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USA: Denial of parole to Leonard Peltier after more than 32 years in prison, disappointing

Amnesty International today regretted the US Parole Commission's decision not to grant Leonard Peltier parole despite concerns about the fairness of his 1977 conviction for murder. The organization called for the immediate release on parole of the activist, who is serving two consecutive life sentences and has spent more than 32 years in prison.

A prominent member of the American Indian Movement (AIM), 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. 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.

Amnesty International recognizes the seriousness of the crime for which Leonard Peltier was convicted. However, having studied the case extensively over many years, the organization remains concerned about the fairness of the process leading to his conviction, including questions about evidence linking him to the point-blank shootings and coercion of an alleged eye-witness.

One of Amnesty International's concerns is that Leonard Peltier's extradition from Canada in 1976 -- where he had fled following the shootings -- was secured on the basis of the coerced testimony of an alleged eye-witness which the FBI knew to be false. The witness, Myrtle Poor Bear, later retracted her testimony that she had seen Leonard Peltier shoot the agents but the trial judge did not allow her to be called as a defence witness at his trial. Other concerns include the withholding by the prosecution of evidence, including potentially key ballistics evidence that might have assisted Leonard Peltier's defence.

"The interest of justice would be best served by granting Leonard Peltier parole," said Angela Wright, US Researcher at Amnesty International. "Given the concerns around his conviction, the fact that appeals before the courts have long been exhausted and that he has spent more than 32 years in prison, we urge the Parole Commission to reconsider its decision."

The parole hearing, which took place over four hours on 28 July, was the first full parole hearing to be held in the case since 1993. In addition to the concerns about the fairness of his conviction, parole was sought by Peltier and his lawyer based on his good conduct record in prison and arrangements made by the Turtle Mountain tribe to receive him into their community on his release.

Background Information

Leonard Peltier is an Anishinabe-Lakota Native American who 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 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 for four people and started following a van. 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, Darelle Butler and Robert Robideau, 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, who had fled to Canada. At his trial, the prosecution alleged that the rifle which killed the agents belonged to Peltier. During post-trial investigations, the defence team discovered a teletex 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 teletex 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 Peltier been able to challenge the ballistics evidence linking him to the fatal shots more effectively.

<http://www.amnesty.org/en/library/info/AMR51/090/2009/en>