

Colliding Families, Divided Fates: The Story of Henry “Peg” Gilbert and Gus Davidson



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**COLLIDING FAMILIES, DIVIDED FATES:
THE STORY OF HENRY “PEG” GILBERT AND GUS DAVIDSON**

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Introduction

In the summer of 2016, protestors from all walks of life lined the streets of Baton Rouge demanding justice for black lives taken by the hands of those charged to protect and serve. One after the other, despite video evidence of their actions, perpetrators have been acquitted in the name of the law, leaving the victims and loved ones with no recourse. One by one, impassioned, young activists, confused by the lack of accountability, lose faith in the legal system.

These problems are not new. The current, broken system as we know it, is a product of decades of systemic racism, devoid of accountability and accessibility. The two authors of this essay investigated a case reflecting that history. But this story is more than an historical account of the brutalization of two black families in the Deep South. It is the narrative of the ongoing failures of the criminal justice system and the society that has produced them. It is a reflection and an example of what we will continue to experience today, if we continue to ignore its historical roots.

The Gilbert Family

In 1947, a prosperous black farmer, property owner, and father of four, by the name of Henry Gilbert – known to family and friends as “Peg” - was seized from his Troup County home in Westpoint, Georgia, and taken into custody by the Harris County police. He was wrongfully accused of aiding and abetting a black fugitive by the name of Gus Davidson, who fled the scene of the shooting death of a white man, Olin Sands, whose calf Davidson accidentally drove over. After Gilbert was transferred to three different county jails, his hopeful wife, Mae Henry Gilbert, was notified to retrieve her husband’s lifeless body from Harris County Jail. Harris County Chief of Police, William

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H. Buchanan claimed he killed Gilbert in self-defense; however further investigation suggested otherwise. Unable to obtain justice locally, community members, civil rights groups and investigative journalists would call for federal intervention. Despite their demands, and after a cursory federal investigation, Buchanan's self-defense claim would ultimately be accepted. No criminal prosecutions would be attempted.

Shortly after Henry Gilbert's funeral, Mae Henry Gilbert, his wife, was taken into custody by the Troup County Police on the same charge that her late husband had been arrested for. A white attorney, Dan Duke, who was later recognized for his commitment to the rule of law for all residents of the region, would represent Mrs. Gilbert and win her freedom. A well-known, investigative journalist by the name of Ray Sprigle would later capture Mrs. Gilbert's heart-wrenching story. Disguised as a black man – he darkened his skin and shaved his head -- Sprigle traveled around the southern backwoods interviewing victims of racial violence and reflecting on his experiences. He would later publish Mrs. Gilbert's story, among others, in a collection of articles titled "I was a Negro in the South for 30 Days."

The Davidson Family

Gus Davidson, the fugitive the Gilberts were accused of aiding, fled Troup County the night of the shooting, which resulted from an altercation involving a white farmer, Olin Sands, and a dead calf. Although Davidson successfully escaped up North, his entire family, including his eleven-year-old brother, was incarcerated and physically abused by local police for months. About 4 years later, Davidson was captured by the FBI in the state of New Jersey. Despite a bitter battle to defeat extradition, he was tried in Georgia, convicted of the murder of Olin Sands, and sentenced to death. A gubernatorial pardon saved him from execution.

The current catastrophes that mark our criminal justice system are not new. These two very different families are bound together by a common thread, their suffering caused by the same broken, corrupt system. Here is an intertwined narrative that is not well known by younger generations who are confronting the same evils. It is essential to understand this past to forge ahead toward meaningful change today.

Colliding Families, Divided Fates

The Death of Olin Sands

On May 4, 1947, the evening service at the Union Springs Baptist Church was coming to a close. The church is in Troup County Georgia, just down the road from the Gilberts' farm. Around 9 pm, some church members heard gunshots fired outside from the back of the church. Word spread that a white man had been shot at the back of the church, and congregants began to flee instantly. Anticipating the collective punishment they knew would follow the shooting, many church members took the long, dark route

through the woods home to avoid being seen.¹ Mr. and Mrs. Gilbert and their four girls got in their truck and hurried back to the farm.²

The man who was lying lifeless on the ground in the back of the church was a white farmer named Olin Sands. Gus Davidson, a 27-year-old native of Harris County, had been living in Pittsburgh, Pennsylvania for some time before returning to his father's home to visit family.³ Earlier that evening, he was driving his brother Willie Davidson's automobile⁴ south on the Whitesville Road, designated Georgia Highway 219, when he struck a calf that belonged to Olin Sands.⁵ Olin Sands was in bed with his wife when he was awakened by a commotion outside of his house.⁶ Upon investigating the noise he discovered that a car had hit one of his calves. Infuriated, Sands returned the farm with the injured calf and then returned to the scene with his handgun.⁷

There are varying accounts of what followed. Sands soon arrived at the Union Springs Baptist Church in his truck. When he pulled up Davidson was already standing outside of his own truck, which was dented and had a missing headlight.⁸ According to 1 testimony Davidson would ultimately give at his trial,⁹ Olin Sands jumped out of his car hollering angrily and began to beat Davidson with his cane. In an attempt to shield himself from the beating, Davidson got back into his truck. Sands then pulled out his gun and aimed it at the car.¹⁰ Davidson exited the car and pulled out his own gun. After warning Sands to put his gun away, Gus Davidson shot the farmer three times in the front of his body and fled the scene.

¹ *Norris Johnson*, friend of Gilbert family, Troup County resident, interviewed by Tara Dunn and Ariel Goeun Kong, Civil Rights and Restorative Justice Project, Northeastern University School of Law, at Westpoint Georgia on July 12, 2015.

² *Recie Gilbert Moss and Maddie Gilbert Moss*, daughters of Henry Gilbert, interviewed at Atlanta Georgia on July 14, 2015. (Recie Gilbert and Maddie Gilbert married men named Moss. Their husbands were not related to each other.)

³ "Troup Farmer, Sands, Killed by Gun Shots: Probe of Disturbance Near Farmer's Home Results in Death," *LaGrange Daily News*, May 5, 1947, 1.

⁴ Brief of Evidence, *State of Georgia v. Gus Davidson*, Aug. 14, 1951. See Gus Davidson's Rebuttal Statement at 29; Norris Johnson, interviewed o July 12, 2015.

⁵ "Troup Farmer, Sands, Killed by Gun Shots: Probe of Disturbance Near Farmer's Home Results in Death," *LaGrange Daily News*, May 5, 1947, 1; "Man Charged with 1947 Troup Murder Arrested," *LaGrange Daily News*, Apr. 23, 1951, 1.

⁶ DOJ files; SRC report **

⁷ SRC report; DOJ files **

⁸ Southern Regional Council report; DOJ records **

⁹ *State vs. Gus Davidson*, Gus Davidson's Testimony at ____

¹⁰ Brief of Evidence, *State of Georgia v. Gus Davidson*, Aug. 14, 1951. See Gus Davidson's Rebuttal Statement at 29-30; Norris Johnson, interview by Tara Dunn and Ariel Goeun Kong, July 12, 2015. The interview with Norris Johnson corroborates Davidson's story. According to his account, Sands started beating Davidson with a walking cane, and then threatened to kill him with a gun. When Sands pulled out his gun, Davidson also pulled out his own gun and shot Sands.

Troup County Sheriff E. V. Hillyer, Luke Sturdivant – on whose property the Davidson family lived and worked -- and Mrs. Sands arrived at the scene of the shooting. Shortly afterwards, a mob, led by Sturdivant, began to hunt for Gus Davidson and any others involved in the shooting.¹¹ The heavily armed mob shot off their weapons and terrorized the surrounding black settlements.¹² The men hunted for Davidson until 3:30 in the morning.¹³ One news report described the white people of Troup County as “white hot mad.”¹⁴ It was a night of sheer terror: the African-American communities in Troup and Harris Counties were overrun by rampaging white mobs.¹⁵

Recie and Mattie Gilbert, the daughters of Henry Gilbert, spoke of the events in interviews with the authors. As far as they could recall, the mob never ventured onto the Gilbert property.¹⁶ The Gilbert women did remember that someone knocked at the door the night of the shooting. The interaction was brief, and the only thing the women remember is their father saying, “you can’t stay here.”¹⁷

The Imprisonment of the Davidson Family

After the killing of Sands, Davidson’s mother, father and siblings were all arrested and detained at the Harris County Jail in Hamilton, Georgia.¹⁸ On May 5, 1947, Willie and Lank, two of Davidson’s brothers, were locked up by Harris County authorities.¹⁹ A few weeks later, on May 18, once it appeared that Davidson was not going to be captured quickly, Chief Buchanan and Officer Williams of the Harris County Police arrested his father, Lovice Davidson Sr., his mother, Arlisha, his two sisters, Elizabeth, age 15, and Christine, age 13, and another brother, Emmett, age 11.²⁰ They were taken to the city jail in Columbus and held there until the next day when they were transferred to the Harris County Jail at Hamilton.²¹ All of them, adults and children alike,

¹¹ *Norris Johnson*, friend of Gilbert family, Troup County resident, interviewed at Westpoint Georgia on July 12, 2015 (in possession of authors).

¹² *Ibid.*

¹³ Brief of Evidence, *State of Georgia v. Gus Davidson*, Aug. 14, 1951. See Sheriff E. V. Hillyer’s Testimony at 28.

¹⁴ “Man Lynched in Ga. Jail as New Fear Grips South: Farmer Shot, Beaten to Death in Prison,” *The Pittsburg Courier*, June 7, 1947, 1.

¹⁵ The terror and tension continued in the African American communities for days. According to Norris Johnson, school was closed for two days following the incident.

¹⁶ *Recie Gilbert Moss and Maddie Gilbert Moss*, daughters of Henry Gilbert, interviewed at Atlanta Georgia on July 14, 2015 (in possession of author).

¹⁷ *Id.*

¹⁸ Assistant Attorney General T. Vincent Quinn to United States Attorney John P. Cowart, August 11, 1947, DOJ File 44-211.

¹⁹ Federal Bureau of Investigation Report by Agent Thomas A. Erwin, Jr., July 18, 1947, DOJ File. 44-211 at 2.

²⁰ *Ibid.*

²¹ *Ibid.*

were accused of helping Gus Davidson escape.²² They were illegally imprisoned for more than two months. Finally, on July 20, 1947, they were released.²³

Only two warrants were obtained in connection with the arrests of the Davidsons. According to an F.B.I. report, Roy Butt, clerk of the Superior Court for the Chattahoochee Circuit issued a warrant for Willie Davidson on or about May 4, 1947, charged him with “aiding a felon to escape arrest by officers of the law.” A second warrant was issued on May 13, 1947, for the arrest of Lovice Davidson, charging him with the same crime.²⁴ Butt stated he knew of no other warrants relating to the custody of the other members of the Davidson family.

Sheriff M.D. Hadley of Harris County corroborated Butt’s statement. He also knew of only two warrants.²⁵ No bonds were set. Likewise, no commitment hearings were held because, the sheriff claimed, the Davidsons “requested none.”²⁶ Sheriff Hadley reported that this was common practice in his county.²⁷ The cases against the Davidsons were never presented to a grand jury. Although one convened in Hamilton County on July 21, 1947, the Davidsons were all released by July 20, 1947.²⁸

The Department of Justice was slow to authorize the FBI to investigate the alleged charges against the Davidson family, but Assistant Attorney General T.L. Caudle finally asked the Atlanta Office to conduct a preliminary investigation into their detention.²⁹ The department had been notified of the case on June 6 when a reporter for the *Atlanta Daily World*, William Fowlkes, contacted Atlanta Office and requested F.B.I. assistance in investigating the detention of the Davidsons.³⁰

On June 16, 1947, the Atlanta Office of the FBI received a call from Sheriff E. V. Hillyer of Troup County, who relayed rumors that some members of Gus Davidson’s family were being held in jail for questioning until Davidson could be located. He said that they were beaten frequently,³¹ and expressed concern that the African American residents of Harris County were not receiving proper treatment or protection.³² On July 17, 1947, U.S. Attorney John P. Cowart received a letter from Assistant Attorney General

²² Ibid.

²³ Federal Bureau of Investigation Report by Agent Thomas A. Erwin, Jr., Aug. 14, 1947 DOJ File 44-211 at 2.

²⁴ Ibid.

²⁵ Ibid. at 3.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Director of FBI to Assistant Attorney General T. Vincent Quinn, July 28, 1947, DOJ File 44-211 at 107.

³⁰ Director of FBI to Assistant Attorney General T.L. Caudle, June 6, 1947, DOJ File 44-211 at 77. William Fowlkes credited his source to Clem Davenport, a cousin of Henry Gilbert regarding the information concerning the disappearance of the Davidsons.

³¹ FBI Director to the Assistant Attorney General T.L. Caudle, June 17, 1947, DOJ File 44-211 at 82.

³² Ibid.

T.L. Caudle, which included a statement setting forth the facts in the case from the Southern Regional Council.³³ The statement detailed the harrowing conditions of the Davidsons' detention at the Harris County Jail, including reports that Lovice Davidson and his children were subjected to severe and frequent beatings by the police.³⁴ The children were whipped, sometimes in their father's presence, in an attempt to make him talk.³⁵

These reports from various sources put pressure on the Department of Justice to pursue a full investigation. Two separate reports, one by Special Agent Erwin, and the other by the state attorney general, John P. Cowart, recommended no prosecution.³⁶ After reviewing the reports, Caudle concluded that the matter should be closed without further investigation. He was persuaded by the facts that the Harris County Police had already released all of the members of the Davidson family, and the investigation failed to reveal facts that supported mistreatment of any members of the Davidson family while they were detained.³⁷ Assistant Attorney General Vincent Quinn concurred in Caudle's recommendation.³⁸

The case was closed without addressing the fact that the Davidsons were detained without warrants, or with warrants lacking probable cause. Moreover, the FBI did not adequately investigate the claim that the Davidsons were abused in jail. The local agents relied solely on the statements of Mrs. Arlisha Davidson and her children, Emmett and Lank,³⁹ whose statements were taken soon after they had been released from the jail, some time around June 2, 1947.⁴⁰ The three of them, likely terrified of repercussions, denied that the family was mistreated in any way. But none of the three had visited their family members at the Harris County Jail since their release in June.⁴¹ The FBI agents accepted their statements, discounted the likelihood that they were coerced, and concluded that there was no basis for further investigation.⁴² Their complete failure to make any effort to visit the jail, meet the detainees in person, and examine their condition, speaks to the indifferent nature of the FBI investigation.

The Arrest of Henry Gilbert

At three o'clock in the morning on May 19th, 1947, Luke Sturdivant and William H. Buchanan, the Chief of Police for Harris County, met at Sturdivant's store.⁴³ The store

³³ Asst. Atty. Gen. T.L. Caudle to U.S. Attorney John P. Cowart, July 17, 1947, DOJ File 44-211.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ John P. Cowart to the Attorney General, August 27, 1947, DOJ File 44-211.

³⁷ *Ibid.*

³⁸ T. Vincent Quinn to John P. Cowart, September 5, 1947, DOJ File 211-44.

³⁹ Report by Agent Thomas A. Erwin, Jr., July 18, 1947, DOJ File 44-211, at 2-3.

⁴⁰ Federal Bureau of Investigation Report by Agent Thomas A. Erwin, Jr., Aug. 14, 1947, DOJ File 44-211, at 4.

⁴¹ *Ibid.*

⁴² Letter from T. L. Caudle to John P. Covart, July 17, 1947. *See* the copy of the statement submitted to the Department of Justice by the Southern Regional Council.

⁴³ FBI, DOJ files, Southern Regional Council (SRC) Statement of Facts

had become a meeting place for the mob, where discussions of “killing some niggers” was frequently overheard. Buchanan was a frequent attendee at these meetings.⁴⁴ Luke Sturdivant called Sheriff Hillyer and explained that because Gilbert was suspected of aiding and abetting Gus Davidson in his escape, Chief Buchanan wanted Sheriff Hillyer to execute a warrant for Gilbert’s arrest. Sturdivant stated that he was calling on behalf of Chief Buchanan who was currently at his store.⁴⁵ The Justice of Peace in Harris County had allegedly issued the warrant based on suspicion that Gilbert had helped Davidson to escape.⁴⁶ Some said this suspicion was based on the rumor started by a “drunken” boy,⁴⁷ while others attributed ulterior motives. In any case, the warrant lacked probable cause, and Sheriff Hillyer later admitted that there was no adequate reason to arrest Mr. Gilbert.⁴⁸

Around three thirty that morning, two of the Gilbert daughters heard a knock at their front door. Mr. Gilbert yelled, “Wait, let me get my pants on!”⁴⁹ These were the last words his daughters would hear from their beloved father. Henry Gilbert was arrested and taken to the Harris County Jail. During his incarceration, the entire Davidson family, except, of course, Gus, was incarcerated at the same jail.⁵⁰ On May 19, 1947, a day after the Davidson children were arrested, Chief Buchanan removed Gilbert from Harris County Jail in Hamilton, and delivered him to the Columbus Police department in Muscogee County.⁵¹ During this period, F.B.I. Special Agent David Lawrie, Chief A.G. Reese, Chief of Detectives of the Columbus Police Department, and Buchanan all allegedly interviewed Gilbert regarding the disappearance of Davidson.⁵²

It is impossible to establish how many times Gilbert was transferred from the Harris County Jail to the Columbus Jail, or the reason why he was transferred. The last family member to see Henry Gilbert alive was Cicero Davenport, the brother of Mae Henry Gilbert.⁵³ He recounted that he was not able to actually see Gilbert. However, he recalled that Gilbert yelled out to him, “It’s no use, I’m never getting out of here.”⁵⁴

⁴⁴ SRC report .

⁴⁵ SRC report, FBI files.

⁴⁶ *Id.* Note: The Harris County police department did not have jurisdiction to issue a warrant to arrest Gilbert because the alleged violation occurred in Troup County and the alleged violator, Gilbert, resided in Troup County.

⁴⁷ Memo based on the June 25 Memo from the Criminal Division, July 17 1947, DOJ 44-211.

⁴⁸ *Id.*

⁴⁹ *Recie Gilbert Moss and Maddie Gilbert Moss*, daughters of Henry Gilbert, interview on June 28, 2015; *Recie Gilbert Moss and Maddie Gilbert Moss*, daughters of Henry Gilbert, interview on July 14, 2015 (in possession of authors).

⁵⁰ FBI Director to Assistant Attorney General T. Vincent Quinn, July 28, 1947, DOJ File 44-211. Note that Arlisha Davidson, Gus Davidson’s mother was released by May 21, 1947. Slim, Lank, Lovick and Emmett were all incarcerated in addition to the two girls. *Id.*

⁵¹ Report of Joseph Holmes, , Synopsis of Facts, page 3, May 23 & 24, 1947, DOJ File 44-211

⁵² *Id.*

⁵³ Newspaper article; DOJ44-211; *Recie Gilbert Moss and Maddie Gilbert Moss*, daughters of Henry Gilbert, interview at Atlanta Georgia on July 14, 2015 (in possession of authors).

⁵⁴ DOJ files; newspaper;

The Death of Henry Gilbert

On May 22 Paul Andrews, a family friend, came to the Gilbert home to report that Mr. Gilbert was dead.⁵⁵ According to Chief Buchanan, Gilbert was shot to death in self-defense. Buchanan claimed that he had ventured down to the interrogation room to retrieve a written confession from Gilbert.⁵⁶ He said that when he arrived, Gilbert allegedly attacked him with a chair and attempted to gouge his eyes out. There was, he claimed, a scuffle. Buchanan somehow managed to retrieve his weapon and shoot Gilbert to death, one bullet grazing his side and the other four in his stomach.⁵⁷ Buchanan emerged from the altercation with lacerated marks around his eyes. This account was corroborated by Columbus Police Detective Fred Mobley.⁵⁸ It is unclear whether the alleged altercation occurred in Hamilton in the Harris County Jail or in the Columbus Jail in Muscogee, because Gilbert was transferred to the Columbus Police Department for questioning.⁵⁹ It is certainly possible that Gilbert was transferred to the Columbus Police Department to be lynched. The entire Davidson family was incarcerated in the Harris County Jail during the same time as Mr. Gilbert, and could have potentially witnessed the brutality visited upon Gilbert.⁶⁰

Buchanan and Mobley's version of the story also did not account for the gruesome injuries Gilbert sustained. Georgia State Patrol officer, Sergeant T.E. McClung described a mangled body, including a broken left leg, a "badly beaten" face, and six bullet holes "scattered all over the body" including down on Gilbert's legs.⁶¹ Another account described Gilbert having a nearly crushed skull.⁶² Mae Gilbert told a journalist that when she kissed her husband for the last time in his casket, it was "[like] kissing a sackful of little pieces of bone."⁶³ It is questionable whether Buchanan, a sixty-year-old man, could inflict such injuries upon Gilbert, a healthy, forty-year-old man, who weighed one hundred seventy-five pounds and was six feet, four inches tall.

However, Buchanan's claim that he acted in self-defense was readily accepted by the authorities. When asked what occurred that day, Buchanan responded, "The nigger drew a chair on me and I had to kill him."⁶⁴ The law of self-defense includes an element

⁵⁵ *Recie Gilbert Moss and Maddie Gilbert Moss*, daughters of Henry Gilbert, questionnaire June 28, 2015 (in possession of authors).(nb, May 22, 1947 is the date in DOJ files.

⁵⁶ FBI Director to Assistant Attorney General Theron L. May 27, 1947 DOJ File 44-211. Special Agent David Lawrie, who received the testimony from Detective Fred Mobley of Columbus, Georgia Police Department, developed this information.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Report of Joseph Holmes, *Synopsis of Facts*, page 3, May 23 & 24, 1947, DOJ File 44-211.

⁶⁰ FBI Director to Assistant Attorney General T. Vincent Quinn, July 28, 1947, DOJ File 44-211. (nb, Arlisha Davidson, Gus Davidson's mother was released by May 21, 1947. Slim, Lank, Lovick and Emmett were all incarcerated in addition to the two girls.) *Id.*

⁶¹ FBI Director to Assistant Attorney General Theron L. Caudle, Criminal Division, May 24 1947; Report of Joseph Holmes, May 23 & 24, 1947, DOJ 44-211.

⁶² SRC report

⁶³ Ray Sprigle, *Pittsburgh Courier*, Chapter 5 page 1 (title of article and date).

⁶⁴ Ray Sprigle, *Pittsburgh Courier*, Chapter 5 page 3 (title of article and date).

of proportionality: consideration of whether the means justified the end result. Buchanan's claim of self defense was not sustainable, for his actions involved excessive force. In sum, if Buchanan is to be believed, he pulverized Gilbert's body over the threat of a chair.

Buchanan's account of Henry Gilbert's death was not credible. There were unexplained transfers between jails, involvement of counties that had no jurisdiction over the events, Chief Buchanan's alleged affiliation with the mob,⁶⁵ and the leadership role of Luke Sturdivant, a renowned and violent racist.⁶⁶ Casting even more doubt on Buchanan's self-defense claim, C.A. Scott, the editor of a "negro paper," the *Daily World*, contacted the Atlanta FBI office and reported the killing of Henry Gilbert.⁶⁷ He urged the bureau to take action, insisting that Gilbert was not killed in the Hamilton Jail but in LaGrange, Georgia, where he was lynched, and then returned to jail.⁶⁸ The *Daily World* later released an article stating that Gilbert's death might have been motivated in part by Gilbert's wealth and respected position in the community.⁶⁹

Support for the theory that Gilbert's death was in fact a mob lynching surfaced during the Civil Rights and Restorative Justice Project's research trips to the region. When the authors interviewed two of Gilbert's surviving daughters, Mattie Gilbert and Recie Gilbert-Moss, the witnesses identified a photo that included what appeared to be a typed caption from an investigative source. Perhaps the FBI, National Association for the Advancement of Colored People (NAACP), or Southern Regional Council (SRC) took the pictures and typed the caption. The source is unknown. However, the caption reads: "At first a Mr. Buchanan, Chief of Police of Hamilton, Harris County, Georgia stated he (Buchanan) killed Gilbert for attacking him; now claims a mob did it."⁷⁰

Moreover, the autopsy pictures viewed by the authorities may not have been an accurate representation of the injuries Henry Gilbert sustained. Troup County Police Officer Rob Carter requested that the Georgia state police take pictures of Gilbert's body. On May 23, 1947 Sergeant T.E McClung, was sent to view the body at a "colored undertaking establishment," Mack and Wilson Undertakers in LaGrange.⁷¹ This viewing took place after a man named G. C Robinson at the United Undertakers in Hamilton, most likely a white funeral home, had already handled Gilbert's body.⁷² One can

⁶⁵ SRC report

⁶⁶ *Norris Johnson*, friend of Gilbert family, Troup County resident, interviewed at Westpoint Georgia on July 12, 2015 (in possession of authors).

⁶⁷ Director of FBI Assistant Attorney General Caudle, Criminal Division, May 27, 1947, DOJ 44-211.

⁶⁸ *Id*; In the FBI report, Scott stated he received this information from Gilbert's family members.

⁶⁹ "Troupe County Negro Reported Slain by Harris County Police," *Atlanta Daily World*, May 27, 1947.

⁷⁰ Caption was derived from pictures taken by an unknown photographer. Recie Gilbert Moss and Mattie Gilbert Moss cannot recall where the pictures came from or who wrote the captions. The captions were typed. The Gilbert family did not possess a typewriter.

⁷¹ Director of FBI to Assistant Attorney General T.L. Caudle May 27, 1947, (information supplied by reporter C.A. Scott, Editor of the *Daily World* in Atlanta), DOJ 44-211.

⁷² SRC report **

reasonably question why Gilbert's body was handled by two separate undertakers in two different counties.

Government Investigations

The day after Henry Gilbert was murdered, Joseph Holmes of the Atlanta Federal Bureau of Investigations initiated an investigation.⁷³ The investigation revealed numerous procedural and jurisdictional violations by Harris, Troup and Muscogee County law enforcement. Among them were warrantless arrests, and the filing of seriously conflicting accounts of Henry Gilbert's death.⁷⁴

Five days after Agent Holmes commenced his investigation, William Fowlkes, a reporter with the *Atlanta Daily World*, informed the FBI office in Atlanta that an entire family had been arrested, and that the "negroes" in the area needed protection.⁷⁵ This led to another report by the Atlanta FBI following Mrs. Gilbert's arrest.⁷⁶ On June 25, 1947, Theron Caudle, assistant attorney general in charge of the Justice Department's Criminal Division, acknowledged that the interrogation practices and overall police conduct surrounding the Gilbert and Davidson families included numerous legal violations. Caudle recommended a full scale investigation. An agent from outside the area, Thomas Erwin, was assigned to investigate. His report revealed numerous violations, including the incarceration of minors, and patently non-credible testimony surrounding Henry Gilbert's death.

On August 27, 1947, based on a half-hearted investigation that, in the end, supported Buchanan's self-defense claim, John Cowart, the Georgia Attorney General, recommended against a state prosecution and closed the state investigation, pursuant to a decision made by Governor Talmadge. Thereafter, the Assistant Attorney General in charge of the Justice Department's Criminal Division, Theron Caudle, adopted the recommendation of the Georgia Attorney General. The federal investigation was formally terminated on September 5, 1947.⁷⁷

The Trial of Gus Davidson

After Olin Sands was shot and killed, Gus Davidson fled from Georgia by car and train, ultimately ending up Camden, New Jersey. There he built a new life for himself, marrying and becoming father to two children. But that would all come to an end in 1951. The FBI identified him after making a "routine" check at his job on April 21, 1951, and Georgia Governor Talmadge quickly filed a warrant for his extradition. Davidson was well represented by civil rights attorney Charles Frank Murray, who

⁷³ Report of Joseph Holmes, May 23, 1947, DOJ 44-211.

⁷⁴ *Id.*

⁷⁵ DOJ 44-211 (date?)

⁷⁶ Special Agent E. DeWitt Wingo, Atlanta FBI generated another report. DOJ 44-211

⁷⁷ cite

launched a nation-wide campaign to halt the extradition. However, the campaign was unsuccessful and he was returned to Georgia on July 25, 1951.

Three weeks later, on August 14, 1951, Gus Davidson's capital murder trial commenced before Judge Samuel J. Boykin of the Coweta County Circuit Court⁷⁸ in LaGrange Superior Court.⁷⁹ Wright Lipford, solicitor general of the county, prosecuted the case and Attorney J. E. Weldon represented Davidson at trial.⁸⁰ Davidson entered a plea of not guilty.⁸¹ The state called six white witnesses and one African American man, a laborer to testify.⁸² The witnesses presented conflicting accounts of what happened on the night of May 4, 1947. The state contended that Sands was shot after he returned to his truck, which was at least 30 feet from where he engaged in an altercation with Davidson.⁸³ Davidson's own account was quite different. He testified that following a verbal altercation, Sands physically attacked him and threatened to kill him with a gun. He shot Sands in self-defense, he stated.⁸⁴

The State's Case

The state's witnesses included Hudson Maddox, an undertaker who examined Sands' body at the scene of the shooting; Mrs. Olin Sands, the widow of Sands; W.E. Culverhouse, L.P. Morgan, Luke Sturdivant--all neighbors of the Sands; Sheriff Hillyer; and George Grant, an African-American neighbor of Sands.⁸⁵ According to Mrs. Sands' testimony, she and her husband were in bed for the night when they heard a loud noise in front of their house, went out and found their calf hit on the road.⁸⁶ Her husband drove away in his pick up truck to seek medical aid for the calf. She stated that later she heard her husband screaming, "stop" three times, with a shot following each pleading.⁸⁷ She testified that when she arrived at the scene, she found him dead with a pistol in his pocket. She emphasized that his pistol was not in his hand but in his pocket and that it had not been fired.⁸⁸ After examining his body, she took the pistol out of his pocket because it was the only gun she had. She turned the pistol over to Sheriff Hillyer when he arrived at the scene, and she did not get it back until later.⁸⁹

⁷⁸ cite.

⁷⁹ Marion E. Jackson, "Ghost of" Peg Gilbert Slaying Mach [sp?] Echo Today," *Atlanta Daily World*, Aug. 14, 1951, 1.

⁸⁰ Ibid.

⁸¹ Robert E. Johnson, "Gus Davidson Faces Murder Charge Today," *Atlanta Daily World*, Aug. 14, 1951, 1.

⁸² Marion E. Jackson, "Troup County Man Convicted in "Self-Defense" Slaying: Davidson Faces Chair in Death of Olin Sands," *Atlanta Daily World*, Aug. 15, 1951, 1.

⁸³ "Davidson Found Guilty; To Be Sentenced Friday," *LaGrange Daily News*, Aug. 15, 1951, 1.

⁸⁴ Brief of Evidence, *State of Georgia v. Gus Davidson*, Aug. 14, 1951.

⁸⁵ Ibid.

⁸⁶ Ibid., 18.

⁸⁷ Ibid., 19.

⁸⁸ Ibid., 20.

⁸⁹ Ibid.

The other witnesses gave a virtually identical account, describing what they observed when they arrived at the scene. W.E. Culverhouse testified that he searched Sands' clothing and found the pistol in his right pocket, but it was Mrs. Sands who removed it. He did not know whether the gun was loaded.⁹⁰ Luke Sturdivant also stated that he saw the gun in Sands' pocket and subsequently when the sheriff gave it to him. He testified that the gun had not been fired.⁹¹ Sheriff Hillyer confirmed that Mrs. Sands handed the gun to him.⁹²

The state's star witness was George Grant who provided the only eyewitness testimony of the killing. He went by multiple aliases -- "George Shell," "Monday,"⁹³ "George Camp," and "Meridy."⁹⁴ He stated that he and Davidson both lived on Luke Sturdivant's property, and he had known Davidson for several years. On the night of the incident, Gus Davidson was in the area to visit his parents. Grant testified that he was riding with Davidson in the car and they drove to Davidson's parents house and then went to church.⁹⁵ Grant said that he was sitting in the front seat of the car with Davidson when Sands drove up in front of the church soon after the service concluded.⁹⁶ According to Grant's testimony, after a verbal altercation, Sands turned around and walked to the truck. When he got back to his truck, Davidson shot him. Grant stated that Sands did not have his pistol out. The state relied on Grant's testimony to establish that Davidson shot Sands after he had already turned to leave the scene.

Davidson's Defense

The defense presented a very different account of what transpired at the church. Davidson testified that he was driving the car at the crossroads on the day of the incident when he hit the calf. Sands approached him in church and asked whom the car belonged to. Davidson answered that it was his brother's car. Sands said the car had hit his calf and asked who had been driving. Davidson replied that he did not know whose calf it was and the calf had jumped right in front of the car. Davidson assured Sands that he would pay for the calf if it was his animal. Sands then hit Davidson across his neck and shoulders with his fists and a stick. Davidson got into the car to leave, but Sands grabbed him in the car, attempted to force him out, and threatened to kill him. Davidson said that he was scared for his life, since Sands had a reputation for being a violent man.⁹⁷ When Sands pulled a blue steel gun out of his pocket and shot at Davidson, Davidson drove off down the road to the first house next to church and stopped the car in the yard. He flashed his own gun. When Sands approached him, Davidson fired his gun. Without knowing whether any of the bullets hit Sands, he immediately fled the scene. Davidson repeatedly

⁹⁰ Ibid., 22.

⁹¹ Ibid., 24.

⁹² Ibid., 27.

⁹³ Marion E. Jackson, "Troup County Man Convicted in "Self-Defense" Slaying: Davidson Faces Chair in Death of Olin Sands," *Atlanta Daily World*, Aug. 15, 1951, 1.

⁹⁴ Brief of Evidence, *State of Georgia v. Gus Davidson*, Aug. 14, 1951, 5.

⁹⁵ Ibid.

⁹⁶ Ibid., 26.

⁹⁷ Ibid., 29.

testified that there was no one in the car, certainly not George Grant.⁹⁸ The defense did not present any other witness.

The Outcome

On August 15, 1951, after deliberating for about two hours, an all-white Troup County jury returned a guilty verdict without recommendation for mercy, resulting in a death penalty for Davidson.⁹⁹ The jury had returned for instructions twice – first, on a 9-3 deadlock¹⁰⁰ and second, on further instruction from the judge as to “the time element involved in premeditation.”¹⁰¹ Judge Boykin sentenced Davidson to death by electrocution on September 28, 1951.¹⁰² Davidson’s attorney, James E. Weldon, immediately filed a motion for a new trial on August 17, 1951,¹⁰³ but the motion was denied on each and every ground on November 23, 1951.¹⁰⁴

Appeal from the Capital Sentence

Davidson appealed the conviction and sentence to the Supreme Court of Georgia. He argued that the trial court had failed to charge on the doctrine of mutual combat or the mutual intent to fight, as set forth in Section 26-2014 of the Code of Georgia, which would have supported a finding of voluntary manslaughter.¹⁰⁵ Instead, the court gave a general charge, which excluded this particular principle of law, and only charged the law of self-defense in Code Section 26-1011 and 26-1012, and the principle of law as to voluntary manslaughter as defined in Code Section 26-1007.¹⁰⁶ Davidson argued that the evidence clearly demonstrated a mutual intent to fight on the part of Sands, who arrived at the scene armed with both a stick and a pistol. The words and violent acts of Sands also suggested that he was the aggressor. The Supreme Court of Georgia found no error in the failure to charge this principle of law, because, it concluded, the facts did not support any mutual intent to fight.¹⁰⁷

Davidson also argued that the trial judge erred in admitting as physical evidence a shirt that Olin Sands was allegedly wearing at the time he was shot. Mrs. Sands had washed the shirt after Sheriff Hillyer returned it to her, and there was no longer blood on

⁹⁸ *Ibid.*, 30.

⁹⁹ *Ibid.* The case went to the jury at 4:37 p.m. and a verdict was reached at 6:50. The only African-American in the venire, Henry Scott, was excluded from possible jury service by the prosecution.

¹⁰⁰ Marion E. Jackson, “Troup County Man Convicted in “Self-Defense” Slaying: Davidson Faces Chair in Death of Olin Sands,” *Atlanta Daily World*, Aug. 15, 1951, 2.

¹⁰¹ “Davidson Found Guilty; To Be Sentenced Friday,” *LaGrange Daily News*, Aug. 15, 1951, 1.

¹⁰² “Gus Davidson Sentenced to Death September 28,” *LaGrange Daily News*, Aug. 17, 1951

¹⁰³ Motion for New Trial filed by James E. Weldon to Judge Samuel J. Boykin with regards to verdict and judgment for State of Georgia in *State vs. Gus Davidson*, (in author’s possession).

¹⁰⁴ Brief of Evidence, *State of Georgia v. Gus Davidson*, Aug. 14, 1951.

¹⁰⁵ *Ibid.* See Amendment to the Original Motion for New Trial.

¹⁰⁶ *Ibid.*

¹⁰⁷ *Davidson v. State*, 208 Ga. 834, 835.

it when it was admitted as evidence.¹⁰⁸ Here again, the Supreme Court rejected Davidson's claim of error. The Court noted that Mrs. Sands positively identified the shirt as having been worn by Sands at the time of his death.¹⁰⁹

Finally, the defendant argued that the trial judge's refusal to allow Sheriff Hillyer to testify as to whether a mob had gathered shortly after the shooting constituted error. The testimony was relevant to the prosecution's claim that Davidson's flight was evidence of guilt.¹¹⁰ The Supreme Court sustained the lower court's exclusion of the evidence on the grounds that it would have been hearsay.¹¹¹

On March 10, 1952 the Supreme Court affirmed the Superior Court's ruling denying Davidson's motion for a new trial.¹¹² After defendant's application for rehearing was denied, Judge Boykin sentenced Davidson to die on May 23, 1952.¹¹³ Davidson filed an appeal with the Pardon and Parole Board to commute his death sentence to life imprisonment.¹¹⁴ On May 24, 1952, Governor Herman Talmadge granted Davidson a 30-day reprieve.¹¹⁵ His execution was deferred to allow the Pardon and Parole Board sufficient time to review the petition.¹¹⁶

The Commutation: A Measure of Justice in the Final Hour

On June 20, 1952, the Georgia Pardon and Parole Board commuted the death sentence of Davidson to life imprisonment.¹¹⁷ The decision was announced by the Chairman, Edward B. Everett, one of three Governor-appointed members. Although it was rare for an African American to receive a commutation during this time period in Georgia, it was not unheard of.¹¹⁸

¹⁰⁸ Brief of Evidence, *State of Georgia v. Gus Davidson*, Aug. 14, 1951. See Amendment to the Original Motion for New Trial.

¹⁰⁹ *Davidson v. State*, 208 Ga. at 836.

¹¹⁰ "Georgia Court Says Davidson Must Die," *LaGrange Daily News*, Mar. 12, 1952, 1.

¹¹¹ *Davidson v. State*, 208 Ga. at 837.

¹¹² *Davidson v. State*, 208 Ga. at 834.

¹¹³ "Davidson To Die in Chair May 23," *LaGrange Daily News*, May 9, 1952, 1.

¹¹⁴ *Ibid.*

¹¹⁵ Executive Order by Governor Herman Talmadge, May 23, 1952, (in authors' possession);

"Davidson Granted 30-Day Reprieve," *LaGrange Daily News*, May 24, 1952, 1.

¹¹⁶ Executive Order by Governor Herman Talmadge, May 23, 1952, (in authors' possession).

¹¹⁷ Order of Commutation by State Board of Pardons and Paroles, June 20, 1952, (in authors' possession).

¹¹⁸ Based on research of commutation requests in Georgia from 1940 to 1960, the author found three commutation requests that were denied and two that were granted by the Board, including the request in Davidson's case. In 1953, The Board commuted the death sentence of a Korean War veteran, William Ogletree, for the fatal shooting of a white man. See Lerone Bennett, Jr., "Korean Vet Won't Die in Chair: Ogletree Gets Life in Emergency Plea by Ben T. Garland," *Atlanta Daily World*, Jan. 30, 1953. The three commutation pleas denied all involved African-American men convicted of raping women – two white women and one African-American woman. See George M. Colman, "Mosley Death Sentence Stands, Pardon and Parole Board Rules," *Atlanta Daily World*, Jun. 28, 1956; "Commutation Plea of Jones Denied," *Atlanta Daily*

Gus Davidson spent nine years in prison until he was paroled on September 13, 1961.¹¹⁹ His parole plan states that he was to reside in Marietta, Georgia, and work for an employer named Ralph Ardito,¹²⁰ who owned a ditching and pipeline company.¹²¹ On December 7, 1964, he was released from active supervision by the Parole Board. His parole supervisor attested in his report that Davidson had lived up to the conditions of his parole and made satisfactory progress.¹²² Davidson was banned from going to Troup County for the rest of his life.¹²³

Gus Davidson passed away in Clayton County on April 1, 1996 at the age of 77.¹²⁴

CONCLUSION

Nearly 70 years later, even after the perpetrators have long passed away, the affects of this tragedy still ripple through the younger generations of the Gilbert and Davidson families. Unable to move away, relatives of Gus Davidson continued to be targets of local law enforcement, repeatedly arrested for trumped up charges such as “shouting obscenities.”¹²⁵ The Gilbert family was deprived of the financial opportunity to accrue wealth through land ownership and any natural resources that came with the 111 acres. It is hard to predict where the Gilbert family could be today financially, had those assets been passed down. Furthermore, the Gilberts were deprived of the business acumen Henry Gilbert had to offer: any black man who could accrue 111 acres of land and start his own successful farm in the backwoods of Georgia in the 1940s had valuable lessons to share. The tragedy left the Gilbert family in an emotionally bereft state from which it took years to recover. Following Henry Gilbert’s death, Mae Henry Gilbert was never the same. His beloved daughters were so deeply distraught and embarrassed by the lies that circulated about their father that since 1947 they remained silent about his death. Their sons, daughters and grandchildren had no idea what happened to Henry “Peg” Gilbert until the authors shared with some of them the details of his story.

World, Jul. 3, 1953; “Doomed Macon Man Denied Plea of Commutation,” *Atlanta Daily World*, Dec. 10, 1943.

¹¹⁹ Certificate of Parole of Gus Davidson, issued on Sep. 11, 1961 by the State Board of Pardons and Paroles, (in authors’ possession).

¹²⁰ *Ibid.*

¹²¹ Obituary of Ralph Ardito, *available at* <http://obits.dignitymemorial.com/dignity-memorial/obituary.aspx?n=Ralph-Ardito&lc=6228&pid=163749257&mid=5466060>.

¹²² E.J. Calhoun, Jr. Director of Parole to Gus Davidson, Dec. 7, 1964.

¹²³ Certificate of Parole of Gus Davidson, issued on Sep. 11, 1961 by the State Board of Pardons and Paroles, (in authors’ possession). Statement of the conditions under which this parole is granted stipulated in all capital letters, “you are not to go to Troup County at all.”

¹²⁴ Gus Davidson’s Death Certificate, available for viewing at ancestry.com, *Georgia, Death Index, 1919 - 1998* [database on-line]. The data indicates that the county of residence at the time of his death was Bibb County.

¹²⁵ Archived criminal trial logs, LaGrange GA (in authors’ possession).

So, nearly 70 years later, where do these two families find solace? Uncovering the truth is important, but it is also true that these families may never be made whole. Our duty as younger generations, however, is to ensure that their suffering is not in vain. Their story, their fate, cannot be swept aside and written off as an issue of the past. Rather it must be recognized as the problematic background to our future. It took enormous bravery for these families to revisit these painful memories and share them for our benefit. May it be used to fuel the meaningful change our justice system so desperately needs.
