

Mumia Abu-Jamal barred from Philadelphia hearing

Tom Bishop**21 August 2001**

US political prisoner Mumia Abu-Jamal was prevented from appearing at an August 17 hearing held by the Pennsylvania Common Pleas Court to consider the reopening of his state appeal process. Although he had been previously ordered by the presiding judge to appear, a court administrator blocked Abu-Jamal's release from prison in western Pennsylvania on the specious grounds that there was not enough room in Philadelphia's jails to hold him during the proceedings.

At his original trial in 1982 the former Black Panther and opponent of police abuse was barred from the courtroom for over half of the proceedings after he protested not being able to represent himself against charges that he murdered a Philadelphia police officer.

The move to bar Jamal from the August 17 hearing was aimed at discouraging supporters who were planning a protest in the city to mark his first court appearance since 1997. Despite this action and efforts by the Philadelphia police department and the Fraternal Order of Police to intimidate protesters, 1,500 people demonstrated in support of Jamal on the day of the hearing.

Common Pleas Court Judge Pamela Dembe refused to act on a request by Jamal's attorneys for a contempt of court citation against the court administrator and prison authorities, and the hearing proceeded with Abu-Jamal in solitary confinement at a prison near Waynesburg, Pennsylvania, more than 300 miles away. In a statement read to the judge by one of his lawyers, Jamal stated, "Today, I am banned from a proceeding in my name, in my defense, with no reason."

Last month Jamal's attorneys filed a new Post Conviction Relief Act petition to add additional evidence to their appeal for a new trial. The lawyers filed both in state and federal court, arguing that newly obtained evidence demolishes the case against Jamal.

Their 270-page brief includes five new affidavits, one of which is a statement from Abu-Jamal, where he explains for the first time what actually transpired on the evening of December 9, 1981. Jamal states categorically that he did not kill policeman Daniel Faulkner.

In addition, the brief includes a sworn affidavit by Arnold Beverly, who says he, not Abu-Jamal, shot Faulkner. Beverly says he was hired by the Mafia to shoot Faulkner because the officer had interfered with payoffs to the police in connection with prostitution and other illegal activities in the city.

At Friday's hearing Judge Dembe accepted Abu-Jamal's new attorneys, Marlene Kamish, Elliott Grossman, and British barrister Nicholas Brown. Abu-Jamal recently fired his previous attorneys, Leonard Weinglass and Daniel Williams, after Williams published a book, *Executing Justice*, in which he disclosed confidential attorney-client information. In the current petition, the new attorneys charged that Weinglass and Williams misrepresented Jamal. They cited in particular the previous lawyers' refusal to make use of Beverly's testimony, which first emerged in 1999.

Last month Jamal's attorneys requested that Arnold's affidavit and other new evidence be added to his federal habeas corpus appeal. But on July 19, Federal District Judge William H. Yohn Jr. rejected the motion, citing among other things the Anti-Terrorism and Effective Death Penalty Act of 1996, which severely limits the ability of death row inmates to get a federal review of state convictions. Yohn all but instructed the state court likewise to reject Beverly's testimony, going so far as to suggest those sections of Pennsylvania law that could be cited against Jamal's petition.

At the August 17 hearing Judge Dembe gave Mumia's lawyers three weeks to submit an argument as to why their petition for a new hearing at the state level is still timely. Philadelphia Assistant District Attorney Hugh Burns argued that the new information was past the 60-day limit for new information on a case.

Judge Dembe stated, "We have to decide whether or not I can go forward in this case, and there's a serious question as to whether this request is timely."

If Dembe decides against a new post-conviction relief hearing, the case will be appealed to a state appellate court. If the state post-conviction hearing is not reopened, however, and Yohn rejects this and other critical evidence uncovered by Mumia's attorneys, Yohn will restrict his ruling to the record established at the original post-conviction hearing in 1995, making a successful federal appeal less likely.

At the hearing on August 17, Judge Dembe also issued a ruling attacking freedom of speech and impeding political support for Jamal's defense. Dembe ruled that Abu-Jamal's legal filings will no longer be available to the public without restriction. Those who want to see the filings must now request the judge's permission.

Up to now, the free flow of information about Mumia's case, particularly on the Internet, has been indispensable for the defense campaign.



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