

RESOLUTION NO. 67,541–N.S.

PETITION TO PRESIDENT BARACK OBAMA TO GRANT CLEMENCY TO LEONARD PELTIER

WHEREAS, Native American activist Leonard Peltier was convicted and sentenced to two consecutive life terms in connection with the June 26, 1975, shooting deaths of two agents of the Federal Bureau of Investigation (FBI) on the Pine Ridge Reservation in South Dakota; and

WHEREAS, Mr. Peltier's 1976 extradition to the United States from Canada was achieved based on false affidavits obtained from Myrtle Poor Bear by the government through coercion and deceit, and known by the government to be false; and former Canadian Solicitor-General Warren Allmand has stated that the extradition ruling was clearly based on the false affidavits (and not on the circumstantial evidence presented, as the U.S. government has claimed) and that extradition would have been denied had the Canadian court known the affidavits were fraudulent; and

WHEREAS, Co-defendants Dino Butler and Bob Robideau were acquitted by a Cedar Rapids, Iowa, jury on grounds of self-defense and the government did everything in its power to alter those circumstances which, in its opinion, had materially contributed to the co-defendants' acquittals—beginning with a change of venue for Peltier's trial (to Fargo, North Dakota, an area known for its anti-Indian sentiment) and of presiding judge (Judge Benson had a reputation for ruling against Indians and was known to have made derogatory extrajudicial references about Mr. Peltier); and

WHEREAS, jury selection, completed in only one day, resulted in an all-white jury despite the presence of a large Native American population in the region; and during Mr. Peltier's trial, it was reported to the judge that a juror had made racist comments and, despite an admission by the juror, she was allowed to remain on the jury; and

WHEREAS, Freedom of Information Act litigation after the trial uncovered exculpatory ballistics reports which had been withheld from Mr. Peltier's attorneys and showed that laboratory tests established that the .223-caliber casing found at the scene of the shoot-out and the AR-15, Peltier's alleged weapon, were not a match and that "none of the ammo" components at the scene could be associated with the AR-15; and when confronted by the exculpatory ballistics reports, prosecutors retracted the original theory of their case and defended the verdict on a thin "aiding and abetting" theory; and

WHEREAS, according to official court records: Judge Gerald Heaney (8th Circuit Court of Appeals) stated, "[Prosecutor Crooks], just what was Mr. Peltier convicted of as we cannot find any evidence of first degree murder in the record" and, in oral argument before the Court, the federal prosecutor once stated that "...the government doesn't know who killed our agents, nor do we know what participation Leonard Peltier may have had" and later admitted that the U.S. "can't prove who shot those agents"; and

WHEREAS, Judge Heaney, in a 1991 letter to then U.S. Senator Inouye in support of a grant of Executive Clemency to Peltier, wrote: "The United States government overreacted at Wounded Knee. Instead of carefully considering the legitimate grievances of the Native Americans, the response was essentially a military one which culminated in the deadly firefight on June 26, 1975... The United States government must share responsibility with the Native Americans for the... firefight... the government's role can properly be considered a mitigating circumstance"; and despite attempted intimidation by the FBI in 1992, stated in a 1993 letter to Inouye, "I have reviewed my letter to you of April 18, 1991, and adhere to the views I expressed therein"; and

WHEREAS, Leonard Peltier has been eligible for parole since 1986, but has been repeatedly denied parole despite a 1996 finding of an examiner for the U.S. Parole Commission that "...a preponderance finding that Peltier actually executed the agents cannot be made"; at the time of Peltier's 1977 conviction, the average length of imprisonment served for homicide prior to being released on parole was about 8 years and according to those standards, Peltier has served the equivalent of over 5 life sentences; and the government has failed to take into account Mr. Peltier's time in prison prior to his conviction (over one year), as well as the good-time credit (20 years total, to date) earned, and has instead stated that Mr. Peltier presumptive release date is October 11, 2040; and

WHEREAS, Leonard Peltier has maintained his innocence, yet expressed remorse for the loss of life that day in 1975; and appellate courts have repeatedly acknowledged evidence of U.S. government misconduct—including knowingly presenting false statements to a Canadian court to extradite Mr. Peltier to the U.S.; forcing witnesses to lie; and, at trial, withholding ballistics evidence reflecting Mr. Peltier's innocence; and

WHEREAS, Peltier's unjust imprisonment has been recognized by national and international human rights organizations, luminaries and dignitaries, 55 Members of the U.S. Congress and others, all of whom have called for his immediate release; and

WHEREAS, Mr. Peltier has now served over 40 years in prison, is over 70 years of age, and his health is deteriorating; has suffered a stroke which left him partially blind in one eye; continues to suffer from diabetes, high blood pressure, and a heart condition; recently has been diagnosed with an abdominal aortic aneurysm, a life threatening condition; and, according to an affiliate of Physicians for Human Rights, Mr. Peltier risks blindness, kidney failure, and stroke given his inadequate diet, living conditions, and health care.

NOW THEREFORE, BE IT RESOLVED that the Mayor and the City Council of the City of Berkeley petition President Barack Obama to grant Peltier clemency to receive proper medical treatment and spend the rest of his life with his family.

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The foregoing Resolution was adopted by the Berkeley City Council on June 14, 2016 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Droste, Maio and Worthington.

Noes: None.

Abstain: Moore, Wengraf and Bates.

Absent: None.



Tom Bates, Mayor

Attest: 

Mark Numainville, City Clerk