



October 28, 2016

Via email: mcu@justice.gc.ca

The Honourable Jody Wilson-Raybould, P.C., M.P.
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa, ON K1A 0H8

Dear Minister:

Re: Leonard Peltier's Plea for Clemency

I am writing for the Canadian Bar Association to seek the Government of Canada's support for the application for clemency of Leonard Peltier. The CBA is a national association representing over 36,000 lawyers, notaries, law students and academics, with a mandate of seeking improvement in the law and the administration of justice.

In August, the CBA resolved to seek your intervention in support of Mr. Peltier with US Attorney General Loretta Lynch (resolution attached). Mr. Peltier was extradited from Canada by a predecessor in your office in 1976. Unfortunately, his extradition was based on faulty evidence, specifically:

- a) a purported eyewitness whose evidence was subsequently acknowledged by the US Department of Justice to be fabricated; and
- b) non-disclosure of material affidavit evidence.

The CBA has previously urged Canada to raise the issue of non-disclosure of material affidavit evidence with the US Attorney General.¹ Mr. Peltier is now seeking clemency so that he can live out his remaining days in his own Nation at Oglala. The CBA asks you to support his request for clemency with your US counterpart for the following reasons:

1. Canada and Canadian courts were given false evidence when they agreed to extradite Mr. Peltier. In similar cases, a country that has extradited in such circumstances has been entitled to the return of the extradited person.²

¹ CBA Resolution 96-22-M.

² See John J. Privitera, "Toward A Remedy for International Extradition by Fraud: The Case of Leonard Peltier" (1983) 2:1 *Yale Law & Policy Review* 48.

2. US prosecutors have conceded that there is no evidence that Mr. Peltier shot the two FBI agents involved. However, they were successful in having his appeals denied as he was present at the scene. In 1987, the Supreme Court of Canada found this rationale to be unconstitutional under the 'felony murder' rule.³
3. Mr. Peltier has been in maximum security for over 40 years, including his time in solitary confinement from February to December 1976 in Canada.
4. At the time of the incident, Mr. Peltier was helping the elders of Oglala Nation protect their treaty rights. His efforts were supported by Indigenous leaders in Canada, to the extent that he was actually adopted into the Kwakiutl Nation as a show of this support. Many leaders continue to this day to seek justice for Mr. Peltier and support his clemency petition.⁴
5. Mr. Peltier is the only person presently incarcerated in the US who is an Amnesty International prisoner of conscience.
6. Mr. Peltier is now in his seventies and in poor health. In Canada, it is unlikely that he would have faced such a lengthy term of imprisonment, and certainly not on the basis of the felony murder rule.

We look forward to your support and prompt intervention on Mr. Peltier's behalf.

Yours truly,

(original letter signed by René J. Basque)

René J. Basque, c.r./Q.C.

Encl.

³ *R v. Vaillancourt*, [1987] 2 SCR 636.

⁴ Letter to Prime Minister Justin Trudeau from Frank S. Dreaver, Leonard Peltier Defense Committee Canada, April 5 2016.

Clemency for Leonard Peltier

WHEREAS Leonard Peltier was extradited from Canada in 1976 based on evidence subsequently acknowledged by the Federal Bureau of Investigation to be fraudulent;

WHEREAS the Canadian Bar Association urged the Minister of Justice in 1996 to formally raise Canada's concerns about the non-disclosure of material affidavit evidence concerning the extradition with the United States Attorney General;

WHEREAS Leonard Peltier has now been incarcerated in the United States for over 40 years, is 71 years of age and suffers from diabetes and a heart condition;

WHEREAS Leonard Peltier has been found by Amnesty International to be a prisoner of conscience;

WHEREAS Leonard Peltier is asking the President of the United States for clemency so that he can return to his home at Oglala Reservation for his remaining years;

BE IT RESOLVED THAT the Canadian Bar Association urge the Minister of Justice to urge the US Attorney General to grant Leonard Peltier clemency to return to his home reservation based on time served in custody.

Demande de clémence dans le cas de Leonard Peltier

ATTENDU QUE Leonard Peltier a fait l'objet d'une extradition du Canada en 1976 en fonction d'éléments de preuve qui ont plus tard été reconnus comme étant frauduleux par le *Federal Bureau of Investigation*;

ATTENDU QU'en 1996, l'Association du Barreau canadien a incité le ministre de la Justice à formellement soulever, auprès du bureau du procureur général des États-Unis, les préoccupations du Canada concernant la preuve pertinente donnée par affidavit qui n'a pas été divulguée au sujet de l'extradition;

ATTENDU QUE Leonard Peltier est incarcéré aux États-Unis depuis plus de 40 ans, est âgé de 71 ans et souffre de diabète et d'une maladie cardiaque;

ATTENDU QU'Amnistie internationale a déclaré Leonard Peltier comme étant un prisonnier d'opinion;

ATTENDU QUE Leonard Peltier a demandé au président des États-Unis de lui accorder la clémence pour qu'il puisse retourner chez lui dans la réserve Oglala jusqu'à la fin de ses jours;

QU'IL SOIT RÉSOLU QUE l'Association du Barreau canadien exhorte la ministre de la Justice d'enjoindre à la procureure générale des États-Unis d'accorder la clémence à Leonard Peltier pour qu'il puisse retourner

chez lui dans sa réserve compte tenu de la
peine qu'il a purgée en prison.

**Certified true copy of a resolution carried
by the Council of the Canadian Bar Association
at the Annual Meeting held in Ottawa, ON,
August 11, 2016.**

**Copie certifiée d'une résolution adoptée
par le Conseil de l'Association du Barreau
canadien, lors de son Assemblée annuelle,
à Ottawa (ON), le 11 août 2016.**

**John D.V. Hoyles
Chief Executive Officer/Chef de la direction**