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Updates for November 16th

22 Oct - Kite Line Podcast Features Jessica Reznicek and Marius Mason

Two recent episodes of the excellent Kite Line podcast focus on two political prisoners—Jessica Reznicek and Marius Mason.

MORE:

You can listen to each episode at:

273 Jessica Reznicek – Dignity in Rebellion: kitelineradio.org/podcast/273-jessica-reznicek-dignity-in-rebellion

274 Hard-earned Wisdom: kitelineradio.org/podcast/274-hard-earned-wisdom

24 Oct - Missouri Governor Wants to Prosecute Journalist Who Clicked ‘View Source’ on Government Site

A St. Louis Post-Dispatch journalist found 100,000 Social Security numbers exposed in a government website, and reported the flaw to the government.

MORE:

by Lorenzo Franceschi-Bicchierai (*VICE*)

Missouri Gov. Mike Parson wants to prosecute a journalist who warned the state that a government website left school teachers and administrators' Social Security numbers exposed.

Parson called *St. Louis Post-Dispatch* reporter Josh Renaud a “hacker” and vowed to seek criminal prosecution at a press conference on Thursday. Renaud's "crime?" Clicking "view source" on a publicly available webpage.

“The state does not take this matter lightly,” Parson said, according to the *Missouri Independent*. “This administration is standing up against any and all perpetrators who attempt to steal personal information and harm Missourians.”

Parson said he referred the case to the Cole County prosecutor and asked the Missouri State Highway Patrol to investigate as well.

On Wednesday, the *St. Louis Post-Dispatch* reported that a flaw in the state's Department of Elementary and Secondary Education left exposed the SSNs of the department employees, including teachers, administrators, and counselors. Renaud reported that the SSNs were visible simply by viewing the HTML source code of the vulnerable pages, something that anyone can do with two clicks on any modern browser.

The office of Gov. Parson declined to comment, and referred us to a recording of Parson's press conference.

The way the *St. Louis Post-Dispatch* and Renaud handled the situation seems like a textbook example of ethical disclosure of a bug. The paper reported having found the bug in the web app set up to allow the public to search teacher certifications and credentials. More than 100,000 SSNs were exposed, according to the paper.

Once the paper alerted the state government, the department fixed the bug on Tuesday, and the paper published its story on Wednesday, once there were no risks for the teachers whose SSNs were exposed. Parson's comments are also a textbook example of government officials seemingly not having any clue how

technology works, and vilifying people who do ethical security research as criminals, rather than simply thanking them for doing a public service that makes us all safer.

"The newspaper delayed publishing this report to give the department time to take steps to protect teachers' private information, and to allow the state to ensure no other agencies' web applications contained similar vulnerabilities," the *St. Louis Post-Dispatch* wrote in its article.

A spokesperson for the *St. Louis Post-Dispatch* shared the following statement:

"The reporter did the responsible thing by reporting his findings to the Department of Elementary and Secondary Education (DESE) so that the state could act to prevent disclosure and misuse," the statement read. "A hacker is someone who subverts computer security with malicious or criminal intent. Here, there was no breach of any firewall or security and certainly no malicious intent. For DESE to deflect its failures by referring to this as 'hacking' is unfounded. Thankfully, these failures were discovered."

26 Oct - Former Black Panther Russell "Maroon" Shoatz Freed From Prison

Russell "Maroon" Shoatz, the Black liberationist long respected as a political prisoner and freedom fighter by friends and supporters, was granted a medical transfer on October 25th to leave a Pennsylvania prison for treatment and hospice after five decades of imprisonment.

MORE:

by Mike Ludwig (*Truthout*)

A former member of the Black Panther Party and a soldier in the Black Liberation Army, Shoatz organized inside prisons for decades to abolish life sentences without parole, inspiring activists and attorneys to take up the cause.

The Pennsylvania Supreme Court is now considering whether a legal challenge to the state's practice of denying parole hearings to people serving life sentences for certain second-degree murder convictions can proceed. All life sentences in Pennsylvania excluded the possibility of parole, and the state has the highest per-capita rate of people serving life sentences in the nation and the world, according to the Center for Constitutional Rights.

The 78-year-old Shoatz, who remains highly influential within the Black liberation and prison abolition movements, is reportedly terminally ill after being diagnosed with cancer. In social media posts, activists and family members who spent years fighting for his release celebrated on Monday after a judge in Philadelphia agreed to transfer Shoatz from a prison to a hospital.

In 2014, Shoatz was released from solitary confinement after spending 22 consecutive years in "the hole" and later won a \$99,000 legal settlement. Supporters say the solitary confinement amounted to retaliation against Shoatz's efforts to organize other "lifers" and abolish what activists now call "death by incarceration," or life sentences without the possibility of parole.

Meanwhile, the Pennsylvania Supreme Court will decide whether to hear a lawsuit brought by six state prisoners challenging mandatory life sentences for people convicted the state's "felony murder" rule. Under felony murder rules in Pennsylvania and most other states, a defendant can be held liable for second-degree murder if they participate in a felony crime that leads to a death — such as driving another person to a botched robbery — even if they did not kill the victim or intend for anyone to die.

Unlike other states, conviction under the felony murder rule in Pennsylvania carries an automatic life sentence without the possibility of parole. The Center for Constitutional Rights reports that 1,100 people in Pennsylvania are serving life sentences for "felony murder" despite never intending to cause a death.

Critics liken “death by incarceration” to the death penalty. Like those sentenced to death who may survive for years on appeal, life sentences all but assure that people will die in prison.

The United States is known for handing out much longer prison sentences than European countries, for example, where people convicted of serious crimes such as murder can serve two decades in prison or less.

“To be an outlier in the U.S. is to be the outlier in the world when it comes to life sentences,” said Bret Grote, the legal director of the Abolitionist Law Project, in an interview.

Tyreem Rivers, a plaintiff in the lawsuit, has been imprisoned since 1996 and is now in his 40s. At the age of 18, Rivers grabbed the purse of an elderly woman who fell as a result of the robbery. The woman contracted pneumonia while hospitalized two weeks later, and Rivers was convicted under the felony murder rule and received an automatic life sentence.

“Show [the Rivers case] to most people, and they will not understand why that teenager who committed that offense, should he survive to old age, must live the rest of his life in prison,” Grote said.

In a statement, Rivers said he and other people serving life sentences under the felony murder rule “bear a great sense of remorse” for the role they played in harming victims and have spent years in prison working to better themselves. Human rights attorneys are calling on the State of Pennsylvania to recognize that the plaintiffs have “undergone remarkable transformations despite the challenges and violence of incarceration and their pre-incarceration backgrounds.”

“I can honestly say we no longer think or act as we once did before having been sentenced to life without parole,” Rivers said.

Rivers and the other plaintiffs were all convicted in their late teens and early 20s. Indeed, researchers say many people serving life sentences in Pennsylvania and beyond were teenagers or young adults struggling under poverty at the time of the crime and are very different people today.

Abolitionists say caging people in prison is inherently violent and can cause serious harm rather than supporting people through a self-transformation or “rehabilitation.”

Harsh sentences for more serious crimes are also a major driver of mass incarceration, filling prisons even more than the “war on drugs” and creating an increasingly elderly prison population.

Prosecutors typically decide whether to pursue a “felony murder” charge that carries a life sentence. In Pennsylvania, 70 percent of people sentenced under the felony murder rule are Black and a disproportionate number come from Philadelphia, according to the Center for Constitutional Rights. Overall, Black people are sentenced to life in prison at a rate 18 times higher than white people in Pennsylvania. Latinx people are sentenced to “death by incarceration” at a rate five times higher than whites in the state.

The Pennsylvania Supreme Court has not yet agreed to rule on the merits of the lawsuit. Instead, the court will decide whether the case can proceed so that plaintiffs can collectively challenge the state ban on parole hearings for those serving life sentences, rather than pursuing their pleas for parole individually. The lawsuit argues that sentencing people to effectively die in prison constitutes cruel and unnecessary punishment under the state constitution.

Unlike the plaintiffs in the case, Shoatz was not convicted under the felony murder rule. Shoatz, who is considered both a political prisoner and prisoner of war by supporters, was convicted of first-degree murder and sentenced to life in prison after a 1970 attack on a Philadelphia police station.

As they are today, tensions over racist police violence were running high in Philadelphia during the summer of 1970, when Police Chief Frank Rizzo ordered a crackdown on Black liberation groups ahead a national convention of the Black Panther Party. Anger boiled over after police once again killed an unarmed Black youth, and police were attacked in retaliation, leaving one officer injured and another dead. The attack prompted a raid on the Black Panther headquarters and the arrest of multiple activists.

Shoatz went underground but was arrested and convicted of murder two years later; supporters have said he was falsely accused. Shoatz escaped prison with other Black liberationists twice before being hunted by authorities and captured again. The liberationists were called the New African Political Prisoners of War.

Shoatz spent much of his life resisting solitary confinement, inspiring activists in the free world and working for the liberation of people sentenced to die in prison. Shoatz's supporters say he is now free to rejoin his family during the final stage of his life.

Today, reform efforts to release aging "lifers" and limit or abolish life sentences without parole are underway in a handful of states. Abolitionists say reforms are not enough, and we must reimagine what accountability and support can look like to end mass incarceration and build a world without prisons.

30 Oct - Announcing UprisingSupport.org

Announcing a new website that compiles info and resources about supporting defendants and prisoners from the George Floyd uprising of 2020.

MORE:

Starting in May 2020 the U.S. was shaken by protests, uprisings, and riots following the police murder of George Floyd. Almost immediately the government moved in to repress those taking the streets against the police and racial violence. More than 350 people were arrested on federal charges while city and state level arrests topped 14,000 between May 28th and Nov 3rd. Some cities/regions already had established organizations and crews to help with both jail support and long-term prisoner support during and after the Uprising; in other places new groups formed as the need arose; yet other places still have little or no infrastructure to support the massive number of arrestees.

We are still working on building it out, and have intermediate goals of organizing/sorting the names, adding pictures of defendants/prisoners, and creating a comprehensive FAQ. To aid in this (since this is being run by just a few volunteers) we are asking people to email us at uprisingsupportsite@protonmail.com with any additions, corrections, or updates including:

- Names and addresses and any website or social media pages of uprising defendants and prisoners we have not yet listed who have expressed a desire and have directly consented to public support during their case and/or imprisonment;
- Updated addresses of anyone we have not listed;
- Information or updates about specific mail restrictions for anyone we have already listed;
- Preferred name (if different from the government name) and pronouns, a short bio and case summary, a photo and birthday (day and month) for anyone we already have listed (we need all this information for those we have not listed as well);
- Links to support websites or social media pages, fundraisers, booklists or petitions for anyone we have already listed;

- Contact information for other groups doing support work for uprising prisoners and defendants;
- Anything else you think is important that we don't have!

This site is run by a few people who have both interest in and experience with running support campaigns and doing anti-repression education and organizing. We are not ourselves an organization and we rely primarily on the work and support of those on the ground in each of these places who already have relationships with Uprising defendants and prisoners. We have done our best to communicate with defendants and inform them that since ours is a struggle for total collective liberation that we will not list people who stand for sexism, homophobia, racism, transphobia or other forms of domination. We also will not list or support people who cooperate with the government against others to better their own circumstances.

Showing support and care for those bearing the weight of state repression in the wake of the 2020 Uprising is an integral part of building our communities of resistance. We do this to keep the flame of rebellion lit, especially for those who have spent the last 1.5 years in a cage, and to show that our solidarity for each other is stronger than any prison.

1 Nov - The Many Lives of H. Rap Brown

There is a new article about Imam Jamil Al-Amin in Time magazine.

MORE:

The article is too long to reprint here, but is available online at time.com/6111614/h-rap-brown-jamil-al-amin

3 nov - Justice again denied for Mumia Abu-Jamal

The Pennsylvania Superior Court on Oct. 26 denied Pennsylvania political prisoner Mumia Abu-Jamal's appeals, filed in 2019 following a December 2018 decision by Pennsylvania Common Pleas Court Judge Leon Tucker that awarded Abu-Jamal the right to reopen his Post-Conviction Relief Appeals.

MORE:

by Betsey Piette

His appellate case, first filed in August 2016 and heard in a courtroom April 24, 2017, was based on the 2016 U.S. Supreme Court ruling, *Williams v. Pennsylvania*. This case found due process was violated when former Pennsylvania Supreme Court Justice Ronald Castille participated in the consideration of Terrance Williams' appeal in a capital post-conviction case.

Abu-Jamal's attorneys Judith Ritter and Sam Spital argued that Castille was also the district attorney when Abu-Jamal was convicted, and he was a state Supreme Court judge when Mumia initially filed his PCRA appeals.

As Philadelphia District Attorney, Castille approved decisions to seek the death penalty. The SCOTUS ruling established that a petitioner is entitled to relief when a reasonable observer could conclude that a judge harbored disqualifying bias against the petitioner.

Tucker's decision was based on finding a letter to then-Governor Robert Casey from Castille that showed improper judicial bias. Castille wrote: "I urge you to send a clear and dramatic message to all police killers that the death penalty in Pennsylvania actually means something."

At the time, Abu-Jamal was one of a handful of incarcerated people facing the death penalty on a conviction involving the murder of a police officer.

Tucker's was a split decision. He did conclude that the U.S. Supreme Court 2016 decision in *Williams v. Pennsylvania* did not fully apply. While Tucker's court was in session, no other proof was found in hundreds of file boxes provided by the Commonwealth to show that Castille, as Philadelphia district attorney, had played a significant personal role in Abu-Jamal's case before later denying his appeals while a judge.

However, within days of Tucker's decision, Philadelphia District Attorney Larry Krasner announced finding several evidence boxes related to the case, hidden in a remote storage area. These files contained evidence of prosecutorial misconduct, which became the basis of a request by Abu-Jamal's attorneys for a new evidentiary hearing.

Summarizing the *Williams* ruling, Tucker wrote: "If a judge served as a prosecutor and then the judge, there is a finding of automatic bias and due process violation.

"The slightest appearance of bias or lack of impartiality undermines the entire judiciary... True justice must be completely just without even a hint of partiality, lack of integrity or impropriety. . . . Petitioner is entitled to an unbiased tribunal, without even the appearance of impropriety."

The Superior Court's latest decision was based on the court's view that Judge Tucker was wrong when he determined that the newly found evidence demonstrated bias on Castille's part. The court decided this even though Krasner had withdrawn his initial appeal of Tucker's ruling.

The clearly erroneous and openly biased ruling by the state's lower court's judges, elected with the support and funding of the Fraternal Order of Police, calls into question their ability to acknowledge or even recognize bias when it hits them full frontal. Their ruling comes just weeks before elections that will impact the makeup of the court. Several Superior Court justices are running for seats on the state's Supreme Court.

Today's decision does not affect "new evidence" claims which will still be litigated. Krasner has indicated he has no objections to this evidence being heard in the Court of Common Pleas.

Once again the court system, permeated with the most rank racist bias, cannot be relied on for justice in this nearly 40-year-old case. We need to renew and strengthen the movement to bring Mumia home.

12 Nov - National Lawyers Guild and Water Protector Legal Collective Submit Amicus Brief In 8th Circuit Court of Appeals In Support of Water Protector Jessica Reznicek

The National Lawyers Guild (NLG) and Water Protector Legal Collective (WPLC) have filed an amicus brief urging the Eighth Circuit Court to vacate the sentence against Water Protector Jessica Reznicek in United States v. Reznicek.

MORE:

In June of 2021, Reznicek was sentenced to 8 years (96 months) in federal prison after pleading guilty to acts of property damage she caused the Dakota Access Pipeline (DAPL). The federal judge applied a "terrorism" sentencing enhancement that increased Reznicek's prison time several times over.

Despite the fact that DAPL is now operating illegally and evidence of statements by Reznicek that her actions were exclusively aimed at stopping DAPL, federal judge Rebecca Goodgame Ebinger sentenced Reznicek applying a terrorism sentencing enhancement because she believed Reznicek's conduct targeted "not only the flow of oil, but the government's continued responses" as well.

The same week Reznicek reported to prison, the United Nation's Intergovernmental Panel of Climate Change released their Climate Report signaling "Code Red" for Humanity. Indigenous communities, Water Protectors, and climate activists have continued to oppose DAPL for its pollution and disruption of Indigenous communities and lands, and for climate change acceleration. In the few years DAPL has been in operation, over 10 spills have been reported.

Sentencing Reznicek under a federal terrorism enhancement for acts of civil disobedience targeting private property, sets an alarming and dangerous precedent for climate justice movements and endangers Indigenous and front-line defenders most impacted by worsening climate conditions.

"What Jessica's case highlights is the power of corporations and the cult of private property we have in the United States that permeates all levels of our society. We already have to contend with the power of corporations ("legal persons under the law") to lobby, to pay for private security forces that intimidate and brutalize frontline human rights defenders, and use of their endless resources in judicial attacks in the form of SLAPP suits," said Natali Segovia, Legal Director of the Water Protector Legal Collective and one of the authors of the amicus brief. "Now we must also deal with the power of 'corporate victims' to request millions in restitution and extended sentences for acts of civil disobedience—which they term 'eco-terrorist'—that were avowedly nonviolent and resulted only in property damage of an illegal pipeline that has already leaked and will inevitably do so again. 'Who will drink the water?' is not a rhetorical question."

The brief provides an overview of the historical rise of the industry-coined phrase 'eco-terrorism' and contextualizes Reznicek's actions, including the exhaustion of all legal remedies to halt the DAPL, government inaction to curb climate change and climate scientists' arguments in favor of mass popular action. Given the very real material threats of climate change, the brief states that Reznicek's conduct was out of necessity and in response to the environmental terror created by corporations.

The NLG and WPLC urge the court to seriously consider the lasting impacts of this domestic terrorist sentencing precedent on political protest. Branding Water Protectors, Land Defenders, and other environmental activists as "eco-terrorists" results in a "Green Scare" that has led to legal and legislative repercussions for climate justice defenders.

Especially for communities disproportionately impacted by the effects of climate change, the ability to call for substantial measures to slow or halt climate change are literally a matter of life or death.

From Leoyla Cowboy, Water Protector and WPLC Program Director's perspective, "Jess put her life on the line because she wanted to protect the water and how much she cares for the Earth. We shouldn't be asked to decide between seeing our children grow up and stopping harmful oil pipelines."

Reznicek's friends and comrades insist on one thing: "she is not a terrorist."

We stand in solidarity with Jessica Reznicek and all Water Protectors demanding an end to irreversible climate damage.

12 Nov - Leonard Peltier Is America's Longest-Serving Political Prisoner. Biden May Be His Last Hope.

The FBI put the Native American activist behind bars 44 years ago based on lies, threats and no proof he committed a crime. Why is he still there?

MORE:

by Jennifer Bendery (*HuffPost*)

Leonard Peltier has been in prison for 44 years for a crime he says he didn't commit.

His trial was riddled with misconduct that would never hold up in a U.S. court today. Prosecutors hid key evidence. The FBI threatened and coerced witnesses into lying. A juror admitted she was biased against Peltier's race on the second day of the trial, but was allowed to stay on anyway.

There was never proof that he murdered two FBI agents during that 1975 shoot-out on Pine Ridge Reservation in South Dakota. But the FBI needed someone to take the fall. The agency had just lost two agents, and Peltier's co-defendants were acquitted based on self-defense. This was happening as the FBI was fueling tensions on the reservation as part of a covert campaign to suppress the activities of the American Indian Movement, or AIM, a grassroots group of activists focused on drawing attention to federal treaty rights violations, discrimination and police brutality targeting Native Americans.

Peltier, an AIM member, was there that day. So based entirely on testimony from people who had been threatened and intimidated by the FBI, and operating within a 1970s-era criminal justice system tilted in favor of the U.S. government and against Indigenous rights activists like Peltier, the U.S. Attorney's Office successfully charged him with murder.

By all appearances, the FBI wants Peltier to die in prison while serving two life sentences.

But Peltier is still alive, now 77 and ailing in a Florida penitentiary. He is perhaps America's longest-serving political prisoner, a holdover from a different era of justice. Here in 2021, his story still moves hundreds of thousands of people to sign petitions in support of his release. An astounding mix of human rights leaders have urged his release over the years, including Pope Francis, the Dalai Lama, Mother Teresa, Nelson Mandela and Coretta Scott King. Prominent artists including Willie Nelson, Bonnie Raitt, Jackson Browne and Rage Against The Machine have held concerts in his name. Elected tribal leaders and the National Congress of American Indians have passed resolutions urging clemency.

And now, with Joe Biden in the White House, his supporters feel a renewed sense of hope that Peltier may, at last, have a shot at living out his final years as a free man.

Biden has demonstrated a willingness to address past injustices against Native Americans. He's made it a priority to examine the U.S. government's ugly history of Indian boarding schools, to protect sacred Indigenous sites and cultural resources, and to address the crisis of missing and murdered Indigenous women. He canceled the Keystone XL oil pipeline, a major win for Native American tribes and environmentalists.

He also chose Deb Haaland to lead the Interior Department, making her the nation's first Indigenous Cabinet secretary. Haaland advocated for Peltier's release from prison in her former role as a U.S. congresswoman.

For Peltier supporters like James Reynolds, these are all reasons for hope. Reynolds was the U.S. attorney who helped put Peltier in prison in the 1970s. In an extraordinary July letter to Biden that has not been made public until now, Reynolds says he has realized over the years how unfair Peltier's trial was, and that it would serve justice to let him go home.

"I write today from a position rare for a former prosecutor: to beseech you to commute the sentence of a man who I helped put behind bars," he wrote. "With time, and the benefit of hindsight, I have realized that the prosecution and continued incarceration of Mr. Peltier was and is unjust. We were not able to prove that Mr. Peltier personally committed any offense on the Pine Ridge Reservation."

Reynolds pleads with Biden to grant clemency to Peltier as a step toward healing "the broken relationship" between Native Americans and the U.S. government.

"I urge you to chart a different path in the history of the government's relationship with its Native people through a show of mercy rather than continued indifference," he said. "I urge you to take a step towards healing a wound that I had a part in making."

Members of Congress are looking to Biden to free Peltier, too.

Last month, Rep. Raul Grijalva (D-Ariz.) led 10 House Democrats in a letter to the president and Attorney General Merrick Garland urging an expedited release for Peltier. They note that Peltier has serious health problems with diabetes and an abdominal aortic aneurysm.

"Given the unprecedented impact of the COVID-19 pandemic in our country, as well as Mr. Peltier's underlying health conditions and age, we request immediate action be taken to release him from federal custody," reads their letter. "Mr. Peltier has yet to receive a fair trial that is free from constitutional violations. ... He has served more than 43 years in the federal prison system, some of which have been in solitary confinement. The support for Mr. Peltier's request for clemency is both widespread and strong."

Grijalva told *HuffPost* that Peltier has been punished for maintaining his innocence. He had a shot at being released in 2009 when he was up for parole, but it would have required him to admit that he murdered the two FBI agents.

He wouldn't do it. His parole was denied.

"Whatever punishment was meant to be meted out to Leonard has been done. It's done," said the Arizona congressman. "The fact that he has held to his innocence shouldn't be a reason to deny this. He has been consistent about his position from the beginning — from being arrested to incarcerated to this day."

The facts may be on Peltier's side. Biden may be the most receptive president yet to pleas to end Peltier's imprisonment. But there's still this nagging problem with his case: Nobody in the upper echelons of the U.S. government seems to want to talk about it.

A White House spokesperson did not respond to multiple requests for comment on whether Biden would consider clemency for Peltier.

A Justice Department spokesperson declined to comment.

The FBI declined to comment.

The most obvious question remains the simplest one: why is Leonard Peltier still in prison?

"That's the \$64,000 question," said Kevin Sharp, who is Peltier's pro bono attorney. "It's why it makes my head hurt trying to figure this out."

Sharp didn't know who Peltier was until a few years ago. A former U.S. district court judge appointed by President Barack Obama, he had been on the bench for six years when he stepped down in 2017 over his disgust with mandatory sentencing laws forcing him to put people in prison who he otherwise may not have imprisoned at all. He turned around and became the lawyer for one of the people he had just put into prison.

In an unexpected turn of events, he connected with Kim Kardashian West and landed a meeting with President Donald Trump in the Oval Office, where they lobbied Trump to grant clemency to two people whose cases they'd gotten involved in. Both of the people Sharp was advocating for were released, and it wasn't long before the story made national news and Sharp's phone was blowing up with people asking for help with clemency cases.

One of the people who reached out was Willie Nelson's ex-wife, Connie Wilson, a longtime Peltier supporter. She sent Sharp a package of materials about Peltier's case, a package that was so big that Sharp sat down and started going through it out of curiosity. Eight hours later, after poring over trial transcripts, newspaper clippings and case opinions, Sharp said he was "floored" by all the problems with Peltier's case.

"This thing is so riddled with misconduct and just flat-out court decisions that would never happen today," said Sharp. "They withheld ballistic evidence that proved it wasn't Leonard's weapon. At the very least, we'd need to have another trial.... They wouldn't have even gotten an indictment because they had no evidence, except for three kids pressured to say they saw him. They recanted all that evidence. And said they were threatened."

There was a darker element to the case, too. Among the documents Sharp received was an internal FBI memo, obtained via a Freedom of Information Act request, directing U.S. attorneys to put all of their resources into convicting Peltier. All of his co-defendants had been acquitted. The FBI needed someone to go to prison. Peltier was the only person left to go after.

Another FBI memo laid out the bureau's broader strategy for suppressing AIM, which is what led to the shoot-out in the first place. The agency's plan was to "continually harass and arrest and charge" AIM members to keep them tied up in court, said Sharp, so they "can't protest their own treatment."

AIM members operating out of the Pine Ridge Reservation were supporting local tribal members in demanding their land back from the U.S. government, and the FBI wanted them to stop, even if it meant inciting violence. The bureau was helping the tribal chairman, who was corrupt and working with the U.S. government for his own purposes, to carry out violence against AIM members.

"Part of what's going on is an extermination policy," said Sharp. "We're taking your land, your minerals. We're going to get rid of you altogether....That's what started it. That's what the counterintelligence was running."

Peltier's case was also happening just a few years after J. Edgar Hoover's reign at the FBI, an era marked by his secretive abuses of power and tactics aimed at harassing political activists in an effort to amass secret files on political leaders.

Connecting all these dots, Sharp said he had to take Peltier's case.

"I'm reading through all this as a federal judge going, 'Oh my god, this is all proven,'" he said. "I get back with Connie Nelson and say, 'Yeah, I'll help. I'll do it pro bono. ... This is too important. This is not about one Indian anymore. This is about the Constitution.'"

So why, again, is Peltier still in prison, despite all the damning evidence lining up in favor of his wrongful conviction?

"Politics," said Sharp. "In order to get clemency, you have to get the FBI on board. They have an inherent conflict. You have to get the U.S. Attorney's Office on board. They lied to get him in prison. They have an inherent conflict. They're not going to say, 'Oops, sorry.'"

"It's this holdover with the FBI," he added.

Sharp filed Peltier's clemency petition with the Biden administration in July.

He hasn't gotten any response.

HuffPost talked to a number of people who have played a role in either fighting or preserving Peltier's imprisonment over the years — international human rights attorneys, senior-level officials from the Obama administration, Peltier's longtime allies — and they all pointed to the same reason for him remaining in prison: resistance from the FBI.

Justin Mazzola, deputy director for research at Amnesty International USA, said he and his colleagues were "completely blindsided" when Obama declined to grant clemency to Peltier at the end of his presidency. Amnesty International USA has devoted an entire campaign to Peltier's release and believed that Obama would deliver.

"I really think it's the weight that the FBI and Justice Department carry that prevents presidents from granting clemency," said Mazzola, suggesting Peltier's case raises particular red flags. "Not only because he was convicted of killing 2 FBI agents, but all of these issues at trial come down to issues by the FBI and U.S. Attorneys that were involved in his case."

"It's a travesty of justice," he added.

Going back further, some of Peltier's supporters say President Bill Clinton appeared ready to grant Peltier clemency until the FBI signaled it would cause trouble for him.

"We were told at the time that the Clintons were agonizing, that the night before he left office, he was agonizing over the Peltier case," said Jack Magee, a longtime friend of Peltier's and organizer with the International Leonard Peltier Defense Committee, a hub of communication between Peltier and the public, political and tribal leaders, and the media. "The following morning, Leonard's name was gone [from the clemency list]."

Days earlier, FBI leadership had quietly signaled approval of nearly 500 active and retired FBI employees gathering outside the White House to protest Clinton potentially releasing Peltier. That, in itself, was a stunning break from discipline.

"I think Bill Clinton wanted to free Leonard," said Magee. "But [the FBI] had issues they could use against him. He had the option of, 'Go and live a good life, get a quarter million dollars for a good speech, or do this and we'll hurt you, make your life miserable.'"

Sharp was heavily lobbying Trump to release Peltier in his final days in the White House. He even had colleagues on the phone with Jared Kushner and Ivanka Trump one morning, and said he was "looking for anything for leverage" to use to make his case for Peltier. But he stopped getting calls back by noon.

And like his White House predecessors, Trump ultimately punted on it.

The FBI's resistance to releasing Peltier doesn't appear to have changed much in four decades, but the culture and attitudes around it have.

George Floyd's murder and the Black Lives Matter movement have forced conversations on the nation's fundamental problems with racism and law enforcement. In a time of deep political polarization in Congress, criminal justice reform has strong support from both parties. The president of the United States is taking major, historic steps to rectify past injustices against Native Americans, and has made significant Indigenous hires within his administration.

If anything, Peltier's activism from decades ago has come full circle.

"Absolutely," Grijalva said. "What was being fought for — to define history in Indigenous terms, not just in white people's terms — that was the battle. And that continues."

But there is still a man in prison who shouldn't be there. And given his failing health, Peltier's last shot at freedom almost certainly rests with Biden.

"He's out of appeals," said Mazzola of Amnesty International. "He has no real opportunities."

HuffPost requested an interview with Peltier, either by phone or in person at his prison. But Sharp said the Federal Bureau of Prisons has to give Peltier permission to talk to reporters, and it's "next to impossible" to make it happen.

A spokesperson for the Federal Bureau of Prisons did not immediately respond to *HuffPost's* request for an interview.

Reynolds, the former U.S. Attorney, said he keeps thinking about how Peltier was charged with murder for being present during a violent scene where people were killed — the same circumstances for hundreds of Trump supporters during the Capitol attack on Jan. 6, except they all just went home afterward.

He can't shake the unfairness of it all. And the racism beneath it.

"Why aren't all the Jan. 6 rioters charged with murder? They were all there. People were killed. What's the difference?" he asked. "Leonard at least had a more legitimate argument to make, that he was protesting government conduct and their treatment of the Indians."

Reynolds said he hasn't spoken to Peltier since helping to put him in prison so many years ago. Asked what he would say to him now, if he could say something, he went quiet.

"I'm sorry," Reynolds finally said. "I'm sorry I can't convince anyone else that you should be able to go home and die."

18 Nov - Parole Prep Welcome Home Party

WHAT: Fund Raiser/Party

WHEN: 7:00pm, Thursday, November 18th

WHERE: ONLINE

COST: Sliding Scale, starting at \$25

MORE:

The Parole Preparation Project's 8th Annual Welcome Home Party is coming up. The program will be virtual and online. Get your tickets today:

This joyous event is an opportunity for us to welcome home and celebrate all those who were released from prison this year. It's so important that we commemorate this moment in the lives of so many of our friends and colleagues. We'll also be raising funds to support the work of Parole Prep. Proceeds from ticket sales will help cover the costs of prison visits, postage, commissary funds and so much more.

Tickets are sliding scale, starting at \$25. Sponsorships are available for \$5,000 for large organizations and \$2,500 for nonprofits. Sponsorships include 10 tickets and an acknowledgement during our virtual program.

If you aren't able to join us, you can donate tickets to returning Parole Prep applicants and their families! To donate a ticket, simply select the "Donate a Ticket" option and enter the amount you wish to donate. We will distribute donated tickets as they come in.

Link and details for the event at tiny.cc/PPP_Party