

PRESS PACKET FOR MARCH 31 PRESS CONFERENCE

--In response to the recent Third Circuit Court decision regarding Mumia Abu-Jamal, supporters are calling for a mass-demonstration in Philadelphia on April 19, 2008. There will also be solidarity demonstrations outside of Philadelphia, both inside and outside the US. On Friday, March 28, just 24 hours after the decision hundreds of people gathered for emergency demonstrations including in New York City and San Francisco.

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- 3. Third Circuit Court Rejects Abu-Jamal Appeal: The "Mumia Exception,"** By Dave Lindorff, March 27, 2008. *DAVE LINDORFF is author of "Killing Time: An Investigation into the Death Penalty Case of Mumia Abu-Jamal" (Common Courage Press, 2003).*
- 4. Third Circuit Court Upholds Frame-Up Conviction of Mumia Abu-Jamal, Orders Hearing to Reinstate Death Penalty or Entomb Him for Life Free Mumia Now!,** press release by *The Partisan Defense Committee*
- 5. "Patrick Braouezec Statement About US Resolutions Condemning The Naming of a Street for Mumia Abu-Jamal By The French City of**

Saint Denis,” June 1, 2006. This is a response to US Congressional Resolution 407, passed, ultimately in slightly varied forms, by the Philadelphia City Council, Pennsylvania Senate and Assembly, and US House of Representatives denouncing the naming of a street in honor of Abu-Jamal, "Rue Mumia Abu-Jamal," in Saint-Denis, France, and demanding that it be rescinded. **Patrick Braouezec, is the former Mayor of Saint-Denis; President of the Community of 12 Suburban Cities, including Saint-Denis; elected representative to the National Assembly of France.**

6. “National Caucus of Black State Legislators (NBCSL) Statement Supporting Mumia Abu-Jamal's Release,” December 3, 2004. The resolution “demands that the courts consider the evidence of innocence of Mumia Abu-Jamal and that he be released from prison.”

7. “NAACP Resolution Calling For a New Trial For Mumia Abu-Jamal and a National Death Penalty Moratorium,” adopted at The NAACP National Convention, Philadelphia, PA, July 15, 2004. The resolution states that “the NAACP reiterate[s] its support of the international movement for a new and fair trial for Mumia Abu-Jamal.”

8. “Congressional Black Caucus Questions Due Process for Mumia Abu-Jamal,” Official Statement from Congressman Chaka Fattah 's website, Oct. 13, 1999. “Justice can only be served through a new trial for Mumia Abu-Jamal, concluded Congressmen Chaka Fattah and John Conyers, speaking on behalf of the entire 38 Member Congressional Black Caucus (CBC).”

9. “Mumia Abu-Jamal -- Amnesty International calls for retrial,” Reported by *Common Dreams Progressive Newswire*, February, 2000. "This is not about an issue affecting the life of just one man. This is about justice -- which affects us all. And justice, in this case, can only be served by a new trial," Amnesty International said. ([Read the full AI report online](#)).

STATEMENT FROM PAM AFRICA, Coordinator of the International Concerned Family and Friends of Mumia Abu-Jamal (March 29, 2008):

Last week's court decision was not a victory. While we obviously prefer to have Mumia alive, instead of executed, life in prison without parole is an unacceptable sentence for an innocent man that was convicted with a blatantly unfair trial. Further, there is still no guarantee that he will not be executed. Also, even if the overturning of the death penalty is eventually finalized, there is no guarantee that he will be moved into the general prison population, because the government has always found ways to make "exceptions" for political prisoners like Mumia.

Once again the courts have held Mumia's case to different standards than other cases. At the 1982 trial Prosecutor McGill used 10 of his 15 peremptory strikes to remove otherwise acceptable black jurors, yet the court ruled that there was not even the appearance of discrimination against just one of these black jurors!

Judge Thomas Ambro has noted this blatant double-standard with the court's rejection of the "Batson" claim regarding racist jury selection, and he states in his dissenting opinion that the court's ruling "goes against the grain of our prior actions...I see no reason why we should not afford Abu-Jamal the courtesy of our precedents."

We have absolutely no faith in the judicial system, but if Mumia does have a court proceeding, we will continue to mobilize to pack the courtroom and the streets in support of Mumia, just like we have always done whenever there was a courtroom proceeding for Mumia, whether he was present or not. However, we know that if Mumia gets justice, it will not come from the courts, but only from the pressure generated by the people.

Therefore, we will take to the streets with a mass-demonstration in Philadelphia on April 19 demanding Mumia's release based on the evidence of both innocence and judicial misconduct from the City of Philadelphia all the way up to the federal level. In response to the recent court decision, numerous demonstrations have already been organized internationally and inside the US. On April 19, with the media spotlight on Pennsylvania's Presidential Primary Election, supporters from around the world will gather in Philadelphia to take a constitutional stand and show our outrage with this unjust court decision.

“This is No Victory”—Analysis of Third Circuit Court Decision regarding Mumia Abu-Jamal

By Linn Washington, Jr.

Observations and analysis of Linn Washington Jr. on the federal Third Circuit ruling in the Mumia Abu-Jamal case issued on March 27, 2008. Washington, is a journalist and university professor in Philadelphia who has written extensively about the contentious case since Abu-Jamal’s arrest in December 1981.

OVERVIEW

The long awaited ruling by the Third Circuit Court of Appeals in the Mumia Abu-Jamal case released on March 27, 2008 again displays the dismaying pattern of US courts ignoring precedent to deny relief to this death row journalist whose plight generates international support.

Precedent in American law means courts following previous court rulings when determining specific legal issues.

Precedent is the bedrock of American law.

American law requires courts to follow precedent unless significant evidence and/or compelling rationales necessitate changing precedent.

This Third Circuit ruling changes precedent. This ruling changes precedent by applying legal procedures in a highly questionable manner to dismiss compelling evidence of injustice against Abu-Jamal.

The Third Circuit did uphold the elimination of Abu-Jamal’s death sentence. This is no victory because the ruling upheld his conviction thus condemning Abu-Jamal to life in prison.

This ruling refused to grant Abu-Jamal a new hearing or new trial on three compelling issues: prosecutors using racism to exclude African Americans from the jury during Abu-Jamal’s 1982 trial; the prosecutor making improper comments to that ’82 jury at the end of the trial; and pro-prosecution bias by the ’82 trial judge during a 1995 appeals hearing.

The Third Circuit previously granted relief to persons convicted of murder in Philadelphia after ruling that Philadelphia prosecutors had illegally excluded African Americans from juries.

However, in this Abu-Jamal case ruling, the court found no fault in evidence of exclusion of African Americans from the jury in his 1982 trial.

Curiously, the evidence of exclusion at Abu-Jamal’s trial is of equal or greater magnitude than proof of exclusion previously found acceptable for relief by the Third Circuit.

These previous rulings on jury discrimination formed the precedent on that issue for the Third Circuit.

That precedent stated it is wrong for prosecutors to discriminate against even one black potential juror. Additionally, that precedent stated defendants did not have to object to jury selection discrimination by prosecutors immediately when it occurred.

Yet, this ruling reversed precedent on those two points of legal procedure.

A week before this Abu-Jamal ruling, the US Supreme Court granted relief to a death row inmate in Louisiana because of a discriminatory jury selection process. That Supreme Court ruling was written by a Justice on that court who formerly served on the Third Circuit.

That Justice, Samuel Alito, had approved relief to Philadelphia murder defendants due to discriminatory jury selection practices by prosecutors. Alito, in a February 2005 Third Circuit ruling, stated prosecutors commit a violation by removing “any black juror because” of their race – a position similar to the position contained in that recent US Supreme Court ruling he authored.

THIRD CIRCUIT RULING

The Third Circuit’s ruling rested on a procedural finding by two of the three judges on this appeal’s court panel. This finding stated that lawyers for Abu-Jamal during the 1982 trial and the 1995 appeal hearing failed to follow the procedures legally required to properly raise the issue of prosecutors improperly using racism during the jury selection process.

The panel’s majority asserted that “Abu-Jamal has forfeited his Batson claim by failing to make a timely objection” to improper procedures by prosecutors referencing the US Supreme Court’s 1986 Batson ruling that outlaws the exclusion of black jurors for reasons rooted in racism.

Philadelphia area author and investigative reporter Dave Lindorff notes the absurdity of holding Abu-Jamal’s lawyer responsible for not strictly following procedures during the 1982 trial that the US Supreme Court did not create until four years later in that 1986 Batson case.

No lawyer (or judge) in the United States could predict what procedure the US Supreme Court would order four years in the future observes Lindorff, author of the seminal 2003 book on the Abu-Jamal case: “Killing Time...”

In reaching this conclusion against Abu-Jamal’s jury discrimination claim, that Third Circuit panel’s majority created a new standard for persons raising Batson claims in that court.

This standard requires that a Batson violation claim must be raised at the time of jury selection -- a contemporaneous objection.

Interestingly, in reaching this conclusion of procedural errors by Abu-Jamal's attorney, the panel's majority failed to note that this lawyer at 1982 trial was unfairly thrust into the jury selection process after that process was underway without the opportunity to do any preparation.

The trial judge granted the prosecutor's request to remove Abu-Jamal from selecting his own jury, a decision without merit that unfairly benefited the prosecutor and stripped Abu-Jamal of his right to represent himself. Plus, this action aggravated tensions between Abu-Jamal and his attorney.

Further, the panel's majority faulted an Abu-Jamal lawyer for not properly raising the jury selection racism issue during Abu-Jamal's first appeal in the late 1989s to the Pa Supreme Court without acknowledging a major error committed by the lawyer who filed that appeal.

That attorney prepared that appeal without ever reviewing the trial transcript.

There is no way that attorney could have prepared a legally valid appeal without knowing what specifically had happened at trial. (That appeal attorney was also suffering from what proved to be a fatal brain tumor, a medical condition that impaired that attorney's cognitive abilities.)

In creating this new standard, the panel's majority makes it harder to prove Batson violations. Plus, this standard changes that court's precedent on procedures needed to raise Batson claims.

The judge who dissented from his two colleagues faulted them for creating this new standard, a standard not ordered by the US Supreme Court.

"This case's newly created contemporaneous objection rule...goes against the grain of our prior actions, as our Court has addressed Batson challenges on the merits without requiring that an objection be made during jury selection in order to preserve" future appellate review, the dissenter said.

This judge, speaking specifically to changing precedent, said since Third Circuit precedent did "...not have a federal contemporaneous objection rule...I see no reason why we should not afford Abu-Jamal the courtesy of our precedents."

Additionally, this dissenter stated that jury discrimination practices displayed in a now infamous video-taped training session at the Philadelphia DAs Office gave "a view of the culture" of that office during the 1980s when Abu-Jamal was tried.

This dissenter criticized his two colleagues for failing to make the obvious connection between the discrimination instruction given at the taped session and discriminatory practices used by Philadelphia prosecutors before, during and after the 1980s.

“Indeed, given that Abu-Jamal’s trial preceded Batson, it is not far-fetched to argue that the culture of discrimination was even worse,” the dissenter declared.

Previously, the Third Circuit ordered new federal trial court hearings to collect more evidence to enable full and fair determinations on jury discrimination claims.

The Third Circuit’s ruling rejected that procedure for Abu-Jamal.

MAJOR FLAWS IN COURT RULINGS

This practice of creating new court standards to only apply to Abu-Jamal was criticized in an Amnesty International report of the Abu-Jamal case controversy released in 2001.

AI criticized the Pa Supreme Court for altering its prior rulings – precedents – to reach results against Abu-Jamal.

In 1986, for example, the Pa Supreme Court overturned a Philadelphia death sentence after ruling that a prosecutor named Joseph McGill made improper comments to the jury during a trial presided over by Judge Albert Sabo.

McGill prosecuted Abu-Jamal in a 1982 trial presided over by Judge Sabo.

Abu-Jamal’s attorneys had alleged that McGill engaged in jury selection discrimination – a claim documented by evidence but a claim that the Third Circuit panel’s majority rejected. Sabo’s rulings during that 1982 trial aided this documentable discrimination.

During Abu-Jamal’s ’82 trial, McGill made the same comments to the jury that the Pa high court faulted in its 1986 ruling. But when the Court upheld Abu-Jamal’s conviction in 1989 it refused to find any fault with McGill making the same comments it had faulted him for in its ruling three years before.

Then, in 1990, the Pa Supreme Court reinstated its 1986 standard regarding prosecutors making improper comments like McGill made.

The Pa Supreme Court’s flip-flopping on this form of prosecutorial misconduct led Amnesty International to state in its 2001 report that: “This contradictory series of precedents leaves the disturbing impression that the Court invented a new standard of procedure to apply it to one case only: that of Mumia Abu-Jamal.”

McGill’s improper comments to the jury faulted by the Pa Supreme Court in 1986 were an appeal issue before the Third Circuit Court. That federal court panel found no fault in McGill’s comments, denying Abu-Jamal relief he should have received if those federal appeals judges fairly followed established law.

The Third Circuit panel also rejected allegations that Judge Sabo was biased during a major 1995 appeals hearing.

Sabo's biased antics during that 1995 proceeding were so outrageous this misconduct provoked strong, caustic criticisms from even Philadelphia's normally anti-Abu-Jamal media. An August 1995 editorial in the Philadelphia Inquirer blasted Sabo's "injudicious conduct" that included verbally badgering Abu-Jamal's attorneys and even briefly jailing one of those attorneys for objecting to one of his improper rulings.

Scores of newspaper articles from the New York Times to the ultra-conservative/law-&-order Washington Times reported on Sabo's pro-prosecution bias at that '95 appeal hearing.

The Pa Supreme Court curtly dismissed this widespread journalistic criticism by contending that the "view of a handful of journalists" did not convince that Court of Sabo's bias.

Five of the seven Pa Supreme Court justices that upheld Abu-Jamal's conviction in 1998 received campaign contributions from the lead group seeking Abu-Jamal's execution, Philadelphia's police union, the Fraternal Order of Police (FOP). One of those '98 justices was the ex-DA of Philadelphia who as DA fought to execute Abu-Jamal.

The Third Circuit agreed with the Pa Supreme Court's 1998 ruling that no evidence exists showing a "settled bias" by Sabo against Abu-Jamal. The Third Circuit panel made this assertion despite noting Sabo making a series of "intemperate remarks" against Abu-Jamal and his defense attorneys during that 1995 appeal hearing.

In another flip-flop ruling, the Pa Supreme Court in March 1988 found that a single statement uttered by the judge during the murder trial of a former Pa State Trooper "was extremely prejudicial" to this Trooper who killed a woman inside a judge's office.

Where the Pa Supreme Court granted a new trial to that killer cop because of that judge's one improper comment, one year later the same Court found no fault in numerous opinion laden statements Judge Sabo made during the Abu-Jamal trial.

Sabo rejected requests to remove himself from hearing that '95 appeal made by Abu-Jamal attorneys citing his pro-prosecution during the 1982 trial. News articles, editorials and commentaries all faulted Sabo for not removing himself stating his failure recuse himself graphically displayed unfairness in a proceeding where fairness was desperately needed.

Journalistic watch-dogs normally hostile to Abu-Jamal sought the face of fairness in that '95 proceeding both to follow established law and to quell critics claiming Sabo's unfairness against Abu-Jamal undermined fairness.

The federal panel's majority employed a legal procedure to sidestep Sabo's clear and illegal bias – an Achilles Heel of that federal ruling and this entire case.

It is incredible to contend that the widely condemned Judge Sabo who presided during most trial court proceedings in the Abu-Jamal's case did not violate any of Abu-Jamal's rights at any time – despite his history of violating rights in this case and other cases.

Judge Sabo handled 32 murder trials that ended in death sentences before his retirement. But 24 of those sentences in Sabo's courtroom had been vacated for errors as of June 2007 according to the American Civil Liberties Union (ACLU). Some of those death sentences were reverse due to misconduct and/or mistakes by Sabo.

Sabo had once ordered prosecutors to pursue a death penalty when the death penalty had been ruled illegal in Pennsylvania. Sabo's ordering that illegal procedure led to overturning that death sentence.

WHAT NEXT?

This March 2008 Third Circuit ruling leaves Abu-Jamal with few legal options to challenge his conviction.

Abu-Jamal can appeal the panel's ruling to the entire Third Circuit Court hoping for that full Court to overturn the panel's ruling. Further, he can appeal any Third Circuit ruling to the US Supreme Court.

There is a slight prospect of new action in Pa state courts.

The Third Circuit issued an order stating Abu-Jamal will receive a life-sentence unless Philadelphia prosecutors hold a new penalty phase hearing seeking to reinstate his death sentence within six months.

This mini-trial style hearing would allow Abu-Jamal to present evidence, including new evidence of innocence that has emerged like a flood since his first trial.

But it is unclear if prosecutors will pursue this route that could create evidence and procedure that could secure a new round of federal appeals for Abu-Jamal.

OVERLOOKED CRUX OF CASE

Sadly, the federal judges at the trial and appellate court levels, like judges in Pa state courts, have refused to uphold the most fundamental issue in the contentious Abu-Jamal case: the right to a fair trial.

Critics of Abu-Jamal's conviction from Philadelphia's Francisville section to France all feel he was denied a fair trial.

Police and prosecutors blatantly engaging in misconduct to secure a conviction destroys fair trial rights. A trial judge openly biased towards police and prosecutors destroys fair

trial rights. Court applying the law in the Abu-Jamal case differently from applied in other cases destroys equal justice rights.

The Pa Supreme Court declared in a 1959 ruling involving a Philadelphia murder case that every defendant is entitled “to all the safeguards of a fair trial...even if evidence of guilt piles as high a Mt Everest...”

Abu-Jamal was four-years-old when the Pa Supreme Court issued that 1959 ruling against judges and prosecutors cutting-corners during a trial.

Abundant evidence documents that corners-cut by the prosecutor and judge during Abu-Jamal’s trial and by judges during his appeals corrupted his rights to a fair trial and equal justice – rights guaranteed by the US Constitution.

In June 2007, state courts in Pennsylvania overturned the 200th death penalty case since 1978 when that state reinstated executions, the ACLU stated.

It is incredible to contend that 200 death penalty cases contained errors egregious enough to be vacated but not a single element in the Abu-Jamal case warrants either a new hearing or a new trial.

-The End-

Third Circuit Court Rejects Abu-Jamal Appeal: The "Mumia Exception" March 27, 2008

By Dave Lindorff

After spending almost a year's time deliberating following a hearing last May 17, a three-judge panel of the Third Circuit Court of Appeals in Philadelphia has shot down all three claims by death row prisoner Mumia Abu-Jamal challenging his conviction for the 1981 murder of Philadelphia Police Officer Daniel Faulkner.

At the same time, the appeals court upheld a 2001 decision by Federal District Judge William Yohn that had overturned former Black Panther and Philadelphia journalist Abu-Jamal's death sentence, agreeing with the lower court judge that the form used by the trial jury in 1982 to establish whether jurors felt there were any mitigating circumstances was flawed, and could have left panelists mistakenly believing that before they could consider any such mitigating factors in their deliberations, they would all have to agree such a factor existed. In fact, by law if even one juror believes that there is a mitigating factor, that factor can be considered by jurors in deciding on death or life in prison.

The court was unanimous in rejecting Abu-Jamal's claim that the trial judge, Albert Sabo, had been prejudiced against him and in favor of the prosecution when he presided over a Post-Conviction Relief Act hearing in 1995-6. It was also unanimous in rejecting Abu-Jamal's claim that Prosecutor Joseph McGill had improperly diminished the jury's sense of responsibility during the conviction phase of the trial by telling them that their decision would not be final as there would be "appeal after appeal." The appellate judges didn't say that McGill's statement was proper, or even that it might not have impacted jurors' decision on guilt, but rather agreed that by court precedent they had only used evidence of such prosecutorial misconduct to overturn death sentences, not convictions. (Arguably, in the unlikely event that the Philadelphia DA were successful in getting the US Supreme Court to reverse the Third Circuit and reimpose Abu-Jamal's death penalty, he could go back and appeal the sentence based upon this statement to the jury by McGill.)

But on Abu-Jamal's third claim—that the prosecution had improperly violated his Constitutional right to a fair trial by his peers by barring 10 qualified African-American potential jurors from serving on his jury through the use of what are called "peremptory challenges"—there was a dissent, making the vote 2-1.

Judge Thomas Ambro, a Clinton appointee to the bench—chastised his two colleagues, Chief Judge Anthony Scirica and Judge Robert Cowan-- both Reagan appointees--saying that they were applying a different, and unattainable standard of proof to Abu-Jamal than they had been using for other cases brought before them.

In rejecting Abu-Jamal's claim of racial bias in jury selection—something known as a *Batson* violation, after the Supreme Court's 1986 decision in *Batson v Kentucky*—the court majority wrote that Abu-Jamal had not made a timely protest over prosecutor McGill's rejection of 10 black jurors without cause (McGill used 15 of his 20 available

peremptory challenges to remove at least 10 qualified black and 5 qualified white jurors). The majority also proposed that because Abu-Jamal had not provided the court with the racial makeup of the jury pool, it was impossible to know whether perhaps two-thirds of that pool might have been black, giving an "innocent explanation" to McGill's 66.7% black rejection rate. (Local attorneys scoff at such a notion, saying they've never seen a jury pool so skewed racially.)

Judge Ambro blasted this logic, saying that the US Supreme Court had established that "excluding even a single person from a jury because of race violated the Equal Protection Clause of our Constitution." Significantly, the nation's High Court just affirmed that position March 19 with a powerful 7-2 ruling in a Louisiana death penalty case (*Snyder v. Louisiana*).

Judge Ambro then accused his robed colleagues of having a double standard, saying "Our Court has previously reached the merits of Batson claims on habeas review in cases where the petitioner did not make a timely objection during jury selection—signaling that our Circuit does not have a federal contemporaneous objection rule—and I see no reason why we should not afford Abu-Jamal the courtesy of our precedents." He added, "Why we pick this case to depart from that reasoning I do not know."

Going further, Judge Ambro writes, "We have repeatedly said that a defendant can make out a prima facie case for jury-selection discrimination by showing that the prosecution struck a single juror because of race...In fact, in *United States v. Clemons*, we explained that 'striking a single black juror could constitute a prima facie case even when blacks ultimately sit on the panel and even when valid reasons exist for striking other blacks.'...Yet the majority focuses on the absence of information about the racial composition and total number of the *venire* [jury pool], claiming that this statistical information—from which one can compute the exclusion rate—is necessary to assess whether an inference of discrimination can be discerned in Abu-Jamal's case. Such a focus is contrary to the nondiscrimination principle underpinning Batson, and it conflicts with our Court's precedents, in which we have held that there is no "magic number or percentage [necessary] to trigger a Batson inquiry,"

One thing Judge Ambro didn't mention in his 41-page dissent was the evidence presented by Abu-Jamal to the court of a clear history of deliberate race purging of juries by the Philadelphia DA's office, and by prosecutor McGill in particular. That evidence, developed by academic researchers and by attorneys at the Federal Defenders' Office in Philadelphia, show that between 1977 and 1986, while Ed Rendell was Philadelphia's District Attorney, local prosecutors used peremptory challenges to strike qualified blacks from juries in death penalty cases 58 percent of the time, compared to 22 percent of the time for qualified whites. During the same period of time, prosecutor McGill himself struck qualified black jurors 74 percent of the time in death penalty cases he tried, compared to 25 percent of qualified white jurors. This is seriously damning evidence of racial bias in jury selection.

Interestingly, one of the Third Circuit precedents referred to by Judge Ambro was a 2005 case heard by Judge Sam Alito, now elevated to the Supreme Court. In that case, *Brinson v Vaughn*, Alito overturned the appellant's death penalty conviction, writing that "...a prosecutor may violate Batson even if the prosecutor passes up the opportunity to strike some African Americans jurors." Alito further stated in that decision that "a prosecutor's decision to refrain from discriminating against some

African Americans does not cure discrimination against others." (Significantly, the High Court's latest Snyder decision opinion was also penned by Justice Alito, who shows himself to be a passionate opponent of racism in jury selection.)

What appears to be happening here, and what obviously upset Judge Ambro, is that the other two judges, Scirica and Cowan, are demonstrating another example of what my colleague, Philadelphia journalist Linn Washington, has dubbed the "Mumia Exception."

Washington has noted that on several occasions during Abu-Jamal's epic 26-year battle to survive Pennsylvania's death row machine, the state's courts have altered the rules to keep him locked up and on course for execution. Pennsylvania's top court in 1986 overturned a death sentence where McGill, the same prosecutor in Abu-Jamal's case, had made the same closing statement to jurors at the conclusion of a murder trial presided over by Judge Sabo, the same trial judge who presided in Abu-Jamal's case. The court, declaring that the prosecutor's language had "minimize[ed] the jury's sense of responsibility for a verdict of death," had ordered a new trial that time. Three years later in 1989, despite this precedent and presented with an identical situation involving the same characters, the same court reversed itself, though, upholding Abu-Jamal's conviction. Eleven years later, Pennsylvania's highest court reversed track again, barring such language by prosecutors "in all future trials," but not making their decision retroactive to include Abu-Jamal.

Another example of this judicial "special handling" where Abu-Jamal's case is concerned, involves the right of allocution – the right of the convicted to make a statement without challenge before sentencing. One month before initially upholding Abu-Jamal's conviction in March 1989, the Pennsylvania Supreme Court issued a ruling declaring the right of allocution to be of "ancient origin" and saying that any failure to permit a defendant to plead for mercy demanded reversal of sentence. Abu-Jamal's appeal claimed Judge Sabo, by allowing the prosecutor to question Abu-Jamal on the stand after the convicted defendant had made just such a statement to jurors, violated his allocution right during the '82 trial. The state's high court, however – for the first time in its history – ruled that the "right of allocution does not exist in the penalty phase of capital murder prosecution."

In yet a third example, Common Pleas Judge Pat Dembe, hearing a request by Abu-Jamal for a new Post-Conviction Relief Act Hearing on his case after testimony from people who had overheard his trial and PCRA judge vow to "fry the nigger" at the close of his trial's opening day, asserted that he had no case because "...since this was a jury trial, as long as the presiding judge's rulings were legally correct, claims as to what might have motivated or animated those rulings are not relevant."

This flip-flopping on allocution, on acceptable language for prosecutors, on the importance of judges being impartial, and on other legal precedents, all led Amnesty International to conclude in its 2001 report on Abu-Jamal's case that the state's highest court improperly invents new standards of procedure "to apply it to one case only: that of Mumia Abu-Jamal."

Justice, that is to say, has not always been blind in this case. A "Mumia Exception" had been established.

And now this stain on Pennsylvania jurisprudence appears to have migrated to the

federal court system, at the Third Circuit.

Says Washington, "This decision once again shows that in the Abu-Jamal case, evidence is not important. As with the Pennsylvania courts, this federal court ignored its own precedents in reaching a result that is contrary to the facts and to the law. The reason for this is what Amnesty International pointed out in their 2001 report: The Abu-Jamal case is hopelessly polluted by politics, which precludes any justice in this case."

Robert Bryan, Abu-Jamal's lead attorney, said the third Circuit Court's upholding of the death penalty reversal was a "major victory," but he said, "The fact that the court majority turned a blind eye to the racially discriminatory practices of the DA's office is outrageous."

Current Philadelphia District Attorney Lynn Abraham continued that outrageous behavior, and gave a demonstration of the toxic politics that affects the justice system where this case is concerned, at a press conference following the announcement of the court's decision, where she referred to Abu-Jamal repeatedly as an "assassin." In fact, at no point during the trial was there ever any claim by the prosecution, or any witness testimony, to even remotely suggest that Abu-Jamal had "targeted" Faulkner for death. Rather, the prosecution claimed that he had coincidentally been parked in a taxi he was driving, across the street from where his brother William had been stopped on a traffic violation by Faulkner, and had come across the street when his brother and the officer became involved in an altercation. To wrongly label the ensuing double shooting of Faulkner and Abu-Jamal an "assassination" as Abraham did, implying a political "hit" on Faulkner, was clearly aimed at inflaming public sentiment against Abu-Jamal. It was the same thing prosecutor McGill had attempted to do when, after the verdict, during his summation to the jury in the penalty phase of the trial back in '82, he brought out an old news clipping of an interview with a 15-year-old Abu-Jamal in which the defendant had quoted Chinese revolutionary leader Mao Tse-tung as saying "power flows from the barrel of a gun." (The context of that full article made it clear the young Abu-Jamal was referring in that quote to the power of police, who had just "assassinated" Panther leader Fred Hampton in his bed in a raid on a house in Chicago.)

With all three of Abu-Jamal's habeas claims for an overturning of his conviction rejected, his case now moves to the US Supreme Court, with a possible stop along the way for a hearing by the full Third Circuit bench. Abu-Jamal's attorney Bryan says he plans to file a request for such an *en banc* reconsideration of the ruling by the full Third Circuit within the next two weeks. Neither the full Third Circuit, nor the Supreme Court, are obligated to hear the case, which would make the current Third Circuit decision the final word on his conviction.

Bryan said, "Judge Ambro's dissent in the Batson decision was very powerful, and we will certainly be using it in our arguments to the full Third Circuit and to the Supreme Court."

As for the overturned death penalty ruling, which the DA's office will certainly also appeal to the High Court, should it be sustained, there are two options. The DA could decide to leave things at that—something McGill, interviewed shortly after Judge Yohn's initial ruling, said was being considered—in which case Abu-Jamal would face life in prison with no possibility of parole. He would not, however, have to spend more time in the near solitary confinement torture of Pennsylvania's maximum-

security death row, but would be moved to a regular prison. Alternatively, the DA could decide to go to a Philadelphia court and impanel a new jury to conduct just a sentencing hearing, in hopes of winning a new death penalty. Such a limited trial would not address guilt or innocence--only punishment.

Given fairer rules regarding jury selection, and the larger minority population in today's Philadelphia, and Abu-Jamal's having better legal representation, it is hard to imagine the DA succeeding in convincing 12 fairly chosen Philadelphia jurors to sentence journalist him to death for a crime for which he has already served 26 hard years' time. Moreover, because a defendant is entitled to subpoena witnesses in his defense, the DA would run the risk that Abu-Jamal could use such a trial to introduce new evidence of innocence, opening the door to further appeals of his underlying conviction. For these reasons, an effort to win a new death sentence seems unlikely.

The legal stymieing of Abu-Jamal's efforts to win a new trial comes at a time of growing questions regarding his guilt, or at least the veracity of the witnesses and the evidence used to convict him on a first-degree murder charge.

Last year, photos were discovered that had been taken by Pedro Polakoff, a freelance news photographer, of the crime scene on the south side of Locust Street at 13th Street in Philadelphia's Center City only minutes after police had arrived and after the wounded Abu-Jamal and the clinically dead Faulkner had been taken off to Jefferson Hospital. These photos show police tampering with evidence, including the both Abu-Jamal's and Faulkner's guns as well as the officer's police hat. Photos of the bloody spot on the sidewalk where Faulkner lay as he was shot by a bullet to the face at close range show no sign of craters where three other shots Abu-Jamal is alleged to have fired from a position astride the officer and that missed should have left their marks in the concrete (this proved true even when a photo enhancement expert at NASA's Jet Propulsion Laboratory subjected them to detailed enhancement!) . This lack of impact marks raises questions about the testimony of two alleged eyewitnesses to the shooting since the four high-velocity bullets Abu-Jamal was purported to have fired down at Faulkner simply could not have been fired without leaving marks--unless perhaps there is a "Mumia Exception" to the laws of physics too, and not just in law). Those same photos also show no taxicab parked behind Faulkner's parked squad car in the place one of those witnesses, Robert Chobert, claimed he had been stopped. The missing cab raises questions about the veracity of Chobert's claim to have witnessed Faulkner's murder. Other witnesses are still coming forward since the trial, who also challenge the prosecution's story, but without a new trial, it is not clear that their evidence will ever be heard.

Abu-Jamal's attorney says Abu-Jamal told him this morning that he was "disappointed" in the result, but that he "hopes the reversal of the death penalty will help others on death row, and says, 'The struggle continues!'"

DAVE LINDORFF is author of "Killing Time: An Investigation into the Death Penalty Case of Mumia Abu-Jamal" (Common Courage Press, 2003). His work is available at www.thiscantbehappening.net

Third Circuit Court Upholds Frame-Up Conviction of Mumia Abu-Jamal, Orders Hearing to Reinstate Death Penalty or Entomb Him for Life Free Mumia Now!, by The Partisan Defense Committee

PRESS RELEASE – 27 March 2008
Contact: Kevin Gilroy (212) 406-4252

Emergency Protests, March 28 in cities across the U.S., internationally on March 28 and 29: Freedom Now for Mumia Abu-Jamal! Contact the PDC for local information or go to www.partisandefense.org

The federal Third Circuit Court of Appeals ruled today to uphold the frame-up conviction of Mumia Abu-Jamal for the 1981 killing of Philadelphia police officer Daniel Faulkner. The court's ruling means that Mumia faces either execution or the living death of life in prison. In upholding federal district court Judge William Yohn's 2001 decision reversing Mumia's death sentence, the court has ruled that either a new sentencing hearing take place, where the death sentence could be reinstated, or that Mumia automatically be sentenced to life imprisonment. Both sides are likely to appeal the ruling.

Rachel Wolkenstein, counsel for the Partisan Defense Committee, stated today: "The court's decision is an outrage, a slap in the face to all opponents of racist injustice. This ruling shows that no justice can be expected from the capitalist courts. It shows yet again that the cops, prosecutors and courts--with the support of capitalist politicians, Democrats as well as Republicans--are determined to carry out Mumia's legal lynching or bury him for life in prison. We must not let this happen! Mumia must be freed now!"

Wolkenstein added: "After barring evidence of Mumia's innocence, today's court decision retailed as fact the prosecution's long-discredited lie that Mumia killed Officer Faulkner. Every leg of the prosecution's case against Mumia has been proven time and again to be a fabrication, from Mumia's alleged 'confession' on the night of the killing to the prosecution witnesses who were coerced into false testimony to the supposed murder weapon that was not even tested to see if it was fired.

"There is a mountain of evidence proving that Mumia is the victim of a racist political frame-up. Every piece of evidence in the case, from the forensics to the ballistics to the eyewitnesses, proves that Mumia is innocent. This includes the sworn confession of Arnold Beverly that he, not Mumia, shot and killed Officer Faulkner. The Beverly evidence was submitted to federal and state courts in 2001, but they have refused to consider it. The Partisan Defense Committee recently put out a Fact Sheet pamphlet--Murdered by Mumia: Big Lies in the Service of Legal Lynching--that details the evidence of Mumia's innocence." The pamphlet is available at: www.partisandefense.org.

Wolkenstein underlined: "The real reason Mumia was convicted and sentenced to death was his lifelong commitment to the fight for black freedom from the age of 14. The racist rulers see in Mumia the spectre of black revolt. The Philly cops and FBI carried out a

vendetta against him from the time he was a 15-year-old spokesman for the Black Panther Party. That vendetta continued when he became an outspoken journalist known as the 'voice of the voiceless' and a supporter of the MOVE organization, which was also in the cross hairs of the Philly police. In repeatedly ruling to uphold Mumia's conviction, the courts have flouted precedent after precedent, including the 1986 Supreme Court Batson decision, which stated that prosecutors could not exclude jurors based on race.

"Mumia should never have been arrested, tried or spent a minute in prison. In the infamous 1857 Dred Scott case that sanctified slavery, the Supreme Court said that a black man has no rights that the white man is bound to respect. The capitalist state and its courts have made clear that Mumia has no rights that the courts are bound to respect."

Pam Africa, head of the International Concerned Family and Friends of Mumia Abu-Jamal, told the PDC: "Speaking on behalf of the movement and Mumia, it should be evident to people that there is no way Mumia can have a fair hearing in the courts. From day one, we have called to release Mumia now! This is based on the evidence that keeps mounting of Mumia's innocence, and that the whole world knows. Mumia wants to be released from prison, he does not want to spend the rest of his life in prison. Do for Mumia what he has done for us. Stand up!"

Referring to today's decision, Wolkenstein noted: "The court dismissed the overwhelming proof of racist jury-rigging that marked Mumia's 1982 trial, where the prosecution used eleven of its 15 peremptory challenges to get rid of black jurors. Purging blacks from juries was so ingrained in the Philadelphia District Attorney's office, that they even produced an instructional video in 1987 to train prosecutors in the practice."

Responding to the majority's argument that the D.A.'s "instructional video" was irrelevant because it was made five years after Mumia's trial, Judge Thomas L. Ambro, the one dissenting judge, stated, "I find it difficult to believe that the culture in the Philadelphia D.A.'s Office was any better five years before the training video was made." Ambro argued that Mumia should receive a new hearing in federal district court where the prosecution would be required to justify its exclusion of black jurors, noting that "this was a racially charged case."

More than 900 individuals and organizations, including unions representing hundreds of thousands of workers, have signed a PDC statement titled, "We Demand the Immediate Freedom of Mumia Abu-Jamal, an Innocent Man," that also calls for the abolition of the death penalty. Signatories include the Maritime Union of Australia Sydney and Victorian branches, the National Union of Mineworkers in Johannesburg, South Africa, 1199 SEIU in New York City and International Longshoremen's Association Local 1422 in Charleston, South Carolina. Responding to today's ruling, Sadie Sanders, Political Action Chair of the New York chapter of the Coalition of Black Trade Unionists, said, "We should all be outraged about this decision" and noted that her organization "will do whatever we can" to free Mumia.

PDC Labor Coordinator Gene Herson stated: “It is necessary to turn words into labor actions to fight for Mumia’s freedom. While we support utilizing every legal recourse, we have no illusions in the capitalist court system. It was mass international protest, crucially including trade unionists, that stayed the executioner’s hand in August 1995, after a death warrant for Mumia was signed. The multiracial labor movement must be mobilized independently of the forces of the capitalist state.

“Today’s decision makes it all the more urgent to revitalize mass protest to free Mumia on the basis that he is an innocent man, and to link his fight to the struggle to abolish the racist death penalty.” Herson added, “Mumia’s freedom will not be won through reliance on the rigged ‘justice’ system or on capitalist politicians, including Hillary Clinton and Barack Obama who both support the death penalty. The power that can turn the tide is the power of millions--working people, anti-racist youth, death penalty abolitionists--united in struggle to demand Mumia’s freedom.”

Herson contrasted the PDC’s class-struggle perspective to “those groups who have focused on calling for a new trial for Mumia. That call means relying on the same racist courts that at every level have upheld Mumia’s frame-up conviction. It means illusions that Mumia can get justice from the same state that killed 38 Black Panthers as part of the FBI’s COINTELPRO, and that massacred eleven black people, including women and children, in the 1985 firebombing of MOVE. It is hardly a coincidence that this decision comes just before the parole hearing scheduled for April for the eight surviving members of the MOVE 9, who have spent 30 years in prison.” The MOVE 9 were framed up on conspiracy and murder charges stemming from the killing of Philadelphia officer James Ramp, who was killed in the police’s own cross fire during the vicious police assault on MOVE’s home in the Powelton Village neighborhood of Philadelphia in August 1978. Free the MOVE prisoners now!

Tom Cowperthwaite of the Labor Black League for Social Defense stated, “The racists in black robes have spoken. It’s long past time for the court of the masses to have their say.” Pointing to the December 2005 New York City transit strike, which crippled the financial capital of the world for three days, Cowperthwaite, a member of Transport Workers Union Local 100, added, “That’s the same power we need to mobilize to free Mumia and all class-war prisoners. In every workplace, the words ‘Strike!’ and ‘Free Mumia!’ should ring out in the same breath. Mobilize labor’s power to free Mumia now! Abolish the racist death penalty!”

Patrick Braouezec Statement About US Resolutions Condemning The

Naming of a Street for Mumia Abu-Jamal By The French City of Saint-Denis (June 1, 2006)

Response to US Congressional Resolution 407, passed, ultimately in slightly varied forms, by the Philadelphia City Council, Pennsylvania Senate and Assembly, and US House of Representatives denouncing the naming of a street in honor of Abu-Jamal, "Rue Mumia Abu-Jamal," in Saint-Denis, France, and demanding that it be rescinded.

--Patrick Braouezec, is the former Mayor of Saint-Denis; President of the Community of 12 Suburban Cities, including Saint-Denis; elected representative to the National Assembly of France.

Concerning Resolution 407, introduced by persons close to the FOP [Fraternal Order of Police], I first want to say that I condemn the murder of the police officer. I believe that everyone must condemn this act. That is clear.

This draft resolution claims that the murder was undoubtedly committed by Mumia. But everybody knows that the point of naming a street in Saint-Denis in honor of Mumia Abu-Jamal is to underscore the fact that Mumia has always maintained his innocence and has always demanded a fair trial. These are entirely two different matters: condemning the murder of a police officer is one thing, but the absence of a fair trial for Mumia is an entirely different matter. Finally, it seems outrageous to me [that this resolution] demands that the French government force the city of Saint-Denis to reverse its decision.

Cities in France have the right to name streets in honor of individuals. We have experienced in our recent history many un-namings linked to political change. It is true that in choosing the name of Mumia Abu-Jamal we made a choice, a political choice, a choice aimed to show that we stand at his side in the struggle he is waging to obtain legal recognition of his innocence—and we proclaim our choice for all to hear. In the same manner, a few years ago, we named a street for Bobby Sands, who had resisted the British occupation of Ireland. We have also named other streets in honor of other resisters, other individuals who fought unconditionally against the bullying established orders that refuse to acknowledge injustice.

One last thing concerning the proposed resolution's third paragraph, commending all American and police officers worldwide: I must tell you that, while I recognize the role played by the police today, under certain circumstances, I am not willing to consider all police officers of equal valor whether those officers are American or hail from other parts of this planet. Because I know for a fact that many of them do not act in the constitutional way we would expect of them under all circumstances, especially as far as minorities are concerned. This is so whether we are speaking about the United States or certain other countries where the police abuse their power and do not play the role we

expect of them as custodians of the equal treatment of all citizens. So let us not put the entire police force in the same basket. Statements such as those made in the proposed resolution regarding police forces as a whole constitute a false generalization—since it holds these police forces immune from any suggestion that they are capable of breaking or abusing rules.

Concerning the current situation confronting Pam Africa and the movement in Philadelphia, I have two reactions. First, when one is reduced to resorting to fear, to imposing the law of silence, it means that somehow there is a degree of uneasiness, somehow there is a lack of confidence, somehow there are those who are afraid of the final verdict of truth. So my first reaction is that when a group of individuals tries to impose the law of silence in this way, it means that the final truth is not what we are led to think nor is it what is made to appear as such. And my second reaction is to say that one should definitely not allow oneself to be intimidated. Beyond the struggle Mumia is waging to gain recognition of his innocence, he is also waging another struggle to abolish the death penalty, and this struggle should be waged by all democrats worldwide. Also, it is obvious that by exerting this type of pressure, very strong almost physical pressure, a certain number of police unions, not to mention rightwing or extreme rightwing unions, are intimidating all those who are waging a struggle today against the death penalty, whether it be in the United States or in other countries.

This struggle against the death penalty is a vital one. In my opinion, it is not permissible to play games with the lives of people. There are too many examples in the world, and first and foremost in the United States, of people who were sentenced unjustly. Sometimes they have been condemned to death or to very heavy prison sentences while proof of their innocence is established either after execution or after they have spent a great many years in prison. So we must not allow ourselves to be intimidated by these types of actions but rather recognize that the show of pressure is more a form of weakness than a demonstration of force.

As far as raising the FOP's proposed resolution in the French National Assembly, I believe that we must work on some type of action at that level. I do not know at this stage whether it can be a "current events" issue like the ones we raise every week, which take the form of a written question to the government. It is necessary that we elected representatives initiate action against the death penalty at both the national and other levels. I am speaking also of those who, as elected representatives, support Mumia in his struggle, for example, by adopting him as honorary citizen or conferring other tokens of support.

I believe that all these people should raise the issue with the French government in a very direct manner, including a request that our government should react explicitly even if in the end the American government does not challenge the French government in response to the proposed draft resolution that some are attempting to introduce today. But

this would be an opportunity for the French government to take a clearcut position concerning this affair and cut through any ambiguity there might be. So I am completely in favor of raising the issue in one form or another through the voices of a certain number of elected representatives—“députés,” mayors or municipal councillors—because there is also within cities governed by the political opposition a great deal of political mobilisation for the defense of Mumia. I think raising the issue at government level today would be useful.

Concerning the question from a youth as to whether we should take orders from American capitalism, I say NO, I take orders from no capitalist even if we are compelled to accept capitalism as part of our lives, even if we have to make accommodation at this juncture with the situation it creates. We know perfectly well that we are living in a capitalist system, but the issue is much larger than the American capitalist order. I believe that there are American democrats, as well as democrats throughout the world, who fail to question capitalism but who nonetheless adhere to certain human rights and that, even in the absence of challenging capitalism, there are still many citizens in the world who are probably against the death penalty and consider that Mumia Abu-Jamal has the right to an honest trial.

As far as our media notoriety in the U.S. is concerned, as mayors who named a street in honor of Mumia Abu-Jamal, our only objective as far as any media interest is concerned (whether the media be American or not) is to enhance the fairness of our claim. What is our claim today? We are among the many people who simply ask that Mumia be granted a new trial so that the evidence of his innocence can be heard. That is all we ask and I think that all the exposure we can obtain in the media should establish the claim concerning this issue. So let us make efficient use of the mikes or cameras that seek us out to validate our claim.

My thoughts are very much today with Mumia Abu-Jamal and the situation that entraps him. I am currently reading the most recent book by Michael Connelly, *The Lincoln Trial*, which exposes all the blemishes, all the abuse at the core of America's legal procedures, including the ways a trial can be manipulated. And we are made to see that it is money that fuels the neurological system of American justice—and that is a fact we can only condemn. If our statements, my statements are known throughout a number of radio stations and their networks—so much the better. I think it is useful, useful for Mumia, useful for the issue of abolition, useful for the totality of democracy whether it be in the United States or other countries that call themselves democracies today but are really undemocratic.

National Caucus of Black State Legislators (NBCSL) Statement

Supporting Mumia Abu-Jamal's Release, December 3, 2004

NOTE: *On Dec. 3, 2004, The National Black Caucus of State Legislators (NBCSL) passed a resolution during its conference in Philadelphia calling for the release of Mumia Abu-Jamal. The state legislators' resolution reads:*

WHEREAS Mumia Abu-Jamal's 1982 trial in Philadelphia was characterized by illegal suppression of evidence, police coercion, illegal exclusion of Black jurors, and grotesquely unfair and unconstitutional rulings by the judge; and

WHEREAS the trial judge, Albert Sabo, has been quoted in a sworn statement to have vowed at the time of the trial to help the prosecution 'fry the n--'; and

WHEREAS subsequent appellate rulings have bent the law out of shape to sustain the guilty verdict of that trial; and

WHEREAS the appellate courts have also refused to consider strong evidence of Mumia Abu-Jamal's innocence, most notably a confession by Arnold Beverly to the crime; and

WHEREAS Mumia Abu-Jamal still is incarcerated on Death Row and still faces a death sentence; and

WHEREAS Mumia Abu-Jamal's case is now on appeal before the federal Third Circuit and the state court system; and

WHEREAS Mumia Abu-Jamal has for decades as a journalist fought courageously against racism and for the human rights of all people; and

WHEREAS the continued unjust incarceration of Mumia Abu-Jamal represents a threat to the civil rights of all people,

THEREFORE BE IT RESOLVED that the National Caucus of Black State Legislators demands that the courts consider the evidence of innocence of Mumia Abu-Jamal and that he be released from prison; and

THEREFORE BE IT FURTHER RESOLVED that the NCBSL demands that Pennsylvania Gov. Edward Rendell instruct his Attorney General to take over the case of Mumia Abu-Jamal from the Philadelphia County District Attorney's office and actually pursue justice; namely, go to court, make a legal confession of error, and stipulate that the conviction be vacated;

THEREFORE BE IT FURTHER RESOLVED that the NCBSL will communicate its views on this matter to Gov. Rendell, 225 Main Capitol Bldg., Harrisburg, PA 17120, and to the appropriate courts in consultation with the legal defense team of Mumia Abu-Jamal; and

THEREFORE BE IT FURTHER RESOLVED that the NCBSL will work with the legal defense team of Mumia Abu-Jamal to petition the courts to file any necessary friend of the court brief on behalf of Mumia Abu-Jamal.

Text of NAACP Resolution for New Trial for Mumia Abu-Jamal and a National

Death Penalty Moratorium, adopted at NAACP National Convention, Phila, PA, July 15, 2004

EMERGENCY RESOLUTION REAFFIRMING OPPOSITION TO THE DEATH PENALTY

WHEREAS, the NAACP adopted a resolution in 2001 re-affirming our opposition to the death penalty due to its racially disparate application; and

WHEREAS, the NAACP has re-affirmed its 1975 resolution opposing the death penalty on the grounds that it constitutes cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution; and

WHEREAS, many people, including Mumia Abu-Jamal, are incarcerated on death row and face possible execution; and

WHEREAS, more than 320 people on death row have been exonerated; and

WHEREAS, though African Americans make up only 12.4% of the U.S. population, we make up 38% of all the Americans that were sentenced to death and later freed after being found innocent; and

WHEREAS, African Americans make up 35% of those being found innocent after being executed; and

WHEREAS, African Americans make up over 80% of those awaiting execution on federal death row; and

WHEREAS, 145 people have been exonerated based upon DNA evidence; and

WHEREAS, there is no possible way of restoring the life of an innocent person killed by the death penalty; and

WHEREAS, the implementation of the death penalty raises concerns regarding bias identification, police and prosecutorial misconduct, judicial apathy in protecting the rights of the accused, faulty evidence, inadequate defense representation, coerced confessions, and fabricated testimony, and,

THEREFORE BE IT RESOLVED that the National Association for the Advancement of Colored People reiterates its strong opposition to the death penalty; and

BE IT FURTHER RESOLVED that the NAACP calls on its units throughout the United States and the world to support the international call for Mumia Abu-Jamal to be released from death row; and

BE IT FURTHER RESOLVED that the NAACP reiterate its support of the international movement for a new and fair trial for Mumia Abu-Jamal; and

BE IT FINALLY RESOLVED that the NAACP renew its call for new nation wide studies on racial discrimination, the adequacy of counsel, access to modern research technology such as

DNA analysis, the sentencing of children and women to the death penalty and that the NAACP reiterate its call for a national moratorium on all executions.

ss: Kweisi Mfume, President and CEO; Julian Bond, Chairman of the Board of Directors

CONGRESSIONAL BLACK CAUCUS QUESTIONS DUE PROCESS FOR MUMIA ABU-JAMAL

--Official Statement from Congressman Chaka Fattah 's website, Oct. 13, 1999:

http://www.house.gov/fattah/pr_washington_1999/mumia.html

WASHINGTON, DC -- Justice can only be served through a new trial for Mumia Abu-Jamal, concluded Congressmen Chaka Fattah and John Conyers, speaking on behalf of the entire 38 Member Congressional Black Caucus (CBC). Congressman Fattah, a Philadelphia Democrat, has been closely monitoring the Abu-Jamal case for almost two decades and has concluded that a new trial is necessary in order to carry out Abu-Jamal's constitutional right to due process. Congressman Conyers, the leading Democrat on the House Judiciary Committee, agrees.

Even as Governor Tom Ridge (R-PA) signs Mumia Abu-Jamal's death warrant, there are still many issues that have not been resolved. Abu-Jamal, an African-American journalist from Philadelphia known for his reporting of police brutality during the 1970's and 80's, was sentenced to death in 1982, for the murder of a white police officer. Testimony of eyewitnesses was suppressed, a witness was bribed to testify against Abu-Jamal, ballistics evidence did not match the circumstances of the case, there is no physical evidence linking Abu-Jamal to the crime, and tests which could have been done to prove his guilt or innocence were not ordered. At the trial, Abu-Jamal, a powerful orator, was denied the right to represent himself and even denied the right to confront his accuser. The judge used his insistence on his right to represent himself as an excuse to remove him from the trial. No audio transmission of the trial was provided, therefore, Abu-Jamal was unable to hear most of the prosecution's case.

There are many reasons for the CBC's reservations in the Abu-Jamal case. Even if he were guilty, there should be a more solid assurance of fact before he is put to death. If he is innocent, putting him to death on the basis of the current evidence makes the government guilty of the very thing for which it is accusing Abu-Jamal.

"The only thing we know for sure is that he has not been given due process and that alone is enough for a new trial," said Congressman Fattah.

Mumia Abu-Jamal -- Amnesty International calls for retrial

By *Common Dreams Progressive Newswire*, February 17, 2000.

[\(Read the full Amnesty International report online\).](#)

NEW YORK - February 17 - Amnesty International today called for a new trial in the case of Mumia Abu Jamal on the basis that his original trial was deeply flawed.

"This is not about an issue affecting the life of just one man. This is about justice -- which affects us all. And justice, in this case, can only be served by a new trial," Amnesty International said.

After many years of monitoring the case and an exhaustive review of the original documents, Amnesty International has concluded that the proceedings under which Mumia Abu-Jamal was tried, convicted and sentenced to death fail to reach the minimum international standards for fair trials.

"Amnesty International has chosen this moment to publish the results of their painstaking review of the case because Abu-Jamal's life and the fairness of the judicial system are now, more than ever, in the balance," the organization said.

Without a new trial, the federal courts are Mumia Abu-Jamal's final opportunity to have many of the troubling issues in his case addressed. However, the 1996 Anti-terrorism and Effective Death Penalty Act severely limit the federal courts' ability to guarantee a defendants' rights.

Amnesty International fears the act has increased the number of executions that were in violation of international laws and standards governing the use of the death penalty.

The organization is also alarmed that the Philadelphia Fraternal Order of Police Officers is actively campaigning for the execution of Mumia Abu-Jamal.

"Police officers and their representatives should be impartial enforcers of the law. Amnesty International understands the anguish officers must feel when a fellow officer dies in the line of duty but their attempt to pressure the judicial system to execute Mumia Abu-Jamal is inappropriate," the organization stressed.

Abu-Jamal's case illustrates broader problems in the judicial system, particularly those that involve the administration of the death penalty.

"Given the contradictory and incomplete evidence in the trial transcript, Amnesty International cannot take a position on Abu-Jamal's guilt or innocence," Amnesty International said. "In calling for a new trial we are not ignoring the pain of the relatives and colleagues of Officer Daniel Faulkner, for whom we have the greatest sympathy."

"Nevertheless, Mumia Abu-Jamal's inadequate legal representation at his 1982 trial, the fact that the judge appeared more concerned with expediting the trial than with ensuring justice, the politisation of the judicial process, and the possible bias of the appeal courts has lead Amnesty International to conclude that only a new and fair trial could prevent the execution of a man who has not been proved guilty in a fair trial," Amnesty International stressed.

The prosecution of Mumia Abu-Jamal was built upon three pillars:

the testimony of eyewitnesses;

ballistics evidence;

and an alleged confession by the accused. After a thorough study of original trial documents, Amnesty International has determined that the veracity of each of these three pillars is in sufficient doubt to make a new trial essential.

Key concerns

- The three prosecution eyewitnesses substantively altered their description of what they saw between their original statements to police and their trial testimony.
- The witnesses were confused and unclear about the height of the shooter, what clothes he was wearing, in which hand he held the gun, and whether he ran away from the scene.
- The alleged confession, reportedly crucial to the jury's decision and sentencing, was first reported more than two months after the shooting.
- The alleged confession directly contradicted the contemporaneous notes of one of the alleged witnesses to the confession (a police officer) that "the negro male made no comments." This evidence was not put before the jury.
- There is also evidence that witnesses were offered inducements to alter their testimony in favor of the prosecution's

version of events. This evidence was not put before the jury.

- Lack of adequate ballistic tests to determine whether Abu-Jamal's gun had recently been fired. It was not determined, for instance, whether there was residue on his hands from firing a gun.

Additional information and background

Amnesty International opposes the death penalty in all cases as a violation of human rights. The organization is therefore calling for a new trial in which should preclude the re-imposition of a death sentence.

Mumia Abu-Jamal, black, was convicted and sentenced to death in July 1982 for the murder of white police officer Daniel Faulkner on 9 December 1981. He has consistently maintained his innocence.

Amnesty International can take no position on the guilt or innocence of Mumia Abu-Jamal. The organization has expressed concern however, over the activities of a government counter-intelligence programme which appeared to list Abu Jamal among its targets. Amnesty International is also concerned that political statements attributed to him as a teenager were improperly used by the prosecution in its efforts to obtain a death sentence against him.