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Judicial persecution corrupts the case Of Mumia Abu-Jamal

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Philadelphia, Oct. 26. SLL photo: Gary Wilson

Philadelphia Common Pleas Court Judge Lucretia Clemons is the latest addition to an odious list of appellate court jurists who craftily construct legal barriers specifically to bludgeon evidence that undermines the corrupted conviction of Mumia Abu-Jamal, the acclaimed writer/activist who millions worldwide consider a 'political prisoner.'

The 1982 conviction of Abu-Jamal, for killing a Philadelphia policeman, arose from gross violations of "international standards that govern fair trial procedures..." according to a seminal study on Abu-Jamal's case released in February 2000 by

Amnesty International. AI is the prestigious, Noble Prize-winning human rights monitoring organization.

Judge Clemons, an African American, continues the peculiar appellate court practice of whitewashing wrongs that deny Abu-Jamal his constitutional fair trial rights.

As that Amnesty study noted, the “politicization” of Mumia Abu-Jamal’s case “may not only have prejudiced his right to a fair trial but may now be undermining his right to fair and impartial treatment in the appeal courts.”

Judge Clemons, during an appeal proceeding in October 2022, released a 31-page “Notice of Intent to Dismiss” Abu-Jamal’s latest appeal . That appeal is perhaps the last appeal he can file.

Clemons’ “Intent” ruling wraps fictions with legalese to justify her rejection of Abu-Jamal’s appeal. The reply to Clemons’ intended ruling from Abu-Jamal’s lawyers reminds her that some of her legal reasoning is “precisely the approach” that the Pennsylvania Supreme Court and the United States Supreme Court have both “deemed incorrect.”

A unique aspect of Judge Clemons’ engagement with Abu-Jamal’s appeal is her rejection of extraordinary evidence documenting disturbing wrongdoing during Abu-Jamal’s 1982 trial for the murder of Officer Daniel Faulkner.

This extraordinary evidence that Clemons finds “unpersuasive” includes rare documentation of both racist procedures the trial prosecutor used during jury selection and improper inducements prosecutors provided two prime trial witnesses. One item in that extraordinary evidence is a handwritten note from one of those prime witnesses to the trial prosecutor demanding the “money” that witness said the prosecutor promised him.

Fair trial rights, for example, bar prosecutors from purchasing testimony. Fair trial

rights also bar prosecutors from racist jury selection practices.

Judge Clemons, consistent with prior appellate practice to block Abu-Jamal appeals, has declared intent to disregard the fundamental fact that fair trial rights require prosecutors to disclose evidence favorable to a defendant.

Philadelphia prosecutors failed to follow that requirement in the Abu-Jamal case by withholding that extraordinary evidence for over 36-years.

Clemons cavalierly whitewashes this outrageous failure by prosecutors. She contends Abu-Jamal was not “prejudiced” either at trial or during subsequent appeals because prosecutors improperly withheld evidence of obvious improprieties against Abu-Jamal.

The fact that prosecutors withheld favorable evidence from defense lawyers for over 13,000-days should be an automatic basis for a new trial - a proverbial no-brainer. However, Judge Clemons intends to reject Abu-Jamal’s request for a new trial seeing no legal unfairness in prosecutors withholding that evidence for over 21-million minutes.

Truly unique context of this extraordinary evidence Clemons’ stated she is prepared to dismiss is that Philadelphia’s current District Attorney personally discovered it. DA Larry Krasner found six boxes of Abu-Jamal case documents stashed in a storage closet while exploring the physical layout of DA’s office one month after his November 2018 election.

Krasner’s discovery of those six boxes came shortly after the DA’s Office told another judge hearing an Abu-Jamal appeal that all material about Abu-Jamal’s case had been given to Abu-Jamal’s defense team.

While Abu-Jamal’s defense argues evidence in those six withheld boxes constitute a “watershed revelation” Judge Clemons deems that evidence irrelevant, essentially

old wine in a new bottle that prior appellate rulings rejected.

Consider Judge Clemons' posture on one document in those six boxes. That document is handwritten notes by the trial prosecutor where that prosecutor placed a big 'B' by the names of potential Black jurors and a big 'W' by potential white jurors. Prosecutors employing race as a criterion in jury selection is forbidden by the Pa and U.S. supreme courts. For decades, Philadelphia prosecutors denied any improprieties in Abu-Jamal's jury selection citing a lack of conclusive evidence of any impropriety that the handwritten notes now provide.

Clemons blasted Abu-Jamal's defense for not probing the trial prosecutor on his jury selection rationales during a mid-1990s appeal hearing.

But, as noted in Abu-Jamal's reply to Clemons, defense lawyers could not have questioned the trial prosecutor on those handwritten notes because prosecutors improperly withheld those notes from the defense. Abu-Jamal's reply stated there was no notice before January 2019* that the trial prosecutor in 1982 "took jury notes showing he was tracking jurors by race." (*January 2019 is when the DA's Office released those six boxes of documents to Abu-Jamal's defense team.)

Clemons made an astoundingly absurd assertion in her 'Intent' when she declared that either Abu-Jamal or his trial lawyer could have easily observed "with their own eyes" the prosecutor making those improper racial notations during jury selection. Clemons' assertion ignored the virtual impossibility of someone sitting at the defense table during a trial being able to see exactly what someone wrote on a note pad at the prosecution table located at least five feet away from the defense table.

Judge Clemons - in her 'Intent' - rejected holding an evidentiary hearing where she could hear testimony to determine for herself the veracity of claims by the DA's Office, thus resolving factual disputes.

Clemons, for example, doesn't see a need to hear prosecutors explain their claim that the demand for "money" from their prime trial witness was not payment for his testimony. Prosecutors claim the demand for money in that withheld note related to wages that witness said he lost due to testifying at trial.

Clemons claimed the jury would have still convicted Abu-Jamal even if they knew about that demand for money. Clemons conveniently omits contextual facts like the jury never learned that witness thought the trial prosecutor would get his driver's license restored that was revoked due to a DUI conviction.

Because of rulings by the bigoted, pro-prosecution trial judge, the jury never knew that this witness was on probation for firebombing a school and was driving a cab without a valid driver's license when he claimed he saw Abu-Jamal shoot Faulkner. Driving on a revoked license could have led to the revocation of that driver's probation sending him to prison for that firebombing. Abu-Jamal's lawyers contend the driver tailored his testimony to save himself from possible imprisonment.

Another document contained in those six withheld boxes is a report filed by a police officer that exposed improprieties by police related to that cab driving witness. This police officer filed that report less than ninety minutes after Faulkner's murder. The report stated police commanders told that officer to "ride over to Homicide with a cab driver."

Since that cab driver said he witnessed Faulkner's murder after he parked his cab behind Faulkner's patrol car, police violated their crime scene investigation protocols which forbid removing vehicles relevant to an investigation.

That cab is not shown in any of the official police crime scene photos. And, that cab is not shown in photos taken by a freelance news photographer who arrived at the crime scene ten minutes after Faulkner's fatal shooting and before police crime scene investigators.

No other prosecution witness testified to seeing a cab behind Faulkner's patrol car.

This failure of prosecution witnesses to place a cab behind the patrol car included the only other prosecution eyewitness who claimed that Abu-Jamal killed Faulkner. That witness, a prostitute, claimed she was standing a few feet from where the cab driver testified that he was parked.

If police allowed the cab driver to drive himself to the interview by Homicide detectives, as confirmed in that policeman's report, then police tampered with the crime scene. Tampering with a crime scene is another valid reason for granting Abu-Jamal a new trial.

That cab driver, years after the trial, told defense investigators and reporters that he did not park behind Faulkner's patrol car. This witness said he did not see who shot Faulkner. Those statements to investigators and reporters contradict the cab driver's trial testimony. Those statements constitute additional evidence of the need for a new trial that Judge Clemons and other jurists have dismissed.

Those six withheld boxes also contained alarming evidence of leniency prosecutors extended to their second eyewitness. That prostitute said she witnessed Faulkner's shooting while standing on a corner a few feet from the crime. This prostitute and the trial prosecutor each told the trial jury there were no deals for her testimony. Yet, days after the jury convicted Abu-Jamal, prosecutors dropped a series of criminal charges pending against that prostitute.

Judge Clemons asserts that the jury would have convicted Abu-Jamal even without the eyewitness testimony of the cab driver and the prostitute - the only two witnesses to testify that Abu-Jamal shot Faulkner. However, Abu-Jamal's reply to Clemons' 'Intent' disputes her assertion.

The "cumulative effect of a promise of money to one crucial witness and of leniency

to another would have undermined the reliability of the investigation and discredited the government's methods in assembling the case," the reply states.

Abu-Jamal, imprisoned since his December 1981 arrest, has authored/co-authored over a dozen books, created over a thousand commentaries, learned to speak two foreign languages, plus earned college and graduate degrees. Further, Abu-Jamal's claim of innocence has garnered support from several governmental bodies from Europe to Japan.

Amnesty International, in that 2000 study, stated "the interests of justice would be best served by" granting Abu-Jamal a new trial."

Pennsylvania's Code of Judicial Conduct states the judiciary "plays a fundamental role in ensuring the principles of justice and the rule of law."

Judges who have constructed legal barriers to block Abu-Jamal's appeals disregard a Conduct Code warning that "public confidence in the judiciary is eroded by improper conduct..."

Source: [This Can't Be Happening](#)



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