

NATIONAL LAWYERS GUILD

132 Nassau Street, Room 922, New York, NY 10038 212-679-5100 Fax 212-679-2811 nlg.org

October 7, 2015

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

The National Lawyers Guild (NLG) consists of thousands of lawyers, law students, legal workers and jailhouse lawyers committed to fighting social injustice. Founded in 1937, the Guild has been at the forefront of the legal and political struggles of ordinary people to end oppression and discrimination in our society.

Mr. President, the NLG urges you to grant Executive Clemency to Leonard Peltier. Mr. Peltier has served more years in prison than other persons convicted of the same or similar crimes. At 71 years of age, Mr. Peltier's deteriorating health and inability to protect himself in a maximum security environment make this an urgent matter. As you know, Mr. Peltier is a Native American activist who has been incarcerated for nearly 40 years after being convicted in connection with the deaths of two agents of the Federal Bureau of Investigation (FBI). Despite overwhelming evidence of FBI misconduct—including the coercion and intimidation of witnesses, the utilization of false testimonies, and the concealment of a ballistics test reflecting his innocence—Mr. Peltier has been denied a new trial and is long overdue for parole.

"Much of the government's behavior at the Pine Ridge Reservation and in its prosecution of Mr. Peltier is to be condemned. The government withheld evidence. It intimidated witnesses. These facts are not disputed." Per Curiam Opinion by Circuit Judge Seymour and Senior Circuit Judges Anderson and Brorby, *Peltier v. Booker*, 348 F.3d 888, 896 (10th Cir. 2003).

The United States' system of justice prohibits the incarceration of any person unless he or she has been afforded a full and fair trial, and found guilty of the charges beyond a reasonable doubt. A trial based on fabricated or concealed evidence does not constitute a full and fair trial.

"[W]e find that the prosecution withheld evidence from the defense favorable to Peltier, and that had this evidence been available to the defendant it would have allowed him to cross-examine certain government witnesses more effectively." Hon Gerald Heaney, writing for the Court in *United States v. Peltier*, 800 F.2d 772, 775 (8th Cir. 1986). Numerous reasonable persons have grave doubts about Mr. Peltier's guilt. After being faced with formerly-withheld evidence on appeal, casting serious doubt on Mr. Peltier's guilt, the prosecution admitted that it could not prove who actually shot the FBI agents or what participation Mr. Peltier may have had in their deaths. Under such conditions, his incarceration runs counter to our society's most cherished values.

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"[T]he FBI used improper tactics in securing Peltier's extradition from Canada and in otherwise investigating and trying the Peltier case. Although our 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 . . . We as a nation must treat Native Americans more fairly . . . Favorable action by the President in the Leonard Peltier case would be an important step in this regard." Hon. Gerald Heaney Letter to Sen. Daniel Inouye (Apr. 18, 1991).

The Guild agrees with Judge Heaney and joins many other organizations and individuals—including but not limited to Amnesty International, Archbishop Emeritus Desmond Tutu, Nobel Laureate Rigoberta Menchu, the Kennedy Memorial Center for Human Rights, and Representative John Lewis—in urging you to add to your legacy as a President committed to ensuring justice for all by taking steps to grant Mr. Peltier immediate and unconditional release through a grant of Executive Clemency.

Sincerely,



Azadeh Shahshahani
President