

Tuscaloosa, Alabama 1933:

A Summer of Violence



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Summer 2015 (working document)

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I. A Summer of Violence in Tuscaloosa Alabama

1933 was a summer of violence in Tuscaloosa, Alabama, with one murder, two lynchings and one attempted lynching. This paper examines the outbreak of deadly violence through four crimes that occurred in the summer of 1933: the murder of Vaudine Maddox, the lynchings of Dan Phippen, Jr. and A.T Harden, and the attempted lynching of Elmore Clark.

Despite Tuscaloosa's natural beauty and seemingly tranquil atmosphere,¹ Tuscaloosa County experienced a heightened murder rate in the early 1930s.² In fact, over seventy killings had occurred in Tuscaloosa County since the spring of 1931, which averages out to more than two homicides per month.³ To put that in perspective, Tuscaloosa, with a population of less than 65,000, had a homicide rate that surpassed that of Chicago and that made it one of "the most murderous cities in America" alongside Memphis, Tennessee and Atlanta, Georgia.⁴ However, despite all of the violence in Tuscaloosa County before the lynchings in August 1933, there had not been a lynching in the county since 1884.⁵

This incredibly high crime rate was coupled with a lack of prosecution, creating a lawless environment in the county.⁶ Of the seventy killings in Tuscaloosa between the spring of 1931 and October 1933, only one person was sentenced to life imprisonment and no one was given a death sentence.⁷ Four such crimes that went unpunished were the murder of Vaudine Maddox, the

¹ See CLARENCE CASON, 90° in the Shade 113–114, (The University of Alabama Press 1983)(1935), *available at* EBSCO.

² See SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, THE PLIGHT OF TUSCALOOSA 36 (1933).

³ *Id.*; See also 'United Against Crime'—Judge Urges: Foster Charges Grand Jury, Asks Citizen Support, THE TUSCALOOSA NEWS, Oct. 9, 1933, at 1.

⁴ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2.

⁵ *Jury Called to Probe Lynching: Investigation to Begin Tomorrow, Judge Declares*, THE TUSCALOOSA NEWS, Aug. 14, 1933, at 1.

⁶ See SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2.

⁷ *Id.*

lynching of Dan Pippen, Jr., the lynching of A.T. Harden, and the attempted lynching of Elmore Clark.

The historical record for these cases is rich, and most of the information in this paper comes from Dr. Arthur Raper's investigation on behalf of the Southern Commission on the Study of Lynching, as well as news articles from *The Tuscaloosa News*. While there are other papers, books, and articles written about this case, some of the facts detailed in one report are explicitly or impliedly contradicted in another.⁸ This paper points out those contradictions and adds to the discussion by focusing on the details of the cases from a critical legal perspective.

II. The Murder of Vaudine Maddox

The story of the lynchings of Pippen and Harden began with the murder of Vaudine Maddox, in what the local newspaper called "one of the most cruel and heinous [crimes] ever reported here."⁹ Maddox was a twenty-one year old white female who lived a half mile west of Greensboro road in the neighborhood of Big Sandy Creek,¹⁰ located approximately twelve miles from the town of Tuscaloosa,¹¹ near the Tuscaloosa-Hale county line.¹² Maddox was last seen when she left the family house at approximately 9:00 am on Monday, June 12, 1933 to care for an ill neighbor, Mrs. Leopard, who lived about a half mile away from the Maddox family.¹³ Two days later, on Wednesday, June 14 at about 3:00 pm, Vaudine Maddox's younger sisters Gladys and Audis walked along the road where she was last seen alive.¹⁴ About a quarter of a mile from the

⁸ See B.J. HOLLARS, THIRTEEN LOOPS 13–41 (2011); Mary Jo Madison, Shots in the Dark: Lynching in Tuscaloosa, Alabama, 1933 (Dec. 13, 1991) (unpublished M.A. thesis, Auburn University) (on file with Auburn University); PHILIP DRAY, *At the Hands of Persons Unknown*, 317–320 (2002).

⁹ *Girl Thought Murdered by 'Friend': Deputies Search Community for Clues to Murder*, THE TUSCALOOSA NEWS, June 15, 1933, at 1.

¹⁰ *Id.*

¹¹ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 10.

¹² *Maddox Murder Cases Are Set for August 1*, THE TUSCALOOSA NEWS, July 23, 1933, at 2.

¹³ *Girl Thought Murdered by 'Friend': Deputies Search Community for Clues to Murder*, *supra* note 9.

¹⁴ *Id.*

Maddox family home, they discovered their sister's body, in a spot about two hundred feet from the road where buzzards were circling.¹⁵ The two sisters went home and told their father, W. T. Maddox, who notified the sheriff's office.¹⁶ By the time deputies and Coroner S. T. Hardin went to the spot, it was dark and they were unable to conduct a full investigation until the next morning on June 14.¹⁷ At the scene of the crime the next day, investigators found Maddox's body, blood on a stick near the road, two rocks in the ravine near Maddox's body, and a small pail of flour next to a tree trunk on the side of the road, as well as signs of an altercation near the road.¹⁸ Immediately, all deputies in the sheriff's office were assigned to the case.¹⁹

The story of Vaudine Maddox's murder captivated the community and the subsequent developments remained front page news for weeks,²⁰ perhaps because of her personal story as much as the nature of the crime scene itself. The Maddox family was poor, and the community had been providing aid to the family for about a year.²¹ Maddox's mother had died nine years earlier and her father, W.T. Maddox, was in poor health and unemployed, leaving Maddox to help care for her two younger brothers, Stancer and Bartie, and two younger sisters Gladys and Audis.²² Maddox and her family were "[o]f the unattached, roving type," having moved from Fayette County to Hale County five years earlier, and then to Tuscaloosa County about a month before Maddox was murdered, for

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Negro Jailed as Attack Suspect: Youth of 20 Who Lives near Site of Crime, Taken*, THE TUSCALOOSA NEWS, June 16, 1933, at 1.

²⁰ *See Girl Thought Murdered by 'Friend': Deputies Search Community for Clues to Murder*, *supra* note 9; *Three Arrested For Activity In Jail Gathering*, THE TUSCALOOSA NEWS, June 28 1933, at 1; *Local Negroes Tell I.L.D. Stay Out of Maddox Case*, THE TUSCALOOSA NEWS, July 31, 1933, at 1.

²¹ *Girl Thought Murdered by 'Friend': Deputies Search Community for Clues to Murder*, *supra* note 9.

²² Stancer was fifteen, Bartie was twelve, Gladys was nineteen and Audis was ten years old. *Id.* The 1930 U.S. Census has slightly different names and different spelling variations for both Maddox herself and her family. 1930 U.S. Census for Vaudean Maddox, FAMILY SEARCH (1930) <https://familysearch.org/ark:/61903/1:1:3GZC-C6Z>. The census reports that Maddox's first name is "Vaudean," that her sisters' names are "Laury" and "Audie," and that her brothers' names are "Beadfort" and "Stoneel." *Id.* Her father's first name is actually "Walter." *Id.*

a total of six moves in the past five years.²³ Their residence in Moundville had been destroyed by a tornado in January, 1932,²⁴ and it is unclear how the Maddox family kept a roof over their heads during the time between the tornado and their move to Tuscaloosa County. The Maddox family was so poor that when they moved to Tuscaloosa County, they lived in a two-room shack in a black community, with the consent of a black tenant but without the landlord's knowledge.²⁵ Tragically, Maddox was killed less than a week before her twenty-second birthday.²⁶

A. Media Coverage

The condition of Maddox's body, as well as the local newspaper's graphic descriptions, also "aggravated the emotional excitement" caused by her murder.²⁷ There were vultures at the crime scene and "small animals and insects which congregate about a corpse of three days."²⁸ More graphically, a person who saw her body stated that "[t]he buzzards had eaten a hole in her side, and the dogs ate one arm off. The skin slipped when we tried to pick her up; we had to hold her by the head and the shoes – it was awful."²⁹

Not only was the crime scene sickening, the local newspaper, *The Tuscaloosa News* reported on the condition of Maddox's body in "[n]auseating" detail.³⁰ It was highly reported that Maddox's younger sisters found "the corpse which had been partly dismembered by the birds" and that Maddox's body had been "dragged" from the road to the ravine where her body was later found.³¹

²³ *Girl Thought Murdered by 'Friend': Deputies Search Community for Clues to Murder*, *supra* note 9; SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2.

²⁴ *Girl Thought Murdered by 'Friend': Deputies Search Community for Clues to Murder*, *supra* note 9.

²⁵ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 10.

²⁶ *Girl Thought Murdered by 'Friend': Deputies Search Community for Clues to Murder*, *supra* note 9.

²⁷ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 10.

²⁸ *Id.*

²⁹ DRAY, *supra* note 8, at 318.

³⁰ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 10.

³¹ *Girl Thought Murdered by 'Friend': Deputies Search Community for Clues to Murder*, *supra* note 9.

An article in *The Tuscaloosa News* also stated that blood on the stick and rocks “indicat[ed] that they were the weapons used by the murderer in crushing the skull of his victim.”³²

Adding to the sickening nature of the crime was a report that “the condition of the girl’s clothing and the surroundings indicated that she had been attacked criminally,”³³ meaning that she had been sexually assaulted either before or after her murder. It is important to note that there is contradictory information about whether Maddox was sexually assaulted. Her death certificate states that she was “criminally assaulted and murdered.”³⁴ However, it was also reported that “the coroner of Tuscaloosa County . . . stated that the decomposed condition of the body made it impossible to determine whether or not the girl had been raped.”³⁵

B. Early Theories of the Murder

Initially, “. . . theories in the inquiry indicate clearly that someone ‘friendly’ to the Maddox girl either actually committed the crime or possesses guilty knowledge in connection with it.”³⁶ Supporting this theory was the fact that investigators found Maddox’s pail of flour “undisturbed.”³⁷ The pail of flour “gave no indication that it had been dropped in the scuffle,” and made investigators believe she had placed it on the ground to talk to someone before she was attacked.³⁸

³² *Id.*

³³ *Id.*

³⁴ Maddox’s death certificate lists her date of death as June 14, 1933 at 8:30 am. However, it was widely reported that Maddox went missing on June 12 after 9:00 am and likely died that day, based on the reported decomposed state of her body. See Alabama Center for Health Statistics, *Certificate of Death for Vaudine Maddox* (June 14, 1933); SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 10; *Girl Thought Murdered by ‘Friend’: Deputies Search Community for Clues to Murder*, *supra* note 9. Another complication is that the investigation into her death did not firmly establish the time she left her house as a starting point. The time of death window varied depending on whom the investigators questioned, as well. *Mystery Maze Still Enfolds Maddox Inquiry*, THE TUSCALOOSA NEWS, June 18, 1933, at 1. At the same time *The Tuscaloosa News* noted the lack of information about the time of death, it widely reported that “first analysis of the situation” suggested she did not even leave her house until 9:00 am and that the crime took place between 9:00 am and 10:00 am, “or possibly later.” *Id.* Such a discrepancy in time of death would create problems for the suspects in showing an alibi.

³⁵ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 11.

³⁶ *Girl Thought Murdered by ‘Friend’: Deputies Search Community for Clues to Murder*, *supra* note 9.

³⁷ *Id.*

³⁸ Interestingly, officials said that “[s]ome of the evidence would indicate a typical attack case involving a negro, but for the fact that it appears that the Maddox girl either stood or sat on a log and talked with someone at a point near the trail leading down to the body.” *Id.* This statement assumes that a white girl would not have stopped to chat with a black

There are a number of facts in this case that, despite supporting the investigator's initial theory that a friend killed Maddox, do not appear to have been fully investigated. For example, when Maddox did not come home on Monday night, her father "did not feel uneasy" and thought she was staying at a neighbor's house for the night.³⁹ The next day when Maddox did not return home, her father said that he inquired about her whereabouts in the neighborhood, and concluded that "she had possibly left with someone" because of a "dispute" two weeks earlier regarding her and a "young man visitor who called at the Maddox home."⁴⁰ There is no further mention of this man in *The Tuscaloosa News*, despite the newspaper's meticulous reporting of this case.⁴¹

III. Arrest of Dan Pippen, Jr. for Murder

On Friday, June 16 at 12:00 pm, two days after Vaudine Maddox's body was discovered, Dan Pippen, Jr. was arrested for her murder.⁴² Pippen was an eighteen-year-old⁴³ black male who lived with his father, Dan Pippen, Sr. and mother Lucinda, or Lucindy, Pippen⁴⁴ about a quarter of a

man and therefore could imply that she was killed by a white man. Yet the very next day, deputies arrested a black man for her murder. *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Interviews of members of the black and white communities conducted by Dr. Arthur Raper, an investigator for the Commission on Interracial Cooperation (CIC), discussed a "shady older white man named Powell" who claimed to be Maddox's cousin and who lived with Maddox. DRAY, *supra* note 8. Dr. Raper learned that "many blacks quietly suspected Powell of having killed her." *Id.* However, the local newspaper reported a twenty-five year old cousin named Leland Fowler, not Powell, as living with the Maddox family for the two months preceding the murder. *Girl Thought Murdered by 'Friend': Deputies Search Community for Clues to Murder*, *supra* note 9. It is uncertain how credible the information provided to Dr. Raper by the community about "Powell" was, especially considering that information did not make it into the Southern Commission on the Study of Lynching report about the case, which used Dr. Raper's investigative work. See SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 1–39. However, it is unclear whether the sheriff's office ever considered that Maddox could have been murdered by Leland Fowler or "Powell."

⁴² *Negro Jailed as Attack Suspect: Youth of 20 Who Lives Near Site of Crime, Taken*, *supra* note 19.

⁴³ Some newspaper articles identify Dan Pippen, Jr. as twenty years old. See *Negro Retracts Previous Story in Maddox Case*, THE TUSCALOOSA NEWS, June 20, 1933, at 1. Pippen's death certificate, the Southern Commission on the Study of Lynching report, the 1930 U.S. Census records, and the majority of newspaper articles identify Pippen as eighteen years old. See Alabama Center for Health Statistics, *Certificate of Death for Dan Pippen Jr.* (Aug. 12, 1933); SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 11; 1930 U.S. Census for Dan Pippen, FAMILY SEARCH (1930), <https://familysearch.org/ark:/61903/1:1:3GCB-GPZ>; *Negro Says He Saw Girl Murdered*, THE TUSCALOOSA NEWS, June 19, 1933, at 1.

⁴⁴ The 1930 U.S. Census lists Dan Pippen's mother as "Lucindy" but newspaper articles list her as "Lucinda." See 1930 U.S. Census for Dan Pippen, *supra* note 43.

mile away from where Maddox lived in the Big Sandy section.⁴⁵ Pippen’s arrest followed an “intensive search” of the Big Sand neighborhood.⁴⁶ Through this search, investigators learned that someone saw Pippen walking across a field near the crime scene and pick up a rock “with the expression, ‘I am going to kill someone with this.’”⁴⁷ With that story, the theory turned from a friend killing Vaudine Maddox to a *fiend* committing a brutal murder.⁴⁸

There are a few facts that suggest that the information leading to Pippen’s arrest was untrustworthy, or at the very least the information was not enough to establish probable cause. First, the man who informed investigators that he had seen Pippen near the scene of the crime was a white man who owed Pippen money,⁴⁹ making his motives suspect. Second, Pippen lived a quarter of a mile from Maddox and therefore his presence in Big Sandy on its own would not be suspicious enough to suspect him of murder.⁵⁰ Third, even if he was spotted picking up a rock in the Big Sandy area, the allegation that his expression was murderous is highly subjective and not enough to reasonably arrest Pippen for the murder. Investigators even acknowledged the “inconclusive” case against Pippen and that his arrest was “based principally upon circumstantial evidence.”⁵¹

The only tangible piece of evidence against Pippen was a “small scrap of frayed overall material” with a “blotch of blood” on it allegedly found at the scene of the crime, which was reported to resemble the overalls Pippen wore the day Maddox was murdered.⁵² To bolster the idea

⁴⁵ *Negro Jailed as Attack Suspect: Youth of 20 Who Lives near Site of Crime, Taken, supra* note 19.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 11. This discrepancy was justified by a rumor that Pippen knew Maddox, because they had been “recently engaged in a friendly dispute over shearing of a dog,” and therefore his arrests “seems to fit in with the theory that someone acquainted with Miss Maddox had stopped her and spoken with her before making the attack.” *Negro Jailed as Attack Suspect: Youth of 20 Who Lives near Site of Crime, Taken, supra* note 19. However, the *Tuscaloosa News* article discussing the rumor acknowledges that the facts have not been confirmed. *See id.* Furthermore, even if this rumor was true, it isn’t clear that whatever happened in a “friendly dispute” would end in a murder.

⁴⁹ *Three Murders in 18 Hours Set Crime Record, AFRO-AMERICAN*, August 19, 1933, at 12.

⁵⁰ *Negro Jailed as Attack Suspect: Youth of 20 Who Lives near Site of Crime, Taken, supra* note 19.

⁵¹ *Mystery Maze Still Enfolds Maddox Inquiry, supra* note 34.

⁵² *Negro Says He Saw Girl Murdered, supra* note 43.

that Pippen was guilty, *The Tuscaloosa News* reported that Pippen's overalls were "badly torn and ripped, as if it had been torn in a fight."⁵³ It is of note that the first and last mention of this piece of fabric was on June 19, 1933, and there were no articles about the results of the laboratory tests conducted on the fabric.⁵⁴ If Pippen's overalls had matched the fabric found, that information undoubtedly would have been crucial to proving that Pippen committed the crime and would have been reported, rather than the circumstantial evidence that was the main focus throughout the investigation.

Even if Pippen's overalls matched the fabric found and if the blood on it was Maddox's, the person who discovered it and the timing of that discovery could indicate that the evidence was planted. The overall fabric was found at the crime scene by James Oswald, who was a relative of the Maddox family.⁵⁵ Oswald had come to Tuscaloosa after Maddox's body was discovered and offered to assist with the investigation.⁵⁶ As a former sheriff of Fayette County, which shares a boundary with Tuscaloosa County, Oswald obviously had experience investigating crimes.⁵⁷ However, his relationship to the Maddox family means that he might not have been impartial in his investigation and that he had a strong interest in finding someone responsible for Maddox's murder.

Oswald's discovery of the overall fabric was reported for the first time on June 19, 1933, which was five days after Maddox's body was discovered and three days after Pippen was arrested.⁵⁸ The fact that the fabric was reported only after Pippen was arrested suggests that Oswald, a deputy, the sheriff or someone else could have taken a piece of Pippen's overalls, or a piece of

⁵³ Another plausible explanation for the poor quality of Pippen's clothing was that he was a manual laborer whose family likely did not have money to buy him new clothes. Also, the fabric found at the scene of the crime was "said to check closely" with the overalls Pippen wore, but could have been the same fabric that other laborers wore. *See id.*

⁵⁴ *Id.* (noting that "[l]aboratory tests are being made to determine if the blood found on the overall scrap and that on the rocks, is identical").

⁵⁵ *Id.*

⁵⁶ *Girl Thought Murdered by 'Friend': Deputies Search Community for Clues to Murder*, *supra* note 9.

⁵⁷ *Id.*

⁵⁸ *See Negro Says He Saw Girl Murdered*, *supra* note 43.

fabric that looked like Pippen's overalls, after his arrest and planted it at the scene of the crime to link him to the murder.

Despite the investigators' belief that Pippen murdered Maddox, he maintained his innocence.⁵⁹ To back up his claim, Pippen worked to establish an alibi for the time of Maddox's murder.⁶⁰ During the estimated time that Maddox was killed, Pippen claimed that he was working, a fact which was verified by several witnesses who were questioned by officers.⁶¹ Pippen's own father confirmed that his son was at work at the time of Maddox's murder,⁶² and then was arrested two days later for interfering with the investigation.⁶³ Will Jemison,⁶⁴ a black landowner and Pippen's employer, also offered an alibi for Pippen.⁶⁵ When Jemison testified before the grand jury, he stated that Pippen arrived at Jemison's home at 5:00 am and then they went to work at 7:00 am where they stayed all day.⁶⁶ Like Pippen's father, Jemison was also jailed for his involvement in the case and was not released until after Pippen was lynched in August 1933.⁶⁷ Despite this, officers still maintained that Pippen "was unable satisfactorily to account for his actions" from 7:00 am until 12:00 pm on the day Maddox was murdered.⁶⁸

⁵⁹ *Mystery Maze Still Enfolds Maddox Inquiry*, *supra* note 34; *Other Negroes Are Questioned in Death Case*, THE TUSCALOOSA NEWS, June 21, 1933, at 1.

⁶⁰ *Mystery Maze Still Enfolds Maddox Inquiry*, *supra* note 34.

⁶¹ *Id.*

⁶² *Three Murders in 18 Hours Set Crime Record*, *supra* note 49.

⁶³ *Mystery Maze Still Enfolds Maddox Inquiry*, *supra* note 34; *See Three Murders in 18 Hours Set Crime Record*, *supra* note 49.

⁶⁴ He is also referred to as Willie Jimison. *See Three Murders in 18 Hours Set Crime Record*, *supra* note 49.

⁶⁵ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 11.

⁶⁶ *Id.*

⁶⁷ Jemison was jailed for being a material witness, and was released after his lawyer was prepared to meet Jemison with money at the jail to get Jemison out of the county, per advice by the judge (presumably Judge Foster). *Id.* At the time of this writing, the 6th Judicial Circuit Court in Tuscaloosa stated that they had no record of Pippen, Sr. or Jemison, meaning that any charges against them for interfering with the criminal investigation may have been no billed or dropped.

⁶⁸ *Negro Says He Saw Girl Murdered*, *supra* note 43.

IV. Arrest of A.T. Harden as Accomplice to Murder

On the afternoon of Sunday, June 18, 1933, fifteen-year old A. T. Harden⁶⁹ was also arrested as a suspect in the murder of Vaudine Maddox.⁷⁰ Harden was from the Big Sandy section, where he lived with his parents, his father Bud and his mother Fillies. He was reported to have one brother.⁷¹ The next morning “after extended questioning,” Harden told the deputies, the circuit solicitor Edward deGraffenreid, and the county solicitor William J. Foster that he saw Pippen rape and murder Maddox.⁷² This was the first of several different stories told by Harden in the course of the investigation,⁷³ and his multiple stories may have been shaped by physical violence or coercion.⁷⁴

In his first alleged confession, Harden stated that he saw Pippen on the morning of Maddox’s murder at 7:00 am, and that Pippen said, “. . . Come with me, I’ve got to do some dirt to a white girl.”⁷⁵ Harden said that he and Pippen passed Maddox’s house and walked through the woods to the scene of the attack.⁷⁶ Harden stated that Pippen stopped Maddox to talk to her and then

⁶⁹ Some accounts of the story report that his last name was “Hardin.” The 1930 U.S. Census also spells his last name as “Hardin,” however the majority of the coverage of this case stated that his last name was “Harden.” See 1930 U.S. Census for A. T. Hardin, FAMILY SEARCH (1930), <https://familysearch.org/ark:/61903/1:1:3GCX-K3Z>; *Negro Says He Saw Girl Murdered*, *supra* note 43; SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 11–12.

⁷⁰ Harden was arrested at the same time as Pippen’s father. *Negro Says He Saw Girl Murdered*, *supra* note 43; SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 11.

⁷¹ *No Trace Found of Third Negro*, THE TUSCALOOSA NEWS, Aug. 14, 1933, at 1. There is no record of him having a brother in the 1930 U.S. Census. See 1930 U.S. Census for A.T. Hardin, *supra* note 69. There is, however, a record of Bud Hardin, A.T. Harden’s father, having a grandson in the 1940 U.S. Census. 1940 U.S. Census for Bud Hardin, FAMILY SEARCH (1940) <https://familysearch.org/ark:/61903/1:1:V15X-ZPH>.

⁷² *Negro Says He Saw Girl Murdered*, *supra* note 43.

⁷³ See *Negro Says He Saw Girl Murdered*, *supra* note 43; *Negro Retracts Previous Story in Maddox Case*, *supra* note 43; *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering*, THE TUSCALOOSA NEWS, June 25, 1933, at 1.

⁷⁴ Although it is unclear whether Harden was physically abused by police in order to confess, Pippen later admitted on the stand that he had been whipped while in police custody and had a scar across his face. *Pippen Murder Trial Continued*, THE TUSCALOOSA NEWS, Aug. 1, 1933, at 1; SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 13. It is not outside of the realm of possibility that Harden, and Clark, may have been physically abused as well. See SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 13 (“[h]ow much credence should be given these charges and countercharges the reader may judge. There were later confessions, also – confessions secured by the police in secret by means best known to themselves”).

⁷⁵ *Negro Says He Saw Girl Murdered*, *supra* note 43.

⁷⁶ *Id.*

attacked her.⁷⁷ Harden claimed that he was not involved in the attack, and that he went back on the hill and watched while Pippen raped her, and then killed her with two rocks before dragging her from the road to the ravine where her body was later found.⁷⁸

It is important to note that the next day, June 20, *The Tuscaloosa News* report about this confession was slightly different. This time, the newspaper reported that Harden claimed he did not see Pippen actually commit the crime.⁷⁹ This second account is in sharp contrast with the report from the previous day, which stated that Harden said he had watched Pippen rape and kill Maddox from a hill. The second account stated that Harden heard Maddox “begging for mercy and also heard her scream twice,” followed by “the sound of a blow, apparently the crushing of the girl’s skull with rocks.”⁸⁰

On the same day that *The Tuscaloosa News* reported this variation of Harden’s confession, it also reported that Harden repudiated his confession altogether.⁸¹ This time, Harden claimed that he did not know anything about the rape and murder of Maddox, and that his story was “‘all a lie’ that he told because he was frightened.”⁸² In response to Harden’s new statements denying his earlier confession, the sheriff’s office conducted a “round-up of a half a dozen or more” blacks from the Big Sandy section regarding the Maddox murder to find evidence against Harden, Pippen or someone else. Several of them were held for questioning; others were jailed.⁸³

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Negro Retracts Previous Story in Maddox Case*, *supra* note 43.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Other Negroes Are Questioned in Death Case*, *supra* note 59; *See Negro Retracts Previous Story in Maddox Case*, *supra* note 43; *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering*, *supra* note 73.

V. The First Mob

Just before midnight on the night of June 21, exactly one week after Maddox's body was found, over one hundred people gathered at the Tuscaloosa County jail and demanded Pippen and Harden.⁸⁴ Fearing violence earlier that day, officials had transferred Pippen and Harden to the Birmingham jail prior to the mob's arrival.⁸⁵ The mob had gathered about three miles from town on the Greensboro road,⁸⁶ where there were more than one hundred people with twenty to thirty cars.⁸⁷ They left that location at approximately 11:30 pm, and were then joined by hundreds more people downtown.⁸⁸ Judge Henry B. Foster and Sheriff Shamblin met the mob on the jail steps, and informed them that Pippen and Harden had been moved to another city.⁸⁹ In order to convince the mob that Pippen and Harden were not in the jail, Sheriff Shamblin brought two members of the mob into the jail,⁹⁰ without the judge's agreement.⁹¹

Satisfied that Pippen and Harden were not in the county jail but still determined to find them, about two hundred members of the mob went to the Tuscaloosa city hall several blocks away and demanded access to the city jail.⁹² The reports as to what happened at the city jail are somewhat contradictory. The report of the Southern Commission on the Study of Lynching stated that the mob's demand to search the city jail was met with "armed resistance."⁹³ On the other hand, an article in *The Tuscaloosa News* emphasized that the officers were "armed with modern 'billies' equipped with tear gas which renders all in range temporarily blind, but it was unnecessary to use

⁸⁴ *Jail Gathering Will Be Probed by Grand Jury*, THE TUSCALOOSA NEWS, June 22, 1933, at 1.

⁸⁵ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 12.

⁸⁶ It is unclear how far away their meeting spot was from Maddox's home (Maddox lived about half a mile west of Greensboro road) and if that meeting location was picked for a related reason.

⁸⁷ *Jail Gathering Will Be Probed by Grand Jury*, *supra* note 84.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ It was reported that the two men that Sheriff Shamblin brought into the jail claimed to know Pippen and Harden. *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering*, *supra* note 73.

⁹¹ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 12.

⁹² *Jail Gathering Will Be Probed by Grand Jury*, *supra* note 84; SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 3, at 12.

⁹³ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 12.

these weapons.”⁹⁴ In both reports, Judge Foster and other deputies, possibly including Sheriff Shamblin,⁹⁵ successfully dispersed the mob.⁹⁶

In a public attempt to characterize the group as something other than a lynch mob, *The Tuscaloosa News* reported that “[t]here was little show of violence.”⁹⁷ The newspaper further noted that everyone in the mob, all several hundred of them, “appeared to be unarmed.”⁹⁸ At most, “several” members of the crowd spoke to Judge Foster and Sheriff Shamblin “disrespectfully” and only a few individuals expressing threats against the two negroes.”⁹⁹ The newspaper therefore concluded that “[there] was no general race feeling in evidence.”¹⁰⁰ Moreover, the newspaper repeatedly stated that the group was “seeking” Pippen and Harden,¹⁰¹ rather than openly acknowledging the reality that the mob was not simply “seeking” them but was organizing to lynch them.

Further strengthening the rhetoric that the group was not a lynch mob was descriptions of the mob as being comprised of “youths” or “young men with only a few older persons,” which “was not in an inflamed spirit.”¹⁰² When describing the large number of people in the mob, *The Tuscaloosa News* reported that the original group of about one hundred people were “joined by a large number of spectators and curiosity seekers already downtown.”¹⁰³ In other words, according to the newspaper, only about one hundred people in the group might have had lawless reasons for

⁹⁴ *Jail Gathering Will Be Probed by Grand Jury*, *supra* note 84.

⁹⁵ The Southern Commission on the Study of Lynching report stated that Sheriff Shamblin went to the city jail, however *The Tuscaloosa News* article did not include his name among those who went to the city jail to meet the mob. SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 12; *See Jail Gathering Will Be Probed by Grand Jury*, *supra* note 84.

⁹⁶ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 12; *Jail Gathering Will Be Probed by Grand Jury*, *supra* note 84.

⁹⁷ *See Jail Gathering Will Be Probed by Grand Jury*, *supra* note 84.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*; *Grand Jury Is Called to Act in Death Case*, THE TUSCALOOSA NEWS, June 23, 1933, at 1.

¹⁰² *Jail Gathering Will Be Probed by Grand Jury*, *supra* note 84.

¹⁰³ *Id.*

going to the jail, but the vast majority were bystanders, simply curious about the large group they saw. The implication is that the group wasn't really so much of a mob at all.

Judge Foster also minimized the events of that night through his statements. He stated that the group “appeared less like a mob than any group I have ever seen gathered for a similar occasion” and that the group was “easily and peacefully dispersed after the curiosity of the boys had been satisfied.”¹⁰⁴ Yet three days later, on June 24, Judge Foster ordered a grand jury investigation into the gathering at the jail.¹⁰⁵

VI. The Grand Jury Indictments

On June 24 just three days after the first mob conducted its jail searches in Tuscaloosa, the grand jury indicted Dan Pippen, A.T. Harden and the recently-arrested Elmore Clark for first-degree murder in the murder of Maddox.¹⁰⁶ That same day, Judge Foster called on the grand jury to investigate members of the first mob who illegally entered and searched the jail.¹⁰⁷

A. Arrest and Indictment of Elmore Clark

On Friday, June 23, 1933, a third black man was arrested and indicted as a suspect in the Maddox murder.¹⁰⁸ His name was Elmore (Honey) Clark, and he was also from the Big Sandy section of town,¹⁰⁹ just like Maddox, Pippen, and Harden. The news of Clark's arrest came at the same time that the grand jury indicted Pippen and Harden for the Maddox murder. Possibly because

¹⁰⁴*The Tuscaloosa News* also noted that “Judge Foster has on many instances met groups of this kind, both as circuit judge and formerly as a colonel in the state militia.” *Id.*

¹⁰⁵ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 12. Judge Foster called the grand jury for the mob investigation at the same time as he called a grand jury investigation into the Maddox murder. *See also Jail Gathering Will Be Probed by Grand Jury, supra* note 84.

¹⁰⁶ Pippen, Harden, and Clark were indicted separately. *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering, supra* note 73.

¹⁰⁷ Judge Foster's call for the mob investigation can be viewed as an effort to ensure even-handed justice so that the men accused of murdering Maddox might receive a fair trial *See Id.*

¹⁰⁸ *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering, supra* note 73.

¹⁰⁹ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 12.

of the coincident timing of Clark's arrest there was little reporting about the circumstances under which he was arrested.¹¹⁰

There was significantly less reporting and less was known about Clark's personal circumstances, while considerable information about Pippen and Harden was available to the public.¹¹¹ In addition there was a dearth of information about any evidence to implicate him in Maddox's rape and murder.¹¹² It was reported that Clark's right arm was "shriveled and practically useless" due to an injury that occurred years earlier.¹¹³ The Southern Commission on the Study of Lynching reported that Clark had a wife,¹¹⁴ but nothing else was reported about his family or personal life. At the time of his arrest, Clark was "regarded as ringleader in the crime,"¹¹⁵ based on information provided by Harden, and possibly even Pippen,¹¹⁶ in yet another version of events.¹¹⁷ Only after the lynchings did *The Tuscaloosa News* report that Clark had a strong alibi for the time when Maddox was murdered: he was out of town on a fishing trip.¹¹⁸

¹¹⁰ Regarding his arrest, *The Tuscaloosa News* reported that Clark was found hiding under the bridge in Big Sand. *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering*, *supra* note 73. But, the Southern Commission on the Study of Lynching reported that Clark was arrested near his home and he had made no attempt to escape. SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 12.

¹¹¹ At the time of writing, there was no record of Clark found in the 1930 or 1940 U.S. Census.

¹¹² See *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering*, *supra* note 73.

¹¹³ *No Trace Found of Third Negro Taken by Band*, *supra* note 71; See *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering*, *supra* note 73 (describing Clark as having "one withered arm").

¹¹⁴ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 15.

¹¹⁵ *No Trace Found of Third Negro Taken by Band*, *supra* note 71.

¹¹⁶ See *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering*, *supra* note 73 (reporting that "Pippen, who denied for a week that he knew anything about the case, is reliably reported to have given information Friday, June 23 that led to Clark's arrest. He is said to accused Clark of having ravished and killed the girl with two rocks but claims that he himself did not take part, only watched the attack").

¹¹⁷ See *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering*, *supra* note 73; SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 13.

¹¹⁸ His alibi was strong enough that when his body was not discovered with Pippen's and Harden's on August 13, 1933, there was a rumor around town that the mob had held a midnight trial, determined that Clark was innocent and therefore was not killed. See *No Trace Found of Third Negro Taken by Band*, *supra* note 71.

B. A Different Confession from Harden

After Harden was indicted by the grand jury, he testified that both Pippen and Clark had raped and murdered Maddox,¹¹⁹ giving yet another account of the crime. In this version, Harden saw Pippen and Clark drag Maddox off the road and into the bushes.¹²⁰ Harden said that he did not see the attack but heard it from where he was sitting on the road.¹²¹

According to a report on Harden's testimony, he did not mention Clark in his first version of the story because "[h]e had been threatened by the negro" but otherwise this version was "identical" to the one he had told earlier.¹²² Reinforcing the idea that Clark had threatened people who spoke with investigators, a white witness from Big Sandy showed the grand jury a "letter, apparently from a negro" that he received, threatening to 'get' him if he provided information about the case.¹²³ At this point, investigators believed Harden's account: that Pippen and Clark actually committed the rape and murder while Harden "served as a watcher by the roadside."¹²⁴

C. Members of the First Mob Indicted

In response to Judge Foster's request for criminal indictments against the mob that entered and searched the county and city jails on June 23, the next day the grand jury indicted three white men for conspiracy to commit a felony for their involvement in the mob, leaving open the possibility for other indictments.¹²⁵ On June 26, 1933, Walton (Red) Morris of Tuscaloosa, Bernard Marler of Moundville, and George Davis from Tuscaloosa near the Big Sandy section were arrested for conspiracy to commit a felony and unlawful assembly and rout.¹²⁶ The three were then freed on

¹¹⁹ *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering*, *supra* note 73.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Three Arrested for Activity in Jail Gathering*, *supra* note 20.

\$1,500 bonds.¹²⁷ Marler and Davis were the men who searched the jail;¹²⁸ Morris' indictment was based on his actions while in the crowd.¹²⁹ By the time that the report of the Southern Commission on the Study of Lynching was published, the case against Morris, Marler, and Davis had been *not proessed*.¹³⁰

VII. Trial Preparations, Contested Legal Representation, and a Second Mob

Pippen, Harden, and Clark were arraigned on July 27, 1933, with their lawyers present.¹³¹ Pippen and Clark were represented by Charles LaFrance and Jack McGuire, who entered not guilty pleas in for their clients.¹³² Harden's attorney J. Monroe Ward also entered a not guilty plea.¹³³ On July 29, Judge Foster appointed John D. McQueen, Fleetwood Rice, and Reuben H. Wright, all lawyers who were practicing in the circuit court and therefore were regarded as "among the leading attorneys in the state," to assist in Pippen's and Clark's defense.¹³⁴ Harden, on the other hand, was under the juvenile court's jurisdiction because he was only fifteen years old, so he was not scheduled to be tried with the other two defendants in the Maddox murder.¹³⁵ All three were scheduled to have separate trials beginning on August 1, 1933.¹³⁶

¹²⁷ *The Tuscaloosa News* reported that Morris, Marler and Davis had been indicted by the grand jury, with a charge of conspiracy to commit a felony at \$1,000 bond, and unlawful assembly and rout at \$500 bond. *Id.*

¹²⁸ Because Davis was from the Big Sandy section, it is possible that he knew Pippen and Harden, as was originally reported. See *Three Indicted in Maddox Case: Grand Jury Also Bills Three for Jail Gathering*, *supra* note 73. It is also possible that Marler knew Maddox or her family.

¹²⁹ *Three Arrested for Activity in Jail Gathering*, *supra* note 20.

¹³⁰ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 37. At the time of writing this paper, the 6th Judicial Circuit Court in Tuscaloosa suggested that it might be able to find a record of a true bill for Marler. There was no record of Morris or Davis, meaning the grand jury may have reported no bill.

¹³¹ *80 Jurors Subpoenaed to Hear Maddox Case*, THE TUSCALOOSA NEWS, July 27, 1933, at 1.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ McQueen was a past president of the Alabama Bar Association, Rice was a former circuit court judge and former member of the Alabama legislature and Wright was a prominent lawyer in the area. *Court Appoints Counsel to Aid Negroes' Defense*, THE TUSCALOOSA NEWS, July 30, 1933, at 1.

¹³⁵ The circuit court would not be able to gain jurisdiction over Harden until he turned sixteen years old. *Id.*; See also *Three Arrested for Activity in Jail Gathering*, *supra* note 20.

¹³⁶ *Maddox Murder Cases Set for August 1*, *supra* note 12.

On August 1, 1933 at 9:35 am, the Pippen case was called and jurors were sworn in.¹³⁷ The moment that Pippen’s defense counsels announced that they were ready to proceed, Frank B. Irvin of Birmingham, Allan Taub and Irving Schwab of New York City, lawyers for the International Labor Defense (“ILD”), objected.¹³⁸ The ILD lawyers claimed that they had been employed by Lucindy Pippen to represent her son. They showed the court a retainer agreement, and requested a continuance, claiming that they had not been allowed to interview Pippen and several witnesses who were held at the Tuscaloosa County jail.¹³⁹

Dan Pippen, Jr. and his parents took the stand and testified under oath, in front of jurors, that they had not hired “the three ‘outside’ lawyers” and did not want any lawyers other than LaFrance, McGuire, and anyone LaFrance and McGuire wished to assist them.¹⁴⁰ Pippen also testified that he had never seen Irvin before.¹⁴¹ However, Irvin claimed that he had interviewed Pippen in the Jefferson county jail once.¹⁴²

After the argument about Pippen’s representation, LaFrance and McGuire requested a continuance for his trial, on the basis that the discussion about representation had occurred in front of the grand jury and therefore it would be impossible to get a fair trial.¹⁴³ Solicitors Edward deGraffenried and William J. Foster, representing the prosecution, argued against the continuance and pointed to the fact that the defense had earlier said they were ready to proceed, albeit before the

¹³⁷ *Pippen Murder Trial Continued, supra* note 74.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

ILD lawyers interjected their claims of representation.¹⁴⁴ Judge Foster granted the continuance for Pippen's case as well as Clark's, and in doing so emphasized the importance of a fair trial.¹⁴⁵

While the ILD attorneys were in the courtroom, there was yet another mob of about 2,000 people gathered in Tuscaloosa.¹⁴⁶ This time, however, they had come together to confront the "'outside' lawyers."¹⁴⁷ As with the reports about the first mob, there are multiple accounts of what happened during the gathering of this second mob. The consensus version appears to be that Judge Foster had called the National Guard to protect the ILD lawyers¹⁴⁸ and that none of the defendants--Pippen, Clark, or Harden--were in danger.¹⁴⁹ The National Guard addressed the threat by throwing a tear gas canister into the mob and "from time to time, robbed the milling crowd of leadership by escorting certain emerging leaders to the city jail."¹⁵⁰

The next day, August 2, the ILD publically vowed to "continue to fight" for the court to recognize them as Pippen's, Clark's and Harden's lawyers.¹⁵¹ They called on the court to "withdraw local lynch lawyers" and threatened "exposure [of the court's] illegal lynch maneuvers nationally as counterpart Scottsboro."¹⁵² Throughout early August, there were rumors and concern that Communist agents were coming to Tuscaloosa for the purpose of "advising Negro men to take liberties with white women" and that men who did would be "shielded from punishment by the I. L.

¹⁴⁴ *Id.*

¹⁴⁵ Unlike the ILD's claims about Pippen, the ILD attorneys admitted they had never met Clark, and had only been employed by his friends. Judge Foster indicated that the ILD lawyers would not be recognized as counsel for Clark either. *Id.*

¹⁴⁶ *Id.*; *Our Town*, THE TUSCALOOSA NEWS, Oct. 19, 1980, at 1.

¹⁴⁷ *Pippen Murder Trial Continued*, *supra* note 74; *See also* Editorial, *The Good in a Mob*, THE TUSCALOOSA NEWS, Aug. 1, 1933, at 4.

¹⁴⁸ *See* SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 15.

¹⁴⁹ *Pippen Murder Trial Continued*, *supra* note 74.

¹⁵⁰ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 15.

¹⁵¹ *I.L.D. Says It Will Continue Fight in Case*, THE TUSCALOOSA NEWS, Aug. 2, 1933, at 1.

¹⁵² *Id.*

D.”¹⁵³ Hostile feelings against the ILD increased yet again when *The Tuscaloosa News* published a front-page headline titled “I.L.D. Interference Costs State and County \$1,500,” in which the newspaper described the costs as a “useless expense caused by outside unemployed lawyers.”¹⁵⁴

On August 9, it was reported that the defense would seek a change of venue, which could allow the ILD to become involved in the case again.¹⁵⁵ However the defense team was unable to secure affidavits from people in Tuscaloosa to support their motion and Judge Foster refused the motion.¹⁵⁶ After Judge Foster rejected the motion, the hysteria in Tuscaloosa started to wane and the court announced that the Maddox murder trials would take place on August 22.¹⁵⁷ With the new trial date set, it was again reported that the ILD would come to Tuscaloosa in an attempt to represent the defendants.¹⁵⁸

VIII. The Third Mob and the Lynchings

On Saturday, August 12, there were widespread rumors that a mob was going to come to the jail and lynch Pippen, Harden, and Clark.¹⁵⁹ Because of these rumors, Judge Foster, Sheriff Shamblin and various deputies began discussing whether Pippen, Harden, and Clark should be moved to another jail.¹⁶⁰ At approximately 7:00 pm, Judge Foster went to the jail, and he and

¹⁵³ Only one Communist agent, Louis Harper, was found in Tuscaloosa during this time. After investigators questioned Harper, they put him on a train to Birmingham. Immediately after Harper left, a group of men arrived at the station looking for him. SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 17–18.

¹⁵⁴ *I.L.D. Interference Costs State and County \$1,500*, THE TUSCALOOSA NEWS, Aug. 3, 1933, at 1.

¹⁵⁵ See SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 19 (noting that if the change of venue motion was granted, it “would remove the case from easy reach of the mob which had forced the I. L. D. lawyers to leave the community”).

¹⁵⁶ Judge Foster later noted that people “did not want to get ‘mixed up’ in the cases” as the reason why the defense could not get affidavits in support of their motion to change venue. SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 19.

¹⁵⁷ See SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 19; *Maddox Murder Trials Set for Tuesday, Aug. 22*, THE TUSCALOOSA NEWS, Aug. 10, 1933, at 1.

¹⁵⁸ *Maddox Murder Trials Set for Tuesday, Aug. 22*, *supra* note 157; SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 19–20.

¹⁵⁹ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 20.

¹⁶⁰ It was reported that the discussions about moving Pippen, Harden, and Clark occurred “within the hearing of scores of people gathered about the jail.” SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 20.

Sheriff Shamblin agreed to move Pippen, Harden, and Clark.¹⁶¹ Judge Foster left the jail, and called the jail an hour later to ensure that Pippen, Harden, and Clark had been moved.¹⁶² When Judge Foster found out that they had not been moved, he told Sheriff Shamblin to contact a member of their defense team in the hopes that such a call would make the sheriff's office move them quickly.¹⁶³ An hour after that, at approximately 9:00 pm, Judge Foster again called and learned that Pippen, Harden, and Clark still had not been moved from the Tuscaloosa county jail.¹⁶⁴

Finally, at about 9:30 pm, Pippen, Harden, and Clark were handcuffed together,¹⁶⁵ put in a car with Deputies R. M. Pate, N. W. Holman, and W. I. Huff, and the car started driving toward Birmingham.¹⁶⁶ Some sources reported that an escort car drove ahead of the car carrying Pippen, Harden, and Clark to see if there was any trouble.¹⁶⁷ The escort car reportedly turned around after driving 20 miles away from Tuscaloosa, because there was no sign of trouble, and went back to Tuscaloosa.¹⁶⁸

According to the official story told by the sheriff's office and later corroborated by Clark,¹⁶⁹ at midnight the car carrying Pippen, Harden, and Clark encountered two cars full of ten or twelve

¹⁶¹ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 20. It was also reported that Judge Foster did not in fact give the sheriff permission to move Pippen, Harden, and Clark, however most sources including the judge himself, said he did. *See Three Murders in 18 Hours Set Crime Record, supra* note 49 (“Judge Foster stated that the men were removed from Tuscaloosa jail without his knowledge”); *Charge to the Grand Jury*, THE TUSCALOOSA NEWS, Aug. 15, 1933, at 1.

¹⁶² SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 20 (1933).

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ Pippen's right hand was handcuffed to Clark's left hand, and Pippen's left hand was handcuffed to Harden's right hand. *Clark Gives Sworn Statement, Mob Had 'Drop' on Deputies*, THE TUSCALOOSA NEWS, Aug. 16, 1933, at 1.

¹⁶⁶ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 20.

¹⁶⁷ *Three Murders in 18 Hours Set Crime Record, supra* note 49; *See also Our Town, supra* note 146.

¹⁶⁸ *Three Murders in 18 Hours Set Crime Record, supra* note 49.

¹⁶⁹ Clark's sworn statement said that “[t]he statement I am now making is being made voluntarily and because I want to tell the truth, and no one in my presence has made any threats...I am making this statement of my own free will and accord...and all that has been said to me has been in the presence of my attorneys.” *Clark Gives Sworn Statement, Mob Had 'Drop' on Deputies, supra* note 165. Whether those statements were truthful and voluntarily made is unknown. SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 25 (noting that “[i]t may well be questioned whether Clark dared give incriminating evidence in this sworn statement”). The tone and word choices are distinctly different from the rest of Clark's statement, although that does not necessarily mean that the words were not true or voluntary.

masked men¹⁷⁰ with guns,¹⁷¹ on the main highway about one mile from Bucksville in Jefferson County,¹⁷² about thirty to thirty-six miles from Birmingham.¹⁷³ This would mean that the deputies took two and a half hours to drive approximately thirty miles.¹⁷⁴ However, the distance between Tuscaloosa and Birmingham is about sixty miles and generally would take an hour and a half to two hours to travel using the main highway.¹⁷⁵ Officials claimed that they had taken a “circuitous route” towards Birmingham¹⁷⁶ in order to avoid main roads and possible trouble. However, the deputies still returned to the main highway, which is where Pippen, Harden, and Clark were allegedly kidnapped.¹⁷⁷

On August 13 at 10:00 am, on the same morning they were killed, the “bullet-riddled” bodies of Pippen and Harden were found near Woodstock,¹⁷⁸ about seven or eight miles away from where deputies alleged they were kidnapped and just over the Bibb County line.¹⁷⁹ Tuscaloosa County handled the investigation, because their bodies were discovered about 100 yards away from the county line and Bibb County authorities told Sheriff Shamblin that Tuscaloosa County could handle the investigation.¹⁸⁰ Clark had not been found at this point, and investigators thoroughly

¹⁷⁰ It was reported that the men who kidnapped and shot Pippen, Harden, and Clark were wearing masks, and Clark’s testimony before the grand jury stated that that they were wearing masks as well. *No Trace Found of Third Negro*, *supra* note 71; *See also Clark Tells Miraculous Escape from Killing*, THE TUSCALOOSA NEWS, Aug. 15, 1933, at 1. His sworn statement, published in *The Tuscaloosa News* the day after, does not say that the men were wearing masks. *See Clark Gives Sworn Statement, Mob Had ‘Drop’ on Deputies*, *supra* note 165.

¹⁷¹ *Clark Gives Sworn Statement, Mob Had ‘Drop’ on Deputies*, *supra* note 165.

¹⁷² *Jury Called to Probe Lynching: Investigation to Begin Tomorrow, Judge Declares*, *supra* note 5.

¹⁷³ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 20; *See Three Murders in 18 Hours Set Crime Record*, *supra* note 49.

¹⁷⁴ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 20.

¹⁷⁵ *Id.*

¹⁷⁶ *Charge to the Grand Jury*, *supra* note 161.

¹⁷⁷ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 20.

¹⁷⁸ Pippen was shot approximately 20 times. *Clark Tells Miraculous Escape from Killing*, *supra* note 170.

¹⁷⁹ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 21; *Jury Called to Probe Lynching: Investigation to Begin Tomorrow, Judge Declares*, *supra* note 5.

¹⁸⁰ *See Jury Called to Probe Lynching: Investigation to Begin Tomorrow, Judge Declares*, *supra* note 5; ALA. Code § 4895 (1928)(“[w]hen an offense is committed on the boundary of two or more counties, or within a quarter of a mile thereof, or when it is committed so near the boundary of two counties as to render it doubtful in which the offense was committed, the jurisdiction is in either county”). Jefferson County authorities did not say whether they would

searched the area, which included dragging several lakes.¹⁸¹ Immediately, the lynchings were blamed on the ILD.¹⁸²

IX. The Grand Jury Investigation of the Lynchings

On the morning of Monday, August 14, the day that the lynchings were first reported and before Clark was discovered later that day, Judge Foster called a grand jury to investigate the lynchings.¹⁸³ Circuit Solicitor Edward de Graffenried telegraphed Alabama Governor B. M. Miller and Attorney General Thomas E. Knight, Jr. with a request for Knight to direct the grand jury investigation.¹⁸⁴ The next day, August 15 at 9:00 am, Judge Foster rigorously charged the grand jury, telling its members that “[n]o modern community can afford to tolerate lynching. No fair-minded and law-abiding community, bent on protecting all its citizens, will permit such a crime to go unchallenged.”¹⁸⁵

Clark was brought to the courthouse and testified about his ordeal.¹⁸⁶ While Clark was at the courthouse, the National Guard limited access to the building, placed barbed wire around the block, and patrolled the area.¹⁸⁷ His testimony, later published in a sworn statement, stated that he “had never seen any of them around this part of the county or down [his] way” and that he would not be able to recognize their voices.¹⁸⁸ Clark further stated that the men “had guns on Mr. Pate and these

investigate the kidnapping part of the case, which occurred fully within their jurisdiction. *Jury Called to Probe Lynching: Investigation to Begin Tomorrow, Judge Declares*, *supra* note 5.

¹⁸¹ Because Clark’s body was not found with Pippen’s and Harden’s, there was a rumor around the community that the mob believed Clark was innocent and released him. *No Trace Found of Third Negro*, *supra* note 71.

¹⁸² *Jury Called to Probe Lynching: Investigation to Begin Tomorrow, Judge Declares*, *supra* note 5 (reporting that officials called the lynchings “‘directly the result’ of International Labor Defense activities”); See Editorial, *Lynched – By the Carpet Baggers of 1933*, THE TUSCALOOSA NEWS, Aug. 14, 1933, at 4.

¹⁸³ *Jury Called to Probe Lynching: Investigation to Begin Tomorrow, Judge Declares*, *supra* note 5.

¹⁸⁴ *Id.*

¹⁸⁵ *Charge to the Grand Jury*, *supra* note 161.

¹⁸⁶ *Clark Tells Miraculous Escape from Killing*, *supra* note 170.

¹⁸⁷ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 24.

¹⁸⁸ *Clark Gives Sworn Statement, Mob Had ‘Drop’ on Deputies*, *supra* note 165.

other men and they had to turn us over to these men...they could not do anything and had to give us up.”¹⁸⁹

The mob then told Pippen, Harden, and Clark to get out of the car, walk, and then turn around at which point the men began shooting.¹⁹⁰ Clark fell first and lost consciousness, having been shot three times.¹⁹¹ Harden and Pippen fell on top of him,¹⁹² shielding him from more bullets, and the mob left with the belief that three were dead.¹⁹³ Clark regained consciousness after the mob left, pushed Harden and Pippen off his body, broke the handcuffs, and walked until he found a black family to help him.¹⁹⁴ After Clark’s testimony, he was escorted by the National Guard to Kilby Hospital in Montgomery.¹⁹⁵

On Wednesday, August 16, the second day of the grand jury investigation, the grand jury called Coroner S. T. Hardin as a witness.¹⁹⁶ Coroner Hardin testified that it seemed that only one bullet, a .38 caliber, was in Pippen’s body and that the rest had gone completely through his body.¹⁹⁷ The grand jury ordered Coroner Hardin to exhume Pippen’s body¹⁹⁸ in order to collect the

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ *Clark Tells Miraculous Escape from Killing, supra* note 170.

¹⁹² *Id.*

¹⁹³ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 22.

¹⁹⁴ Clark walked in the woods for more than twenty-four hours, and a distance of twenty-five miles before he found help. The family gave him food, shelter, and notified a neighbor and a doctor who later informed the sheriff of Clark’s location. *See Clark Gives Sworn Statement, Mob Had ‘Drop’ on Deputies, supra* note 165; *See also* SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 21.

¹⁹⁵ *Grand Jury Visits Lynching Scene, THE TUSCALOOSA NEWS, Aug. 16, 1933, at 1; Grand Jury Again Takes Recess, THE TUSCALOOSA NEWS, Aug. 21, 1933, at 1.*

¹⁹⁶ *Grand Jury Visits Lynching Scene, supra* note 195.

¹⁹⁷ *Judge Overrides 17-Day Recess in Lynching Inquiry, THE TUSCALOOSA NEWS, Aug. 17, 1933, at 1.*

¹⁹⁸ One report stated that Pippen had been buried at the Big Sandy cemetery. *Grand Jury Visits Lynching Scene, supra* note 195. However, another reported that he was buried in Akron county, near Akron. *Judge Overrides 17-Day Recess in Lynching Inquiry, supra* note 197. A 1920 U.S. record of the “Peppen” family that appears to match the family lists Akron as their hometown. *1920 U.S. Census for Loucinda Peppen, FAMILY SEARCH (1920), <https://familysearch.org/ark:/61903/1:1:MX8M-7XB>. The mother’s name is “Loucinda Peppen,” which matches with “Lucinda Pippen” in the 1930 U.S. Census record, and the father’s name and age matches with Pippen’s father. *See id.*; *1930 U.S. Census for Lucindy Pippen, FAMILY SEARCH (1930), <https://familysearch.org/ark:/61903/1:1:3GCB-2T2>. The male child in the family was born around the same year as Pippen, however the name is listed as “Amon.” *1920 U.S. Census for Loucinda Peppen, FAMILY SEARCH (1920). The 1920 U.S. Census record may or may not be the same family, however if it is, it could explain why Pippen may have been buried in Akron.***

bullets.¹⁹⁹ Then, the grand jury visited the scene of the lynching and called seven witnesses: Sheriff R. L. Shamblin; Sheriff John Ward and Justice of Peace Roland of Bibb County, where the lynchings took place; Foster King, former sheriff of Tuscaloosa who was involved in the case, starting with the Maddox murder; Floyd McElroy, a resident of Woodstock, and;²⁰⁰ B.B. Mitchell, the black physician who first attended to Clark.²⁰¹ The grand jury also inspected the revolvers owned by Deputies Pate, Holeman, and Huff, who were with Pippen, Harden, and Clark when they were kidnapped.²⁰² All three deputies had .44 caliber revolvers and the bullet found in Pippen was a .38 caliber.²⁰³

The grand jury then recessed, and was scheduled to reconvene on September 4.²⁰⁴ It was reported that the recess was because the grand jury was waiting on a ballistics expert's examination of the bullets taken from Pippen's body in an attempt to trace the bullets to the gun.²⁰⁵ The next day Judge Foster changed his mind and called the grand jury to resume on August 21.²⁰⁶ He stated that the reason he granted the recess was because Attorney General Thomas E. Knight, Jr. was unable to be in Tuscaloosa but that he reconsidered because "this inquiry is of such a nature that it must be carried on immediately."²⁰⁷

On August 21, day three of the grand jury investigation, the grand jury met for a four-hour session during which investigators gave the jury two additional bullets, one from Clark's left shoulder and another from the ground at the scene of the lynching.²⁰⁸ *The Tuscaloosa News* reported

¹⁹⁹ *Grand Jury Visits Lynching Scene, supra* note 195. It was unclear whether there were any bullets in Harden's body. *Judge Overrides 17-Day Recess in Lynching Inquiry, supra* note 197.

²⁰⁰ *Grand Jury Visits Lynching Scene, supra* note 195.

²⁰¹ *Judge Overrides 17-Day Recess in Lynching Inquiry, supra* note 197.

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ *Grand Jury Visits Lynching Scene, supra* note 195.

²⁰⁶ *Judge Overrides 17-Day Recess in Lynching Inquiry, supra* note 197.

²⁰⁷ *Id.*

²⁰⁸ *Grand Jury Again Takes Recess, supra* note 195.

that the bullet taken from Pippen's body was partially examined, thereby revealing the make of the weapon that fired the bullet.²⁰⁹ However, there is no record of the make of the weapon, suggesting that either the investigators did not disclose that information or it was not reported.²¹⁰ The only other reference to the make of the weapon was a news report that for "routine examination," the investigators took custody of several revolvers and rifles which used .38 caliber bullets²¹¹ and were from the same manufacturer. There was no information provided about whose guns they took for examination, or what reasons they had for doing so. It was reported that ballistic experts were expected to report their findings to the grand jury on September 6.²¹²

Day four of the grand jury investigation was on September 5, when the grand jury reconvened after a two-week recess.²¹³ In the two-hour session before the grand jury again recessed, the following people were questioned: Sheriff Shamblin; Pearlie or Pearl Hargrove, one of the black men who told the sheriff's office about Clark's location; Jack Curran and Lige Ross, deputies from Bessemer; and J.H. Haynes, C.L. Gaines, and Charles Parrish from the Birmingham sheriff's office.²¹⁴ The officers questioned all had participated in the search for the bodies of Pippen, Harden, and Clark after they were kidnapped.²¹⁵

The next day, day five of the grand jury investigation, Clark was brought back to the courtroom and it was reported that his testimony is "believed to have been changed somewhat from

²⁰⁹ *Grand Jury Again Takes Recess*, *supra* note 195.

²¹⁰ *See id.*

²¹¹ *See id.*

²¹² *Grand Jury Quizzes Birmingham Officials*, THE TUSCALOOSA NEWS, Sept. 5, 1933, at 1.

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *Id.* On the same day, the ILD submitted a letter to the grand jury detailing murder charges against Judge Foster, Sheriff Shamblin, Deputies Holeman, Pate, and Huff, as well as one other person. Letter from Frank Spector, Assistant National Secretary of the International Labor Defense to the Special Grand Jury investigating the murder of Dan Pippen and A.T. Harden (Sept. 2, 1933) *microformed on* Department of Justice classified subject files on civil rights, 1914-1949, ISBN 9780886927653 (LexisNexis). They also sent a copy to U.S. Attorney General Homer Cummings. *Id.* Based on Tuscaloosa's reactions to the ILD in general, this letter was most likely ignored.

his previous version two days after” he was shot.²¹⁶ After this testimony, there was an accident in the courtroom in which Chief Deputy Sheriff T. M. (Bish) Gilbert and Attorney General Knight were shot in the foot,²¹⁷ and Clark was rushed to the Tuscaloosa jail as a precaution.²¹⁸ The grand jury recessed until Attorney General Knight was able to proceed with the investigation.²¹⁹

X. Conclusion

One major problem with the grand jury investigation was that at no point during the grand jury investigation were Deputies Pate, Holeman, and Huff questioned.²²⁰ Deputy Pate had a “reputation of being quick on the trigger, where Negroes were involved,”²²¹ and had killed a black man on the same day that the lynching occurred.²²² This incident and Deputy Pate’s reputation should have caused the grand jury take a closer look at him. While it is true that his revolver was a .44 caliber and the bullet found in Pippen’s body was a .38 caliber,²²³ that does not foreclose the possibility that Pate was involved. Pate he could have used another gun, conspired with the mob, or shot Harden or Clark, or he might have been responsible for one of Pippen’s other injuries.

On October 2, 1933 at 2:40 pm, the grand jury officially reported “no true bill” in their investigation into the lynchings of Pippen and Harden, and the attempted lynching of Clark. The

²¹⁶ *Grand Jury Recesses, Praises Judge Foster*, THE TUSCALOOSA NEWS, Sept. 7, 1933, at 1.

²¹⁷ It is believed that Gilbert kicked his automatic rifle when he moved to allow Knight to pass through a doorway, causing the rifle to discharge, in what the grand jury called “purely accidental.” *Id.* Gilbert was one of the deputies who brought Clark from Jefferson County to Tuscaloosa. *Id.*

²¹⁸ SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 25.

²¹⁹ *Grand Jury Recesses, Praises Judge Foster*, *supra* note 216.

²²⁰ See *Grand Jury Visits Lynching Scene*, *supra* note 195; *Judge Overrides 17-Day Recess in Lynching Inquiry*, *supra* note 197; *Grand Jury Quizzes Birmingham Officials*, *supra* note 212; *Grand Jury Recesses, Praises Judge Foster*, *supra* note 216.

²²¹ It was also reported that locals discussed the fact that Pate “didn’t like niggers one bit and they all know it, too!” and that he had “even to his credit now, countin’ the one in August.” SOUTHERN COMMISSION ON THE STUDY OF LYNCHING, *supra* note 2, at 22.

²²² Deputies Pate and Holeman killed Gil (Jack) Pruitt on August 14, and claimed self-defense. See *Negro is Shot by Two Deputies*, THE TUSCALOOSA NEWS, Aug. 14, 1933, at 1.

²²³ See *Judge Overrides 17-Day Recess in Lynching Inquiry*, *supra* note 197.

report stated that they “do not consider the evidence sufficient to indict.”²²⁴ Furthermore, the report also stated that they “had no evidence introduced, which in any way causes us to lose our faith and confidence” in Sheriff Shamblin.²²⁵

With that report, the official investigation into the lynchings of Pippen and Harden, and the attempted lynching of Clark was concluded.²²⁶ Despite the fact that the lynchings gained a lot of publicity nationwide,²²⁷ no one was ever held responsible for the deaths of Dan Pippen and A.T. Harden, or for the murder of Vaudine Maddox. Elmore Clark was finally released from jail on May 23, 1934, when the Tuscaloosa circuit court *nol prossed* the indictment against him for the Maddox murder. The court’s stated reason for dropping the indictment was “[because] . . . the only witnesses which directly connected him with the crime charged [were] dead.”²²⁸ The last information about Clark was that he left the state immediately after he was released from jail.²²⁹

²²⁴ *Grand Jury Reports ‘No Bill’ in Lynching*, THE TUSCALOOSA NEWS, Oct. 2, 1933, at 1.

²²⁵ The grand jury also commended Attorney General Knight for “his unqualified desire to find out the truth,” and acknowledged Circuit Solicitor Edward deGraffenreid for “put[ting] forth every effort at his command” to indict the parties responsible. *Id.*

²²⁶ However, one week later Judge Foster told another grand jury, that had been convened to investigate the lynching of Dennis Cross, that the previous grand jury’s no true bill “[did] not preclude investigation by this or subsequent juries,” leaving the possibility of an indictment open. *‘United Against Crime’—Judge Urges: Foster Charges Grand Jury, Asks Citizen Support*, THE TUSCALOOSA NEWS, Oct. 9, 1933, *supra* note 3.

²²⁷ A number of groups sent letters to the Department of Justice, asking for a federal investigation. See Letter from Frank Spector, Assistant National Secretary of the International Labor Defense to the Special Grand Jury investigating the murder of Dan Pippen and A.T. Harden, *supra* note 215; Letter from International Juridical Association to the Assistant to the Attorney General (Aug. 25, 1933) *microformed on* Department of Justice classified subject files on civil rights, 1914-1949, ISBN 9780886927653 (LexisNexis); Memorandum from Assistant Attorney General Pat Malloy to the Assistant to the Attorney General (Aug. 30, 1933) *microformed on* Department of Justice classified subject files on civil rights, 1914-1949, ISBN 9780886927653 (LexisNexis). There was no FBI file on the case, however.

²²⁸ *Murder Case Against Honey Clark Dismissed*, THE TUSCALOOSA NEWS, May 24, 1934, at 1.

²²⁹ *See id.*