



ISSUE AMNESTY INTERNATIONAL BRIEF

LEONARD PELTIER: 4 DECADES OF INJUSTICE

Leonard Peltier is an Anishinabe-Lakota Native American serving two consecutive life sentences in a federal prison. When arrested, he was a leading member of the American Indian Movement (AIM), an advocacy group and movement concerned with Native American rights. In 1975, during a confrontation involving AIM members, two FBI agents were shot dead. Peltier was convicted of their murders, but has always maintained his innocence. Amnesty International (AI) has studied his case extensively over many years and has serious concerns about the fairness of the legal proceedings surrounding his trial and conviction. The organization believes that political factors may have influenced the way in which the case was prosecuted.

Leonard Peltier's most recent petition for release on parole was denied by the US Parole Commission in 2009, and AI understands that he is not eligible for consideration for parole again until 2024. Given that all available legal remedies have been exhausted and that Leonard Peltier has now spent 40 years in prison and is in poor health, AI believes that in the context of these ongoing concerns, the US authorities should facilitate Leonard Peltier's release from prison on humanitarian grounds and in the interests of justice.

On 26 June 1975, during a confrontation involving AIM members on the Pine Ridge Indian reservation in South Dakota, FBI agents Ronald Williams and Jack Coler were shot dead. Leonard Peltier was convicted of their murders in 1977 and sentenced to two consecutive life sentences. While Leonard Peltier does not deny that he was present during the incident, he has always denied killing the agents as was alleged by the prosecution at his trial.

A key alleged eyewitness to the shootings was Myrtle Poor Bear, a Lakota Native woman who lived at Pine Ridge. Following the shootings, Leonard fled to Canada. He was extradited on the basis of Myrtle Poor Bear's statement that she had seen Leonard Peltier kill Ronald Williams and Jack Cole. However, Myrtle Poor Bear later retracted her testimony. Although not called as a prosecution witness at trial, the trial judge refused to allow Leonard Peltier's attorneys to call Myrtle Poor Bear as a defense witness on the grounds that her testimony "could be highly prejudicial to the government." In 2000, Myrtle Poor Bear issued a public statement to say that her original testimony was a result of months of threats and harassment from FBI agents.

In 1980 Leonard Peltier's lawyers obtained documents that were released as a result of a lawsuit under the Freedom of Information Act. The documents contained evidence that might have assisted Leonard Peltier's case, but was withheld by the prosecution at trial. However in 1986, the US Court of Appeal for the Eighth Circuit denied Leonard Pelter a retrial, stating that: "We recognize that there is some evidence in this record of improper conduct on the part of some FBI agents, but we are reluctant to impute even further improprieties to them."

In 1991 Gerald Heaney, the judge who presided over Leonard Peltier's 1986 appeal hearing, expressed his concerns about the case. In a letter to Senator Daniel Inouye, Chair of the Senate Select Committee on Indian Affairs, Gerald Heaney wrote that he believed: "the FBI used improper tactics in securing Peltier's extraction from Canada and in otherwise investigating and trying the Peltier case." He added: "Although our Court decided that these actions were not grounds for reversals, they are, in my view, factors that merit consideration in any petition for leniency filed."

The US Parole Commission has held a number of parole hearings on Leonard Peltier's case. However, it has always denied parole on the grounds that Peltier did not accept criminal responsibility for the murders of the two FBI agents. This is despite the fact that, after one such hearing, the Commission acknowledged that, "the prosecution has conceded the lack of any direct evidence that you personally participated in the executions of two FBI agents."



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Leonard Peltier is currently imprisoned in a high security facility in Florida, approximately 2,000 miles from his family in North Dakota. It is not only a physical hardship for his family to visit him, but also nearly impossible financially. As a result, he is very rarely visited by his loved ones, even as his health declines. Leonard Peltier is now 71 years old, and suffers from diabetes. In January 2016, he was diagnosed with an abdominal aortic aneurysm which can be fatal if ruptures. His attorneys filed for clemency in February 2016.

BACKGROUND

The American Indian Movement (AIM) is an activist group involved in promoting the rights of "traditionalist" Indians during a period of intense conflict in the 1970s. In the two years prior to the confrontation in which the two FBI agents were killed, more than 60 Indians on the Pine Ridge reservation had been killed, allegedly by paramilitary squads connected to the tribal government, without anyone being brought to justice for the crimes. AIM members who had come to the reservation to assist "traditionalists" opposing the tribal government were also allegedly threatened. Relations between AIM and the FBI were also tense, with accusations that the authorities had not done enough to protect those at risk on the reservation.

The confrontation in which the two FBI agents were killed took place after the agents entered the reservation with an arrest warrant and started following a red pick-up truck. An exchange of gun fire took place. Evidence was presented at trial to show that the agents received multiple shots and were quickly disabled before being shot dead at point-blank range.

Two other AIM leaders were initially charged with the agents' murders and were tried separately: no evidence was presented to link them to the point-blank shootings. The jury acquitted them on hearing evidence about the atmosphere of violence and intimidation on the reservation and concluded that arguably they might have been acting in self-defense during the exchange of gunfire.

Following their acquittal, the FBI renewed its efforts to apprehend Leonard Peltier, securing his extradition from Canada in 1976, where he had fled following the shootings. At his trial, the prosecution alleged that the gun which killed the agents was his. During post-trial investigations, the defense team discovered a telex message suggesting that Peltier's gun contained a different firing pin from the one used to kill the agents. This was raised on appeal and a hearing to consider this evidence was held. However during the hearing the significance of the telex was contested by the government, which argued that sufficient evidence had been presented to the jury at trial to show that Leonard Peltier had "aided and abetted" the killings, even if he had not been the actual killer.

Amnesty International believes however that the outcome may well have been different had Leonard Peltier been able to effectively challenge the ballistics evidence linking him to the fatal shots.

RECOMMENDATIONS:

- Given the pervasive concerns surrounding Leonard Peltier's conviction and inasmuch as all available remedies have been exhausted, the interests of justice would best be served by releasing Leonard Peltier from prison.
- Leonard Peltier should be given immediate access to appropriate medical treatment.
- While he remains imprisoned, Leonard Peltier should be transferred to a prison facility nearer his home and family.