

Commentary...

Clemency for Leonard Peltier?

By Jim Cornelius
News Editor

As the clock runs down on the Obama presidency, so too does the sand run out on the bid for clemency of one of the most high-profile prisoners in the American prison system: American Indian Movement (AIM) activist and convicted cop-killer Leonard Peltier.

President Barack Obama has commuted the sentences of over 1,000 convicted felons — mostly lengthy sentences for drug offences. However, as of press time — and despite appeals even from a former U.S. Attorney, he had not granted clemency to Peltier. Without it, Peltier, 72 years old and in poor health, will die in prison.

For many in the law enforcement community, that's exactly the fate he deserves for his part in the 1975 killing of two young FBI agents on the Pine Ridge Reservation, Oglala, South Dakota. For others, who view Peltier as a "political prisoner," a symbol of ongoing oppression of indigenous peoples, his nearly 40 years of incarceration is a blot on American justice that must be ameliorated by an early release.

The fateful firefight went down on June 26, 1975. Pine Ridge was a powder keg, strung fence-wire tight with tension. A virtual civil war between AIM activists and tribal paramilitaries acting on behalf of Oglala tribal president Dick Wilson brought blood and terror. The paramilitaries called themselves, with a dose of mordant irony, Guardians of the Oglala Nation. GOONs. To the endemic reservation conditions of grinding poverty, rampant alcohol and drug abuse and domestic violence were added a series of

killings that gave Pine Ridge the highest murder rate in America.

AIM members considered the FBI an enemy, as the federal law enforcement agency attempted to infiltrate and break up what the Feds perceived as a dangerous, radical, militant movement.

FBI Special Agents Jack R. Coler and Ronald A. Williams entered the Reservation that summer day on the trail of a young Lakota named Jimmy Eagle, who was wanted in connection with the robbery and assault of a couple of local ranch hands. He had also been in a scuffle with a friend and stole a pair of cowboy boots. On such a trifle turned the fate of many men that day.

At about 11:50 a.m. Coler and Williams followed what they thought was Jimmy Eagle's red pickup truck onto the Jumping Bull property on the Reservation and almost immediately came under heavy fire, which they returned as best they could with their .38 Special service revolvers.

Williams' last radio communication was faint: He was hit.

It wasn't until the afternoon that substantial police reinforcements arrived. A Bureau of Indian Affairs cop shot one Indian, Joe Stuntz at long range at about 2:30 p.m. When the police stormed the Jumping Bull compound later that afternoon, they found Stuntz's body where it had been left as the AIM members fled. He was wearing Agent Coler's FBI jacket.

Sometime between the initial shootout and the arrival of heavy police backup, men walked up to the FBI agents and someone shot them both at point-blank range with an AR-15.

Peltier, who was at Oglala that day, and reportedly

armed with an AR-15, fled to Canada, where he was eventually arrested by Royal Canadian Mounted Police. Two other men, Darrelle "Dino" Butler and Robert Robideau, were arrested and tried for the killings of Coler and Williams while Peltier awaited extradition. They were acquitted based on self-defense. They successfully argued that the conditions on the Reservation gave them a reasonable fear for their lives and safety. The jury was not shown pictures of the dead agents, nor told that they had been killed while wounded and defenseless.

Peltier was eventually extradited — based in part on testimony from a woman later to be determined to be mentally unstable — and was tried and convicted of the killings. Peltier's trial did not include the context of the Pine Ridge civil war, and the jury saw pictures of Coler and Williams' death scene. Peltier was sentenced to two consecutive life terms.

There were a number of irregularities in his trial, including the withholding of ballistic evidence that indicated that a cartridge case found at the scene might not, in fact, have come from the AR-15 Peltier was believed to be carrying.

None of the irregularities have been deemed significant enough to grant Peltier a new trial.

It is impossible to know exactly what went down when Coler and Williams were killed at Oglala over 40 years ago. The Parole Commission "recognizes that the prosecution has conceded the lack of any direct evidence that (Peltier) personally participated in the executions of the two FBI

agents." And yet aiding and abetting such killings is enough for conviction.

Peltier himself has told different stories to different people as to what his actions were that day. Supporters floated a theory that a "Mr. X" actually fired the fatal shots, but Dino Butler decried the Mr. X theory as a complete falsehood.

Clemency is not the same thing as a pardon, and it would not require finding that Peltier did not do the crime. It would simply reduce his sentence and allow him to leave prison.

Does Peltier deserve clemency? Certainly, those who have maintained his innocence think so. So does a former U.S. Attorney who worked on the prosecution of the Peltier case.

James Reynolds wrote a letter last month to President Obama urging clemency, and told *The New York Daily News*, "... at this point, we've got 40 years on him, 40 pounds of flesh, maybe it's time to let him go ... I don't think keeping him in there will make society a better place."

Many in law enforcement, particularly in the FBI, strongly disagree. They turned out in their hundreds to protest when it appeared that President Bill Clinton might pardon Peltier at the end of his term. Their opposition has not been as public this time, but they continue to argue that Peltier was guilty of the slayings and should remain in prison for his full term.

The civil war on Pine Ridge Reservation in the 1970s brewed a devil's cocktail of tragedy that ended many lives and blighted others for all time.

The fog of time, political agendas on the part of government and myriad activists, and mutating memory have rendered it impossible to see a clear path in the case of Leonard Peltier. If he did, in fact, shoot two wounded and helpless agents in the face with an AR-15 at close range, he deserves to die in prison. Even in war, such an action is universally regarded as a crime. If he was simply there, caught up in horrific events, participated in a firefight, and another man committed the execution by AR-15, perhaps clemency does serve justice. And, as Reynolds says, "it's time to call it quits."

Clemency or no clemency for Leonard Peltier will be one of the very last decisions of the Obama presidency. It will not be an easy one.

Editor's note: Links to more information on the Leonard Peltier case may be found with the online version of this story.

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