

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-19M-1770

06/16/2011
Date _____

To: Chief, Criminal Section

Re: Cal Hall, Jr. (Deceased),
Baker County, Georgia - Subject;
Hosie Miller (Deceased) - Victim
CIVIL RIGHTS

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

Case Synopsis

On March 15, 1965, Hosie Miller, an African-American landowner and successful farmer, was shot and fatally wounded by a white farmer, Cal Hall, Jr. in Baker County, Georgia, as a result of a dispute over some of Hall's cows. The victim died at a hospital in Albany, Georgia on March 25, 1965.

The FBI interviewed Miller's XXXXXXXX, XXXXXXXX, in 2011. XXXXXX stated that in

Cristina Gamondi
Attorney

To: Records Section
Office of Legal Administration

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

Date

Chief, Criminal Section

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March 1965, XXXXXXXX kept several cows in a fenced pasture on his land. The subject also had a number of cows that he kept on his property, adjacent to the Millers's farm. At some point, some of Hall's cows wandered onto the victim's pasture and, on the day of the shooting, Hall and a man named Mel Gray came to the Miller property looking for the cows. Both the victim and the victim's brother, Vernon Hall, were present. Hall tried to take one of Miller's cows and, when Miller objected, Hall drew a gun and shot Miller, fatally wounding him. The victim's brother placed the victim in his car and drove him to the hospital in Camilla, Georgia. The victim was later transferred to another hospital, in Albany, but he died there of his wounds.

XXXXXXX tried to report the shooting to local law enforcement officials but received little help. According to XXXXXXXX, then Baker County Sheriff Gator Johnson was a "mean man," who had no interest in helping African-Americans. XXXXXXXX obtained a warrant from a local judge, Earl Jones, but Hall was never arrested. XXXXXXXX told the FBI in 2011 that Judge Jones (who had since died) approached XXXX several years prior and told XXXX that he had been afraid to send the case to the grand jury and that he was sorry that Hall had never been charged.

According to a July 31, 2010 *Albany Herald* newspaper article, the charges of assault with intent to kill sworn out by XXXXXXXX against Hall did, in fact, go before a grand jury on October 27, 1965, but the grand jury declined to indict him. According to the article, the victim's brother, Walter Miller, also swore out a warrant for murder, on March 24, 1965, the day before the victim died. That warrant was presented on an unknown date as a special presentment before the local grand jury, but was also dismissed. Walter Miller tried again to obtain a murder charge against Hall on January 17, 1966.

According to the *Albany Herald*, on January 25, 1966, famed civil rights attorney C. B. King filed a wrongful death suit on behalf of Mrs. Miller. In the subject's answer to the civil complaint, he reportedly stated that he killed the victim in self-defense. Attorney King tried, unsuccessfully, to have the disproportionately white jury lists redrawn. The civil suit went forward and, on September 12, 1966, the jury delivered a verdict in favor of Hall.

The subject died on June 26, 1976. According to XXXXXXXX, all of the eyewitnesses to the shooting, including Mel Gray and the victim's brother, are deceased. Moreover, Sheriff Johnson is also dead.

Federal Investigation:

In 2010, the FBI opened an investigation into the circumstances surrounding the victim's death, pursuant to the Department of Justice's "Cold Case" initiative and the "Emmett Till Unsolved Civil Rights Crime Act of 2007," which charges the Department of Justice to investigate "violations of criminal civil rights statutes . . . result[ing] in death" that "occurred not later than December 31, 1969." The FBI interviewed XXXXXXXX and a friend of both the victim and subject, XXXXXXXX. The FBI also contacted the Baker County Sheriff and conducted a search of the Baker County Courthouse death records.

The FBI interviewed XXXXXXX, who stated that he was a friend of both the victim and the subject. XXXXXXX was very surprised when XXXX heard that Hall had shot Miller because Miller was very nice and polite. Like XXXXXXX, XXXXXXX stated that Sheriff Johnson was mean. According to XXXXXXX, Johnson disliked both African-Americans and poor white people and had once threatened to kill XXXXXXX because XXXXXXX had voted for someone else in the Sheriff's election.

According to XXXXXXX, after Sheriff Johnson arrested Hall, Hall was transported to the Mitchell County Jail in Camilla, Georgia. Johnson allowed Hall to take a television to the jail and the Mitchell County Sheriff was upset that Hall had received special treatment from Johnson. XXXXXXX could not recall how long Hall was at the jail but it was not a long time.

XXXXXXX stated that shortly after the charges were dropped against Hall, Hall told XXXXXXX that he had shot and killed the victim as a result of a dispute over a cow.

The FBI contacted obtained a copy of Hall's death certificate that indicated that he died on June 26, 1976, at the age of 67.

The FBI contacted Baker County Sheriff Dana Meade, who stated that he conducted a search of both the Sheriff's Office and a warehouse containing old records and did not locate any files pertaining to the shooting.

Legal Analysis

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. First, the federal government cannot prosecute the subject because he is deceased.

Second, 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, including 18 U.S.C. § 242, 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 kidnaping resulting in death, the facts of the present case do not lend themselves to prosecution under other statutes.

Based on the foregoing, this matter lacks prosecutive merit and should be closed. AUSA Sharon Ratley, Middle District of Georgia, concurs in this recommendation.