

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-40-2145

Date: AUG 13, 2012

To: Acting Section Chief, Criminal Section

Re: Unknown - Subject,  
Clarksdale, Mississippi;  
Booker T. Mixon (Deceased) – Victim;

CIVIL RIGHTS

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

1. Date of the Incident: October 12, 1959
2. Synopsis of the Facts and Reasons for Closing:

The Federal Bureau of Investigation (FBI) opened an investigation into this matter after a query of the Mississippi Department of Archives and History found multiple news articles about the unusual circumstances surrounding the death of thirty-six-year-old Booker T. Mixon

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Christine Siscaretti, Attorney

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To: Records Section  
Office of Legal Administration

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

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Date

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Deputy, Criminal Section

FORMERLY CVR-3 FORM CL-3

(“Mixon”) in Clarksdale, Mississippi. According to the articles, on October 12, 1959, Mixon was found lying unconscious in a ditch near a local road, suffering from numerous injuries. Mixon died eleven days later, without ever having regained consciousness. The coroner’s office ruled that Mixon’s death was the result of a hit-and-run automobile accident.

Numerous people, including Mixon’s relatives, questioned the coroner’s ruling, based on: the extent and nature of his injuries; reports that he was nude at the time that he was discovered; and rumors about a possible motive for his murder. In an article in the *Chicago Defender*, dated October 31, 1959, a doctor who treated Mixon noted that he had multiple abrasions and bruises on his face, head, abdomen, and legs, as well as brain injuries and head fractures. The doctor surmised that these injuries could have been the result of “hav[ing] been dragged by a car, perhaps, over some grass.” According to a November 1959 article in *Jet* magazine, Mixon’s widow believed that Mixon’s body was “mutilated.” Black and white pictures accompanying the *Jet* article depict the unconscious Mixon from the waist up in his hospital bed, with significant burn marks and missing pieces of flesh. In addition, several articles reported that Mixon was nude when Patrolman Ben Collins found him. Further, the media reported that Mixon, who was a truck driver, was found in a ditch just three days after he left one employer to begin working for another employer.

Based on these concerns, Mixon’s family hired attorney James Estes soon after Mixon’s death. Estes asked then- Mississippi Governor J.P. Coleman to investigate the case. He also asked Coahoma Coroner Parnell Birdsong to conduct an autopsy and/or an inquest. However, the state did not open investigation, nor did the county perform an autopsy or an inquest.

### **Federal Review**

In the fall of 2008, the FBI initiated a review of the circumstances surrounding the Mixon’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 obtained the coroner’s report. The FBI interviewed Mixon’s XXXXXXXXXX; people who were in local law enforcement at the time of Mixon’s death; and community members who may have had information about Mixon’s death. The FBI also attempted to identify and interview Mixon’s former employer; the patrolman who found Mixon lying by the side of the road; the doctor who treated Mixon; and the reporter who covered Mixon’s death for the *Chicago Defender*. The FBI also attempted to locate Mixon’s hospital records. Further, the FBI contacted various Mississippi law enforcement and government officials to request searches of the records of the Mississippi Attorney General’s Office, and the Mississippi Bureau of Investigations; conducted an online search of materials at the University of Southern Mississippi Library; searched the records of the Southern Poverty Law Center; conducted a review of microfiche records of the *Clarksdale Press Register*; searched the internet for relevant references and media articles; and sent a letter to the National Association for the Advancement of Colored People requesting information.

### **Coroner's Ruling**

The FBI obtained Mixon's death certificate, which includes the coroner's ruling regarding his cause of death. The certificate states that Mixon died in Coahoma County Hospital on October 23, 1959. The cause of his death was listed as a cerebral contusion resulting from the trauma of an automobile accident that occurred eleven days earlier. In a section of the coroner's ruling that requests details of deaths from traffic accidents, the doctor's handwritten notes indicate only that Mixon was brought to the hospital in a coma, that he had no history other than being found by the side of the road, and that he had "apparently" been struck by a car. The FBI inquired about the existence of any additional coroner's office records regarding Mixon's death. However, according to a 2009 interview with the then-county coroner, he did not have any records prior to 1966.

### **Interviews of Family Members**

Mixon XXXXXXXX, XXXX, and his XXXXXXXX, XXXX and XXXX, were interviewed separately by the FBI in October 2009. All XXXXX stated that the family believed rumors that Mixon was killed in retaliation for leaving one employer to work for another. XXXXX stated that Mixon was driving trucks for a white man in 1959, whom he then stopped working for in order to take a position with a different company. XXXXX heard rumors that the white man that Mixon originally worked for got a couple of black men together to go drinking with Mixon in order to get him drunk. Once he was drunk, they took him out to the country. Later that same night, Mixon was found and brought to the hospital. XXXX did not know the name of the white man, but thought that he might possibly have lived in Greenwood, Mississippi. According to XXXX, the rumor was that Mixon had been pulled behind a truck. XXXX further stated that Mixon had been driving for Jimmy Green Plantation, which he left to drive for the Gills family. However, XXXX advised that Jimmy Green is deceased. None of Mixon's XXXX indicated the source of the rumors regarding XXXXXXXX alleged retaliatory murder.

Mixon's XXXXXXXX also discussed the extent of Mixon's injuries. According to XXXX and XXXX, Mixon's mother went to the hospital to see Mixon the night that he was taken to the hospital. The mother told them that she examined Mixon, and saw that his "privates" had been cut off, and that his intestines were laying outside of his body "as if they had been pulled out of his behind."

### **Mixon's Employers**

As noted above, in XXXXX 2009 interview, XXX stated that Mixon had been driving trucks for Jimmy Green Plantation, but quit shortly before his death to drive for the Gills family. XXXX also indicated that Jimmy Green was deceased. The FBI was unable to identify and locate a company by the name of Jimmy Green Plantation. The FBI was also unable to identify or locate a member of Jimmy Green's family or the Gills family.

Contrary to the recent information from XXXXX, the 1959 *Chicago Defender* article identified Mixon's former boss as J.A. Childs. Further, the article stated that Childs went to Mixon's home on the night that he was found in the road and informed Mixon's aunt that he had

died, even though he was then still alive but unconscious at the hospital. However, the FBI was not able to identify a person by the name of J.A. Childs who was the employer of Mixon.

As part of its search for J.A. Childs, the FBI attempted to locate and interview *Chicago Defender* reporter Burleigh Hines about the sources of his information. However, the FBI verified that Hines died in November 2009. The FBI interviewed Hines XXXXXX, who stated that XXXXXX never spoke to XX about his article about Mixon. XX searched through his personal collection of articles, story by-lines, handwritten notes, and other documents, but was not able to locate any material prior to 1966. XXXX stated that in the early 1960s, Hines was living with his first wife, who is now also deceased, when their basement flooded, destroying his collection of notes and writings. In addition, the FBI attempted to locate J.F. Estes, the lawyer for the Mixon family, but the FBI learned that Estes is also deceased.

### **Interviews of Law Enforcement Officers**

According to several newspaper articles, Patrolman Ben Collins of the Quitman County Sheriff's Office found Mixon by the side of the road, and thus would be able to describe Mixon's initial condition, including the extent and location of his injuries and whether he was, in fact, nude as he lay at the side of the road. However, several state officials as well as Collins's XXXXX, XXXXXX, have confirmed that Ben Collins is deceased. XXXX further told the FBI that XX was not familiar with the death of Mixon, and that Ben Collins never spoke to him about it.

The FBI identified and interviewed several individuals who were working in law enforcement at the time that Mixon was killed to see if they had any information regarding Mixon's death, and, in particular, if Collins had shared any relevant information with them. However, none of the individuals knew about the circumstances surrounding Mixon's death.

### **Interviews of Other People in Community**

In addition to former law enforcement officers, the FBI interviewed several Clarksdale, Mississippi residents with long-standing ties to the community, including a former county clerk and two business owners. However, no one that the FBI interviewed recalled Mixon's death.

### **Search for Hospital Records**

The FBI attempted to retrieve Mixon's hospital records from Coahoma County Hospital. The FBI spoke with a Medical Records Specialist at Northwest Mississippi Regional Medical Center ("Northwest") in Clarksdale, who stated that Northwest took control over Coahoma County Hospital. However, the Medical Records Specialist noted that Northwest only retains patient records for a period of ten to fifteen years. As part of the normal course of its business, Northwest destroys records that are more than fifteen years old.

In addition, the FBI attempted to locate Dr. Joseph Jones, who was quoted in the 1959 *Chicago Defender* article by Burleigh Hines. In the article, Dr. Jones noted that Mixon had multiple abrasions and bruises on his face, head, abdomen, and legs, as well as brain injuries and

head fractures, and he surmised that these injuries could have been the result of “hav[ing] been dragged by a car, perhaps, over some grass.” However, the FBI verified that Dr. Jones and his wife last resided in Clarksdale, Mississippi in 1967. According to community members, Dr. Jones has since died.

### **Search of Databases**

The FBI’s search of the records maintained at the Southern Poverty Law Center produced Burleigh Hines’s October 31, 1959 article in the *Chicago Defender*, and two articles from the *Pittsburgh Courier* from November 1959. The FBI’s search of microfiche records of the *Clarksdale Press Register* found three references to Mixon: one indicating that he had been admitted to the Coahoma County Hospital; a second stating that he was critically ill; and a third reporting his death as a result of a hit-and-run accident. The FBI’s request for records from the following offices were met with negative results: the Quitman County Sheriff’s Office; the Mississippi Attorney General’s Office; the Mississippi Department of Public Safety; the University of Southern Mississippi Library; and the National Association for the Advancement for Colored People.

### **Legal Analysis**

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. First, no subject or witness has been identified. Second, even if a living subject could be identified, there is insufficient evidence to prove that Mixon’s death violated a federal criminal civil rights statute that was in effect in 1959. For example, there is no evidence that a subject acted under color of law, pursuant to 18 U.S.C. § 242, that a subject conspired with another person or persons to deprive Mixon of a federal right, as required by 18 U.S.C. § 241, or that the subject used force to willfully kill Mixon because of Mixon’s race and because Mixon was enjoying private employment, in violation of 18 U.S.C. § 245(b)(2)(C).

Additionally, even if it were possible to locate evidence indicating that the victims were murdered and their murderers were identified, 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). 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 those involving kidnapping resulting in death. However, 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. Additionally, because no subjects have been, or are likely to be identified, this matter will not be forwarded to the state for prosecutive review.