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Leonard Peltier: A Concise History of Guilt

What follows are the key elements concerning Leonard Peltier's conviction and guilt. All direct quotes from Leonard Peltier are italicized and appropriately sourced:

1) **Background**: Leonard Peltier was convicted in federal court in April 1977 and received two consecutive life sentences for the first-degree murder and aiding and abetting in the murder of FBI Special Agents Jack Coler and Ronald Williams.

During his trial the government presented evidence that on June 26, 1975, Agents Coler and Williams (driving separate late-model government sedans), followed a vehicle they believed contained fugitive Jimmy Eagle. Eagle and others were wanted for charges of armed robbery and assault with a deadly weapon. The agents followed the vehicle onto the property of the Jumping Bull family on the Pine Ridge Indian Reservation in South Dakota. Neither the FBI nor Agents Coler or Williams knew Peltier was on the reservation at that time.[1]

Peltier had recently returned to Pine Ridge to join other members of the American Indian Movement (AIM) because of the turmoil between AIM, the Pine Ridge tribal government, full-bloods versus traditionalists and the government (FBI).

2) **Milwaukee**: At that time, Peltier knew there was an outstanding warrant for his arrest from Milwaukee for an attempted murder charge involving two off-duty police officers. He had served five months in jail but jumped bail and fled the state.[2] Peltier, however, was later acquitted of those charges.[3]

3) **The shooting**: The government's evidence showed that Peltier had been driving a vehicle (a Chevrolet suburban with two young Indian passengers, Norman Charles and Joe Stuntz), had stopped at a distance, began shooting at the agents while they were both in an open field about a hundred yards away, and that the agents began firing back to defend themselves. During the shooting, other AIM members from a camp in a nearby ravine also joined in and shot at the agents from another, higher, location.[4] The shooting didn't last long and Agent Coler's right arm was nearly severed. Agent Williams was wounded three times. Witnesses testified that the three older Indians, Darrell Dean (Dino) Butler,

Robert (Bob) Robideau and Peltier then went down to the wounded agents. The jurors were presented with many crime scene and autopsy photos showing that someone had shot Agent Coler in the head and then a second round blasted away his jaw; both at point-blank range.[5] Agent Williams had a defensive wound because he had raised his hand to protect himself or deflect the rifle muzzle pointed at him. His fingers were blown through his face and the back of his head.[6]

4) **Evidence/witnesses**: The trial evidence linked the weapon used to kill the Agents, a Colt AR-15 (referred to as the Wichita AR-15) to Peltier because he was the only one among the AIM members with such a weapon. Extractor marks from this assault rifle were a match to a shell casing found in Agent Coler's open trunk as well as 114 others.[7] The court of appeals later stated "When all is said and done, however, a few simple but very important facts remain. The casing introduced into evidence had in fact been extracted from the Wichita AR-15. This point was not disputed…" and, "The trial witnesses unanimously testified that there was only one AR-15 in the compound prior to the murders, that this weapon was used exclusively by Peltier and carried out by Peltier after the murders."[8]

The testimony the jury heard placing Peltier at the murder scene was from young Indian witnesses who were reportedly threatened and coerced by the FBI. The three critical government witnesses who placed Peltier, Butler and Robideau at the agent's vehicles after the initial shooting had ended testified on cross-examination that they were threatened, intimidated, or physically abused in the initial stages of the investigation about their knowledge of the murders. "However, upon further questioning at (Peltier's) trial by the government attorney, they stated that the testimony they gave at the trial was the truth, as they best remembered."[9]

Two other witnesses (who were called by the defense team to refute testimony against Peltier and to suggest that they were induced by the FBI to make false statements), later "…testified outside the presence of the jury that after their testimony at trial, they had been threatened by Peltier himself that if they did not return to the court and testify that their earlier testimony had been induced by FBI threats, their lives would be in danger."[10]

5) **Preplanned assault**: Peltier has offered the following as one of his versions of the events of that day: *I can't believe that the FBI intended the deaths of their own agents. Their sorry excuse has been that those two Agents blundered and trespassed onto the property that morning simply in order to arrest someone falsely accused of stealing a pair of used cowboy boots*.[11] *They didn't even have a warrant for his arrest—nor does it jibe with the fact that scores, even hundreds, of FBI Agents, federal marshals, BIA police, and GOONS[12] were all lying in wait in the immediate vicinity. It seems they thought they'd barge in on that phony*

pretext, draw some show of resistance from our AIM spiritual camp, then pounce on the compound with massive force.[13]

However, although that had been Peltier's contention, not even his biographer, Peter Matthiessen, believed it. Matthiessen said "…they (the agents) heard a warning shot or came under fire; if there is another persuasive explanation of the location and position of their cars, I can't find it."[14]

6) **White flag**: A crucial element, among many others, surrounding the agents' deaths was their attempted surrender. Peltier's biographer, Peter Matthiessen, wrote a national bestseller about his case and the FBI's investigation of the American Indian Movement entitled In the Spirit of Crazy Horse.

Based on his extensive research and interviews of the participants, Matthiessen touched on an important aspect of the killing of the agents concerning Jack Coler's devastating arm wound. At trial, the government demonstrated that he had been at the back of his vehicle when a bullet passed through the open trunk lid and nearly severed his right arm. He went down, was bleeding heavily and was probably going into shock and unconsciousness.[15] Ron Williams was the one using his radio[16] to call for help and trying to explain where they were pinned down and being shot from, but he was also wounded three times and "…had thrown his gun down and stripped off his white shirt. Perhaps he waved it as a white flag of surrender; in any case, he apparently attempted to rig it as a tourniquet on the shattered arm of the downed Agent."[17]

Regretfully, Matthiessen's kindest words for the murdered agents were "In a few wild minutes, Coler had received that shocking wound, and Williams could not or would not desert him—the details, the degree of bravery, the precise order of events are lost."[18]

It would not be unreasonable to believe that Matthiessen's conclusion is correct: Ron Williams attempted to surrender, was wounded, his partner was gravely injured and his training hadn't prepared him for this type of situation.

After the initial shooting ended, the agents were then shot in the face with a high powered rifle. Most of the participants fled Pine Ridge. Peltier eventually escaped to Canada.

A massive federal investigation entitled *Resmurs* (Reservation Murders) ensued and Peltier was named to the FBI's Top Ten Most Wanted list.

7) **Butler/Robideau arrests**: Dino Butler and Bob Robideau would be arrested separately in September; Dino Butler on the Rosebud Reservation (where the FBI located Agent Williams's service revolver[19]) and Bob Robideau in Wichita when the station wagon he was driving caught fire and exploded. In that vehicle were Agent Coler's rifle[20] and the Wichita AR-15 (that trial testimony linked to

Peltier and that had been matched to shell casings at the crime scene and Jumping Bull area).

8) **Oregon escape/shootout**: While making his way north, on November 14th, Peltier was involved in a shoot-out with an Oregon state trooper when the motor home he was riding in was pulled over. Under the seat of the motor home was a paper bag containing Agent Coler's FBI handgun; the paper bag had Peltier's thumbprint on it.[21]

Because of all the weapons, ammunition, explosives, and hand grenades found in the station wagon that exploded in Wichita and the motor home from Oregon, the court described them as "traveling arsenals."[22]

9) **Butler/Robideau trial**: Peltier made his way to Canada but was arrested two months later by the RCMP, and while fighting extradition, Dino Butler and Bob Robideau were tried separately in Cedar Rapids, Iowa. They were acquitted after arguing self-defense. Certainly, we also have to accept that jury's verdict; however, there were several significant differences between their trial and Peltier's: The trial judge allowed considerable additional testimony regarding the tension and conflicts at Pine Ridge during that period, beyond limiting it to the murder of the two agents. Two key witnesses could not be located in time for the trial, and after the government rested its case, the trial judge took a ten-day recess to attend a judicial conference which arguably provided the defense attorneys inordinate, unusual, and considerable preparation time.[23]

Even given that, however, the Butler/Robideau jury deliberated for five days and twice reported they were hopelessly deadlocked before finally reaching a verdict.[24]

10) **Extradition**: Peltier's extradition from Canada was based partly on affidavits from an Indian woman, Myrtle Poor Bear, who claimed she knew Peltier and that he had killed the agents. However, as it later turned out, Poor Bear was deemed not to be a credible witness by both the government and Peltier's own attorneys and did not testify at his trial.[25]

The Poor Bear/extradition matter was finally settled in 1999 with a letter from the Canadian Minister of Justice to U.S. Attorney General Janet Reno stating "As I have indicated above, I have concluded that Mr. Peltier was lawfully extradited to the United States," and "That the record demonstrates that the case was fully considered by the courts and by the then Minister of Justice. There is no evidence that has come to light since then that would justify a conclusion that the decisions of the Canadian courts and the Minister should be interfered with."[26]

11) **Peltier trial**: Peltier stood trial in Fargo, North Dakota in March 1978, but that judge limited testimony and evidence to the events and circumstances surrounding the shooting and murder of the agents. Peltier was convicted and

prior to sentencing stated, *You are about to perform an act which will close one more chapter in the history of the failure of the United States to do justice in the case of a Native American. After centuries of murder of millions of my brothers and sisters by white racist America, could I have been wise in thinking you would break that tradition and commit to an act of justice?* And *I feel no guilt. I have done nothing to feel guilty about! I have no regrets of being a Native American activist*.[27]

12) **Appeals**: A significant element of Peltier's appeal had been his interpretation of the basis of his conviction. He has stated …*I was the last Indian left to railroad for the deaths of their two Agents* and *the Fargo jury had given me those maximum sentences specifically for supposedly going up and personally murdering those Agents at close range with a high-powered weapon, not for the vague crime of aiding and abetting.*[28]

Although, the court of appeals clearly stated "…the direct and circumstantial evidence of Peltier's guilt was strong…"[29]

Peltier also attempted to claim that the government in later oral arguments could no longer prove who shot the agents, but the court of appeals said that argument was "fatally flawed."[30]

13) **Lompoc escape**: By early 1979 Peltier was transferred to the U.S. Penitentiary in Lompoc, California where he claimed he had learned of a plot by the government to have him assassinated and that he had no choice but plan an escape. One of the inmates was killed during the armed breakout.[31] Peltier was captured days later in possession of a semi-automatic rifle that matched spent cartridges at the scene of the escape.[32]

Peltier received an additional seven-year consecutive sentence.[33]

14) **"Incident" & "Spirit"**: By 1980 Peltier was serving time in Marion Penitentiary where he was contacted the actor, Robert Redford, who had taken an interest in his case. Redford eventually produced and narrated the film, Incident at Oglala, which was based exclusively on Matthiessen's book.[34]

Since both the film and book have been the cornerstones of Peltier's claims of wrongful conviction (prominently posted on every website bearing his name, in books and periodicals and recommended to all potential supporters), it is significant to mention that at the time Matthiessen wrote In the Spirit of Crazy Horse he had a financial agreement providing half his advance and future royalties to the Leonard Peltier Defense Committee in return for exclusive access to Peltier.[35] Further, Harvard law professor, Alan Dershowitz, stated that Matthiessen "…is at his worst when he becomes a polemicist for his journalistic clients. He is utterly unconvincing - indeed embarrassingly sophomoric - when he pleads the legal innocence of individual Indian criminals" And, "…Mr.

Matthiessen not only fails to convince; he inadvertently makes a strong case for Mr. Peltier's guilt."[36]

15) **FOIPA**: After he was convicted, Peltier pursued additional material under the Freedom of Information Act.

Within the first release of FOIA documents was an October 2, 1975 FBI Laboratory teletype that his attorneys believed cast doubt on the key Government evidence against him (the Wichita AR-15 and the shell casing found in Agent Coler's trunk) and the trial testimony of an FBI Laboratory examiner.

However, the trial judge believed that the prosecutor "…had no duty to disclose them to defense counsel"[37] and did not violate the Brady doctrine.[38] But, the court of appeals disagreed and although they said, "We do not mean to imply that the October 2 teletype establishes that the motive or actions of any FBI agent or government prosecutor were improper,"[39] they did send it back to the district court for an evidentiary hearing.

In October 1984 there was a three-day evidentiary hearing with the FBI Laboratory examiner as a witness. The judge again denied Peltier's motion stating that "Because the October 2, 1975, teletype, evaluated in the context of the entire record, would not have affected the outcome of the trial, and does not create a reasonable doubt that did not otherwise exist, Peltier has failed to establish constitutional error."

It should be noted also that Peltier "…had an independent firearms expert present in the courtroom at the hearing, but he was not called to testify."[40]

This decision was also appealed and the court of appeals denied relief once again. They said that based on the "Bagley test," "…we cannot say that it is reasonably probable that (the jury) would have been sufficiently impressed by these possibilities to have reached a different result at trial."[41]

In 1978 and 1987 the U.S. Supreme Court denied certiorari.[42]

16) **Alibis**: The issue of Peltier's alibis, which have changed over the years, is significant and further support the notion of his consciousness of guilt.

Peltier had originally said he'd been in the *makeshift tent city* on the Jumping Bull property eating *pancakes…followed by several cupfuls of scalding hot black coffee,* but that *was cut short by the staccato sound of gunfire*. He went to the area while *bullets snapped at (his) heels as (he) ran and saw two cars, those shiny ones that always meant trouble for Indians…parked askew from each other in a field out toward the road, maybe a hundred and fifty yards away*. *(He) fired off a few shots above their heads, not trying to hit anything or anyone.* He was joined by *a few other brothers* who also *fired their rifles at those two unknown*

and unannounced interlopers who had come roaring onto the Jumping Bull property without warning.[43]

That's how Peltier originally described the initial events, and for many years, also claimed he and the others knew who actually killed the agents.

That individual, Peltier claimed, was on a mission for AIM to deliver dynamite to Jumping Bull that day. Peltier referred to him as Mr. X and that he was driving a red pickup that the agents had spotted and followed. Mr. X allegedly fired on the agents, other AIM members joined in, and after the agents were wounded, Mr. X. went down to their vehicles and shot them both in the face.[44]

In Robert Redford's film, Bob Robideau described how he saw Mr. X shoot the agents at point-blank range and drive off in the red pickup. Also, while being personally interviewed in the movie, Peltier further said, *This story is true. But I can't and will not say anything about it. For me to testify against anybody or even mention—try to get somebody else in trouble—is wrong. And I won't do it*.[45]

But, in 1995, Dino Butler came out publicly and said "…that the Mr. X idea would not be used because it was a lie," and "That it was all totally false. Totally untrue. That never happened."[46]

Further, in recent years, Bob Robideau changed his version as well and has—on many different occasions—claimed credit for personally killing the agents. He said "I am Mr. X…and I did kill them with honor befitting a warrior, but they died like worms."[47] And. "I killed the agents," and if he were in the same situation "Those FBI agents would be dead again."[48]

Robideau's statements, of course, made it very difficult for Peltier because at his trial witnesses placed the three older Indians, Butler, Robideau and Peltier at the agent's vehicles after the initial shooting ended. They placed Peltier at the scene of the murders and he was also convicted of aiding and abetting.

(The government's argument at trial, however, was that Peltier was the one who personally shot the agents at point blank range.)

Because of the alibi that was destroyed by his co-conspirators, it is of little wonder why Peltier never mentioned either the red pickup truck or Mr. X. in his autobiography, Prison Writings.

It is also significant to note that the defense attorneys at the Butler/Robideau trial in Cedar Rapids knew about the Mr. X story but that "…it was decided that it was better to keep (Robideau and Butler) out of the area of the cars entirely, not only because of aiding and abetting [even minor involvement in the commission of a crime could invite prosecution on this charge] but because it might have been too hard for a jury to believe what really happened."[49]

Peltier never had a viable alibi or affirmative defense for his actions that day.

17) **Clemency**: Peltier also petitioned former President Clinton, and when it appeared that President Clinton would not consider him for clemency, Peltier referred to him, and all politicians, as "sleazebags."[50]

18) **Procedural history**: In 2002 (by that time, twenty-seven years into the legal process), one court was prompted to describe Peltier's case as having a "…notoriously convoluted procedural history…" as it went on to provide all the pertinent details.[51]

19) **Fundraising**: Although fundraising is not indicative of guilt, Peltier and the Leonard Peltier Defense Offense Committee (and previously the Leonard Peltier Defense Committee) have engaged in questionable fundraising activities for many years. By their own statements they clearly acted as an illegal Political Action Committee (PAC) and claimed that donations to the LPDOC would be tax deductible. Peltier and the LPDOC inform supporters that their 503(c)3 application (for recognized charitable and tax-deductible status from the IRS; e.g. an exempt organization) was "pending." It remains that the LPDOC cannot be a 501(c)3 exempt organization because it is illegal if those funds are "…for the benefit of private interests, such as the creator (Peltier) or the creator's family…" and that "No part of the net earnings of a 501(c)3 organization may inure to the benefit of any private shareholder or individual. A private shareholder or individual is a person having a personal and private interest in the activities of the organization."[52]

Over a number of years Peltier has claimed many charitable and philanthropic activities in his name, however, these claims have not held up to scrutiny.[53]

20) **Negative court comments**: Throughout the voluminous record there have been but two (2) instances where the courts have criticized the government's actions (either the United States Attorney or the F.B.I.). Both criticisms have been quoted widely by Peltier and have been taken out of context or not quoted in their entirety.

- "The use of the affidavits of Myrtle Poor Bear in the extradition proceedings was, to say the least, a clear abuse of the investigative process by the F.B.I."[54]

Standing alone, and proffered by Peltier since it was first published in the denial of his direct appeal of his conviction in 1978, this is indeed a damaging statement. However, Peltier failed to finish the quote which placed it in complete context within the record. No less significant is that the court chose to relegate this comment to a *footnote* within the decision along with further clarification:

"This was conceded by government counsel on the hearing in this court. It does not, however, follow that the testimony of this obviously confused and 'unbelievable' witness (Myrtle Poor Bear) should have been permitted under either theory advanced by Peltier as hereinbefore set forth."[55]

No less ironic and tucked away in the record, was Peltier's own attorney's opinion of Myrtle Poor Bear when they believed the *Government* would call Poor Bear as a witness. They characterized her as a:

"…witness whose mental imbalance is so gross as to render her testimony unbelievable."[56]

- "Much of the government's behavior at the Pine Ridge Reservation and in it's prosecution of Mr. Peltier is to be condemned. The government withheld evidence. It intimidated witnesses. These facts are not disputed."[57]

This oft repeated quote by Peltier and his supporters is the only other castigating comment from the courts. This one comes from the 10th Circuit Court of Appeals in 2003 when Peltier filed a motion for a Writ of Habeas Corpus seeking immediate release on parole and challenged the record before the U.S. Parole Commission. This decision, also denied, was far beyond his criminal appellate process which had long since been resolved against him.

However, just prior to this rebuke the same appellate court said:

"Previous federal court decisions provided the (Parole) Commission with **ample facts to support its conviction that Peltier personally shot Agent Coler and Williams**."[58] And further, "While Mr. Peltier, asserts 'the Commission identified no plausible evidence that [he] shot the agents after they were incapacitated,' this statement is **simply not true**. The evidence linking Mr. Peltier to these crimes is enumerated above. The most damning evidence, the .223 shell casing found in Agent Coler's trunk, may be more equivocal after the surfacing of the October 2nd teletype, but it has not been 'ruled out,' as Mr. Peltier contends. There is no direct evidence that Mr. Peltier shot the agents because no one testified they saw him pull the trigger. But as we stated above, **and restate here**, **the body of circumstantial evidence underlying the Commission's decision is sufficient for the purpose of rational basis review**."[59] (Emphasis added)

So here then, one court that was critical of the Government, found again a *rational basis* to deny Peltier's claims and further support his conviction and sentencing. Those criticisms have all been microscopically examined in excruciating detail over the years and were determined to have not created any constitutional violations of Peltier's rights; even after twice reaching the U.S. Supreme Court.

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Peltier has changed his version of the shootings many times and his alibis were repudiated by those most knowledgeable and personally involved in the murders of Agents Coler and Williams; the courts have repeatedly reviewed his appeals and not once has there been any finding of a constitutional violation or reversible error by the government.

Peltier also had ample and capable representation throughout his entire legal proceedings.[60]

The central element of Peltier's guilt is based on the participants' collective statements and admissions and nothing in the entire history of this case has removed any of them, Peltier especially, from the scene of the brutal murders of two defenseless human beings, FBI Agents, who died in the line of duty.

Notwithstanding that Peltier and many of his supporters have had some success framing his conviction in terms of the historical mistreatment of Native Americans, Peltier is not the cause to atone for any perceived sins of the past. Peltier's factual (legal) and actual (moral) guilt, to any reasonable person reviewing this matter has been established beyond all doubt.

"In the Spirit of Coler and Williams"
Ed Woods
NPPA - Founder

[1] U.S. v. Peltier, U.S. Court of Appeals, Eighth Circuit, 585 F.2d 314, 1978; U.S. App. Decision, September 14, 1978, Decided. Introduction, ¶ 8 "The evidence against Peltier was primarily circumstantial. Viewed in the light most favorable to the government (footnote #3), the strongest evidence that Peltier committed or aided and abetted the murders is as follows…."
[2] U.S. v. Peltier, U.S. Court of Appeals, September 14, 1978, Decided. Ibid. I.A.1 "Milwaukee, Wisconsin incident"
[3] Peltier 105-107.
[4] U.S. v. Peltier, September 14, 1978, Decided. Ibid. Introduction, ¶ 4 "Shortly before noon on June 26, Special Agent Williams, driving a 1972 Rambler, and Special Agent Coler, driving a 1972 Chevrolet…."
[5] U.S. v. Peltier, U.S. District Court, DND, 553 F. Supp. 890, 1982 U.S. Dist. Decision, December 30, 1982, II.5 "According to the doctor who performed the autopsies…" And, "At trial, the testimony of two pathologists was presented. Dr. Bloemendaal testified that in his opinion Agent Williams' gunshot…."
[6] U.S. v. Peltier, September 14, 1978, Decided. Ibid. Introduction, ¶ 7 "These wounds were not fatal. The agents were killed with a high velocity, small caliber weapon fired at point blank range."
[7] U.S. v. Peltier, U.S. District Court for the District of North Dakota, 609 F. Supp. 1143, 1985 U. S. Dist. Decision, May 22, 1985: Findings of Fact; ¶ 3 "The Wichita AR-15 rifle and the .223 casing found in the trunk of Agent Coler's car were both part of…" and, ¶ 20 "Later examinations of the remaining .223 bullet casings submitted in connection with…."
[8] U.S. v. Peltier, U.S. Court of Appeals, Eighth Circuit, 800 F.2d 772, 21 Fed. R. Evid. Serv. (Callaghan) 1017, 1986; U.S. App. Decision, September 11, 1986: Sections: "The .223 Casing," and "The AR-15."
[9] U.S. v. Peltier, September 14, 1978, Decided. Ibid. II.A. ¶ 7 "In the second place…" and, Leonard Peltier v. Joseph W. Booker, Jr., Warden, U.S. Court of Appeals, Tenth Circuit, No. 02-3384, November 4, 2003; Appeal from the United States District Court for the District of Kansas (D.C. No. 99-CV-3194-RDR), II "As noted above, the Commission's…."
[10] U.S. v. Peltier, September 14, 1978, Decided. Ibid. II.B.2.b.ii. "Jimmy Eagle. In addition to offering Eagle's testimony, the defense also called two of the four cellmates who gave the allegedly fabricated statements to the government. Both witnesses affirmed the truth of their earlier statements to the F.B.I., and denied that the F.B.I. induced them to make false statements. There was thus no real proof that the F.B.I. solicited statements from the four cellmates. There was only proof that Eagle denied making the statements." And, footnote, 15. "The two witnesses testified outside the presence of the jury that after their testimony at trial, they had been threatened by Peltier himself that if they did not return to court and testify that their earlier testimony had been induced by F.B.I. threats, their lives would be in danger."
[11] http://www.noparolepeltier.com/faq.html#17 online reference as follows: On 6/23/75 an incident on the Schwarting Ranch, near Batesland, Pine Ridge Indian Reservation, South Dakota, resulted in complaints and warrants issued for the arrest of Hobart Horse, Herman Thunderhawk, Teddy Pourier and Jimmy Eagle for theft and assault with a deadly weapon of victims Jerry Schwarting and Robert Dunsmore. Pourier was arrested on 6/25/75 and that evening, Norman Charles, was questioned by Agents Coler and Williams and BIA officers regarding the whereabouts of the other three fugitives. Norman Charles was with Peltier when he returned to the Jumping Bull property around noon, June 26, 1975 and would have recognized the vehicles and the two FBI agents who interviewed him the evening prior. Although this event has been trivialized by Peltier and others; on 1/17/05, Jerry Schwarting was re-interviewed: "Mr. Schwarting stated that during this episode he was put in fear of his life, was cut several times by Hobart and still carries the scars to this day."
[12] Term referring to Guardians of the Oglala Nation (GOONs); Tribal members and supporters opposed to AIM and its activities.
[13] Peltier 113-114.
[14] Peter Matthiessen, In the Spirit of Crazy Horse; The story of Leonard Peltier and the FBI's war on the American Indian Movement. (Penguin Books, 1992) 544.
[15] Matthiessen 184.
[16] U.S. v. Peltier, September 14, 1978, Decided. Ibid. Introduction, ¶ 4 "Shortly before noon…."
[17] Matthiessen 157-158.
[18] Matthiessen 545.
[19] U.S. v. Peltier, September 14, 1978, Decided. Ibid. I.B.1. ¶ "On September 5, 1975…."
[20] U.S. v. Peltier, September 14, 1978, Decided. Ibid. I.B.1 ¶ "As we stated above…."

[21] U.S. v. Peltier, September 14, 1978, Decided. Ibid. Introduction, ¶ #8 "Peltier was stopped…," I.A.2. Ontario, Oregon, "On November 14, 1974, Oregon State Police stopped two vehicles near Ontario, Oregon: a motor home and a Plymouth station wagon. Peltier was one of the occupants of the motor home, and fled the scene, turning to fire at the state trooper. Upon searching both vehicles, Oregon authorities recovered from the motor home Special Agent Coler's revolver in a paper bag bearing Peltier's thumbprint, and from the station wagon several shell casings that had been fired from Coler's revolver." I.B. Unrelated robbery of ranch house: "The government introduced testimony that on or about November 14, 1972, a .3030 rifle and a pickup truck were stolen from a residence near Ontario, Oregon. Peltier's fingerprints were found in the residence. When Peltier was apprehended in Canada, he had in his possession the .3030 rifle stolen from Oregon. "

[22] U.S. v. Peltier, September 14, 1978, Decided. Ibid. I.2.A. Evidence of Flight, ¶ "We hold that…," "First, Peltier fled the scene of the crime immediately after its commission. His actions in Oregon were a continuation of that immediate flight. Second, the fact that the motor home and station wagon were traveling arsenals linked by communication devices and code words designed for avoidance of arrest was significant evidence of Peltier's state of mind." and I.B.1. Wichita, Kansas.

[23] "The Resmurs Case; The investigation of the murders of FBI Agents Jack Coler and Ronald Williams," FBI, Minneapolis Division, http://minneapolis.fbi.gov/history_peltier.htm, (last accessed 3/10/09); "The Cedar Rapids Trial," ¶7 "At the conclusion of the government's case against Robideau and Butler, the judge recessed the trial for 10 days to attend a judicial conference."

[24] Matthiessen 312.

[25] U.S. v. Peltier, September 14, 1978, Decided. Ibid. II.B.2.b.i, and footnote #18.

[26] Canadian Minister of Justice A. Anne McLellan, to U.S. Attorney General, Janet Reno dated October 12, 1999, available online at http://www.noparolepeltier.com/canadaletter.html

[27] Peltier 238, 240.

[28] Peltier 162.

[29] U.S. v. Peltier, September 14, 1978, Decided. Ibid. I.B.4. ¶2 "Secondly, the direct and circumstantial evidence of Peltier's guilt was strong and, in our opinion, the admission of these additional exhibits did not prejudice the defendants chances for acquittal."

[30] Leonard Peltier v. G.L. Henman, Warden, U.S. Court of Appeals for the Eighth Circuit, 997 F.2d 461, 1993 U.S. App. Decision, July 7, 1993; II., ¶2, "Peltier's arguments fail because their underlying premises are fatally flawed."

[31] Peltier 164-168.

[32] Leonard Peltier v. Joseph W. Booker, Jr., Warden, U.S. Court of Appeals, Tenth Circuit, No. 02-3384, November 4, 2003; Appeal from the United States District Court for the District of Kansas (D.C. No. 99-CV-3194-RDR); I.B. Mr. Peltier's escape from Prison.

[33] Peltier 167.

[34] Incident at Oglala, The Leonard Peltier Story, dir. Michael Apted, prod. Robert Redford, (Carolco films 1988), Miramax Films release, 1992. For a candid review of the film Incident at Oglala please see the online reference at http://www.noparolepeltier.com/movie.html, as well as the film's relationship to the book In the Spirit of Crazy Horse by Peter Matthiessen at http://www.noparolepeltier.com/response.html#4.

[35] Scott Anderson, "The Martyrdom of Leonard Peltier," Outside Magazine July. 1995.

[36] Alan M. Dershowitz, "Agents and Indians," Book review of *In the Spirit of Crazy Horse* by Peter Matthiessen, New York Times Book Review Sunday, March 6, 1983.

[37] U.S. v. Peltier, U.S. District Court, DND, Decision, December 30, 1982. Ibid. II. The standard of materiality in the absence of perjured testimony, (conclusion), ¶ "Because the alleged nondisclosures…" "Assuming the documents referred to in the defendant's petition were known by the prosecutor but not known by the defense counsel at the time of trial, the prosecutor had no duty to disclose them to defense counsel and the alleged nondisclosures do not amount to suppression."

[38] Brady v. Maryland, 373 U.S. 83, 10L. Ed. 2nd 215, 83 S. Ct. 1194 (1963).

[39] U.S. v. Peltier, U.S. Court of Appeals for the Eighth Circuit, 731 F.2d 550, 1984 U.S. App. Decision, April 4, 1984, Decided, (conclusion), ¶ "We do not mean to imply…."

[40] U.S. v. Peltier, Decision, May 22, 1985. Ibid. (conclusion), ¶ "Because the October 2, 1975, teletype, evaluated in the context of the entire record, would not have affected the outcome of the trial, and does not create a reasonable doubt that did not otherwise exist, Peltier has failed to establish constitutional error." Also, footnote 2.

[41] U.S. v. Peltier, U.S. Court of Appeals, Eighth Circuit, Decision, September 11, 1986. Ibid. (¶ prior to Conclusion), "In the light of the full record…."
[42] U.S. Supreme Court, October Term, 1978, No. 78-893. Peltier v. United States. C.A. 8th Cir. Certiorari denied; 585 F. 2nd 314. And, U.S. Supreme Court, October Term, 1986, No. 86-1900. Peltier v. United States. C.A. 8th Cir. Certiorari denied; 800 F. 2d 772.
[43] Peltier 123-125.
[44] Matthiessen 575-584.
[45] Incident at Oglala. Ibid., direct quotes, onscreen interview of Robert Robideau and Leonard Peltier.
[46] E.K. Caldwell, "Conversations with Dino Butler," News From Indian Country 1995. Interview available online at http://www.noparolepeltier.com/lie.html.
[47] Robert Robideau, email to NPPA, (available online at http://www.noparolepeltier.com/debate.html#self section entitled "Peltier's ultimate guilt"), June 2, 2004, 2:52AM.
[48] Robert Robideau, direct quote from a public gathering entitled "Afternoon in solidarity with Leonard Peltier," NYC Jericho Movement, NY, NY, October 23, 2005.
[49] Matthiessen 546.
[50] "Caged Warrior," Cover Story, Boulder Weekly, March 9-12, 2000; excerpted online at http://www.noparolepeltier.com/speak.html
[51] U.S. v. Peltier, U.S. District Court, District of North Dakota; Crim. No. C77-3003, filed February 25, 2002. "Background: A brief sketch of the otherwise notoriously convoluted procedural history of this case is sufficient for the purposes of this motion. On June 1, 1977, following a five-week jury trial, Mr. Peltier was sentenced by Judge Paul Benson to two consecutive life terms in prison for the first degree murder of and aiding and abetting the first degree murder of two FBI agents. Mr. Peltier's conviction and sentence was affirmed on direct appeal. See United States V. Peltier, 585 F.2d 314 (8th Cir. 1978), cert. denied 410 U.S. 945 (1979). In June 1979, Mr. Peltier filed a motion pursuant to Fed. R. Crim. P. 35 to reduce his sentence. Shortly thereafter, however, Mr. Peltier escaped from prison. See United States v. Peltier, 693 F.2d 96 (9th Cir. 1982). Once Mr. Peltier was captured, the court denied the Rule 35 motion on October 4, 1979. In April 1982, Mr. Peltier filed his first motion under 28 U.S.C. § 2255 for a new trial. This motion was denied in December 1982. See United States v. Peltier, 553F. Supp. 890 (D.N.D. 1982). Mr Peltier appealed, and on April 4, 1984, the Eighth Circuit granted a limited remand for an evidentiary hearing related to ballistics evidence used by the government during the trial. See United States v. Peltier, 731 F.2d 550 (8th Cir. 1984). Following that evidentiary hearing, the district court again denied Mr. Peltier's motion for post-conviction relief. See United States v. Peltier, 609 F. Supp. 1143 (D.N.D 1985). Not surprisingly, Mr. Peltier appealed. Although the Eighth Circuit determined that the "prosecution withheld evidence from the defense favorable to Peltier," United States v. Peltier 800 F.2d 772, 775 (8th Cir. 1986), the court ultimately affirmed he district court. See id. at 779-80. In 1991, Mr. Peltier filed another § 2255 motion alleging that during the oral arguments before the Eighth circuit in 1985, the government changed its theory of the case. Essentially, Mr. Peltier argued: *that the government tried him and he was convicted solely on the theory that he personally shot the agents at point blank range; and that during the oral argument before [the Eighth Circuit], the government admitted that his conviction could not be sustained on that theory*. Peltier v. Henman, 997 F.2d 461 (8th Cir. 1993). Mr Peltier's motion was denied by the district court. The eighth Circuit affirmed, holding that *(A) The government tried the case on the alternative theories: it asserted that Peltier personally killed the agents at point blank range, but that if he had not done so, then he was equally guilty of their murder as an aider and abettor [; and] (B) [t]he government's statement at the prior oral argument, upon which Peltier relies, was not a concession that the government had not proved that Peltier had not killed the agents personally, and that Peltier's conviction could be sustained only on an aiding and abetting theory*. On November 1, 2001, Mr. Peltier filed instant motion seeking to renew his original Rule 35 motion for reduction of sentence. The crux of Mr. Peltier's contention is that there have been several changes in circumstances since his original sentencing which should now be considered. Based on these changes, Mr. Peltier seeks to have his sentence reduced from two consecutive life sentences to two concurrent life sentences. (Discussion, The merits of the motion, and Conclusion, follow). Denied."
[52] http://www.irs.gov/charities/charitable/article/0,,id=123297,00.html Online IRS reference as follows: "A section 501(c)3 organization must not be organized or operated for the benefit of private interests, such as the creator or the creator's family, shareholders of the organization, other designated individuals, or persons

controlled directly or indirectly by such private interests. No part of the net earnings of a section 501(c)3 organization may inure to the benefit of any private shareholder or individual. A private shareholder or individual is a person having a personal and private interest in the activities of the organization."

[53] http://www.noparolepeltier.com/debate.html#fraud for online references regarding Peltier's fundraising and alleged charitable activities.

[54] U.S. v. Peltier, September 14, 1978, Decided. Ibid. Footnote #18.

[55] U.S. v. Peltier, September 14, 1978, Decided. Ibid. Footnote #18, continued.

[56] U.S. v. Peltier, September 14, 1978, Decided. Ibid. II.B.2.i. ""Indeed, defense counsel, anticipating that she would be called as a witness for the government, described her in his opening statement as a "witness whose {F.2d 333} mental imbalance is so gross as to render her testimony unbelievable.""

[57] Leonard Peltier v. Joseph W. Booker, Jr., November 4, 2003. Ibid. II ¶ (last).

[58] Leonard Peltier v. Joseph W. Booker, Jr., November 4, 2003. Ibid. II ¶ "Previous federal court decisions provided the Commission with ample facts to support its conviction that Mr. Peltier personally shot agent Coler and Williams. We cannot hold that the Commission's reliance on these decisions, nor its determination that the aggravating circumstances of this crime outweigh mitigating evidence presented by Mr. Peltier, constitute arbitrary and capricious action on the Commission's part."

[59] Leonard Peltier v. Joseph W. Booker, Jr., November 4, 2003. Ibid. II ¶ (second to last).

[60] U.S. v. Peltier, September 14, 1978, Decided. Ibid. V.5. "The appellate attorneys also seem…" "We have carefully examined the record in the trial court and on appeal, and have concluded that the defendant's trial counsel were aggressive, capable, and informed, and engaged in sophisticated trial decisions on strategy." "Peltier was equally well-represented at trial and on appeal."