The Trials and Lynching of Cellos Harrison

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“If one really wishes to know how justice is administered in a country, one does not question the policemen, the lawyers, the judges, or the protected members of the middle class. One goes to the unprotected—those, precisely, who need the law's protection most!—and listens to their testimony.”

James Baldwin

I. Introduction

On June 16, 1943, the lifeless body of Cellos Harrison was found a few feet from the pavement of State Road 84 in Mariana, Florida. He was lynched because he was believed responsible for the murder of Johnnie Mayo, a white service station owner who had been killed three years earlier. During the years Harrison’s case spent moving through the court system, the law appeared to be working in his favor. His case seemed to restore faith in the idea of justice for all. Prior to June 16, 1943, if Cellos Harrison had been asked about his case, it is likely that he would have said that justice was being served. Yet in the end, community anger triumphed over judicial process.

II. The Murder of Johnnie Mayo

On February 5, 1940, at around 9 a.m., two black men, Raymond Speights and William “Red” Hicks, heard cries coming from Johnnie Mayo’s gas station. Looking into the building, they found Johnnie Mayo in a pool of blood fighting for his life. Speights later testified that he refrained from entering the building when he and Hicks first discovered Mayo. He wanted “some white people there” to avoid any possible suspicion that he or Hicks were involved. The two black men went to search for help at a nearby

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1 Harrison v. State, 152 Fla. 86, 90 (1942).
school. On the way, they stopped a white truck driver, Charlie Reiff and told him about the situation.²

Mayo had been struck on the head by a blunt instrument, once over his right temple and once on the top of his head.³ He was rushed to the local physician and treated for a fractured skull. While the doctor treated him, Mayo is said to have stated that a “yellow negro” attacked him. Johnnie Mayo died from his injuries shortly thereafter.⁴

When local law enforcement officials inspected the service station, they found evidence suggesting that there had been a robbery. Money was scattered on the floor and around the bed, and a muffin pan rested on the top of the bed. The search for the perpetrator of Mayo’s murder led to the arrest and questioning of several black men who were sighted near the service station that morning. Included among the suspects was Cellos Harrison, a black resident of Mariana in his twenties.⁵ As he was questioned by Sheriff Luten, Harrison protested his innocence.⁶ With no strong evidence found against them, Harrison and the other men were discharged.⁷

The Mayo murder took place in the midst of a contested race for the office of sheriff. One candidate, W. Barkley Gause, made a public promise to the Mayo family that he would find Johnnie Mayo’s killer. Gause’s promise endeared him to white voters who

³ Harrison v. State, 149 Fla. 365, 366 (1942).
⁴ Id. at 367.
⁵ Id.
⁶ Id.
⁷ Id.
were anxious that Mayo’s murder should not go unpunished. His campaign strategy proved successful, and Gause won the race.\(^8\)

**III. Cellos Harrison’s Arrest**

Over a year passed and law enforcement officials were not any closer to solving Mayo’s murder. Determined to fulfill his election promise, Sheriff Gause requested assistance from the state. An experienced state investigator, William “Buddy” Gasque, was sent to Marianna by Governor Holland to assist with questioning and investigation.\(^9\) Meanwhile Cellos Harrison had continued with his life in the community.\(^10\) He was working downtown across from the courthouse and, in February 1941, he married Bessie McClinton, a local school teacher.\(^11\)

Eventually, Deputy Sheriff J.C. Hornsby reported that he had received a tip.\(^12\) Based on the new information, Cellos Harrison and an acquaintance of his, William “Jabo” Pittman, were arrested for the murder of Mayo.\(^13\) The authorities separated the two men; Pittman remained incarcerated in Marianna, while Harrison was transferred some fifty miles away to the Quincy jail. Just a few weeks earlier the Quincy jail had been stormed by a mob who had abducted and lynched a black prisoner.\(^14\)

Under interrogation Pittman told authorities that a short while after Mayo’s murder he and Cellos Harrison had been in DeFuniak Springs attending a basketball game. Pittman said he found Harrison to be acting in an odd manner. He said that Harrison was being unusually liberal with his money, buying members of the winning

\(^8\) “The Lynching of Cellos Harrison,” 92.
\(^9\) Id at 93.
\(^10\) Harrison, 152 Fla. 90.
\(^11\) “The Lynching of Cellos Harrison,” 93.
\(^12\) Id.
\(^13\) Harrison, 152, Fla. 90.
\(^14\) Id.
teams bottles of Coca-Cola and gambling heavily in the evening. This struck Pittman as suspicious because Harrison did not often have a lot of money. Pittman also remembered that most of the money that Harrison used that evening was silver coins. Based on this information, Pittman was released from custody and Harrison was held on charges of murdering Johnnie Mayo.

Cellos Harrison’s transfer from Marianna to Quincy isolated him from his family, friends, and other relatives. Sheriff Gause gave instructions not to let Harrison speak with anyone but the jailers. Moreover, because he could not afford his own counsel and an attorney could not be appointed until his indictment, Harrison was left without the aid of legal counsel. He remained in the Quincy jail for more than a week. During this time officers pressured him to confess to murdering Johnnie Mayo. According to Harrison, when he refused to confess, the sheriff’s men threatened that “some dark night he would be taken out and then he would talk.” Nonetheless, Harrison continued to protest his innocence.

In an effort to obtain a confession, Harrison was transferred again for his “protection,” from Quincy to the Tallahassee jail. On May 30, he was handcuffed and placed in the rear seat of the vehicle with Sheriff Gause while officers in the front seat drove very fast, as if the car was being pursued. As the speed of the car steadily increased, Sheriff Gause tried to get Harrison to confess. The sheriff told him that he had read the death warrant for ‘Slim,’ an acquaintance of Harrison’s, whom he had recently

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15 “The Lynching of Cellos Harrison” at 93, 94.
16 Harrison, 152 Fla. 90.
17 Id.
18 Id.
19 Id.
20 Id.
seen walking the streets as a free man in nearby Cottondale. Gause also told Harrison that if he admitted to the murder of Johnnie Mayo, he would not get more than a life sentence and possibly less. Alone, frightened, mentally beaten and without the aid of counsel, Cellos Harrison finally broke down and confessed.

When they reached the Tallahassee Jail, Harrison confessed to murdering Johnny Mayo in the presence of the state investigator, Sheriff Gause, and three deputy sheriffs. He made the following confession:

On the morning of February 5, 1940, I Cellos Harrison went to Mr. Mayo's place about seven A. M. for the purpose of buying some liquor on arrival at the place I found Mr. and Mrs. Mayo. I had with me a jug and a carpenter's hammer. Mr. Mayo informed me that he was out of liquor but to leave my jug and come back after dark…Leaving the jug with Mr. Mayo I returned home. About eight-thirty or nine o'clock I went back to Mr. Mayo's carrying my hammer with me. On arrival there I found Mr. Mayo alone. I called for a package of cigarettes and as he turned to get them I struck him with the hammer at the back of the head; as he fell on the outside of the counter I struck him again with the hammer. I then turned and went behind the counter to where Mr. Mayo kept his money in a muffin pan. I carried the pan with the money into the bedroom, placing it on the bed and began putting the money in my pockets. In the excitement I left a little of the change on the bed. I secured for myself about thirty dollars (30) all silver except three or four dollars. On leaving the place I crossed the highway directly in front of the store into the woods and home.

With Harrison’s confession in hand, Jackson County officials were confident that the trial would produce “a speedy conviction.” On June 9, 1941, a Jackson County grand jury indicted Harrison on first-degree murder. State Attorney L. D. McRae prosecuted the case. Judge E. C. Welch, finding error with the first indictment, quashed it

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21 Id.
22 Id.
23 Harrison, 149 Fla. 368.
and reconvened the grand jury on June 13.\textsuperscript{25} The second grand jury also indicted Harrison for first-degree murder. After local lawyer Ben F. Barnes was appointed as defense attorney, Harrison changed his plea from guilty to not guilty.\textsuperscript{26}

\section*{IV. The Trial of Cellos Harrison}

On June 23, 1941 Cellos Harrison was placed on trial. His first trial lasted only a single day. The jury heard testimony from twenty-five witnesses, including Nella Mayo, the widow of the victim. Although Harrison testified before the court regarding the voluntariness of his confession, he never testified before the jury.\textsuperscript{27} There were three components to the evidence against Harrison.

First, suspicions were raised against Harrison, a light skinned black man, through the testimony of Dr. Whitaker, who claimed that on his death bed Johnnie Mayo had identified his attacker as a “yellow negro.” Several other witnesses testified that they had seen Harrison either heading in the direction of Mayo’s store or returning from the store on the morning of February 5. Some testified that they had seen him carrying two packages, a jug and another “long” package, which was presumed to be the claw hammer used in the attack.

Second, several witnesses were called to testify regarding Harrison’s behavior in the days following Mayo’s murder. Four black men -- Luke Coleman, Pittman, Lawrence Swilley, and Abraham Robinson -- testified that they had seen Harrison at the basketball

\begin{itemize}
\item \textsuperscript{25} Id. citing the \textit{Jackson County Floridian}, June 13, 1941.
\item \textsuperscript{26} \textit{Harrison}, 149 Fla. 369.
\item \textsuperscript{27} Id. at 372.
\end{itemize}
game in DeFuniak Springs. Each witness reported that Harrison was acting unusually that evening, spending extravagantly on gasoline, drinks, and gambling.28

Finally, the law enforcement officers testified concerning their interviews with the defendant following his arrest. They told the jury that Harrison had admitted ownership of the hammer they found at the crime scene. but acknowledged that Harrison claimed he had loaned the hammer to Pittman. At one point during the officer’s testimony, the jurors were taken out of the courtroom, and the officers proceeded to explain the circumstances surrounding Harrison’s confession. The officers admitted that they had talked at length with Harrison during the ride from Quincy to Tallahassee but denied that they gave him hope that he could escape death through cooperation.

Harrison took the stand on voir dire and challenged the picture presented by the officers. He testified that the sheriff’s deputy had informed him that he would “burn” if his case went to trial and the jury returned a guilty verdict. He also claimed that he was told a confession would make it possible for him to receive a life sentence and that it was for these reasons he made the confession.

Harrison’s attorney seasonably objected to the admission of the confession. Judge Welch denied the defendant’s motion to exclude the confession, ruling that “the inducement of hope was not given to this defendant.”29 On June 24, after forty minutes of deliberation, an all-white jury returned a guilty verdict without recommendation of mercy, and Harrison was sentenced to death by electrocution.30

On September 18, 1941, Attorney Barnes appealed Harrison’s conviction to the Florida Supreme Court, arguing that the judge failed to instruct the jury to use caution in

28 “The Lynching of Cellos Harrison,” citing the Trial Transcript.
29 Id.
30 Harrison, 149 Fla. 366.
weighing the contents of the confession. The trial rule then in force required the court to charge the jury to consider and weigh confessions with great caution. “The testimony as to confessions of guilt as distinguished from mere statements of other facts should be received in evidence…with caution especially where the party is under arrest when the confession is made…unless it is clearly shown that the confession was voluntarily made after the party [was] fully advised of his rights under the law.”31 On January 20, 1942, the Florida Supreme Court reversed the conviction, ruling that the trial judge had failed to properly charge the jury, and ordered a new trial.32

Harrison’s second trial began on June 2, 1942. The jury heard testimony for most of two days, and on June 4, Harrison was convicted for a second time. Attorney Barnes also appealed this conviction to the Florida Supreme Court, arguing that Harrison’s confession was inadmissible because it was coerced. On December 18, 1942, in a split decision, the state Supreme Court upheld the verdict.33

V. A Second Chance

Bessie Harrison remained determined to save her husband’s life even after the loss of the second appeal. She hired a new attorney, Clyde Atkinson, who successfully petitioned for a rehearing before the Florida Supreme Court.34 In a highly contested decision the court ruled that the confession was inadmissible.35 In his majority opinion Justice Chapman pointed to the conditions surrounding Cellos Harrison’s detention and confession in May 1941. He noted that Harrison was detained in the Quincy jail, despite

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31 Id. at 373 citing to Green v. State, 40 Fla. 474 (1898) and McNish v. State, 47 Fla. 69 (1904).
32 Id., at 376.
33 State v. Harrison, 152 Fla. 86.
34 “The Lynching of Cellos Harrison,” 103.
35 Harrison, 152 Fla. 88.
the fact that it was widely known a black prisoner had recently been seized and lynched from the same location. Chapman found that Harrison’s sense of security was further undermined by the conditions of his imprisonment and the circumstances of his transfer from Quincy to Tallahassee. Furthermore, the court noted that although an investigator stated that Harrison was advised of his constitutional rights, the record failed to support that contention. Justice Chapman wrote:

The attending circumstances shortly preceding the signing of the alleged written confession by the appellant, as reflected by the record, are such as to create in my mind an abiding conviction that it was obtained by influences calculated to delude the mind of an immature and ignorant colored boy…It is established that in order to render a confession voluntary or admissible, the mind of the accused should at the time it is obtained or made be free to act uninfluenced by fear or hope. If the attending circumstances or declarations of this present be calculated to delude the accused as to his true position and exert an improper and undue influence over his mind, then the confession is unlawfully obtained.

On March 16, 1943, the Florida Supreme Court responded to a petition made by the State to clarify the court’s earlier ruling regarding the admissibility of the confession. The issue was whether the confession was *per se* inadmissible, or whether it was insufficient to support a conviction. The court ruled that the confession was *per se* inadmissible, and that, without the confession, the evidence was otherwise insufficient to sustain a conviction. This decision appeared to signal the end of the State’s case,
leaving it with no choice but to drop the charges against Harrison. Finally, after two years of legal battles, Cellos Harrison thought he could put this ordeal behind him.

But Jackson County officials would not give up so easily. Just five days after his release, Cellos Harrison was arrested again. The officials were determined to avoid any further legal barriers in pursuing Harrison’s conviction. Upon learning that a black lawyer in Pensacola had been able to win reprieves for many of his black clients on the grounds that blacks were routinely omitted from jury duty, the Jackson County Commissioners submitted a petition to the local court to change this process.

On May 20, 1943, Judge Welch ordered that the jury pool be refilled and that black candidates be included in the jury pool. This apparent concession to racial fairness closed a significant legal route that Harrison’s defense lawyers could have pursued in the next round of appeals. “It would be a travesty on justice,” Judge Welch explained, “to say that a Negro could commit a heinous crime—murder or rape—and go free of punishment, while a white man would have to pay the penalty.”

On May 28, a specially impaneled grand jury indicted Harrison of first-degree murder for the third time. One black person was included on the grand jury. However, the jury also contained individuals who had testified against Harrison in his original trial. This conflict of interest was pointed out by Harrison’s attorney. Nonetheless, a new trial was scheduled for June 21, 1943. Cellos Harrison was arrested in Orlando and returned to Jackson County to stand trial. His attorneys once again looked to the Florida Supreme Court to prevent further prosecution. They applied for a writ of habeas corpus and a writ

41 “Court Lacked Evidence; Lynch Mob Didn’t Need It,” The Afro-American, July 24, 1943.
42 “The Lynching of Cellos Harrison,” 104.
43 Id. citing the Jackson County Floridian, May 28, 1943.
44 “The Lynching of Cellos Harrison,” and the FBI Report.
of prohibition, arguing that Harrison was being subjected to malicious prosecution and that the double jeopardy rule would apply if another trial went forward.\textsuperscript{45}

\textbf{VI. Cellos Harrison’s Murder}

Following his arrest, Harrison was detained in Jackson County jail. It was here that he learned the outcome of his lawyer’s latest legal efforts. His attorneys had won every appeal to the Florida Supreme Court.\textsuperscript{46} The legal avenues open to those seeking Harrison’s prosecution were running out. If Harrison’s lawyers were successful once more, the defendant would be beyond the reach of the law. Meanwhile, in Marianna -- a community still seeking justice for the murder of Johnnie Mayo after three years -- the frustration of the white population would soon become evident.

Sheriff Gasque attended a sheriffs’ convention in mid-June, leaving Chief Deputy McMullian in charge. On the evening of June 15, 1943, three officers were on duty at the jail. The night jailer was Tom Belcher, a sixty-five year old former deputy sheriff who had been hired only a few weeks before.\textsuperscript{47}

Around midnight, a car pulled up on the unlit street in front of the jail. The men in the car called out to Belcher, informing him that they were dropping off a drunk to be put in jail.\textsuperscript{48} When Belcher opened the gate, he noticed that one of the men was wearing a paper bag over his head. Two more men, also wearing masks, exited the car and demanded the immediate release of Cellos Harrison into their custody. The men turned the porch lights off and asked Belcher for the keys to the jail. Belcher lied, saying that one of the other deputies had the jail keys, which were actually hanging behind the door.

\footnotesize{\textsuperscript{45} State ex rel Harrison v. Welch, 153 Fla. 923 (1943)  
\textsuperscript{46} “The Lynching of Cellos Harrison,” citing The Jackson County Floridian, June 11, 1943 
\textsuperscript{47} Id.  
\textsuperscript{48} Id.}
down the hall. However, one of the men stumbled into the door in the darkness and found the keys. Two of the men pulled guns on Belcher, instructing him to “Keep going. We don’t want to hurt anybody, but we come after Cellos Harrison.”

The five men went upstairs to the holding cells. After unlocking the door, they called for Cellos Harrison.

“What do you want with me this time of night?” he asked.

One of the men replied, “We want to take you to a better jail. You’re liable to get hurt here.”

The men attempted to pull Harrison from his cell. A struggle ensued and Cellos Harrison managed to pull the bag off the head of one kidnapper. After seizing Harrison, the men left the jail, taking him with them.

Later, Deputy Rogers claimed he had slept through the kidnapping and was only awakened by the sound of the gate slamming when the kidnappers exited. After he discovered that Harrison had been abducted, he quickly notified local officials. One council member was eager to call upon the American Legion, fearing that community violence might occur as it had done during the Neal lynching.  

A group of patrolmen were immediately sent to Marianna to try to locate the kidnappers and their victim. They were shocked when they arrived at the jail to find the sheriff’s men engaged in a game of dominoes. Lt. Clifton and his men left and began to patrol the area in search of the kidnappers and Harrison. The search party traveled south on Highway 84 where they found Cellos Harrison’s body a few feet from the roadside. Harrison’s face displayed signs of a severe beating; there was a hole in his jaw and blows to the top of his forehead, a piece of his skull was removed and brain matter was leaking.

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49 Id.
from the wound. Harrison had presumably been killed with blows from a hatchet, in a manner that resembled the brutal murder of Johnnie Mayo three years before. The blood was concentrated around Harrison’s head, leading officers to conclude that he must have been unconscious and lying on the ground when the blows were dealt. Beside his body the officers found a paper bag similar to those worn by the kidnappers; the bag was taken to the sheriff’s office as evidence.

Several witnesses gave testimony at the coroner’s inquest held later that morning, but no one was able to provide any useful information about the identity of Harrison’s kidnappers or the circumstances of his death. In the absence of any physical evidence or corroborating testimony, the coroner’s jury concluded that Cellos Harrison met his death “at the hands of a person or persons unknown.”

VII. Aftermath

News of Harrison’s lynching spread rapidly around the nation. The Milwaukee Journal, the Evening Independent and the Spokane Daily Chronicle published news of the lynching on the same day that Harrison’s body was found. The New York Times and St. Petersburg Times covered the story the following day.

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50 Id.; Coroner’s Inquest, at 11, 12.
51 “The Lynching of Cellos Harrison,” 111.
52 Coroner’s Inquest.
From New York, the Committee Against Race Discrimination of the American Civil Liberties Union and the National Federation for Constitutional Liberties sent telegrams to Governor Holland urging an investigation into Harrison’s death. The president of the Florida State Conference of the NAACP Harry T. Moore, who would later become a victim of racial violence himself, also appealed to Governor Holland on July 12, 1943. Moore provided details surrounding Cellos Harrison’s legal battles and his murder, urging the governor to investigate. In closing Moore wrote:

It is hardly necessary to say that such incidents only tend to create a spirit of doubt and fear among Negro citizens. While our country is engaged in a gigantic struggle against the forces of hate and evil abroad, it is even more important that a stronger spirit of unity and hope should exist among all American citizens, regardless of race or color. Nothing could do more to lift the sagging morale of colored Americans than to see justice done in a case like this. If the morale of American Negroes is to be lifted to [a] higher level in this fight for democracy abroad, it must be done through a more practical application of the fundamental principles of democracy at home.

Attorney General Biddle asked Assistant U.S. Attorney General Wendell Berge to take action. By order of President Franklin Roosevelt, the Department of Justice was required to investigate all instances of lynching and do everything in its power to bring lynchers to justice. On June 17, 1943, Attorney Berge wrote to George Earl Hoffman, U.S. Attorney for the Northern District of Florida in Pensacola requesting a report. Hoffman replied on June 25, 1943 dismissing the need for a federal investigation. Hoffman described the violence as isolated, maybe even justifiable, and noted that in the aftermath everything was under control.

55 “The Lynching of Cellos Harrison.”
56 Excerpt of letter to Governor Holland from Harry T. Moore, dated July 12, 1943.
57 Robert K. Carr, *Federal Protection of Civil Rights: Quest for a Sword*, Cornell University Press, 1947, at 163-164. “The interest of the CRS [Civil Rights Section] was increased greatly in July, 1942, when the Department of Justice received a directive from President Roosevelt, ordering it to make automatic investigations in all cases of Negro deaths where the suspicion of lynching is present.” Carr notes, however, “This [presidential] directive seems to have been an informal one. No official record of it is available.”
The FBI conducted a thorough investigation in an attempt to identify Harrison’s lynchers. Beginning in July 1943, six FBI agents from the Miami office worked on the case for nine months. The agents interviewed nearly sixty people, some of them more than once. Although they failed to identify sufficient evidence to substantiate prosecution, the information they gathered pointed to several possible culprits and suspicious persons, most notably certain law enforcement members.58

Nevertheless, the FBI ultimately concluded there was not enough evidence to prosecute the persons responsible for the kidnapping and lynching of Cellos Harrison. On July 19, 1944, Assistant Attorney General Tom Clark wrote to J. Edgar Hoover, calling off any further investigation. Cellos Harrison’s case was closed and his family’s quest for justice abruptly ended.