

30. Halprin swore that he was not advised of details or her name; he did not in fact see the February 23, 1976 affidavit until March 26, 1976, at p. 15 l 20 p.17 l 5; Richard Marshall v. Herman Solem, in the United States District Court, District of South Dakota, File CIV 82-4072, Deposition of Paul William Halprin sworn July 20, 1983.

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

Richard Marshall,

Petitioner,

vs.

Herman Solem, Warden,
South Dakota State Penitentiary;
and Mark Meierhenry,
Attorney General for the
State of South Dakota,

CIV 82-4072

Respondents.

Deposition of PAUL WILLIAM HALPRIN, taken
by Petitioner, taken pursuant to Notice of Taking Deposition, and
taken before Pamela Maron, a Notary Public in and for the County
of Dakota, State of Minnesota, on Friday, the 27th day of May,
1983, commencing at approximately 9:30 o'clock in the morning, at
400 Minnesota Building, in the City of St. Paul, Minnesota.

* * *

- 1 swear the affidavits. I drafted them. I introduced the
2 deponents, took -- drafted their evidence, had them come back
3 and they had the opportunity of reviewing the document. They
4 may or may not have made corrections. They were then taken
5 away from me and later sworn. The civilians that I inter-
6 viewed and went through the same process with were, for
7 example, Mr. Schumacher who sold a 1967 Ford Galaxy to Leonard
8 Peltier and that was in South Dakota. In Vale, Oregon --
- 9 Q Let us just stick to South Dakota. Were there any others in
10 South Dakota?
- 11 A I remember he bought this car from Alexis Cycle Store. It
12 was a 1967 Ford Galaxy and the salesman came in and we took
13 an affidavit from him.
- 14 Q Is there anyone else?
- 15 A I don't believe so.
- 16 Q Were there any non-law enforcement personnel who were presented
17 to you as potential deponents who you reviewed the material
18 either personally or in writing and determined not to take any
19 depositions or affidavits from them?
- 20 A When I first came to Rapid City, South Dakota we had a general
21 discussion of what the evidence was against Leonard Peltier.
22 We had a scale mock-up. They had this information prepared
23 generally outlining the evidence. They had told me that there
24 was a potential eyewitness or they told me there was an eye-
25 witness. They never, at the first instance, advised whether

1 that was a male or female person, but right from day one they
2 told me that there was an eyewitness. That person was not
3 produced to me at the time.

4 Q Nor were you shown any statements or affidavits or reports of
5 interviews with that witness?

6 A That's correct.

7 Q Was the name Myrtle Poor Bear known to you during the four-day
8 period beginning on or about February 20 of 1976 when you were
9 in Rapid City?

10 A No.

11 Q We have already identified as Halprin Deposition Exhibit 1 an
12 affidavit of Myrtle Poor Bear of February 23, 1976 which I am
13 showing you again.

14 A Yes, I see that.

15 Q That affidavit was probably taken at the time you were in
16 Rapid City or bears a date that you were probably in Rapid
17 City? Is that correct?

18 A Apparently from the dating that is correct.

19 Q Is it my understanding that you did not see that affidavit
20 until some time after returning to Canada?

21 A That is correct. It was sent to me in a letter dated March
22 the 22nd, 1976, addressed to myself, signed by Bruce W. Boyd,
23 Assistant U. S. Attorney. It was received in our office at
24 the Vancouver Department of Justice on March, I believe it
25 would be -- It's difficult to read the date stamp. It looks

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1 like March 26 of 1978. It would have been received by the
2 director of the Vancouver office. He saw the letter. I
3 recognize his handwriting notation on the bottom of the letter.
4 It says, quote, capital P, capital W, capital H.

5 Q Are those your initials?

6 A Yes. "Affidavit should at least have photo of Peltier (Sp?)
7 attached as exhibit, should give at least approximate date and
8 time, should specify place, and give at least some details of
9 circumstances of shooting. In fact, affidavit should be
10 recitation (and in narrative form) of what witness would say
11 on stand if giving evidence in chief in court." Initials,
12 S.J.H. Underneath that 26/12/76.

13 Q Mr. Halprin, these letters to which you have referred are
14 Xeroxed and stapled to a letter apparently from you of June 12
15 of 1979, from yourself to Mr. Douglas J. Rutherford. Is that
16 correct?

17 A It is an interoffice memorandum.

18 Q You prefer to keep them stapled in this form?

19 A Yes.

20 MR. TILSEN: I would ask that the three docu-
21 ments be marked as Halprin Deposition Exhibit Number
22 4.

23 (At this time Halprin Deposition Exhibit
24 Number 4 was marked for identification by
25 the court reporter.)

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31. Halprin's sworn position by 1983 is that he was content with the circumstantial case. Halprin claims that he would have proceeded to seek extradition without the Poor Bear Affidavits as the circumstantial case was sufficient in his view at p.26 l 25- p.27 l 22; p.28 l22 - p.29 l 2; Richard Marshall v. Herman Solem, in the United States District Court, District of South Dakota, File CIV 82-4072, Deposition of Paul William Halprin sworn July 20, 1983. Unfortunately, he was not asked to comment on the F.B.I. teletypes describing his initial substantial reluctance to proceed on the "RESMURS" murder counts.

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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF SOUTH DAKOTA
3 SOUTHERN DIVISION
4 -----

5 Richard Marshall,

6 Petitioner,

7 vs.

CIV 82-4072

8 Herman Solem, Warden,
9 South Dakota State Penitentiary;
10 and Mark Meierhenry,
11 Attorney General for the
12 State of South Dakota,

13 Respondents.
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16 by Petitioner, taken pursuant to Notice of Taking Deposition, and
17 taken before Pamela Maron, a Notary Public in and for the County
18 of Dakota, State of Minnesota, on Friday, the 27th day of May,
19 1983, commencing at approximately 9:30 o'clock in the morning, at
20 400 Minnesota Building, in the City of St. Paul, Minnesota.

21 * * *

1 by the seal of the Governor of the State of Wisconsin. They
2 have to be certified and authenticated as well as sworn.

3 Q The alternative, of course, is for the witness to personally
4 appear voluntarily in the court system?

5 A That is correct.

6 Q While in Rapid City on this occasion, and you were there
7 again you thought two or three days according to my notes,
8 did you take other depositions or affidavits that would
9 ultimately reach you in a form to be admitted?

10 A Yes.

11 Q Were any of these from persons who were not law enforcement
12 personnel or government personnel?

13 A That may have included on that occasion the deposition of Mr.
14 Schumacher and possibly the medical examiner, Dr. Bloemendaal.

15 Q Apart from those two, none others?

16 A None others.

17 Q Did you see and read the affidavit of March 31st of Myrtle
18 Poor Bear, Deposition Exhibit Number 2, before leaving Rapid
19 City?

20 A I think so.

21 Q Did you immediately perceive it as a document of substantial
22 significance in terms of achieving the extradition of Leonard
23 Peltier from Canada to the United States for trial for the
24 murder on their reservations?

25 A I thought that there was a sufficient circumstantial evidence

1 case sufficient for the purpose of obtaining the extradition
2 of Leonard Peltier based on the other evidence excluding the
3 evidence of Myrtle Poor Bear, but I was not going to go to
4 court with my worst case. So I saw the affidavit of Myrtle
5 Poor Bear as a significant piece of evidence in the case.

6 Q It was the only eyewitness purported evidence that you intro-
7 duced in the extradition?

8 A The only eyewitness of the actual event. There were eye-
9 witnesses of him fleeing the scene carrying the rifle, but
10 there was no other eyewitness of him actually pulling the
11 trigger.

12 Q With the Myrtle Poor Bear affidavit in hand you hardly needed
13 anything else to get extradition, is that not reasonably true?

14 MR. DALE: Objection. That has been asked and
15 answered.

16 Q You may answer. You needed very little else simply to prove
17 that the crime took place?

18 A There is a very minimal standard of the test of committal for
19 extradition on the Extradition Act.

20 Q In the Myrtle Poor Bear affidavit --

21 A Either the Myrtle Poor Bear affidavit by itself or the other
22 evidence might have done the job.

23 Q The other evidence was in total, if you had to make an esti-
24 mate of the number of different affidavits that you introduced
25 in that proceeding in pieces of physical evidence, fingerprints

1 and gun evidence, what were you dealing with in terms of
2 numbers of things that you introduced other than the Myrtle
3 Poor Bear evidence?

4 A The shade of continuity to prove the other evidence was
5 tenuous, again, collecting all that evidence for purposes
6 of a trial was very important, to correlate it. This was a
7 good exercise in preparing the case for trial, no matter if I
8 was a trial lawyer or not. I felt my responsibility was to
9 get that evidence and pin it down and have it acceptable.

10 Q My question is: Were there hundreds of pieces of other things
11 that you introduced in addition to the Myrtle Poor Bear
12 evidence?

13 A There was the evidence of the cartridge cases.

14 Q In terms of the number of affidavits and depositions, are we
15 talking about hundreds?

16 A I think you're talking about 20 maximum. There were probably
17 less.

18 Q So at least 20 in your judgment could have done the job of
19 getting the extradition for this case or the Myrtle Poor Bear
20 affidavit standing alone could have done it? Is that what you
21 are basically saying?

22 A I am also maintaining that there was sufficient other evidence,
23 other than the Myrtle Poor Bear affidavits to obtain a com-
24 mittal for extradition. That doesn't mean the conviction.
25 It means it creates a prima facie case based on circumstantial

1 evidence.

2 Q When was the extradition proceeding in which the various affi-
3 davits or depositions were introduced in evidence?

4 A The extradition hearing in Vancouver before Justice Schultz,
5 the Supreme Court of British Columbia from May 3 to the 28th
6 of 1976. Mr. Justice Schultz reserved his decision on the
7 evidence until June the 18th of 1976.

8 Q Is that the date of his decision?

9 A That was the date of his decision.

10 Q Now we have marked for evidence Halprin Deposition Exhibit
11 Number 3 which is an affidavit of Myrtle Poor Bear of the
12 19th of February of 1976. When did you first become aware of
13 and how did you become aware of the existence of that affi-
14 davit?

15 A After the extradition warrant was given by Mr. Justice Schultz
16 Mr. Peltier's counsel filed an appeal to the Federal Court of
17 Appeals and before that appeal was heard there was a motion
18 by them on the basis of an attempt to introduce this affidavit
19 as fresh evidence on the appeal.

20 Q What was the date of that motion?

21 A It was -- I don't know when it was filed, but it was heard
22 immediately preceding the actual hearing by the Federal Court
23 of Appeals on. . .

24 Q If the extradition was ordered on December 17 of 1976 as you
25 have indicated, would that have been when it happened?

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32. Affidavit of Myrtle Poor Bear sworn before clerk B. Berry,
February 19, 1976.

Halpern Deposition Exhibit 3
P.M. 5-27-83

UNITED STATES OF AMERICA)
STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON)

IN THE MATTER OF THE EXTRADITION
ACT. R.S.C. 1970 Chap. E-21

AND IN THE MATTER OF LEONARD
PELTIER, also known as Leonard
Little Shell, Leonard Williams,
John Yellow Robe, Erwin Yellow
Robe, Leonard John Peltier

A F F I D A V I T

Myrtle Poor Bear, being first duly sworn, deposes and
states:

1. I am an American Indian born February 20, 1952,
and reside at Allen, South Dakota, one of the United States of
America.

2. I first met Leonard Peltier in Bismarck, North
Dakota, during 1971. During March, 1975, I again met Leonard Pelt
at St. Francis, South Dakota, United States of America. During
April, 1975, I went to North Dakota to see him as a girl friend
of his. About the last week of May during 1975 I and Leonard Pelt
went to the Jumping Bull Hall area near Oglala, South Dakota, Unit
States of America. There were several houses and about four or
five tents. When Leonard Peltier arrived, he gave orders on what
was to be done. I was his girl friend at this time. About a week
after we arrived, about the second week of June, 1975, Leonard
Peltier and several others began planning how to kill either
Bureau of Indian Affairs Department, United States Government poli
or Federal Bureau of Investigation, United States Government, agen
who might come into the area. Leonard Peltier was mostly in charg
of the planning. All persons involved in the planning had special
assignments. There was also a detailed escape route planned over
the hills near the Jumping Bull Hall area. I was present during
this planning. Leonard Peltier always had a rifle and usually ha
a pistol near him. The pistol was usually under a car seat.
About one day before the Special Agents of the Federal Bureau of
Investigation were killed, Leonard Peltier said he knew the

Federal Bureau of Investigation or the Bureau of Indian Affairs were coming to serve an arrest warrant on Jimmy Eagle. Leonard Peltier told people to get ready to kill them and he told me to get my car filled with gas to be ready for an escape. I left Jumping Bull Hall at this point and did not return. During August, 1975, I met Leonard Peltier again at Crow Dog's Paradise on the Rosebud Indian Reservation, South Dakota, United States of America. We talked about the killing of the two Federal Bureau of Investigation agents near Jumping Bull Hall. Leonard said it makes him sick when he thinks about it. He said that one of the agents surrendered, but he kept shooting. He said it was like a movie he was watching but it was real, he was acting right in it. He said he lost his mind and just started shooting. He said he shot them and just kept pulling the trigger and couldn't stop.

Subscribed and sworn to before
me this 19th day of February, 1976.

Betty B. Berry
Deputy Clerk
United States District Court
District of South Dakota

Myrtle Poor Bear
Myrtle Poor Bear

I, Andrew W. Bogue, United States District Judge for the District of South Dakota, do hereby certify that attached hereto is the Affidavit of Myrtle Poor Bear, sworn to before Betty B. Berry, Deputy Clerk of the United States District Court for the District of South Dakota, whose signature appears on said Affidavit, and that the said Betty B. Berry, was authorized to administer oaths for general purposes and that the said Affidavit is in due form of law.

In testimony whereof I have hereunto signed my name and caused the seal of the said Court to be affixed at the City of Rapid City in the state of South Dakota, this _____ day of February, 1976.

Andrew W. Bogue
United States District Judge

33. Halprin swore that on His February 20, 1976 visit to Rapid City to get affidavits he was told there was "a potential eyewitness" without being advised of details or her name; he did not in fact see the February 23, 1976 affidavit until March 26, 1976 at p. 15 l 20 p.17 l 5; Richard Marshall v. Herman Solem, in the United States District Court, District of South Dakota, File CIV 82-4072, Deposition of Paul William Halprin sworn July 20, 1983.

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22 4.

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24 Number 4 was marked for identification by
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34. Affidavit of Myrtle Poor Bear sworn before clerk B. Berry,
February 23, 1976.

UNITED STATES OF AMERICA
STATE OF SOUTH DAKOTA
COUNTY OF PENNINGTON

Peltier 3
et al
Nick
Holman Deposition Exhibit et al
CM, 5-27-83

IN THE MATTER OF THE EXTRADITION
ACT. R.S.C. 1970 Chap. E-21
AND IN THE MATTER OF LEONARD
PELTIER, also known as Leonard
Little Shell, Leonard Williams,
John Yellow Robe, Erwin Yellow
Robe, Leonard John Peltier

A F F I D A V I T

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Bureau of Indian Affairs Department, United States Government police,
or Federal Bureau of Investigation, United States Government, agents
who might come into the area. Leonard Peltier was mostly in charge
of the planning. All persons involved in the planning had special
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the hills near the Jumping Bull Hall area. I was present during
this planning. Leonard Peltier always had a rifle and usually had
a pistol near him. The pistol was usually under a car seat.
About one day before the Special Agents of the Federal Bureau of
Investigation were killed, Leonard Peltier said he knew the

... Bureau of Investigation of the Bureau of Indian Affairs
were coming to serve an arrest warrant on Jimmy Eagle. Leonard
Peltier told people to get ready to kill them and he told me to
get my car filled with gas to be ready for an escape, which I did.
I was present the day the Special Agents of the Federal Bureau of
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Dog's Paradise on the Rosebud Indian Reservation, South Dakota,
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the agents surrendered, but he kept shooting. He said it was like a
movie he was watching but it was real, he was acting right in it.
He said he lost his mind and just started shooting. He said he shot
them and just kept pulling the trigger and couldn't stop.

Subscribed and sworn to before
me this 23rd day of February, 1976)

Betty B. Berry
Deputy Clerk
United States District Court
District of South Dakota)

Myrtle Poor Bear
Myrtle Poor Bear

I, Andrew W. Bogue, United States District Judge for the
District of South Dakota, do hereby certify that attached hereto is
the Affidavit of Myrtle Poor Bear, sworn to before Betty B. Berry,
Deputy Clerk of the United States District Court for the District of
South Dakota, whose signature appears on said Affidavit, and that the
said Betty B. Berry, was authorized to administer oaths for general
purposes and that the said Affidavit is in due form of law.

In testimony whereof I have hereunto signed my name and
caused the seal of the said Court to be affixed at the City of
Rapid City in the state of South Dakota, this 23rd day of
February, 1976.

Andrew W. Bogue
Andrew W. Bogue
United States District Judge

000056

35. "Paul William Halprin... arrived Rapid City, February 17, 1976, and reviewed affidavits prepared by witnesses concerning Peltier's involvement RESMURS. Halprin appeared satisfied re evidence furnished through affidavits.

Departed Rapid City, February 19, 1976, taking annual leave ... en route and will arrive Boise Idaho ... February 22, 1976. Teletype: Director FBI, February 20, 1976, 2 pages.

Affidavit of Myrtle Poor Bear sworn before clerk B. Berry, March 31, 1976.

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

Assoc. Dir.	_____
Dep. A.D. Adm.	_____
Dep. A.D. Inv.	_____
Asst. Dir.:	
Adm. Serv.	_____
Comp. Syst.	_____
Ext. Affairs	_____
Files & Com.	_____
Gen. Inv.	_____
Ident.	_____
Insp.	_____
Intell.	_____
Laboratory	_____
Plan. & Eval.	_____
Spec. Inv.	_____
Training	_____
Legal Coun.	_____
Telephone Rm.	_____
Director Sec'y	_____

NR223 RC CODE

522PM NITEL FEB 20, 1976 VLN

FEB 20 1976

TO: DIRECTOR, FBI (88-66320)
 BUTTE (88-6971)
 MINNEAPOLIS (88-6763)
 PORTLAND (88-8259)
 SEATTLE (88-9435)

TELETYPE

APPROPRIATE AGENCIES
 AND FIELD OFFICES
 ADVISED BY ROUTING
 SLIP(S) DATE 1-10-80

FROM: RAPID CITY (70-10239)

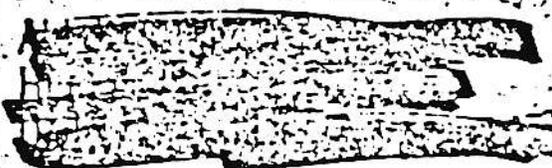
A & ED app. Canada

RESMURS; LEONARD PELTIER, AKA - FUGITIVE; FUGITIVE ALERT 102; WANTED
 FLYER 451; IC 4681; CIR - MURDER; NFA; UFAP - ATTEMPTED MURDER, TEN
 MOST WANTED FUGITIVE; OO: MP/PC.

FOR INFORMATION BUREAU AND RECEIVING OFFICES, PAUL WILLIAM
 HALPRIN, CROWN COUNSEL, CANADIAN DEPARTMENT OF JUSTICE, VANCOUVER,
 BRITISH COLUMBIA, ARRIVED RAPID CITY, FEBRUARY 17, 1976, AND
 REVIEWED AFFIDAVITS PREPARED BY WITNESSES CONCERNING PELTIER'S
 INVOLVEMENT RESMURS. HALPRIN APPEARED SATISFIED RE EVIDENCE FURNISHED
 THROUGH AFFIDAVITS.

EX-116 REC 32 88-66-300-10

DEPARTED RAPID CITY, FEBRUARY 19, 1976, TAKING ANNUAL WAVE 1976
 EN ROUTE AND WILL ARRIVE BOISE, IDAHO, VIA UAL, FLIGHT 522 5:00
 P.M., FEBRUARY 22, 1976. HALPRIN WILL BE MET BY SPECIAL AGENTS
 OF BOISE RA AND AFFORDED TRANSPORTATION TO OMTAPIO, OREGON, WHERE



55 MAR 9 1976

DECLASSIFIED BY SP2TAPU
ON 12-13-79

Handwritten signatures and initials

PAGE TWO - NO 70-10239

WE WILL MEET WITH LOCAL DA AND REVIEW ADDITIONAL AFFIDAVITS RE
RE-ADDITION PELTIER.

ARMED AND EXTREMELY DANGEROUS.

ENC.

This is Exhibit 6 referred to in the
affidavit of Frank Addario
sworn before me, this 17th
day of April 1984

Mikes Peltier

A COMMISSIONER, ETC.
Marcus Gordon Pratt, Student-at-Law,
Commissioner, etc., Province of Ontario
for Karan, Barry & King, Associates,
Barristers and Solicitors.
Expires October 21, 1991

A. Gordon Pratt

27

UNITED STATES OF AMERICA)
STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON)

IN THE MATTER OF THE EXTRADITION
ACT, R.S.C. 1970 Chap. E-21
AND IN THE MATTER OF LEONARD
PELTIER also known as Leonard
Little Shell, Leonard Williams,
John Yellow Robe, Erwin Yellow
Robe, Leonard John Peltier

A F F I D A V I T

130

Myrtle Poor Bear, being first duly sworn, deposes and states:

1. That I am the Myrtle Poor Bear, of Allen, South Dakota, United States of America, who was the deponent in an affidavit sworn the 23rd day of February, 1976. This affidavit is sworn by me to give further information.

2. Attached hereto and marked Exhibit "A" to this, my Affidavit, is a photograph marked February 12, 1976, and I testify and depose that the person shown on the said photograph is a person known to me as Leonard Peltier and is the person I spoke of in my deposition of February 23, 1976, and the person referred to herein as Leonard Peltier.

3. I recall the events of June 26, 1975, which occurred at the area of Jumping Bull Hall near Oglala on the Pine Ridge Indian Reservation in the State of South Dakota, United States of America.

4. Sometime during the early part of that day, at approximately 12:00 Noon, Leonard Peltier came into the residence of Harry Jumping Bull which is located in the area of Jumping Bull Hall and said, "They're coming." I understood this to mean that police or agents of the Federal Bureau of Investigation were in the immediate area. A short time later, I saw a car which I recognized to be a government car near Harry Jumping Bull's house. I went down to the creek bottom a couple of hundred yards from the house. I heard shooting. I left the creek bottom area and walked approximately 50 yards to where I saw two cars, both of which I recognized to be government cars, because of the large radio antennae mounted on the rear of these cars and I had previously seen many cars of a similar type driven by government agents in the same area. When I got to the car, Leonard Peltier was facing a man which I believed to be a special agent of the Federal Bureau of Investigation. This man was tall with dark hair. This man threw a handgun to the side and said something to the effect that he was surrendering. Leonard Peltier was pointing a rifle in the direction of this man. The man was

... his arm as if he was wounded and was leaning against the car previously mentioned. There was another man who I believed to be a special agent of the Federal Bureau of Investigation lying face down on the ground and there was blood underneath him. I started to leave and was grabbed by the hair by another person and could not get away. I turned again and saw Leonard Peltier shoot the man who was standing against the car. I heard a shot come from the rifle that Leonard Peltier was holding and I saw that rifle jump up still in his hands. I saw that man's body jump into the air and fall to the ground. The man fell face down on the ground. This happened in an instant. I freed myself from the person that was holding me and ran up to Leonard Peltier just as he was aiming his rifle at the man who had just fallen to the ground. I pounded Leonard Peltier on the back. He yelled something at me which I cannot recall. I turned, ran and left the area. As I was running away, I heard several more shots from the area from which I had just fled.

Subscribed and sworn to before)
me this 31st day of March, 1976.)

J. M. Hanson
Deputy Clerk)
United States District Court)
District of South Dakota)

Myrtle Poor Bear
Myrtle Poor Bear)

(18-0)

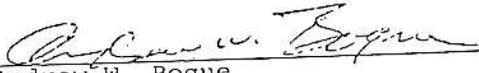


I, Andrew W. Bogue, United States District Judge for the - 1141

District of South Dakota, do hereby certify that attached hereto is the Affidavit of Myrtle Poor Bear

sworn before Janet M. Hansen, Deputy Clerk of the United States District Court for the District of South Dakota, whose signature appears on said Affidavit, and that the said Janet M. Hansen was when the said Affidavit was sworn, and now remains, a person duly authorized to administer oaths for general purposes and that the said Affidavit is in due form of law.

In testimony whereof I have hereunto signed my name and caused the seal of the said Court to be affixed at the City of Rapid City, in the State of South Dakota, this 31st day of March, 1976.


Andrew W. Bogue
United States District Judge

(18-C)

IV. CHANGES TO THE CASE ON THE EXTRADITION

1. Changes to The Circumstantial Case

a) Coroner's Evidence:³⁶

On **June 27, 1975** Dr. Robert Bloemendaal performed autopsies on Coler and Williams. According to Dr. Bloemendaal, Coler sustained three gunshot wounds; one in the arm and two in the head. One of the head wounds would have been instantly fatal. Williams had also sustained three gunshot wounds; one in the head from a high velocity missile, one in the arm from a low velocity missile, and one in the toe. The Department of Justice on behalf of the United States argued that the agents had been killed at close range after they had been wounded, consistent with Poor Bear's affidavit evidence and a case of first degree murder against Peltier.

On **July 27, 1975**, an F.B.I. teletype revealed that:

"...It was the general conclusion of the pathologist [Dr. Bloemendaal] that the bullet which entered on SA Williams' head was the first in the sequence, and caused death instantaneously".³⁷

In a **July 1, 1975** press conference, F.B.I. Director, Clarence Kelly stated that Williams had been killed by the first bullet to strike him.³⁸ **This evidence was not submitted to the Canadian courts, and was not available to counsel on the extradition.**

b) Evidence of People on the Scene³⁹

On **June 26, 1975**, special agent Adams was in the nearby town of Pine Ridge. At 11:50 AM Adams allegedly heard Williams on the radio saying, "It looks like they're going to shoot us... We've been hit" (although the medical evidence that Williams was killed instantly from a shot to the head contradicts this evidence). There were sounds of gunfire in the background. Adams then went to Jumping Bull Hall at noon and came under fire. He was there until

6:00 PM. At that time he searched the area and found the two dead bodies. At 7:00 pm he located a green 1967 Ford Galaxie and a red and white 1966 Chevrolet Suburban some distance away but in the "same area" as the bodies. These two cars could be linked to Leonard Peltier.

Marvin Stoldt was a U.S. Peace Officer. He stated that on June 26 at 4:00 pm he was with Special Agent Coward approximately 700 yards from the Jumping Bull Residence. He observed four males running from that residence with a telescopic sight. He identified one of them as being a tall Indian male with long hair, stocky in build, who he knew from previous occasion to be Leonard Peltier. Stoldt said that all four were carrying either rifles or shotguns.

Frederick Coward was a U.S. Special Agent. On June 26, 1975, at 3:45 pm he was with Marvin Stoldt about 700 yards from the Jumping Bull residence. At that time he saw four male persons running from the rear of the residence through a telescopic sight. He claimed to identify one of those males as being "a tall Indian male, about 30 years of age, with long black hair, approximately shoulder length, of heavy build," who he recognized to be Leonard Peltier.

All of this evidence was challenged at trial. For example, the defence brought in an experienced outdoorsman and firearms expert to show that these sightings were not possible. James Hall conducted tests before a defence attorney and an FBI agent using a scope virtually identical to the one used by Special Agent Coward. Hall attempted to identify one of his friends who was at a distance of 700 yards on a crisp, overcast day. He testified that he could not identify any facial features of his friend at that distance. The evidence established that on June 26, 1975, the day the agents were killed weather conditions would have made it even more difficult to make an identification as it was hot, it had rained the previous day, and the mirage factor was high.

Further doubt is cast on Coward's evidence as he admitted that had never seen Peltier before he made this "identification" for purposes of the extradition.⁴⁰

c) Ballistics Evidence⁴¹

Donald Wiley was a Special Agent of the F.B.I.. He said that at 6:00 pm on June 26 he joined Special Agent Adams who had found the bodies. They were lying face down beside a Chevrolet automobile. Their pistol holders were empty and a search of the area failed to reveal either of the agent's personal sidearms. The trunk and door of the vehicle were open. Wiley stayed with the vehicle and insured that no one came near it until a U.S. Police Officer, Michael Jenniges, came to tow it away. The door and trunk were closed before it was towed. Jenniges towed Coler's Chevrolet automobile on June 26, 1975 and kept it in a sealed garage until June 29, when several F.B.I. agents, including Cortland Cunningham, conducted an examination of the vehicle.

Cortland Cunningham was a Special Agent of the F.B.I.. On June 27, 1975 he went to the Jumping Bull area and examined three vehicles. In the 1967 Ford Galaxy he found thirty four .223 cartridges. In the red and white 1966 Chevrolet Suburban van he found another .223 cartridge. Both these vehicles could be linked to Peltier. His fingerprint was found inside one and there was evidence that he had purchased the other. In Special Agent Coler's 1972 Chevrolet he found one .223 cartridge in the trunk and two .38 cartridges in the front seat. Cunningham then gave the .223 cartridge from the trunk of the Chevrolet and one of the .38 cartridges to Special Agent Ronald Brugger. He sent the other items to F.B.I. firearms specialist Evan Hodge.

Ronald Brugger was a Special Agent of the F.B.I.. On June 29, 1975 he received from Cortland Cunningham several items of evidence including one .38 special calibre cartridge case and one .223 calibre cartridge case. He kept them until July 21, 1975, when he forwarded them to the F.B.I. Laboratory, Firearms Section.

Evan Hodge was an F.B.I. firearms specialist. On July 5, 1975, he received the cartridges from Cortland Cunningham. On July 24, 1975, he received the cartridges from Ronald Brugger. He stated that he examined all 36 .223 calibre cartridge cases himself. In his opinion they had all been loaded into and extracted from the

same semi-automatic Colt AR-15 rifle, a high velocity weapon. Winthrop Dale Lodge was an F.B.I. fingerprint specialist. He found one of Leonard Peltier's latent fingerprints on the inside rear view mirror of the red and white 1966 Chevrolet Suburban van.

There are several difficulties with this evidence.

First, Cunningham made no mention of the cartridge he said he found in the trunk - a major find - in his 302 report of July 1, 1975.⁴²

Second, Cunningham admitted at the trial that he had actually not found the cartridge at all.⁴³ Instead he said it was Winthrop Lodge, the fingerprint specialist, who had found it later and handed it over to Cunningham.⁴⁴

Third, contrary to standard F.B.I. procedure, Cunningham did not give a receipt to Lodge for the evidence.⁴⁵

Fourth, Lodge's evidence at trial raised the possibility that he had not turned over the cartridge found in the trunk to Cunningham. At first he stated that when he examined Coler's Chevrolet some of the items found had not been removed. A few minutes later he contradicted himself and said that all of the items had been removed and inventoried.⁴⁶ Lodge then said that "not everything was turned over to Cunningham ... since some of the items were carried back to Pine Ridge and turned over to the agent personally in charge of evidence". He could not remember exactly which agent this might have been.⁴⁷

Fifth, the reliability of the tests which linked the trunk cartridge to the weapon linked to Peltier at the trial is questionable.

(No such link was made at the extradition; the evidence merely indicated that all the cartridges had been fired from a weapon similar to one seen in Peltier's possession hours after the agents were killed.)

At trial, Hodge testified that he could not draw any conclusions from the standard firing pin test because the rifle had been severely damaged.⁴⁸ Hodge then acknowledged that the alternative tests he made comparing shell casings ejected from the

rifle with the shell casing found in Coler's Chevrolet were unreliable.⁴⁹ Hodge then admitted that these extractor tests were made even more unreliable because the bolt had been removed from the weapon and mounted onto a different AR-15 rifle chassis to perform the test.⁵⁰ Despite these admissions, Hodge stated that these tests were conclusive.

d) Peltier's Possession of Coler's Handgun⁵¹

Sergeant William Zeller was a U.S. Peace Officer in Oregon. He found Coler's weapon in a paper sack located in a Dodge Motor home five months after the firefight. One of Peltier's latent fingerprints was developed on the sack and another was developed inside the Motor home. Dean Ray, an F.B.I. custodian of records, stated that the weapon found by Sergeant Zeller was issued to Special Agent Coler.

The evidence does support the inference that Peltier was close enough to a dead or coerced officer to obtain his sidearm. Of course it would also support the inference that he was in contact with someone else who had that opportunity. The latter inference is strengthened by the time lapse involved, some 4 -5 months. Nonetheless it is capable of adding to the case that he had the opportunity to kill the agents.

However even this significance is diminished by the fact that many of the original 20 to 30 suspects were also found to be in possession of items belonging to the agents. Robert Robideau and Leroy Casados were each in possession of one of the agent's weapons.

The scene had been totally disrupted; the agents' vehicle moved and stripped, even the tires removed, before it was examined.⁵²

Another of their weapons and a briefcase containing ammunition were found in a vehicle with six other AIM members who were known to be at the shootout.⁵³

Joe Stuntz, the American Indian who was killed that day by a shot through the head, was found wearing the jacket of one of the

agents.⁵⁴

2. Changes to The Direct Evidence

The only direct evidence of Peltier's guilt presented at the extradition hearing consisted of two affidavits sworn by one Myrtle Poor Bear; one on February 23 1976 and one on March 31 1976.⁵⁵

Even these two affidavits were not entirely consistent.

The affidavit of February 23, 1976 stated that as she was Leonard Peltier's girlfriend around the time the agents were shot she was aware that Peltier was in charge of planning how to kill any police or F.B.I. agents who came onto the reservation and how to escape after. She then swore that she saw Peltier shoot both agents.

This affidavit poses a problem in itself as it seems to assert that Peltier shot both agents at close range. The prosecution's medical evidence indicated that only one agent had been shot at close range.

In the March 31, 1976 affidavit she repeated her claim to be Peltier's girlfriend but corrected the problem with the shooting. This time she described Peltier shooting a single wounded F.B.I. agent as he threw down his handgun and told Peltier that he was surrendering. She swears that she saw Peltier shoot the agent even though she tried unsuccessfully to pull him away.⁵⁶

A strong case, in spite of these inconsistencies, but a fiction.

The affidavits were a fabrication. There is also a compelling case that they were suborned from Poor Bear, a vulnerable pawn, solely for the purpose of securing Peltier's extradition.

First, there is no doubt that her affidavits were false.

In 1977 Myrtle Poor Bear retracted all of her testimony. Most of the retraction is independently corroborated: she was not Peltier's girlfriend and in fact had never even met him; she had never been to the Pine Ridge Reservation, except later, when the F.B.I. agents took her there; she had certainly not witnessed a

murder. Finally, she claimed the F.B.I. forced her to fabricate these lies. Although that assertion is nowhere directly corroborated, there is no question that she had been used by the F.B.I. as a witness in other questionable cases, and she was acknowledged to be overtly and obviously emotionally, intellectually, and psychologically frail and vulnerable, a condition known to both the F.B.I and to prosecutors.⁵⁷

In 1978 a US prosecutor publicly acknowledged that Poor Bear had no truthful evidence to give at Peltier's first appeal. He admitted that:

there "was not one scintilla of evidence that showed that Myrtle Poor Bear was there, knew anything, did anything."⁵⁸

Second, they were known to be false before Peltier was surrendered to the United States. The more difficult and contested question concerns when the F.B.I. and/or prosecutors knew that she had no truthful evidence to give.

The chronology of disclosure and evidence at the Butler-Robideau trial establishes that they definitely knew this at some time leading up to the trial in Cedar Rapids, Iowa in June of 1976 (before Peltier was ordered to be extradited on June 18, 1976 and well before he was actually surrendered). Other prosecution witnesses could not place her at the Jumping Bull compound at Pine Ridge at any time, let alone confirm that she was Peltier's close girlfriend as the affidavits claimed.

Chief prosecutor Evan Hultman confirmed under oath when he was deposed in another habeas corpus application involving a challenge to Poor Bear's evidence that he was aware during the Butler-Robideau trial that Poor Bear could have no truthful evidence to give based on the evidence of the other prosecution witnesses.⁵⁹

Thus it appears clear that agents of the American government knew - before Peltier's extradition hearing was over - that false evidence was being relied upon to secure his return to the United

States.

Third, whether or not they knowingly suborned Poor Bear into this perjury, F.B.I. agents and prosecutors were dealing with a witness that by June 1976 prosecutors were describing as so emotionally and intellectually impaired that she was legally incompetent to testify.

On Poor Bear's evidence coercion took place.

In 1977 she testified that around the time she signed the affidavits she spent a considerable amount of time in the company of the two F.B.I. agents in charge of the Peltier investigation. She said they kept her in protective custody for several weeks and brought her to the Pine Ridge Reservation to familiarize her with it's geography - she had never been there before. She also alleged that these agents threatened her life and the lives of members of her family which caused her to sign the false affidavits.⁶⁰

The evidence of her emotional state - described by prosecutors as incompetence - does in part confirm her allegation of coercion. There is ample evidence that if she was incompetent, she was also so mentally and emotionally frail that she could be readily coerced. For example, this key eye witness whose testimony obtained Peltier's extradition, was never presented as a government witness at either the trial of Peltier's co-indictee's Butler and Robideau or at Peltier's trial in Fargo North Dakota, apparently because of her incompetence. Defence efforts to call her as a witness to prove the government misconduct were prevented in both trials.⁶¹

When the issue of her evidence and the manner by which it was obtained was put in issue on Peltier's first appeal, she was described by U.S. prosecutors as being incompetent in the "utter, utter, utter, ultimate sense of incompetency".⁶² Ultimately all of the American prosecutors were aware that she had no evidence to give relevant to Peltier's guilt, and at best, could be said to

have turned a blind eye to the manner it was obtained and used at the extradition hearing. The attitude of U.S. prosecutors is summed up in the comments of one the prosecutors at Peltier's trial aired nationally in a recent television news documentary on the Peltier case:

"Crooks: What Judge Ross was saying is that we should have spotted what a fruitcake Myrtle Poor Bear was right from the start and therefore using and relying upon her testimony really in and of itself was not good judgement... I don't know why they shipped up what they did because I wasn't involved in it but I can guarantee if I would have been I would have shipped up her affidavits.

Q: Even though you believed her to not be a credible witness?

Crooks: Yeah. During a probable cause stage. Wouldn't have bothered me at all. I basically said, "Judge, here's what we got".

Q: No matter how you cut it you can't get away from the fact that it was her testimony that got Leonard Peltier extradited from Canada to stand trial.

Crooks: I guess I don't ultimately know and ultimately I don't really care. Doesn't bother my conscience. If everything they say is right on that doesn't bother my conscience one bit. The man's a murderer. He got convicted on fair evidence. Doesn't bother my conscience one whit. Now I don't agree that we did anything wrong with that but I can tell you it don't bother my conscience if we did.⁶³

Apart from perceptions of her mental health, it must have been obvious that she knew nothing from the outset. If so, it strongly supports the conclusion that she was knowingly used to produce worthless evidence solely for the purpose of obtaining Peltier's extradition. Such a use would constitute fraud.

Evidence that pointed to this conclusion surfaced early,

before Leonard Peltier was turned over to the American justice system. Shortly after the hearing which committed him for extradition, Peltier's lawyers obtained a copy of another affidavit which had been sworn by Poor Bear prior to the two affidavits presented at the extradition hearing.⁶⁴ It was disclosed to the defence in the Butler-Robideau trial where prosecutors had already recognized that she had no evidence to give and thus had decided not to call her as a witness, but was never disclosed by prosecutors to the Peltier extradition defence.⁶⁵ In what amounts to the original affidavit, sworn February 19, 1976⁶⁶ Poor Bear swears that she was not on the Pine Ridge Reservation the day the F.B.I. agents were killed, although she claims that Peltier confessed to the murders.

36. Pathologist Dr. Robert D. Bloemendal swore on February 27, 1976 that he performed autopsies on the bodies of agents Coler and Williams on June 27, 1975. He swore that agent Coler suffered three gunshot wounds, one to the head which would have been "instantly fatal". He swore that agent Williams suffered three gunshot wounds, to the head, chest and foot. He swore that "a high velocity missile had penetrated the face and skull". His "gross provisional diagnosis was death due to the gunshot wounds involving the face, head, left arm, left chest and flank, right hand and left foot." Extradition Exhibit 18 'P'.

United States Department of Justice

1142



760500

Washington, D. C., March 24, 1976

To whom these presents shall come, Greeting:

Know all men by these presents, that Andrew W. Bogue whose name is signed
on the accompanying paper, is now, and was at the time of
signature of the same, United States District Judge for the District
Dakota
_____ duly commissioned and qualified.

In witness whereof, I, Edward H. Levi

Attorney General of the United States, have hereunto caused the Seal of the Department of Justice to be affixed and my name to be attested by the Deputy Assistant Attorney General for Administration, of the said Department on the day and year first above written.

Edward H. Levi

Attorney General

By Edward V. Scott

Deputy Assistant Attorney General for Administration



STATE OF SOUTH DAKOTA

COUNTY OF PENNINGTON

IN THE MATTER OF THE EXTRADITION
ACT. R.S.C. 1970 Chap. E-21

AND IN THE MATTER OF LEONARD PELTIER also known as Leonard Little Shell, Leonard Williams, John Yellow Robe, Erwin Yellow Robe, Leonard John Peltier

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A F F I D A V I T

Robert D. Bloemendaal, being first duly sworn upon his oath, deposes and says:

1. That I am presently a medical doctor duly licensed and entitled to practice in the State of South Dakota, United States of America.

2. That I attended the University of South Dakota and received a Bachelor of Science in Medicine in 1956. I completed my preliminary education at the Jefferson Medical College, Philadelphia, Pennsylvania in 1958. I interned with the Minneapolis General Hospital, Minneapolis, Minnesota, from 1958 to 1959. From 1959 to 1961 I was a resident in anatomical pathology at the Minneapolis General Hospital. From 1961 to 1963 I secured a residency in clinical pathology at the Charles Miller Hospital, St. Paul, Minnesota. During these periods of residency I served for two years as the Deputy Coroner for Hennepin County, Minnesota. From 1963 until the present I have been in private practice in the communities of Sioux Falls, South Dakota; Cody, Wyoming; and Rapid City, South Dakota. That I am a member of the following societies: American Society of Clinical Pathology; College of American Pathologists; Minnesota Society of Clinical Pathology; South Dakota Society of Pathology; American Medical Association; South Dakota Medical Association; and the Black Hills District Medical Society. I am licensed to practice medicine in the States of Wyoming and South Dakota in the United States of America. I have examined approximately 1500 dead bodies.

3. That on June 27, 1975, in the presence of J.P. Hufford, Special Agent of the Federal Bureau of Investigation and others, I performed autopsies on the bodies of two male persons identified to me by the said Special Agent Hufford as Jack R. Coler and Ronald A. Williams.

I examined the body of Jack R. Coler further identified to me by Special Agent Kenneth I. Parkerson of the Federal Bureau of Investigation. It appeared that this body had sustained three gunshot wounds. One wound having originated from the right side and involving the flexur area of the right arm and forearm with the missile continuing through the soft tissue in that area creasing the subcutaneous tissue of the right side of the back. I further observed what appeared to be two wounds to the head of Jack R. Coler: a right to left wound involving the top of the head; the second wound entered the body with a slight angle from right to left commencing beneath the chin and fragmenting when hitting the hynoid bone and mandible. This latter gunshot wound would have been instantly fatal.

5. I examined the body of Ronald A. Williams, said body evidencing what appeared to be three gunshot wounds. A high velocity missile had penetrated the face and skull; a second gunshot wound was present which appeared to have gone through the triceps muscle on the left arm, with what appeared to have possibly been the core of the missile striking the lateral chest but not penetrating the body. This wound appeared to be the product of a low velocity missile. The third gunshot wound was observed on the great toe on the left foot. My gross provisional diagnosis was death due to the gunshot wounds involving the face, head, left arm, left chest and flank, right hand and left foot.

6. In my opinion the deaths of Special Agents Ronald A. Williams and Jack R. Coler were direct consequence of the bullet wounds exhibited by said bodies.

Subscribed and sworn to before me
this 27 day of February, 1976.

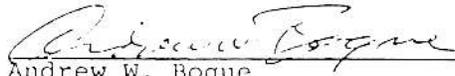
Joseph P. Zimney
Deputy Clerk
District of South Dakota
United States District Court

Robert D. Bloemendaal
Robert D. Bloemendaal

5P

I, Andrew W. Bogue, United States District Judge for the District of South Dakota, do hereby certify that attached hereto is the Affidavit of Robert D. Bloemendaal sworn before Judy L. Harvey, Deputy Clerk of the United States District Court for the District of South Dakota, whose signature appears on said Affidavit, and that the said Judy L. Harvey was when the said Affidavit was sworn, and now remains, a person duly authorized to administer oaths for general purposes and that the said Affidavit is in due form of law.

In testimony whereof I have hereunto signed my name and caused the seal of the said Court to be affixed at the City of Rapid City, in the State of South Dakota, this 17th day of March, 1976.


Andrew W. Bogue
United States District Judge

37. Ward Churchill and Jim Vander Wall in Agents of Repression: The FBI's Secret Wars Against the Black Panther Party and the American Indian Movement, South End Press, Boston, at p. 453 footnote 156; Memorandum from B.H. Cooke to Mr. Gebhardt, dated June 30, 1975.

THIS MATERIAL NOT DISCLOSED TO LEONARD PELTIER

UNITED STATES GOVERNMENT

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Legal Coun. _____
- Telephone Rm. _____
- Director Sec'y _____

TO : Mr. Gebhardt *REG*

FROM : B. H. Cooke *BHC*

SUBJECT: RESMURS

DATE: June 30, 1975

B7C-3

- 1 - Mr. Callahan
- 1 - Mr. Adams
- 1 - Mr. Gebhardt
- 1 - Mr. Cooke
- 1 - Mr. Gordon
- 1 - Mr. Moore
- 1 - Mr. Wannall

REG
Gordon

SAC Dick Held was instructed in a phone call at 10:15 a.m., EDT, to have SA Gary Adams fly to California to meet with the Director in Los Angeles at 8:00 p.m. and to brief the Director concerning the details of the incident at Pine Ridge. SA Adams was to bring with him FD-302s for the Agents who were present at the time of the shooting and these FD-302s are to be facsimiled to the Los Angeles Office and to be received prior to 8:00 p.m. tonight so that they will be present for the briefing session.

One of the chief concerns by the way of inconsistencies that should be resolved today, is the autopsy report saying that SA Williams was instantly killed by the first bullet at close range, wherein the teletype received from Minneapolis 6/29/75 indicated that Agent heard Williams on the radio transmit the message "I'm hit." The Director has stated that it is obvious that this transmission would be impossible if the autopsy report was accurate and he desires this clarified before any statement to the press is made.

The above information is also being furnished to SA [redacted] at the Command Post with the instructions that the Agents get together and resolve any inconsistencies so that SA Adams will have complete information when he arrives at Los Angeles for the briefing.

ACTION:

For information.

BHC:wss
(7)

REC-20 *89-3229-65*

13 JUL 2 1975

50 JUL 24 1975

146

75

89-3229-65

UNCLASIFIED

38. Teletype from the Minneapolis Director of the FBI, dated July 27, 1975 and captioned RESMURS - PHYSICAL EVIDENCE.

THIS MATERIAL NOT DISCLOSED TO LEONARD PELTIER

See p. 3.

NEWS CONFERENCE
OF
CLARENCE M. KELLEY, DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
AT
CENTURY PLAZA HOTEL
JULY 1, 1975

Well, just as an introduction, I'm Clarence Kelley, Director of the FBI, and here with me are three gentlemen who will possibly assist in what will be, I hope, a very fine exchange after I make a few remarks. The first gentleman is Mr. James Adams who is the Deputy Associate Director of the FBI. The next gentleman is Mr. Joseph Trimbach, T-r-i-m-b-a-c-h, who is the Agent in Charge of the Minneapolis Office which covers the area wherein the incident to be discussed occurred; and the next gentleman is an Agent who has performed some of the investigative tasks in the area, Mr. Gary Adams. So with those introductions, I will first talk generally about this situation and then throw it open to any questions which you might ask.

Today, of course, I came to Los Angeles to attend the funeral of Special Agents Ron Williams and Jack Coler, both who had at one time lived in the Los Angeles area and, therefore, the services for them were held here. Both of these young Agents on June 26 met their deaths at Pine Ridge Reservation in an area near Sisseton, South Dakota. These two Agents had been assigned a case involving four subjects who as a result of their activities were charged with assault and larceny on a Government reservation.

31246

no case

Indian reservation, namely the Pine Ridge Indian Reservation. As a result of this filing of charges, they sought the whereabouts of three of the four, one having two days prior to this having been arrested. And in their speculation, they decided that there was a possibility that since one of the subjects was known to have frequented this area that they should return there and check. This is an important point. The point again being that they thought there was a possibility that they might be there because one had been known to frequent that area. There was no prearranged visit to the area. Had there been good solid evidence that the subjects might have been there, there is, of course, the very strong probability that more would have gone than just two. But only two went, Special Agents Williams and Coler. Each went in his own assigned automobile. They arrived in the area about 11 AM. Neither one survives, of course, to give us the details about what occurs; and we must speculate what occurred as the result of what later evidence was revealed and what later investigation disclosed. Admittedly, and again let me emphasize that, admittedly, there may be later disclosures which will to some extent change the position which I now take insofar as interpretations; again, we must speculate. But, I must at the same time say that the speculation is based on good solid evidence and is subject to interpretation to a considerable extent. Each of these Agents' cars was equipped with a radio, which is capable of car-to-car transmission and also to transmission with the headquarters of that local contingent of the FBI at Pine Ridge.

One of the Agents has said that he heard some transmissions, apparently between the two cars, the cars of Agent Williams and Agent Coler. The first of these was apparently to the effect that there's some people by the house and it looks like they are leaving. We found later that probably they were speaking of the fact that some subjects or possible subjects were leaving the area in a red pickup and this red pickup had become the subject of some concern in this investigation. The next source of information is again as to what was heard by another Agent. "I hope you have a lot of gas. It looks like they're going to be traveling," or something to that effect. Again, probably a transmission between the two cars. Then the next transmission, "It looks like they're going to shoot at us." Remember again, this is a reported transmission between cars. They are not out of the automobile. Then, within a couple of minutes, an Agent overheard the comment that "we have been hit." Again, they're in the automobile when this comment is made. All these within a couple of minutes. One of the Agents who had been monitoring these transmissions asked about the whereabouts of the two Agents, and Agent Williams, who was the only one who had commented or made any transmission to this date, gave the location. About three or four minutes later, according again to this monitoring Agent, Agent Williams gave his last transmission, saying, "Hurry and give us some help with fire cover, or we will be killed." And how prophetic he was because as

39. Affidavit of Gary Adams, Extradition Exhibit 'C'; Affidavit of Marvin Stoldt, Extradition Exhibit 'D'; Affidavit of Frederick Coward, Extradition Exhibit 'E'.

STATES OF AMERICA)
OF SOUTH DAKOTA)
COUNTY OF PENNINGTON)

IN THE MATTER OF THE EXTRADITION
ACT, 1970 Chap. E-21

1066

AND IN THE MATTER OF LEONARD
PELTIER, also known as Leonard
Little Shell, Leonard Williams,
John Yellow Robe, Erwin Yellow
Robe, Leonard John Peltier

(18C)

A F F I D A V I T

J. Gary Adams, being first duly sworn upon his oath, deposes
says:

1. That I am a Peace Officer and employed by the Government
of the United States of America as a Special Agent of the Federal
Bureau of Investigation (FBI). I was employed as such on
June 26, 1975.

2. That on the morning of June 26, 1975, I observed
Special FBI Agents Ronald A. Williams and Jack R. Coler, who were
engaged in the performance of their official duties. This observation
took place in the town of Pine Ridge, located on the Pine Ridge
Indian Reservation in the State of South Dakota, United States of
America. I remained at that location.

3. At approximately 11:50 A.M. on June 26, 1975, I left
the town of Pine Ridge in an FBI automobile and was approximately
two (2) miles south of the town of Pine Ridge when I heard several
transmissions from the two-way radio located in my automobile. I
recognized the voice of Special Agent Ronald A. Williams and
specifically recall him saying, "It looks like they are going to
shoot at us... We've been hit." In the background of the last
transmission there were sounds which I recognized to be gunfire.

4. That I immediately turned my vehicle around and drove
to the area of Jumping Bull Hall on the Pine Ridge Indian Reservation
in the State of South Dakota aforesaid, arriving there approximately
ten (10) minutes later. As I approached a building known to me as
the "Wanda Seirs" residence I stopped my vehicle. At that time my
vehicle came under gunfire. At that location there was another
vehicle which I recognized to be a Bureau of Indian Affairs (BIA)
police car, also belonging to the Government of the United States
of America. I observed that BIA vehicle also to receive gunfire.
I backed my vehicle approximately 200 yards away from the said

That I remained on the scene of Jumping Bull Hall throughout the afternoon and until approximately 6:00 P.M. there was intermittent gunfire from many sources in said area. When the gunfire terminated I was able to make a careful search of the entire area and in a few moments discovered two dead bodies lying face down on the ground. I recognized one body to be that of Special Agent Ronald A. Williams and the other body to be that of Special Agent Jack R. Coler. Immediately adjacent to the two dead bodies was a 1972 Chevrolet Biscayne automobile bearing Colorado License No. KE1194. The trunk and left front door of this car were open. I recognized said vehicle as the one driven by Special Agent Jack R. Coler earlier that day. That attached hereto and marked exhibit "A" to this my Affidavit is a color photograph of the location of the aforescribed bodies and 1972 Chevrolet Biscayne automobile when I attended Jumping Bull Hall area at approximately 6:00 P.M. on June 26, 1975. This photograph fairly and accurately depicts said scene.

6. That I continued to search in the general area of the two dead bodies at approximately 7:00 P.M. on June 26, 1975, I located a 1967 Ford Galaxie, two-tone green in color, bearing 1975 South Dakota License Plates 65-2355 and verified the serial number of this vehicle to be (VIN) 7G55C231756. Approximately 20 feet in front of this vehicle I located a 1966 Chevrolet Suburban Van, red and white color, bearing 1975 S.D. License Plates 65T572. These vehicles were parked in the midst of a group of tents situated in a southeasterly direction from the Wanda Seirs residence.

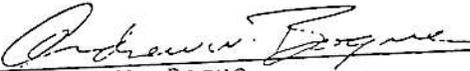
7. That attached hereto and marked Exhibit "B" to this my affidavit is an aerial photograph of the area of Jumping Bull Hall which I recognize to be a fair and accurate representation of the area on June 26, 1975. I confirm this from my personal knowledge of the area and having flown over the area in an aircraft on several occasions. On the said exhibit "B" I have placed the following marks:

- (a) The Wanda Seirs residence is marked with the letter "A";
- (b) The location of the two dead bodies and the 1972 Chevrolet Biscayne automobile are marked with the letter "B";
- (c) The location of the 1967 Ford Galaxie and a 1966 Chevrolet Suburban Van are marked with the letter

I, Andrew W. Bogue, United States District Judge for the District of South Dakota, do hereby certify that attached hereto is the Affidavit of J. Gary Adams

sworn before Betty B. Berry, Deputy Clerk of the United States District Court for the District of South Dakota, whose signature appears on said Affidavit, and that the said Betty B. Berry was when the said Affidavit was sworn, and now remains, a person duly authorized to administer oaths for general purposes and that the said Affidavit is in due form of law.

In testimony whereof I have hereunto signed my name and caused the seal of the said Court to be affixed at the City of Rapid City, in the State of South Dakota, this 19th day of March, 1976.


Andrew W. Bogue
United States District Judge

UNITED STATES OF AMERICA)
STATE OF COLORADO)
COUNTY OF DENVER)

IN THE MATTER OF THE EXTRADITION
ACT. R.S.C. 1970 Chap. E-21

IN THE MATTER OF LEONARD
PELTIER also known as Leonard
Little Shell, Leonard Williams,
John Yellow Robe, Erwin Yellow
Robe, Leonard John Peltier

187

A F F I D A V I T

Marvin A. Stoldt, being first duly sworn upon his oath, deposes
and says:

1. That on June 26, 1975, I was a Peace Officer employed by the
government of the United States of America, and was assigned to
the Bureau of Indian Affairs to duties at the Pine Ridge Indian
Reservation, State of South Dakota, United States of America.

2. That at approximately 4:00 P.M. on June 26, 1975, I was
with Special Agent Frederick Coward of the Federal Bureau of
Investigation on a hill approximately 700 yards from a residence
which is known to me as the Jumping Bull residence. I had a clear
view of said residence and had access to a firearm equipped
with a telescopic sight. At that time, I observed four male persons
run from that residence. By the use of said telescopic sight
I was able to identify one of those males as being a tall Indian
male, with long hair, stocky in build, who I knew from a previous
occasion to be Leonard Peltier. I further observed him to be carrying
a shoulder weapon, either a rifle or shotgun. The other three male
persons were carrying shoulder weapons of a similar nature.

4. That attached hereto and marked Exhibit A, B and C
respectively to this my affidavit are three photographs each marked:

"Leonard Peltier photographs
taken Feb. 12, 1976
Vancouver, B.C."

and I testify and depose that the person shown on the three
photographs is the person known to me as Leonard Peltier who
I observed on June 26, 1975 at the time and place and under the
circumstances mentioned herein.

attached hereto and marked Exhibit "D" to this, affidavit, is an aerial photograph of the area of Jumping Bull Hall referred to in paragraph 2 hereof. I verify that the same is a true and accurate representation of said area when I attended here on June 26, 1975. That indicated on the said aerial photograph marked Exhibit "D" with the letter "A" is the premises referred to in paragraph 3 as the Jumping Bull residence. The position that I was in with Special Agent Frederick Coward is shown on Exhibit "D" with the letter "B". The direction which the four male persons, including Leonard Peltier, were running is shown by an arrow.

6. That attached and marked Exhibit "E" is a sketch of the area referred to by me as the area of Jumping Bull Hall and I verify that the same accurately represents the area attended by me on June 26, 1975, and further verify that the same corresponds to the location shown in the aerial photograph marked Exhibit "D". The letters "A" and "B" and the directional arrow correspond to the locations marked in the same manner on Exhibit "D".

Subscribed and sworn to before
 me this 4th day of MARCH, 1976)
[Signature])
 Deputy Clerk)
 District of Colorado)
 United States District Court)

[Signature]
 Marvin A. Stoldt

Chief United States District Judge

Alfred A. Arraj

District of Colorado

by which that attached hereto is the Affidavit of Marvin Sholdt

James K. Manspeaker, ~~XXXXXX~~ Clerk of the United States District Court for the District of Colorado, sworn before

before me on said Affidavit, and that the said James K. Manspeaker was when the said Affidavit was sworn, and

is a person duly authorized to administer oaths for general purposes and that the said Affidavit is in due form of law.

In testimony whereof I have hereunto signed my name and caused my seal of the said Court to be affixed at the City of Denver

the State of Colorado, this 4th day of March, 1976.

Alfred A. Arraj
Alfred A. Arraj Chief Judge
United States District Court
for the District of Colorado

STATES OF AMERICA)
STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON)

IN THE MATTER OF THE EXTRADITION
ACT, R.S.C. 1970 Chap. E-21

IN THE MATTER OF LEONARD PELTIER -- 1033
PELTIER also known as Leonard
Little Shell, Leonard Williams,
John Yellow Robe, Erwin Yellow
Robe, Leonard John Peltier

(18E)

A F F I D A V I T

Frederick Coward, Jr., being first duly sworn upon his oath,
deposes and says:

1. That on June 26, 1975, I was a Special Agent employed by
the Federal Bureau of Investigation for the Government of the
United States of America, and attended at the Pine Ridge
Indian Reservation, State of South Dakota, United States of
America.

2. That at approximately 3:45 P.M. on June 26, 1975, I was
with Bureau of Indian Affairs Agent Marvin A. Stoldt on a hill
approximately 700 yards from a residence which is known to me
as the Jumping Bull residence. I had a clear view of said residence
and was armed with a firearm equipped with a telescopic sight.
At that time, I observed four male persons run from the rear of the
Jumping Bull residence. By the use of said telescopic sight I was
able to identify one of those males as being a tall Indian male,
about 30 years of age, with long black hair, approximately shoulder
length, heavy build, who I recognized to be Leonard Peltier.

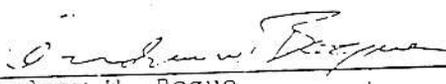
4. That attached hereto and marked Exhibits A, B and C
respectively to this my affidavit are three photographs each
marked:
"Leonard Peltier
Photo 12 Feb 76
Vancouver, BC"

and I testify and depose that the person shown on the three
photographs is the person known to me as Leonard Peltier who
I observed on June 26, 1975 at the time and place and under the
circumstances aforementioned.

5. That attached hereto and marked Exhibit "D" to this,
my affidavit, is an aerial photograph of the area of Jumping Bull
Hall referred to in paragraph 2 hereof. I verify that the same
is a true and accurate representation of said area when I attended
there on June 26, 1975. That indicated on the said aerial

I, Andrew W. Bogue, United States District Judge for the District of South Dakota, do hereby certify that attached hereto is the Affidavit of Frederick Coward, Jr. sworn before Betty Berry, Deputy Clerk of the United States District Court for the District of South Dakota, whose signature appears on said Affidavit, and that the said Betty Berry was present when the said Affidavit was sworn, and now remains, a person duly authorized to administer oaths for general purposes and that the said Affidavit is in due form of law.

In testimony whereof I have hereunto signed my name and caused the seal of the said Court to be affixed at the City of Rapid City, in the State of South Dakota, this 27th day of February, 1976.


 Andrew W. Bogue
 United States District Judge