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Isaac Fulwood  
Chair  
US Parole Commission  
Park Place Building  
555 Friendship Boulevard, Suite 420  
Chevy Chase, MD 20815-7286  
USA

7 July 2009

Dear Mr Fulwood

### **LEONARD PELTIER**

We understand that the United States Parole Commission will be reviewing the case of Leonard Peltier on 28 July 2009, and would like to take this opportunity to present the organization's concerns about this case for your consideration.

Amnesty International acknowledges that Leonard Peltier has been convicted of a serious crime, and that FBI agents Ronald Williams and Jack Coler were shot at point blank range after being wounded in an exchange of gunfire. We have the deepest sympathy for the relatives of the victims in this case. The organization takes no position on Leonard Peltier's guilt or innocence. However, we believe that there are serious questions about the evidence on which Leonard Peltier was convicted as well as concerns about the fairness of the legal proceedings which led to his extradition from Canada and subsequent trial. These are matters which have not been resolved through the legal appeals process and merit urgent consideration by the Parole Commission.

Amnesty International has examined Leonard Peltier's case extensively over many years, sending observers to his trial in 1977 and to numerous subsequent appeal and evidentiary hearings. Amnesty International's concerns include the following:

- There is strong evidence that the FBI knowingly used perjured testimony to obtain Leonard Peltier's extradition from Canada to the USA. The FBI later indicated it knew the affidavits of Myrtle Poor Bear, an alleged eye-witness to the murder, were false. This in itself casts serious doubt on the bona fides of the prosecution in the case, even though Poor Bear's affidavits were not used at Peltier's trial. The FBI had supplied the state authorities with the same witness in another case involving a leading American Indian Movement (AIM) member: she retracted her testimony in both cases.
- A public statement by Myrtle Poor Bear in 2000 reasserted that her claim that she was Peltier's girlfriend and that she saw him shoot the agents was false and was a result of months of threats and harassment from FBI agents.
- Peltier's trial judge refused to allow Myrtle Poor Bear to be called as a defence witness to describe to the jury how she had been coerced by the FBI into signing affidavits implicating Peltier on the grounds that her testimony "could be highly prejudicial" to the government. Had this and other evidence relating to the intimidation of witnesses been presented, this may have cast doubt in the jury's mind about the reliability of the main prosecution witnesses in the case.
- Evidence which may have assisted Leonard Peltier's defence was withheld by the prosecution at the time of trial. This included a 1975 telex from an FBI ballistics expert stating that the rifle alleged to be Peltier's had a "different firing pin" from that of the gun used to kill the two agents.

Although the FBI has challenged the significance of this in subsequent court hearings, we remain concerned about the discrepancies between the evidence given at trial and subsequent teletypes disclosed by the FBI's forensic department. The controversy surrounding the ballistics evidence is of even greater concern, given that the prosecution has now conceded that they do not know who shot the agents at close range. This is contrary to the case they presented at trial, in which they used the ballistics evidence relating to a bullet casing found at the scene to argue that Peltier was the actual, close-range killer.

We wish to draw attention once again to comments on the case made by Judge Heaney, a senior federal judge on the Eighth Circuit Court of Appeal, who presided over a motion for a new trial in the case in 1986. In a 1991 letter to Senator Daniel Inouye, Chair of the Senate Select Committee on Indian Affairs, Judge Heaney expressed his concern that "the FBI used improper tactics in securing Peltier's extradition from Canada and in otherwise investigating and trying the Peltier case". He added that "Although our court decided that these actions were not grounds for reversals they are, in my view, factors that merit consideration in any petition for leniency filed."

Judge Heaney also stressed the need to take into account the background context to the confrontation during which the two agents were killed. He expressed a view shared by many that the United States government had ignored the legitimate grievances of the Native Americans at Wounded Knee and that their response was essentially a military one which had culminated in the deadly firefight on June 26 1975. While we accept that this does not absolve responsibility from anyone involved in killing the agents at close range, it is yet another factor which we believe should be taken into account in considering all the circumstances of this case.

Given these concerns, and that appeals before the courts have been exhausted, and noting that Leonard Peltier has spent around 32 years in prison, we believe that the interests of justice would best be served by granting him parole. We sincerely hope that the Parole Commission will agree that these are legitimate concerns within its remit and that the time is right to take such a step.

Yours sincerely

Susan Lee  
Program Director, Americas