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American Indian activist Leonard Peltier seeks new trial

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ST. LOUIS — “It is my obligation to find errors in the government’s case,” Barry Bachrach, a defense lawyer for Leonard Peltier, told the World outside of the Thomas Eagleton Federal Courthouse here Feb. 13, after a hearing to review Peltier’s conviction and sentencing.

Peltier, a leader of the American Indian Movement (AIM), has spent 30 years in prison for his alleged role in the shooting deaths of two FBI agents during a 1975 standoff on South Dakota’s Pine Ridge Indian Reservation. However, no one witnessed the shooting, and ballistics tests, which were concealed from the court at the time by the FBI, showed that the bullets could not have been fired from the alleged murder weapon. Peltier has repeatedly denied responsibility.

While Peltier’s defense has been ongoing since his arrest in 1976, Bachrach is taking a different approach. According to Bachrach, “the Federal Court lacks subject matter jurisdiction under the statutes upon which Peltier was convicted and sentenced. The laws under which Leonard Peltier was convicted require that the incident take place on a federal enclave, which does not include the Pine Ridge Indian Reservation where the incident did take place. In this case, the government therefore lacked jurisdiction.”

Subject matter jurisdiction refers to the question of whether a particular court has the power to decide particular questions. In this case, Peltier’s lawyers argue that the only possibly authority the U.S. government could have used to prosecute and convict Peltier was the Indian Crimes Act, which was not invoked.

“Peltier was charged under the wrong statute,” said Bachrach. “The court never had jurisdiction. You can’t convict someone under the wrong law.”

Peltier’s case has been surrounded by controversy since he was first imprisoned. At the time of his trial the government released about 3,500 pages of documents. Through Freedom of Information Act requests, Peltier’s lawyers have discovered that 142,579 pages of documents have been improperly concealed. Peltier’s lawyers have repeated requested access to all of the documents.

“At the time of the trial the prosecutors lied. Without a doubt, they lied about the total number of documents the FBI actually possessed concerning Leonard Peltier” and the murders on the Pine Ridge Reservation, Michael Kuzma, another Peltier defense lawyer, told the World at the courthouse. “The missing documents could show that attorney-client confidentiality had been violated.”

Previously released FBI documents seem to indicate that a confidential source may have attempted to penetrate Peltier’s original defense team.

The government claims that it is withholding the documents for national security reasons. Peltier’s supporters claim that he was framed because of his political activism. During the 1970s, AIM struggled to defend Native Americans’ rights and, like the Black Panthers, were targeted by the FBI’s Counter Intelligence Program, COINTELPRO.

COINTELPRO disseminated misinformation, manufactured evidence and assassinated leaders of target civil rights organizations. Fifty-seven AIM members and supporters were murdered from 1973-76 and over 300 were attacked, beaten or harassed. At best, the FBI turned a blind eye. However, many Peltier supporters believe that the FBI was not only negligent, but that it was partially responsible for some of the deaths.

“The bottom line is that Leonard Peltier should be entitled to a new trial,” said Bachrach. “In light of government misconduct, they would never be able to prove his guilt. Evidence was fabricated. Witnesses were coerced. The court was prejudicial.”

Two other AIM activists were found not guilty on the grounds of self-defense in a separate trial.

Peltier's case has historical significance as well, given the U.S. government's well known racism and neglect of Native Americans. Many see Peltier as a political prisoner fighting not only for his freedom but also for the legitimate grievances of Native Americans. Feb. 6 marked the 30-year anniversary of his imprisonment.

For more information on Peltier's case, visit www.leonardpeltier.org.
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