

IN THE MATTER OF AN APPLICATION UNDER

SECTION 28 OF THE FEDERAL COURT ACT

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

- and -

IN THE MATTER OF A REQUEST FOR THE EXTRA-
DITION OF LEONARD PELTIER, also known as
Leonard Little Shell, Leonard Williams,
John Yellow Robe, Erwin Yellow Robe, Leonard
John Peltier, BY THE UNITED STATES OF AMERICA

- and -

IN THE MATTER OF A DECISION RENDERED BY THE
HONOURABLE MR. JUSTICE SCHULTZ ON THE 18TH
DAY OF JUNE, 1976

BETWEEN:

LEONARD PELTIER, also known as Leonard Little
Shell, Leonard Williams, John Yellow Robe,
Erwin Yellow Robe, Leonard John Peltier

- APPLICANT

AND:

THE UNITED STATES OF AMERICA

- RESPONDENT

CASE

VOLUME IV OF XI

Solicitor (s) for the
Applicant (s)

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testimony on the same subject, if that could be done.

MR. ROSENBLOOM: It was one of my first questions this morning: What is at this time the American Indian Movement's contemporary overall political goal?

THE REPORTER:

"A We recognize, of course, that the three factors that were most destructive to our way of life was the missionary policies of the institution of the Christian Church, the institutions of education and the federal and state and county governments that had encroached into our nations. Our political goals was then to --- We have always known that the Government of the United States over the years knew why we came but they did not know how to greet us -- for the simple reason that within the governmental attitude they had never had to deal with us in an honest relationship. They only had to demand our lands and resources and when we resisted we were called criminals and the cavalry was sent in. We saw that our treaty relationship with the United States Government had deteriorated to the point where, rather than that relationship being within the office of the President or his successors, that this trust responsibility that the

"Government had assumed in treaty agreements was then turned over to its agency, the Department of the Interior, and within the Department of the Interior, the Bureau of Indian Affairs. In fact, we found ourselves being managed along with natural resources like oil, coal, mineral deposits, forests, water, wildlife, natural parks, playgrounds and Indians. We could see that within that relationship with the Government that the very agency -- the Interior Department -- who has a legal responsibility to protect our lands and resources -- is the same agency and government in collusion with special interest groups, mining, oil companies, business corporations -- they were the same people who were violating that trust in leasing out well over one hundred, or selling well over one hundred million acres of land."

Mr. Halprin then had an objection.

"THE COURT: Q: Please direct yourself to that question and answer it.

A In recognizing our relationship as it exists, as I explained, we are in a political confrontation as one nation to another nation -- that being the Indian Nations in relationship to the United States Government -- to create an honest relationship, and to create a legal relationship under the treaty, that relationship being with the President



THE INNOCENCE PROJECT

Directors: Professor Dianne Martin & Paul Burstein

December 4, 2000

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William Jefferson Clinton
President of the United States of America
C/O Bruce Lindsay, Office of the White House Legal Counsel
1600 Pennsylvania Avenue
Washington, D.C.
20500 U.S.A.

Re.: Leonard Peltier

Dear Mr. President:

The Innocence Project is a clinical programme at Osgoode Hall Law School of York University, in Toronto. The programme involves law students under the supervision of myself and Co-Director Paul Burstein. Our programme is designed to investigate potential miscarriages of justice. Where these are found, we attempt to pursue the appropriate avenues of remedy.

One of our most significant cases has been that of Leonard Peltier. On October 25, 2000, we had the privilege of convening a Hearing before the Honourable Fred Kaufman, C.M., Q.C., a former Justice of the Quebec Court of Appeal. The purpose of the Hearing was to allow for the formal presentation of new evidence in aid of the application for executive clemency for Leonard Peltier.

At this time, we wish to submit a Brief in Support of the Application for Clemency for Mr. Peltier. The following materials have been enclosed:

1. Executive Summary;
2. Brief in Support of the Application for Clemency;
3. Appendix;
4. Transcript of the October 25, 2000 Hearing Before the Honourable Fred Kaufman, C.M., Q.C. in Toronto, Canada;
5. Exhibits of the October 25, 2000 Hearing Before the Honourable Fred Kaufman, C.M., Q.C. in Toronto, Canada; and

6. Audio Recording of the October 25, 2000 Hearing Before the Honourable Fred Kaufman, C.M., Q.C. in Toronto, Canada.

It is our understanding that you have committed to giving the Peltier case your serious consideration before you leave the Presidency. We would like to express our sincere gratitude for your having made that commitment. The Peltier case has seriously marred both the American and Canadian justice systems. We respectfully submit this application to you, in the hope that you might bring this terrible injustice to an end.

Yours truly,

A handwritten signature in black ink, appearing to read "D.L. Martin". The signature is fluid and cursive, with a large initial "D" and "M".

Dianne L. Martin
Director, Innocence Project
Associate Professor, Osgoode Hall Law School

HON. FRED KAUFMAN, C.M., Q.C.

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November 28, 2000.

The Honourable Bill Clinton
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC
20500

Dear Mr. President:

Re: Leonard Peltier

At the request of the Innocence Project of Osgoode Hall Law School at York University, Toronto, I presided on October 25, 2000, at a hearing in Toronto for the purpose of collecting evidence for the clemency application in the above case which is now before you.

Five witnesses were heard under oath: Myrtle Poor Bear, Elaine Poor Bear Martinez, Edgar Bear Runner, Frank Dreaver and Ron George. They were examined and cross-examined by two distinguished barristers, and I believe the transcripts of their evidence are now in your hands.

The purpose of my letter is to tell you of my impression of these witnesses, particularly with regard to their credibility. I base my observations on 45 years experience in criminal law, including 18 years as a judge of the Quebec Court of Appeal.

I say without hesitation that each of the witnesses appeared honest and credible. I was particularly impressed by Myrtle Poor Bear, now a grandmother, whose original affidavit played such an important part during the extradition hearings in Canada. As you can see from her evidence, she acted under duress at the time, and much of what she then said was false. I am satisfied that if this had been known when the extradition hearings took place, the request to extradite Peltier would likely have been refused.

Myrtle Poor Bear's testimony is corroborated to the extent possible by her sister, Elaine Poor Bear Martinez. She, too, spoke before me without hesitation and with a great deal of assurance and I regard her testimony as truthful. She also spoke movingly of the 'healing process' that is so necessary and which would be helped a great deal by the exercise of executive clemency to bring about Mr. Peltier's release from prison.

If I make no comments about the other witnesses it is because their evidence was less fact-specific, but important nevertheless because of the systemic implications. Indeed, it was a very moving day, particularly since this was my first exposure to the events at Oglala.

Since presiding over the hearing in Toronto I had occasion to read a letter written in 1991 by Senior Circuit Judge Gerald W. Heaney to Senator Daniel K. Inouye, and I note in particular his comment that "the FBI used improper tactic in securing Peltier's extradition from Canada and in otherwise investigating and trying the Peltier case." Judge Heaney goes on to say that while his 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." If I may, I respectfully adopt Judge Heaney's observations, basing myself on what I heard and saw at the Toronto hearing.

Sincerely yours,

FRED KAUFMAN

cc Bruce Lindsay, Office of the White House Legal Counsel
Prof. Dianne L. Martin, Osgoode Hall Law School, York University