RACE FOR JUSTICE: MUMIA ABU-JAMAL'S FIGHT AGAINST THE DEATH PENALTY

We reprint below the introduction written in June 1997 by lead attorney Leonard Weinglass to the second German edition of Race for Justice, *a compilation of papers filed in Mumia's PCRA hearing by his legal team.*

Since the publication of *Race for Justice* approximately two years ago, more favorable developments have occurred in the case of Mumia Abu-Jamal than in the previous 12 years. Still he remains on death row in Pennsylvania with the possibility of a new execution date being set in 1997.

In two protracted court proceedings in 1995 and 1996, each of the three prongs on which the prosecution based its case—that the witnesses on the crime scene identified Mumia as the only person who could have killed Officer Faulkner; that Mumia's gun was the murder weapon; and that Mumia confessed to the shooting at the hospital—was so thoroughly rebutted and discredited as to make a new trial for Mumia inevitable to all but the most committed advocates for his execution.

The new facts that emerged with respect to the crime scene included the following:

- William Singletary, an eye-witness who was found at the crime scene by the arriving officers, but who did not testify at trial, testified that he saw an individual, not Mumia or his brother, shoot Officer Faulkner and then flee the scene. These observations are precisely what he related to the detectives on the night in question, only to have them threaten him unless he changed his story. He was held at the police station for hours and eventually forced to leave Philadelphia as the result of police threats and harassment. Unlike the prosecution witnesses, Singletary had no criminal record, was a decorated Vietnam veteran and family man who had no motive to lie.
- Another witness, Debbie Kordansky, who also did not testify at the trial due to the fact that she "didn't like black people" and "didn't want to help the defense," was subpoenaed to testify and acknowledged that she had told the police on the night in question that she saw someone from her hotel room overlooking the street run after the shooting had stopped.
- Still another witness, Robert Chobert, who did testify at trial for the prosecution and identified Mumia as the shooter, admitted that he had originally told the police that the shooter had run away, but changed his story six months later at trial because he was "in error." The reason for the change became clearer when he admitted that the police learned of his having driven his cab that night without a license, causing him to seek the assistance of the prosecutor handling the case. Sheepishly, he admitted that he was able to continue driving his cab for at least another ten years without a license.
- A long and expensive investigation located Veronica Jones in 1996, a witness who also denied at trial seeing anyone run from the shooting scene. With her life as a prostitute now a dim memory of her long-abandoned past, she came forward and told the court what she had told the police within a week of the shooting: that she did, in fact, see two men run from the scene after the shooting stopped. What caused her to change her story at trial was also explained: a visit just prior to her testifying by two police detectives in the jail where she was awaiting trial on serious charges who threatened her with a ten year prison sentence if she helped Mumia's defense. At the time she was 20 years old and faced the loss of her three infant daughters if sent to prison. After hearing this testimony an outraged Judge Sabo ordered her jailed on an old bad check warrant. She was led from the courtroom in handcuffs.

In 1995 the defense learned for the first time that the police had recovered from the clothing of the slain officer as he lay on the sidewalk a driver's license or application belonging to a third person who had been arrested as a suspect and brought to the police station that night. The prosecution kept this fact from the defense for over 13 years! The individual named on the license was located and confirmed during a court hearing that the document was his and that he had, in fact, been taken into custody that night. However, he had an ironclad alibi and was released, but not before giving the police the name of the individual who had borrowed his license. That person, now deceased, was also taken into custody and placed in a line-up at which he was, according to this witness, identified by a female witness.

The accumulated weight of this new information devastated the prosecution's main thesis at trial concerning the crime scene: that Mumia had to be the shooter since only he, his brother and the officer were present. Judge Sabo found none of the above either credible or, where conceded as true by the prosecution, persuasive. In his opinion denying Mumia a new trial, he adhered completely to the prosecution's theory of the case as presented at trial in 1982 and disbelieved or disregarded the new evidence.

In early 1997 after Judge Sabo had ruled, another prostitute with relevant information, Pamela Jenkins, was located. She had served as an informant for the FBI and was a key prosecution witness before a federal grand jury investigating police corruption. She signed a sworn statement to the Pennsylvania Supreme Court stating that she had been threatened by the police if she refused to name Mumia as the shooter. Insisting that she was nowhere near the crime scene, she adamantly refused and was ultimately protected by her boyfriend, a Philadelphia police officer who had become enamored with her when she was a 14-year-old sophomore at the high school where he was serving as a truant officer. Most relevant was her statement that her friend, Cynthia White, another prostitute and the prosecution's chief witness against Mumia at trial, confided to her that she testified only after having her life threatened by the police. The Supreme Court has ordered a court hearing on June 26 so her testimony can also be made part of the record.

The second prong, that Mumia's gun was the murder weapon, was also rebutted by evidence that was equally persuasive in arguing for a new trial:

- The medical examiner's report was entered into the official record for the first time, specifically noting that the bullet removed from Officer Faulkner's brain was a .44-caliber bullet. (Mumia's gun, a .38-caliber, could not have fired such a bullet.)
- Mumia's trial counsel admitted under oath that he could not recall seeing the autopsy report, did not question the medical examiner on it during the trial, and did not introduce it into evidence.
- The medical examiner was subpoenaed to testify at the 1995 hearing and was obviously terrified to acknowledge his own report before a courtroom half filled with police spectators. Shamefully, he could not recall the autopsy, his own notes, or any work he had done on the case.
- Gun expert Fassnacht testified on behalf of Mumia that he found it incredible that the police allegedly failed to conduct a simple test to determine if Mumia's gun had been recently fired. It was a test he himself had taught the Philadelphia police when he served as a police instructor. Nor could he fathom why the police did not immediately test Mumia's hand to see if he had recently fired a weapon, a test that is routinely done in homicide cases.
- Also called into question was the contradictory finding by the police laboratory that the fatal bullet was .38-caliber. New evidence pointed to the fact that the medical examiner removed two lead pieces of a bullet from the deceased officer, but only one was received and examined by the police laboratory. No one was called by the prosecution to explain what happened to the missing piece, and how it would have influenced the police lab findings as to the caliber of the bullet.

Once again, Judge Sabo remained unpersuaded. He simply discounted all this new information with respect to the bullet, Mumia's gun, the inexplicable failure of the police to connect the weapon to the murder, or Mumia's counsel's incompetence.

Lastly, the alleged confession at the hospital was so thoroughly discredited that even a conservative, leading American journalist (and also a lawyer), after reviewing the entire record, concluded in the prestigious magazine *American Lawyer* that the confession was a fabrication. The new evidence was based on the testimony of Officer Wakshul, who did not appear and testify at Mumia's trial because he was allegedly on vacation. The defense located him and subpoenaed him to testify in a court hearing in 1995. He testified as follows:

- He did tell the police on the night of the shooting that, "the Negro male made no comments." However, several months later, after attending a meeting with the prosecutor, he suddenly remembered that Mumia had, in fact, confessed. When asked why he didn't