



President Joseph Biden
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500
USA

11 November 2021

Re: Clemency for Leonard Peltier

Dear Mr. President,

I am writing to you regarding the case of Leonard Peltier, who has been imprisoned for over 44 years despite serious concerns about the fairness of his trial and the evidence used to convict him of the murders of Federal Bureau of Investigation (FBI) agents, Jack Coler and Ronald Williams in 1975. For the reasons described in this letter, Amnesty International is appealing to you at this time to use your power of executive clemency to grant Leonard Peltier's immediate release from prison in the interests of justice and on humanitarian grounds.

Amnesty International recognizes that Leonard Peltier was convicted of a serious crime. Jack Coler and Ronald Williams were shot at point blank range after being wounded in a gunfight with Native American activists on the Pine Ridge Indian Reservation, South Dakota, in 1975. We have the deepest sympathy for the relatives of Jack Coler and Ronald Williams. However, we have examined Leonard Peltier's case extensively over many years, sending observers to his trial in 1977, and to numerous subsequent appeal and evidentiary hearings. We remain seriously concerned about the fairness of the proceedings leading to Leonard Peltier's conviction, and believe that political factors may have influenced the way in which the case was prosecuted. Amnesty International's concerns include the following:

- There is strong evidence that the FBI knowingly used perjured testimony to obtain Leonard Peltier's extradition from Canada – where he fled following the shootings – to the USA. The FBI later indicated it knew the affidavits of Myrtle Poor Bear, an alleged eye-witness, were false. This in itself casts serious doubt on the bona fides of the

prosecution in the case, even though Poor Bear's affidavits were not used at trial. The FBI had supplied the state authorities with the same witness in another case involving a leading American Indian Movement (AIM) member, she retracted her testimony in both cases.

- A public statement by Myrtle Poor Bear in 2000 reasserted that her claim that she was Peltier's girlfriend and that she saw him shoot the agents was false and was a result of months of threats and harassment from FBI agents.
- Leonard Peltier's trial judge refused to allow Myrtle Poor Bear to be called as a defense witness to describe to the jury how she had been coerced by the FBI into signing affidavits implicating Peltier on the grounds of her testimony "could be highly prejudicial" to the government. Had this and other evidence relating to the intimidation of witnesses been presented, this may have cast doubt in the jury's mind about the reliability of the main prosecution witnesses in the case.
- Evidence which may have assisted Leonard Peltier's defense was withheld by the prosecution at the time of trial. This included a 1975 telex from an FBI ballistics expert stating that the rifle alleged to be Leonard Peltier's had a "different firing pin" from that of the gun used to kill the FBI agents. Although the FBI has challenged the significance of this in subsequent court hearings, we remain concerned about the discrepancies between the evidence given at trial and the subsequent teletypes disclosed by the FBI's forensic department. The controversy surrounding the ballistics is of even greater concern, given that the prosecution subsequently conceded that they do not know who shot the agents at point blank range. This is contrary to the case they presented at trial, in which they used the ballistics evidence relating to a bullet casing found at the scene to argue that Leonard Peltier was the actual point-blank killer.

We would also like to draw your attention to comments on the case made by those involved in the legal proceedings. In particular, the US Court of Appeals for the Eighth Circuit, which,

although ruling against a motion for a new trial, found in 1986 that the prosecution had indeed withheld evidence which would have been favorable to Leonard Peltier and would have allowed him to cross examine witnesses more effectively stating:

“There is a possibility that the jury would have acquitted Leonard Peltier had the records and data improperly withheld from the defense been available to him in order to better exploit and reinforce the inconsistencies casting strong doubts upon the government’s case.”

The Court also stated in its ruling: “We recognize that there is some evidence in this record of improper conduct of the part of some FBI agents...”

Judge Gerald W. Heaney, a senior federal judge on the Eighth Circuit Court of Appeals who presided over Leonard Peltier’s appeal hearing in 1986 subsequently expressed his concerns about the case in 1991 in a letter to then-Senator Daniel Inouye, who was at that time the Chair of the Senate Select Committee on Indian Affairs. Judge Heaney expressed his concern that, “the FBI used improper tactics in securing Peltier’s extradition from Canada and in otherwise investigating and trying the Peltier case.” He added, “[a]lthough our court decided that these actions were not grounds for reversal they are, in my view, factors that merit consideration in any petition for leniency filed.”

Judge Heaney also stressed the need to take into account the background context to the confrontation during which the two FBI agents were killed. He expressed a view shared by many that the United States government had ignored the legitimate grievances of the Native American community during the conflict at Wounded Knee in 1973 and that their response, which was essentially a military one, had culminated in the deadly firefight on 26 June 1975 at Pine Ridge. While we accept that this does not absolve responsibility from anyone involved in killing Jack Coler and Ronald Williams, it is yet another factor which we believe should be taken into account in considering all of the circumstances in this case.

Furthermore, James H. Reynolds, the United States Attorney who supervised the prosecution of Leonard Peltier during the critical post-trial and appeal period of the case, wrote in a letter

in 2015 to then-President Barack Obama that he supported clemency and release of Leonard Peltier as “being in the best interest of Justice in considering the totality of all matters involved.” More recently, in his support for Leonard Peltier’s current application for clemency, James H. Reynolds wrote:

“Leonard Peltier’s conviction and continued incarceration is a testament to a time and a system of justice that no longer has a place in our society ... He has served more than 46 years on the basis of minimal evidence, a result that I strongly doubt would be upheld in any court today ... In my opinion, to continue to imprison Mr. Peltier any longer, knowing all that we know now, would serve only to continue the broken relationship between Native Americans and the government.”

In 2015, several Nobel Peace Prize winners—including Archbishop Desmond Tutu—called for Leonard Peltier’s release. The then-Chairman of the Standing Rock Sioux Tribe called on President Obama to grant clemency in this case in 2016, while the National Congress of American Indians issued a continuing resolution in 2011 calling for Leonard Peltier’s clemency and release.

Lastly, Leonard Peltier suffers from a variety of long-term health ailments, including diabetes. In January 2016, doctors diagnosed him with a life-threatening condition: a large and potentially fatal abdominal aortic aneurysm that could rupture at any time and would result in his death. More recently he has developed issues with his prostate that he describes as both painful and bothersome. He is also at increased risk of contracting COVID-19 while in detention.

Given these ongoing, unresolved concerns, that Leonard Peltier has spent more than 44 years in prison, that all available legal remedies have been exhausted, his ongoing and chronic health issues, that he would not be eligible for another parole hearing until 2024 and that the parole examiners in previous hearings have thus far failed to take account of the mitigating factors in this case, it is our view that an act on humanitarian grounds in this case is not only timely but a necessary measure in the interests of both justice and mercy.

Amnesty International therefore urges you to use your executive power to grant clemency to Leonard Peltier and release him from prison.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'P. O'Brien', with a stylized flourish at the end.

Paul O'Brien
Executive Director