the bus station. Their friend XXXXXXXX was also in the car with them. They stated that they arrived at the bus station at approximately 11:45 p.m., and XXXXXX parked near the alley at the west end of the bus station. The victim drove into the station shortly after they arrived. The victim exited his car and said to the subject, "I want to use the restroom," or words to that effect. The subject told the victim that he would have to go around to the back of the station. The victim stated that he was not going around to the back and wanted to use the public restroom inside the station.² The subject asked the victim to leave the station, then drew a silver pistol. The victim

¹ According to media reports, law enforcement officials who were interviewed about the incident stated that the subject was a frail, elderly man who had been robbed the year before while working at another station. The subject had previously complained to the police that the victim had been harassing him at the station.

² The victim appears to have been confused as to whether the restroom inside the station was a public restroom. Witnesses to the incident stated that the victim specifically said that he wanted to use the public restroom inside the station. However, in media reports, law enforcement personnel stated that the restroom inside the station was for employees, and the restroom in back of the station was for public use.

asked the subject if he could get some gas, and the subject replied, "No, just leave and don't come back."

The victim approached XXXXX's car and asked XXXX if he had a gun. XXXXX said that he did not. The victim ran back over to his own car and started arguing with the subject. The witnesses stated that both the subject and the victim were yelling profanities at each other. The subject said words to the effect of, "Come back over onto my property." The victim said words to the effect of, "No, you can't shoot me from here. You can't see me." The victim was ducking up and down behind his car, and the subject was having difficulty taking aim at him. At some point, the victim retrieved a golf club from inside XXXXX's bag. The victim then ran between the bus station and the taxi stand. The subject fired a shot at the victim as the victim was running, but the bullet did not strike the victim. XXXXX stated that he backed across the street to the area of the gas company. The next time he saw the victim, he was coming from around the front of a bus that had pulled into the bus station during the argument. The victim said, "You all stay here. I want you to witness this." The victim then ran towards the bus and yelled to the subject, "I'm going to get on the bus. Come on the bus and shoot me." After briefly stepping onto the bus, the victim ran towards the alley. XXXXX heard a gunshot and saw the victim fall to the ground. As XXXXX pulled away from the scene, he shined his headlights on the victim and saw that he was bleeding and still had the golf club in his right hand.

Tuskegee college students XXXXX, XXXXX, and XXXXX also witnessed the incident from inside their car at the bus station. All three gave accounts that were generally consistent with those of the other three students.

XXXXX, the driver of the bus that he pulled up next to the gas station during the incident, told DPS investigators that he saw the victim take an object (a golf club) out of a small, dark-colored car (XXXXX's car). As XXXX walked towards the gas station, he saw the attendant fire a pistol in the direction of the bus station. XXXXX stated that he did not know what the attendant was firing at. XXXXX went into the public restroom at the rear of the gas station. When XXXXX came out, the subject fired a second shot. XXXXX said, "Pop, don't kill him. You will regret it." The subject replied, "I'm going to kill him. He has harassed and deviled me all the year, and I am sick and tired of it." XXXXX then saw the victim walking from the direction of the highway towards the taxi stand. XXXXX later pulled out of the bus station and saw the victim lying face up on the ground on the east side of the taxi stand.

An autopsy was performed by Dr. Paul Shoffeitt, Director of Toxicology, at the People's Funeral Home in Tuskegee, Alabama on January 4, 1966. The autopsy report states the cause of death as hemorrhage and central nervous system damage from a bullet wound to the head. The external examination revealed a bullet entrance wound 1/2 below the left eye. The internal examination revealed that the bullet entered at a 45-degree angle from the left front ranging toward the right rear. A .38 caliber bullet was recovered from within the occipital bone in the rear of the skull.

In a letter to Captain G.M. Story of the Tuskegee Police Department, Dr. Shoffeitt confirmed that the victim was hit by a single bullet which penetrated the left front of the face at an angle from the left front. The victim then fell or stumbled to the ground and landed on his back after first making contact with his knees and left hand. This is supported by tissue abrasions of the knees and left hand, and the torn fabric on the knees of the victim's pants. At this time, the victim was immobilized from injury to the central nervous system. However, death did not occur instantly, and much of the hemorrhage on the ground, shirt sleeve, right hand, and the golf iron beneath the right arm occurred before death and not as a result of post-mortem gravity flow.

Dr. Shoffeitt wrote that the exact distance of the weapon could not be determined from the medical or physical evidence. However, it can be said that the absence of powder residue puts the weapon at least several feet away from the head of the victim at the time when the fatal bullet was fired. Dr. Shoffeitt stated further that the victim's blood alcohol level of 0.11 percent meant that his judgment, logical reasoning, and emotional stability were definitely impaired.

On January 4, 1966, a warrant was issued for the subject's arrest. He was arrested and jailed on that day, then released on a \$20,000 bond. The subject was indicted on the charge of murder in the second degree by a Macon County Grand Jury. On December 7, 1966, Segreset was tried on the charge of murder in the second degree. On December 8, 1966, an all-white Lee County, Alabama jury returned a verdict of "not guilty" after deliberating for 71 minutes. According to media reports, the trial was moved to Lee County after the trial judge found that the subject could not get a fair trial in Macon County, Alabama because African-Americans outnumbered whites two to one.

Federal Investigation

The Federal Bureau of Investigation (FBI) initiated a review of the circumstances surrounding the victim's death on November 2, 2008, pursuant to the Department of Justice's "Cold Case" initiative, and the "Emmett Till Unsolved Civil Rights Crime Act of 2007," which focuses on civil rights era homicides that occurred not later than December 31, 1969. As part of its review, the FBI obtained the DPS investigative report, the victim's autopsy report, media reports pertaining to the incident, and death certificates for the subject³ and the victim.

A search for records at the Macon County, Alabama Sheriff's Office and the Macon County Circuit Clerk's Office met with negative results. A representative of the Macon County Circuit Clerk's Office advised FBI agents that all records prior to 1976 had been destroyed in a fire. A search of the Lee County Circuit Clerk's Office revealed several handwritten entries, which are detailed below, in the Consolidated Docket and Fee Book concerning the subject.

³ According to his death certificate, the subject died of prostate cancer on April 20, 1986.

The FBI interviewed William M. Russell, Jr., who confirmed that he was a member of the subject's defense team. Russell recalled that the subject was acquitted, which seemed somewhat unusual to him considering the victim was shot in the back of the head which suggests that he was running away from the subject when he was killed.⁴

The FBI also interviewed Fred Gray, Sr., who represented the State of Alabama at the subject's 1966 murder trial.⁵ Gray recalled that the subject was the lone actor and that he was ultimately acquitted on the charge of murder. Both Russell and Gray told the interviewing agents that the subject had died years earlier.

The FBI interviewed Roy E. Corbitt, the owner of a funeral home who was acting as the Macon County Coroner on the night of the victim's death.⁶ Corbitt stated that he responded to the crime scene and pronounced the victim dead. Corbitt also secured the scene until the arrival of the Alabama Department of Public Safety, then released the victim's body to them. Corbitt stated that he was present at the subject's murder trial in Lee County, Alabama, but was never called to the stand to testify.

Legal Analysis

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. The FBI investigation revealed that the subject is deceased and that no other persons were directly involved in the shooting. Therefore, there are no prosecutable subjects in the present case.

Even if the subject were alive, the applicable statute of limitations would preclude his prosecution under the federal criminal civil rights statutes for the killing of Samuel Younge, Jr. 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

⁴ Russell's recollection conflicts with the autopsy report, which states that the victim was shot in the face, not the back of the head.

⁵ Gray told the interviewing agents that he recalled being involved in the case, but did not remember which side he represented.

⁶ Corbitt's father was the appointed Coroner; on this particular night, Corbitt was working in his stead.

statutes to overcome the statute of limitations challenge in certain cases, such as those occurring on federal land and kidnaping resulting in death, the facts of the present case do not lend themselves to prosecution under other statutes.

Accordingly, this matter lacks prosecutive merit and should be closed. AUSA Louis Franklin of the Middle District of Alabama concurs in this recommendation .