

AMNESTY INTERNATIONAL PUBLIC STATEMENT

AI Index: AMR 51/097/2012
10 December 2012

USA: Authorities should release Leonard Peltier

For the reasons described below, Amnesty International believes that the US authorities should release Leonard Peltier, an Anishinabe-Lakota Native American and leading member of the American Indian Movement (AIM), who has been imprisoned for more than 35 years. Having studied the case extensively over many years, Amnesty International remains seriously concerned about the fairness of proceedings leading to Leonard Peltier's conviction and believes that political factors may have influenced the way in which the case was prosecuted.

Leonard Peltier was convicted of the murders of two Federal Bureau of Investigation (FBI) agents, Jack Coler and Ronald Williams, during a confrontation involving AIM members on the Pine Ridge Indian Reservation in South Dakota on 26 June 1975. He was sentenced to two consecutive life sentences in 1977. While Leonard Peltier admits having been present during the incident, he has always denied shooting the agents at point blank range as alleged by the prosecution at his trial. All legal appeals against his conviction have been exhausted.

Amnesty International recognizes the seriousness of the crime for which Leonard Peltier was convicted and has the deepest sympathy for the relatives of the victims in this case. However, the organization's concerns include questions about evidence linking Leonard Peltier to the shootings and coercion of an alleged eye-witness who said she had seen him shoot the agents, but who later retracted her testimony, and who was not allowed to be called as a defence witness at Leonard Peltier's trial. Other concerns include the withholding by the prosecution of evidence, including potentially key ballistics evidence that might have assisted Leonard Peltier's defence.

In addition, over the years, disquiet about the case has been expressed by those involved in the legal proceedings, including:

- The US Court of Appeal for the Eighth Circuit, which ruling against a motion for a new trial said in 1986: "We recognise 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 on them."
- Gerald Heaney, the judge who presided over Leonard Peltier's appeal hearing in 1986, subsequently expressed his concerns about the case in a letter to Senator Daniel Inouye, Chair of the Senate Select Committee on Indian Affairs in 1991, expressing his belief that: "the FBI used improper tactics in securing Peltier's extradition from Canada [where Leonard Peltier fled following the shootings] and in otherwise investigating and trying the Peltier case." He added: "Although 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."

Given these ongoing unresolved concerns, that Leonard Peltier has spent more than 35 years in prison, and that all available remedies have been exhausted, Amnesty International believes that in the interests of justice and on humanitarian grounds, the US authorities should order Leonard Peltier's release from prison.

Background Information

Leonard Peltier is an Anishinabe-lakota Native American and was a member of the American Indian Movement (AIM), 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. A fire-fight ensued. 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 after hearing evidence about the atmosphere of violence and intimidation on the reservation and concluded that, arguably they might have been acting in self-defense when they were involved in the exchange of gunfire.

Following their acquittal, the FBI renewed its efforts to pursue Leonard Peltier, securing his extradition from Canada in 1976 where he had fled following the shootings. At his trial, the prosecution alleged that the rifle which killed the agents belonged to Leonard Peltier. During post-trial investigations, the defence team discovered a telex message suggesting that the rifle in question contained a different firing pin from the one used to kill the agents; this was raised on appeal and an evidentiary hearing held at which the significance of the telex was contested by the government. On appeal, the government also 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.

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

Leonard Peltier’s most recent petition for release on parole was denied by the parole board in 2009. Amnesty International understands that he is not eligible for consideration for parole again until 2024.