

MEDIA ADVISORY

January 3, 2017

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Top Prosecutor: Clemency for Leonard Peltier "in best interest of justice"

Last month, a letter in support of clemency for federal prisoner Leonard Peltier was sent to President Obama by former United States Attorney James H. Reynolds.

Supporters believe that Native American activist Leonard Peltier was wrongfully convicted in 1977 for the deaths of two agents of the Federal Bureau of Investigation (FBI). Imprisoned for over 41 years, Peltier has the support of Amnesty International and other human rights organizations. Over 50 Members of Congress and others—including Judge Gerald Heaney (8th Circuit Court of Appeals) who sat as a member of the court in two of Peltier's appeals—have all called for his immediate release.

As noted in his letter to President Obama, Mr. Reynolds was appointed to the position of U.S. Attorney for the District of Iowa by former President Jimmy Carter. He held the position in 1977, the year that Mr. Peltier's case went to trial, and supervised the prosecutors through trial and appeals, including Assistant U.S. Attorney Evan Hultman. He was later appointed as U.S. Attorney for South Dakota.

Appellate courts have repeatedly acknowledged evidence of government misconduct in the Peltier case—including knowingly presenting false statements to a Canadian court to extradite Mr. Peltier to the U.S., and forcing witnesses to lie at trial. A federal prosecutor has twice admitted that the government "can't prove who shot those agents." Per the 8th Circuit Court of Appeals "the FBI used improper tactics in securing Peltier's extradition from Canada and in otherwise investigating and trying the Peltier case." The court concluded that the government withheld evidence from the defense favorable to Peltier "which cast a strong doubt on the government's case," and that had this other evidence been brought forth "there is a possibility that a jury would have acquitted Leonard Peltier." In 2003, the judges of the 10th Circuit stated: "Much of the government's behavior at the Pine Ridge Reservation and in its prosecution of Mr. Peltier is to be condemned. The government withheld evidence. It intimidated witnesses. These facts are not disputed."

Per the U.S. Department of Justice (DOJ), from the time of Peltier's conviction in 1977 until the mid-1990s, the average length of imprisonment served for homicide in the U.S. prior to being released on parole ranged from 94 to 99.8 months (about 8 years). Per the existing standards at the time of his sentencing, Peltier is long overdue for discretionary parole. Per 1977 standards, he has served the equivalent of over five life sentences. But, in violation of the Sentencing Reform Act of 1984 (and its amendments), the government has illegally extended Peltier's prison term. Effective on October 12, 1984, the law ordered that parole dates be issued to all "old system" prisoners within the following five-year period, at the end of which time (on October 11, 1989) the U.S. Parole Commission would cease to exist. After it had technically ceased to exist, the Commission claimed it needed more time to complete its work. Congress inexplicably granted several after-the-fact extensions. These extensions were legally invalid and therefore inapplicable because, at the time they were made, the Parole Commission had already been abolished.

Further, in determining his release date, the government has failed to apply its 30 -year rule. After 30 years served, all sentences are to be aggregated and the prisoner released. In addition, the government has not considered the good-time credit earned by Peltier (20 years, to date). Peltier has long been eligible for mandatory release.

Clemency, Reynolds said in his letter to President Obama, is "...in the best interest of justice in considering the totality of all matters involved."

Age 71 and in poor health, Peltier formally applied for clemency on February 17, 2016, and awaits President Obama's decision.

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Download attachment: goo.gl/Xv1lqo

December 21, 2016, Letter from James H. Reynolds to President Barack Obama

James H. Reynolds
Former United States Attorney
300 Palm Dr. #4
Naples, Florida 34112
(239) 877 5048

President Barack Obama
White House
Washington, D.C. 20500

RE: Clemency Request of Leonard Pelitier

Dear President Obama,

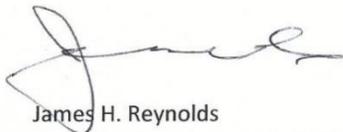
I was the United States Attorney, whose office handled the criminal case prosecution and appeal of Leonard Pelitier. I was also later specially appointed by US Attorney General, Benjamin Civiletti, as United States Attorney for South Dakota to handle a conflict in another different Indian on Indian murder case on the Rose Bud Reservation.

After my appointment by President Jimmy Carter and Senate confirmation I kept on as an Assistant United States Attorney, Evan Hultman, who preceded me as United States Attorney and had handled the prosecution of Leonard Pelitier. I directed Hultman's handling of the appeal of Leonard Pelitier after my appoint.

I would join in any Request for Clemency of Leonard Pelitier by you as being in the best interest of Justice in considering the totality of all matters involved.

Thank you for our attention in this matter, I am

Sincerely,



James H. Reynolds
United States Attorney (1976-1982)

cc: Attorney General, Loretta Lynch
Pardon Attorney, Robert A. Zauzmer