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New Legal Papers Filed

Freedom Now for Mumia Abu-Jamal!

The fight to free Mumia Abu-Jamal is at a critical juncture. A prize-winning journalist, former Black Panther Party spokesman, supporter of the MOVE organization and defiant opponent of racist state terror, Mumia was railroaded to death row in 1982 on false charges of killing Philadelphia police officer Daniel Faulkner. On July 20, Mumia filed his opening legal brief in the United States Court of Appeals for the Third Circuit in Philadelphia, which last December put his case on a “fast track” for decision. The forces of the capitalist state have long been determined to carry out Mumia’s legal lynching as a warning to those who challenge racist cop repression, to fighters against U.S. imperialist deprivations, to workers who stand up for their rights on the picket lines. The Partisan Defense Committee—a legal and social defense organization associated with the Marxist Spartacist League—calls on all opponents of racist injustice, and in particular the labor movement, to mobilize for **freedom now** for Mumia!

Mumia’s life is in grave danger. The court is expected to rule in a matter of months whether he will live, die or have further legal proceedings. Both Mumia and the prosecution are appealing a 2001 ruling by U.S. District Court judge William Yohn, who overturned Mumia’s death sentence but upheld every aspect of his frame-up conviction. The Third Circuit has refused to hear any evidence of Mumia’s innocence and has only allowed him to challenge three of the more than two dozen constitutional violations in his case. For more than five years, state and federal courts have refused to hear the sworn confession of Arnold Beverly that he, not Mumia, shot and killed Daniel Faulkner. In an affidavit reprinted in the PDC pamphlet *The Fight to Free Mumia Abu-Jamal—Mumia Is Innocent!*, Beverly says that he was hired to kill Faulkner, who was reportedly interfering with prostitution, gambling, drugs and police payoffs, and that “Jamal had nothing to do with the shooting.”

The courts have suppressed the Beverly evidence because it demonstrates that the injustice done to Mumia was not the work of one rogue cop, prosecutor or judge but the workings of a “justice” system whose purpose is to repress the working class, minorities and the poor on behalf of the capitalist ruling class. The fight to free Mumia must be waged on the basis that he is an innocent man, the victim of a political and racist frame-up. The need to mobilize around this understanding is underscored by the fact that Beverly’s confession and other proof of Mumia’s innocence—including the suppression and coercion of eyewitnesses by police and prosecutors and their fabrication, some two months after his arrest, of a phony “confession” by Mumia—cannot even get a hearing in the capitalist courts.

The Beverly confession has been derided by liberals like the writer Dave Lindorff and all but ignored by reformist left organizations. Many liberals object to Mumia’s treatment in the courts but see it as at most an “aberration” in an otherwise fair and just legal system, and they regard the idea that the cops would frame up an innocent man as absurd.

The PDC is a class-struggle, non-sectarian legal and social defense organization which champions cases and causes in the interest of the whole of the working people. This purpose is in accordance with the political views of the Spartacist League.

But to see that such frame-ups are routine procedure requires looking no further than a special prosecutor's report released on July 19, which examines nearly **150 cases** in which Chicago cops used electroshock, suffocation and torture to beat bogus confessions out of black "suspects." Although the Chicago report is mainly a damage-control job, it nonetheless confirms that there was widespread torture and that police brass knew about it and gave a commendation to the cops who were doing it. It was well-documented at the time of Mumia's trial that the Philly police used similar methods.

Mumia's frame-up was not only racist—it was politically driven as well. The police and FBI had Mumia in their sights since his Black Panther youth and continued their vendetta as he became known as "the voice of the voiceless" for his searing commentaries on racism, poverty and repression—a role Mumia continues to play through his writings from death row.

The three issues covered in Mumia's new brief point to the racist and political bias that saturated his trial and appeals, proving that Mumia, like Dred Scott in 1857, has no rights that a court is bound to respect. One issue is the racist bias of the late hanging judge Albert Sabo, a member of the Fraternal Order of Police (F.O.P.) who presided over Mumia's 1982 trial and again at his post-conviction (PCRA) hearings in the 1990s. The court filings highlight a 2001 affidavit of court reporter Terri Maurer-Carter, who disclosed that at the time of the trial she overheard Sabo say, "I'm going to help them fry the n----r." During the 1995 PCRA hearings, Sabo routinely quashed Mumia's subpoenas, sustained prosecution objections and found all of Mumia's witnesses "incredible." Sabo jailed PDC attorney Rachel Wolkenstein, then a member of Mumia's legal team, and told another defense lawyer, "Counselor, justice is just an emotional feeling."

The brief also exposes the prosecutor's racist jury-rigging at the trial. Excluding black jurors was an official policy of the Philadelphia D.A.'s office, codified in a 1987 training video directing prosecutors to strike "blacks from the low-income areas" from juries because they have "a resentment for law enforcement." Statistical studies prove that this was the practice throughout the 1980s. Mumia's brief documents that for his trial "a black person's odds of being struck were **ten times** higher than someone who is white" (emphasis in original).

Mumia's third challenge strikes at the prosecution's outrageous closing argument that the jury should err on the side of convicting Mumia because he would have "appeal after appeal." This argument blatantly erased the reasonable doubt standard, telling the jury that in case of doubt they should convict Mumia. Mumia's brief also responds to the prosecution's own appeal of Judge Yohn's 2001 ruling, which seeks to reverse the overturning of Mumia's death sentence. Yohn found the sentence to be unconstitutional because the sentencing form and jury instructions did not allow jurors to freely consider all the "mitigating circumstances" weighing against a death sentence. Yet Mumia has remained on death row this entire time.

Mumia's case is what the death penalty is all about. It is a legacy of chattel slavery and the ultimate weapon in the government's arsenal of repression aimed at the working class and oppressed. The capitalist rulers want to see Mumia dead because they see in him the spectre of black revolution, a voice of defiant opposition to their system of racist oppression. Acting as their spearhead is the F.O.P., which has tried to intimidate Mumia's supporters at every step.

On July 19, the day before Mumia filed his court brief, more than 130 British lawyers released a letter to the court calling to overturn his conviction. Their letter emphasizes that the courts' blatant bias against Mumia must be seen "in the light of the Katrina hurricane disaster in New Orleans, when television viewers in every country of the world

witnessed an unparalleled display of racism on a massive scale, allowed (some would say enabled) by the US government.” The National Lawyers Guild and the NAACP Legal Defense and Educational Fund will be filing *amicus* (friend of court) briefs on Mumia’s behalf.

The frame-up of Mumia Abu-Jamal is an object lesson in the class character of the capitalist state—centrally the cops, courts, prisons and military—which is an apparatus of violence used to preserve bourgeois rule by suppressing the working class and oppressed. An international movement of millions stayed the executioner’s hand in 1995 after Mumia’s first death warrant was issued. But that movement was systematically demobilized by reformist organizations that tailored their appeals to the liberal “mainstream,” to those who saw in Mumia’s case a “miscarriage of justice” that could be remedied if only he got a new, “fair” trial. As Rachel Wolkenstein stated earlier this year, in a talk printed in *The Fight to Free Mumia Abu-Jamal*:

“This meant tying Mumia’s defense to what Democratic Party politicians would accept, like the need for a new trial to clean up the image created by Sabo’s indisputably racially biased trial and PCRA proceeding. This meant denying the truth about the capitalist state and its vendetta against black militants, the COINTELPRO targeting of Mumia, the murderous attacks on the MOVE organization.

“Appealing to the ‘mainstream’ also meant ambiguity on the question of Mumia’s innocence—and on whether he lives or dies, is entombed for life or goes free—so long as there is a new trial. It meant rejecting the very reasons that millions around the globe had taken up Mumia’s cause: revulsion with the injustices inherent in capitalism—poverty, racial and ethnic bias, war. There was broad identification with Mumia’s fight against the ‘system’ and for justice for all of humanity.”

Every legal remedy must be pursued on Mumia’s behalf. But Mumia himself told the French Communist Party’s newspaper *L’Humanité* (25 April) that he had “very little hope in a favorable decision” by the Third Circuit court. Since first taking up Mumia’s cause in 1987, the PDC has warned against any illusions in bourgeois “justice,” placing **all** our faith in mobilizing the social power of the working class and the oppressed in defense of Mumia. If successful, the fight for Mumia’s freedom would, as Wolkenstein stated in her talk, “strike a blow against the government’s ‘anti-terror’ campaign and the evisceration of democratic rights. It would give labor a sense of its own power. The fight for Mumia is the fight for black liberation, for the liberation of us all, part of the struggle for socialist revolution.”

We must mobilize now to make Mumia’s fight once again a rallying cry against racist “legal lynching,” against black oppression, against government repression. **Free Mumia! Abolish the racist death penalty!**

Join the Fight to Free Mumia Abu-Jamal! Contact the Partisan Defense Committee.

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