

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)

Donald J. Rosenbloom, Esq., &  
Stewart Rush, Esq.,  
Messrs. Gibbons, Rosenbloom,  
Baigent & Germaine,  
Barristers & Solicitors,  
Ste. 410 - 195 West Hastings Street,  
Vancouver, British Columbia.  
V6B 1H2

Solicitor (s) for the  
Respondent (s)

D.S. Thorson, Esq., Q.C.,  
Deputy Attorney General of Canada,  
Ottawa, Ontario.  
Per: P.W. Halprin, Esq.,  
Department of Justice,  
Vancouver Regional Office,  
P.O. Box 11118,  
1800 - 1055 West Georgia Street,  
Vancouver, British Columbia.  
V6E 3P9

A No, I cannot.

Q Do you have any personal knowledge of the events which occurred in the area of Jumping Bull Hall on June 26th, 1975?

A No, I do not, counsel.

Q Did you at a subsequent time to June 26th, 1975 go to the area of Jumping Bull Hall?

A Yes, I did, counsel.

Q About when would that be, Mr. Bad Wound?

A Oh, July 2nd or 3rd of 1975.

Q Be about ten days later?

A Yes.

Q Would you tell his lordship what you observed when you got there?

A Immediately after the incident on June 26th, the area was sealed off by law enforcement agencies, and when I heard that they had lifted the blockade, I went over there to view the premises. The house in question was -- the windows were all shot out, and there was a number of bullet holes in the walls. A few places had holes the size of a man's wrist completely through them. Just -- these houses were constructed -- I enquired what made such a large hole, and I was advised ---

THE COURT: Now, please. Please just tell us what you saw.

MR. RUSH:

Q Just dealing with what you saw.

A I seen these houses, all these bullet holes in from all four walls. I went outside on the grounds, and there was an outhouse there which looked like a

sieve. That was the extent of my observations.

Q Now, you said that the U. S. Government forces remained on Pine Ridge Reservation for a period of time after June 26th, 1975, is that correct?

A Yes.

Q And can you tell his lordship, since the events of June 26th, 1975 what has been the nature of their activities, so far as you know, on the Pine Ridge Reservation?

A Well, beginning immediately after June 26th, 1975, they brought in helicopters which transported their armed forces around various areas of the Reservation where they carried out these search and destroy missions, which can only be described in that context.

Q How many men that you observed to be associated with the United States Government forces were still on the reserve in the period, say, one month after the events of June 26th, '75?

A I would estimate about 300.

Q And were there any further conflicts between these forces and the residents of the Pine Ridge Reservation?

A No, there was not. However, we were having difficulty in holding our warriors in check because of the brutal methods which the United States forces employed in interrogating our people, that led to a subsequent decision to go to Washington to see their President to re-establish normal relationships with them, peaceful relationships with them.

IN THE FEDERAL COURT OF APPEAL

IN THE MATTER OF AN APPLICATION UNDER

SECTION 23 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 VI OF XI

Solicitor (s) for the  
Applicant (s)

Donald J. Rosenbloom, Esq., &  
Stewart Rush, Esq.,  
Messrs. Gibbons, Rosenbloom,  
Baigent & Germaine,  
Barristers & Solicitors,  
Sre. 410 - 198 West Hastings Street,  
Vancouver, British Columbia.  
V6B 1H2

Solicitor (s) for the  
Respondent (s)

D.S. Thorson, Esq., Q.C.,  
Deputy Attorney General of Canada,  
Ottawa, Ontario.  
Per: P.W. Halpin, Esq.,  
Department of Justice,  
Vancouver Regional Office,  
P.O. Box 11118,  
1900 - 1050 West Georgia Street,



A Yes.

Q Do not tell me about "we"?

A Yes. A car that I didn't recognize drove through the land and down an embankment and headed toward a camp area where a number of people lived last summer. I got in my car and followed it and as I was driving toward, if I could see where this strange car parked, I heard gunshots. I pulled up beside that car, got out of my car. No one was visible because there was a curve in the path there. I heard more shots. I yelled, "Who is there?" And the reply came back, "It's all right. This is the F.B.I." So I asked them to come out. I yelled back, "Please show yourself," and four men, some of whom I had seen before and who at that time had identified themselves to me as F.B.I. agents, came walking around the curve, they were carrying three, M-16's and one very large rifle with a scope on it.

Q Just stop your evidence there for a minute. How were these men dressed?

A They were just casual clothes like jeans and boots and jean jacket or that type of clothing.

Q Mm-hmm. And how were they carrying the M-16's that you referred to?

A They were just swinging them along at their

JUN 18 1976

REGISTRY

NO. 760176 1377

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

REASONS FOR JUDGMENT

AND

OF THE HONOURABLE

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

MR. JUSTICE SCHULTZ

(IN CHAMBERS)

P. W. Halprin, Esq.

of Counsel for the United  
States of America

Donald J. Rosenbloom, Esq., and  
Stuart Rush, Esq.

of Counsel for Leonard  
Peltier

Dates of hearing:

May 3, 4, 5, 6, 10, 11,  
12, 13, 14, 17, 18, 19,  
20, 21, 25, 26, 27, 28;  
and June 18, 1976.

The United States of America ("U.S.A.") seeks the extradition from the Dominion of Canada of Leonard Peltier (hereinafter called "Peltier"), a Sioux Indian of the U.S.A., who was arrested on February 6, 1976, at a place called "Chief Small Boy's Camp", located about 70 miles south of Hinton, in the Province of Alberta, Canada, by members of the Royal Canadian Mounted Police ("R.C.M.P.")

This is an extradition hearing, under section 13 of the "Extradition Act", R.S.C. 1970, Chapter E-21 (hereinafter called "the Act") of Peltier, who is charged in the Information, dated February 12, 1976, of Staff Sergeant Gerald James Young, R.C.M.P. (Exhibit 1), with five alleged crimes committed in the U.S.A.; namely:

- A. November 22, 1972, Milwaukee, Wisconsin, attempted murder,
- B. June 26, 1975, near Oglala, South Dakota, murder of Ronald A. Williams, a Special Agent of the Federal Bureau of Investigation ("F.B.I."),
- C. June 26, 1975, near Oglala, South Dakota, murder of Jack R. Coler, a Special Agent of the F.B.I.,

- D. November 14, 1975, near Ontario, Oregon, attempted murder, and
- E. November 15, 1975, near Nyssa, Oregon, burglary.

The hearing commenced May 3, 1976, and concluded on May 28, 1976, when judgment was reserved.

Sections 13, 14, 15, and 18 (1) (b) and (2) of the Act read:

" 13. The fugitive shall be brought before a judge, who shall, subject to this Part, hear the case, in the same manner, as nearly as may be, as if the fugitive was brought before a justice of the peace, charged with an indictable offence committed in Canada.

14. The judge shall receive upon oath, or affirmation, if affirmation is allowed by law, the evidence of any witness tendered to show the truth of the charge. . .

15. The judge shall receive, in like manner, any evidence tendered to show that the crime of which the fugitive is accused. . . is an offence of a political character, or is, for any other reason, not an extradition crime, or that the proceedings are being taken with a view to prosecute or punish him for an offence of a political character.

18. (1) The judge shall issue his warrant for committal of the fugitive to the nearest convenient prison, there to remain until surrendered to the foreign state, or discharged according to law,

(a) . . .

(b) in the case of a fugitive accused of an extradition crime, if such evidence is produced as would, according to the law of Canada, subject to this Part, justify his committal for trial, if the crime had been committed in Canada.

(2) If such evidence is not produced, the judge shall order him to be discharged."

Counsel for Peltier submit the evidence adduced by the U.S.A. is insufficient for committal under section 18 (1) (b) of the Act on any of the five alleged crimes and, accordingly, Peltier must be discharged, under section 18 (2) of the Act.

While witnesses were called by the U.S.A., who testified in the witness box, direct evidence as to the commission of each of the alleged two murders and two attempted murders is contained



in depositions (affidavits) admitted under sections 16 and 17 of the Act.

By reason of the submission that the evidence on each charge is insufficient for committal, I reproduce relevant parts of these depositions or affidavits.

I shall, hereafter, in these Reasons for Judgment refer to each of the five charges of crime against Peltier by the name of the particular crime. However, I wish to emphasize that when I specify the crime, this means the alleged crime.

Evidence :-

A. Attempted Murder - Wisconsin:

Ex. 17 includes the charge of attempted murder against Peltier in the Circuit Court, Criminal Division, The State of Wisconsin, Milwaukee County, which reads:

" . . . , that on the twenty-second day of November in the year nineteen hundred and seventy-two at the said County of Milwaukee, Wisconsin, the said defendant, Leonard Peltier, did feloniously attempt to cause the death of Ronald Hlavinka, another human being, with intent to kill the said Ronald Hlavinka, said offence occurring at 608 South 5th street, City and County of Milwaukee, State of Wisconsin,

Ronald Hlavinka and James Eccel, are Patrolmen of the City of Milwaukee, State of Wisconsin, Police Department. The deposition of Hlavinka, sworn May 7, 1976, is Ex. 26B. The deposition of Eccel, sworn May 7, 1976, is Ex. 26C. Each deposes that, following completion of police patrol duties, each was on November 22, 1972, at approximately 2:30 a.m., in the Texas Restaurant, City of Milwaukee.



Cl-C5 Four (4) 32 AP cartridge and one Peters  
32 S&W caliber cartridge reportedly  
recovered from magazine, item C.

D1-D2 Two (2) W-W 32 AP cartridge reportedly  
received from subject's pocket."

Paragraph 3 (b) and (d) of Ex. 27 reads:

"3. (b) That after examination of the said items individually and as a result of his experience he concludes and deposes that the said item marked "A" is an Italian Beretta pistol Model 70 - serial number A45481 and in conjunction with item "C", with magazine spring is mechanically functional except that with regard to item "A" the firing pin was fractured and the tip portion of the pin was missing. It is his opinion that in this condition the said pistol was incapable of being fired.

(d) That four of the items 'C-1 through C-5' and items 'D-1 and D-2' are Winchester-Western .32 caliber automatic cartridges and together with item 'B' are capable of being fired by the said pistol marked item 'A' and none of the said cartridges indicated the presence of misfires."

B. and C. Respective Murders. - South Dakota:

Ex. 18A is "Superseding Indictment", In The United States District Court For The District of South Dakota Western Division, whereby The Grand Jury charges Leonard Peltier and three others in Count I and II, which read:

"The Grand Jury charges:

COUNT 1

On or about the 26th day of June, 1975, near Oglala, in the District of South Dakota, LEONARD PELTIER, a/k/a/ Leonard Little Shell, Leonard Williams, John Yellow Robe, Erwin Yellow Robe, Leonard John Peltier; ROBERT EUGENE ROBIDEAU, a/k/a/ Robert E. Powers, Gino Robideau, One Star, Robert LaMonte; DARRELLE DEAN BUTLER, a/k/a/ Darelle Dean Bulter, Darelle D. Butler, Darrelle Butler, Darelle Butler, Darelle Dean Martin, Deano Butler, Dino Butler, Dino Two Arrows, Robert Edward Noble; and JAMES THEODORE EAGLE, a/k/a/ Jimmy Eagle, with premeditation and malice aforethought, and by means and use of a firearm, did unlawfully kill and murder Ronald A. Williams, a Special Agent of the Federal Bureau of Investigation, while the said Ronald A. Williams was engaged in the performance of his official duties, in violation of Title 18, United States Code, Sections 1111, 1114, and 2.

COUNT 2

On or about the 26th day of June, 1975, near Oglala, in the District of South Dakota, LEONARD PELTIER, a/k/a/

Leonard Little Shell, Leonard Williams, John Yellow Robe, Erwin Yellow Robe, Leonard John Peltier; ROBERT EUGENE ROBIDEAU, a/k/a/ Robert E. Powers, Gino Robideau, One Star, Robert LaMonte; DARRELLE DEAN BUTLER, a/k/a/ Darelle Dean Butler, Darelle D. Butler, Darrelle Butler Darelle Butler, Darelle Dean Martin, Deano Butler, Dino Butler, Dino Two Arrows, Robert Edward Noble; and JAMES THEODORE EAGLE, a/k/a Jimmy Eagle, with premeditation and malice aforethought, and by means and use of a firearm, did unlawfully kill and murder Jack R. Coler, a Special Agent of the Federal Bureau of Investigation, while the said Jack R. Coler was engaged in the performance of his official duties, in violation of Title 18, United States Code, Sections 1111, 1114 and 2.

A True Bill

'CAROL L. UTHE'

Foreman

WILLIAM F. CLAYTON  
United States Attorney

By 'ROBERT L. SIKMA'  
Robert L. Sikma  
Special Assistant United  
States Attorney

Direct evidence relating to each alleged crime is contained in Ex. 18N, the deposition of Myrtle Poor Bear, sworn February 23, 1976, and Ex. 18 "O", sworn March 31, 1976, her further deposition.

Paragraphs 1 and 2 of Ex. 18N read:

" 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 Peltier 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 Peltier went to the Jumping Bull Hall area near Oglala, South Dakota, United 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 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 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 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 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, which I did. I was present the day the Special Agents of the Federal Bureau of Investigation were killed. I saw Leonard Peltier shoot the F.B.I. agents. 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."

Paragraphs 2, 3 and 4 of Ex. 18 "O" read:

" 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 holding 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."

There is, in addition, circumstantial evidence, comprising other affidavits of Ex. 18, relating to each of the two alleged murders, which it is unnecessary to relate.

Ex. 18P is the affidavit of Dr. Robert D. Bloemendaal, sworn February 27, 1976, who deposes that, on June 27, 1975, he performed an autopsy on the bodies of Williams and Coler, respectively. Dr. Bloemendaal states Coler received three gunshot wounds, one in the right arm and two in the head. Dr. Bloemendaal deposes that one of the latter "would have been instantly fatal".

Dr. Bloemendaal deposes that Williams, also, received three gunshot wounds. The last sentence of paragraph 5 reads:

"My gross provisional diagnosis was death due to gunshot wounds involving the face, head, left arm, left chest and flank, right hand and left foot."

Paragraph 6 of Ex. 18 P reads:

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

#### D. Attempted Murder - Oregon:

The "Information of Felony", sworn December 2, 1975, which is a document of Ex. 25, classifies the crimes alleged to have been committed by Peltier in that State. These include "Attempted Murder". Count I of this "Information of Felony" reads

"The said LEONARD PELTIER on or about the 14th day of November, 1975, in the County of Malheur and State of Oregon; did unlawfully and intentionally attempt to cause the death of another human being, to-wit, Kenneth Griffiths, by shooting at the said Kenneth Griffiths with a firearm, . . ."

Direct evidence relating to the alleged attempted murder is contained in Ex. 25A, the affidavit of Kenneth T. Griffiths, who deposes he is a State Trooper of the Oregon State

IV. Conclusion:-

Salient portions of the evidence have been stated or reproduced, earlier, in these Reasons for Judgment.

Questions of law, arising from the submissions of respective Counsel, have been canvassed, previously, in these Reasons for Judgment.

The whole of the evidence and the submissions of respective Counsel have been considered.

For reasons hereinbefore expressed, I conclude, as follows:-

1. With respect to D. Attempted Murder - Oregon, the evidence produced, in this hearing, would not, according to the law of Canada, justify the committal of Peltier for trial, if this crime had been committed in Canada. Accordingly, I discharge Peltier on this charge, pursuant to section 18 (2) of the Act.

2. With respect to each of the other four (4) charges, namely,

- A. Attempted Murder - Wisconsin,
- B. Murder (of Williams) - South Dakota,
- C. Murder (of Coler) - South Dakota, and
- E. Burglary - Oregon, respectively,

the evidence produced in this hearing would, according to the law of Canada, justify the committal of Peltier for trial, if the crime had been committed in Canada. Accordingly, with respect to each of these four extradition crimes, with which Peltier is charged, I commit Leonard Peltier, pursuant to section 18 (1) of the Act, to the nearest convenient prison; namely, Lower Mainland Regional Correctional Centre, there to remain until surrendered to the U.S.A.

87. 1464

Counsel for the U.S.A. is to prepare a Warrant of Committal, in proper form, and submit it to me for signature.

Section 19 (a) of the Act prescribes:-

- "19. Where the Judge commits a fugitive to prison, he shall, on such committal,
- (a) inform him that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of habeas corpus, ..."

Accordingly, I inform Peltier "that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for habeas corpus, . . .".

This hearing, under section 13 of the Act, is concluded.

THE HONOURABLE MR. JUSTICE  
WILLIAM A SCHULTZ

City of Vancouver,  
Province of British Columbia,  
Dominion of Canada,  
June 18, 1976.

A JUSTICE OF THE  
SUPREME COURT OF BRITISH COLUMBIA,  
acting as a Judge under  
the "Extradition Act".





## News Release Communiqué

STATEMENT BY THE HONOURABLE RON BASFORD

December 17, 1976

Ottawa--Ron Basford, Minister of Justice and Attorney General for Canada today issued the following statement in connection with the extradition of Leonard Peltier:

Leonard Peltier was charged in the United States with:

- 1) November 22, 1972, Milwaukee, Wisconsin: attempted murder
- 2) June 26, 1975, near Oglala, South Dakota; murder of Ronald A. Williams, Special Agent, F.B.I.
- 3) June 26, 1975, near Oglala, South Dakota: murder of Jack R. Coler, Special Agent, F.B.I.
- 4) November 14, 1975, near Ontario, Oregon: attempted murder; and
- 5) November 15, 1975, near Nyssa, Oregon: burglary

A provisional arrest was made in Hinton, Alberta, on February 12, 1976; this was followed by a diplomatic note from the Embassy of the United States to the Department of External Affairs on February 18, 1976 requesting formally the provisional arrest and extradition of Mr. Peltier. Extradition was requested by the Government of the United States, joined by the states of Wisconsin and Oregon. Following his arrest, Mr. Peltier was transferred to Vancouver to await his extradition hearing.

Extradition matters involving Canada and the United States are governed by the Canada-U.S. Extradition Treaty, by the Extradition Act and by the case law on the subject. Under the Extradition Act the role of the courts and the role of the Minister are quite different. Each has distinct and separate duties.

The court's function is generally:

- to determine whether the offences charged

are extraditable offences within the treaty;

- to determine, on the basis of the evidence adduced, whether there is sufficient evidence that if the offence had been committed in Canada the judge would order the accused person to stand trial in Canada;
- to receive evidence on the question whether the offence involved is an offence of a political character or that the proceedings are being taken with a view to prosecute or punish the fugitive for an offence of a political character. (Note that the judge's duty is only to receive this evidence; it is not his duty to adjudicate upon the question.)

A hearing was held in Vancouver before Mr. Justice Schultz of the Supreme Court of British Columbia, from May 3-28, 1976 and a decision was rendered on June 18, 1976. Mr. Peltier was found extraditable on four of the five alleged crimes. With respect to the Oregon attempted murder, the court held that the evidence produced at the hearing would not, according to the law of Canada, justify committal for trial if the crime had been committed in Canada.

The decision of the judge who has conducted the extradition hearing may be reviewed by the Federal Court. An application to set aside the decision of Mr. Justice Schultz was made to the Federal Court of Appeal pursuant to section 28 of the Federal Court Act. A hearing was held on October 25, 26, and 27. At the conclusion of the hearing on October 27 the application was denied.

Having decided that Mr. Peltier is extraditable on four of the five offences upon which his extradition has been sought, the courts have thus exercised their responsibility under the Extradition Act.

The separate and distinct role of the Minister of Justice is clearly set out in section 22 of the Extradition Act which states that:



Where the Minister of Justice at any time determines

(a) that the offence in respect of which proceedings are being taken under this Part is one of a political character,

(b) that the proceedings are, in fact, being taken with a view to try or punish the fugitive for an offence of a political character, or

(c) that the foreign state does not intend to make a requisition for surrender,

he may refuse to make an order for surrender...."

Subsequent to the decision of the Federal Court of Appeal, counsel for Leonard Peltier indicated that they were instructed by their client not to appeal to the Supreme Court of Canada. I then agreed to receive a written submission from counsel for Mr. Peltier and to receive oral submissions from two of his lawyers, and four native people from the West Coast. These submissions were directed to the issue of the political character of the offences in question.

One of the matters referred to in the submissions was the alleged inconsistency in the affidavits of Myrtle Poor Bear. This is a legal matter for the courts which have dealt with it in Canada and will undoubtedly do so in the U.S.

Submissions were also made concerning the conduct of the F.B.I. and the United States Bureau of Indian Affairs. It was suggested that Indians in general and members of the American Indian Movement in particular are subject to persecution by the Government of the United States, and that Mr. Peltier might very well be killed upon his return to the United States. Without commenting upon the soundness of these views, I want to emphasize that it will be the courts, and not the F.B.I. or the B.I.A., who will be trying Mr. Peltier. Moreover, the evidence does not show that Mr. Peltier will be denied his constitutional rights as an American citizen or that "due process" does not prevail in the courts in which he will be charged. It should be noted that two other Indians, Darelle Dean Butler and Robert Eugene Robideau



associated with Mr. Peltier in the alleged murder of the two agents in South Dakota, and that both of these co-defendants have been tried and acquitted on these charges in the United States. Butler and Mr. Robideau are presently in custody serving sentences for other offences. There is no evidence that either individual is in any physical danger. This appears to apply as well to several other leaders of the American Indian Movement. Dennis Banks is presently living in California. He is not in custody. Federal charges against him relating to the illegal possession of weapons were dismissed in Oregon; the United States government is now appealing.

Carter Camp is one of three A.I.M. Leaders who were convicted in South Dakota on December 10, 1975 of assaulting a federal officer following the Wounded Knee incident. He received a three year sentence. On September 2, 1976, the judgment was reversed due to a technical defect in the warrant for arrest. Camp is not presently in custody.

It is my conclusion after considering all the evidence that is before me that it has not been demonstrated that the two murders, the attempted murder and the burglary with which Mr. Peltier has been charged were offences of a political character. Nor has it been established that the proceedings in question are being taken with a view to try or punish Mr. Peltier for an offence of a political character.

Consequently, I have signed an order which calls for Mr. Peltier to be delivered into the custody of the U.S. officials.

In addition, in response to a request from me, the Assistant Attorney General for the Criminal Division of the United States Department of Justice, has advised that if Mr. Peltier is convicted of murder under the indictment in relation to which he is surrendered, he cannot be sentenced to death.

I should also add that under our Extradition Treaty with the U.S.A., Mr. Peltier cannot be tried for any past offences, other than those upon which he has been ordered extradited.

For further information please call

Ian Lutfy (613) 992-4621

## IN THE FEDERAL COURT OF APPEAL

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

-and-

IN THE MATTER OF A REQUEST FOR THE EXTRADITION 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

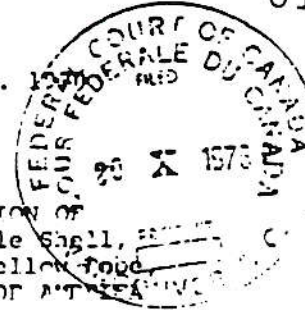
RESPONDENT

A F F I D A V I T

I, LEONARD PELTIER, Inmate, Lower Mainland  
Regional Correctional Centre, 5700 Royal Oak Road,  
in the District of Burnaby in the Province of BRITISH  
COLUMBIA MAKE OATH AND SAY AS FOLLOWS:

1. THAT I am the Applicant in the above appeal to  
the Federal Court of Appeal and as such have personal  
knowledge of the matters hereinafter deposed to except  
where stated to be on information and belief in which  
case I verily believe them to be true.
2. THAT as appears by the original Information herein  
dated the 12th day of February, A.D. 1976 and now produced  
and shown to me and marked Exhibit "A" to this my Affidavit,  
my extradition was being sought upon five alleged offences  
alleged to have been committed in the United States of  
America namely:

- A. November 22nd, 1972, Milwaukee, Wisconsin, Attempted  
Murder;
- B. June 26th, 1973, South Dakota, Murder of Donald A.  
Williams a Special Agent of the Federal Bureau of  
Investigation;
- C. June 26th, 1973 near Oglala, South Dakota, Murder of  
Jack D. Coler a Special Agent of the Federal Bureau of



*h.p. sec*

Investigation:

D. November 14th, 1975 near Ontario, Oregon, Attempted Murder;

E. November 15th, 1975 near Nussli, Oregon, Burglary.

3. THAT the Extradition Hearing commenced on May 3rd, 1976, and concluded on May 22nd, 1976. The decision was delivered by Mr. Justice Schultz on the 12th day of June, A.D. 1976 when he ordered the committal for the purposes of extradition of Leonard Peltier on four charges namely:

- A. Attempted Murder - Wisconsin;
- B. Murder of Williams - South Dakota;
- C. Murder of Coler - South Dakota;
- D. Burglary - Oregon

respectively.

4. THAT at the Extradition Hearing, the Respondent, The United States of America, led the evidence of one Myrtle Poor Bear, in the form of two affidavits, to support their allegation of my involvement in the alleged offences committed on June 26th, A.D. 1975 at Oglala, South Dakota. The first affidavit of Myrtle Poor Bear, sworn the 23rd day of February, A.D. 1975 deposed to the fact that she had observed me shoot one of the F.B.I. agents. In her second affidavit sworn the 31st day of March, A.D. 1975 she deposed to having observed me shoot at close range both of the F.B.I. agents. It was on the strength of these two affidavits that Mr. Justice Schultz ordered me to be committed for extradition on the two charges of the murder of Coler and Williams in Oglala, South Dakota.

5. THAT the affidavit of Myrtle Poor Bear, sworn the 19th day of February, A.D. 1976 and forming part of the court record in the trial of United States of America vs. Robert Eugene Fobideau and Darrelle Dean Butler, Cause No. 8276-11, a copy of which affidavit is now produced and shown to me and marked Exhibit "F" to this my Affidavit, if leave be granted, will display a sworn statement that the said Myrtle Poor Bear left the area of Jumping Bull prior to June 30th, 1975, was not present on June 26th, 1975 and by implication was not present

8.8  
Sd

f.3



during any of the alleged incidents which she alleges to in her first two affidavits.

6. THAT the portion of the transcript of the testimony of Government witness Wilfred Draper in the case of United States of America vs. Robert Eugene Robideau and Darrelle Dean Butler, Cause No. CR76-11, if leave be granted, will show upon sworn testimony that the said Myrtle Poor Bear was not living in the encampment area referred to in her affidavit on the 25th and 26th of June, 1975, that she was no-where near the encampment area, that the said Wilfred Draper who was in the area did not know the woman and had not seen her before, that the said Draper had been shown a photograph by the F.B.I. of the said woman and that he was told that it was Myrtle Poor Bear and that he told the Government attorneys and the F.B.I. that he had never seen the woman Myrtle Poor Bear before. The portion of the transcript of the testimony of Government witness Wilfred Draper is now shown to me and marked Exhibit "C" to this my affidavit.

7. THAT I am advised by Stuart Push, one of my co-Counsel in this case, that the affidavit of Myrtle Poor Bear dated the 19th day of February, A.D. 1976 only became available to the Attorneys for the defendants Robert Eugene Robideau and Darrelle Dean Butler in the discovery process just before the commencement of the trial of the United States of America vs. Robert Eugene Robideau and Darrelle Dean Butler on June 7th, 1976.

8. THAT I am informed from Stuart Push, one of my two co-Counsel in this case, and do verily believe, that the evidence of Government witness Wilfred Draper only came to the attention of the attorneys for Robert Eugene Robideau and Darrelle Dean Butler on June 6th, A.D. 1976 just prior to the commencement of the trial of the United States of America vs. Darrelle Dean Butler and Robert Eugene Robideau. That the testimony of Wilfred Draper was given under oath in the abovementioned trial

in the United States District Court for the District of Iowa in the City of Cedar Rapids, Iowa, during the currency of the trial.

6. THAT the trial of the United States of America vs. Robert Eugene Pobideau and Darrelle Dean Butler, Cause No. CR76-11 in Cedar Rapids, Iowa in the United States District Court for North District of Iowa commenced on June 7th, 1976 and concluded with a verdict of not guilty by the jury delivered Friday, July 16th, 1976.

7. THAT the evidence contained in the affidavit of Myrtle Poor Bear sworn February 19th, 1976 and in the portion of the transcript of the evidence of Wilfred Draper was not available nor known to myself, to my Counsel, nor, as I am informed by my Counsel, to the Attorneys for the defendants in the case of the United States of America vs. Robert Eugene Pobideau and Darrelle Dean Butler.

8. THAT I am advised and do verily believe from Stuart Rush, one of my two co-counsel, that if the evidence referred to above had been adduced at the Extradition Hearing, it might reasonably have induced the Court to change its view with respect to the issuance of a committal order on the two charges against me in the State of South Dakota in that it would have confirmed the absence of the witness Myrtle Poor Bear on the date of June 26th, 1975 in the area of Jumping Bull Hall, and would have shown her evidence to be fabricated and would have completely discredited the other testimony which she gave in the affidavit, and it would have shown the Government misconduct on the part of the attorneys in the United States of America by wilfully withholding and suppressing this information to my detriment.

9. THAT I verily believe that in the interests of justice that the Federal Court of Appeal should hear the affidavit evidence of Myrtle Poor Bear under oath and the transcript evidence of Wilfred Draper as that evidence was not available at the time of the Extradition Hearing and will enable the Court of Appeal to have a fuller appreciation of the circumstances that was available at the

-3-  
time of the Extradition Hearing.

10. THAT I make this affidavit in support of an  
application for leave to introduce fresh evidence in the  
Federal Court of Appeal at the hearing of the appeal.

023

SWORN BEFORE ME at the District )  
of Purnaby in the Province of )  
British Columbia this 18<sup>th</sup> )  
day of October, A.D. 1976 )

Leonard Peltier  
LEONARD PELTIER

J. Catherine Danells

A Commissioner for taking  
Affidavits in the Province of  
British Columbia

This is Exhibit I referred to in the  
affidavit of Frank Addario  
sworn before me, this 17<sup>th</sup>  
day of April 1989  
Marcus Gordon Pratt

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



FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

JUL 22 1976

TELETYPE

NR005 RC PLAIN

7:28PM URGENT JULY 20, 1976 DCW

TO: DIRECTOR, FBI

CHICAGO

FROM: ASAC, RAPID CITY (70-L0239) (P)

ATTENTION: GENERAL INVESTIGATIVE DIVISION; GENERAL CRIMES  
UNIT.

RESMURS RE ANALYSIS OF ROBIDEAU AND BUTLER TRIAL.

RE BUREAU TELEPHONE CALL JULY 19, 1976 REQUESTING  
INFORMATION AS TO POSSIBLE REASONS WHY JURY FOUND DEFENDANTS  
ROBIDEAU AND BUTLER NOT GUILTY ON JULY 16, 1976.

IT IS FELT THAT SUFFICIENT TESTIMONY FOR CONVICTION  
OF DEFENDANTS WAS PRESENTED TO THE JURY. FOR EXAMPLE,  
AN EYE WITNESS, I/M NORMAN BROWN TESTIFIED THAT HE OB-  
SERVED BOTH DEFENDANTS FIRING SHOULDER WEAPONS AT SA'S  
WILLIAMS AND COLER. ANOTHER EYE WITNESS, I/M, WILFRED  
DRAPER, OBSERVED ROBIDEAU LEAVE CRIME SCENE CARRYING  
SHOTGUN WITH "FBI DENVER" ON STOCK AND ALSO PLACED WEAPONS  
IN THE HANDS OF THE DEFENDANTS WHICH WERE LINKED TO THE  
CRIME SCENE THROUGH SHELL CASINGS LOCATED AT THE CRIME  
SCENE. IN ADDITION, DRAPER TESTIFIED TO A CONVERSATION  
HE OVERHEARD BETWEEN PELTIER, ROBIDEAU AND BUTLER WHEREBY  
PELTIER STATED HE MOVED THE AGENTS AROUND THE CAR SO THAT

6555  
Asst. Dir. \_\_\_\_\_  
Dep. A.D. Adm. \_\_\_\_\_  
Dep. A.D. Inv. \_\_\_\_\_  
Asst. Dir.: \_\_\_\_\_  
Adm. Serv. \_\_\_\_\_  
Ext. Affairs \_\_\_\_\_  
Fin. & Pers. \_\_\_\_\_  
Gen. Inv. \_\_\_\_\_  
Ident. \_\_\_\_\_  
Inspection \_\_\_\_\_  
Intell. \_\_\_\_\_  
Laboratory \_\_\_\_\_  
Legal Coun. \_\_\_\_\_  
Plan. & Eval. \_\_\_\_\_  
Rec. Mgmt. \_\_\_\_\_  
Spec. Inv. \_\_\_\_\_  
Training \_\_\_\_\_  
Telephone Rm. \_\_\_\_\_  
Director's Sec'y \_\_\_\_\_

✓ GSI [Signature]

71B

89-3229-2800

22 JUL 27 1976

Manis Cook & Co. Hagler  
55 AUG 21 1976  
KX

[Signature]  
6119  
[Signature]

PAGE TWO

70-L0239

ROBIDEAU AND BUTLER COULD FINISH THEM OFF.

A CELLMATE OF BUTLER'S TESTIFIED REGARDING DETAILED ADMISSIONS BY BUTLER RE KILLINGS OF AGENTS.

PHYSICAL EVIDENCE WAS PRESENTED LINKING DEFENDANTS TO CRIME SCENE INCLUDING ROBIDEAU'S FINGERPRINT FOUND INSIDE THE DOOR HANDLE OF WILLIAMS' CAR. ADDITIONAL TESTIMONY REVEALED THAT COLER'S .308 CARBINE WAS FOUND IN ROBIDEAU'S CAR AT WICHITA, KANSAS, WITH ONE OTHER WEAPON LINKED TO THE CRIME SCENE.

THE ABOVE ARE ONLY SOME EXAMPLES OF KEY EVIDENCE PRESENTED BY THE GOVERNMENT DURING THE TRIAL.

ACCORDING TO NEWS ACCOUNTS SETTING FORTH RESULTS OF INTERVIEW OF CERTAIN JURORS, THE JURY APPARENTLY WANTED THE GOVERNMENT TO SHOW THAT ROBIDEAU AND BUTLER ACTUALLY PULLED THE TRIGGER AT CLOSE RANGE. EVIDENTLY, DRAPER'S STATEMENT SET OUT ABOVE DID NOT ACCOMPLISH THIS.

SET FORTH BELOW ARE SOME OF THE REASONS POSSIBLY LEADING TO ACQUITTAL.

L. DURING COURSE OF TRIAL, THE COURT, APPLYING "COLLATERAL ESTOPPEL", PROHIBITED GOVERNMENT FROM

31191

PAGE THREE

70-L0239

ENTERING INTO EVIDENCE CERTAIN KEY EXHIBITS; SIX CASINGS FIRED FROM SA COLER'S REVOLVER, SIX CASINGS FIRED FROM SA WILLIAMS' REVOLVER. THESE ITEMS LOCATED IN ONE-ROOM CABIN WHERE DEFENDANT BUTLER WAS ARRESTED SEPTEMBER 5, 1975. IN ADDITION, AN M-L RIFLE LINKED TO CRIME SCENE BY SHELL CASINGS, LOCATED IN SAME CABIN WHERE BUTLER WAS ARRESTED WAS NOT ALLOWED TO BE CONNECTED WITH DEFENDANT BUTLER UNDER THIS RULING. THE JUDGE'S RULING IN THIS MATTER IS INCONSISTANT WITH PREVIOUS JUDICIAL RULINGS.

2. OVER STRONG OBJECTIONS BY GOVERNMENT, THE DEFENSE WAS ALLOWED FREEDOM OF QUESTIONING OF WITNESSES RAISING INNUENDO WITH IRRELEVANT, IMMATERIAL AND HERESAY TESTIMONY.

3. THE COURT ALLOWED TESTIMONY CONCERNING PAST ACTIVITIES OF THE FBI RELATING TO THE COINTEL PRO AND SUBSEQUENTLY ALLOWED THE CHURCH REPORT INTO EVIDENCE.

4. THE COURT RULINGS RELATING TO BRADY AND JENCKS MATERIAL FORCED THE GOVERNMENT TO FURNISH THE DEFENSE WITH ALL FD-302'S PREPARED BY SPECIAL AGENTS WHO TESTIFIED FOR THE GOVERNMENT. THIS AGAIN

3/19



PAGE FOUR

70-L0239

IS INCONSISTENT WITH PREVIOUS INTERPRETATIONS OF THE JENCKS  
RULE.

5. THE JUDGE RECESSED TRIAL FOR TEN DAYS FOLLOWING  
PRESENTATION OF GOVERNMENT'S CASE TO ATTEND A JUDICIAL  
CONFERENCE. THIS ALLOWED THE DEFENSE ADDITIONAL TIME TO  
REBUT GOVERNMENT'S CASE AND CAUSED A GREATER TIME SPAN  
FROM THE GOVERNMENT'S PRESENTATION TO TIME OF DELIBERATION  
BY THE JURY.

6. THE COURT CONTINUALLY OVERRULED GOVERNMENT  
OBJECTIONS AND ALLOWED IRRELEVANT EVIDENCE; FOR EXAMPLE,  
INTRODUCTION OF SEVEN BUREAU DOCUMENTS (SIX TELETYPES AND  
ONE TERRORIST DIGEST) WHICH WERE DISSEMINATED AT HEADQUARTERS  
LEVEL TO OTHER LAW ENFORCEMENT AGENCIES. AS A RESULT,  
THE DEFENSE INFERRED THE FBI CREATED A CLIMATE OF FEAR ON  
THE RESERVATION WHICH PRECIPITATED THE MURDERS. THE  
DEFENSE, THROUGH THE INTRODUCTION OF THESE DOCUMENTS,  
ATTEMPTED TO REDUCE THE CREDIBILITY OF SPECIAL AGENT  
TESTIMONY.

7. THE DEFENSE WAS UNCONTROLLED IN ITS DEALINGS WITH  
THE NEWS MEDIA DUE TO LACK OF "GAG" RULE, HOWEVER, THE

3119 ✓

PAGE FIVE

72-L0239

PROSECUTION WAS UNABLE TO COMMENT TO THE NEWS MEDIA.

8. THE JURY WAS NOT SEQUESTERED, THEREFORE, IT HAD AVAILABLE NUMEROUS HEADLINES ADVERSE TO THE GOVERNMENT AND THE RESULTS OF DAILY CONFERENCES WITH NEWS MEDIA BY DEFENSE COUNSEL. DURING TRIAL NUMEROUS PRESS REPORTS DETRIMENTAL TO THE FBI IN UNRELATED MATTERS APPEARED IN LOCAL NEWSPAPER.

9. IT APPEARED THAT THE JURY HAD A DIFFICULT TIME PUTTING THE CASE TOGETHER BECAUSE OF THE NUMEROUS SIDEBARS WHICH DETRACTED FROM THE PRESENTATION AND FLOW OF THE CASE TO THE JURY, NOTING THAT THIS CASE IS MOST COMPLICATED.

ON JULY 17, 1976, THE CEDAR RAPIDS "GAZETTE" CARRIED A NEWS ARTICLE RECORDING THE RESULTS OF AN INTERVIEW WITH JURY FOREMAN. THE FOREMAN IN THIS ARTICLE STATED IT WAS THE CONSENSUS OF THE 12 INDIVIDUALS THAT "THE GOVERNMENT JUST DID NOT PRODUCE SUFFICIENT EVIDENCE OF GUILT". HE STATED THAT IN THE END ANALYSIS THOSE JURORS WHO ARGUED FOR CONVICTION ADMITTED THAT REASONABLE DOUBT DID EXIST.

3/19 ✓

PAGE SIX

70-L0239

THE JURY FOREMAN STATED ALL AGREED THAT EXCESSIVE FORCE WAS USED ON JUNE 26, 1975, BUT THAT THE GOVERNMENT DID NOT SHOW THAT EITHER OF THE DEFENDANTS DID IT. THE ARTICLE FURTHER RELATED "AND WHILE IT WAS SHOWN THAT THE DEFENDANTS WERE FIRING GUNS IN THE DIRECTION OF THE AGENTS, IT WAS HELD BY THE JURORS THAT THIS WAS NOT EXCESSIVE IN THE HEAT OF PASSION. HE SAID AN IMPORTANT FACET WAS THE DEFENSE'S CONTENTION THAT AN ATMOSPHERE OF FEAR AND VIOLENCE EXISTED ON THE RESERVATION AND THAT THE DEFENDANTS ARGUABLY COULD HAVE BEEN SHOOTING IN SELF-DEFENSE. THE AIDING AND ABETTING THEORY WAS, IN THE END, DISMISSED BECAUSE THE JURORS WERE NOT CONVINCED THE DEFENDANTS KNEW THE AGENTS WERE TO BE KILLED AND THEREFORE, ACCORDING TO THE LAW, COULD NOT BE HELD RESPONSIBLE".

THIS NEWS ARTICLE, ALONG WITH OTHERS APPEARING IN THE "GAZETTE" BEING FORWARDED TO THE BUREAU FOR ITS REVIEW.

IT IS NOTED THE DEFENSE UTILIZED DURING THIS TRIAL THE SERVICES OF NINE ATTORNEYS, MANY OF WHICH WERE VASTLY EXPERIENCED IN CRIMINAL DEFENSE.

CHICAGO BEING FURNISHED COPY FOR SAC INFORMATION.

END

RJP FBIHQ ACK THREE

3/19 ✓



# A COMPARISON OF THE TWO TRIALS

<i>Butler-Robideau Trial Cedar Rapids, Iowa</i>	<i>FBI analysis of Cedar Rapids Trial: Reasons for Not Guilty verdict*</i>	<i>Peltier Trial Fargo, ND</i>
—Only a few autopsy photos of dead agents were allowed for fear of prejudicing the jury.		—All autopsy photos were entered into evidence, plus FBI Academy graduation photos of the two agents.
—FBI Special Agent Gary Adams testified to the presence and departure of a red pickup truck at 12:18 p.m., moments after the agents were shot.		—FBI Special Agent Gary Adams denied existence of 12:18 pm red pickup truck.
—Extensive FBI 302's entered into evidence.	—"The Court rulings. . . forced the government to furnish the defense with all 302's prepared by Special Agents who testified for the government."	—No 302's entered as evidence if agent who wrote it testified.
—Witnesses told of FBI coercion in obtaining their testimony.	—"The defense was allowed freedom of questioning of witnesses. . ."	—FBI coercion of important defense witnesses not allowed to be presented to jury.
—Defense allowed to present testimony concerning the number of unsolved murders that occurred on Pine Ridge Reservation as well as climate of fear on the reservation.	—"The Court continually overruled government objections . . ." and "As a result, the defense inferred the FBI created a climate of fear on the reservation which precipitated the murders".	—Defense allowed to talk of unsolved murders occurring on Pine Ridge only in a general sense, and were not allowed to exhibit evidence of FBI creation of climate of fear.
—History of FBI misconduct allowed as testimony.	—"The Court allowed testimony concerning past activities of the FBI relating to COINTEL PRO and subsequently allowed the Church Report into evidence"	—No evidence regarding past history of FBI allowed to be introduced.
—Defense lawyers and members of Butler-Robideau Support Group held frequent meetings and rallies in an effort to educate the public about June 26th and events leading up to it. National press blackout existed, but local press carried daily related articles.	—"The defense was uncontrolled in its dealings with the news media. . ."	—Judge ordered the only news carried about Peltier could come from the courtroom. Defense lawyers and potential witnesses were not allowed to speak publicly about the trial.
—The jury was not sequestered.	—"The jury was not sequestered."	—Jury sequestered under complete control of U.S. Marshall Service

\*Three additional reasons the FBI gave for the not guilty verdict at the Cedar Rapids trial were: 1) the government was prohibited from entering into evidence certain collateral exhibits; 2) there was a lengthy recess after completion of the government case; 3) the jury had a difficult time putting things together because it was a complicated case.

Source: The Trial of Leonard Peltier, Jim Messerschmidt, South End Press Boston, 1983.