



POST OFFICE BOX 110034 BROOKLYN, NEW YORK 11211

Updates for October 1<sup>st</sup>

### **18 Sept - Herman Wallace Updates**

*We've learned over the last few days that Angola 3 prisoner Herman Wallace's health has become dire. We're including the most recent media about him and the campaign to give him the dignity he deserves.*

#### **MORE:**

#### **September 18<sup>th</sup> - Terminally ill Angola 3 member shouldn't be released from prison, magistrate judge says**

by Lauren McGaughy (*The Times Picayune*)

A federal magistrate judge in Louisiana recommended Friday that Herman Wallace, a terminally ill inmate and member of "The Angola Three," should not have his case revisited.

Wallace had previously filed a writ of habeas corpus petition, which said he did not receive a fair trial in the 1972 murder of Angola prison guard Brent Miller and was therefore being held illegally by the state. Since his conviction for the murder, he's spent 41 years behind bars, all of them in solitary confinement.

But U.S. Magistrate Judge Stephen Riedlinger disagreed, issuing an opinion Friday that recommended the federal district judge deny the writ and ensure Wallace remain incarcerated.

Herman Wallace, 71, has been living with advanced liver cancer at Elayn Hunt Correctional Facility since his diagnosis in June 2013.

Nick Trenticosta, Wallace's lawyer, expressed disappointment with the opinion and said the system was fixed to ensure barriers between an inmate and his possible release are nearly impossible to surpass.

"We are shocked that the Magistrate Judge failed to appreciate the rank unfairness of Mr. Wallace's trial. Mr. Wallace is absolutely innocent of the murder," Trenticosta said Wednesday.

"We will be challenging the magistrate's recommendation to (U.S. District Court) Judge (Brian A.) Jackson, and are confident we will prevail."

In the writ, Trenticosta said Wallace failed to receive a fair trial in 1972 due to an all-white, all-male jury and the withholding of key evidence by prosecutors. The key witness against Wallace in the trial, another inmate, was also promised concessions in exchange for his testimony, the writ said.

Trenticosta, who is based in New Orleans and has also acted as counsel for the other members of the Angola Three, said the next step is to lodge their complaints with the opinion with Judge Jackson and hope he issues a favorable ruling in response.

As the judge hearing the writ petition, Jackson also has the ability to approve Wallace's release on bail. But time is an especially important factor in his case, said Trenticosta, due to Wallace's medical condition.

"I don't know how long he's going to make it," Trenticosta said. "It may be another month, it may be another week."

In a letter sent to his supporters last month, Wallace confirmed he had been diagnosed with liver cancer and was told he had about two months to live. He had also been released from solitary confinement and now lives in the prison's hospital wing in a private room.

The move is a small, but important, change for Wallace, who has spent 41 years in solitary confinement in Louisiana's prisons. Wallace and Woodfox, both implicated in Miller's savage stabbing murder in 1972, both insist on their innocence and say their conviction came solely as a result of their involvement with the Black Panther movement.

Both men had been key in forming the first local chapter of the Black Panthers at Louisiana State Penitentiary, or Angola, and advocating against the culture of violence and rape pervasive there at the time.

After the murder and their convictions, they were placed in solitary. A third inmate, Robert King Wilkerson, was later tangentially tied to the murder even though he was not an inmate at Angola at the time. He was also placed in solitary confinement.

Together they came to be known as "The Angola Three" after a fellow Black Panther member was the first to discover their decades in isolation in the late 1990s. King was released with the help of inmate rights activists in 2001 after 29 years.

Woodfox remains in solitary to this day and is currently seeking a restraining order against the state for daily strip and cavity searches he undergoes at David Wade Correctional Center in Homer.

### **September 25<sup>th</sup> - Angola Three inmate fighting for release after cancer diagnosis**

by Ed Pilkington (*The Guardian*)

Herman Wallace, a former member of the Black Panther movement who was held in solitary confinement in Louisiana for more than 40 years, is fighting a desperate legal battle to be released from prison having been diagnosed with liver cancer and given just a few more weeks to live.

Wallace, 71, has petitioned the federal courts in Louisiana pleading with them to set him free so that he can spend his last days in hospice care. He is currently in the hospital wing of Elayn Hunt correctional center in St Gabriel, Louisiana, where his condition is reported to be weakening to the extent that some days he is unable to talk to his lawyers.

So far his request to be released has fallen on deaf ears. A federal magistrate judge in Louisiana last week recommended that despite his medical condition, which doctors have concluded is beyond hope, he should remain incarcerated and effectively die in prison.

His attorneys now have until 30 September to give their response to a federal district judge. George Kendall, Wallace's lawyer, told the Guardian that he remains optimistic: "We are hopeful that this meritorious habeas petition will be reviewed without delay by a federal judge," he said.

As a member of the so-called Angola 3, Wallace became a symbol of the widespread use of solitary confinement within the American penal system. Originally convicted of robbery, he formed a prison chapter of the Black Panthers along with fellow inmate Albert Woodfox. The two men were subsequently accused in 1972 of the murder of a prison guard, Brent Miller, and have spent most of the time since then in solitary.

Both men have consistently denied any involvement in Miller's death, pointing out the dearth of forensic evidence connecting them to the murder and to the fact that fellow inmates who acted as key witnesses for the prosecution were offered inducements to implicate them. Wallace contends that his conviction, and subsequent prolonged solitary confinement, were punishment for his political activities within the Black Panther movement in which he campaigned against racial segregation inside the prison as well as against rape and violence that were at the time rampant within the system.

Though media access to Wallace in his hospital cell is heavily restricted, the prisoner's personal reflections on his

desperate position can be gleaned from recent telephone conversations he has had with the film-maker Angad Bhalla who made a documentary on Wallace's life in solitary called Herman's House. Bhalla has shared a recording of his conversation with the Guardian.

In their chats, Wallace says "I'm going through hell." He cannot eat normal prison food, and has to rely on other inmates to buy him a special diet from the prison concession.

He believes his terminal illness is "giving people a wake up call as to what's going on inside these prisons. Solitary confinement destroys people, both physically and mentally. Some of them are strong, they think they can do it, but while my mind was strong enough, my body fell victim to it."

He goes on to say that the medical services in the prison are so primitive that they failed to detect his liver tumor for six months. By the time it was diagnosed in June he had lost 50 lbs. The tumor was so large it was visibly protruding from his stomach, making him, he says, look pregnant. It was also by that point at an advanced stage that can no longer be treated with chemotherapy.

Wallace has two major legal actions pending. He is pressing a lawsuit against the Louisiana department of corrections accusing it of breaking the Eighth and Fourteenth Amendments of the US constitution by subjecting him to cruel and unusual punishment in the form of prolonged solitary confinement. He is also pursuing a habeus petition that contends he is an innocent man wrongly convicted of murder in a trial that was prejudiced with an all-white and all-male jury.

However, the hearings are scheduled for next year and he is unlikely to live until then.

The third member of the Angola 3, Robert King, who was tangentially connected to the Miller prosecution, was released from prison in 2001 having spent 29 years in solitary confinement. Woodfox is still locked up in isolation in a 9ft x 6ft cell in David Wade correctional center in Homer, Louisiana.

In his conversation with Bhalla, Wallace says that he is now suffering growing pain from the tumor. Even so, he vows to keep protesting: "I suck it up, because it's all about the cause," he says. "That's what keeps me going: to keep on fighting."

### **September 27<sup>th</sup> - Did the Wrong Man Spend 40 Years in Solitary Confinement?**

by Andrew Cohen (*The Atlantic*)

It is now only a matter of weeks, or days perhaps, before Herman Wallace dies of the liver cancer that is ravaging his body. He will likely die in prison, at age 72, without proper medical treatment, after spending nearly four decades in a 6' by 9' cell. He was placed in solitary confinement after being convicted in January 1974 of killing a prison guard at Louisiana's notorious Angola prison. Wallace is black. The guard was white, and so was each member of the southern jury that convicted him.

The case against Wallace was pitifully weak when it was presented to that jury; some of the constitutional infirmities at trial were almost farcical. But over the years the courts of that state, along with Congress and the federal courts, have constructed a mighty wall protecting that jury's verdict. Layer upon layer of procedural protections has been built around it so that today, as Wallace nears death, it is easy to see the vast gulf that exists here between law and justice.

And that, ironically, may be the most important legacy Wallace leaves from his miserable time on this earth. A member of the famed "Angola 3," Wallace in life has been a symbol of many different things to many different people. He has generated more than his share both of pity and scorn. In death, however, he will become a symbol of a justice system that too often prizes finality over accuracy, but without the candor or courage to actually say so. The law says that Herman Wallace got a fair trial. But we all can judge for ourselves what that really meant to a black inmate in Louisiana in 1974.

## **The Trial**

Wallace and three other black prisoners at Angola were charged in May 1972 with the murder of a white guard named Brent Miller. The investigation into the crime was aggressive, naturally, and all of the witnesses, of course, were already incarcerated. There was trouble from the start. The prison warden and the associate warden feuded over how to proceed. At least one inmate later testified that he was beaten during the interrogations that followed. One coerced witness fingered another, who in turn fingered Wallace, who was already well-known to prison officials because of his work on the nascent Angola chapter of the Black Panther Party. Apart from the lack of evidence against him, Wallace was a perfect defendant.

Bloody fingerprints and a knife were found at the crime scene, but none of the prints belonged to Wallace or any of his co-defendants. The state police testified later that although they had on file the fingerprints of every Angola prisoner the bloody prints from the crime scene were checked only against the suspects that prison officials already had identified and just a few more people. Seven witnesses testified that Wallace could not have been at the scene at the time of the crime. Two other witnesses directly implicated Wallace; two others testified against him less directly. Not only was the testimony of these four inmates internally inconsistent, it also was inconsistent with the testimony each of the others had given.

At first, all four co-defendants were represented by the same attorney -- a clear and actionable conflict of interest. Then, midway through the trial, one of Wallace's co-defendants switched sides, made a deal with prosecutors, and became a government witness. During one recess, Chester Jackson left the courtroom as a defendant and returned minutes later, taking a seat with prosecutors at their table. The judge gave Jackson's stunned (now) former attorney all of 30 minutes to "regroup" before requiring him to cross-examine the man who just minutes earlier had been his client. Later, state attorneys would argue that this gave Wallace an advantage because the lawyer had inside information on his former client.

The trial lawyer later said that prosecutors never approached him to ask permission to talk with Jackson. Nor did the judge permit the defense to see two prior written statements Jackson had signed that might have impeached his credibility. In the version of the story Jackson offered at trial, he was able to offer details about the murder -- to implicate Wallace -- even though he said he was hiding behind a wall at the time of the crime. In one of the versions he had signed before trial, he had testified that he had seen, through a window, Wallace stabbing the guard.

In a case with no physical evidence and no confession, the testimonies of the other witnesses against Wallace were both crucial and tainted. One such witness suffered from schizophrenia, a fact hidden from Wallace's attorney. Another witness evidently was at one time during the investigation a suspect in the murder (another fact that was not disclosed at the time of the trial). Yet another inmate, who was not called as a prosecution witness at trial, had given prison officials a statement that might have helped exonerate Wallace. But that statement was never disclosed to the defense.

In the end, after quick deliberations, Wallace was convicted of murder and given a life sentence in Angola -- which meant decades of isolation in a 6' by 9' cell. To make matters worse, his lawyer then failed to appeal his conviction. It would take 16 years, until 1990, before an appellate court took a look at Wallace's case. And by that time, those procedural barriers had begun to pile up. More than 25 years after trial, a hearing commissioner reviewing the record of the case called it "the most disgusting thing I have ever seen." But it didn't matter. That commissioner's recommendation of relief was immediately, and virtually without comment, reversed.

## **The Next 40 Years: Louisiana**

What happened next, what happens so often when the flaws of old tainted trials are exposed to the light of day, is that the gatekeepers of the criminal justice system, the prosecutors and state judges, became more interested in defending the verdict than in testing its accuracy. From 1992 to 2009, confronted with more and more compelling evidence of the constitutional failings of the trial, the Louisiana Supreme Court nonetheless refused

on four separate occasions to consider Wallace's claims for relief. To this day, the highest court in that state has never issued a substantive ruling on any of the material issues arising from one of the state's most infamous cases.

Worse, the few dissenting voices that emerged from decades of judicial review were promptly squashed. In 1999, one state appellate judge declared that witness Jackson's mid-trial switch from defendant to prosecution witness suggested the presence of an undisclosed deal with the state. In 2006, another state judge recommended that Wallace's conviction be overturned because the defense was never told at trial about "material impeachment evidence" regarding Hezekiah Brown, the second primary witness against Wallace. When Louisiana's appellate judges reversed these rulings, they did so with virtually no substantive legal analysis.

Wallace's last chance for relief is now pending in federal court. The state's brief is a classic example of the types of procedural arguments states now use to block meaningful appellate review. Twenty-six pages of Louisiana's 64-page brief, for example, are devoted to reminding Chief U.S. District Judge Brian A Jackson that he is duty-bound to reject Wallace's claims unless he finds that the Louisiana courts were both "incorrect" and "unreasonable" in their application of the law. No matter how egregious those state court rulings may be, Louisiana argues, they are presumed to be correct and Wallace must prove otherwise by "clear and convincing" evidence.

Trial prosecutors failed to tell Wallace about a deal with witness Hezekiah Brown? No matter, state lawyers now argue; even if such a deal occurred, it was between the prison warden and the witness, and not between prosecutors and the witness. Brown received special privileges in prison after he incriminated Wallace? Received weekly deliveries of cigarettes and other favors? No matter, state lawyers now argue, because there is scant proof that any agreement existed between the warden and the prisoner before trial. There is scant proof because all of the witnesses now are dead and because Wallace's attorney never appealed the verdict.

So inmate Brown, who was once a suspect in the murder of the guard, later testified against Wallace and received extensive benefits from the warden. Brown was removed from the general prison population. The warden wrote letters on his behalf for parole. And decades later, the warden testified that he had promised Brown aid before trial because "he had cracked the case for us." Yet none of this was enough to convince the state courts of Louisiana that Brown's testimony might have been tainted and that, even if it weren't, that Wallace was entitled to know about these arrangements at the time of trial.

The state court review of the Wallace verdict, in other words, was deliberately indifferent. But the law accounts for this. It's why there is a federal habeas review -- a procedural mechanism that permits federal judges to give men like Wallace a fairer and more neutral evaluation of their claims. But here, especially, lawmakers and judges have built walls separating law and justice. The Wallace case is a prime example of the ways in which the Antiterrorism and Effective Death Penalty Act and other statutes have undercut the strength of the Great Writ of Habeas Corpus, a building block of Western law.

### **The Next 40 Years: The Feds**

Wallace filed his last appeal in 2009. It took 18 months for Louisiana to respond. And then it took more than two years -- until September 13th of this year, two weeks ago -- for U.S. Magistrate Judge Stephen C. Riedlinger to issue a ruling on the merits denying all of Wallace's claims for relief. That ruling, styled as a "Report," is a 65-page paean to form over substance, an example of how diligent the law can be in avoiding a search for the truth. First, there was the obligatory recitation of the statutory and case law that has whittled down to a nub the scope of the writ of habeas corpus. Then there was the logic. Here is just one example:

Petitioner asserted that in 1998, 14 years after he was convicted, he obtained documents discovered by co-defendant Woodfox which indicated that the State suppressed evidence that Warden Henderson provided Brown favors and promised to help him obtain a pardon in return for Brown's testimony at the petitioner's trial..

The foundation of the petitioner's Brady claim is centered on testimony of Warden Henderson and corrections officer Bobby Oliveaux at Woodfox's 1998 retrial. Oliveaux testified that Brown was housed at the dog pen and received cigarettes, birthday cakes and incentive wages. Warden Henderson testified essentially that at some unspecified time prior to Brown's trial testimony he promised to help Brown obtain a pardon...

Wallace's Brady claim that the State failed to divulge the fact that Brown had received "favours," such as desirable housing in exchange for his testimony, is without merit. Suppression exists only where a defendant did not - and could not - know about the essential facts that would enable him to take advantage of the evidence... Garretson, the petitioner's attorney, testified... that prior to the petitioner's trial he was aware of the favorable treatment Brown was receiving (Citations omitted by me)

There is a lot going on here so let me be brief. First, the magistrate cites unfavorably the length of time it took for Wallace to make his claim -- 14 years -- without acknowledging that Wallace's attorney was to blame for that delay by failing to appeal the original verdict. Then, the magistrate denies Wallace relief on the ground that this lawyer was aware of Brown's special treatment at the time of trial. This is the same lawyer, mind you, who in addition to not appealing his client's murder conviction also failed to recuse himself from representing all four co-defendants at the start of the trial. In the magistrate's revisionist history, under applicable legal standards, this lawyer, of all lawyers, is presumed to be both diligent and competent.

Here from the magistrate's "Report" is another example of this sort of warped reasoning countenanced by current federal review standards:

Petitioner has not carried his burden to establish that evidence [of witness Brown's deal] was suppressed.... Warden Henderson emphatically denied that an agreement had been struck with Brown. Then... he testified that nothing was promised to Brown initially, other than protection. Warden Henderson testified that sometime after that... he told Brown he would support a pardon application. Later, Warden Henderson agreed with defense counsel that promises were made before Brown testified. Obviously, this testimony was inconsistent.

Even assuming, without deciding, that the petitioner has established that the prosecution suppressed evidence that Warden Henderson promised Brown help with a pardon in exchange for his testimony against the petitioner, there is no likelihood of a different result. Brown's testimony was consistent with Jackson's testimony, the co-defendant who testified on behalf of the State against the petitioner. Moreover, Brown was a neutral witness.

See what's happening here? Even though the warden ultimately conceded under oath that there was a prior deal with Brown, and even though logic and common sense tell us that such a deal existed, the magistrate instead concludes that this evidence is "inconsistent." Then he labels Brown, the inmate who first was a suspect in the murder and who later had cigarettes delivered to him by prison guards, to be a "neutral witness." This is not a searing search for truth and justice. This is not a meaningful review of a trial record. It is instead a post-hoc rationalization of a dubious status quo.

### **Postscript**

Terminally ill, Wallace finally has been removed from solitary confinement. There have been calls from public officials and others for his "compassionate release" from prison but state officials are adamant in rejecting such requests. They say that Wallace's life sentence has always meant that he would die in prison, that elderly prisoners die regularly in confinement as part of their sentences, and that the inmate is entitled to no special medical treatment. So there he sits, a sick old man who spent four decades in solitary confinement for a crime he contends he did not commit, a prisoner running out of time to get any vindication from our courts of law.

When Herman Wallace dies, his case will die with him. And that will be a shame not just for him but for anyone who still believes that our criminal trials should from time to time be more than mere tests of evidence -- that they should strive, especially when a man's life or liberty are on the line, to find the truth of the matter. After Wallace's death, none of us will ever know what happened inside that prison in May 1972 -- what promises were

made, what truths were hidden -- because no one other than Wallace has ever had any incentive to care about what happened that day. That's a failure of our justice system; a failure both in concept and execution.

Today, Judge Jackson, the federal trial judge, is likely the last judge who will ever have the job of reviewing Wallace's case. He can reject Magistrate Riedlinger's "Report," he can embrace it, or he can come down somewhere in between. Judge Jackson, an appointee of President Barack Obama, is a relatively new judge and this high-profile case presents the first big test of his young career on the bench. Win or lose, Wallace's legacy is secure -- he's always going to be the guy who spent 40 years in solitary after a sham trial. But how this judge handles this case now surely will say a great deal about what his legacy is likely to be -- and whether our justice systems will be capable than they have been of acknowledging and then fixing even their most grievous mistakes.

### **September 28th - Herman Wallace has days to live**

by *Democracy Now!*

Former Black Panther Herman Wallace, held in solitary confinement for more than 40 years in Louisiana, now reportedly has just days to live. Supporters say his terminal liver cancer has taken a turn for the worse, and his request for compassionate release has so far gone unanswered by Governor Bobby Jindal. Wallace and two others known as the Angola Three were placed in solitary in 1972 following their conviction for murdering a prison guard. They say they were framed because of their political activism. Wallace is 71. In other Angola 3 news, another member of the group who remains in prison, Albert Woodfox, says he has been subjected to strip searches and anal cavity searches as often as six times a day — even though his wrists and ankles are shackled together when he is outside of his cell. Woodfox is 68 years old. The searches had been declared unlawful in the 1970s by Louisiana District Court Judge Daniel LeBlanc. Guards reportedly resumed the searches almost immediately after LeBlanc died in May. Woodfox's legal team requested a restraining order to put a hold on the invasive searches but a hearing on the motion has been delayed. We'll have more on the Angola 3 next week when we broadcast live from New Orleans on Monday and Tuesday.

### **19 Sept - Is the FBI's Domestic Spying Out of Control?**

*A new ACLU report shows how the Bureau's domestic surveillance program has exploded since 9/11.*

#### **MORE:**

by John Knefel (*Rolling Stone*)

The FBI has vastly expanded its domestic spying powers since 9/11, often justifying surveillance and infiltration of activist or religious communities under the banner of fighting terrorism, according to a new report by the ACLU. Requirements for opening investigations into groups or individuals have been repeatedly watered-down over the past decade, and the report documents many examples of FBI investigations based on what seems to be protected First Amendment activity.

"Before 9/11, the FBI operated within rules designed to focus its investigative efforts on people reasonably suspected of wrongdoing. These rules didn't always prevent abuse, but at least when abuse was discovered the agency could be held to account," says Mike German, the former FBI agent who authored the ACLU report. "What has changed since 9/11 is that Congress and successive administrations loosened the rules and at the same time increasing secrecy demands reduced oversight opportunities."

With the creation of the FBI Office of Intelligence in 2003, the FBI began a massive new intelligence-gathering project with the stated goal of preventing terrorist attacks before they occurred. With this new mandate came new powers, such as the ability to issue National Security Letters (NSLs), authorized under the Patriot Act — which author Tim Weiner's FBI history *Enemies* describes as having "the combined power of a subpoena and a gag order." The use of NSLs remains controversial today, and the constitutionality of their gag order element has been called into question by a federal judge.

Another significant tool the FBI has employed in the past decade is the use of informants to infiltrate Muslim communities. Trevor Aaronson, an investigative reporter with Al Jazeera Media Network and author of *The*

Terror Factory: Inside the FBI's Manufactured War on Terrorism, has previously reported that there are 10 times as many informants working for the FBI today than during the 1960s' COINTELPRO program, often regarded as a low point in the FBI's history. "Today the bureau has 15,000 registered informants – and these informants are inserted into U.S. Muslim communities to gather information," Aaronson says. "Informants have testified in court that they have spent months trolling Muslim communities without a specific target." Of 508 federal terrorism trials in the decade after 9/11, 158 defendants were targeted through an informant, according to Aaronson, who writes in *The Terror Factory* that nearly all of the rest were small-time violations that didn't pose an actual risk to U.S. citizens.

It's not only Muslim communities that were the subject of increased suspicion – political groups and activists have been targeted as well. A Freedom of Information Act lawsuit brought by the Partnership for Civil Justice Fund found that the FBI began investigating the Occupy movement in August 2011, even before the establishment of the encampment in New York's Zuccotti Park. The activist and anarchist Scott Crow requested his own files from the FBI, and was given 440 heavily redacted pages, though as *The New York Times* reported, he had "never been convicted of anything more serious than trespassing."

One of the most powerful new tools the FBI has had at its disposal since 9/11 is a program called Domain Management, which Aaronson says "allows the FBI to map the United States along ethnic and religious lines, and then assign agents and informants to those communities." The ACLU report notes that the FBI's field office in Detroit, for instance, stated in a memo that "many [State Department-designated terrorist] groups come from the Middle-East and Southeast Asia." The memo continues: "because Michigan has a large Middle-Eastern and Muslim population, it is prime territory for attempted radicalization and recruitment by [State Department-designated] terrorist groups."

The FBI denies that Domain Management works the way critics allege. "Domain management efforts are intended to address specific threats, not particular communities," says spokesperson Christopher Allen. "These efforts seek to use existing, available government data to locate and better understand the communities that are potential victims of the threats."

Asked about recent reports that the FBI increased surveillance of Syrians in the United States in a run-up to a possible air strike against Syrian President Bashar al-Assad, Allen says, "I would not assume the details of that story are accurate."

Interviewing people in the U.S. based on nationality prior to a U.S. military strike would not be without precedent for the Bureau, however. In 2003, then-FBI director Robert Mueller confirmed that his agents sought to interview roughly 11,000 Iraqis living in the United States, "to protect them from hate crimes and to elicit information on any potential operations of Iraqi agents or sympathizers."

Some of the FBI tactics employed since 9/11 seem to resemble tactics the controversial NYPD Intelligence Division has used, including mapping communities based on ethnic, racial and religious identities. Both organizations also have similar guidelines, adopted post-9/11, that allow officers to attend political meetings that are open to the public, often without disclosing their status as law enforcement. However in some cases, such as the investigation of alleged terrorist Ahmed Ferhani, the NYPD has used tactics that could be construed as entrapment, which were beyond the pale for the FBI. The ACLU is currently suing the NYPD on behalf of several Muslim plaintiffs who say NYPD policies infringe on their Constitutional rights.

## **20 Sept - New Writings by Mumia Abu-Jamal**

*We're including transcripts of Mumia's latest commentaries.*

### **MORE:**

#### **September 19<sup>th</sup> - "Shorty" Takes A Giant Step**

There are many men and several women, on Pennsylvania's Death Row, but few are like 'Shorty'.

'Shorty' – known to courts and counsel as James Dennis –has been on Death Row for over 20 years.

For 20 long and terrible years, he has lived in a cell the size of an apartment bathroom, fighting for his freedom, his life and his very sanity.

That's because for all this time he's been protesting his innocence of the 1991 killing of Chedell Williams, an adorable high school girl, who was robbed of her earrings and fatally shot.

Shorty, arrested for the crime based upon eyewitness testimony, had every reason to expect an acquittal, as he had alibi evidence that seemed rock-solid. At the time of the crime, he was in another part of town, according to his dad, and an acquaintance who saw him on a bus quite distant from the girl's shooting.

I said he was somewhat different from others. How so?

Shorty had no significant criminal history, there was no physical evidence tying him to the killing, and, of course, an alibi. Right?

Well, wrong. For Commonwealth played 'hide the ball', by hiding alibi evidence, by losing physical evidence, and by letting witnesses testify falsely - knowingly.

Citing the 1963 Supreme Court case, Brady v. Maryland, a federal judge in Philadelphia last month threw out his murder conviction and death sentence.

U.S. judge Anita Brody wrote, of 'Shorty', he "was wrongly convicted of murder, and sentenced to die for crime which, in all probability, he did not commit" [Dennis v. Wetzel, No. 11-1660, p.11.]

Miss Williams was a tall girl, standing 5'10", Shorty was (is) 5'5".

That's significant because almost all of the witnesses said the shooter was almost as tall, or taller, than the victim.

Police literally ignored evidence from other sources, and prosecutors hid evidence from Dennis's lawyers until 16 years after his trial.

Shorty Dennis, perhaps one day soon, will walk free from two decades in hell.

But it's a sure bet that that he'll never be free of the memory of life on Death Row.

### **September 20<sup>th</sup> - International Law vs. International Outlaw**

As the U.S. embarks on its latest role as enforcer of International law (even as it avoids the United Nations), it does so from a position of profound weakness.

That's not to say that the U.S. suffers from military weakness: far from it.

But in the realm of International law their weakness is hypocrisy; for any reader of history knows that there are few international laws that the U.S. hasn't broken. It's kind of like billionaire swindler, Bernie Madoff, complaining about pickpockets.

When the U.S. attacks Syria for its possession and use of chemical weapons against civilians, we conveniently have forgotten about the U.S. use of white phosphorous against the men, women and children of Fallujah, in Iraq. Its use forced some 300,000 to flee from their homes in terror.

When Israel used these same weapons in Gaza, and also hundreds of Palestinians, the U.S. had no

condemnations. In fact, the U.S. supplied them!

Now, they threaten to break International law again, because Syria has broken International law.

It is the law of the strong against the weak.

It is the law of force.

It is not the law of the just.

Syria, like Iraq, is reduced to the status of a demonstration of imperial power.

And that just ain't right!

### **September 24<sup>th</sup> - America: The Mad**

Here we are, once again.

It surprises no one, and seems as expected as seasonal change.

'A massacre' "Oh – only 12 dead? Thirteen with the shooter?" 'Uh-huh... Have you seen the leaves change color yet?"

We turn our minds to other things, and soon, we quietly shut the door behind us.

'What a shame', we mumble, as we move on.

Mental distress is not solely an American malady; it is a human one.

And yet, as life becomes harder; as survival becomes more challenging, minds will increasingly shatter under the strain, and violence becomes the yell, breaking the glass of isolation – even if it also brings death.

After the 2008 Great Recession, jobs have been hard to find; good-paying jobs even harder.

In America, a man without a job isn't really a man. He can offer neither security nor support for a woman. He cannot build a loving nest of family.

He is a loner, outside of the warmth and purpose of life.

Is it maddening? Does it drive some men over the brink?

Yes. It is a scream from the psyche that can only be resolved by death.

I said it before – I'll say it once more: It ain't over. The politics of this era is insufficient to solve this problem.

In a few more days perhaps a week, or a month, the horror will fade, and business as usual prevails.

This is a nutty country.

It'll only get nuttier.

### **September 24<sup>th</sup> - Lessons Unlearned**

I watched the rhetorical run-up to war in Syria, with a sinking sense of fascination.

I wondered if the nation (or perhaps more aptly, the nation's leaders), learned anything from the crippling debacle of Iraq.

Sadly, it seems not.

For, politicians love few things better than microphones, and the media, like whores, love few things better than servicing them, egging them on.

It's like a soundtrack slips in, with very little editing; just changed names.

Assad replaced Saddam as 'madman', 'brute', 'war criminal'.

It's the same old game; first curse them – then kill them.

Only the American people weren't on board this latest race to hell.

Polls showed shocking rates of opposition, saying, with a loud voice; "This ain't our problem!"

President Barack Obama saw his support erode even more among Democrats, as the media enlisted in a war that they could safely fight from their computer screens.

As former U.S. President Herbert Hoover once said, "Older men declare war, but it is youth that must fight and die."

Iraq, alas, is yesterday's news. As useless as yesterday's newspaper.

Gone and forgotten are the carnage, the lies, the loss, and the pain – the death.

Iraq should be a harbinger – a dismal warning of the costs of Imperial arrogance.

It isn't.

It doesn't exist for millions.

And for millions abroad, it is the fuel lighting the chasms of hatred, the stuff of wars to some.

### **September 27<sup>th</sup> - Boots and Brutes on the Ground**

While the U.S. arms so-called rebels in Syria, it is replicating the efforts undertaken decades ago in Afghanistan, with the same predictable results.

These efforts of regime change, in addition to being violations of international law, are also doorways to blowback, for the madmen you unleash today, may turn on you tomorrow.

The U.S., born into a "new nation" (in Lincoln's words) from Civil War, should think long and hard before interfering in the civil wars of others. At the same time that the U.S. disarms one side of the war (the Syrian government), it arms the other (the so-called rebels).

How is that fair?

By doing so, the U.S. stirs the pot of instability, causing more turmoil in Syria, weakening it, in service to its client-state, Israel.

These so-called humanitarian interventions now premised on promises of 'no boots on the ground', are but neo-

liberal masks to hide the true face of imperialism, to control, exploit, to devour other nations for their wealthy, elite benefactors.

To cross borders with malevolent intent is an act of war. To arm belligerents in another country is an act of war. To bomb citizens of another country is an act of war.

‘Boots on the ground’ is just a quaint phrase, meant to cover the other forms of war.

What are drones but weapons of war, bomb-dropping machines of immense destruction? How would Americans react if a foreign country bombs a neighborhood in this county? Would they just shrug it off?

You know the answer.

But Americans can bomb others, drone cities, and replace governments on a whim, all the while with the sweet assurance that there are no ‘boots on the ground’.

Just as sure as sunrise, the rebels of today will turn their enmity toward the U.S., and teach, once again, the meaning of blowback.

### **September 30<sup>th</sup> - Letter to Vernon Clark in response to Inquirer article 9/26/13--Michael Ward aka Birdie Africa**

Ain’t things urgent enough for man at this point in time, all the signs indicate that your civilized system’s demise. Yet people like you can still find the time to pursue lying and trying to defame Move. All that nonsense you wrote about Birdie and Rhonda (his mother) being held in Move against their will, being threatened and afraid to leave Move. Do you expect any sensible person to believe that lie just because you claim Birdie said it? Where’s the proof. Most people today have been around, living in the time of Move and have witnessed the fact that people left Move, and lived through it without Move’s interference. You apparently have no conscience, because nobody in good conscience could print such a lie, nobody is ever forced to stay in Move by Move. The proof is in the fact that people have left and without any consequences coming from Move. There’s been a lot of people who’ve left Move, but not by choice, all left because they feared your government. Case in point, Donald Glassey, whose involvement in the federal trial: United States vs. JOHN AFRICA made him an outstanding figure in Move’s history. Glassey was threatened, beat and tortured by your government, he was forced to turn traitor against Move and Move’s Coordinator and he left Move. Move never went searching for him and wouldn’t accept information offered about his whereabouts. Glassey was not threatened by Move and neither was Birdie. Once Birdie left Move, we never tried to insinuate ourselves in his life.

You, Vernon Clark, as a so called reputable news reporter, need to stop printing lies. All that you claim Birdie said about not liking being in Move and eating raw food; you talk about Birdie being forced to eat raw fruit and vegetables like that’s the worse kind of brutality and torture imaginable. Since when have raw fruit and vegetables been a bad diet for children or anybody, and since when have parents not had to make their children eat food that ‘s good for them, even if the children didn’t like it. And we notice its all the rage these days, raw food, garlic. You’ve got restaurants, health food stores, clubs, books, videos, retreats, all over this country espousing the benefits of raw food and garlic, and pushing it, but when Move advocated this diet years ago we were criticized and vilified. Now you’re writing a news article trying to justify a so called point about Birdie. How do you explain this hypocrisy, this bigotry?

Answer why it was reported in the Reader’s Digest article of May 1, 1989 by a reporter, Michael Capuzzo, that Birdie physically fought Andino Ward because he wanted to come back to Move and wanted to eat raw sweet potatoes. You, Clark, are simply a liar. You’re unfair, a bigoted Move hater. You’re wrong and you don’t care, about Move or Birdie. You don’t care about nothing, including yourself, but you should care because it ain’t Move who’s the threat. You’re wasting your time focusing on trying to slander Move. There is a threat though, a big ominous threat looming over everybody in your civilized system, including you and you need to focus on that. Your Earth is turning against all of you and without Earth there is no you.

Move wasn't the threat to Birdie. Your dying civilized system took Birdie down, it's what have always taken people down and it's what is now threatening to take all of mankind down; believe it if you want, or don't believe it, but Move don't have no reputation of lying and JOHN AFRICA'S

Predictions have always come to pass, remember that.

Birdie was alive and well while in Move, nobody can deny that and substantiate their denial, not you either. Birdie died out there in your system, not in Move.

### **20 Sept - Send Books & Cards to Brian Church for his Birthday!**

*Brian's birthday is coming up on September 23rd! We're sending him a card tonight, but he could real use some books.*

#### **MORE:**

He loves Star Wars books, fantasy, video games/technology, and books about the Dark Ages. Also, his book wishlist is available at <http://amzn.com/w/1CZ84W5M1RCB5>.

Earlier this month, his cell was raided by the guards and all his books were stolen, so sending him reading materials now will make his day and help him pass his second birthday behind bars a little more easily.

You can send him up to 3 books in a package (mailed "media mail" through the US Post Office) or you can order them from your favorite book retailer and have them shipped directly to him (again, using "media mail").

And don't forget that you can order books for prisoners at a significant discount (40-50%) from radical publishers AK Press (<http://www.akpress.org>) and PM Press (<http://www.pmpress.org>). If you ship the books directly to the prisoners, these publishers will apply the discount to the amount they charge on your credit card when they process your order.

### **21 Sept - Statement from Leonard Peltier**

*Leonard Peltier's statement regarding the upcoming "Leonard Peltier International Tribunal on the Abuse of Indigenous Human Rights."*

#### **MORE:**

My dear friends and family,

There is a lot being said about the scheduled "Leonard Peltier International Tribunal on the Abuse of Indigenous Human Rights" on October 2-4, 2013, on the Oneida Reservation in Oneida/Green Bay, Wisconsin. I want to express support for and appreciation to my team for all of the hard work they are putting in to make this a documented historical event. My team and I feel the time has come to address the many years of abuse suffered by Indigenous people all over the world. We cannot afford to sit back and wait for justice and equal treatment for our people. We cannot sit back and wait for change and "hope" that conditions will get better. We have to get involved in making that change happen.

We have to develop the resources for our children and grandchildren using education as a tool. We need Indigenous doctors working side by side with our Medicine men using traditional knowledge to heal our communities. We need Indigenous attorneys who aren't motivated by money to represent the overwhelming number of Natives who are locked in prison cells. We need Indigenous teachers who are willing to encourage, support and motivate our many gifted and talented children. We have to take charge of our destiny.

The goal of our Tribunal is to document our many struggles with the U.S. government. The government was involved in outlawing every freedom we valued, from the way we talked to the Creator with our ceremonies to

the way we parented our children. Don't ever forget the spiritual, emotional, physical and mental damage that came from ripping Native children as young as 3 and 4 years old from the arms of their parents and putting them into the hands of cold, hard matrons in the boarding schools. Men who normally provided for their families by fishing and hunting found themselves on the wrong side of the law and hunger became common. Acres and acres of beautiful gardens in Native homelands were destroyed for the harvest of uranium flowing through the veins of our Sacred mother earth.

I am a prime example of what happens when you try to stand up and protect the elders, babies and communities from corruption and disruption of our sacred way of life. The very justice system, supposedly designed to uphold the laws of our land, will use any method necessary to get the outcome they want. Intimidating witnesses, manufacturing or withholding evidence, and judge shopping are all tactics used to achieve a conviction. These conditions are unacceptable. While the current Administration has done more for our people than any in recent history, we can not stand idly by. We must be involved with bringing about the change we need. If we don't demand accountability from the very government entrusted with our future, who will? If not us, then who? If not now, then when??

We as Indigenous people have always supported each other. We have a history of Native trade between Nations in all four directions. We didn't create or recognize borders. We communicated internationally. That is the goal we now have in front of us. We want to re-establish that relationship. As Indigenous peoples, we must never forget that we are all related. The time has come for us to come together again, to mend the sacred hoop that forever keeps us as one mind in one family. Let no man divide us forever. Please join us as we begin the healing process.

I am very humbled that this Tribunal has been named after me.  
I promise to do my very best to be worthy of this honor.

Doksha.

### **22 Sept - Lynne Stewart Update**

*There is a new petition in circulation for Lynne Stewart's release as well as a statement from her and information about a rally on her birthday that we've included below.*

#### **MORE:**

**AN URGENT UPDATE: A NEW PETITION IN OUR ESCALATED EFFORT TO SECURE FREEDOM FOR LYNNE STEWART!**

An outpouring of support is required once again to free revered attorney Lynne Stewart. She has submitted a new application for compassionate release and received word on September 6, 2013 that FMC Carswell Warden Jody R. Upton has sanctioned and forwarded her papers to the Bureau of Prisons headquarters in Washington, D.C.

With every pretext now removed, we summon Bureau of Prisons Director Charles E. Samuels, Jr. to act appropriately and expeditiously: Review Lynne Stewart's new application, again sanctioned and forwarded by Warden Upton. Instruct the federal attorney accordingly to file the requisite motion with a Federal Bureau of Prison recommendation for Lynne Stewart's compassionate release. Judge John G. Koeltl is on the record: he will respond to the motion the moment he receives it.

In July 2013, Lynne Stewart was provided a conservative prognosis of 18 months remaining life in the report of the oncologist retained by the prison, thus meeting the new guidelines for compassionate release established by the Bureau of Prisons. Yet another two months have passed since then, with Lynne Stewart's health deteriorating rapidly, and still she is not free.

Now, more than ever before, every day, every moment counts.

We call upon all to sign the new petition <http://www.change.org/petitions/free-lynne-stewart-support-compassionate-release> which will direct a demand letter from you by email to Director Samuels and Attorney General Holder.

Please distribute the new petition widely and urge all within your reach to follow your example and sign the petition so free Lynne Stewart.

Over 30,000 people in the United States and internationally signed our initial petition. The number of people who have done is, in reality, significantly greater because the support from prominent organizations encompasses approval and support of their individual members.

Let us outdo all our previous efforts in pressing our demand at this late time: release Lynne Stewart from vindictive bondage and suffering.

On October 8, Lynne Stewart will be 74 years old. She has devoted her life to the impoverished and oppressed, as a school librarian in Harlem, New York and for 30 years as an unwavering criminal defense attorney whose personal and professional ethos continuously placed her client's interests above her own.

We do not want Lynne Stewart to celebrate her 74th birthday on October 8th in prison; should that be the case, she has asked us all to sound the alarm in vigils and rallies outside U.S. Court Houses and appropriate public centers.

Let us embrace her with our energy and our support.

To send your message to Federal Bureau of Prisons Director Samuels and to U.S. Attorney General Eric Holder, please sign the new change.org petition for Lynne Stewart at <http://www.change.org/petitions/free-lynne-stewart-support-compassionate-release>

### **Statement from Lynne**

From Deep in the Belly of the Beast...that is, Texas.

Now another month has passed and I am getting increasingly irritable that these jokers are so cavalier with my life and what time I have left. (I also am getting weaker.)

My application for compassionate release is moving but glacially (Are there any glaciers left? Only in the bureaucracy...). We learned that the request has left the General Counsel's office of the Bureau of Prisons in Washington and is now being considered by an "Independent Committee" (whatever that means). From there it will ostensibly go to the Director, Mr. Samuels, for the final recommendation and request for a motion to the Judge.

As you can appreciate there is still plenty of room for slips between cup and lip. I truly understand that I, with the strong and consistent support of all 30,000+ of you, do constitute a "threat" in their small universe. That is to say that, the will of the People cannot be ignored forever. With that in mind, I want to urge everyone to come on out on

OCTOBER 8, TUESDAY, MY 74th BIRTHDAY  
FOR A LOCAL SHOW OF OUR COLLECTIVE WILL  
IN OPPOSITION TO THE "DEATH PENALTY "

ORGANIZE • ORGANIZE • ORGANIZE • ORGANIZE • ORGANIZE

YOU AND YOUR COMRADES, FRIENDS, ACQUAINTANCES CAN GATHER AT YOUR LOCAL FEDERAL (U.S.) COURTHOUSE OR POST OFFICE TO REMIND THEM THAT WE WILL NOT LET ME DIE IN A JAIL CELL!!!

In New York City, there will be an event at Theatre 80 St. Mark's on St. Mark's Place just west of First Avenue from 8 to 10 p.m.

If you can do this please notify Ralph of your location by sending an email to my web site. We hope this will be nationwide and we can spread the word of the senseless cruelty in the way the Bureau of Prisons administers a program that is supposed to be compassionate. I may be the "poster child" but this is done on behalf of all the prisoners who are languishing, in pain or worse, trying to go home.

Be out there on October 8. It is already an historic day. Let's make it More So!!! Let's Win.

## **22 Sept - Unconquerable Souls: Updates on a Puerto Rican Political Prisoner**

*Francis Torres takes the opportunity to update readers on some of the campaign's recent highlights of the campaign to liberate Oscar Lopez Rivera.*

### **MORE:**

Thanks to the actions of civil rights and Puerto Rican pro-independence organizations, word of Oscar Lopez Rivera continues to reach thousands of people both within and outside of Puerto Rico, even if the man himself is confined to the same federal prison he has lived in for years in Terre Haute, Indiana. The 70-year-old Puerto Rican independence activist is currently in his 32nd year of imprisonment. Following dozens of activities across the island and in the U.S., however, his case has grown more relevant than ever in Puerto Rican society. The many groups of the liberation campaign have kept up the pressure and recently gained some impressive victories as a result.

On September 11, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the largest federation of unions in the U.S., approved a resolution demanding that President Barack Obama grant Lopez Rivera an executive pardon. On September 14, thousands of Puerto Ricans attended a concert honoring Lopez Rivera's life and struggle. Some of the island's most famous musicians participated, adding their voices to those of the many activists, politicians and other public figures that have lobbied for his release. And on September 16, Puerto Rican governor Alejandro Garcia Padilla brought the issue to light again during an official visit to Washington.

One of the more interesting events of the campaign, however, took place last month. On August 22, the Puerto Rican state department hosted a conference which brought together several professors and pro-Lopez Rivera activists to talk about the history of seditious conspiracy (the charge which Lopez Rivera was jailed for) and the similarities between the independence fighter and other famous political prisoners – specifically Nelson Mandela, former president of South Africa and leader of the armed struggle against the country's apartheid system.

Predictably, many people call the comparison unfair and superficial. Detractors argue that Mandela's actions enjoyed the support of a majority of his country's population, while the Puerto Rican independence movement has never boasted a backing of the majority since the U.S. invaded the island in 1898. Others simply recoil at the notion of equating a world-renowned freedom fighter and politician to a man that is currently labeled as a domestic terrorist. These apparent differences do not address each man's actions, but rather their historical context. When viewed in terms of individual actions and decisions, the similarities between Mandela and Lopez Rivera are much more apparent.

The most obvious resemblance is the prolonged imprisonment both men have endured for political reasons. Mandela, like Lopez Rivera, was charged with seditious conspiracy to overthrow his government and punished with a lengthy sentence. The man spent 27 years behind bars, enduring physical and psychological maltreatment. Lopez Rivera has spent 32 years in federal prisons on a 70-year sentence, suffering many of the same human rights abuses Mandela did, in addition to extended solitary confinement. Both men were vilified for using violent methods to aid their cause: Mandela for his covert bombing campaigns with the armed wing of the ANC

(African National Congress), and Lopez Rivera for his participation in the pro-independence group FALN (Armed Forces for National Liberation). Due to their actions, both have been called extremists and terrorists.

Like so many other freedom fighters of the 20th century, Mandela and Lopez Rivera subscribed to leftist and liberationist ideologies typical of the Third World struggles of their times. Both experienced political and social marginalization due to their race and sought to aid their disempowered communities seeking greater representation – Mandela as a politician, Lopez Rivera as a community organizer.

Perhaps the most important similarities between both men are their strength of will and peace of mind in the face of adversity – their unconquerable souls. Mandela famously used his time in prison to keep fighting for his cause. The strength of his convictions was respected by fellow inmates, and his letters allowed him to shape events in South Africa and the rest of the world. Upon emerging from prison as an old man, his youthful energy and desire to better his country were undiminished. Over the course of the last 32 years, Lopez Rivera's letters have strengthened the resolve of independence activists and sympathizers lobbying for his release. Through these letters he has helped shape the discourse of the contemporary Puerto Rican left wing, and made his case a rallying cry for many islanders. He showed his own strength when he declined a presidential pardon from Bill Clinton in solidarity with two fellow imprisoned independentistas who were not offered clemency.

El Nuevo Dia, Puerto Rico's largest daily newspaper, recently agreed to publish Lopez Rivera's periodic letters to his granddaughter. In one of these, titled "Where the Sea Breathes," he writes about his experience in a supermax prison: "Did you know that ADX, the maximum security prison in Florence [CO], is filled with the US.'s worst criminals and is considered the most impregnable and harshest in the country? There, prisoners have no contact with each other. It is a labyrinth of steel and cement made to isolate and incapacitate. I was among the first to populate the prison" (my translation).

On June 30, President Obama visited Mandela's old prison cell in Robben Island. Before leaving, he wrote the following message on the historical site's guest book: "On behalf of our family we're deeply humbled to stand where men of such courage faced down injustice and refused to yield. The world is grateful for the heroes of Robben Island, who remind us that no shackles or cells can match the strength of the human spirit." It would be hard not to notice the irony of this statement. Those of us fighting for Oscar's freedom hope that President Obama will soon recognize the Mandela in our midst, and make good on his many promises to respect expressions of Puerto Rican popular will. The bludgeon that is chance might have made Lopez Rivera a terrorist and Mandela a hero in America's eyes, but the fates of men of such courage as them deserve not to be ignored.

## **25 Sept - Daniel McGowan: The FBI's Least Wanted**

*He did his time for burning down two Oregon lumber mills, but he's not exactly a free man.*

### **MORE:**

By Anna Merlan (*Village Voice*)

At six o'clock on a cool June morning, after five and a half years in federal prison and six months in a halfway house, Daniel McGowan went home. From the halfway house in Vinegar Hill, he took the F train to downtown Brooklyn, crawled into bed beside his wife, Jenny, and slept for a few hours. Then he headed out to meet his probation officer and a mountain of paperwork. It was his first day as a freed domestic terrorist.

"I was really horrified at the time of my sentencing at being called a terrorist," he says. "I'm still horrified."

At 39, McGowan is a little skinnier than before he went to prison, a little grayer. But he doesn't look too different from the guy who helped burn down two Oregon lumber mills on behalf of the Earth Liberation Front in 2001, or the guy a federal judge sentenced to seven years in prison for those crimes in 2007. On a recent evening, he's wearing a loose green T-shirt and several days' worth of stubble, a bike seat by his side and a smartphone in his hand. He glances at it every few minutes.

"I used to make fun of people who texted all the time," he says. "And now I'm one of them."

With a summer of freedom behind him, McGowan is still figuring out the rules of his new reality. Besides being a convicted terrorist, he owes nearly \$2 million in restitution, which he's expected to pay in full. The peculiar terms of his probation forbid him joining "any groups or organizations whose primary purpose is environmental and animal rights activism"—a prohibition that includes nonprofits such as PETA and the Sierra Club. He can't associate with anyone with a felony on their record, or anyone convicted of illegal environmental or animal rights activity, even a misdemeanor—a tall order for a man who had spent much of his life in activist circles. And, as he learned in the halfway house, writing about his experiences in the prison system has the potential to land him back in jail.

McGowan says he left the ELF soon after the second Oregon arson. He was working at a nonprofit for victims of domestic abuse when he and 12 others were arrested during the Federal Bureau of Investigation's Operation Backfire, which ferreted out ELF members responsible for a series of arsons and other crimes between 1996 and 2001. Vandals targeted lumberyards, slaughterhouses, and U.S. Bureau of Land Management and Forest Service offices, wreaking a record \$48 million worth of damage.

Several of those arrested agreed to cooperate with prosecutors. One ELF member secretly recorded conversations with McGowan, helping to convict him on several counts of arson and conspiracy—actions that, in the eyes of U.S. District Court Judge Ann L. Aiken, amounted to terrorism: attempts to create "fear and intimidation to achieve a goal and affect the conduct of government," as the judge put it at McGowan's sentencing.

Ten months into his prison term, McGowan was transferred from the general population at the Federal Correctional Institution in Sandstone, Minnesota, to a newer wing in Marion, Illinois, known as a Communication Management Unit. Much of the CMU population is Muslim, but politically affiliated prisoners such as McGowan also find themselves there. The main hallmark of a CMU is restricted contact with the outside world: McGowan was allowed two short, no-contact visits per month—he wasn't permitted to have any physical contact whatsoever with his wife for the duration of his sentence—and his phone time was limited to a single 15-minute phone call per week. (The BOP has subsequently revised the CMU limits to two 15-minute calls and two four-hour visits.) His mail was delayed and often rejected by a censor as inappropriate. In 2009, while he was incarcerated at Marion, his mother died of cancer. (McGowan was later transferred to the nation's only other CMU, in Terre Haute, Indiana, where he spent 22 months.)

Court documents would later show that the initial decision to move McGowan into the CMU was made by Leslie Smith, head of the counterterrorism unit of the Federal Bureau of Prisons. Smith acknowledged that McGowan's disciplinary slate was clean but argued that he posed a threat to public safety because his jailhouse letters and articles constituted "attempt[s] to unite the radical environmental and animal liberation movements." Additionally, he had requested that his lawyers send him copies of leaked BOP documents—a blatant attempt, the BOP contended, to escape its monitoring of his communications.

After five and a half years in prison, McGowan was sent to a halfway house in Brooklyn to serve out the last six months of his sentence. While he was there, he wrote an article for the Huffington Post detailing his time at the CMU. On April 4, three days after the story was published, federal marshals arrested him, took him to the Metropolitan Detention Center, and issued him an orange jumpsuit. From there, he assumed, he'd be sent back to the CMU for the remainder of his sentence. But his lawyers quickly secured his return to the halfway house and quashed the BOP's effort to impose a gag order.

"As far as we know, this is a made-up rule applied only to Daniel, in a further attempt to chill his freedom of speech," wrote Rachel Meeropol, McGowan's attorney at the New York-based nonprofit Center for Constitutional Rights.

The BOP quietly dropped the matter.

Will Potter is a journalist who has written extensively about environmental activism. He says restrictive parole conditions for activists are becoming more common.

"It reflects the political nature of these prosecutions," Potter says. "And how this terrorism language can follow people long after they leave the courtroom and long after they leave prison. This is something that can follow these activists the rest of their lives."

McGowan should not expect the surveillance to stop when his supervised release ends, Potter emphasizes. "At speaking events we've done with other former prisoners, law enforcement has been there. Sometimes they come in publicly, flashing badges. In FOIA [Freedom of Information Act] requests later on, I've also gotten information about [undercover] police officers at public events. I just can't imagine what that would be like. It's a constant cloud over you all the time."

For Steve Swanson, McGowan's terrorist designation and the terms of his release seem like justice. Swanson is president and CEO of the Swanson Group, which used to be called Superior Lumber, one of the two companies whose buildings McGowan helped to burn down.

"The definition of terrorism is exactly what they did," Swanson says. "They were trying to change our behavior by inflicting terror on us. It's not different than Islamic terrorists or what the IRA was doing back in the '70s. To say they were nonviolent is just not accurate. We have a total volunteer fire department that responded. Any number of those people could've been killed."

Adds Swanson, "Frankly, we used more wood products to rebuild all those things they burned down."

At his sentencing, McGowan apologized for the fires, saying he felt "deep regret" for frightening the lumber workers. "Although I now know it's hard for people to believe, my intention at the time was to be provocative and make a statement," he told the court. "Not to put individual people in fear."

Swanson says McGowan has never apologized to him directly.

In the meantime, both men have moved on. The Swanson Group tore down the remnants of its old factory and built a larger one. McGowan recently participated in Running Down the Walls, a fundraiser for political prisoner support groups. He figured it was permissible because it had nothing to do with environmental issues.

Still, he says, that April night in jail was jarring: "Sometimes things feel fragile."

A federal judge recently ruled that because McGowan is no longer an inmate, he has no standing to participate in a lawsuit against the Bureau of Prisons that challenges the constitutionality of CMUs. Instead, on Tuesday, September 17, he filed a formal complaint against the Federal Bureau of Prisons, alleging that the re-arrest deprived him of his liberty and caused emotional harm.

## **28 Sept - An update on a Grand Jury Resister**

*It saddens us to announce that the Pacific Northwest grand jury investigation has received a six month extension and will most likely conclude on March 4th, 2014.*

### **MORE:**

During the past six months there has been little news as to the current status or extent of the investigation and subsequent repression. The only news has been what has already been stated, the grand jury will continue.

Steve is still struggling against the grand jury. He is adjusting to life in a new city surrounded by good friends who are both inspiring and supportive. However, in the past week, Steve has been experiencing multiple instances of police harassment; harassment to the degree he has not experienced before.

About two weeks ago at one in the morning, while walking to the corner store, Steve was approached by two local police officers who screamed his name and threw him against their car and into the backseat. After several minutes of questions and insults, in which Steve remained silent, the car drove with Steve out of the parking lot. The drive lasted an hour while the two cops continued to insult and harass Steve. The harassment and verbal abuse was both common insults and questions around his forced exile outside of the United States. The cops went as far as to insult him, stating that they would beat him and leave him out where no one could find him. Eventually the police stopped the car in an industrial park on the outskirts of the city. They then removed Steve from the car and stole his cellphone, jacket, shoes, and emptied his wallet of personal items and money. The cops then left him there. Thankfully, Steve was able to contact friends who later came and took him back home.

Unfortunately, only a few days after that incident the cops returned to harass him. Steve was riding his bike home from a friend's house when he realized he was being followed by a cop car. The cops in the car began to shout his name and ask him to "go for another walk". Steve ignored them but the cops continued on his trail. Eventually the cops chose to drive onto the bicycle path and follow behind Steve. At this point Steve was able to cross through another area and escape his harassers. Again, Steve's friends were able to retrieve him and take him safely back home.

Four days later Steve was targeted again. While walking to the store near his house Steve was stopped by two police officers and placed in the back of a patrol car. He was brought to a parking lot a half hour away and was kept in the back of the car for three hours until an unknown man, identifying himself as a detective came into the parking lot and talked to Steve. The man told Steve that though he does have current legal status in the country he is residing in, the FBI is currently working to have that status revoked. The man also told Steve that if he does not return to the United States and testify before the Grand Jury his life will become a living hell, and that the FBI does not deal well when they don't get what they want. He suggested that Steve make contact with the FBI agents who want to talk to him but said the decision to do that is ultimately up to him. After the man left, Steve was dropped off in a mall parking lot on the outskirts of the city. He was able to have friends pick him up and take him back home again.

This recent harassment has led to Steve feeling more concerned about his already precarious situation. Although he does have legal status, he does not feel stable in his situation and is currently seeking counsel from immigration lawyers. At this point he is entirely uncertain of whether or not he will be able to stay in his new city, or whether he once again must leave and travel somewhere new.

Steve has been very grateful and appreciative of the donations offered thus far and continues to do whatever he can to supplement his income where he currently is. However, with the upcoming potential of legal and or relocation costs, Steve's economic situation has only become more unstable and stressful with this recent wave of intense harassment.

We ask that you donate whatever you can to help Steve. Please support Steve and the rejection of the grand jury investigation against anarchists. Take a moment of your time and resources to show your solidarity with Steve and let him know he is never alone!

Support Steve!

.....

A brief rundown:

In late July of 2012, our friend Steve received a phone call from a man identifying himself as a FBI agent. He was told that a subpoena had been issued for him to appear before a federal Grand Jury investigating the vandalism of the Kenzo Nakamura Court of Appeals\*. This phone call happened in conjunction with three other people being served subpoenas in Olympia and Portland, as well as house raids in Portland. Although Steve is a known anarchist in the Northwest, who has been subjected to state harassment before, up until this moment he has not been served or indicated as a suspect of the ongoing Grand Jury investigation targeting anarchists.

His life has been severely impacted by the course of events. He has made the choice to leave his former life behind in order to resist the Grand Jury on his own terms. This means that Steve has gone without face-to-face contact with his family, friends, and loved ones for many months.

The investigation and subsequent repression is still very much alive even though former prisoners, Maddy, Matt and Kteeo are now out of prison. The potential for criminal indictments remains a real possibility. Also, the effects of imprisonment and future threats of going back to prison, which could happen if any of the three are charged with criminal contempt, are not something that ends once one has left the prison walls behind.

While Steve has been doing his best to adjust to life in a new place, it has not been an easy transition. He is in a really rough spot right now, being thousands of miles away from his home and not knowing when he will be able to return. He has already been physically and verbally harassed by the state forces in his new location, and is having a hard time finding employment due to not having status and language barriers. At the same time, he has been doing his best to keep his spirits high and is grateful for all the support and solidarity he has received so far, and for the new friends he has made. The fact remains that life inside capitalist society is expensive, and at this point he has no income whatsoever. Please consider donating to Steve so he can take care of his rent, bills, transportation costs, and everything else this life forces us to pay for. As little or much as you can, anything helps.

For more info: [solidaritywithsteve.noblogs.org](http://solidaritywithsteve.noblogs.org)

### **3 Oct - The 5th Annual Black Panther Party Film Festival**

**WHAT:** Black Panther Film Festival

**WHEN:** 7:00pm Thursday and Friday nights, 4:00pm Saturday, October 3rd-5th

**WHERE:** Maysles Cinema - 343 Lenox Avenue New York, New York 10027

**COST:** Suggested \$10 donation at the door for all screenings.

#### **MORE:**

##### **Thursday, October 3<sup>rd</sup> 7:00pm**

*Political Prisoners Shorts* (10 min.)

Yesterday Is Not Too Soon (Interview with Assata Shakur)

Legal Services for Prisoners with Children, 1997

Assata interviewed by activist Dorsey Nunn.

##### *Mama C. Urban Warrior in the African Bush*

Joanne Hershfield, 2012, 60 min.

The film explores Mama C's decade's long project of coming to terms with who she is—an African American raised in Kansas City, KS, the "jazz-capital of the world," who has lived most of her life in Africa, the place from where her ancestors were forced to make the "middle-passage." When she first arrived in Tanzania she tried as hard as she could to "fit in," wearing khangas, carrying my babies on my back, basket on my head, chewing sugar cane sticks." As she writes in one of her published poems, "In my freshly-landed, just-got-off-the-boat enthusiasm of living in Africa, I tried to blend, to melt, homogenize, disappear, erase, the essence of what made me who I am, an African, who grew up in and was molded by the 'hoods' of America, and I almost lost myself."

Post-screening Q&A with director Joanne Hershfield and Attorneys Jill Soffiyah Elijah & Joan Gibbs

##### **Friday, October 4<sup>th</sup> 7:00pm**

*Long Distance Revolutionary: A Journey with Mumia Abu-Jamal*

Stephen Vittoria, 2013, 120 min.

Before he was convicted of murdering a policeman in 1981 and sentenced to die, Philadelphia Black Panther Mumia Abu-Jamal was a gifted journalist and brilliant writer. Now after more than 30 years in prison and despite attempts to silence him, Mumia is not only still alive but continuing to report, educate, provoke and

inspire. The film features many supporters of Mumia, including actress Ruby Dee, Cornell West, writer Tariq Ali, and author Michelle Alexander ("The New Jim Crow").  
Post-screening Q&A with director Stephen Vittoria.

### **Saturday, October 5<sup>th</sup> 4:00pm**

*In My Own Words*

2011, 48 min.

Prison interview with the long-jailed Ojore Lutalo. Ojore touches on many issues, from what prisons are, to why he is in prison to the nature of the black radical struggle. Ojore was released in 2009, only to be rearrested a few months later as the alleged "Amtrak Terrorist" in Colorado. All charges were dropped after no one was able to provide any evidence of wrongdoing.

Post-screening Q&A with Ojore Lutalo & Bonnie Kerness

### **Saturday, October 5<sup>th</sup> 7:00pm**

*Hard Time*

Ronald Harpelle, 2013, 40 min.

Hard Time is a film about Robert Hillary King, the only one of the Angola 3 to have been released. King was a political prisoner who spent 29 years in solitary confinement in the infamous Louisiana State Penitentiary at Angola. The film focuses on racism and human rights in the U.S. penal system, and draws attention to the plight of Herman Wallace and Albert Woodfox, the other members of the Angola 3, who have been held in solitary confinement for more than 40 years. Together they formed a prison chapter of the Black Panther Party to fight for better conditions, security for inmates and justice behind bars.

*Herman's House*

Angad Bhalla, 2012, 80 min.

Herman Wallace may be the longest-serving prisoner in solitary confinement in the United States—he's spent more than 40 years in a 6-by-9-foot cell in Louisiana. Imprisoned in 1967 for a robbery he admits, he was subsequently sentenced to life for a killing he vehemently denies. Herman's House is a moving account of the remarkable expression his struggle found in an unusual project proposed by artist Jackie Sumell. Imagining Wallace's "dream home" began as a game and became an interrogation of justice and punishment in America. The film takes us inside the duo's unlikely 12-year friendship, revealing the transformative power of art.

### **Followed by Closing Reception and Party**

Invited Director: Melvin Van Peoples

Featured Speakers: Directors Margarita Rosario, Stephen Vittoria, & Joanne L. Hershfield. Attorneys Jill Soffiyah Elijah & Joan Gibbs. Panthers Bullwhip, Cleo Silvers, Pam Hanna, Cisco Torres, Shaba-Om, & Jamal Josephs. Also King Downing, Shaka Shakur, Ojore Lutalo and Bonnie Kerness

## **11 Oct - Bluestockings Prisoner Letter Writing Group**

**WHAT:** Prisoner Letter Writing Group

**WHEN:** 5:00pm, Friday, October 11th

**WHERE:** Bluestockings - 172 Allen Street (between Stanton and Rivington) New York, New York

### **MORE:**

"The communication between two humans concerning their hopes, ideas and their plights is what allows them to bond in resistance against a system that affects everyone in many different ways," says Colorado prisoner Rachel Galindo (in a letter published in Resistance Behind Bars). Join a new Bluestockings-based group committed to communication and resistance by writing to prisoners. We'll be focusing on folks who tend to receive less attention and mail, including LGBTQI-identified prisoners, women, and youth. Pens, paper, writing guidelines and encouragement will all be provided!

## **12 Oct - Learning from the past to forge our future**

**WHAT:** Be The Evidence Project Symposium

**WHEN:** 12:30pm, Saturday, October 12th

**WHERE:** Corrigan Conference Center (12th floor lounge) Fordham University Lincoln Center Campus - 113 West 60th Street, New York, New York 10023

**COST:** Free

**MORE:**

12:30 pm: Presentation by a Survivor of a Nazi Concentration Camp

1:45 pm: Presentation by a Child Survivor who Escaped the Concentration Camps

3:00 pm: Presentation by a Freedom Rider

5:00 pm: Film,

“Lifers: Stories from Prison”

6:30 to 8:00 pm: Panel, Grandparents Behind Bars: Why We Should Release Elders from Prison (including folks from Herman Bell's RAPP (Release Aging People in Prison))

**19 Oct - Sekou Odinga Benefit CD Release Party**

**WHAT:** CD Release Party with live performances

**WHEN:** 5:00-9:00pm, Saturday October 19th

**WHERE:** The National Black Theatre - 2031 5th Avenue (at 125th Street) Harlem

**COST:** \$20, includes light refreshments

**MORE:**

Sekou Odinga has been an unjustly held Political Prisoner of War (PPOW) since his capture on October 21st, 1981. For the past 32 years, Sekou and his family have paid a high price for his being a freedom fighter. It is time we bring him and ALL U.S. held PPs and POWs home.

We say FREE 'em ALL...THEN & NOW!

We understand that freedom ain't free, so we ask you to help us raise funds for the Sekou Odinga Legal Defense Fund. This fundraising project is a family and friends CD compilation of song, spoken word, hip hop, and poetry.