

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-41-3575

Date: May 09 2011

To: Chief, Criminal Section

Re: Unknown Subject(s),
Brandon, MS - Subject(s);
William Henry Lee (Deceased) -Victim;
CIVIL RIGHTS

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

1. Date of the Incident:
2. Synopsis of the Facts and Reasons for Closing:

A. Overview

At approximately 1:45 p.m. on February 25, 1965, the body of William Henry Lee, the victim, was discovered near railroad tracks between Goshen Springs and Fannin in Rankin County, Mississippi. Lee's death was investigated locally in 1965 by the Rankin County Sheriff's Department (RCSD). Following a complaint filed by the Council of Federated Organizations (COFO), the regional office of the Federal Bureau of Investigation (FBI) also conducted a preliminary inquiry into Lee's death in 1965. Neither investigation revealed any evidence of a civil rights violation.

Katherine Schefflen-Dougherty Attorney

To: Records Section
Office of Legal Administration

The above numbered file has been closed as of this date

5-5-11
Date

Chief, Criminal Section

FORMERLY CVR-3 FORM CL-3

B. 1965 Investigations

a. RCSD investigation

The RCSD investigation revealed that Lee was seen leaving his place of employment, the Storkline Factory, located in Jackson, Mississippi, at 11:30 p.m. on February 24, 1965. Presumably, Lee was en route to his residence in Goshen Springs, Mississippi, located approximately one hour from the factory. According to Weather Bureau Reports, it rained and snowed that evening. Lee did not return home, and his body was discovered at about 1:45 p.m. the following afternoon. RCSD reports indicate that Lee was fully clothed and, aside from a small amount of blood on Lee's lower lip, there was no visible sign of injury. A flashlight identical to the one owned by Lee, which he normally kept in his car, was recovered nearby.

Upon discovery of Lee's body, Dr. Dempsey T. Amacker examined Lee. Dr. Amacker found nothing to indicate that Lee had been the victim of a violent crime and classified his manner of death as "unknown." A coroner's inquest was convened that afternoon and verdict of death by natural causes was returned. Lee's body was embalmed within hours.

Lee's automobile was discovered at 6:00 p.m. the following evening. A broken fan belt was found on the car's front seat, and examination of the car revealed a low battery. RCSD investigators concluded that Lee died of natural causes as he walked along the railroad tracks toward his home in Goshen after leaving his disabled car.

b. FBI investigation

The SNCC and COFO reported Lee's death to federal authorities within days. In response, the Jackson, Mississippi, Division of the Federal Bureau of Investigation opened a preliminary investigation into the matter. A short time later, on April 12, 1965, the FBI received a complaint from the "Scott County Movement" (the complaint) requesting a federal investigation into Lee's "killing."

The complaint included background information about Lee, as well as allegations that the RCSD did not properly investigate Lee's death. Specifically, the complaint indicated that RCSD investigators moved Lee's car before any potential evidence could be gathered. Further, it stated that following a 15-minute coroner's inquest, Lee's body was quickly embalmed before an autopsy could be performed. Contrary to RCSD reports, the complaint indicates that an autopsy was performed on February 26, 1965, after Lee was embalmed, by Dr. William P. Featherstone at the Mapps Funeral Home in Forest, Mississippi. According to the complaint, Dr. Featherstone listed Lee's cause of death as strangulation, probably due to inhalation of gasoline. Like Dr. Amacker, Dr. Featherstone reportedly found no evidence of cuts, bruising, or other trauma, but believed his analysis would have been more thorough had Lee not been embalmed prior to the autopsy.

The complaint also raised the possibility that Lee was targeted because he was mistaken for a civil rights worker. According to the complaint, Lee's car was very similar to a car used by XXXXXXXX, a civil rights worker operating in Rankin County at the time of Lee's death who frequently lent her car to others. The complaint stated that although Lee had no strong commotion to the civil rights movement, he may have been targeted based upon a mistaken belief that he was working with XXXXXXXX.

As part of its 1965 investigation, the FBI reviewed the results of the RCSD investigation and interviewed Rankin County Sheriff T.H. Shivers. Shivers told FBI investigators that Lee's only connection to civil rights activities was his attendance at a meeting regarding voter registration in Rankin County. Additionally, a civil rights worker had contacted Lee at some point in the past regarding civil rights matters. FBI investigative reports indicate that XXXXXXXX stated that they were not aware of Lee participating in any civil rights activities and that Lee had no known enemies.

With respect to the matter of the autopsy, the FBI report contains conflicting information. Contrary to the complaint filed with the FBI by Scott and Rankin County residents, Shivers told FBI investigators that no autopsy was performed. According to Shivers, Dr. Amaker spoke to XXXXXXXX and told them that Lee apparently died of exhaustion or exposure, as there were no marks on Lee's body. Shivers told FBI investigators that XXXXXXXX were satisfied with the results of Dr. Amacker's findings, and did not request an autopsy.

Like the RCSD, FBI investigators concluded that Lee's death was not the result of foul play, and consequently closed the matter.

C. Federal Review

The Federal Bureau of Investigation (FBI) initiated a review of the circumstances surrounding Lee's death in November, 2008, pursuant to the Department of Justice's "Cold Case" initiative and the "Emmett Till Unsolved Civil Rights Crime Act of 2007," which focus on civil rights era homicides that occurred not later than December 31, 1969. The inquiry was conducted based upon a referral from a query of the Mississippi Department of Archives and History (MDAH), MDAH records contained a reference to Lee's death which stated that Lee was found dead on a country road with signs of having been beaten. It also noted that Lee had "attended civil rights meetings." The MDAH reference was included with a Freedom of Information Act (FOIA) request submitted by the Southern Poverty Law Center (SPLC) on April 9, 2003, for FBI records regarding Lee.

As part of its review, the FBI obtained and reviewed the results of the 1965 FBI investigation and conducted an additional investigation seeking information about Lee's death. Federal investigators contacted Lairy McMurtry, Special Assistant Attorney General, Director of Public Integrity, of the Mississippi Attorney General's Office (MAGO) and asked that a query be conducted regarding Lee. McMurtry advised there were no case files or reference to Lee in

MAGO records. FBI investigators also obtained the Mississippi Bureau of Identification (MBI) case report, dated February 25, 1965. The report indicates that following a coroner's inquest, the jury returned a verdict of death by natural causes. Lee's body was then released to XXXXX. According to the report, MBI investigator Rex Armisted contacted Dr. Amacker, who told him that no autopsy was held and that Lee's family was satisfied with the finding of death by natural causes. It states further that when Armisted contacted the RCSD about Lee's death, he was told that there was no evidence of foul play and that Lee's body was sent to a funeral home in Forest, Mississippi. FBI investigators contacted two funeral homes in Forest, Mississippi, in an effort to obtain further information. Neither had any burial records for Lee from 1965.

In February, 2009, the FBI issued a press release soliciting any information concerning Lee's death. The press release was published in local newspapers and aired on television and local radio stations. No information of value pertaining to Lee resulted.

On February 4, 2009, the FBI sent requests by mail to both the Mississippi State Conference NAACP and the SPLC requesting copies of any records relating to Lee, or anything information that could aid in the determination of whether possible suspects could be identified in connection with Lee's death. Neither organization provided any pertinent information in response to the FBI inquiry. Numerous subsequent attempts to obtain information from the NAACP were unsuccessful. On April 3, 2009, a search conducted at the SPLC revealed several documents related to Lee, all of which are consistent with information gleaned from the 1965 investigations. No new information was contained in the SPLC documents.

On March 16, 2009, FBI investigators conducted an online search of materials located in the University of Southern Mississippi (USM) Library, which holds an unprocessed manuscripts collection donated by various persons. The search yielded no materials related to Lee.

On May 26, 2009, FBI investigators requested and subsequently obtained a copy of Lee's death certificate from the Mississippi Department of Vital records. The certificate lists Lee's cause of death as unknown causes, probably freezing by exposure, and under investigation by the coroner.

D. Analysis of Prosecutive Merit

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. There is no indication that Lee died as the result of any criminal civil rights violation, or that the initial investigation was not thorough. While there is conflicting evidence concerning whether an autopsy was performed, the autopsy results reportedly contained no evidence of assault or trauma. Consequently, there is a lack of evidence to disprove the conclusion by local and federal investigators that Lee died of natural causes as he walked along the railroad tracks toward his home in Goshen after leaving his disabled car. Further, Lee was not a member of any civil rights organization, and there is a lack of evidence to support the allegation that Lee was targeted because of his race or based upon a mistaken belief that he was

actively involved in civil rights activities. Accordingly, this matter lacks prosecutive merit and should be closed.

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 lend themselves to federal prosecution under other statutes. Because the available evidence supports the conclusion that Lee died of natural causes and not as the result of foul play, this matter will not be referred to state authorities for prosecutive review. Assistant United States Attorney Glenda Haynes of the Southern District of Mississippi concurs in this recommendation.