

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 175-41-214

Date APR 16 2010

To: Chief, Criminal Section

Re: Raiford Walton (Deceased),
Benton, Mississippi - Subject;
Charles Brown (Deceased) - Victim
CIVIL RIGHTS

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

Case Synopsis

On June 18, 1957, Charles Brown, an African-American Air Force Airman, home on leave, was fatally shot by Raiford Walton, the subject, in the home that Walton shared with XXXXXXXX XXXXXXXX in Benton, Mississippi. The subject, then a 50-year-old farmer, who had been previously incarcerated for the manslaughter of his son-in-law, admitted that he shot the victim in the heart with a shotgun as the victim sat in XXXXXXXX dining room. The victim, who was a long-time acquaintance of XXXXXXXX and had worked as a farmhand for XXXXXXXXXXXX, was invited to dinner on the night of the shooting. Walton claimed that he shot the victim because the victim had been "too friendly" with XXXXXXXX while XXXXXXXX was out of town.

Cristina Gamondi
Attorney

To: Records Section
Office of Legal Administration

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

4-16-2010

Date

Chief, Criminal Section

The subject died on July 14, 1965.

Local Investigation

The shooting was investigated by the Yazoo County Sheriff's Office (YCSO) and Yazoo County District Attorney Griffin Norquist. According to a *Jet Magazine* article, dated November 7, 1957, and a *Jackson Daily News* article, dated October 24, 1957, a local grand jury failed to indict the subject for the shooting. The *Jet Magazine* article stated that Walton gave no reason for the shooting and the *Jackson Daily News* article stated merely that Walton shot the victim when Walton found him sitting in the kitchen of XXXXXXXXXX.

Federal Review

In the fall of 2008, the Federal Bureau of Investigation (FBI) initiated a review of 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 case agents interviewed XXXXXXXX, the victim's XXXX; XXXXXXXXXX; and the subject's XXXXXXXX. The FBI also contacted various Mississippi law enforcement and government officials; conducted searches of the Mississippi Department of Archives and History (MDAH), the archives of the *Yazoo City Herald*, the University of Southern Mississippi library records, and the internet for relevant references and articles; sent letters to both the Southern Poverty Law Center (SPLC) and the NAACP requesting information; and solicited information about the case via a press release that was published in local newspapers and broadcast on local television and radio stations.

XXXXXXX, the victim's XXXXX, told the FBI case agents that XXX was not present at the XXXXX home on the night of the shooting. XXXXXX stated that XXX had heard from an unidentified source or sources that the subject had caught the victim and XXXXXX "in some action" and decided to lure the victim to the XXXXXX home to kill him. The victim was invited to dinner by XXXXXXXX on the night of his death. Also present were XXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX. XXXXXX told XXXXXXXX that the subject had knocked on the door and when XXXXXXXX opened it, Walton entered and shot the victim with a shotgun. XXXXXXXX stated that XXX was left out of any prosecution efforts.

XXXXXXX told the FBI case agents that XXX was in the XXXXX home when Walton entered the kitchen and shot the victim, who was sitting at the table, with a shotgun, then ran out of the home. XXXXXX stated that XXXXX other XXXXX, XXXXXXXX, was also in the XXXXXXXX residence at the time of the shooting. XXXX did not comment on the failure of the local grand jury to indict Walton.

The FBI case agents contacted XXXXXXXXXXXXXXXX, who stated that although XXXX was still alive, XXX was too critically ill to be interviewed. XXXXXXXX confirmed XXXXXXXX statement that XXXX was XXXXXXXX and at the XXXXX residence at the time of the shooting.

XXXX also told XXXXX that XXX thought it a shame that the murder had been covered up.

XXXXXXXXXXXXXXXXXXXXXXXXX all stated that the subject was deceased. XXXXXXXXX both stated that the subject had been buried at the Shiloh Cemetery in Benton, Mississippi. The FBI case agents contacted XXX. XXXXX at the Shiloh Cemetery, who stated that he had no record of the subject being buried there. XXXXX also stated, however, that he only began maintaining a list in the late 1980's and, therefore, Walton could have been buried there without it being recorded. A search of the Mississippi Bureau of Vital Records revealed no death certificate for the subject.

In September 2009, the FBI contacted XXXXXXXXXXXXXXXX in Canton, Mississippi, and obtained a death certificate for a Raiford Walton, indicating that he died on July 14, 1965.

The FBI case agents interviewed Yazoo County District Attorney Griffin Norquist, who was shown a newspaper article and photographs of the subject and victim, but could not recall the shooting. Norquist stated that the Yazoo County Clerk informed him that there would not be any court dockets related to the shooting because there had not been an indictment. The FBI case agents also contacted officials at the YCSO, the Mississippi Bureau of Investigation, the Mississippi Attorney General's Office, and the Yazoo City Police Department, and determined that none of those agencies had any records pertaining to the matter.

According to a number of contemporaneous newspaper articles, in April 1936, the subject shot and killed his son-in-law, R.D. Exum, after a family quarrel. The articles indicated that he was convicted of manslaughter and sentenced to 10 years in prison.

Legal Analysis

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. First, it is extremely likely that the subject is already deceased. Three of the subject's relatives stated that he is dead and the absence of the subject's name from the list of buried at Shiloh Cemetery does not exclude his having been buried there. Moreover, since the subject was 50 in 1957, he would now be 102 years old if he were still alive.

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. § 245, 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. Additionally, because the subject is deceased, this matter will not be forwarded to the state for prosecutive review. AUSA Glenda Haynes, Southern District of Mississippi, concurs in this recommendation.