

# The case of Leonard Peltier: notorious frame-up of Native American activist returns to public spotlight

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Earlier this fall, in a downtown Toronto office, a Native American woman recanted her 1976 testimony that served as the basis for extraditing American Indian Movement (AIM) activist Leonard Peltier from Canada to the United States.

Peltier had been present on June 26, 1975 near Oglala on South Dakota's Pine Ridge Indian reservation when a fire-fight erupted between Indians and two FBI agents who died in the fighting. The FBI launched the largest manhunt in its history to capture the small group of Indians involved.

Peltier ultimately escaped to Canada, secure in the thought he was out of the vindictive reach of the FBI. It was at that point the US government produced affidavits that gave the Canadian government the excuse to extradite Peltier. A year later in a Fargo, North Dakota courtroom Peltier was subjected to a travesty of justice when he was found guilty of murder for the deaths of the two FBI agents. He was sentenced to two consecutive life terms and is serving time in Leavenworth Penitentiary in Kansas.

Some 25 years later, Myrtle Poor Bear, choked with emotion, declared, "I was forced into this, and I feel very awful. I just wish that Leonard Peltier will get out of prison."

Poor Bear, now 48, related how FBI agents came to her shortly after the June 26, 1975 shoot-out. On more than one occasion she was taken away and sequestered in hotel rooms for days or even weeks. FBI agents subjected her to a steady barrage of threats aimed at pressuring her into signing affidavits that would implicate Peltier, whom she had never known, in the deaths of FBI agents Ray Williams and Jack Coler.

In testimony reprinted in the Toronto *Globe and Mail*, Poor Bear stated, "They told me they were going to take my child away from me. They told me they were going to get me for conspiracy, and I would face 15 years in prison if I didn't co-operate. They said they had witnesses who placed me at the scene."

According to Poor Bear, what ultimately led her to capitulate was a grisly display engineered by FBI agents. She was shown autopsy pictures of Anna Mae Aquash. Aquash, an Indian activist, had been found on the reservation with a bullet fired into the back of her skull. Supposedly for identification purposes, Aquash's hands were sawed off and sent to FBI labs. These pictures were shown to Poor Bear as well.

"They showed me certain parts of her body that were decomposed. They said that's how I was going to end up if I didn't co-operate with them. They said they could kill me and get away with it. I was very scared. I got to a point where I believed they would do it."

Myrtle Poor Bear's first affidavit is dated February 19, 1976. In it, she claimed to be Peltier's girlfriend but made no claim to being at the scene when the FBI agents were killed. Four days later a new affidavit was produced. This one was substantially the same, except it now claimed that Poor Bear had been present at the scene and saw Peltier shoot the agents. A third affidavit, dated March 31, 1976, embellished upon the second with

greater detail.

The first affidavit was illegally withheld from Peltier's attorneys and the court during his extradition trial in Vancouver. When later discovered, an argument erupted over whether Canadian authorities might have been aware of it before or during the proceedings.

The recent hearing in Toronto is an attempt by the Leonard Peltier Defense Committee to get Myrtle Poor Bear's testimony on record. The *Globe and Mail* described the hearing as "unique." It was presided over by former Quebec Court of Appeal Judge Fred Kaufman, a "commissioner of several high profile inquiries," according to the *Globe and Mail*. Former federal prosecutor Scott Fenton and Michael Code, a onetime assistant deputy attorney general from Ontario, questioned witnesses.

Twenty-five years later the Peltier extradition is still capable of provoking unease among authorities. *Globe and Mail* reporter Kirk Makin wrote in his article, "Organizers asked *The Globe and Mail* to delay coverage of the hearing until the US election campaign was over, lest Ms. Poor Bear's testimony spark an inflamed campaign debate." In a period when even apparently secure dictators like Augusto Pinochet narrowly escape accounting for the rule of blood and terror, there is a heightened concern over the implications of the exposure of injustice, cruel oppression and state-sanctioned terror. And all these are contained in the case of Leonard Peltier.

This is not the first time Myrtle Poor Bear has spoken out about her role in Peltier's extradition. She renounced her affidavits as early as 1977. In Robert Redford's 1991 film documentary on Peltier, *Incident at Oglala*, Poor Bear again recanted her testimony.

Poor Bear also made public her troubling medical records, something the FBI must have been aware of when they used her as a witness. Her father said of her, "Since she was a little girl, Myrtle lived in her own fantasy world. She always made up stories. She is a good girl, generous ... but ever since her fever, the one that almost killed her, her mind is like that." The fever, believed to have been typhoid, was contracted from drinking contaminated reservation water.

Peter Matthiessen, who wrote the classic and devastating exposure of the Peltier frame-up *In the Spirit of Crazy Horse*, quotes a lawyer on the subject of Myrtle Poor Bear: "Myrtle is *not* stupid. She is a person of average intelligence, but she is a weak woman, very easily confused, and very suggestible, which is just the kind the FBI likes to work with: 'You were there, weren't you, Myrtle?' And after a while, she actually believes it herself."

Peltier, speaking of Poor Bear, has said, "She is a poor, sick woman. I have no bad thoughts for her. She was a pawn to them, and they used her like they have used so many Indian people."

The case of Leonard Peltier cannot be understood apart from the past

history of American Indians. After its victory in the 1861-65 Civil War, Northern capitalism turned its attention to completing the settlement of the West. This movement clashed violently with the Indian tribal societies and led to the US government launching a bitter genocidal war against Indians.

The defeat of the Indians and the establishment of reservations did not resolve the question. Into the twentieth century, it was discovered that these reservations were perched atop rich minerals and contained other resources and the Indian lands were further reduced, oftentimes through fraud and deceit. To maintain control on the reservations the government, through the mechanism of the Bureau of Indian Affairs (BIA), kept Indian tribal councils subservient by way of monetary and other inducements.

But in the 1960s and 70s, protests against the violation of Indian treaties and the government manipulation of tribal councils abounded. Indians both on and off reservations suffered from joblessness, poverty and lack of health care, contributing to the unrest.

In 1968 an organization called the American Indian Movement (AIM) was established and it soon mushroomed into the predominant protest organization among Native Americans. In 1973 some 200 AIM members and traditional Indians occupied the village of Wounded Knee, site of the 1890 massacre of 300 Indians by the US 7th Cavalry. Among their demands was the request for a Senate investigation into the conditions of Native Americans.

The occupation turned into 69-day standoff against BIA police, FBI agents and other civilian law enforcement police armed with a prodigious amount of weaponry and armored vehicles. At its conclusion the US Justice Department unleashed a legal assault on AIM members and their supporters. There were over 500 arrests and 185 federal indictments.

Nowhere did the oppression of Native Americans surpass conditions plaguing the residents of the Pine Ridge Indian Reservation in South Dakota. Some 10,000 Lakota Sioux resided there during the 1970s, many living in tarpaper shacks without electricity or running water. The annual median income was \$800, the lowest of all Indian tribes.

In 1972 Dick Wilson was elected chairman of the Oglala Sioux tribal council. Using BIA resources, he surrounded himself with relatives and an extended group of some 800 to 900 people as a base to maintain power. He cracked down violently on Indians who protested the cheap land leases granted to outside entities. Using federal highway funds, Wilson organized a vigilante force and adopted the name GOON (Guardian of the Oglala Nation).

A situation which paralleled US government policy in Central America emerged. Wilson operated with impunity, and the GOONs launched death squad-style attacks on his opponents. In the years preceding the 1975 shoot-out that left the two FBI agents dead, the reservation had the highest per capita murder rate in the United States. Instead of halting Wilson's siege of terror, BIA police and FBI agents entered the reservation to support the attacks on his victims.

Dick Wilson didn't hide his hatred of AIM. AIM founder Russell Means had planned to run against Wilson for the position of tribal chairman. Apparently, one of the great fears concerning AIM was its agitation for tribal sovereignty under US government treaties and the threat this posed to Black Hills mining leases. (During the Wounded Knee standoff, Northern Cheyenne and Crow Indians had canceled mining leases on their reservations.)

At Oglala, the elders—especially the women—appealed to AIM to provide their community with protection. Among the group of AIM members who came to defend Indians around Oglala was Leonard Peltier.

It was under these conditions that a fire-fight erupted when two FBI agents came racing in pursuit of two Indians driving a red pickup onto the Jumping Bull property where Peltier and his fellow AIM members had their camp. AIM members deny initiating hostilities. Regardless, the two agents ended up dead. When Wilson's GOONs, BIA police and FBI

agents along with their SWAT teams arrived on the scene, more shots were fired and an Indian, Joe Killsright Stuntz, was shot dead. Miraculously, the group of 15 Indians managed to elude the dragnet that was forming and escaped with the aid of local residents.

In 1976, two of the AIM members involved in the Oglala incident were put on trial in Cedar Rapids, Iowa. Lawyers representing Bob Robideau and Dino Butler were initially afraid that their clients would not be able to get a fair trial in a community that was 98 percent white. But the lawyers were able to introduce witnesses and evidence that conveyed the state of terror that existed on Pine Ridge.

The predominantly working class jury accepted the defense's argument that the two FBI agents were killed in self-defense and found Butler and Robideau not guilty. Robert Bolin, who served as jury foreman at the trial, appeared in the film documentary *Incident at Oglala* and expressed a combination of contempt and bafflement over the role of the federal prosecutors and the FBI in the trial of Butler and Robideau.

It was during the Cedar Rapids trial that defense lawyers became aware of Myrtle Poor Bear's first affidavit in which she attests she was not present on the day of the shooting of the two FBI agents. Prosecutors had planned calling her as a witness. The government now refused to put Poor Bear on the stand fearing she would be discredited or, worse, that their witness tampering might be exposed. Defense attorney William Kunstler had the following exchange with prosecutors before the judge.

*Mr. Kunstler:* They don't want to call her because they know she is a fake, but they have put us in the position of having worked all weekend on this witness and I think they should be required to call this witness to the stand. This is part of the offensive fabrication.

*Mr. Sikma:* She is not a fake...

*Mr. Kunstler:* Put her on the stand and we will show you. She is an FBI fake. Just as they did in the Means-Banks trial. That is why they are reneging about calling her.

*Mr. Hultman:* You have seen the record and what the record shows.

*Mr. Kunstler:* They know it is a fake, too. Part of our defense is fabrication by the FBI. That is why this witness becomes so crucial. That is why they don't want to call her.

(quoted in Matthiessen's *In the Spirit of Crazy Horse*)

Peltier was to have been placed on trial with Robideau and Butler. But the delays involving extradition caused the court to press ahead without him. Due to the dismissal of the case against another AIM member involved in the shoot-out, and the fact that some members had agreed to turn state's evidence, Peltier became the last possible suspect on whom the government could pin responsibility for the shooting deaths of Coler and Williams. No measures would be spared in the undertaking.

Peltier's trial was moved to Fargo, North Dakota before Judge Paul Benson. Unlike the judge in Cedar Rapids, Benson forbid the introduction of any evidence on the past reign of terror on the Pine Ridge Indian reservation and how that related to the case, the role of the FBI or any testimony from the trial in Cedar Rapids.

The jury had the bloody autopsy pictures of Coler and Williams, in living color, as a constant reminder in the courtroom. When entering and leaving the courtroom, three SWAT teams rushed to surround them as an escort. The jury was shuttled back and forth to the trial in a curtained bus, supposedly to raise the specter of AIM snipers picking off jury members. The courtroom was periodically swept for bugs. Under these conditions the prosecutors got their conviction despite the fact that their case was riddled with contradictions.

The prosecution had prepared Myrtle Poor Bear to testify at Fargo. But during the trial she decided to change her testimony and moved to the side of the defense. The prosecution now railed against her appearance as a witness. She was brought to testify by the defense, but out of the presence of the jury.

After the defense made initial inroads, Assistant US Attorney Lynn

Crooks, wearing dark glasses, questioned a terrified Myrtle Poor Bear and attempted to sway her course for the prosecution. Her hesitation in response to his questioning spoke as loud as her ultimate answer:

*Q:* (by Mr. Crooks) Why were you signing these affidavits?

*A:* I don't know.

*Q:* Well, did [FBI agent] Bill Wood threaten to harm you or hurt you if you didn't sign?

*A:* (No response.)

*Q:* Can you answer that question?

*Mr. Taikoff* (For the defense): Your Honor, I'd like the record to reflect a 45-second pause measured by the courtroom clock between the last question and the following question.

*Q:* (By Mr. Crooks) Can you answer the question, Myrtle?

*A:* I was forced to sign both of these papers.

*Q:* By whom?...

*A:* They said one of my family members was going to be hurt if I didn't do it. By [FBI agents] Dave Price and Bill Wood ...

Despite this devastating exposure, Judge Benson ruled that Myrtle Poor Bear's testimony was "irrelevant."

There are many contradictions in the government's case, but one eventually led to an appeal. In the early 1980s, under the Freedom of Information Act, Peltier's attorneys obtained documents that demonstrated the FBI had lied about ballistics tests used to link an expended casing found near the agents to the AR-15 rifle that Peltier was alleged to have used in the shooting.

This information was critical. In the Cedar Rapids trial, the fire-fight that Butler and Robideau were to have engaged in was over a wide expanse that corresponded well with the self-defense theory. In the Fargo trial, the government prosecution changed this. They now had Peltier approaching the two wounded agents and shooting them at close range—literally executing them.

But the Federal Appeals Court found that while the new evidence might possibly have influenced the jury, it did not meet the required legal standard for a new trial: that it was reasonably probable that the jury would have reached an opposite conclusion based on this new evidence. The Federal Appeals Court was not convinced, and Leonard Peltier continues to languish in the Leavenworth penitentiary.

In the late 1980s an AIM member stepped forward, without revealing his identity, to admit that he had been the one driving the red pickup being chased by agents onto the Jumping Bull property. After the agents had been wounded, he approached them. When one agent raised his .38, he reacted and shot them both. In 1990 Oliver Stone filmed an interview between this AIM member, known as "X," and author Peter Matthiessen. But Peltier has refused to allow X to expose himself, believing it will not further the cause of his freedom.

Besides the hearing in Canada dealing with Myrtle Poor Bear's false affidavits, the Leonard Peltier Defense Committee is appealing for support in another campaign. President Bill Clinton is considering Peltier's clemency petition and his staff has said he will decide whether or not to grant him clemency sometime during his remaining days in office.

*For more information, see the Leonard Peltier Defense Committee at:*  
<http://www.freepeltier.org>



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