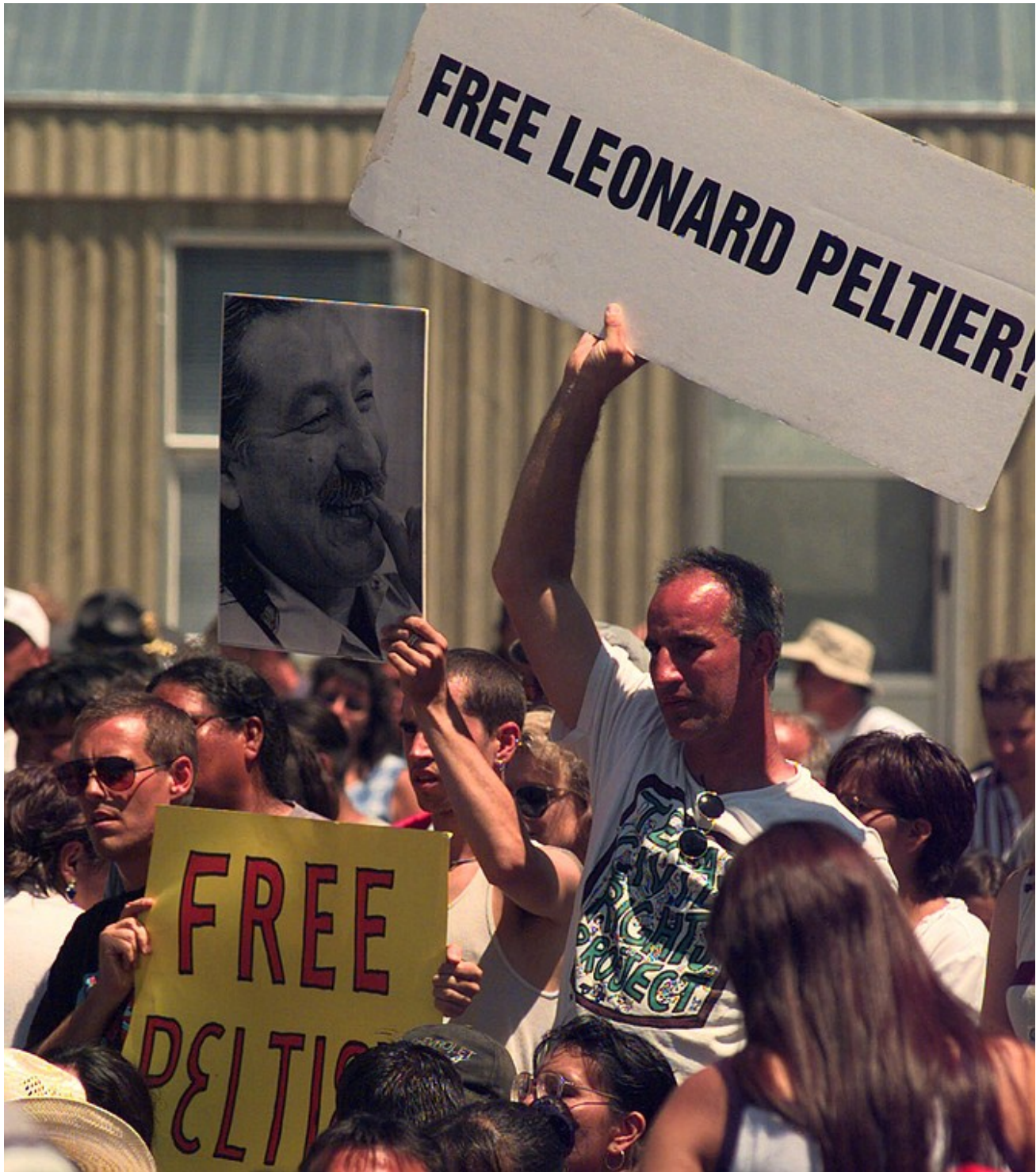




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Leonard Peltier's 46 years in prison: 'What else do you want?'

written by Mark Trahant
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A group of spectators raise signs and a photo in support of Leonard Peltier during former President Clinton's speech July 7, 1999, at Pine Ridge High

School on the Pine Ridge Indian reservation.

Leonard Peltier's name has become a story that reflects other stories. One narrative describes Peltier as America's longest political prisoner, serving more than 46 years in a federal maximum security prison. In that telling, Peltier has become a humanitarian and a 78-year-old Turtle Mountain elder who has been incarcerated for far too long.

There is a long list of people, tribes and organizations that have called for Peltier's freedom. The former prosecutor in the case. Members of Congress. Amnesty International USA. Pope John Francis. The Dalai Lama. The National Congress of American Indians. Dozens of tribal nations, including Peltier's own tribe, the Turtle Mountain Band of Chippewa Indians. And, as of this month, the Democratic National Committee.

That's one version. A contrary account casts Peltier as the lead character for the crimes committed by the American Indian Movement during the Wounded Knee era, including internal community violence, and he is described as a remorseless murderer.

That last story is still promoted by the Federal Bureau of Investigation on its website. But Peltier is not in prison for murder. The government could not justify a murder case, so it switched gears and today Leonard Peltier is Inmate #89637-132 serving at the United States Penitentiary, Coleman, in central Florida, on charges of "aiding and abetting" the murder of federal officers, plus a seven-year sentence for an escape attempt.

Indeed Peltier has already served a longer sentence than most principals in murder convictions. There is no way to look at the evidence and come away with any conclusion other than Peltier is being punished for crimes that could not be proven beyond a reasonable doubt in a court of law.

Kevin Sharp is a Nashville attorney, and former U.S. District Court judge, who is representing Peltier pro bono with a petition to President Joe Biden calling for clemency. That petition questions the role of the United States government saying “the FBI redoubled their efforts to secure a conviction,” including dropping other charges, so that the “weight of the Federal Government could be directed against Leonard Peltier.”

One of the problems is that even if guilty, Peltier has overserved.

“He’s overserved any sentence he should have,” Sharp said. “You got your pound of flesh. If that’s what you wanted, you got a guy who was there and you, he’s now 78 years old, and he’s got 46 years behind bars. What else do you want? Except for him to die. And we stopped talking about him that way, but that’s the worst thing that can happen because now you don’t start, stop talking about him. Now you’ve got this guy that you allowed to die in prison. It gets louder, not softer.”

Over the years the government first said Peltier shot the agents. Then later the prosecution switched the story to “we don’t know who killed the agents, but we know Leonard was there,” Sharp said.

“Okay. Congratulations. There were 40 other people there with weapons. There were lots of other people there that day. There were 150 agents there. One of them killed Joe Stuntz, a 21-year-old Native boy. We don’t know who killed him. We know it was one of the agents that they never went to figure it out. So those are the facts that we know. And if that case was tried today, there is no way it stands.”

Sharp said the Peltier’s trial would not stand scrutiny today.

“There aren’t even two sides,” he said. “We know that the witnesses were intimidated. We know that witnesses were threatened. We know that affidavits knowingly false affidavits were submitted to the courts. We know that when the trial

took place and the prosecutor said, we only have this one piece of evidence, this shell casing, this ties Leonard too, to this shooting. We know now that they knew that wasn't true. And we only learned years later after his conviction, that there had been a ballistics test that showed it wasn't his weapon."

In the White House petition Sharp argues that Peltier "remains a casualty of this country's cruel and lawless war against American Indians his continued incarceration, moreover, is a constant reminder to Native communities that they are disposable in the eyes of the U.S. government and unworthy of the most basic protections afforded by our Constitution."

It's the failure of basic constitutional protections that power Sharp's message: He left the federal bench because of what he saw as structural issues in the criminal justice system.

"I was forced because of mandatory minimums to sentence a young man to two life sentences," Sharp recalled. "It was very frustrating to me because in order to become a federal judge, you're vetted and investigated by the FBI, vetted and investigated by the White House, the Department of Justice, the Senate Judiciary Committee, and they have their own investigators all for one reason ... and that's to satisfy themselves that you have the intellect and the temperament and the judgment to rule on these most important items in our country and that is dealing with somebody's liberty."

Sharp sent Chris Young to prison. And that crossed a line for him. So after six years as a federal judge, Sharp shifted gears and set out to defend justice.

"That led me to the Trump Oval Office and working with Kim Kardashian to help free this young man," he said. "His name was Chris Young ... and Chris is free today. We actually were able to secure clemency."

It was in that context that Sharp became interested in Leonard Peltier.

He received a package from Connie Nelson, the former wife of Willie Nelson.

“And I sat down with this package and it was the trial transcripts from Leonard’s trial,” he said. “It was newspaper articles, court opinions, photographs, and I just started going through it and I am sucked in.”

Sharp saw holes in the government’s story.

“It was easy for me to see what happened, the misconduct by the prosecutors, by the investigators, the rulings by the court that would never stand today because the standard of review is different. All of that was easy for me,” he said. “What then has sucked me in for years since I first opened that package is the ‘why?’”

Why are there so many constitutional violations? What was going on? What led to this point?

“It was the context. That’s what sucked me into this and has aggravated me, has, you know, made me angry, made me sad, made me confused,” Sharp said. “‘What are we doing? And why are we here? And that’s why Leonard Peltier is so important.’ This isn’t about people with guns on Pine Ridge, you know, South Dakota on June 26th, 1975. That’s part of it. But the real story is the why. And as, as one of the courts said in one of the court opinions, the United States government needs to take responsibility for what happened there that day.”

Sharp said there is no way that Peltier’s trial would meet today’s minimum standards of justice.

In 1986 the 8th U.S. Court of Appeals found that the government had failed to disclose evidence favorable to Peltier. This is what’s known as a “Brady violation” and it’s enough to require a new trial. But in Peltier’s case the rule was ignored. The

district court “held that the October 2, 1975, teletype, evaluated in the context of the entire record, would not have affected the outcome of the trial and that, therefore, Peltier was not entitled to relief.”

Or consider the story of a self-proclaimed racist juror. Three women in Fargo slipped a note to the trial judge, Paul Benson, that said they were friends with the juror and she told them that she was really prejudiced against Indians. The judge asks her about the statement. “Yep, I said it. But I told you when you were asking me questions that I would set any prejudice I had. I’d be fair.” The judge says, “Thank you very much.” And the trial continued on and Juror Number 10 voted “guilty.”

That fact alone would be enough to reverse a trial.

“If that happened today, he gets a new trial,” Sharp said. “So it’s those things that drive me crazy. When I talk about, look, I, believe in the Constitution, those are all constitutional violations. We get a new trial.”

The government’s prosecutors changed their theory in 1985 — after Peltier’s conviction. As the prosecutor Lynn Crooks told the appeals court, “we can’t prove who shot those agents.” Thus, Peltier was not actually convicted of murder instead he’s been in prison since 1977 on “aiding and abetting” the murder of federal officers.

Another former prosecutor in the case, James Reynolds, has called for clemency. In a letter to the president, Reynolds wrote that with the benefit of hindsight “I have realized that the prosecution and continued incarceration of Mr. Peltier was and is unjust. We were not able to prove that Mr. Peltier personally committed any offense on the Pine Ridge Reservation.”

One other story told about Peltier is not directly related to his aiding and abetting conviction — and that’s the tie to the Anna Mae Aquash murder investigation. The

American Indian Movement at first blamed the FBI for Anna Mae Aquash's murder in February of 1976. But later information surfaced that she was murdered by AIM because she was suspected of being an informer. Aquash's family said Peltier was involved and was aware of her killer. Two former AIM members, Arlo Looking Cloud and John Graham, were convicted of killing Aquash.

Sharp points out that Peltier has never been charged in connection with Aquash.

In a statement the last week of September, Thalia Carroll-Cachimuel, executive director of the International Leonard Peltier Defense Committee, said "there has been an extraordinary volume of misinformation spread regarding Leonard Peltier. Leonard Peltier's conviction and perverse length of his incarceration are emblematic of the racist mistreatment of American Indians by law enforcement that existed throughout Indian Country for decades. If there is evidence that has never before been produced, then we encourage its unveiling if the true motive is justice. If the motive is simply to support Mr. Peltier's unjust imprisonment, the bar must be set much higher."

Peltier's petition for clemency will be up to Biden. Just this month a resolution enacted by the Democratic National Committee said the party's platform already says the president should use clemency "to secure the release of those serving unduly long sentences."

And, in Peltier's case, "given the overwhelming support for clemency, the constitutional due process issues underlying Mr. Peltier's prosecution, his status as an elderly inmate, and that he is an American Indian, who suffer from greater rates of health disparities and severe underlying health conditions, Mr. Peltier is a good candidate to be granted mercy and leniency; and ... it is highly appropriate that consideration of clemency for Mr. Peltier be prioritized and expedited, so that Mr. Peltier can return to his family and live his final years among his people."

Peltier's petition says the time for clemency is now because his health is fading.

"Leonard suffers from a variety of ailments, including kidney disease, Type 2 diabetes, high blood pressure, a heart condition, bone spurs in his feet, a degenerative joint disease, constant shortness of breath and dizziness, and painful injuries to his jaw. A stroke in 1986 left Leonard virtually blind in one eye," the clemency petition says. "Prison doctors advised Leonard that the condition required surgery, but the maximum-security prison where he is incarcerated does not have the capacity to treat the condition. Leonard's physical condition is dire, and he cannot physically defend himself in prison, let alone threaten anyone with harm."

North Dakota state Rep. Ruth Buffalo, Mandan Hidatsa Arikara, brought the resolution forward at the September DNC meeting. She said it started with a coordinated message from a variety of state legislators and the North Dakota Democratic-Nonpartisan League Party. That was followed by a similar call from the Native American caucus of Native American state legislators. All that built toward the DNC resolution.

Buffalo represents Fargo in the legislature, the city where Peltier's trial originally took place. She said has heard from constituents "regardless of party affiliation" supporting clemency because of the constitutional violations.

"One thing that has kept us going is so many of us, unfortunately, have relatives and loved ones who are currently in the criminal justice system or who have thankfully made it out of serving time behind bars," she said. And so Peltier's long prison time is "something an issue that definitely hits home for many of us."

She said Peltier should come home.

"I know there are so many people who have been praying since the seventies for Leonard's release," Buffalo said. "And so we know that there's many grandmas and

elder women at Turtle Mountain who pray for Leonard on a daily basis.”

This whole case is a reflection of injustice, she said, and it must be resolved in order to heal communities.

“Leonard’s release is one sure way to make sure that we are on a path towards healing,” Buffalo said.

Source: [Resumen](#)

