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The Ghosts of St. Louis Future

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Description:

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What Judge Wilson described as the "factual events at issue" had unfolded nearly six years earlier on December 20, 2011, when a silver Buick driven by Smith pulled into the parking lot of a Church's Fried Chicken on the city's long-suffering North Side. Despite persistent efforts by Smith's family and by veteran Black St. Louis activists Anthony Shahid and the Reverend Philip Duvall, more than five years dragged by before Stockley was charged with any crime related to Smith's death.

In May 2016, then-Circuit Attorney Jennifer Joyce finally agreed to throw the book at Smith's killer. With glaring symbolism, she resurrected and reversed the 2014 non-indictment of Darren Wilson, the suburban St. Louis policeman who fatally shot Michael Brown, on the more favorable ground of an open-and-shut case. Joyce had forgotten, however, that in the Show Me State, as in the 49 others, no case brought against a white cop for the murder of a Black citizen is ever perfectly obvious.

Weeks before Judge Wilson's verdict, the St. Louis police and the newly installed Republican governor of Missouri, Eric Greitens, were tipped that Stockley might go free, and began preparing a redo of their own. Local cops wrapped metal barricades around police headquarters and two downtown courthouses, and Greitens placed the Missouri National Guard on standby. This time, the governor vowed, the rights of property would be protected by preemptive conversation as well as by fences and arms.

"Too often in the past in Missouri, leaders have waited for pain to visit us before we make a decision to visit with each other," Greitens announced. "Too often in our country, leaders have waited for sirens to be blaring and people to be screaming before we decide that it's time to sit down and talk."

Greitens an ex-Rhodes Scholar and onetime Navy SEAL and the incarnation of all fears of a smarter, slicker Donald Trump somehow failed to take his own advice.

He neglected to reach out to Missouri state representative Bruce Franks and other Black Lives Matter organizers planning mass protests if Stockley walked. Had Greitens done so, he would have learned that these organizers were also motivated by the ghosts of Ferguson.

Perhaps the single thing that the governor shared with those praying for a Stockley conviction, in fact, was the assumption that St. Louis's recent past was swamped by unburied racial traumas, by events surrounding the violent passing of Michael Brown not fully grasped or admitted, and thus doomed to haunt one of America's most segregated cities.

"We're Killing This Motherfucker"

The Ghosts of St. Louis Future

Joyce and her successor Kim Gardner, St. Louis's first-ever African-American Circuit Attorney, can be forgiven for assuming that they could help the city heal by breaking the national string of non-convictions of white police shooters. In the long wait between Smith's death and Stockley's indictment, the city's Board of Police Commissioners had agreed to settle a wrongful death lawsuit, brought on behalf of Smith's infant daughter, to the record-setting tune of \$900,000.

Then there were the documented facts of Stockley's wildly improper conduct, admitted by his lawyers as well as the State's. When Stockley initially approached Smith outside the fast food joint, suspecting him of dealing drugs, he violated department policy by toting his own AK-47 Draco pistol.

During a three-minute car pursuit sparked when Smith backed his Buick into a police SUV, dash-cam audio caught Stockley swearing that "we're killing this motherfucker, don't you know." And after the SUV rammed the Buick to a stop, Stockley did just that, firing five fatal shots at Smith, still in the driver's seat, at close range.

A .38 revolver found in Smith's car the reason for Stockley's fusillade, or so said Stockley coated with DNA, all of which matched the officer, and none his victim. To top it off, Stockley admitted that he had used a third handgun, a department-issued Baretta, to take potshots at Smith's fleeing car as it cleared the parking lot.

In the words of one retired St. Louis detective, a friend of a friend not known for exaggeration, the whole fishy and brutal scene testified that Smith had been executed by a classic "rogue cop." But no part of the scene was sufficient to find Stockley guilty.

Because the accused officer (wisely) opted for a bench trial rather than a jury of St. Louis peers, we have access to an unusually detailed and revealing record of how his case was decided, and how the criterion of reasonable doubt becomes fully unreasonable in a legal system evidently convinced that white policemen deserve unequal protection under the law. (For your information, St. Louis's Black police union the city is sufficiently divided to require two publicly called for Stockley's conviction, concluding that "[h]e wasn't defending himself in the line of duty.")

The 30-page official decision that Judge Wilson was compelled to release on September 15th ends by declaring that "the State has failed in its burden of proof," and that Stockley was therefore guilty neither of murder nor of "the lesser degrees of homicide including involuntary manslaughter."

I am no lawyer I've never even played one in print but I'm convinced that the strained, narrow and prejudicial logic deployed by the judge reveals that he reasoned backwards from a pre-finding (as opposed to a presumption) of innocence.

Take the acknowledged facts that Stockley's partner, Brian Bianchi, holstered his service weapon at Church's and related afterwards that he did not believe that Smith presented a threat. "At the time of the shooting," the judge argues, "Bianchi was an inexperienced police officer. To draw compelling inferences from Bianchi's actions or inactions would amount to mere speculation." (Inferences drawn from Bianchi's years of service, by contrast, are not at all speculative.)

The seemingly planted gun plastered with Stockley's DNA? DNA traces can stem from collecting as well as planting a weapon, claims the judge. What's more, "the Court observes, based on its nearly thirty years on the bench, that an urban heroin dealer not in possession of a firearm would be an anomaly." (Anomalies can never disallow old-school stereotypes, of course if the victim is Black, that is, or make that ethnically "urban.")

Finally, Stockley's spoken guarantee that he or his partner or both of them will kill the man he killed minutes afterward? "People say all kinds of things in the heat of the moment or while in stressful situations, and whether Stockley's statement that 'we're killing this motherfucker,' which can be ambiguous depending on the context, constituted a real threat of action or was a means of releasing tension has to be judged by his subsequent conduct."

I would observe, based on my thirty years off the bench, that the term "motherfucker" is rarely used ambiguously. But in any case, since Stockley's subsequent conduct included really killing his announced target, it looks to me that the choice of "real threat of action" is clear.

In short, Judge Wilson's report on his verdict threw everything but the kitchen sink — not excluding explicit racial caricature and English major-style ambiguity-hunting — into the task of setting Stockley free. Hacking a slender path to legal uncertainty, the judge systematically undercut every bit of evidence incriminating Smith's killer.

Outrage and Militarized Police

Outrage and disbelief over Wilson's report contributed to quickly swelling demonstrations against Stockley's acquittal in downtown St. Louis.

Within an hour of reading the decision on the afternoon of the 15th, I had taken the metro to a stop near Busch Stadium, the home of the baseball Cardinals, and walked five blocks west to the intersection of Spruce Street and Tucker Boulevard.

There, hundreds of officers in riot shields and helmets, alternately guarding and boarding rented buses, faced off against a roughly equal number of protestors in t-shirts and bandanas.

The youngest of the latter group, Black and white and brown, eagerly crowded into the front lines, trained by months of similar standoffs in Ferguson. Some of the loudest kids taunted individual officers as flunkies and murderers, and all chanted slogans made world-famous a few miles away in 2014: "Who shuts shit down? We shut shit down!" and "No justice, no peace. No racist police."

At this daylight action called at the height of protestor anger, nothing heavier than water and half-empty plastic bottles were thrown toward police lines. But flying teams of cops burst out of formation to grab, pepper-spray, and arrest individual offenders, infuriating nearby demonstrators.

St. Louis police had come looking for excuses, convinced — likely with the governor's help — that the tactical lesson of Ferguson was precisely the opposite of that discussed in the national media and the Obama Justice Department. It was the lack of an aggressive, effectively militarized response to protestors testing the boundaries, they seemed to decide, that had plunged the streets into chaos in 2014.

I left downtown St. Louis that first Friday evening certain that greater violence would erupt later that night and fearful that it would be prompted in part by a police force that wanted nothing less. Law enforcement's plan to bury Ferguson's ghosts, I worried, would only open more graves.

Violence did follow: on that first night, at the Central West End home of St. Louis mayor Lyda Krewson, and on the next in the Delmar Loop, a hip (by our flyover-country standard) entertainment mecca near Washington University.

Protestors' bricks forced a handful of cops to the hospital, and about thirty windows were shattered over forty-eight hours just what Missouri's governor ordered for his reelection campaign commercials.

The morning after property damage on Delmar, Greitens, an early adopter of Trumpian rule-by-social-media, Facebooked this Wyatt Earp imitation, complete with a heavy dose of common-man contractions: "Saturday night, some criminals decided to pick up rocks and break windows. They thought they'd get away with it. They were wrong. Our officers caught 'em, cuffed 'em, and threw 'em in jail. In the past, our leaders let people break windows, loot, start fires. They let them do it. Not this time."

Protest Growing

What Greitens did not bank on, however, was an African-American protest leadership that readily shed the criminal label. St. Louis's seasoned Black Lives Matter movement has sponsored large-scale, nonviolent civil disobedience actions every day since September 15th.

In addition to Bruce Franks, mentioned above, the charismatic nurse-pastor Cori Bush and the SCLC veteran Darryl Gray imagine their city as "the new Selma," like the old one a national focal point for anti-racist agitation. As Gray told the Pittsburgh Courier, "St. Louis is the heart of America. It's America's center. And the racism in St. Louis is similar to Selma where it is deeply embedded."

While CNN and company have been training their cameras elsewhere, a surprisingly wide range of local institutions have been pushed to view the Stockley case and its aftermath as signs of shameful and unsustainable inequity.

To take just one example, both the Missouri ACLU and the business-friendly St. Louis Post-Dispatch have joined the mayor's office and the interim police chief in calling for a federal investigation into police misconduct during a head-cracking "kettling" arrest on September 17th, after which officers chanted "Whose streets? Our streets!" at protestors like a rival gang.

There is no panacea to be found, of course, in petitioning Trump's post-civil rights Justice Department for racial justice. But such actions, steered by the "Ferguson Frontline" and joining factions of a bitterly divided city, may offer St. Louis its best hope to transform repetitive convulsions into dignified burials and real rebirths.

St. Louis, Missouri, October 8, 2017

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