

# The case of Mumia Abu-Jamal: US court agrees to consider defense motion charging bias

Tom Bishop  
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In a significant development in the case of US political prisoner Mumia Abu-Jamal, Federal Judge William Yohn on January 20 allowed defense attorneys to file a new motion charging extreme bias on the part of Judge Albert Sabo, who presided over Abu-Jamal's 1982 trial and subsequent appeals.

Abu-Jamal has been on Pennsylvania's death row for the past 18 years after being framed up for the shooting death of Philadelphia policeman Daniel Faulkner. The 100-page motion and memorandum requests Judge Yohn to "review for reasonableness the State Court's Finding of Fact" in the 1982 trial and post-conviction relief hearings.

Albert Sabo, who is now retired, is a lifetime member of the Fraternal Order of Police. During his time on the bench he sentenced 32 defendants to death, more than any other judge in the country.

Attorneys representing the Pennsylvania District Attorney's office wanted the "Findings of Fact" excluded from the record. They maintained that under the Anti-Terrorism and Effective Death Penalty Act, signed into law by Bill Clinton in 1996, a federal judge is bound by the findings of the state courts. The 1996 law severely restricts the ability of federal courts to overturn decisions in state trials. However Judge Yohn rejected the arguments of the Pennsylvania DA's office.

The "Findings of Fact" motion details that at the 1995 state court appeal, Judge Sabo ruled that decisions made in the 1982 municipal court trial were correct. The appeal hearing took place after Pennsylvania Governor Tom Ridge had signed the first death warrant for Abu-Jamal. Sabo quashed over two dozen subpoenas and denied without any explanation the defense request for pre-hearing discovery.

Sabo also ruled in 1995 that witnesses who said they had been pressured and threatened by police to give false testimony in 1982 were not credible. He ruled that every prosecution witness had been truthful, while every defense witness had been untruthful, and barred the admission of witnesses and documents critical to Abu-Jamal's defense.

In 1997 the Pennsylvania State Supreme Court upheld Sabo's denial of Abu-Jamal's appeal for a new trial. Abu-Jamal's lawyers contend that the "Findings of Fact" show that their client was "denied a full and fair hearing" when the state Supreme Court upheld his death sentence.

Judge Yohn will now be able to review a petition for Habeas Corpus filed last October 15 and the "Findings of Fact" in making his decision on whether or not to allow an evidentiary hearing, where witnesses can provide testimony, in determining whether there is a basis for a new trial. If such a hearing were granted it would strengthen the case of the defense in demonstrating that their client was the victim of a frameup. A decision on how the court will proceed is expected sometime in early April.

In a related legal development, the Pennsylvania Supreme Court has ordered the review of the murder conviction of a Philadelphia man to determine if the prosecutor improperly kept African-Americans off of his jury. Though it called the evidence of his guilt "overwhelming", the Court ordered Philadelphia Common Pleas Judge David Savitt to review the case of William Basemore, who was convicted by a jury in 1988 and given the death sentence.

The decision reopens a 1997 controversy that was sparked when Philadelphia District Attorney Lynne

Abraham, running for re-election, released a ten-year old videotape of her Republican opponent, Jack McMahon. In the training video for novice prosecutors, McMahon advised them to keep African-Americans from low-income neighborhoods off of juries because they are “less likely to convict.” It also advised against picking young black women because they tended to show “antagonism” to law enforcement officials, and advised keeping “smart” people off as well. Basemore's case was prosecuted by McMahon when he was a district attorney.

The McMahon tape has been one of the issues in Mumia Abu-Jamal's case. In May 1997, the Pennsylvania Supreme Court denied admission of the tape as evidence. Abu-Jamal has repeatedly protested the jury selection process at his 1982 trial.

At the 1995 appeal before Judge Sabo, Abu-Jamal was prevented from presenting evidence that race-conscious jury selection of nearly all-white juries was a routine practice of Philadelphia prosecutors. He was also barred from introducing a study that showed the DA's office struck African-Americans from jury service 55.3 percent of the time, as opposed to 23.4 percent for non African-Americans.

Support for Mumia Abu-Jamal, who has become well-known as an opponent of police brutality, racism and the death penalty, continues to build in the United States and internationally. On January 12, three officials of the Civil Rights Division of the US Department of Justice met with a twelve-member delegation representing the International Committee to Save the Life of Mumia Abu-Jamal.

The delegation included trade union officials, a number of human rights organizations such as Amnesty International, and members of the National Lawyers Guild. They presented an “Open Letter to Bill Clinton” signed by hundreds of thousands of people around the world, requesting an investigation into Abu-Jamal's case by the US Justice Department. Although a well-attended press conference took place with reporters from both the American and international press corps, it was blacked out by the US news media.



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