

Mumia Abu-Jamal: appeal denied, but a silver lining in judge's dissent

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"Todos Somos Mumia!" We are all Mumia! So declared one of many picket signs at an emergency rally in Philadelphia, held after the 3rd U.S. Circuit Court of Appeals delivered a bitter blow on March 27, denying a new trial to Mumia Abu-Jamal, the highly-regarded African American journalist who has spent a quarter of a century on death row.

The three-judge panel upheld life in prison for the former Black Panther, who was framed for the killing of a Philadelphia police officer in 1981. They also left open the possibility of a new hearing on the sentencing phase of his case. Pennsylvania prosecutors have six months to decide whether to pursue reinstatement of the death penalty.

The silver lining in the ruling is a stinging 41-page dissent, written by Judge Thomas L. Ambro. The panel was tasked with reviewing appeals from a Federal District Court decision made in 2001. That ruling upheld Abu-Jamal's guilty verdict despite overwhelming evidence of bias and legal dirty tricks — and overturned the death penalty but left Abu-Jamal on death row amidst appeals.

The 3rd Circuit decision is the latest in a 26-year pattern of clear bias, and it was greeted with protest around the world. Twice Abu-Jamal has been saved from the electric chair only because of massive outcry from this international movement, which sees his case as the epitome of the political persecution and racism that taints U.S.-style "justice."

The Mumia exception. In 2001, Amnesty International concluded that Pennsylvania's highest court simply rewrites its rules "to apply to one case only: that of Mumia Abu-Jamal." Sadly, the latest ruling follows this pattern.

Previously, the 3rd Circuit had a strong record of rectifying discrimination in jury selection. But in Abu-Jamal's case, the two-judge majority violated its own precedents, as well as those established by the U.S. Supreme Court as recently as March. As Ambro wrote, "I see no reason why we should not afford Abu-Jamal the courtesy of our precedents."

The main appeal before the court was whether Abu-Jamal's right to a fair trial was violated when prosecutors eliminated, without cause, 15 of 20 Blacks as jurors.

Judges Anthony Scirica and Robert Cowan rejected the appeal on procedural grounds — that Abu-Jamal's lawyer didn't lodge a timely objection. Citing the draconian Anti-Terrorism and Effective Death Penalty Act, they reasoned that not enough evidence was available to prove the standard of racism in jury selection, as set forth in the U.S. Supreme Court decision of

Batson v. Kentucky.

They also denied Abu-Jamal's other two appeals: that inflammatory comments by the prosecutor had prejudiced the jury **toward** capital punishment; and the overt racial bias of trial Judge Albert Sabo.

Several organizations, including the NAACP and the National Lawyers Guild, submitted amicus briefs detailing the racial animosity that has long tainted Philadelphia's courts, and Abu-Jamal's case.

Hope on the horizon. In his rejoinder to the majority opinion, Ambro wrote, "Excluding even a single person from a jury because of race violates the Equal Protection Clause of our Constitution." Their ruling creates requirements that depart from case law, and raises the low bar the U.S. Supreme Court set for showing discrimination in jury selection.

Most revealing is Ambro's sharp criticism of the court's disregard for the racial underpinnings of the case. "At the very least, my colleagues and the Pennsylvania Courts should have considered that this was a racially charged case, involving a black defendant and a white victim. It is further noteworthy that Abu-Jamal was a member of the Black Panther Party and that he was charged with killing a police officer. Finally it cannot be ignored that this is a capital case. My colleagues dispense with these considerations in a footnote."

Robert R. Bryan, the lead attorney for Abu-Jamal, called Ambro's dissent a "light in the darkness" that will guide the next legal steps. By May 27, Bryan will have filed a petition asking all 11 justices in the 3rd Circuit to review the decision — especially because it departs from precedent. That appeal could also go to the U.S. Supreme Court.

Clearly, this next phase of the courtroom battle is fraught with danger. In one of many incestuous twists sullyng this case, one of the 3rd Circuit's judges is married to Pennsylvania Gov. Ed Rendell. In 1981, Rendell was the District Attorney responsible for pursuing Abu-Jamal's murder conviction.

Meanwhile, Philadelphia's bloodthirsty Fraternal Order of Police and current district attorney clamor for execution. The city has 180 days to ask for a new death penalty hearing; such a move also gives Abu-Jamal an avenue to present mounting evidence of his innocence to a jury.

Public heat is key. What makes a difference in the courts is protest in the streets. In Mexico City, Toronto, London, Berlin, Sydney, and Paris supporters have vowed to keep fighting.

In Melbourne, at a protest for wrongly-accused Aboriginal Lex Wotton, supporters unanimously adopted a motion calling for Mumia's freedom. Protests have also already been held in at least a dozen U.S. cities, including two called by Radical Women and the Freedom Socialist Party.

At an Oakland demonstration, solidarity statements were read from American Indian Movement political prisoner Leonard Peltier, and CONLUTAS, the Brazilian "National Coordination of Struggles." CONLUTAS, which represents hundreds of thousands of working people, characterized Abu-Jamal's fight as "for liberty, freedom and against poverty, which

we are facing everywhere.” Speakers included the San Francisco 8. These former Panthers face retrial on old charges a court dropped in 1975.

In Philadelphia, over 1,000 of Abu-Jamal’s supporters surrounded the Liberty Bell, led by MOVE’s Pam Africa, and jazzed by a lively drum group.

Speakers at the rally included ex-prisoners released through DNA evidence; civil liberties lawyer Lynne Stewart, who awaits sentencing on a trumped-up terrorism conviction; and a witness in Mumia’s trial who has recanted her coerced testimony. Protected by police, a dozen Nazi skinheads held signs: “Fry Mumia and his supporters.”

On the radio, Abu-Jamal reacted to the decision with an appeal to supporters: “I believe in the people. The people never let you down. I mean, they do what’s right because they know in their hearts what’s right.”

Now is the time for us to do “what’s right.” The best hope for Mumia Abu-Jamal’s freedom lies in our ability to bring his case before the court of public opinion. Here’s how you can help:

- Build powerful protests in your city and educate about the case.
- Donate to the defense; send checks made out to National Lawyers Guild Foundation and earmarked “Mumia” to the Committee to Save Mumia Abu-Jamal, PO Box 2012, NY, NY 10159.
- Or write to Mumia, AM 8335, SCI Greene, 175 Progress Dr., Waynes, PA 15370-8082.

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