

The Della McDuffie Case

A Legal History



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I. Introduction

On the evening of April 25, 1953 Della McDuffie, sat in her wheelchair watching the crowd at Della's Place, the café which was attached to her home in Wilcox County, Alabama.¹ Della, then age 63, and her husband Will "Snowball" McDuffie were co-owners of the café. About midnight the Wilcox County Sheriff, Columbus "Lummie" Jenkins, entered Della's Place with two highway patrol officers.

Shots were fired and patrons were hit with a blackjack, a long black weapon that resembled a rubber hose. People scattered in all directions to exit the café, but Della McDuffie was paralyzed and could not run. During the chaos she was left behind in her wheelchair and beaten with the blackjack. When her husband entered the café, he found her vacant-eyed and dazed. Her left arm was limp, an indication of broken bones. Soon thereafter, at 1:07 a.m. Della McDuffie died only 25 or 30 minutes after being beaten. Right after she died, her husband observed blood running out of her right ear down the side of her face. Her death certificate states that she died from a pre-existing blood condition.

Responding to a request from the Mobile branch of the NAACP, Attorney Thurgood Marshall brought Della McDuffie's case to the attention of the Civil Rights Section of the U.S. Department of Justice. On September 25, 1953, after three months of investigating the Department of Justice concluded that there had been "no violation of the Civil Rights statute," and wrote a letter to inform Attorney Marshall that it would take no action.

This essay reviews the investigation conducted by the Department of Justice and the FBI and reaches the conclusion that, despite the DOJ decision not to take action, criminal charges were warranted by the evidence from the investigation. It also reflects on the persistence of

¹ Papers of the NAACP Part 8. Discrimination in the Criminal Justice System, 1910-1955. Series B: Legal Department and Central Records, 1940-1955. Frame #155-181.

stories about law enforcement abuse in the death of Della McDuffie in her community, and how the unresolved deaths of African Americans shape community perceptions of justice.

II. Wilcox County 1953

Wilcox County in the midst of the Black Belt in Alabama was predominantly populated by African Americans in 1953 and remains so today. The county population was 80% African American at the time of the first significant post-reconstruction voter registration drive in 1965.² This Deep South region had superior soil for growing cotton and other crops, and thus many plantations, along with many slaves once populated the area.³ The county is known, as well, for the deeply embedded racism that has shaped relations between whites and African Americans ever since Wilcox County was, in 1819, carved out of the Creek Indian lands ceded to the United States in the 1814 Treaty of Fort Jackson.⁴

Racial hostilities were likely deeper in this region where white people were vastly outnumbered by their slaves and therefore fearful of slave rebellions.⁵ Fueled by this fear, whites clung to a racial caste system that placed white people in a superior political, economic, and social position over the African American residents. In order to maintain the caste system, any infraction could be, and often was, defended by violent displays of dominance on the part of white individuals.⁶

A perceived infraction of the caste system could come in many forms.⁷ In 1928, a white man was stealing the mail of an African American family in Possum Bend in the county. The African American family reported the theft to two local white ministers, who then complained to

² Fleming, Cynthia G. *In the Shadow of Selma: The Continuing Struggle for Civil Rights in the Rural South*. Lanham, Maryland: Rowman & Littlefield Publishers, Inc., 2004. XVI.

³ *Supra*, pp. 1-2.

⁴ *Supra*, p. XVIII, 1.

⁵ *Supra*, p. 4.

⁶ *Supra*, pp. 4-5, 7, 12-13, 93.

⁷ *Supra*, p. 90.

the sheriff on the family's behalf.⁸ When the thief learned that the African American family had complained, he decided to "teach those uppity black folks a lesson."⁹ Two nights later, the mail thief brought a group of his friends to the home of the African American family. As the men piled out of the car, they were deterred from doing serious violence by the clicking sound of gun hammers wielded by friends of the family, who were were keeping watch on the house.¹⁰ No one was hurt that night, a rare victory.

No matter their age or gender, African-Americans who defied the code of racial hierarchy and etiquette did so at their peril. At a five-and-dime store in Camden, the county seat, in 1935, Nellie Abner, an African American woman, observed the store owner viciously kick an older African American customer because the woman had said yes to him instead of "yes sir."¹¹

White supremacy was often violently enforced in even more sinister ways. In the 1940s, William Martin, also an African American, was pulled over by a policeman for making moonshine. The officer opened Martin's door and dragged him out of the car without conducting a search. He told Martin, "Nigger, we[re] gonna take you to jail, and we[re] gonna kill you tonight."¹² The victim's wife, who had been in the car with Martin, drove to the home of her husband's boss to plead for help. The boss agreed to help, but as Mrs. Martin drove home, she passed the jail and quickly realized it was too late. A large crowd had gathered, and she could hear bystanders bragging that they had killed her husband.¹³

Della McDuffie was killed in 1953. The 1950s marked a difficult era for African American residents of Wilcox County, for there, as elsewhere around the country, white

⁸ Supra, p. 90.

⁹ Supra, p. 90.

¹⁰ Supra, p. 91.

¹¹ Supra, p. 94.

¹² Supra, p. 104.

¹³ Supra, p. 105.

supremacy was under challenge.¹⁴ Several trends contributed to heightened racial tension: the New Deal policies of the 1930s had drawn the attention of the federal government to the extreme poverty of African Americans in the Deep South and the need for a national solution. World War II had inspired many returning veterans to fight for equal rights after they had put their lives on the line to defeat Nazism, and the war also highlighted the irony of making the world safe for democracy when grave racial injustices were taking place in the South. Moreover, the NAACP had begun to win important legal battles, including as *Brown v. Board of Education*¹⁵ in 1954. In addition, President Eisenhower had begun to use the power of the federal government to address racism and had initiated and signed the Civil Rights Act in 1957.¹⁶

Residents of Wilcox County knew that the racial environment was changing. Among white people, this created fear and a desire to cling ever more desperately to segregation and the system of superiority that so benefitted them.¹⁷ White law enforcement officials in Wilcox County, like others elsewhere in the South, used their powers to ensure that African Americans followed the rules and roles assigned to them. “The sheriff was the one county official with whom black residents routinely had contact. He had the right to come into their neighborhoods at any time, and his word could mean the difference between freedom and incarceration, or even life and death.”¹⁸

P.C. “Lummie” Jenkins was the Sheriff of Wilcox County, Alabama, for 32 years. He held this position for eight consecutive terms between 1939 and 1971. According to Mr. Prince Arnold, the man who served as the sheriff of Wilcox County for 32 years after Jenkins was

¹⁴ Supra, pp. 120, 123, Prince Arnold. Interview by CRRJ Investigator, excerpted in "The Trouble I've Seen." Northeastern University, correspondent. *Campus Perspectives*. 22 Jan. 2013, accessed Sunday July 12, 2015 from NBC Learn: <https://archives.nbclearn.com/portal/site/k-12/browse/?cuecard=65676>. According to Prince Arnold, it was “very tough” in the early 1950s. Mr. Arnold served as the sheriff of Wilcox County for 32 years.

¹⁵ *Brown v. Board of Education*, 347 US 483.

¹⁶ Supra, p. 99, 101-102, 120. P.L. 85-315

¹⁷ Supra, pp. 124, 128

¹⁸ Supra, (Selma), p. 144.

defeated, Jenkins was known across Alabama for the way that he enforced the law in Wilcox County. “And it wasn’t too pleasant the way he did it... He did it his way. Not so much how the law said do it, but he did it his way. And to me, if you do it your way, it’s not the right way, many times...But state-wide ... this man, Lummie Jenkins, was known for the way he enforced law here in Wilcox County. And he did it with an iron hand, an iron fist.”¹⁹

III. Della McDuffie’s Death

Della and Will McDuffie lived in a town called Alberta located in Wilcox County, Alabama.²⁰ Their home was located on U.S. Highway No. 5 about 1000 yards east of the Southern Railroad Depot in town.²¹ At the time of Sheriff Lummie Jenkins’ raid on April 25, 1953, they had been operating a small café called Della’s Place from their living quarters for five years.²² Della’s Place served food and non-alcoholic drinks after the beer joints in neighboring Dallas County closed down.²³

The McDuffies’ only child, a son named James D. McDuffie was a World War II Veteran.²⁴ He owned a number of businesses, including a movie theater for African Americans. It was customary for patrons to head over to Della’s Place after leaving the theater or one of James’ other businesses.²⁵ On the night of Della McDuffie’s death, the cafe was filled with young patrons who had come over after seeing a movie at James McDuffie’s theater.²⁶

¹⁹ Id.

²⁰ Papers of the NAACP Part 8. Discrimination in the Criminal Justice System, 1910-1955. Series B: Legal Department and Central Records, 1940-1955. Frame #155-181.

²¹ Id.

²² Department of Justice documents on file with the Civil Rights and Restorative Justice Clinic, Will McDuffie interview July 6, 1953.

²³ Della McDuffie (namesake of Della McDuffie), interview Dec. 7, 2012, on file with the Civil Rights and Restorative Justice Clinic.

²⁴ Id.

²⁵ Id.

²⁶ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic.

That night Sheriff Jenkins, Deputy Sheriff Edwin Tait, Special Deputy Robert O. Spencer, Highway Patrolman Eugene Clements, and Highway Patrolman Don C. Kimbro set up patrol in Alberta.²⁷ They began checking cars at 11:00 P.M. initially focusing on the vehicles at a fork in the road heading into Alberta, where they arrested several drunk drivers.²⁸ Sheriff Jenkins had previously told the McDuffies to close down at 12:00 A.M. because they were not allowed to be open on Sundays.²⁹ The Sheriff alleged that, although they had been following his request, they began staying open late again and the neighbors had made complaints about the late hours.³⁰

Inside the café, Della McDuffie was sitting in the back near the heater with her uncle, John Edwards.³¹ Will McDuffie was working in the back of the café that evening when one of his employees, Hattie Hudson, told him that it was six minutes after 12:00 A.M.³² He told her to ask her father to turn off the Rockola when he was informed that someone wanted to see him.³³

Although there are some inconsistencies in witness accounts regarding what occurred after 12:06 A.M.,³⁴ it is clear that Sheriff Jenkins entered Della's Place and was assisted by at least two police officers.³⁵ Shots were fired and Sheriff Jenkins swung a blackjack at some patrons in the café.³⁶ Patrons scattered all over the place to exit the café. Some hid until it was safe to leave.³⁷

²⁷ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, P.C. Jenkins Interview July 9, 1953

²⁸ Id.

²⁹ Id.

³⁰ Id.

³¹ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, John Edwards Interview July 8, 1953.

³² Will McDuffie Interview, Supra.

³³ Id.

³⁴ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic.

³⁵ Department of Justice Documents on file with the Civil Rights and Restorative Justice, Robert O. Spencer Interview July 9, 1953 and Don C. Kimbro Interview July 10, 1953.

³⁶ Department of Justice Documents, Supra.

³⁷ Id.

Will McDuffie said that he never got to see whoever wanted him that evening because of the commotion and people running around.³⁸ When he entered the café, he saw Sheriff Jenkins in the back near his wife and then observed him hit two patrons with the blackjack.³⁹ Will went to turn off the Rockola and then took care of his wife.⁴⁰

When Robert Russell helped Will pick Della up and bring her into the bedroom, she told them that she had been hit.⁴¹ Will said to his wife, “Sure Mr. Lummie didn’t hit you?” She confirmed that he had.⁴² She told her husband that the Sheriff had ordered her to get up and get in the bed. When she said she couldn’t get up, he hit her.⁴³

Subsequently Will and Robert Russell placed her in the bed and sent Oscar Hudson to get the town doctor.⁴⁴ Just before her death, Will observed blood running from Della’s left ear.⁴⁵

Hudson and Robert Brown went to Dr. R.E. Dixon’s house to tell him that Will McDuffie’s wife needed help.⁴⁶ They told him that they did not know what was wrong with her but she was in her bed.⁴⁷ Doctor Dixon’s first observation of Della McDuffie was that she was dying because she was short of breath with almost no pulse.⁴⁸ The doctor asked for someone to go get some hot water. Before they could leave the building, Della McDuffie took her last breath and passed

³⁸ Will McDuffie Interview, Supra.

³⁹ Id.

⁴⁰ Id.

⁴¹ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Robert Russell Interview July 7, 1953.

⁴² Will McDuffie Interview, Supra.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Will McDuffie Interview, Supra.

⁴⁶ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Oscar Hudson Interview July 7, 1953.

⁴⁷ Id.

⁴⁸ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Robert E. Dixon Interview July 6, 1953.

away at 1:07am on April 26, 1953.⁴⁹ She was buried at Glover's Church near Consul, Alabama in Marengo County.⁵⁰

At the behest of Sheriff Jenkins, Captain Baker, a Selma police official and two other law enforcement officials visited Mr. Lewis to examine the body of Mrs. McDuffie in the week after her death. Their purpose was to determine whether an autopsy was necessary, i.e. whether there had been foul play that would call for further investigation. Captain Baker reported to the FBI, as well as to Sheriff Jenkins, that he saw no evidence of cuts, bruises, broken bones or injuries of any kind. No autopsy was conducted at that time.

IV. The Department of Justice Investigation

After his wife's death, Mr. McDuffie and his son, Jimmie McDuffie, visited the office of the National Association for the Advancement of Colored People (NAACP) in Mobile, Alabama, where they spoke with the branch secretary, John LeFlore. Mr. LeFlore helped Mr. McDuffie prepare an affidavit describing the events on the night of his wife's death. Following this, Mr. LeFlore contacted Attorney Thurgood Marshall, who was then chief counsel for the NAACP, seeking advice about what steps his office should take next. In his letter, Mr. LeFlore expressed the hope that the Department of Justice (DOJ) would conduct more than a routine investigation and would take steps to prosecute. He indicated that if the DOJ merely conducted cursory investigations as it had in the past, this would serve to weaken confidence in the justice system nationwide.

Attorney Marshall forwarded the McDuffie affidavit to the Civil Rights Section of the Department of Justice (DOJ) and requested the DOJ's assistance in helping Mr. McDuffie

⁴⁹ Id.

⁵⁰ Id.

redress the wrong done to him and his family. He asked for an official investigation to determine whether there had been a violation of the civil rights statutes. The DOJ acknowledged Marshall's request and conducted an investigation with the help of the Federal Bureau of Investigation (FBI).

Two Special Agents from the FBI interviewed 26 people who were present the night Mrs. McDuffie was killed, including Willie McDuffie, Dr. Robert Dixon, who treated Mrs. McDuffie on the night in question, E. L. Lewis, the director of the funeral home where Mrs. McDuffie's body was examined and prepared for burial, and Captain J. Wilson Baker, a police officer from Selma, Alabama, who examined Mrs. McDuffie's body at the funeral home. These same agents then interviewed the law enforcement officers who were present that night: Sheriff Lummie Jenkins, Chief Deputy Sheriff Edwin Tait, Special Deputy Robert Spencer, Alabama Highway Patrolman Eugene Clements and Alabama Highway Patrolman Don Kimbro. They also investigated the crime scene ("Della's Place") and took pictures of what they found.

The investigators concluded that on April 25, 1953, there were between thirty and forty customers at Della's Place. When interviewed by the FBI agents, twenty-one witnesses identified the sheriff as having been at Della's Place that night, and a number of individuals reported hearing shots fired. Five witnesses said they had heard Mrs. McDuffie say that she had been hit. Of the five, one individual said Mrs. McDuffie identified the sheriff as her assailant, while a second heard Mrs. McDuffie say she had been hit, and understood the statement to mean that the sheriff hit her. Multiple witnesses saw the sheriff hit Mr. Billy James Woods, also a subject of the FBI's investigation. One witness, Mr. Robert Brown, said that the sheriff struck at him, but only managed to hit the brim of his hat.

Not one person admitted to having seen the sheriff strike Mrs. McDuffie. According to Mr. McDuffie and his son, Jimmie, one patron, a Mr. Robert Russell, told them that he saw the sheriff hit Mrs. McDuffie. However, when interviewed by the FBI agents, Mr. Russell denied having seen Mrs. McDuffie struck, although he did allude to the sheriff hitting people. Numerous witnesses stated that when the doctor was called to Mrs. McDuffie's bedside to treat her, he was very agitated because he had not been told that Mrs. McDuffie was suffering from injuries sustained in a beating at the hands of the sheriff.

On September 28, 1953, just three months after receiving information about the Della McDuffie case, Olney wrote a letter to Attorney Marshall stating that there was no violation of the civil rights statutes and no action would be taken in the Della McDuffie case.⁵¹ The letter stated, "Our investigation does not indicate that Mrs. McDuffie met her death as a result of being struck or mistreated by any law enforcement officer."⁵²

V. Analysis of the Department of Justice Investigation

Despite the Department of Justice conclusion that there was no evidence to indicate that Della McDuffie met her death as a result of abuse by law enforcement officials, some evidence supports a different conclusion. There are a number of inconsistencies in the statements of thirty-one witnesses regarding what occurred on April 25, 1953 inside Della's Place.

To begin with, Sheriff Lummie Jenkins asserted that he drove over to Della's Place accompanied by officers Edwin Tait and Robert Spencer.⁵³ He stated that Officer Tait stayed in the car because there were prisoners in it, and Officer Kimbro appeared at the front door.⁵⁴

⁵¹ Id.

⁵² Id.

⁵³ P.C. Jenkins Interview, Supra.

⁵⁴ Id.

Officer Tait alleged that while on patrol he watched Sheriff Jenkins walk down the street towards Della's Place and that he later walked down the road when the sheriff was coming out.⁵⁵ Officer Spencer stated that he and Sheriff Jenkins walked to Della's Place and the sheriff went inside while he stood in the doorway.⁵⁶ Officer Kimbro also stated that he walked to Della's Place with Sheriff Jenkins and stood on the porch while people ran past him to exit the establishment.⁵⁷

Sheriff Jenkins claimed that he only fired one shot inside the café to prevent patrons from running him over and he heard a shot fired outside.⁵⁸ Officers Edwin Tait, Robert Spencer, and Eugene Clements stated that they did not hear any shots fired.⁵⁹ Officer Don C. Kimbro stated that he did hear a shot fired inside but that he was not aware of outside activity.⁶⁰ All of the officers claimed that they were not aware of anyone being struck or hit.⁶¹ Sheriff Jenkins admitted to slapping at two men with his right hand because he believed they were fighting near the Rockola.⁶² He claimed that he did not use the 12' to 14' rubber hose that was in his left hand to hit anyone.⁶³

The officers' statements regarding the use of force conflict with the statements made by many of the patrons in the café that evening. Billy James Woods, a 17 year-old patron, was at Della's Place on the night of April 25, 1953.⁶⁴ He stopped there around 11:30 P.M. after watching a movie at James McDuffie's theater with his friends Tommy Franklin and Willie

⁵⁵ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Edwin Tait Interview July 9, 1953.

⁵⁶ Robert O. Spencer Interview, Supra.

⁵⁷ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Don C. Kimbro Interview July 9, 1953.

⁵⁸ P.C. Jenkins Interview, Supra.

⁵⁹ Department of Justice Documents, Supra.

⁶⁰ Don C. Kimbro Interview, Supra.

⁶¹ Department of Justice Documents, Supra.

⁶² P.C. Jenkins Interview, Supra.

⁶³ Id.

⁶⁴ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Billy James Woods Interview July 6, 1953.

Hunter.⁶⁵ He remembered seeing a young man nicknamed “Pat Low” run through the front door towards the back. Just after he yelled “Gangway for Pat Low!”⁶⁶ he was hit in the head with a blackjack by Sheriff Jenkins.⁶⁷ Woods stated that he was hit in the back of the head and some skin was knocked off, but he did not seek medical treatment for his injuries.⁶⁸

Tommy Franklin, age 17, also observed Sheriff Jenkins enter the café with a blackjack and hit at the patrons with it.⁶⁹ Franklin stated that he heard a number of shots after he left the café though he did not specify how many.⁷⁰ Willie Hunter, age 16, also saw Pat Low running through the café and the sheriff arriving behind him.⁷¹ He said that he had seen the sheriff hit Billy James on the back of the head with what he described as a club or a blackjack.⁷²

Zora Hayes had arrived at Della’s Place at about 7:00 P.M. that evening.⁷³ Around midnight she was sitting next to Della McDuffie near the back of the café holding her two year old child.⁷⁴ She saw the Sheriff with a blackjack in his hands and she could hear hitting and shooting while she hid in the McDuffie’s bedroom.⁷⁵

Robert Russell, 26 years old, arrived at Della’s Place around 11:15 P.M. after leaving one of Jimmie McDuffie’s businesses in Dallas County.⁷⁶ He stated that about midnight, he had seen Sheriff Jenkins enter Della’s Place swinging a blackjack back and forth and telling everyone to

⁶⁵ Id.

⁶⁶ Id.

⁶⁷ Id.

⁶⁸ Id.

⁶⁹ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Tommy J. Franklin Interview July 6, 1953.

⁷⁰ Id.

⁷¹ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Willie G. Hunter Interview July 6, 1953.

⁷² Id.

⁷³ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Zora Hayes Interview July 6, 1953.

⁷⁴ Id.

⁷⁵ Id.

⁷⁶ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Robert Russell Interview July 7, 1953.

get out.⁷⁷ Though he did not see the Sheriff physically hit anyone with the blackjack, he heard several shots fired.⁷⁸ John Edwards, 80 years old, was sitting by the heater with Della McDuffie when Sheriff Jenkins entered the café.⁷⁹ He saw him swinging back and forth what he described as “a whip or something.”⁸⁰ Jessie Mae Foster, age 18, also observed the sheriff hitting people with something he was swinging, and said that she’d seen him hitting Billy Woods in the head.⁸¹

That night Robert Brown, 49 years old, was another target for Sheriff Jenkins.⁸² Brown stated that he heard the sheriff tell everyone to go home, and then the blackjack hit the brim of Brown’s hat .⁸³ Brown also said that he heard other people being hit, so he left the café.⁸⁴ He said that he heard about three shots fired behind him, and then drove off down the road.⁸⁵ Stella Mae Coleman, age 16, and Ella Husdon, also said they heard people being hit but they were unable to see who was doing the hitting.⁸⁶

Despite Sheriff Jenkins assertion that he was just holding the blackjack and hitting people with his hands, there were at least eight witnesses who said they saw him with an item in his hand, which he was swinging at the patrons. They also stated that they could hear people being hit, though only three people said they actually saw a person being hit -- namely Billy Woods. Everyone acknowledged that they did not see anyone other than Billy Woods being hit. There

⁷⁷ Id.

⁷⁸ Id.

⁷⁹ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, John Edwards Interview July 8, 1953.

⁸⁰ Id.

⁸¹ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Jessie Mae Foster Interview July 8, 1953.

⁸² Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Robert Brown Interview July 8, 1953.

⁸³ Id.

⁸⁴ Id.

⁸⁵ Id.

⁸⁶ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Stella Mae Coleman Interview July 6, 1953, and Ella Hudson Interview July 7, 1953.

were also three witnesses who said they heard more than one gunshot fired, even though the sheriff testified that he only fired one gun shot.

Sheriff Jenkins admitted that he hit his hand at two men who were cursing and sounding like they were going to start a fight.⁸⁷ Billy James Woods claimed that the sheriff hit him when he yelled out “Gangway for Pat Low,” right after he saw Pat Low run through the café.⁸⁸ Tommy Franklin and Willie Hunter stated that they had seen Pat Low run from the front of the café to the back and heard Billy yell for people to watch out for him.⁸⁹

Douglas Robinson, age 21, was also known as “Pat Low.” He acknowledged that he stopped at Della’s Place at about 20 minutes to midnight.⁹⁰ He stated that he was on his way to get a sandwich, when he saw Sheriff Jenkins at the front door telling everyone to leave.⁹¹ The sheriff made no mention of chasing anyone into the café, but Pat Low claimed that he had been in the establishment 20 minutes before Sheriff Jenkins arrived. Nevertheless, three witnesses saw Pat Low run from the front to the back of the café followed by the sheriff, who then hit Billy Woods for yelling. It is unclear whether anything occurred between Sheriff Jenkins and Pat Low. It is also unclear why, if something occurred, they would both want to avoid mentioning it.

Sheriff Jenkins asserted that he never went into the rear of the café where Della McDuffie was sitting on the evening of April 25, 1953.⁹² He stated that he got into the café only as far as the Rockola. He stated that he knew Della McDuffie, but did not acknowledge seeing her that

⁸⁷ P.C. Jenkins Interview, Supra.

⁸⁸ Billy James Woods Interview, Supra.

⁸⁹ Tommy J. Franklin Interview, and Willie G. Hunter Interview, Supra.

⁹⁰ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Douglas Robinson Interview July 8, 1953.

⁹¹ Id.

⁹² P.C. Jenkins Interview, Supra.

night.⁹³ He also claimed that there was no way that he could have hit her intentionally or unintentionally.⁹⁴

Zora Hayes was sitting in the café next to Della McDuffie that evening.⁹⁵ When Sheriff Jenkins entered the café with the blackjack, she ran into the McDuffies' bedroom.⁹⁶ She heard the sheriff say something to Della, although she did not say what he said.⁹⁷ When he entered the café, Will McDuffie also saw Sheriff Jenkins standing in the back near Della McDuffie.⁹⁸ All of the other witnesses stated that they ran and hid in the bedroom or ran out of the café and did not see the sheriff approach Della.

James McDuffie testified that Robert Russell told him that Sheriff Jenkins had a blackjack in one hand and a nickel-plated pistol in the other.⁹⁹ He also said that Russell told him that the sheriff hit Della across the legs, across the head, then on the arm.¹⁰⁰

Although Sheriff Jenkins claimed that he never saw or spoke to Della McDuffie on that evening, Zora Hayes said she heard him speak to her. Will McDuffie stated that he saw the sheriff near Della when he entered the café. There are a number of ways that this information could be interpreted. It is very likely that the other patrons ran out after seeing the sheriff and they did not see him near Della because they were busy trying to save their lives. It is also possible that many patrons feared saying that they saw Sheriff Jenkins hit Della, and that Zora was the only one willing to say that she heard the sheriff exchange some words with Della.

⁹³ Id.

⁹⁴ Id.

⁹⁵ Zora Hayes Interview, Supra.

⁹⁶ Id.

⁹⁷ Id.

⁹⁸ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Will McDuffie Interview July 6, 1953.

⁹⁹ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Jimmie D. McDuffie Interview July 7, 1953.

¹⁰⁰ Id.

Although the FBI thoroughly investigated this crime, witnesses were reluctant to testify against the sheriff who “ruled with an iron hand.” The white FBI investigators were most likely accompanied by local law enforcement officers, who could be expected to pass on the witnesses’ statements to the sheriff. It was simply too dangerous for these witnesses, who would, as later evidenced by the suspicious death of Willie McDuffie, be risking their lives to tell the truth. As for the white doctor and the black undertaker from Selma, neither of them could risk defying the sheriff. The doctor was visibly upset when he learned that Mrs. McDuffie had been hit by the sheriff, for, one could infer, he did not want to be involved.

Any fair assessment of the evidence unearthed by the FBI leads one indisputably to the conclusion that this case should have been prosecuted by the Justice Department. Mrs. McDuffie died within an hour of the raid on her cafe. Individuals who had been willing to make statements to the NAACP just after the event that would have implicated the sheriff got cold feet when interviewed by the FBI months after the incident. There were nevertheless statements from multiple people who heard Della McDuffie say that she had been hit, and some of this group inferred that Sheriff Jenkins – who was the only one with the rubber hose - had hit her. There were also statements from several individuals who saw McDuffie’s injuries. Moreover, the FBI identified what looked like a bullet hole near the victim’s chair, from which it could be inferred that Jenkins was standing there.

Finally, some evidence pointed to a coverup. The Selma officers who, at the behest of the sheriff, visited the undertaker, purportedly to determine whether an autopsy should be conducted, could well have intimidated him. The failure to conduct an autopsy left a gaping hole in the investigation, for it meant there would be no medical testimony corroborative of Willie McDuffie’s allegation that his wife died as a result of a beating. Sheriff Jenkins all but

guaranteed there would be no autopsy, which would have settled the disputed question whether McDuffie's arm was broken,

VI. Della McDuffie's Injuries: a Post-mortem Analysis

During the DOJ investigation, the Dr. R.E. Dixon testified that in the early morning of April 26, 1953 Oscar Hudson went to his home to tell him that Della McDuffie was "awful sick" and needed his assistance.¹⁰¹ When the doctor arrived at the café and discovered that Sheriff Jenkins had been there, he asked Oscar Hudson why he had not been told that there had been a ruckus there.¹⁰² Dr Dixon's immediate observation of Della was that she was dying because she was gasping for air, short of breath, cold and clammy, and she had virtually no pulse.¹⁰³ He stated that she passed away soon after and he went home.¹⁰⁴ He alleged that he examined the body in some detail and did not observe bleeding, laceration or contusion. Dr. Dixon acknowledged that Will McDuffie had called after he got back home and that Will had said that his wife was bleeding from her ear.¹⁰⁵ Dr. Dixon signed the death certificate and noted the cause of death as cerebral hemorrhaging with an antecedent cause of Arteriosclerosis.¹⁰⁶ He told the FBI, "I can definitely state that the cause of death was not brought on by any injury to the head, such as a blow."¹⁰⁷

Oscar Hudson denied that the doctor said anything to him about Della being hit, but stated that when he saw Della, Dr. Dixon had turned to him and said, "I thought you told me you

¹⁰¹ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Robert E. Dixon Interview July 6, 1953.

¹⁰² Id.

¹⁰³ Id.

¹⁰⁴ Id.

¹⁰⁵ Id.

¹⁰⁶ Id.

¹⁰⁷ Id.

didn't know what was the matter with her."¹⁰⁸ James McDuffie acknowledged the statement made by Dr. Dixon to Oscar Hudson, but added that the doctor had said, "You didn't tell me a damn thing about her being hit."¹⁰⁹

James Cook also said that Dr. Dixon had said to Oscar, "How come you didn't tell me she was hit?" He added that the doctor had felt her head and asked, "When did this happen?"¹¹⁰

Will McDuffie stated that Dr. Dixon had said, "Oscar, how come you didn't tell me that Della got a lick?"¹¹¹ Will also alleged that there was blood running out of Della's ear after she died and he had asked the doctor about it.¹¹²

E.L. Lewis of the Lewis Brother's Funeral Home stated that he did not see any blood present on Della's body when they were preparing her body for burial.¹¹³

Dr. R.E. Dixon claimed that he examined Della McDuffie's body in some detail and did not observe bleeding, laceration or contusion,¹¹⁴ and E.L. Lewis, the funeral director who handled the preparations of her body, also alleged that there were no cuts, bruises, broken bones and there was no blood present on the body.¹¹⁵ However, these accounts differ significantly from the testimony given by Della McDuffie's family members. Will McDuffie testified that there was a dark spot right above Della's ear as if she had been hit, there was blood running from her right

¹⁰⁸ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Oscar Hudson Interview July 7, 1953.

¹⁰⁹ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Jimmie D. McDuffie Interview July 7, 1953.

¹¹⁰ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, James Cook Interview July 8, 1953.

¹¹¹ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Will McDuffie interview July 6, 1953.

¹¹² Papers of the NAACP Part 8. Discrimination in the Criminal Justice System, 1910-1955. Series B: Legal Department and Central Records, 1940-1955. Frame #155-181.

¹¹³ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, E.L. Lewis interview July 7, 1953.

¹¹⁴ R.E. Dixon Interview, *Supra*.

¹¹⁵ E.L. Lewis Interview, *Supra*.

ear, her left arm flopped around as if it had been broken, and her arm had a knot and was bleeding.¹¹⁶

James McDuffie testified that E.L. Lewis did not allow him to view his mother's body on Monday, and that he had asserted that there were no bruises on the body.¹¹⁷ However, when James McDuffie returned the next day with Della's brothers, Lonnie and Seburn (sic) Varner, they demanded to see her body.¹¹⁸ According to James, E.L. Lewis kept insisting that there were no bruises, but finally allowed him and Della's brothers to view her body.¹¹⁹ Upon viewing his mother's body, James McDuffie observed a large knot or bruise on the right side of her head, and a long bruise on her left arm, which indicated broken bones.¹²⁰ James stated that the funeral director told the family that he had not seen the bruises previously, but he could see them now and he had not examined the body too closely before.¹²¹ Cebron Varner told the investigators that he observed a dark spot on his sister's right temple about the size of a half dollar and a dark streak on the inside of her arm about four inches long.¹²² Lonnie Varner also said that he saw a dark spot on Della's right temple and a dark spot on the inside of her left arm, along with bones that appeared to have been broken.¹²³

The McDuffie family's testimony regarding the state of Della McDuffie's body and the injuries sustained remained consistent throughout the Department of Justice documents. There were numerous inconsistencies in the accounts of events at Della's Place given by everyone else present on the night of her passing, but all family members say the same thing about the injuries

¹¹⁶ Will McDuffie Interview, *Supra*.

¹¹⁷ Jimmie D. McDuffie Interview, *Supra*.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Cebron Varner interview July 28, 1953.

¹²³ Department of Justice Documents on file with the Civil Rights and Restorative Justice Clinic, Lonnie Varner interview July 26, 1953.

she sustained. The family believes that Della was hit by a blackjack, and as a result she sustained an injury to her head on her right temple and a broken left arm.

VII. Hardship and Losses for the McDuffie Family

Hardship for the McDuffie family in Wilcox County continued after the Department of Justice conducted their investigation. A little over a year after his wife's death, Will McDuffie, died on May 11, 1954.¹²⁴ Will McDuffie's body was found by his grandchildren, Wilbur and James McDuffie, who were on their way to school, following their normal morning routine.¹²⁵ On their way to school, the children usually greeted their grandfather, but on this day they could not find him in his home where he would normally be.¹²⁶ At the back of the house, the children found the door open and saw their grandfather lying in the middle of the doorway.¹²⁷ Will was completely wet. His head was outside the doorway, but his legs were inside the house.¹²⁸ Wilbur McDuffie believes that someone drowned and killed his grandfather.¹²⁹ Will McDuffie's death certificate lists the cause of death as cerebral hemorrhaging.¹³⁰ The same cause of death appeared on Della's death certificate a little over a year earlier. The same doctor, R.E. Dixon, handled both bodies.¹³¹

In 1955, James McDuffie, his wife Fannie and their children left Alabama and moved to New York.¹³² Their decision to leave Alabama came after law enforcement officers appeared at

¹²⁴ Will McDuffie Certificate of Death, Alabama Center for Health Statistics. On file with the Civil Rights and Restorative Justice Clinic.

¹²⁵ Interview with Wilbur McDuffie. Pg. 5. On file with the Civil Rights and Restorative Justice Clinic.

¹²⁶ Id.

¹²⁷ Id.

¹²⁸ Id.

¹²⁹ Id.

¹³⁰ Will McDuffie Certificate of Death, Alabama Center for Health Statistics. On file with the Civil Rights and Restorative Justice Clinic.

¹³¹ Id.

¹³² Interview with Della McDuffie. Pgs. 4-7. On file with the Civil Rights and Restorative Justice Clinic.

the McDuffie home, and asked James McDuffie to step outside and speak with them.¹³³ James disappeared for about one week and there was no record of him in the local jails or hospitals.¹³⁴ He eventually returned home, but would not speak with his children when they asked him what had happened.¹³⁵ Fearing for the safety of the family, Fannie began calling around to her relatives throughout the country to find a place for her family to move.¹³⁶ She decided that New York would be a good place to relocate, but James was not easy to convince.¹³⁷ Initially, he refused to move because he owned business and believed that, as a hardworking veteran, he had built his businesses honestly, and no one should be able to make him leave.¹³⁸ Fannie decided that the family would go to New York with or without James. Ultimately, he decided to stay with his wife and children.¹³⁹ The family left in the middle of the night and boarded a train to New York from Birmingham.¹⁴⁰ Leaving behind land, businesses, cars and their fully furnished home, the family was forced to start over in New York.¹⁴¹

VIII. Law Enforcement and Community Perceptions of Justice

No one was ever prosecuted for Della McDuffie's death. Della and Will McDuffie, their son Jimmie, and his whole family gave up everything – their lives, their livelihoods, their homes and their ties to their community. This should never have happened. However, when it did, they should have been able to rely on the law to remedy the wrongs done to them. The justice system failed them on many levels and that failure left lasting emotional scars for the McDuffies, as well as in their community in Alabama.

¹³³ Id.

¹³⁴ Id.

¹³⁵ Supra. Wilbur McDuffie Interview.

¹³⁶ Supra. Della McDuffie Interview.

¹³⁷ Id.

¹³⁸ Id.

¹³⁹ Id.

¹⁴⁰ Id.

¹⁴¹ Id.

Della McDuffie's story has become a sort of legend in Wilcox County, a symbol of arbitrary law enforcement and racial abuse. While the sheriff's granddaughter's book, *Lummie Jenkins: The Unarmed Sheriff of Wilcox County*, paints a glowing picture of this lifelong law enforcement officer, certain parts of the book and other records suggest he was a racist who used intimidation and violence to enforce the law.¹⁴² Sheriff Lummie Jenkins is still known by many in Wilcox County and the surrounding area for the violent and arbitrary way in which he enforced the law. On December 14, 1978, the Selma Times Journal ran a piece after Sheriff Jenkins' death called, "Goodbye Mister Lummie." The article simultaneously included information that Jenkins had a number of older African American friends, but that younger African Americans saw Mr. Jenkins as an "oppressive bigot."¹⁴³

His reputation in the African American community is best portrayed in a book titled *In the Shadow of Selma* by Cynthia Griggs Fleming. Fleming writes, "Wilcox County had such a tough reputation. One of the reasons for the county's reputation was its sheriff, Lummie Jenkins."¹⁴⁴ The author describes an interview in which her source related a story about a wheelchair-bound African American woman who had been beaten by the sheriff.¹⁴⁵ It was rumored that the sheriff wanted to question her son and, when she was unresponsive, he slapped her repeatedly, causing her to have a heart attack and pass away a short time later.¹⁴⁶ This is arguably about the Della McDuffie case, In any case, it exemplifies Sheriff Lummie Jenkins' reputation in the African American community in Wilcox County.

¹⁴² Supra, (Selma) p. 143. Jenkins, Delynn. *Lummie Jenkins: The Unarmed Sheriff of Wilcox County*. 149. See also CRRJ Interview with Prince Arnold, excerpted in "The Trouble I've Seen." Northeastern University, correspondent. *Campus Perspectives*. 22 Jan. 2013, accessed Sunday July 12, 2015 from NBC Learn: <https://archives.nbclearn.com/portal/site/k-12/browse/?cuecard=65676>.

¹⁴³ Jenkins, Delynn. *Lummie Jenkins: The Unarmed Sheriff of Wilcox County*, 149.

¹⁴⁴ Fleming, Cynthia Griggs. *In the Shadow of Selma*, pg. 143. Rowman and Littlefield Publishers, Inc. 2004.

¹⁴⁵ Id.

¹⁴⁶ Id.

This impression was echoed by Bernard Lafayette, a civil rights activist, member of the Student Nonviolent Coordinating Committee (SNCC) and seminary student, who advocated for African American voting rights in Wilcox County during the 1960s.¹⁴⁷ Lafayette later recounted that Sheriff Jenkins was one reason for the tough reputation enjoyed by Wilcox County. Lafayette had been warned that doing civil rights work in Wilcox County would be particularly dangerous because of Jenkins. He recounted a story about Jenkins interrogating an elderly disabled woman in a wheelchair and hitting her so hard during the interrogation that she had a stroke and later died.¹⁴⁸ The details that Lafayette heard in the 1960s were not entirely correct, but it is clear that something of Della McDuffie's story was passed down in Wilcox County.

Sixty years later, the persistence of this story about law enforcement abuse of a disabled African American woman and others like it, exemplifies the basis for the mistrust of law enforcement officials by African American communities in Alabama and elsewhere. No one was ever held accountable for Della McDuffie's death. Stories of law enforcement abuse and civil rights violations like hers and those of other African American victims are too often unknown and unacknowledged by most white Americans. Ignorance, inaction and public disregard of such abuses deeply affect African American citizens, making a mockery of the promises of liberty and justice for all, and giving rise to alienation and despair in African American communities. The truth-telling efforts of the Civil Rights and Restorative Justice Project -- bringing the old wrongs to light and making them known to a larger community -- are essential first steps in achieving restorative justice and advancing equality in the justice system.

¹⁴⁷ Supra, (Selma) p. 138, 143.

¹⁴⁸ Supra, (Selma) p. 143.