



U.S. Department of Justice
Civil Rights Division

RM:PP:CG
144-36-089

Criminal Section - FBI
920 Pennsylvania Avenue, NW
Washington, DC 20530

MAY 27 2011

[Redacted]
Cincinnati, OH 45237

Dear [Redacted]:

We are writing to inform you that the Department of Justice and the Federal Bureau of Investigation (FBI) recently conducted a review of the circumstances surrounding the death of your [Redacted] Collic Hampton, on August 14, 1965. We regret to inform you that we are unable to proceed further with a federal criminal investigation of this matter because the applicable five-year statute of limitations has expired and because, even if not barred by the statute of limitations, there is insufficient evidence to prove a violation of the relevant federal criminal civil rights statutes, beyond a reasonable doubt. In addition, the individuals implicated in your [Redacted] death were tried and acquitted of this crime in state court, which bars further state prosecution. Please accept our sincere condolences on the loss of your [Redacted].

Over the last 50 years, the Civil Rights Division of the Department of Justice has been instrumental in bringing justice to some of the nation's most disturbing civil rights crimes. Today, the Division continues to use its resources and expertise to identify, locate, and, where possible, prosecute those responsible for committing racially-motivated crimes committed more than 40 years ago.

In 2006, the FBI began its "Cold Case Initiative" — a comprehensive effort to identify and investigate racially-motivated murders committed decades ago. Toward that end, each of the 56 FBI field offices searched their "cold case files" to identify incidents which might be ripe for investigation. In February of 2007, the FBI announced the next phase of the initiative, which includes a partnership with the National Association for the Advancement of Colored People (NAACP), the Southern Poverty Law Center (SPLC), and the National Urban League to assist the FBI in identifying additional cases for investigation and to solicit their help. In October 2008, the "Ernest Till Unsolved Civil Rights Crime Act" ("Ernest Till Act") became law giving the Department of Justice additional tools to investigate "violations of criminal civil rights statutes . . . result[ing] in death" that "occurred not later than December 31, 1969."

cc: Records Chrono 5/18/11

[Redacted]

The federal review concerning your [redacted] death was begun pursuant to the Cold Case Initiative and the Emmett Till Act. This review was conducted by FBI Special Agents and an experienced "cold case" civil rights prosecutor. We have now concluded that review and wish to inform you in writing of our findings.

As part of its review of the circumstances of your [redacted]'s death, the FBI obtained the investigative materials pertaining to the local investigation by the Kentucky State Police (KSP); Clark Circuit Court and Eastern District of Kentucky District Court records, and a number of contemporaneous *Winchester Sun* newspaper articles. The FBI also conducted searches of DMV records.

According to our review, on August 14, 1966, at about 2:00 a.m., Winchester, Kentucky, Police Department (WPD) [redacted] and [redacted] followed your [redacted] Collier Hampton, into his home with their guns drawn, reportedly to arrest him for "breach of the peace." The officers claimed that as Mr. Hampton retreated into his home, he kept his right hand in his pants pocket and threatened to shoot them if they entered his home. According to the officers, [redacted] slipped Mr. Hampton, while [redacted] maneuvered behind Mr. Hampton. Mr. Hampton then grabbed [redacted] gun hand, whereupon [redacted] yelled "he has my gun" and [redacted] fired a shot aiming at Mr. Hampton's legs, but wounding [redacted] in his left hip, instead. Upon hearing the shot, [redacted] and [redacted] fired at Mr. Hampton, fatally wounding him in the chest. (b)(7)(C)

At the request of WPD [redacted] the KSP initiated an investigation within an hour of the shooting. [redacted] and [redacted] were arrested the night of August 15, 1966, and [redacted] the next day; all four officers were released on \$5000 bonds.

An autopsy, conducted on August 14, 1966, at the University of Kentucky Medical Center in Lexington, Kentucky, determined that you [redacted] had four gunshot wounds to the chest - two entrance wounds and two exit wounds.

On August 26, 1966, a local Coroner's Inquest returned a verdict of homicide, having concluded that Mr. Hampton had died as a result of a gunshot wound to the heart; the jury did not determine who had fired the fatal shot.

[redacted] assisted in the state prosecution of the attacks. The officers were indicted on September 14, 1966 on state murder charges.

The local trial started on December 13, 1966 in the 11th Judicial District. All four officers testified, and gave accounts as described above. A civilian witness testified that Mr.

Hampton shot his front door and the officers kicked the door open. As the witness stood in the doorway of Mr. Hampton's home, she saw [redacted] slap Mr. Hampton, who then grabbed [redacted]. The witness heard a gunshot and say [redacted] fall to the floor. The witness left and immediately heard two gunshots.

A second civilian witness testified that [redacted] told Mr. Hampton that he had a warrant for his arrest (when in fact, he had not). Although it is not clear whether he testified as much at the trial, according to an August 26, 1966, *Wichita Sun* newspaper article, the second witness had previously testified at the Coroner's Inquest that he too was in the doorway of Mr. Hampton's home when [redacted] was shot and, like the first civilian witness, left immediately and did not witness the victim's shooting.

Additionally, the prosecution calls [redacted] who testified he had found a closed packet knife in Mr. Hampton's right front pocket. A KSP Laboratory Chemist testified that Mr. Hampton's BAC was 0.28%. A KSP firearms examiner testified that the three bullets recovered by investigators were not identified to be definitively matched to any particular firearm, and that [redacted] gun had not been fired. On December 16, 1966, the jury acquitted the officers.

As you know, in March 1967, [redacted] filed a federal civil suit [redacted]. On March 28, 1968, following a two-day trial, the federal jury returned a verdict in favor of the officers.

After careful review of this incident, we have concluded that the federal government cannot now bring a prosecution against the officers who killed you. First, prior to 1994, federal criminal civil rights violations were not capital offenses, thereby subjecting them to a five-year statute of limitations. 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. 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. 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 your [redacted] case do not lend themselves to prosecution under other statutes.

Furthermore, because the officers involved in your [redacted]'s death have already been tried and acquitted for this crime in state court, jeopardy has attached and they cannot be retried in state court.

Accordingly, we have no choice but to close our investigation.

We regret that we cannot be of further assistance to you. Again, please accept our sincere condolences for the loss of your [REDACTED]

Sincerely,

Paige M. Fitzgerald
Deputy Chief in Charge of the Cold Case Initiative