

January 3, 2017
For Immediate Release

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Top Prosecutor in Peltier Case Now Calls for His Release

Former US Attorney Writes Obama Urging Clemency for Native American Activist

Former Iowa United States Attorney James Reynolds is supporting the 2016 Clemency Petition of Leonard Peltier, a Native American activist who has spent more than 40 years in jail on a conviction which humanitarians around the world consider unjust. In a letter sent on December 21, 2016 to President Barack Obama, Mr. Reynolds urged the President to grant Mr. Peltier's Petition "as being in the best interests of justice considering the totality of all matters involved."

Mr. Peltier was convicted in 1977 of the murders of FBI Special Agents Jack Coler and Ronald Williams. The two agents and Native American Joseph Stuntz died in a violent incident on the Pine Ridge Reservation in South Dakota, which involved more than 20 participants. The incident took place in the wake of the 1973 siege of Wounded Knee by the American Indian movement. It was an era that locals call the "Reign of Terror;" the Pine Ridge Reservation, which was under the FBI's exclusive jurisdiction for the prosecution of major crimes, was the unsolved murder capital of the nation.

Mr. Reynolds was the top prosecutor in charge of the Iowa Office and supervised the prosecutors who handled the trial and appeal of Mr. Peltier. The FBI has opposed Mr. Peltier's release for more than 40 years, and has refused to accept to any responsibility for wrongdoing or for the dangerous conditions on Pine Ridge Reservation in the 1970s.

"It is truly extraordinary for the head prosecutor in such a politicized case to take a public stance contrary to the FBI – it is unprecedented to our knowledge," said Mr. Peltier's lead counsel Martin Garbus, one of the nation's top trial lawyers. "We will urge President Obama to weigh Mr. Reynold's letter when considering Mr Peltier's case, and to examine the Petition with fresh eyes. We believe that Mr. Peltier's conviction presents one of the greatest injustices in the history of the American justice system."

The Clemency Petition, filed in February 2016, is supported by the FBI's own records, which were uncovered by Mr. Peltier's attorneys through decades of litigation under the

Freedom of Information Act. It asks for the shortening of his sentence in the interests of justice, reconciliation and compassion.

"The FBI's perpetual vilification and demonization of Leonard Peltier is a distraction to avoid facing *the means* that were used to obtain the conviction, the conditions on the polarized and impoverished Pine Ridge Reservation and the FBI's role in the creation of those conditions," said Cynthia K. Dunne, a former federal prosecutor and co-counsel representing Mr. Peltier. "This case is not a referendum on the FBI; it presents a moral imperative which extends well beyond Leonard Peltier and is relevant to our nation's past and future."

Mr. Reynolds was appointed to the position of United States 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 United States Attorney Evan Hultman. He was later appointed as United States Attorney for South Dakota.

In a similarly extraordinary move, in 1991 former Eighth Circuit Judge Gerald W. Heaney, who presided over appeals of two of Mr. Peltier's challenges to the conviction (and authored one of the opinions), urged the Senate Committee on Indian Affairs to support Clemency for Leonard Peltier in the interests of reconciliation and healing, due to the circumstances surrounding the investigation and prosecution of Mr. Peltier's case and the factors that contributed to his conviction.

Attachments:

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

April 18, 1991 Letter from Eighth Circuit Judge Gerald W. Heaney to Senate Committee Chair Daniel K. Inouye.

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,

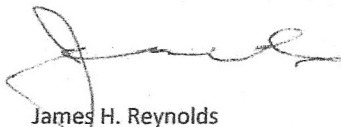
I was the United States Attorney, whose office handled the criminal case prosecution and appeal of Leonard Pelitier. I was also later specially appointed by US Attorney General, Benjamin Civiletti, as United States Attorney for South Dakota to handle a conflict in another different Indian on Indian murder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

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

CHAMBERS OF
GERALD W. HEANEY
UNITED STATES SENIOR CIRCUIT JUDGE
FEDERAL BUILDING
DULUTH, MINNESOTA 55802

April 18, 1991

Senator Daniel K. Inouye
United States Senate
Select Committee on Indian Affairs
Washington, D.C. 20510-6450

Re: Leonard Peltier

Dear Senator Inouye:

Unfortunately I did not receive your letter of February 1, 1991 until April 13, 1991. When I did receive your letter, I was visiting your state. Thus, this is my first chance to reply.

As you know, I wrote the opinion in United States v. Peltier, 800 F.2d 772 (8th Cir. 1986), and I sat as a member of the court in an earlier appeal, United States v. Peltier, 731 F.2d 550 (8th Cir. 1984). In the case I authored, our court concluded:

There is a possibility that the jury would have acquitted Leonard Peltier had the records and data improperly withheld from the defense been available to him in order to better exploit and reinforce the inconsistencies casting strong doubts upon the government's case. Yet, we are bound by the Bagley test requiring that we be convinced, from a review of the entire record, that had the data and records withheld been made available, the jury probably would have reached a different result. We have not been so convinced.

United States v. Peltier, 731 F.2d at 779-80. No new evidence has been called to my attention which would cause me to change the conclusion reached in that case.

There are, however, other aspects of the case that the President may see fit to consider in determining whether he should take action to commute or otherwise mitigate the sentence of Leonard Peltier. My thoughts on these other aspects result from a very careful study of the records of the Peltier trial and the post-trial evidence and from a study of the record in the Robideaux-Butler trial before Judge McManus in Iowa, a trial which resulted in the acquittal of Robideaux and Butler.

April 18, 1991

Senator Daniel K. Inouye

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First, the United States government over-reacted at Wounded Knee. Instead of carefully considering the legitimate grievances of the Native Americans, the response was essentially a military one which culminated in a deadly firefight on June 26, 1975 between the Native Americans and the FBI agents and the United States marshals.

Second, the United States government must share the responsibility with the Native Americans for the June 26 firefight. It was an intense one in which both government agents and Native Americans were killed. While the government's role in escalating the conflict into a firefight cannot serve as a legal justification for the killing of the FBI agents at short range, it can properly be considered as a mitigating circumstance.

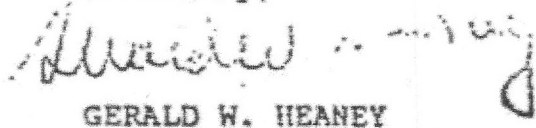
Third, the record persuades me that more than one person was involved in the shooting of the FBI agents. Again, this fact is not a legal justification for Peltier's actions, but it is a mitigating circumstance.

Fourth, the FBI used improper tactics in securing Peltier's extradition from Canada and in otherwise investigating and trying the Peltier case. Although our court decided that these actions were not grounds for reversal, they are, in my view, factors that merit consideration in any petition for leniency filed.

Fifth, Leonard Peltier was tried, found guilty, and sentenced. He has now served more than fourteen years in the federal penitentiary. At some point, a healing process must begin. We as a nation must treat Native Americans more fairly. To do so, we must recognize their unique culture and their great contributions to our nation. Favorable action by the President in the Leonard Peltier case would be an important step in this regard. I recognize that this decision lies solely within the President's discretion. I simply state my view based on the record presented to our court. I authorize you to show this letter to the President if you desire to do so.

Again, I am sorry your letter was not delivered to me at an earlier date.

Sincerely,



GERALD W. HEANEY

GWH:bn