

PHILLIP HATLEY:
SILENT ARCHIVES AND SILENCED GENEALOGIES



Elena Kuran, Northeastern University School of Law '25
Civil Rights and Restorative Justice Clinic
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“Speaking about this is tough because most narratives concerning what happened to my grandfather are missing.”¹

“There are many silences in my family.”²

I. INTRODUCTION

The story of Phillip Hatley is one marked by silence.³ Such absences that reach across generations and into the present are common for families subjected to racialized violence and other interminable effects of U.S. chattel slavery. To begin addressing these absences, we must look to the events and conditions—the ruptures—which caused them. We must be committed to a compassionate, critical, and urgent project of truth-telling. “The power of history is in telling the truth.”⁴ In doing so, we recognize that racial justice today requires addressing injustices of the past.

This paper seeks to further this effort by telling the story of Phillip Hatley, a Black man who was killed by two police officers in Jim Crow Memphis. By documenting not only his death but also his life, this paper aims to fill in the gaps and inform future restorative justice processes led by the Hatley family and supported by the Civil Rights and Restorative Justice Project (CRRJ). To begin, the paper provides background on Jim Crow Memphis, situating Hatley’s case against a complex and unique history of Black agency and a domineering political machine. Next, an account of Hatley’s life is offered, made possible by investigative and archival research that draws upon newspaper clippings, interviews with family members, census data, court documents, military records, and more. The following section details Hatley’s murder, which took place at his

¹ Interview with Solomon Hatley (Mar. 25, 2024).

² CHRISTINA SHARPE, *IN THE WAKE: ON BLACKNESS AND BEING 2* (2016).

³ The spelling “Philip Hadley” is used in his death certificate and across nearly all media coverage; however, “Phillip Hatley” is used by his family members and on his gravestone. Accordingly, I have used “Phillip Hatley” in my research and documentation process, including this paper.

⁴ Equal Justice Initiative, *The Legacy Sites*, <https://legacysites.eji.org/> (last visited April 17, 2024).

home on the morning of January 22, 1939. The paper then describes the aftermath of Hatley's murder, divided into two parts: the formal legal response and the response from Memphis's Black community. The paper ends with reflections on truth-telling as a way to fill absences and rewrite misnamings, drawing upon the work of Professor Christina Sharpe. This paper would not have been possible without the generosity and willingness of the Hatley family to engage in this work; on behalf of CRRJ, I extend my deepest gratitude to them.

II. JIM CROW MEMPHIS: A UNIQUE SOUTHERN CITY

The history of Memphis and memory of its Black Freedom Struggle is often dominated by the assassination of Dr. Martin Luther King, Jr. in 1968. However, scholars and historians, including CRRJ affiliate Charles McKinney, are increasingly interrogating the rich and under-excavated history of Black life in Memphis before and after 1968.⁵ For decades leading up to the momentous events of the 1960s, Memphis was home to what has been called the “long civil rights movement” throughout Jim Crow.⁶ For example, the city reportedly had more registered Black voters than any other community in the Mid-South region.⁷ This relatively high level of Black agency was in part due to the efforts of Memphis's Black elites, such as Robert Church Jr., a prominent businessman and Republican Party organizer. However, these efforts were constantly contending with the multi-decade control of Edward Crump's political machine. Examining the lives of Robert Church Jr. and Edward Crump sheds light on the competing forces of Jim Crow Memphis, which shaped the everyday experiences of all Memphians, including Phillip Hatley.

⁵ See: ARAM GOUDSOUZIAN & CHARLES MCKINNEY, AN UNSEEN LIGHT 130 (2018).

⁶ *Id.* at 5.

⁷ Elizabeth Gritter, Black Politics in the Age of Jim Crow Memphis, Tennessee, 1865 to 1954 at xxiv (2010) (P.h.D. dissertation, University of North Carolina at Chapel Hill).

a. *Robert Church Jr., Beale Street, and Black Agency*

Robert Reed Church Jr. was born on October 26, 1885, in Memphis, Tennessee. He was the son of Robert R. Church, an influential entrepreneur, philanthropist, and community leader who became the South's first Black millionaire.⁸ While his father's efforts focused on developing Memphis and financing public enterprises for the Black community, Church junior focused all of his energy on politics. He became one of a number of Black leaders who "presided as middlemen between the Black electorate and white Republican leaders."⁹ They "dispensed patronage, expressed the needs and desires (in addition to the grievances) of their constituents to the remote white party leaders, and occupied positions of authority and respect in the Black community."¹⁰

Church specifically believed that "voting served as the most pragmatic approach for African Americans to obtain full citizenship in this country."¹¹ He viewed active participation in the political process as a way for Black Americans to gain political, social, and economic equality. In 1916, Church founded and financed the Lincoln League, which was established to increase voter registration and participation among the city's Black residents. Three thousand Black Memphians attended the League's first meeting, where Church helped the Black community begin to "collectively confront the exclusionary practices of Jim Crow in a formal setting."¹² The League organized voter registration drives and paid poll taxes for voters. By empowering Black Memphians with the ballot, Church "used the arena of politics to interject the plight of the Black

⁸ Darius Jamal Young, *'It Is the Race's Own Organization': Robert R. Church Jr., The Lincoln League, and the Politics of the Black Freedom Struggle, 1916 – 1920*, 34 THE GRIOT 1 (2015).

⁹ Roger Biles, *Robert R. Church, Jr. of Memphis: Black Republican Leader in the Age of Democratic Ascendancy, 1928-1940*, 42 TENNESSEE HISTORICAL QUARTERLY 362 (1983).

¹⁰ *Id.*

¹¹ Darius Jamal Young, *The Gentleman from Memphis: Robert R. Church Jr. and the Politics of the Early Civil Rights Movement* (2011) (P.h.D. dissertation, University of Memphis).

¹² Darius Young, *'It Is the Race's Own Organization': Robert R. Church Jr., The Lincoln League, and the Politics of the Black Freedom Struggle, 1916 – 1920* at 3.

community into the national political discourse.”¹³ His focus on voting allowed Black voices to be heard by policymakers beyond Memphis, at the state and national levels.

A year after founding the Lincoln League, Church organized the Memphis branch of the National Association for the Advancement of Colored People (NAACP), the first branch in the state of Tennessee. It would later become one of the nation’s largest and most active chapters. In 1919, Church was elected to the NAACP’s national board of directors in recognition of his efforts in Memphis and growing national influence. From his position on the board, he helped establish 68 chapters in 14 Southern states, marking the considerable role that Church played in expanding and establishing the NAACP in its early years.¹⁴

As one of the most recognizable Black figures in the Republican Party, Church used the party as a tool for social change. He appealed to the myth of the “Party of Lincoln” to “convince whites to live up to the ideals of the Party, and to inspire African Americans to remain loyal to the party that freed the slaves.”¹⁵ He served as a delegate to eight consecutive Republican national conventions from 1912 to 1940 and controlled the Republican party in West Tennessee, including both white and Black members. He was regularly consulted by Republican presidents and prominent party officials, including President Coolidge, illustrating the size of his influence and the potential for Black political agency even during Jim Crow.

As Church developed his political machine throughout the early 20th century, he came to be known as “the Colossus of Beale Street.”¹⁶ Beale Street was the epicenter for Black life in Memphis, which Church Sr. had helped develop through building infrastructure and paying off

¹³ Darius Jamal Young, *The Gentleman from Memphis: Robert R. Church Jr. and the Politics of the Early Civil Rights Movement* at vii.

¹⁴ *Id.* at 68.

¹⁵ *Id.* at 5.

¹⁶ *Roberta Church Follows in Footsteps of Father*, THE PITTSBURGH COURIER, July 25, 1958.

creditors of properties owned by Black residents. Beale Street was home to banks, auditoriums, clubs, saloons, restaurants, and other Black-owned businesses.¹⁷ It was also the headquarters of Ida B. Wells's anti-segregationist newspaper, *Free Speech*. Memphis, despite its high rates of violence, represented the promise of an emerging modern Southern city.¹⁸ Beale Street was later central to the Civil Rights Movement of the 1960s. It was the site of a mass sanitation worker strike in 1968, which prompted Dr. King to come to Memphis and give his "I've Been to the Mountaintop" speech one day before his assassination.¹⁹

Church's power began to wane toward the end of the 1930s as a result of the rise of the New Deal and the increasing defection of Black voters to the Democratic Party. Further, the long-term alliance that Church had formed with influential white political boss Edward Crump ended as Crump began cultivating Black Democratic leaders and openly challenging Church's power. When Church continued to support Crump's Republican opponents, Crump directed the city to confiscate Church's properties, ultimately forcing Church to relocate to Chicago.²⁰

b. Edward "Boss" Crump's Political Machine

Edward Hull Crump was born in Holly Springs, Mississippi, in October 1874. After moving to Memphis at the age of 19, he began making political connections that would help him win the mayoral election of 1910. Over the following four decades, Crump would build "one of the greatest, and most diverse, political organizations in American history."²¹ In addition to mayor, he held several political positions, including Commissioner of Fire and Police, Shelby County

¹⁷ Darius Jamal Young, *The Gentleman from Memphis: Robert R. Church Jr. and the Politics of the Early Civil Rights Movement* at 59.

¹⁸ *Id.* at 68.

¹⁹ Ted Conover, *The Strike That Brought MLK to Memphis*, SMITHSONIAN MAGAZINE (Jan. 2018), <https://www.smithsonianmag.com/history/revisiting-sanitation-workers-strike-180967512/>.

²⁰ Darius Jamal Young, *The Gentleman from Memphis: Robert R. Church Jr. and the Politics of the Early Civil Rights Movement* at 211.

²¹ G. WAYNE DOWDY, *MAYOR CRUMP DON'T LIKE IT: MACHINE POLITICS IN MEMPHIS* xii (2006).

treasurer, and U. S. Congressman. Importantly, even when he was not formally in office, it was more likely than not that one of his supporters was.

Crump's outsized influence was in part due to his willingness to engage with what were then politically weak minority groups in Tennessee: Blacks and Republicans. As early as 1915, at the end of his tenure as mayor, Crump stated: "The political machine which I have relied upon and sought to maintain is not composed of any particular faction or class, but of the people of Memphis at large."²² Importantly, Crump was not a racial liberal; he still believed in Jim Crow and was mainly motivated by personal interest. He formed strategic working relationships with Memphis's Black elites, including Robert Church Jr., to secure Black votes for his party. Throughout the 1910s and 1920s, in deals struck with Church and other Black leaders, Crump authorized improvements in Black communities, including new parks and paved roads.²³

Crump's efforts to maintain a hold on his Black voting block also included publicly addressing police brutality. In 1938, a few months before the killing of Phillip Hatley, Crump fired a police officer who had killed Fred Davis, a 22-year-old Black man.²⁴ Crump made sure to publicize his intervention, which was unprecedented: no Memphis police officer had been fired for killing a Black man before. In what the *Pittsburgh Courier* called a "political renaissance in Memphis," Crump had likely intervened because the Democratic primary, which had taken place a week before, saw extremely low Black voter turnout.²⁵ Crump called the *Memphis Press-Scimitar* to release a public statement: "Unless there is a very great justification, the policeman should be fired. There has been too much killing."²⁶ As the image of killer cops acting with

²² *Id.* at 13.

²³ Darius Jamal Young, *The Gentleman from Memphis: Robert R. Church Jr. and the Politics of the Early Civil Rights Movement* at 43.

²⁴ *Memphis Cop Is Fired For Slaying of Negro*, THE MORNING ADVOCATE, August 12, 1938 at 1.

²⁵ *Political Renaissance in Memphis*, THE PITTSBURGH COURIER, August 27, 1938 at 10.

²⁶ Letter from H.A. Robinson to Walter White (NAACP) (August 22, 1938) (on file with Civil Rights and Restorative Justice Project).

impunity ran counter to his political strategy, Crump oversaw the firing and even prosecutions of several police officers.

However, due to the Democratic Party's gains by the early 1940s, the Crump machine was no longer reliant on the Black vote. Accordingly, Crump lost interest in courting Black Memphians for their support and, as described above, turned against his long-term ally, Church. This fissure trickled down to Black voters, who began to see their uneasy alliance with Crump as "a yoke that circumscribed their political autonomy no less than any unpayable poll tax or violent lynch mob."²⁷ As they began organizing to end Crump's multi-decade hold on Memphis, they became targets of heightened police brutality aimed to fracture solidarity among Memphis's Black community and suppress their emerging organizing efforts against the Boss.²⁸ It was against this rapidly changing and complex backdrop that Phillip Hatley was killed by two Memphis police officers in January of 1939. As the following section will detail, Hatley's killing and its aftermath illustrate these mutually dependent tensions of Memphis racial politics during Jim Crow.

III. PHILLIP HATLEY: A FAMILY'S LOSS

a. A Tennessee Native

Phillip Hatley born in February 1896 to Sam and Rachel Hatley.²⁹ They lived in Whiteville, Hardeman County, Tennessee, about 60 miles east of Memphis and just across the border from Fayette County.³⁰ Phillip had six siblings: one stepsister, one sister, and four brothers.³¹ His father, Sam Hatley, was a farmer.³² He was a registered voter when Phillip Hatley was born. Following

²⁷ Jason Jordan, *We'll Have No Race Trouble Here*, in *AN UNSEEN LIGHT* 130 (Aram Goudsouzian & Charles McKinney eds. 2018).

²⁸ *Id.* at 132.

²⁹ Bureau of the Census, U.S. Dep't of Commerce, Twelfth Census of the United States: 1900: Tennessee, Hardeman County, Civil Division 4, Sheet A (on file with Civil Rights and Restorative Justice Project).

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

an order from the Tennessee General Assembly, the governor appointed commissioners in each county to take a census of all eligible voters (men who were age 21 or older). Sam Hatley appears in the enumeration record for Fayette County in 1891.³³ His inclusion reflects the early and dedicated history of organizing for Black voting rights in Tennessee: a group of influential Black leaders—including Sampson W. Keeble, the first Black man elected to the Tennessee legislature—convened the second State Colored Men’s Convention in 1866 and pressured the pro-Union governor to broaden his voter base to include Black voters.³⁴ In 1867, the Tennessee General Assembly granted Black men the right to vote and to hold political office—nearly three years before the passage of the 15th Amendment.³⁵ Such early developments laid the groundwork for leaders such as Church to increase the public and political roles that Black Tennesseans could play.

On June 5, 1917, at the age of 22, Phillip Hatley registered as a soldier in World War I.³⁶ His registration card identifies him as a farmer living in Somerville, Tennessee. He is described as being short, stout, and Black, which are the only cues as to his appearance, in light of the absence of any photographs in his genealogical archive.³⁷ Hatley served in the 368th infantry, 92nd division and was honorably discharged on October 22, 1918.³⁸ As a result of his service, he was later buried in the Memphis National Cemetery.³⁹

³³ Enumeration of Male Voters, Fayette County, Tennessee (1891) (on file with Civil Rights and Restorative Justice Project).

³⁴ Illinois State Convention of Colored Men, “Proceedings of the Illinois State Convention of Colored Men, assembled at Galesburg, October 16th, 17th, and 18th, containing the state and national addresses promulgated by it, with a list of the delegates composing it” 1867, <https://www.loc.gov/item/81480925/>.

³⁵ Kathy Lauder, *Chapter 130 and the Black Vote in Tennessee*, 24 MIDDLE TENNESSEE JOURNAL OF GENEALOGY & HISTORY 1 (2021), <https://sharetn.gov.tnsosfiles.com/tsla/exhibits/aale/pdfs/Jim%20Crow%20MTGS.pdf>

³⁶ Draft Card for Phillip Hatley. Serial No. 41-2-7-A, June 5, 1917.

³⁷ Id.; “Access and mass appeal have historically made photography a powerful location for the construction of an oppositional Black aesthetic.” bell hooks, *In Our Glory: Photography and Black Life* 57 (1995).

³⁸ National Cemetery Interment Control form for Phillip Hatley, March 13, 1939 (on file with Civil Rights and Restorative Justice Project).

³⁹ U.S. Burial Register for Phillip Hatley, 1939 (on file with Civil Rights and Restorative Justice Project).

After serving in the army, Hatley returned to Fayette County, where he lived with his widowed mother.⁴⁰ The census indicates that he worked as a farmer and could both read and write.⁴¹ By the early 1930s, Hatley had moved to Memphis and was working as a mill laborer.⁴² He was married to Willie Mae Hatley, with whom he had three children: Alma (b. 1930), Robert (b. 1932), and Eugene (b. 1934).⁴³ The Hatleys lived at 308 Harrell Street in the Binghamton neighborhood, slightly northeast of the Memphis city limits.⁴⁴ This was the same home at which two drunk, off-duty Memphis police officers arrived on the morning of January 22, 1939.⁴⁵

b. January 22, 1939, and a Silenced Genealogy

January 22, 1939, was a Sunday. Phillip Hatley was at home with his wife, Willie Mae Hatley, and their three young children.⁴⁶ They were preparing breakfast.⁴⁷ Between 8:00 am and 8:45 am, two Memphis police officers arrived at the Hatley home.⁴⁸ Officers Elmer F. Broens and Roy G. McElroy, both first-year patrolmen, had just finished their early morning watch and were off-duty.⁴⁹ However, the two officers got drunk and drove a patrol car to Hatley's neighborhood under the pretense of investigating robberies and suspicions of bootlegging.⁵⁰ "I understand these boys were drinking," said Attorney General Marion S. Boyd.⁵¹

⁴⁰ Bureau of the Census, U.S. Dep't of Commerce, Fourteenth Census of the United States: 1920: Tennessee, Fayette County, Civil District 15 Sheet 3B (on file with Civil Rights and Restorative Justice Project).

⁴¹ *Id.*

⁴² Bureau of the Census, U.S. Dep't of Commerce, Fifteenth Census of the United States: 1930: Tennessee, Shelby County, City Ward 37 Sheet 8-A (on file with Civil Rights and Restorative Justice Project).

⁴³ Bureau of the Census, U.S. Dep't of Commerce, Sixteenth Census of the United States: 1940: Tennessee, Shelby County, City Ward 37 Sheet 17-B (on file with Civil Rights and Restorative Justice Project).

⁴⁴ Memphis, Tennessee, City Directory, Page 426, 1934 (on file with Civil Rights and Restorative Justice Project).

⁴⁵ Memphis, Tennessee, City Directory, Page 416, 1938 (on file with Civil Rights and Restorative Justice Project).

⁴⁶ *Two Policemen Held on Murder Charges After Slaying Negro*, THE COMMERCIAL APPEAL, January 23, 1939 at 2.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.* at 1.

⁵⁰ *M'Elroy Still in Jail Unable to Make Bond*, THE COMMERCIAL APPEAL, January 24, 1939 at 1; *Story of Terror Told at Exofficers' Trial*, THE COMMERCIAL APPEAL, February 23, 1939 at 1.

⁵¹ *2 Memphis Policemen Are Jailed For Murder*, CHATTANOOGA DAILY TIMES, January 23, 1939 at 7. _

Broens and McElroy proceeded to terrorize the Black families living on Harrell Street. After arriving at Phillip Hatley's home, the officers "compelled him to accompany them outside to their squad car where witnesses say they beat Ha[t]ley."⁵² When the officers had arrived, they had Hemmer Trailer, a Black man, in their custody.⁵³ Broens and McElroy had picked up Trailer as they were driving around, and were attempting to use Trailer as a source for the alleged bootlegging claims.⁵⁴ As Broens forced Hatley into the patrol car, McElroy brought Trailer out to the back of the car, "where they held a conversation."⁵⁵ Meanwhile, Broens continued beating Hatley inside the car. By then, neighbors had begun to gather to witness the unfolding brutality. Robert Turner, a 21-year-old Black student at Le-Moyne College, lived directly across the street from the Hatleys with his father, Orlando Turner, who was employed as a postman.⁵⁶ Robert Turner was in his backyard milking when McElroy spotted him, pointed a firearm at him, and forced him into the car with Broens and Hatley. Inside the car, Turner saw that "Mr. Broens had the barrel of his pistol in Ha[t]ley's mouth."⁵⁷ Despite this astonishing level of force and the fact that he was unarmed, Hatley managed to escape the patrol car and run back into his home.⁵⁸ Broens pursued Hatley as McElroy forcibly carried Turner back into his own home, where he lined up the Turner family and threatened to shoot them.⁵⁹

Back at the Hatley's home, Broens had caught up with Hatley in the hallway and a struggle ensued, which Willie Mae Hatley heard from the bedroom.⁶⁰ As Hatley escaped from a rear door

⁵² *Two Policemen Held on Murder Charges After Slaying Negro*, THE COMMERCIAL APPEAL, January 23, 1939 at 1.

⁵³ *Story of Terror Told at Exofficers' Trial*, THE COMMERCIAL APPEAL, February 23, 1939 at 3.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* at 1.

⁵⁸ *Former Officer Tells Story Of Death Fight With Negro In His Murder Trial Defense*, THE COMMERCIAL APPEAL, February 25, 1939 at 1.

⁵⁹ *Story of Terror Told at Exofficers' Trial*, THE COMMERCIAL APPEAL, February 23, 1939 at 3.

⁶⁰ *Two Policemen Held on Murder Charges After Slaying Negro*, THE COMMERCIAL APPEAL, January 23, 1939 at 2.

and continued fleeing across his backyard, Broens shot five or six times.⁶¹ According to neighbors who witnessed the killing from the window of their home, Hatley fell once after being shot but got up and started running again. After being shot two more times, he finally collapsed over a fence dividing his property with Isaac Stevenson, whose family was also subjected to questioning and terrorization by Broens and McElroy.⁶² An ambulance was called and Hatley was taken to John Gaston Hospital, where it was determined that he had not died of three bullet wounds but from a blow to the back of the head.⁶³

A radio call had gone out regarding the shooting, and Broens and McElroy were ordered to meet Sergeant Gibbons on Summer Avenue, a mile north of Harrell Street.⁶⁴ They were taken to the police headquarters immediately thereafter, while the families on Harrell Street were left in the wake of the officers' deadly, drunken spree of racialized violence.

IV. A DIVIDED RESPONSE

a. Fired and Charged: Prosecution of Broens and McElroy

Upon arriving at the police headquarters, Broens and McElroy were “taken in charge by Chief of Police Lee, Detective Chief Richards, Homicide Captain Glisson, and Patrol Captain John Cross.”⁶⁵ Police Commissioner Clifford Davis was notified of the killing and rushed to the headquarters. Upon hearing details of Hatley's killing from the police executives, Davis “ordered the men to hand over their badges, guns and other police equipment and formally told them that they ‘were through’ as policemen.”⁶⁶ In addition to immediately dismissing Broens and McElroy

⁶¹ *Id.*

⁶² *Id.*

⁶³ Death Certificate for Phillip Hatley, State File No. 1767, Coroner's Case Certificate of Death, State of Tennessee; *Police Are Blamed For Second Death*, THE TENNESSEAN, January 24, 1939 at 8.

⁶⁴ *Two Policemen Held on Murder Charges After Slaying Negro*, THE COMMERCIAL APPEAL, January 23, 1939 at 2.

⁶⁵ *Id.* at 1.

⁶⁶ *Id.* at 2.

from the force, Commissioner Davis “ordered them docketed and placed in cells in city jail.”⁶⁷ He directed Captain Glisson to swear out murder warrants against both officers.⁶⁸

A few hours later, Broens and McElroy were arraigned before City Judge Bateman. They pleaded not guilty, and Judge Bateman ordered them held for the grand jury. In speaking with the press, Commissioner Davis said: “It was inexcusable. We have information both were under the influence of liquor. This department will not condone unjustifiable slaying. We are just as quick to prosecute our own officers as any individual if they are wrong.”⁶⁹ Such strong and public condemnation of Broens and McElroy by a police executive during Jim Crow is striking. As Daryle Hatley, grandson of Phillip Hatley, expressed: “It was extraordinary that the commissioner acted so fast. Today, even with video camera footage, accountability is slow.”⁷⁰ Commissioner Davis’s response may be in part explained by his ties to the Crump machine. In 1939, at the time of Hatley’s killing, Crump was still invested in courting Black voters, which included holding killer cops accountable. Furthermore, Hatley’s case likely made it easy to prosecute: the officers were both in their first years of service, they were drunk, and Hatley had committed no crime.

Awaiting the grand jury’s determination, Broens and McElroy were held in city jail before each making the \$5,000 bond and being released within a week.⁷¹ On January 31st, the Shelby County Grand Jury returned indictments against Broens and McElroy for the first-degree murder

⁶⁷ *Id.* at 1.

⁶⁸ *Id.* at 2.

⁶⁹ *Id.* at 1.

⁷⁰ Interview with Daryle Hatley (April 11, 2024).

⁷¹ *M’Elroy Still in Jail Unable to Make Bond*, THE COMMERCIAL APPEAL, January 24, 1939 at 1; *Boyd to Ask Indictment*, THE COMMERCIAL APPEAL January 31, 1939 at 7.

of Phillip Hatley.⁷² Attorney General Boyd promised that the men would be tried at an early date to ensure a speedy trial.⁷³

The trial by jury began on February 20th, less than four weeks after Hatley's murder. A "special panel" was called, including assembling 250 men for a special venire; jury selection took "two days of questioning by attorneys for the state and defense."⁷⁴ The prosecution's arguments were that Broens and McElroy were drunk and off-duty when the shooting occurred, and that they had beaten Hatley as he attempted to escape. McElroy was able to successfully defend that he was across the street at the Turner home at the time of the killing. On February 22nd, Judge Wallace directed a verdict of acquittal for McElroy because the prosecution's evidence tended to support McElroy's defense: McElroy was not present to "aid and abet the alleged slaying."⁷⁵ That left Broens as the sole defendant.

Broens took the stand and spun a tale of self-defense. Notably, despite statements from neighbors, police executives, and even the attorney general, Broens denied that he and McElroy had been drinking.⁷⁶ He told the jury that he and McElroy had been driving when they stopped Hemmer Trailer to question him regarding "holdups" that had been taking place in the area.⁷⁷ Turner allegedly directed them to the Hatley home. Broens and McElroy had previously visited the Hatley home on unrelated Liquor Law violation charges and were likely familiar with him.⁷⁸ Upon arriving at Hatley's home, Broens arrested Hatley and forced him into the squad car. Broens

⁷² Criminal Court of Shelby County, Indictment of R.G. McElroy and E.F. Broens, A-46006, 1939 (on file with Civil Rights and Restorative Justice Project).

⁷³ *Two Former Officers To Face Murder Trial*, THE COMMERCIAL APPEAL, February 1, 1939, at 4; *Around the Town*, THE COMMERCIAL APPEAL, February 5, 1939, at 38.

⁷⁴ *Special Panel Called to Hear Slaying Case*, THE COMMERCIAL APPEAL, February 21, 1939 at 11.

⁷⁵ *M'Elroy is Acquitted in Slaying of Negro*, THE COMMERCIAL APPEAL, February 24, 1939, at 1.

⁷⁶ *Broens Also Freed In Slaying Of Negro*, THE COMMERCIAL APPEAL, February 26, 1939 at 1.

⁷⁷ 02-2501939 CA.

⁷⁸ *Former Officer Tells Story Of Death Fight With Negro In His Murder Trial Defense*, THE COMMERCIAL APPEAL, February 25, 1939 at 1.

testified that while he was sitting in the squad car “with his back turned,” Hatley made a movement as if to grab a knife, and thus a fight ensued.⁷⁹ In Broens’s account, Hatley pushed him out of the squad car before running into his house. Surrounding circumstances and witness accounts suggest that Broens fabricated critical points in his story. For example, in reenacting the struggle for the jurors, Broens claimed that Hatley was a “big [Black man]” who “knew how to fight.”⁸⁰ Hatley’s WWI draft registration card identifies as short and stout.⁸¹

Witness accounts further undermined Broens’s version of events. Willie Mae Hatley took the stand and testified that she saw Broens beat her husband and that she heard gunshots from the bedroom. When she went to the door and asked Broens what was happening, he told her to “shut up.”⁸² Robert Turner, the college sophomore who was forced into the patrol car with Hatley, also testified that he saw Broens “beating and shoving” Hatley.⁸³ Broens’s lawyer asked Turner if he “knew that Broens took a long knife from Hatley” and displayed the alleged knife in court. Turner responded that “he never saw that knife before.”⁸⁴ Broens further told the jury that he and Hatley “scuffled and rolled on the ground” and that he feared that Hatley would get the gun away from him. However, as the prosecution pointed out, when Broens shot Hatley, it was as Hatley was fleeing away from him. Hatley was first shot in the back and the second and third bullets also ranged upward through his body as he ducked low to avoid further injury.⁸⁵

Despite overwhelming evidence and circumstances pointing to the illegality and racist behavior of Broens’s acts, the jury acquitted Broens after just one hour and fifteen minutes. Broens

⁷⁹ *Id.*

⁸⁰ Outdated and racist slurs in direct quotations have been removed because they add nothing to the narrative; by now, the homicidal level of racism should be evident; *Former Officer Tells Story Of Death Fight With Negro In His Murder Trial Defense*, THE COMMERCIAL APPEAL, February 25, 1939 at 1.

⁸¹ Draft Card for Phillip Hatley. Serial No. 41-2-7-A, June 5, 1917.

⁸² *Story of Terror Told at Exofficers’ Trial*, THE COMMERCIAL APPEAL, February 23, 1939 at 1.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Broens Also Freed In Slaying Of Negro*, THE COMMERCIAL APPEAL, February 26, 1939 at 1.

successfully manipulated the narrative, including through blatant lying, to the jury, which ended up believing his version of the events—or, perhaps not believing him but still choosing to side with him out of a sense of solidarity in maintaining the white supremacist order. Despite the promise of a conviction—the formal recognition of the criminality and brute violence of the officers’ actions—the legal system, through its design, allowed a jury to disregard overwhelming evidence of a deadly display of police violence and racism that terrorized a community and took the life of Phillip Hatley. As a result, the stories of the witnesses were silenced, and the truth buried in the official record.

b. A Community Responds: Beale Street and James Hatley

The unsurprising but disappointing legal aftermath illustrates only half of the story following Phillip Hatley’s murder. Almost immediately, the Black community organized to support Willie Mae Hatley and her three children. There was a movement to raise \$1,000 for the Hatley family, which is about \$22,000 today.⁸⁶ The effort was led by Matthew Thornton, known as the “Mayor of Beale Street,” and Lewis O. Swingler, founder of a major historical Black newspaper. *The Memphis World* was launched in 1931 and published criticism directed at Jim Crow laws. It promoted racial pride and community-building by elevating stories of Black Memphians. In addition to donations of food, coal, and clothing, members of the Centenary Methodist Church also donated \$13 to the Hatley family. The Church served as an important gathering site and organizing force in the long civil rights movement. A year before Hatley’s murder, the Church hosted a 2,000-person gathering following the police killing of George W. Brooks, a Black postal worker.⁸⁷ Martin Luther King Jr. spoke at the Church on the day before he was assassinated in

⁸⁶ *Fund Will Aid Negroes*, THE COMMERCIAL APPEAL, January 29, 1939 at 4.

⁸⁷ *Why Was the Mass Meeting Called Off?*, The Pittsburgh Courier, September 3, 1938 at 22.

1968.⁸⁸ Such efforts show the resilience and organizing of Black Memphians in the face of systemic violence and subsequent failure to hold the perpetrators accountable or support victims' families.

Phillip Hatley's family responded to the killing of their brother, father, and husband in ways that continue to resonate in their family today. For example, prior to connecting with CRRJ, the Hatley family was unaware of a letter that James Hatley, Phillip Hatley's brother, had mailed to President Roosevelt on September 10, 1939. The letter describes the killing of James Hatley's brother and requests that the federal government investigate.⁸⁹ "Mr. Roosevelt I have no money to fight the case and I am asking you in the name of the Lord to look into this matter."⁹⁰ James Hatley also describes the suffering of his sister-in-law, Willie Mae Hatley, and her "3 little children" who have "no one to care for things."⁹¹ It is a heartbreaking appeal to the federal government to rectify what the local government did not. However, ten days later an administrative assistant to the Attorney General responded that "[p]roblems of this nature come under the supervision of the local or state officials in accordance with the provisions of the state laws. *It is very much regretted, therefore, that we are unable to be of service.*"⁹²

The federal government's response, while sympathetic, illustrates the procedural—which ultimately become substantive—barriers facing Black Americans as they sought to use the law to protect and remedy violations of their constitutional rights. It would take another 20 years following Hatley's murder before the Supreme Court interpreted 42 U.S.C. §1983 as Congress's

⁸⁸ *April 3, 1968: The last Full Day of Dr. King's Life*, Central Square Theater, <https://www.centalsquaretheater.org/2012-13-season/2012-13-season-articles/april-3-1968-last-full-day-dr-kings-life/> (last visited April 20, 2024).

⁸⁹ Letter from James Hatley to President Franklin D. Roosevelt, President (September 10, 1939) (on file with Civil Rights and Restorative Justice Project).

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.* (emphasis added).

attempt to provide a remedy to parties deprived of constitutional rights by an official's abuse of his position.⁹³ This meant that the federal government, beyond a referral to the Children's Bureau, Inc. and the Family Welfare Agency, could offer no material or legal assistance to Willie Mae Hatley and her children.⁹⁴ Such shortcomings persist even today, as legal doctrines such as qualified immunity prevent injured plaintiffs from seeking legal recourse against government actors.⁹⁵ These barriers that change only in form illustrate a system that both perpetuates and sanctions racialized violence while aspiring to provide legal remedies to victims and their families.

V. CONCLUSION: JUSTICE IN THE PAST-PRESENT

a. *Truth-telling as "Wake Work"*

For years after the murder of her husband, Willie Mae Hatley would tell relatives her story of what happened, including how the court disregarded her testimony to acquit the men who killed her husband.⁹⁶ Her grandson, Solomon, mused that this may have been therapeutic for her—to continue speaking her truth against a society which disregarded it.⁹⁷ This paper has attempted to bring to light and memorialize Willie Mae Hatley's story, the story of her husband, and the injustice which marks their family history and continues into the present. The Haitian historian Michel-Rolph Trouillot writes that the past does not "exist independently from the present.... [and] in no way can we identify the past as past."⁹⁸ The presence of the past is striking in conversations with Phillip Hatley's grandsons, who discuss the silence that surrounds what happened to their grandfather: "Something is hidden but we don't know what it is."⁹⁹ They speak of gaps, voids, and

⁹³ *Monroe v. Pape*, 365 U.S. 167 (1961).

⁹⁴ See Hatley letter to Roosevelt, *supra* note 88.

⁹⁵ See *Jamison v. McClendon*, 476 F. Supp. 3d 389 (2020).

⁹⁶ Interview with Solomon Hatley (April 1, 2024).

⁹⁷ *Id.*

⁹⁸ MICHEL-ROLPH TROUILLOT, *SILENCING THE PAST: POWER AND THE PRODUCTION OF HISTORY* 15 (1995).

⁹⁹ Interview with Solomon Hatley (March 25, 2024).

absences caused by their grandfather's murder nearly 90 years ago.¹⁰⁰ When Daryle described his own history of community organizing, he spoke of its connection to what had happened to his grandfather: "This is what you have in you ... you go your whole life fighting for justice and history is linked even if you don't know it."¹⁰¹ This paper has endeavored to make these links known.

Truth-telling and restorative justice work take place outside of the courtroom. In what Christina Sharpe defines as "wake work," the focus is on "plotting, mapping, and collecting the archives of the everyday Black immanent and imminent death, and in tracking the ways we resist, rupture, and disrupt that immanence and imminence aesthetically and materially."¹⁰² The materialization of justice work is increasingly recognized as a tool for furthering social justice. Art and monuments "can function as a commitment to a group value, for the sake of long-term action guidance ... by making emotional content sufficiently public so as to be the object of a group commitment."¹⁰³ Following the recent opening of the Freedom Sculpture Park, Equal Justice Initiative founder Bryan Stevenson stated: "I realized we have to get outside of the court and start engaging in a narrative struggle that allows our work inside the court to remain effective."¹⁰⁴

In the spirit of Sharpe's wake work and EJI's Legacy Sites Project, CRRJ is humbled to help facilitate a restorative justice process with the Hatley family, including recording podcasts and constructing memorial markers. Such steps will help to acknowledge the history of harm caused by Memphis police officers, and serve as a public reminder and reckoning of the kinds of

¹⁰⁰ Id.; Interview with Daryle Hatley (April 11, 2024).

¹⁰¹ Interview with Daryle Hatley (April 11, 2024).

¹⁰² CHRISTINA SHARPE, *IN THE WAKE: ON BLACKNESS AND BEING* 13 (2016).

¹⁰³ C. Thi Nguyen, *Monuments as commitments: How art speaks to groups and how groups think in art*, 100 *PACIFIC PHILOSOPHICAL QUARTERLY* 971 (2019).

¹⁰⁴ Doreen St. Félix, "Bryan Stevenson Reclaims the Monument, In the Heart of the Deep South," *The New Yorker*, (March 25, 2024). <https://www.newyorker.com/magazine/2024/04/01/bryan-stevenson-reclaims-the-monument-in-the-heart-of-the-deep-south>.

racialized violence which reach back to the institution of chattel slavery, through Jim Crow laws, and into today.