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144-1-17

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TCC:GMS:MRB

144-1-17

December 24, 1943

HOLLIE

Mr. Thurgood Marshall, Special Counsel,
N.A.A.C.P. Legal Defense and Educational Fund, Inc.,
69 Fifth Avenue,
New York 3, New York.

Dear Mr. Marshall:

Re: Complaint of Mrs. Annie Merritt,
Tuscumbia, Ala., against police officer

This will acknowledge receipt of your letter of December 20, 1943, addressed to Mr. Victor W. Rotnem, Chief of the Civil Rights Section of the Department of Justice. You request an opportunity to discuss the complaint of Mrs. Annie Merritt, Tuscumbia, Alabama.

Mr. Rotnem will be glad to discuss this case with you during the week of January 10th, at which time it is noted you will be in Washington for the purpose of arguing the Texas Primary Case in the Supreme Court.

Respectfully,

For the Attorney General,

TOM C. CLARK,
Assistant Attorney General.



N. A. A. C. P. LEGAL DEFENSE AND EDUCATIONAL FUND, INC.

69 FIFTH AVENUE, NEW YORK 3, N. Y.

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December 20, 1943

Mr. Victor Rotnem
Civil Rights Section
Department of Justice
Washington, D. C.

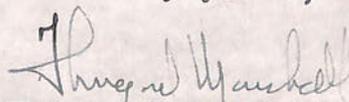
Dear Mr. Rotnem:

Attorney Arthur Shores, our representative in Alabama, has sent us a copy of his letter to you of December 8 concerning the complaint of Mrs. Annie Merritt of Tuscumbia, Alabama, against police officer John Patrick of that city.

I would appreciate very much an opportunity to discuss this case with you after the investigation has been completed. I will be in Washington during the week of January 10 because of the re-argument of the Texas Primary Case on the tenth. There is a possibility that I will be down sometime the week before. I will call your office for an appointment.

With best wishes for a happy holiday season,

Sincerely yours,


Thurgood Marshall
Special Counsel

TM: AG

144-1-17
DEPARTMENT OF JUSTICE
DEC 23 1943
DIVISION OF RECORDS
CRIM. DIV. - ROTNEM

AMC

ADDRESS REPLY TO
"THE ATTORNEY GENERAL"
AND REFER TO
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE

WASHINGTON, D. C.

File - E.B.

TCC:GMS:MRR

144-1-17

December 24, 1943

DEC 28 1943

22539

Mr. Thurgood Marshall, Special Counsel,
N.A.A.C.P. Legal Defense and Educational Fund, Inc.,
69 Fifth Avenue,
New York 3, New York.

Dear Mr. Marshall:

Re: Complaint of Mrs. Annie Merritt,
Tuscumbia, Ala., against police officer

This will acknowledge receipt of your letter of December 20, 1943, addressed to Mr. Victor W. Rotnem, Chief of the Civil Rights Section of the Department of Justice. You request an opportunity to discuss the complaint of Mrs. Annie Merritt, Tuscumbia, Alabama.

Mr. Rotnem will be glad to discuss this case with you during the week of January 10th, at which time it is noted you will be in Washington for the purpose of arguing the Texas Primary Case in the Supreme Court.

Respectfully,

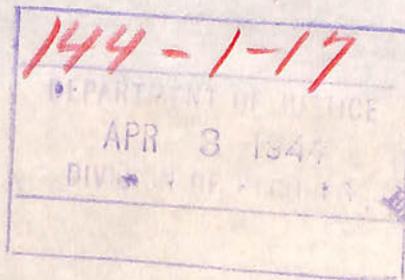
For the Attorney General,

Tom C. Clark
TOM C. CLARK,
Assistant Attorney General.

FOR DEFENSE



BUY
UNITED STATES
SAVINGS
BONDS
AND STAMPS



December 8, 1943

Honorable Victor Rotnem
Civil Rights Section
Department of Justice
Washington, D. C.

Dear Sir:

I have been retained by Mrs. Annie Merritt of Tuscumbia, Alabama, to bring charges against one, John Patrick, a police officer, of Tuscumbia, who killed her husband while in company with several other officers, namely, Chief of police, Lee Goodwin, of Tuscumbia, Alabama, Chief of police, Meadows, of Muscle Shoals City police force and a Mr. Smith of the Alabama Beverage Control Board of Florence, Alabama. I went to Tuscumbia and secured the statements of eye witnesses to the incident. The incident occurred on August 28, 1943, about 2:30 P.M., at the home of Mrs. Inesta Handy, who lives on the corner of South Commons Street, Tuscumbia, Alabama. From a statement secured from Lee Merritt of Route 1, Decatur Street, brother of the decedent, he informs me that Alfonzo Merritt was thirty-nine years of age, weighed one hundred and eighty pounds, was married and had one child. He worked at the Southern Shops and had no police record.

Mrs. Merritt attempted to have a Warrant sworn out for the arrest of Officer Patrick and although the County prosecutor made the Warrant out for her, she could not get a Justice of Peace to sign it. I am enclosing a letter to me from Mrs. Merritt, also the Warrant as well as the affidavit of Albert L. Gadd and Mrs. Inesta Handy. I feel that this is a case where there is a violation of civil rights and since we are not able to get the local authorities to act, we are requesting aid from the Department of Justice, We shall appreciate your consideration of this matter.

Yours very truly,

ADS/as

Arthur D. Shores

Tuscumbia, Alabama

November 15, 1943

Dear Mr. Shorest:

I received a copy of a Warrant from the County Solicitor's office last Tuesday. He told me to take it to the Justice of Peace. I took it and he told me he could not sign it. I have taken it to everyone I know who is suppose to sign it but I cannot get it signed. I am enclosing the copy and am leaving it to you to take whatever steps that are necessary to take.

I shall appreciate your giving your best consideration to this matter as it is even impossible for me to have a man arrested for killing my husband.

Yours truly,

Annie Merritt

COPY

A F F I D A V I T

THE STATE OF ALABAMA

COLBERT COUNTY

Before me, _____, Justice of the Peace in and for said County, personally appeared Annie Merritt who being duly sworn on oath, says that he has cause for believing, and does believe, that within twelve months next before commencing this prosecution John Patrick unlawfully and with malice aforethought killed Alfonzo Merritt by shooting him with a pistol.

_____ against the peace and dignity of the State of Alabama.

Annie Merritt

Sworn to and subscribed before me this _____ day of November, 1943

Justice of the Peace.

W A R R A N T

THE STATE OF ALABAMA

COLBERT COUNTY

To Any Lawful Officer of the State of Alabama:

You are commanded to arrest John Patrick

and carry him before _____ Justice of the Peace of said County, instanter, to answer the State of Alabama for the charge of Murder

preferred by Annie Merritt

Witness my hand this _____ day of November 1943.

Justice of the Peace

STATE OF ALABAMA

TUSCUMBIA COUNTY

Personally appeared before me the undersigned authority for and in the said County and said State, Albert L. Codd of 311 South Washington Street, Tuscumbia, Alabama, who being by me first duly sworn deposes and says that he is a resident of Tuscumbia, Alabama, and that on August 28, 1943, he with several other persons, namely, Simon White, Louise Johnson, Minnie M. Johnson, Inesta Handy and Alfonsa Merritt were seated in the front room of Inesta Handy's home located at the corner of South Commons Street Tuscumbia, Alabama. Affiants further aver that about 2:30 p.m. four officers came up to the house, namely, G. W. Goodwin, Chief of Police, Tuscumbia, Alabama, J. W. Patrick, a Mr. Meadows, chief of the Muscle Shoals city police force and Mr. Smith of the A.B.C. Board of Florence, Alabama. One of the officers stated as they came up, "What have you got there", to which Mrs. Handy replied, "Nothing". Then one of the officers found some whiskey and asked, "Who will claim the whiskey", Mrs. Handy replied, "It is in my house so it is mine". The officers continued searching, two of the officers went to the back of the house, I came through the house, Alfonsa Merritt had also come around to the back of the house, the officers were probing around outside in the yard, then Alfonsa asked Mrs Handy if she had a pick so these men could use it, she stated that she did not have a pick, then one of the officers asked Alfonsa, What did he say and Alfonsa repeated his statement. Officer Patrick then ordered Merritt to shut up. Mrs. Handy told Merritt to come into the house, as he started into the house Mr. Patrick approached him and slapped him and staggered him backward, as he came forward gaining his balance without anything further Mr. Patrick shot him in the stomach, and while he lay on the ground struck him twice with his gun then kicked him and told him he he guess he would shut up now. Mr. Patrick then left and said he was going to call Bruce Thompson Undertaking Company, but the Undertaker never came. He refused to allow us to pick Alfonsa up off the ground, he lay there about thirty-five (35) minutes.

Officer Meadows was standing at the back of the house where he could see the shooting, the other officers were not present. Alfonsa did not have a knife or any other weapon nor did he attempt to strike the officer or abuse or curse him in any way. While Alfonsa was on the ground he raised up and stated, "You all tell the truth, for I have done nothing nor said nothing to this man." Alfonsa died the next day about 8:00 p.m.

Sworn to and subscribed before me this the 6th day
of November, 1943

NOTARY PUBLIC

STATE OF ALABAMA

COUNTY

Personally appeared before me the undersigned authority
for and in the said County and said State, Mrs. Inesta Handy, who
lives on the corner of South Commons Street, Tuscumbia, Alabama,
who being by me first duly sworn deposes and says that she has read
the statements made by Albert L. Gedd, that she was present and
saw everything that was mentioned in his affidavit, and that her
statements are substantially the same as his.

Sworn to and subscribed before me this 5th day of November, 1943.

NOTARY PUBLIC

File

Killing

WAR DEPARTMENT
WASHINGTON, D. C.

12 October 1943

16836

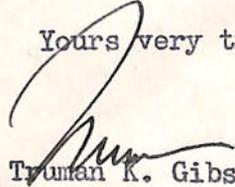
Mr. Thurgood Marshall
Special Counsel
The National Association for the
Advancement of Colored People
69 Fifth Avenue
New York City

OCT 13 1943

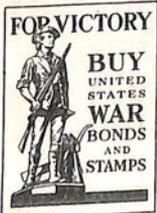
Dear Thurgood:

I have just received your letter of 6 October concerning the death of Private Willie E. Davis who was shot and killed by a civilian policeman on 3 July. Inclosed for your information is a letter I have just received from Mrs. Davis which shows that the death of her son occurred within the limits of Summit, Georgia. In the circumstances I think it is a matter you might well take up directly with the Attorney General, particularly in view of Mrs. Davis' statement about the repeated acts of violence on the part of the white policeman.

Yours very truly,



Truman K. Gibson, Jr.,
Civilian Aide to the Secretary
of War.



144-1-17

December 15, 1943

Arthur D. Shores, Esq.,
Attorney at Law,
1630 Fourth Avenue No.,
Birmingham, Alabama.

Dear Mr. Shores:

Re: Shooting of Alfonso Merritt by
John Patrick, police officer

This will acknowledge receipt of your letter of December 8, 1943, and enclosures concerning the shooting of Mr. Alfonso Merritt by John Patrick, a police officer of Tuscumbia, Alabama. The contents of your letter and the affidavits submitted have been thoroughly studied and considered.

In order for the Government to sustain a successful prosecution under Section 52, Title 18, U. S. Code, it is necessary for it to be shown that the police officer, while acting under color of law, ordinance, regulation and custom, denied the victim his rights guaranteed under the Fourteenth Amendment of the Constitution of the United States. Of course, it would be no trouble to show that Mr. Patrick was an officer, and that he was in the act of performing an official act at the time Mr. Merritt was killed. However, the official act was not being taken against Mr. Merritt, but was being taken against Mrs. Inesta Handy pertaining to a search of her property. Mr. Merritt was, among others, a visitor at Mrs. Handy's home.

In this type case, the defense offered is always the same, namely, that the assault committed by the officer was a personal act on the part of the officer, and not connected with the official act which he was performing. It is always contended that the officer stepped aside from his official duties and committed an act personal, though illegal.

In this case, an effective argument could be made both ways; (1) that the killing of Merritt was done while performing an official act, or (2) was a side issue purely personal, while performing an official act. Because of the very fine line distinguishing the two acts, one legal and one illegal, the Criminal Division does not like to proceed in these cases where there is any

SIGNED AND MAILED
DEC 15 1943
DIVISION OF RECORDS
1

doubt of the exact violation involved. Where an act is purely personal on the part of the officer, then it is a matter for the State courts to handle, but where it is entirely the result of an official act, and that act depriving one of his constitutional rights, then the Department will proceed if the facts justify it.

For the above reasons, the Department does not feel it should intervene in this case. If the Criminal Division can be of any further help to you, please let me know.

Respectfully,

For the Attorney General,

TOM C. CLARK,
Assistant Attorney General.

ARTHUR D. SHORES

ATTORNEY AT LAW

TELEPHONE 4-5966

1630 FOURTH AVENUE NO.
BIRMINGHAM, ALABAMA

December 8, 1943

Honorable Victor Rotnem
Civil Rights Section
Department of Justice
Washington, D. C.

Dear Sir:

I have been retained by Mrs. Annie Merritt of Tuscumbia, Alabama, to bring charges against one, John Patrick, a police officer, of Tuscumbia, who killed her husband while in company with several other officers, namely, Chief of police, Lee Goodwin, of Tuscumbia, Alabama, Chief of police, Meadows, of Muscle Shoals City police force and a Mr. Smith of the Alabama Beverage Control Board of Florence, Alabama. I went to Tuscumbia and secured the statements of eye witnesses to the incident. The incident occurred on August 28, 1943, about 2:30 P.M., at the home of Mrs. Inesta Handy, who lives on the corner of South Commons Street, Tuscumbia, Alabama. From a statement secured from Lee Merritt of Route 1, Decatur Street, brother of the decedent, he informs me that Alfonzo Merritt was thirty-nine years of age, weighed one hundred and eighty pounds, was married and had one child. He worked at the Southern Shops and had no police record.

Mrs. Merritt attempted to have a Warrant sworn out for the arrest of Officer Patrick and although the County prosecutor made the Warrant out for her, she could not get a Justice of Peace to sign it. I am enclosing a letter to me from Mrs. Merritt, also the Warrant as well as the affidavit of Albert L. Gadd and Mrs. Inesta Handy. I feel that this is a case where there is a violation of civil rights and since we are not able to get the local authorities to act, we are requesting aid from the Department of Justice. We shall appreciate your consideration of this matter.

Yours very truly,

Arthur D. Shores

Arthur D. Shores

144-1-17

DEPARTMENT OF JUSTICE
DEC 16 1943 A.M.
DIVISION OF RECORDS
CRIM. DIV. - ROTNEMADS/as

NEW

RECORDED

STATE OF ALABAMA

Colbert COUNTY

Personally appeared before me the undersigned authority for and in the said County and said State, Albert L. Gadd of 311 South Washington Street, Tuscumbia, Alabama, who being by me first duly sworn deposes and says that he is a resident of Tuscumbia, Alabama, and that on August 28, 1943, he with several other persons, namely, Simon White, Louise Johnson, Minnie M. Johnson, Inesta Handy and Alfonso Merritt were seated in the front room of Inesta Handy's home located at the corner of South Commons Street Tuscumbia, Alabama. Affiants further aver that about 2:30 p.m. four officers came up to the house, namely, G. W. Goodwin, Chief of Police, Tuscumbia, Alabama, J. W. Patrick, a Mr. Meadows, chief of the Muscles Shoals city police force and Mr. Smith of the A.B.C. Board of Florence, Alabama. One of the officers stated as they came up, "What have you got there", to which Mrs. Handy replied, "Nothing". Then one of the officers found some whiskey and asked, "Who will claim the whiskey", Mrs. Handy replied, "It is in my house so it is mine". The officers continued searching, two of the officers went to the back of the house, I came through the house, Alfonso Merritt had also come around to the back of the house, the officers were probing around outside in the yard, then Alfonso asked Mrs Handy if she had a pick so these men could use it, she stated that she did not have a pick, then one of the officers asked Alfonso, What did he say and Alfonso repeated his statement. Officer Patrick then ordered Merritt to shut up. Mrs. Handy told Merritt to come into the house, as he started into the house Mr. Patrick approached him and slapped him and staggered him backward, as he came forward gaining his balance without anything further Mr. Patrick shot him in the stomach, and while he lay on the ground struck him twice with his gun then kicked him and told him he he guess he would shut up now. Mr. Patrick then left and said he was going to call Bruce Thompson Undertaking Company, but the Undertaker never came. He refused to allow us to pick Alfonso up off the ground, he lay there about thirty-five (35) minutes.

Officer Meadows was standing at the back of the house where he could see the shooting, the other officers were not present. Alfonso did not have a knife or any other weapon nor did he attempt to strike the officer or abuse or curse him in any way. While Alfonso was on the ground he raised up and stated, "You all tell the truth, for I have done nothing nor said nothing to this man." Alfonso died the next day about 8:00 p.m.

P.S. *Alfonzo was also struck twice before he fell with a pistol by Patrick.*

Albany P. Gadd

Sworn to and subscribed before me this the 6th day
of November 6, 1943

Norman J. Thomas
NOTARY PUBLIC



STATE OF ALABAMA

Colbert COUNTY

Personally appeared before me the undersigned authority for and in the said County and said State, Mrs. Inesta Handy, who lives on the corner of South Commons Street, Tuscumbia, Alabama, who being by me first duly sworn deposes and says that she has read the statements made by Albert L. Gadd, that she was present and saw everything that was mentioned in his affidavit, and that her statements are substantially the same as his.

Inesta Handy

Sworn to and subscribed before me this 6th day of November, 1943.

Norman L. Thomas
NOTARY PUBLIC



Inscumbia, Alabama

Nov. 15, 1943

Dear Mr. Shores:

I received a copy of a warrant from the County Solicitor's Office last Tuesday. He told me to take it to the Justice of Peace. I took it and he told me he could not sign it; I have taken it to everyone I know who is suppose to sign it but I cannot get it signed. I am enclosing the copy and am leaving it to you to take whatever steps that are necessary to take.

I shall appreciate your giving your best consideration to this matter as it is even impossible for me to have a man arrested for killing my husband.

Yours truly

Annie Merritt

AFFIDAVIT

THE STATE OF ALABAMA,
COLBERT COUNTY.

Before me, _____, Justice of the Peace in and for said
County, personally appeared Annie Merritt

who being duly sworn on oath, says that he has cause for believing, and does believe, that within twelve
months next before commencing this prosecution John Patrick unlawfully and with malice
aforethought killed Alfonzo Merritt by shooting him with a pistol.

against the peace and dignity of the State of Alabama.

+ Annie Merritt

Sworn to and subscribed before me this _____ day of November, 19 43

Justice of the Peace.

WARRANT

THE STATE OF ALABAMA,
COLBERT COUNTY.

To Any Lawful Officer of the State of Alabama:

You are commanded to arrest John Patrick

and carry him before _____ Justice of the Peace
of said County, instanter, to answer the State of Alabama for the charge of:

Murder

preferred by Annie Merritt

Witness my hand this _____ day of November, 19 43

Justice of the Peace.

No.

Justice of the Peace Court
Colbert County.

THE STATE

vs.

Executed by arresting the within named
Defendant and

This the day of, 19.....

Sheriff.

No.

Justice of the Peace Court
Colbert County.

THE STATE

vs.

AFFIDAVIT

Filed in office this da

of, 19.....

Clerk.

State Witnesses: