

The William Lockwood Case

A Legal History



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I. INTRODUCTION

Our story begins in Tuskegee, Alabama in 1946. William Lockwood, an African American farmer, was shot by the sheriff for refusing to get into a police car. William was shot in broad daylight, and in front of his wife, son, and neighbors. He had done nothing wrong. No one was ever arrested. No one ever apologized. It was, unfortunately, an all too familiar scenario for African Americans during the civil rights era.

William Lockwood's murder was, however, distinguishable from other cases. It was the first involvement in a murder case for the Tuskegee Branch of the NAACP. The investigation revealed the obstructionist tactics of a United States Attorney. Lockwood's murder and also provided Attorney Thurgood Marshall with a case to demonstrate police brutality to President Truman's Committee on Civil Rights.

II. THE MURDER OF WILLIAM LOCKWOOD

Midday on May 2, 1946, William Lockwood was plowing the field at his home in Tuskegee, Alabama. He was a farmer and knew that May was an ideal time to replant cotton. His son Elijah was just across the field—about 200 yards away—sitting on the porch of his cousin, Charlie Fields. Elijah had recently returned to Jim Crow Alabama, after serving in the Army during the Second World War. Like many African American veterans, he had a stronger desire for equality than when he enlisted. He had served his country for three years, fighting the Nazis.

While Elijah was sitting on Charlie's porch, John Edward Kirby ("Ed") approached to buy cotton seeds from Charlie who sold them. Ed was the son of Sheriff William Kirby. While waiting on Charlie to retrieve the seeds from the field, Ed asked Elijah if he was working on the farm. "No," Elijah answered and said that he was working at the hospital.

Ed, apparently angry with Elijah, threw a shovel at him. Elijah ducked, and retreated to Charlie's house.

Ed drove home and returned in 10 minutes. He had a shotgun with him, and fired a shot at Charlie's house. No one was hit. Elijah had his gun from the war—a German pistol-- and used it to fire four shots back at Ed. No one was hit.

Ed drove off to get his father, Sheriff William Kirby. Elijah went home. William was still in the field. His mother, Mary Lockwood, was preparing lunch. Elijah put his gun in a small suitcase behind his bed.

About 10 minutes later, Sheriff Kirby and his partner, Sheriff Sam Alo Murphy, came to the house to arrest Elijah. Sheriff Kirby demanded the gun, and Elijah showed him to the suitcase. Sheriff Kirby placed him under arrest. He had no warrant with him.

As Elijah was being arrested, Mary told her nine-year old daughter, Bernice, to get William from the field. William came immediately, and together, he and his wife went to find the police car.

Sheriff Kirby first drove Elijah to the Kirbys' house. While Elijah waited in the car, Kirby spoke with his father and brother. He returned to the car, and they began driving.

William and Mary caught up with the police car as it approached Charlie Field's house—the place of the initial shootout between Ed and Elijah. William walked to the left side of the police car, and asked Elijah if he had been shooting. Elijah admitted that he had. William then asked Sheriff Kirby why Elijah was being arrested.

Sheriff Kirby got out of the car, and demanded that William refer to him as “sir”. William didn't comply with his request and Kirby tried to arrest him too. William informed him that he had not done anything wrong. Then the sheriff grabbed William, who pulled his arm away.

Kirby became upset. He pulled out his gun and slapped William. Mary Lockwood pleaded with her husband to get in the car, but he refused to do so. Mary tried to stand between Sheriff Kirby and her husband, but Kirby pushed her out of the way and slapped William again. With William still refusing to get in the car, the Sheriff pointed his gun at William and shot him on the left side of the chest. William grabbed his chest and stumbled a few steps. The Sheriff grabbed him, and William fell to the ground.

Sheriff Kirby and Sheriff Murphy picked William up and placed him in the car with Elijah. They first took Elijah to jail, and then took William to the hospital. He was pronounced dead on arrival. Johnnie, another son of William, was arrested later that day for robbery.

III. THE NAACP SEEKS JUSTICE

In the 1940s, civil rights murder cases were rarely pursued or prosecuted. In a few instances, the Department of Justice sought an FBI investigation. In even fewer instances, the U.S. Attorney brought a case to trial. And hardly ever would a jury convict a perpetrator of a civil rights era murder. In almost every civil rights case that gained

traction during the 1940s, the NAACP was behind the wheel; and in the case of William Lockwood, the NAACP started driving.

A. The Tuskegee Branch

Founded in 1945, a year before William Lockwood's murder, the local Tuskegee branch of the NAACP was the first to catch wind of the case. Most of their efforts had been geared toward increasing membership, and they had never before challenged the killing of a black man by law enforcement authorities. Betty Horge, the Secretary of the Tuskegee Branch, wrote Thurgood Marshall two days after the murder:

[T]here was a case of "police brutality" in Tuskegee, Macon County, Alabama, which resulted in murder. Because it is the first case this Branch has attempted to handle, no action had been taken beyond getting a sworn statement from the widow which gives all the circumstances of death.¹

While the message was being sent to the national office, the local branch was contemplating how to manage Elijah's case. There was a split over strategy. The branch officers wanted to hire an attorney, preferably Arthur Shores, and establish a defense fund for the Elijah.² The Executive Committee, on the contrary, was afraid that the case could result in an embarrassment for the local branch.³ The local branch was in dispute over the best strategy to deal with Elijah's case for nearly five months.

B. Thurgood Marshall Pursues Prosecution

Thurgood Marshall, Special Counsel for the NAACP, received the letter and did not hesitate to write the Civil Rights Section of the Department of Justice asking for

¹ Betty Horge, to Thurgood Marshall, (May 6, 1946), NAACP file 144-2-17.

² Joseph A. Berry, to Walter White, (September 14, 1946), NAACP file 144-2-17.

³ *Id.*

“immediate investigation and vigorous prosecution.”⁴ He argued the Lockwood’s murder was “clearly within the rule of the *Screws* case.”

Marshall wanted to test the implications of the Supreme Court’s ruling in the 1944 decision, *Screws v. United States*.⁵ In *Screws*, Claude Screws, the sheriff of Baker County, Georgia, arrested Robert Hall, an African American man who had allegedly stolen a tire. Sheriff Screws was at Hall’s home, and when Hall allegedly tried to fight back against the sheriff and his two deputies during the arrest, Screws beat him to death.

Although the State of Georgia declined to prosecute, the Department of Justice secured a conviction under the Section 52, Title 18 of the federal criminal code, which made it a federal crime to willfully deprive someone of his civil rights under color of law. The Supreme Court ruled that it was not enough to show that the white sheriff had brutally murdered an African American man. The government had to prove that he did so with the “willful intention” of depriving him of his rights. The *Screws* ruling would greatly reduce the frequency with which federal civil rights cases were brought under the color of law statute.

In the Lockwood case Attorney Marshall saw an opportunity to test the parameters of *Screws*. If Sheriff Kirby killed William Lockwood with the intention of depriving him of a constitutional right—the right to a fair trial—then the sheriff’s action would fall under Section 52. Marshall likely believed that the federal prosecutors could establish that Kirby had the “willful intention” to deprive Lockwood of his constitutional rights when he pulled the trigger. Marshall, however, understood that actual prosecution is a different hurdle.

⁴ Thurgood Marshall to Hon. Turner L. Smith, (May 8, 1946), NAACP file 144-2-17.

⁵ 325 U.S. 91

IV. THE U.S. ATTORNEY BLOCKS PROSECUTION

Civil rights cases can have many impediments to success. In the case involving the murder of William Lockwood, the DOJ valiantly pursued the investigation. The FBI conducted a swift investigation. The U.S. Attorney, however, refused to prosecute but gave no rationale for his decision. The Lockwood case demonstrates the powerful role played by an obstructionist U.S. Attorney in Alabama.

A. The DOJ Urges Prosecution

The DOJ and the FBI took immediate action. Assistant Attorney General Theron Caudle wrote to FBI Director to request an investigation on May 21.”⁶ In June, 1943 FBI Director J. Edgar Hoover sent in special agents to conduct the investigation.⁷ The agents spent two days getting sworn statements from nine witnesses: Mary Lockwood, Elijah Lockwood, John Edward Kirby, Sheriff William Kirby, Sheriff Sam Alo Murphy, Charlie Fields, Viola Fields, Lula Harris and Jessie Harris. Only Mary, Elijah, and the two sheriffs claimed to have witnessed the shooting.⁸ The sheriffs alleged that William Lockwood had pulled out a pocket knife, and Sheriff Kirby had shot him in self defense.⁹ Mary and Elijah, on the other hand, stated that William did not have knife.¹⁰

When Assistant Attorney General Caudle received the FBI report, he sent it to U.S. Attorney Edward Burns Parker. Caudle suggested that prosecution was possible:

⁶ Theron Caudle, Assistant U.S. Att’y Gen., to J. Edgar Hoover, FBI Dir., (May 21, 1946), DOJ file 144-2-17.

⁷ FBI Investigation, Report by Special Agent Henry Donahoo, (June 21, 1946), FBI file 44-97.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

“While it is impossible to reconcile the testimony of the two opposing groups, that of the Negroes seems more probably under the circumstances, as they appear from the report.”

B. No Response by U.S. Attorney Parker

Edward Parker was a lifelong Alabamian, born in Wedowee on June 21, 1895. He was well-connected—a member of the Pi Kappa Phi, Freemasons, Knights of Pythias, and Lions Club. Parker received his LL.B in 1921 from the University of Alabama and became an influential attorney. In 1929, he served as the solicitor for Cleburne County. In 1931, he was elected of the Alabama Legislature. In 1942, he became the U.S. Attorney for the Middle District of Alabama.

Parker’s political ascendancy was unfortunate for William Lockwood’s case. On July 30, 1943, Assistant Attorney General Caudle sent Attorney Parker the Lockwood FBI file and emphasized the strength of the testimony that Lockwood did not have knife.¹¹ However, Parker did not reply.

Caudle wrote Parker again on September 13, 1946, asking, “Will you please give me a reply.”¹² Parker still did not respond.

Caudle made a final attempt to contact Parker on October 10, 1946.¹³ This time, Parker finally replied to Caudle.¹⁴ Three months had passed. Parker claimed he had never received the FBI report from Caudle.

¹¹ Theron Caudle, Assistant U.S. Att’y Gen., to Edward B. Parker, FBI Dir., (July 30, 1946), DOJ file 144-2-17.

¹² Theron Caudle, Assistant U.S. Att’y Gen., to Edward B. Parker, U.S. Att’y, (September 13, 1946), NAACP file 144-2-17.

¹³ Theron Caudle, Assistant U.S. Att’y Gen., to Edward B. Parker, U.S. Att’y, (October 10, 1946), DOJ file 144-2-17.

¹⁴ Edward B. Parker, U.S. Att’y, to Theron Caudle, Assistant U.S. Att’y Gen. (October 14, 1946), DOJ file 144-2-17.

C. Attorney Parker Declines Prosecution

Parker finally read the file. He dismissed the case quickly: “considering the facts set out in this report, I am of the opinion that this matter should be closed.”¹⁵ He gave no reasoning for his opinion.

The DOJ files suggest that Department of Justice did not agree. A note from a DOJ staff member explains Parker’s impenetrability: “I think this one should be field—what do you think? Parker will not go on anything.”¹⁶ The next month, the DOJ closed the Lockwood case on November 15, 1946.¹⁷ Assistant Attorney General Caudle informed Thurgood Marshall that the Lockwood case would be closed, but he did not tell Marshall the reason for closing the case. Instead of explaining Parker’s unwillingness to prosecute, he told Marshall that the conflicting evidence in the testimonies made prosecution unlikely unless other witnesses could be found to testify. In a sense, Caudle, covered for Parker.

Parker’s adamancy about not prosecuting civil rights cases became well-documented within the DOJ. In another Alabama civil rights case, Amos Starr was fatally shot by a police officer on October 25, 1947 in Tallassee.¹⁸ Although the police officer claimed that he killed Starr in self-defense, the medical records indicated that Starr was shot as he was running away from the police officer.¹⁹ The Civil Rights Section²⁰

¹⁵.” Edward B. Parker, U.S. Att’y, to Theron Caudle, Assistant U.S. Att’y Gen. (October 17, 1946), DOJ file 144-2-17.

¹⁶ DOJ internal note, (date unknown), DOJ file 144-2-17.

¹⁷ Theron Caudle, Assistant U.S. Att’y Gen., to Edward B. Parker, U.S. Att’y, (November 15, 1946), DOJ file 144-2-17.

¹⁸ Amos Starr, DOJ file 144-2-29.

¹⁹ *Id.*

subsequently requested that Parker make arrangements for an autopsy in order to resolve conflicting stories as to the manner in which Starr was killed. The CRS Attorneys felt that if an autopsy confirmed that Starr was shot in the back, the evidence would warrant prosecution. Parker, however, did not respond to the request for two months.²¹ When Parker finally responded, he advised that an autopsy should not be performed because he believed the subject was guilty. He refused to perform an autopsy until May 19, 1949, nineteen months after the murder.²² The note in the file from the Civil Rights Section said it best: “It is obvious that Mr. Parker completely ignores the aforementioned medical testimony and other evidence.”²³

Attorney Parker’s actions in *Starr* are similar to his actions in the Lockwood case for three reasons. First, the Lockwood case investigation found conflicting evidence that weighed in favor of the victims. Second, the Civil Rights Section attorneys believed that the sheriff was not acting in self-defense. Third, Parker ignored the request of the Civil Rights Section and did not respond for months.

In another case in 1948, Johnnie Mae Greathouse and other employees were working at an inn near Dadeville, Alabama.²⁴ When the employees tried to leave the inn to work elsewhere, the employers would not allow them to leave and had them arrested on spurious charges. When Greathouse’s new employer tried to post bond for him and the other employees, the local sheriff wouldn’t allow it. Later, the sheriff ordered the employees to return to the inn and threatened them with arrest if they escaped. The

²⁰ The Civil rights Section (CRS) was a section of the Department of Justice, and subsequently became the Civil Rights Division, within the DOJ.

²¹ Amos Starr, DOJ file 144-2-29.

²² *Id.*

²³ DOJ internal memo, (November 30, 1948), DOJ file 144-2-17.

²⁴ Johnnie Mae Greathouse File, DOJ file 144-2-30.

sheriff blocked the employees' challenge to the innkeeper's legal charges until their debts were paid.

The FBI investigated the Lockwood case, and the Civil Rights Section sent Attorney Parker the evidence and pointed out the specific violations of federal law. But Parker stated, "this matter should be closed without further investigation."²⁵ When the Civil Rights Section pushed him to further explain his reasoning, Parker responded that, "since he *knows* the local officials and some of the persons mentioned in the investigative reports, this matter should be closed without prosecution."²⁶ Parker's actions in Lockwood are indistinguishable from *Greathouse* because he provides no legitimate rationale for wanting to close the investigation.

D. The Civil Rights Section Acknowledges Obstruction

The Civil Rights Section officially acknowledged Parker's actions. In an internal memo on November 30, 1948, the Section admitted its inability to enforce Civil Rights Statutes in the Middle District of Alabama. First, it stated that "many other cases existed involving civil rights violations ... were closed as a result of Parker's "unwillingness to take any action."²⁷ Second, it stated that it had several cases pending in Parker's District, which were being stalled by Parker. Third, it had become generally known that despite the FBI investigations, civil rights violations would not be prosecuted in the Middle District of Alabama under Parker. The first case they mention is William Lockwood's case and state that it was "closed by the Section because of Mr. Parker's refusal to cooperate."

²⁵ *Id.*

²⁶ DOJ internal memo, (November 30, 1948), DOJ file 144-2-17.

²⁷ DOJ internal memo, (November 30, 1948), DOJ file 144-2-17.

V. THE LOCKWOOD CASE, *SCREWS* AND FEDERAL LEGISLATION

After Caudle informed the NAACP that the Lockwood case was closed, Marshall began strategizing on how to use the case effectively. He already had enough bad news: William Lockwood's case was closed, and Elijah and Johnnie Lockwood had both been sentenced to prison in October 1946.²⁸ Elijah received 7 years for attempted murder. Johnnie received 4 years for robbery. Despite these losses, Marshall displayed brilliant lawyering.

In a letter to Theron Caudle, Assistant Attorney General, Marshall raised two questions about the possibility of further advocacy related to the Lockwood case. He asked whether or not the *Screws* decision prevented prosecution on the Lockwood case, and he also asked whether or not the DOJ would send the Lockwood case to the President's Committee on Civil Rights.²⁹

Marshall also inquired as to whether or not the *Screws* decision was preventing prosecution. In response, the DOJ acknowledged that the *Screws* ruling had not precluded successful prosecution in the Lockwood. But, again, the DOJ attorney stated that there was simply no likelihood that the issue of fact—whether or not the sheriff's action was self-defense—would have been resolved in favor of the Government.³⁰ Like Attorney Caudle Attorney Quinn also did not mention the role of U.S. Attorney Parker in the decision not to prosecute the case.

²⁸ Macon County Prison Records.

²⁹ Thurgood Marshall, to Theron Caudle, Assistant U.S. Att'y Gen., to Edward B. Parker, U.S. Att'y, (July 3, 1947), DOJ file 144-2-17.

³⁰ T. Vincent Quinn, Assistant Att'y Gen., to Thurgood Marshall (July 27, 1947), DOJ file 144-2-17

Second, Marshall asked that the Lockwood case be brought to the attention of the President’s Committee on Civil Rights. He wanted to point out the need for adequate legislation to empower the DOJ to protect African Americans in South from “wanton killings by police officers”.³¹ He also suggested that the Committee review another case under the auspices of the NAACP—Casey Lee Pointer—an African American man who was murdered in the Middle District of Alabama.³² Marshall did not wait for the DOJ to send the Pointer case to the President’s Committee, but sent it directly to Sadie T. Alexander, one of the few African Americans on the Committee.

VI. WILLIAM LOCKWOOD’S MURDER AND PRESIDENT TRUMAN’S CIVIL RIGHTS AGENDA

The Lockwood murder influenced, arguably, the most influential civil rights group in the late 1940s. The President’s Committee on Civil Rights was established by Executive Order 9808, issued by President Harry Truman on December 5, 1946. The Committee was instructed to investigate the status of civil rights in the country and propose measures to strengthen and protect them. The official report of the Committee showed the ineffectiveness of civil rights statutes. It showed the powerful role of U.S. Attorney is preventing the prosecutions of police officers for the murders of African Americans.

A. The Ineffectiveness of Civil Rights Statutes

The President’s Committee on Civil Rights received Marshall’s letter, and examined the civil rights laws, which came from post-Civil War legislation. Civil rights

³¹ Thurgood Marshall, to Theron Caudle, Assistant U.S. Att’y Gen., to Edward B. Parker, U.S. Att’y, (July 3, 1947), DOJ file 144-2-17.

³² See Paper on Casey Lee Pointer by Ruth Harper, Civil Rights and Restorative Justice Project (Fall 2014).

organizations had been mainly relying on Section 51 and 52 of Title 18 of the United States Code.

Section 51 was enacted as a conspiracy statute, making it a crime for two or more persons to conspire to “injure, oppress, threaten or intimidate any citizens in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States.” Persons convicted under the act could be fined up to \$5,000, imprisoned up to 10 years, and were to be “thereafter ineligible to any office or place of honor, project or trust created by the Constitution or laws of the United States.”

Section 52 is the color of law statute examined under *Screws*. It also penalized the deprivation of “rights, privileges, or immunities” secured by the Constitution and laws of the United States. However, Section 52 is directed only against those deprivations of rights which were “willful” and which occurred “under color of any law.” Section 52 was thus limited to the protection of rights against interferences by public officers, whereas Section 51 may be used to prosecute private persons as well as public officers. Section 52 was not a conspiracy statute and could be used to prosecute one person. It differed further from Section 51 in carrying much lighter penalties—a maximum fine of \$51,000 and a maximum prions term of one year.

The Civil Rights Committee knew that these statutes offered little power in the Deep South for conducting effective prosecution of local law enforcement officers who killed African American citizens. Sheriffs essentially had immunity from prosecution because they would lead the local investigations, but seldom pursued prosecution of law enforcement officials involved in racial killings. In fact, even acknowledging the possibility of civil rights abuse of federal criminal violations by law enforcement

personnel met with great resistance on the part of most southern officials. Thus the Committee implored Truman to strengthen these statutes. They referenced the “wanton murders” by police officers, and stated that the police had been usurping their constitutional authority.³³ The frequency with which such cases were arising was stated as proof that the abuse of police power was not reaching the courts.³⁴ Even FBI Director Hoover argued that Negroes were often beaten to death before incarceration.³⁵

In addition, the Committee Report mentioned that many officers gave an unlikely claim of self-defense to prevent prosecution.³⁶ The Committee and, eventually, President Truman became aware of this problem. This issue was, in part, evidenced by the murder of William Lockwood by the local sheriff.

B. The U.S. Attorneys’ Power to Block Prosecutions of Police Abuse

The President’s Committee addressed serious consequence of uncooperative U.S. Attorneys in its report. Whenever civil rights violations appears to merit prosecution, it must, under the organization of the Department of Justice, be processed through the office of the U.S. Attorney in the district where the prosecution is to be brought.

The Committee focused on the power of the U.S. Attorney, whose opinion will often determine whether or not a case will be prosecuted. The U.S. Attorneys’ position is not to be usurped. They are appointed by the President, and, subject to confirmation by the Senate, serve for a term of four years. They are entrusted with the task of taking a public stand in court against ingrained prejudices in their own community.

³³ The Report of the President’s Committee on Civil Rights, To Secure These Rights, 2

³⁴ *Id.* at 26.

³⁵ *Id.*

³⁶ *Id.* at 27.

The Lockwood case, in particular, had a profound impact on the President's Committee on Civil Rights because of the obstruction of U.S. Attorney Edward Parker. The manner in which Parker handled the Lockwood case so impressed the Committee that it was cited in their report as one of three cases in the country that best exemplified the "serious shortcomings in the work of the some of the United States Attorneys."³⁷ The President's Committee stated:

In another case involving [the killing] of a Negro by a deputy sheriff, the Civil Rights Section sought the advice of the United States Attorney on July 30, and referred him to the FBI report of its investigation in the case. On September 13, the Section again asked for the advice of the United States Attorney. On October 10, it repeated its request for the third time. On October 14, the United States Attorney wrote that he had not received the FBI report, but would express his views to the Section as soon as he obtained it. On October 17, he advised that he had received the report and he thought the matter should be closed. He gave no reason for his opinion. The Civil Rights Section closed the case. Apparently because the Civil Rights Section attorney in charge reported, according to a note in the file, that "X---will not go on anything."³⁸

Attorney Parker's indifference to civil rights violations had serious consequences, for they may have a fatal effect upon the prosecution of cases. Public interest in most cases fades over time, so that it becomes increasingly difficult to persuade a grand jury to indict. Witnesses scatter, evidence grows cold, and a conviction, always difficult to obtain in a civil rights case, may become impossible. All too frequently, U.S. Attorney Parker was allowed to become the final arbiters in the disposition of civil rights cases. Consequently, the President's Committee suggested to President Truman that Department of Justice be encouraged to overrule U.S. Attorneys in the handling of civil rights cases.

³⁷ The Report of the President's Committee on Civil Rights, To Secure These Rights, p. 122

³⁸ The Report of the President's Committee on Civil Rights, To Secure These Rights, p. 122

Unfortunately Parker served as the U.S. Attorney until 1953, so that the absence of vigor in the enforcement of civil rights laws very likely continued during his tenure.

President Truman took significant steps toward racial equality in the United States. On July 26, 1948, he signed Executive Orders 9980 and 9981. Executive Order 9980 ordered the desegregation of the federal work force and Executive Order 9981 desegregated the armed forces. Truman also sent a special message to Congress on February 2, 1948, urging implementation of the recommendations of the President's Committee on Civil Rights. the strengthening of civil rights statutes to protect African Americans from police murders, and strengthening the role of the Justice Department in civil rights cases in order to prevent U.S. Attorneys from blocking prosecutions.

VII. CONCLUSION

The story of William Lockwood has gone largely undocumented. In January 2014, the author traveled to meet with his grandchildren to finally share the story of what happened to their grandfather. It is important for them, and the world, to know that his life impacted civil rights history in several ways. William Lockwood's story demonstrates the active prevention of police prosecutions by the U.S. Attorney. It also shows the need for stronger civil rights statutes to prevent wanton police murders of African Americans. Ultimately, the story of William Lockwood was shared with the President of the United States. President Truman may not have known William Lockwood's name, but he certainly knew his story.