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## REMARKS ON THE LEONARD PELTIER CASE

*William M. Kunstler\**

. . . Two people asked about the update on Leonard Peltier. Leonard Peltier is a sad, sad case.

Many of you saw the movie *In the Name of the Father* with Daniel Day Lewis. That comes from a real case of the Birmingham Six, when a bistro, a nightclub, was blown up in Birmingham, England. A number of people were killed. The British government said the IRA did it. And they arrested a number of IRA supporters.

And the key evidence against them — many of them were in the same family, if you remember the movie — was that a test was made on their hands, a chemical test, and the jury was told it showed the presence of a type of dynamite similar to that that was from the bomb that blew up the cafe. On the strength of that they were convicted — their IRA sympathies, the dynamite on their hands.

What was hidden from the jury was a report by the same chemist who did the test, that the same result would show if you handled plastic playing cards and other plastics. The jury never knew that this was not an exclusive test for dynamite. When that was discovered — and you saw in the movie there was a courageous young woman attorney — the Home Secretary ordered them released. And they were released, after having spent a good few years in jail. And I think one of the parents died in jail, I'm not certain. But they did release them.

Leonard Peltier had exactly the same situation. I tried the case of his codefendants [Robert Robideau and Darrell Butler], who were acquitted in Cedar Rapids, Iowa, where the case had been moved because of anti-Indian prejudice in the Dakotas. After they were acquitted the prosecutors spoke to the jurors, who said we had no evidence that they shot their guns at these FBI agents.

So they invented the evidence for Leonard. Leonard wasn't tried with the other two, because he had gone to Canada and was extradited on the basis of what they all admit were false affidavits by [an] alcoholic Indian woman, Myrtle Poor Bear, who was not there but said she was there. The government now admits that was pure fabrication. In any event they brought [Peltier] back, and they moved the case back to the Dakotas, to Fargo, North Dakota. And they picked out the worst anti-Indian judge they could find, Paul Benson. Just after the Peltier trial, [Judge Benson] was reversed [in another case], because of anti-Indian remarks in the charge to the jury. But they tried the case before him.

And now they put on the stand an FBI ballistics expert by the name of Kevin Hodge. And he testified that a .223 shell casing which was found in the trunk,

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\* B.A., 1941, Yale University; LL.B., 1948, Columbia University. These remarks were made during a question-and-answer session following Kunstler's address, "Crusader for Justice: Decades on the Front Line," delivered at the University of Oklahoma on April 7, 1995. Kunstler passed away on September 4, 1995. — *Ed.*

the opened trunk of one of the dead agent's cars, came from a AR-15 rifle attributed to Leonard Peltier. A report was hidden, by the same Kevin Hodge, showing that the casing could not have originated from that weapon because of a different firing pin, which is a conclusive test. That report was hidden 'til long after [Peltier's] appeals were finished.

When the report surfaced we still couldn't get him out. I took over the appeals then. I argued all the appeals, in fact, except the very last one, which Ramsey Clark argued. There have been three successive appeals.

He will never get out of jail unless there is a commutation. But President McMuffin will not commute anybody against the FBI name. We have never had such a shilly-shallyer. At least with Bush, as much as I disliked the man, he took some stands and stuck to them, even though you hated them, or at least I did. This man takes no stands on anything under the sun. Everything he says one day he negates the next. So we started a petition campaign, still going on, for executive clemency for Leonard Peltier, who is now in, I believe, his eighteenth year in prison.

In the Soviet Union, the old Soviet Union, nineteen million people signed petitions for him. I took a painting of his over to Mikhail Gorbachev, which hung in the Kremlin as long as Mikhail Gorbachev was in power. I went to Abakan, in eastern Siberia where there are people who identify with the American Indian — they think they're the same racial stock. They take the position that the migration was from west to east; Native Americans take the position . . . that the migration was from east to west. But regardless of that, the Abakan people do the same bead work, have the same facial structure. And I spent two weeks, at rally after rally, for Leonard Peltier. Poems were written by the most celebrated poets in the Soviet Union for Leonard.

But our government will not let him go, even though the case is an exact parallel of the Birmingham Six — the hiding of a crucial report that would show innocence in the defendant. And so the petition campaign is going on. We wrote to Hilary Clinton and asked for fifteen minutes of her time so we could discuss Leonard. She writes back a letter saying, "You know the President can not intervene in a criminal prosecution." I wrote back, "You should have told that to Mr. Bush when he pardoned Caspar Weinberger."

. . . In any event, the President [has] all the power in the world to free this man. The campaign is going on, but I can tell you I have very little hope that Leonard will live out his years outside of a prison. Because we simply will not lose face. We simply cannot fight the Pope, to coin a phrase that's particularly applicable to this case. So Leonard is in Leavenworth. He's become an accomplished painter. But he's still in jail.

And despite everything that has been done to him — the false affidavits that were sent to Canada, and which members of the Canadian Parliament asked the government to return Leonard to Canada because of these false affidavits, and the hiding of this report, and other dirty tricks along the way — he still rots in jail. He is a political prisoner in a land that says we have no political prisoners.