

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



DANA NESSEL
ATTORNEY GENERAL

MEMORANDUM

Request for Approval to Close File

April 18, 2022

APPROVED: *Fadwa Hammoud* 4.18.2022
Solicitor General Date

TO: Danielle Hagaman-Clark
Division Chief
Criminal Trials and Appeals Division

Check here when Division Chief has final approval
authority for the request.

CC: Robyn Liddell
First Assistant
Criminal Trials and Appeals Division

APPROVED: *Danielle Hagaman-Clark* 4/18/2022
Division Chief Date

FROM: Yasmine K. Tucker
Assistant Attorney General
Criminal Trials and Appeals Division

RE: **Request for Approval to Close File**
Due Date for Response: None
Eric McGinnis – Cold Case
AG # 2021-0330693-A

Victim's position: N/A

Introduction

Director Daniel E. McGinnis of the Benton Harbor Police Department reached out to our office to see if we investigate the case of his cousin — Eric McGinnis. It was explained to Director McGinnis that the case was under the jurisdiction of Saint Joseph Police Department, and they would have to ask us to investigate the matter. Director McGinnis contacted Director Steve Neubecker of the Saint Joseph Police Department who agreed to turn the investigation over to our office. On or about October 11, 2021, S/A Shelby and S/A Mason went to Saint Joseph Police

Department to pick up all the crime scene photos, police reports and tips regarding the death of Eric McGinnis.

Facts

This is a cold case from St. Joseph, MI, where a 16-year-old b/m, Eric McGinnis, was found deceased in the St. Joseph River on May 22, 1991. The last time anyone saw Eric alive was May 17, 1991, when he was at a club in St. Joseph.¹ Eric's father dropped him off at "The Club" somewhere between 8:30 p.m. and 9:00 p.m. that evening. Prior to going to the club, Eric's mother, who he had seen earlier that evening, gave him \$5.00 for admission.

The stories of what happened after Eric was dropped off at the club are not entirely clear or consistent, and there has been a lot of speculation/rumors in the case. However, we do know that, at some point during the night, Eric broke into the vehicle of an individual by the name of Theodore Warmbein and stole \$44.00 in cash (Eric had a total of \$49.00 in his pocket when he was found, which is consistent with his mother giving him the \$5.00 for the club and the \$44.00 he stole from Warmbein's vehicle). Warmbein caught Eric in his vehicle and either pushed him or threw him down on the ground, but Eric managed to escape. Warmbein chased Eric until he lost sight of him in the downtown area.

Police talked to several individuals who were at the Club on May 17, 1991, however, no one was able (or possibly just unwilling) to give a clear/consistent version of events, and no one came forward to claim they saw Eric go into the water. As for the events leading up to Eric's disappearance, other than the confirmed version of events set forth above regarding the MV theft, police did not have much to work with. Some people reported that Eric got into a fight with an individual by the name of Brian Lee that night, however, there were others who did not remember seeing Eric enter the Club at all that night.

Detectives interviewed Kris Keyser back in 1991, and she advised that she did not see Eric the night he disappeared, and she had not been to the club since April of 1991. Her statements were contradicted by several of her friends who claimed that she told them she saw Eric the night he disappeared. Keyser claimed that she and Curtis were at a party together on May 17, 1991 and that they were together all night. She also claimed that she and Curtis were accompanied by his friend Kelly Clark and his girlfriend. There are no records of either Kelly Clark or his girlfriend being interviewed to confirm whether Keyser's statement was true. Keyser advised detectives that she did not tell Pitts about her relationship with Eric until after his body was found.

¹ A few of the individuals who were interviewed advised that they had seen Eric on May 20, 1991, but these statements were later determined to be unfounded.

Police also interviewed Curtis Pitts on June 19, 1991, and Curtis claimed he did not know Eric McGinnis, and denied that Keyser had ever talked to him about Eric. Curtis also advised that he was at a party with Keyser that night, and he did not go to the club. Curtis appeared to be rather defensive throughout the course of the interview, but he was not offered a polygraph.

Autopsy.

An autopsy was conducted on May 22, 1991, and because he had no other notable injuries, it was determined that Eric had drowned. The manner of death was determined to be accident.

The police finally concluded their investigation, finding that the most likely scenario was that Eric ran from Warmbein after being caught breaking into his car and that he jumped into the river in order to avoid capture and tragically drowned from the combination of the cold water, heavy clothing, and due to his weakened condition having just recovered from the chicken pox.

Materials Reviewed of Note

Statement taken from Daniel Thornton by Det/Lt. Jim Reeves. The statement is dated August 3, 1993.

On August 3, 1993, police interviewed an individual by the name of Daniel Thornton, who was in the Berrien County Jail at the time. Based on the introduction of the transcribed interview (where a prior conversation was referenced), it appears there was an interview that took place before this one, however the first and only transcribed interview available is the one from August 3, 1993. There is also reference to a third interview in another report that is alleged to have taken place on January 21, 1997, however, as previously noted, there was no transcript of this interview, nor is there any real description of what was said during the January 21, 1997 interview.

Thornton's statements can be summarized as follows:

- Thornton went to the Club on May 17, 1991 with his friend Dallas, and when they arrived, he saw an individual named Curtis Pitts at the Club. Thornton advised he was friends with Pitts.

- Curtis Pitts was dating Kristine Keyser at the time (Keyser had previously dated Eric McGinnis)
- Eric McGinnis was also present at the Club, and at some point during the evening, Eric and Keyser got into an argument, and Eric slapped Keyser. According to Thornton, Curtis Pitts saw the two arguing.
- Eric subsequently left the club, and Pitts went outside as well. Thornton reported seeing Pitts and another male (or two) chasing Eric.
- Thornton and Dallas went to the pier where they could see Eric and Pitts arguing. As Thornton and Dallas walked toward the pier, Keyser was walking away.
- After Keyser passed, Thornton could still see Eric and Pitts arguing down by the water. Thornton then saw Pitts kick Eric in the head. Eric fell back over the ladder/chain and into the water.
- After Eric fell into the water, Pitts and two other males started to throw rocks at him
- Thornton talked to Pitts about the incident afterwards, and Pitts admitted what he had done and admitted that it was “fucked up.”
- Pitts said that he wasn’t afraid of getting caught because he doesn’t think it (Eric McGinnis’s death) can be connected to him in anyway, shape or form and that you guys (the police), are too stupid and can’t figure out nothing when it comes to that case.
- Thornton also stated that he heard Curtis Pitts refer to black people as niggers.

Despite Thornton’s multiple statements to police with the same rendition of events, it was clear the detectives did not believe him. Thornton also took a polygraph, and the examiner opined that he was being deceptive. Apparently, the detectives believed that, because Thornton was in jail at the time, he was just interested in obtaining consideration in exchange for information (although he was already serving a sentence and did not ask for any sort of consideration). Thornton offered to testify if needed, however, detectives never availed themselves of that offer.

██████████ Michigan Department of Corrections Notes

02/18/2003 - Def. IPC for report TV BSA sign in sheet 2-5 & 2-12-03. EV pay sheet 2-5 & 2-12-03 G \$750 each. Def. reports old friend committed suicide def is alright with it because they had problems. Def has spoken with Dr. Love about it.²

6/17/2003 - Def. IPC states forgot earning statement. Def contacted by SJPD about knowledge of high-profile incident which took place several years ago.

08/21/2003 - Spoke with Nile def attending group, has been talking about beach incident is acting strange.

09/25/2003 - Spoke with Chuck at BSA def attending and doing alright still bringing up beach incident at inappropriate times.

Proffer Agreement

Attorney ██████████

On October 11, 2021, S/A Shelby spoke with Attorney ██████████, who “represents” an individual by the name of ██████████ (I put “represents” in quotes because Mr. ██████████ has not been charged with any crimes in connection with this incident). Mr. ██████████ advised that Mr. ██████████ had information that would help bring this case to a close. Specifically, it is believed that Mr. ██████████ has information that he was at the scene on the night Mr. McGinnis was killed, and although he did not personally observe McGinnis going into the water, he did observe the events that led up to the incident, and he observed/made contact with the suspect as well as other individuals believed to be involved in the death of McGinnis who were in the same vehicle as the suspect. We believe that ██████████ can identify each of the individuals who were in the vehicle with the suspect. There was another individual with ██████████ who can corroborate his version of events, however, unlike ██████████, he is not able to identify the individuals who were in the vehicle with the suspect (one of which was apparently soaking wet, as if he had been in the river).

The reason that ██████████ was seeking some sort of immunity/promise that nothing he says will be used against him is that, apparently, after the victim went into the water and after the suspect and other individuals came back and make contact with ██████████, the known suspect, Curtis Pitts, gave him something (apparently a jacket or some other article of clothing that ██████████ claims he put in the trunk of his vehicle) that

² Curtis Pitts committed suicide Thursday February 6, 2003.

██████████ apparently later gave to someone else and never mentioned to police or turned over. As a result, we believe he is concerned about evidence tampering/obstruction charges and wants assurance that he will not be charged in exchange for the information he intends to provide that will assist us with closing out this investigation.

On December 16, 2021, our Office entered into a proffer Agreement with ██████████

Witnesses.

Daniel Thornton

S/A Shelby spoke to Daniel Thornton on October 15, 2021, and Thornton basically told him that he wanted nothing to do with this case because he already told the detectives what he knew back in 1993, and they did not believe him. He did confirm, however, that what he told detectives back then was what happened, and he further voiced frustration over the police letting Pitts get away with killing Eric McGinnis because he was a “good kid, and he “didn’t deserve to go that way.”

Dallas Dyson

S/A Shelby and S/A Mason interviewed Dallas Dyson at the Michigan Department of Corrections (MDOC) Richard A. Handlon Correctional Facility on October 27, 2021. Per Mr. Dyson he was not at the club the night Eric McGinnis was killed and does not know what they are talking about. Per Mr. Dyson he was a little boy (13 years old) and not even old enough to get in the teen club. Per Mr. Dyson Eric was cool, he knew him from the neighborhood but did not have a relationship with him. Per Mr. Dyson, he and Daniel Thornton were friends and grew up together and spent time in juvenile together. In conclusion Mr. Dyson was adamant that he was not there and does not know what we are talking about

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S/A Shelby and S/A Mason interviewed ██████████ at the Saint Joseph Police Department on October 27, 2021. Mr. ██████████ stated, “I had no involvement in this, I think someone is trying to frame me. I know ██████████, I went to school with his sisters. I don’t have any information about the death of Eric McGinnis, I don’t know why ██████████ keeps saying that I was there night”. Per Mr. ██████████ he and Curtis Pitts went to school together and at the time of Eric McGinnis’s death, he was living with his dad in Bridgeman, MI. On this

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same day, Mr. [REDACTED] said “the things that me, Curtis Pitts and Jamie Green are being accused of doing never happened, I telling you one hundred percent, [REDACTED] is a chronic liar, I had nothing to do with it”.

[REDACTED]

S/A Shelby and S/A Mason interviewed [REDACTED] on October 27, 2021. Mr. [REDACTED] stated, he and [REDACTED] were sitting by the beach (Silver Beech) when a group of people came running by in the shape of a football formation. One person was out front a group of people was behind and one person in the rear. At first, I thought they were in gym class, then I realized that they were not in gym class and they were running pretty fast. The person in front was Eric McGinnis. Something didn't sit right with me, it put a knot in my stomach, and it didn't feel right, so we drove down to the beach and when we got there I got out and asked where did he (Eric McGinnis) go? They (the group that was chasing him) said he went over the bridge (the swing/train bridge). As fast as they were running, he could have made it over the bridge.

On this same day, Mr. [REDACTED] advised S/A Shelby and S/A Mason that he later learned the identity of Jamie Green and described him (Jamie Green) as the last person running in the group. Per Mr. [REDACTED] they were parked on the hill and smoking cigarettes when a small car occupied by five people pulled up. One of the people in the car was wet completely drenched from head to toe, it caught me completely off guard and I was like nobody gets that wet from running. [REDACTED] got out, he had nothing in his hands, he opened the trunk and was talking to Curtis, that's when I heard Curtis threaten [REDACTED] and said that if he ([REDACTED]) said anything about this he (Curtis) would kill him ([REDACTED]) and he paused for a minute and said the goes for your friend that's smoking the cigarette too, that friend was me, [REDACTED] then closed the trunk and got back in the car. When asked if he knew the guys who was drenched or any of those people in the car, [REDACTED] replied no but I think [REDACTED] knew who everyone was.

Mr. [REDACTED] further stated it was hard to get [REDACTED] to go out to the bar or something like that because he was threaten by Curtis.

[REDACTED]

On March 25, 2022, S/A Shelby, S/A Mason, and myself met [REDACTED] and his attorney [REDACTED] at her office in St. Joseph, Michigan for a proffer. [REDACTED] stated he was at the beach on May 17, 1991, with [REDACTED] in

his vehicle when he saw five white men chasing one black guy with a green coat in his hands later determined to be Eric McGinnis.³ The five guys in the order from lead chaser are: (1) Curtis Pitts (2) [REDACTED] (3) Jamison Green (4) [REDACTED] and (5) Theodore Warmbein. Mr. [REDACTED] was able to see Eric running on the sand up to the pier and seeing Curtis Pitts and [REDACTED] catching up to Eric but then lost sight of the group. [REDACTED] stated he didn't see what happened to Eric after that but grew concerned and after a while he decided to go look for him. After driving around town for a while he did not see the group. [REDACTED] grew frustrated with him and wanted no parts in the search and left. [REDACTED] waited on the beach for about an hour and then a yellow car with Curtis Pitts, [REDACTED] and Theodore Warmbein pulled up with two other individuals he did not recognize. He noticed that Curtis Pitts, [REDACTED] and Theodore Warmbein were soaking wet. He asked them what happened to the kid at which point [REDACTED] came out of the car with a green coat and said, "he's sleeping in the dune's grass." [REDACTED] then slammed [REDACTED] into [REDACTED]'s car and told him he should buy the coat from them. [REDACTED] said the coat was \$15 and [REDACTED] gave [REDACTED] the \$15 and took the coat and put it in his car trunk. Shortly after Pitts came out of the car.

[REDACTED] stated that, when Pitts came out of the car, he did a Nazi march and a Hail Hitler in [REDACTED]'s face. Pitts began telling [REDACTED] repeatedly that "it never happened, and it is a bad dream" almost hypnotizing him. [REDACTED] then asked again about the black kid at which point Pitts stated, "we can take care of you right now just like we took care of that fucking nigger, there's the water go ahead and look." [REDACTED] stated that Pitts then threatened to hurt his sisters if he ever spoke to the cops. The police then showed up to close the beach and [REDACTED] told [REDACTED] to take him home.

[REDACTED] stated that five days later when Eric's body was found, Pitts showed up to his house. Pitts was wearing snakeskin boots and he sat down and stated, "given that you want to know so bad what happened to that nigger I will tell you." [REDACTED] stated that Pitts stated that he did a roundhouse kick to the side of Eric's head and Eric hit his head on the pier and Eric fell in the water and they went into the water to fish him out but could not get him out.

³ Mr. [REDACTED] thought Eric might have stolen the green coat hence why the five white guys were chasing him.

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Discussion

The main suspect who is believed to have committed this murder is Curtis Pitts. Pitts committed suicide in 2003. Thornton and [REDACTED] both identified Pitts as the individual responsible for kicking Eric in the head before he went into the water. However, [REDACTED] did not see the murder happen but was only told of it by Pitts after the fact. [REDACTED] saw the initial chase and then saw Curtis Pitts, [REDACTED] and Theodore Warmbein soaking wet after the fact. Theodore Warmbein is also deceased. The only remaining individual is [REDACTED]. S/A Shelby interviewed [REDACTED] back on October 27, 2021, who denied any knowledge of the murder from 1991 and stated he only learned of it three/four years ago. [REDACTED] claimed he only smoked weed with Pitts prior to his suicide. It will be difficult to hold [REDACTED] responsible for the murder of Eric given that [REDACTED] did not witness what actually occurred at the Pier. One could argue that we could charge [REDACTED] with Accessory after the fact to a felony given that he forced [REDACTED] to purchase Eric's green coat after Eric's murder. However, we would face corpus delicti issues given that we have no clue what happened to the green coat. Finally, we have no witness to Pitts murdering Eric to prove that [REDACTED] was feloniously concealing, harboring, maintaining, protecting, aiding, or assisting Pitts in the murder of Eric.

I recommend that we close out the file with no charges issued.

Approved: _____



Danielle Hagaman-Clark
Division Chief