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Legal Update

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PAUL D. ANDERSON
(1945-1991)

Re: *Mumia Abu-Jamal v. Martin Horn, Pennsylvania Director of Corrections*
U.S. Court of Appeals Nos. 01-9014, 02-9001 (death penalty)

Dear Friends:

Last month the United States Court of Appeals for the Third Circuit, Philadelphia, issued the most important decision affecting my client, Mumia Abu-Jamal, since his arrest nearly a quarter of a century ago. This is the first time any court has made a ruling that could lead to a new trial and his freedom. The court has accepted for review the following issues raised on federal habeas corpus and in the subsequent appeal, all of which are of great constitutional significance concerning the right to a fair trial, due process of law, and equal protection of the law under the Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution:

- Claim 14 Whether appellant was denied his constitutional rights due to the prosecution's trial summation?
- Claim 16 Whether the Commonwealth's use of peremptory challenges at trial violated appellant's constitutional rights under *Batson v. Kentucky*, 476 U.S. 79 (1986)?
- Claim 29 Whether appellant was denied due process during post-conviction proceedings as a result of alleged judicial bias?

Claim 14 relates to the prosecutor's prejudicial argument to the jury including the comment that if convicted Mumia would have "appeal after appeal." That reduced the burden of the jurors, and turned the concept of reasonable doubt and presumption of innocence on its head. Claim 16 concerns the prosecutorial use of peremptory challenges to remove African-Americans from the jury. The record establishes that race is a major thread that has run throughout this case since Mumia's 1981 arrest. Claim 29 is about the bias and racism of the trial judge, Albert Sabo. Evidence was discovered in recent years through a courageous court stenographer, who overheard the judge say during a trial recess that he was "going to help'em fry the n****r."

Another issue under consideration by the federal court, Claim 25, pertains to the death penalty. It addresses whether the death judgment can stand due to an unfair jury instruction. *Mills v. Maryland*, 486 U.S. 367 (1988).

The case is now moving rapidly. The court has issued a schedule for extensive briefing, with the first brief to be filed by the prosecution. The District Attorney made a 30-day extension-of-time request which has been granted, so its initial brief is now due on February 16. The complicated briefing process will go through the spring. Then we will present oral argument before a three-judge panel in the U.S. Court of Appeals.

This is a giant step in our effort to secure a new and fair trial for Mumia. Our goal is to win in this life-and-death struggle and see him walk out of jail a free person. However, we must not forget that Mumia remains in enormous danger. If the case is lost, he will die in the execution chamber.

Thank you for your concern and support in this campaign for justice.

Cordially yours,



Robert R. Bryan
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