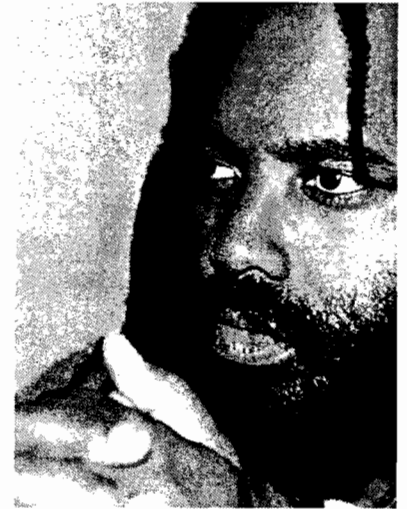


Top US Court Sends Mumia Abu-Jamal Closer to Execution

Cops, Courts and Politicians To Mumia: We Will Kill You, and the Law Be Damned!

For Labor Action To Free Mumia!



Mumia Abu-Jamal

Mumia Abu-Jamal is a former Black Panther, award winning journalist, behind-bars commentator on critical social issues--and an innocent man on death row. In April 2009, after more than two decades of court rulings that ignored mounting evidence of his innocence, the Supreme Court upheld his 1982 frame-up conviction without comment. Then, this January, the Court moved closer to reinstating his death sentence--which had been put on hold by lower court rulings.

The US Supreme Court has shown it will do anything necessary to support the rule of their big corporate bosses, as seen most recently in the Citizens United ruling, which threw out the ban on independent corporate spending during an election. Years of legislation was undone in a single blow, to further tighten the death grip of big money over politics in the US. But the courts also obey the commands of their armed thugs in the Fraternal Order of Police (FOP), and politicians that support them, even if it means walking all over their own legal precedents and trampling on the most basic principles of justice.

Supreme Court "Vacates" the Stay of Mumia's Death Sentence

On January 19th the Supreme Court "vacated" the Third Circuit (federal appellate) ruling, which--after upholding Mumia's conviction--said that his death sentence had been imposed under faulty instructions to the jury. The Third Circuit had instructed Pennsylvania state courts that under *Mills v Maryland*--a 1988 Supreme Court precedent--Mumia's sentence should be decided again in a new sentencing hearing, or (if no such hearing was held) converted to a life sentence without the possibility of parole. In *Mills*, the Supreme Court had struck down a Maryland statute which said that juries in capital cases must be unanimous on any aggravating or mitigating factor when deciding the sentence. The *Mills* ruling said that while aggravating factors need be unanimous, factors that mitigate against imposing death required a simple majority only. The Third Circuit said *Mills* applied in Mumia's case, and so required reconsideration of the sentence.

But now, the Supreme Court has ordered the Third Circuit to reconsider this decision. They did so in light of their recent ruling on another case, *Smith v Spisak*. Having summarily tossed out Mumia's appeal against his



April 24, 1999:
Longshore workers in the International Longshore and Warehouse Union (ILWU) shut all West Coast ports to free Mumia. Wearing traditional white caps, longshore workers formed up to lead a march in defense of Mumia in San Francisco, chanting "An injury to one is an injury to all! Free Mumia Abu-Jamal!"

conviction last year, the Court waited until now, after its Spisak ruling, to take up the cross-appeal by the Philadelphia DA, seeking to reinstate Mumia's death sentence. It was obvious that the Court planned to use its Spisak ruling against Mumia, and now it has. The clear implication was that the Third Circuit had just lost its reason (the Mills precedent) for setting aside Mumia's death sentence:

Of the cases summarily decided [January 19th], one is especially noteworthy: the Court has granted the petition in Beard v. Abu-Jamal (08-652), vacating and remanding to the Third Circuit to consider in light of Smith v. Spisak. (<http://www.scotusblog.com/>)

Smith v Spisak stemmed from a case in Ohio of an avowed neo-Nazi, who confessed in court to murdering five people for racist reasons. Spisak's death sentence had been set aside, based on faulty jury instructions under the Mills precedent, similar to Mumia's, in two lower court rulings. The Supreme Court unanimously reversed these, and said Spisak should be executed. The Mills ruling had the effect of inhibiting, somewhat, the rush to execute. But in its current ruling in Spisak, the Court said that Mills may not apply in any given state, based on differing jury-instruction forms which may or may not be confusing to jurors on the issue of mitigating factors. Thus the Court watered down what was considered to be a binding national precedent, with language allowing different states to make their own interpretations--a "states rights" position.

A Long-Established Tactic of Deception

But that's just the beginning. It is important to see through the haze of legal gibberish here. In saying that Mills didn't apply in the Spisak case, the Supreme Court allowed itself to say, only days later, that Mills probably didn't apply to the politically more important case of Mumia Abu-Jamal either. The Court thus weakened its own precedent in order to reinforce and strengthen the death penalty generally. And at the same time, it used the case of a confessed racist murderer to set back the struggle of a world-renowned, innocent and anti-racist death-row prisoner--Mumia Abu-Jamal--a prisoner whom the FOP and US political establishment is falling all over itself to execute.

Taking precedent-breaking legal measures against hard right-wing targets in order to use them against the working-class left, is a long-established tactic of a ruling class which seeks above all to preserve its own power. But in the case of Mumia Abu-Jamal particularly, breaking legal precedent in order to hasten his execution is the norm. In making its flat-out rejection of Mumia's appeal last April, the Supreme Court had to knowingly violate its own well-established precedent in *Batson v Kentucky*--the 1986 ruling which said that purging a jury on the basis of race was unconstitutional. One of the best-known legal precedents in modern US history, *Batson* required that convictions be thrown out for even one incident of racially-based juror exclusion. And, it was to be applied retroactively. In Mumia's 1982 trial, the prosecutor used at least ten out of 15 peremptory challenges to exclude blacks for reasons that were not applied to prospective white jurors.

Precedent? Hell No! Courts Do What They Want

Many other precedents have been broken as well by appellate courts, which were then upheld by the Supreme Court. The Third Circuit reversed a well-established rule preventing prosecutors from undermining the principle of "innocent until proven guilty beyond a reasonable doubt" in their summations to the jury. In Mumia's case, the prosecutor said that Mumia would go free immediately if acquitted, but would get "appeal after appeal" if convicted, thus saying to the jury that if in doubt they should convict, not acquit. Having tossed this practice in an earlier case involving the same prosecutor, they upheld it in Mumia's case, and this in turn was upheld by the Supreme Court. (In yet another case, the Third Circuit later restored the earlier precedent on this issue.)

Still more fundamental is the question of innocence itself. In order to convict and uphold Mumia's conviction the prosecution manufactured false confessions, planted evidence, and threatened "witnesses" into saying they saw what they didn't see. All of these illegal tricks were used against Mumia, yet no court has overturned the conviction because of them. Meanwhile, the real evidence--including witnesses who saw the real killer or killers run away, and a witness (William Singletary) who said Mumia didn't shoot anybody but who was not called to testify--should have proven Mumia's innocence from the start. But more evidence of innocence has come in since the trial, including witness recantations, another man (Arnold Beverly) who confessed, and photos of the crime scene that show that police lied. Yet very little of this has ever been heard in court, and none of it has been used to throw out this blatantly obvious frame-up.

"Innocent until proven guilty beyond a reasonable doubt" is perhaps the most fundamental of all legal precedents, predating the US legal system itself. The whim of the feudal lord to execute whom he pleased, has (supposedly) been replaced in bourgeois society by the rule of law. And if the state has failed to really prove guilt or has ignored new evidence of innocence, but is still holding the prisoner, there is the ancient precedent of habeas corpus, under which the state must explain why it is still holding the person.

Innocence Is No Defense!

But in the US, where the term "lynch-law" entered the language, and where the legal system is based largely on the law of the slave-holders, both of these fundamental principles have been thoroughly undermined. In the Supreme Court's *Herrera v Collins* decision, and in the 1996 Anti-Terrorism and Effective Death Penalty Act (ATEDPA) signed by Democratic President Bill Clinton, US legal precedent makes it nearly impossible to overturn a fraudulent conviction on appeal. The "facts" of the case as established in state courts must now be accepted in federal appeals courts regardless of merit, and the "timeliness" of appeal filings must be observed, thus gutting the right of habeas corpus. For US courts, if you're outside these narrow boundaries, and especially if you're targeted as an enemy of the state the way Mumia is, *innocence is no defense!*

A small handful of innocents on death row have been released for factors such as false confessions, police corruption of witnesses, ineffective assistance of counsel, or the confession of someone else to the crime. And more recently, DNA evidence has provided relief to some frame-up victims, although even this can be distorted by police, or studiously overlooked by the courts (see the Kevin Cooper case for instance. www.savekevincooper.org): 'In one state out of 50 (Illinois), death sentences were systematically tossed when half of death row inmates were found to be innocent. The death penalty is losing favor in the polls as more and more people become aware of its inherent brutality, and the fact that innocent people have been executed (Camron Todd Willingham in Texas is a recent example). But the Supreme Court is still breaking precedent to set up an innocent man, Mumia Abu-Jamal, for execution, as well as to reinforce the death penalty in general. Why?

The "Rule of Law" is a Fraud

The case of Mumia Abu-Jamal shows that the much-heralded "rule of law" in this so-called democracy is a fraud from beginning to end. For nearly half a century, Mumia has been hounded by the state's forces of "law and order." First targeted when he was 15 under the FBI's counter-intelligence program (COINTELPRO) for his political work as an activist exposing police racism and brutality, Mumia was framed on the spot in December of 1981 for killing a police officer who was probably talking to the Justice Department about the corruption of inner-city cops in his district. A man named Arnold Beverly later confessed that he was hired by corrupt cops to kill the officer, Daniel Faulkner, because Faulkner had been "interfering" with police pay-offs in downtown Philadelphia. Despite a federal prosecution aimed against police corruption, and despite the fact that it was some of the same corrupt cops who framed Mumia for the killing, the Justice Department never lifted a finger to save Mumia.



Police crime scene photo shows no "divots," or bullet impact marks, on the sidewalk where P.O. Faulkner was found. This evidence disproves the police scenario of the shooting, which was that Jamal stood directly over the prone Faulkner, and fired several shots at his head, only one of which hit him. The recently-revealed photos by Pedro Polakoff of the same spot also show no divots. Other photos by Polakoff show blatant police manipulation of evidence at the scene, such as police holding the alleged murder weapon with bare hands.

It's the System That's Guilty, Not Mumia Abu-Jamal

The twists and turns of the criminal justice system show beyond a reasonable doubt: it's the system that's guilty, not Mumia Abu-Jamal. Since his horrendously unfair trial before a racist judge (who was overheard to say privately that he was going to "help fry the n____r"), Mumia has been relentlessly pursued by a drum-beat campaign to execute him, spearheaded by the Fraternal Order of Police, many of whom are complicit in his frame-up, and possibly also in the Faulkner killing itself!

But this conspiracy of "legal" murder doesn't stop with the cops; it reaches all the way up the political ladder to the very top, where it continues unabated today. This includes Congress, which, under prompting from the FOP, pressured National Public Radio (NPR) to cancel a planned series of broadcasts by Mumia called "Live From Death Row" in 1994. Twelve years later, again under FOP pressure, Congress took the extraordinary step of condemning a city in France for naming a street after Mumia. By a vote of 368 to 31, Congress, including many prominent Democrats in the majority, demanded a reversal of the street-naming, defended all police world-wide, and declared Mumia a murderer.

Democratic and Republican officials in Pennsylvania are up to their eyeballs with the frame-up of Mumia, the cover-up, and the conspiracy to execute this innocent man. Since Mumia's trial, every candidate for Philadelphia district attorney has sworn to pursue death for Mumia, including Seth Williams, the current DA and the first black man to hold the office. Officials under then-Governor Tom Ridge, later named chief of Homeland Security by George W Bush, conducted a highly illegal surveillance (opening and reading) of Mumia's mail from his lawyer in 1995, in which they learned of an appeal that Mumia's lawyers were planning. This information allowed Ridge, who had pledged to execute Jamal in his election campaign the year before, to try to sabotage the defense by preemptively signing a death warrant against Mumia just before the appeal filing. This trumped up deadline allowed the presiding judge--who was the same racist, Albert Sabo, that presided over the original trial--to ramrod and rig the proceedings.

**"The law is what
the judge says it is."**

**-Mumia Abu-Jamal,
in his new book,
*Jailhouse Lawyers***

Obama's Political Bandwagon of Death For Mumia

The Democratic Party establishment, both in Pennsylvania and nationally, is committed to the same "legal" murder of Mumia. The current governor, Ed Rendell, who was district attorney at the time of Mumia's trial and oversaw the frame-up, is on board with this on-going conspiracy. He was central to Obama's carrying of Pennsylvania in the 2008 election. For its part, the Fraternal Order of Police wasn't taking any chances with presidential candidates. The FOP interviewed both Obama and McCain, and included a question about Mumia, referring to the street-naming by the Paris suburb of St. Denis, France. "I deplore acts to harm or kill our nation's police officers," replied Obama, "and oppose efforts to glorify those who commit such acts."

Not to be left out, certain media pundits have weighed in against Mumia, helping those in the ruling circles to be sure about where their loyalties needed to be. Right wing Philadelphia talk show host Michael Smerconish, the co-author (with Faulkner's wife) of a lying diatribe called *Murdered By Mumia* (Lyons Press 2008), also weighed in with an interview of Obama during the campaign. When Smerconish asked him about Mumia, Obama said he didn't know much about the case, but added, "if somebody killed a police officer, they deserve the death penalty, or life in prison." On this basis, the Republican Smerconish backed Obama in the campaign, which helped to put Obama over the top in Pennsylvania.

Smerconish & Co. are starting to break through internationally as well. Mumia Abu-Jamal has long had a strong following around the world, where in most countries, the particular loyalties of the US ruling class to its police force don't apply. Support for Mumia has come from the European Parliament, Amnesty International, the city of Paris (which gave Mumia an honorary citizenship), and luminaries such as Nelson Mandela. Mumia supporters are particularly strong in France and Germany. But the FOP, and pundits such as Smerconish, have recently scored with an anti-Mumia hit piece based largely on the lies in *Murdered By Mumia*, in *der Spiegel*, a major German weekly.

Eric Holder... and the Fraternal Order of Police

Although it supported McCain in the election, the Fraternal Order of Police backed the nomination of Eric Holder for attorney general. Holder subsequently spoke to an FOP "memorial" gathering, where he threatened "all those out there who would do harm to police officers... We are coming to get you," he continued, "you will be arrested, you will be prosecuted, and you will be sentenced to the full extent of the law."

This ominous warning made the intentions of the Obama administration clear. As it took office at the head of the world's preeminent imperialist power, the new administration reassured the US ruling circles that despite being the first black president, Obama was not about to change 40 years of murderous wrongs committed against revolutionary activists such as the Black Panthers, and spokesmen such as Mumia Abu-Jamal.

In a commentary in August of 2008, anticipating the possible election of the first black president of the US, Mumia related the impending Obama victory to the experience with Carl Stokes, who was elected mayor of Cleveland in 1967. As a harbinger of "the emergence of black political power in major American cities," Stokes' election prompted many Blacks to see "the beginning of an age of freedom for our people," said Mumia. However, "From the 1960s to now, we most certainly have been disabused of that notion," he continued. Among other disappointments, Stokes hired a former US Army lieutenant general as "a kind of super police chief." This Vietnam-war honcho ordered 30,000 rounds of illegal hollow point bullets to go after the Cleveland Black Panther Party, and one of its support organizations.

“Black Faces In High Places Does Not Freedom Make”

"Just because [Stokes] was a Black mayor," said Mumia, "didn't mean he wasn't dedicated to destroying a Black organization. Indeed, in times of Black uprising and mass discontent, Black mayors seem the perfect instrument of repression, for they dispel charges of racism... But Black faces in high places," concluded Mumia, "does not freedom make." (*The Perils of Black Political Power*, Aug 6th 2008).

We should also remember the experience with Wilson Goode, a black Democratic mayor of Philadelphia, who presided over the firebombing of the home of MOVE, the black community group which Mumia supports, in 1985. In *The Perils of Black Political Power*, Mumia touched on a central truth: power in a society ruled by an economic elite, though racist to its core, will not be altered by replacing a few white individuals with black ones, even at the very top of the power structure.



13 May 1985, Philly cops under black Democrat mayor Wilson Goode dropped military explosives supplied by FBI on MOVE commune, killing 11 black men, women and children. Police sharpshooters forced MOVE members back inside their burning home and let fire rage, burning down the entire neighborhood.

In *The Perils of Black Political Power*, Mumia touched on a central truth: power in a society ruled by an economic elite, though racist to its core, will not be altered by replacing a few white individuals with black ones, even at the very top of the power structure.

Only by seeing the true nature of the enemy can we move forward. Mumia's case shows conclusively that a ruling-class power structure, not "the law," is pulling the strings. It's true that Mumia is up against a very big obstacle indeed: the system has targeted him as one of its highest profile enemies. In this, Mumia shares the stage with Leonard Peltier, an innocent activist with the American Indian Movement, who remains jailed for life because of a well-organized FBI vendetta against him. (He also shares this stage with earlier victims of the system such as Sacco and Vanzetti--frame-up victims of the "red scare" of the 1920's.) In his last day in office, President Bill Clinton refused to pardon Leonard Peltier after armed FBI agents mobilized in the streets in New York to oppose it. And it

was the FBI's COINTELPRO program that led to the police killings of 38 Black Panthers in virtually scripted shoot-outs!

“Justice” System v Class Struggle

While we support pursuing all available legal avenues to defend Mumia in court, and we support and urge that donations be made to Mumia's legal defense fund, we find that there is no point in petitioning corrupt authorities such as Obama and the US Justice Department to correct wrongs which they themselves are either responsible for, or firmly committed to. Pleading with such a system to have a change of heart can only sow illusions, and undermine Mumia's defense. The petitions demand nothing, they only ask for an internal review of the system, by the system. These criminals--and they are criminals--are not about to turn around now and say, "Oops, sorry, we violated civil rights." They are committed to their side, and so should we be to ours.

In its effort to try to free Mumia, the Labor Action Committee To Free Mumia Abu-Jamal (LAC) recognized "that relief for Mumia cannot be expected from the biased and racist so-called 'justice' system in this country;" and we dedicated ourselves to, "educating workers about Jamal's case, and to promoting a class-struggle movement, including strikes and other job actions wherever possible, to Free Mumia Abu-Jamal!" (LAC founding statement, January 1999). Several workers actions have taken place since that statement was made, including a West Coast port shutdown to free Mumia, conducted by longshore workers in the International Longshore and Warehouse Union (ILWU) in April 1999. Oakland teachers conducted an unauthorized teach-in on Mumia and the death penalty, also in 1999; and Brazilian teachers in Rio de Janeiro have conducted many work actions to free Mumia, from 1999 through to 2008.

“An Injury To One Is An Injury To All! Free Mumia Abu-Jamal!”

We have no quarrel with the millions of well-meaning individuals around the world who have already signed the two petitions (one to the US Justice Department under Holder, and another to Obama). The problem is rather one of leadership. Rather than working within a power structure that's dead set against us, let's ask how Mumia supporters can be mobilized to take positive action aimed against the system that's trying to kill Mumia. Labor and minorities share a common history of being victimized by the criminal justice system in this country, and both have long been aware of police repression and the unequal use of the death penalty against minorities and the poor.

When longshore workers shut down West Coast ports and marched through San Francisco streets in 1999, they chanted, "An injury to one is an injury to all! Free Mumia Abu-Jamal," thereby uniting the black freedom struggle and the workers movement in one powerful action. We know that if freedom is to be won for Mumia, a massive movement of working people must be mobilized. The system that victimizes innocent revolutionaries like Mumia is the same system that threatens all of us with police brutality, as well as oppression, exploitation and financial meltdown. This system can be brought to a halt through mass actions that mobilize the power of labor. But we must start out in that direction. Educate, agitate, organize and demonstrate. Build workers actions to free Mumia!

Defense Funds Urgently Needed!

As the state pursues its relentless drive to execute Mumia, his lawyers must pursue his defense in a new round of hearings.

Please give generously!

Make payable to: National Lawyers Guild Foundation

Earmark your check: for Mumia Abu-Jamal

Send to: Committee To Save Mumia Abu-Jamal
PO Box 2012 • New York NY 10159

**-The Labor Action Committee To Free
Mumia Abu-Jamal, February 2010
PO Box 16222 • Oakland CA • 94610
(510) 763-2347 • LACFreeMumia@aol.com**

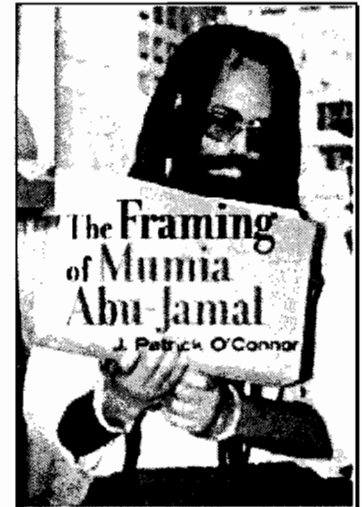
**For more information, view
our newly-updated web site at:
www.laboractionmumia.org**

labor donated • February 2010

BOOKS AND BUTTONS TO FREE MUMIA ABU-JAMAL

The Framing of Mumia Abu-Jamal,
by crime reporter J Patrick O'Connor (2008)

J. Patrick O'Connor's new book, "The Framing of Mumia Abu-Jamal," is the best development this year in the struggle for freedom of this political prisoner. The author is editor and publisher of Crime Magazine, which carefully researches wrongful convictions. While O'Connor speaks passionately on Mumia's innocence, his book is a calm, methodical account of the killing of Police Officer Daniel Faulkner in Philadelphia December 9, 1981, and the subsequent frame-up of Mumia Abu-Jamal.



Jailhouse Lawyers,
by Mumia Abu-Jamal (2009)

In Mumia's words, "This is the story of law learned, not in the ivory towers of multi-billion-dollar endowed universities [but] in the bowels of the slave-ship, in the hidden, dank dungeons of America ... It is law learned in a stew of bitterness, under the constant threat of violence, in places where millions of people live, but millions of others wish to ignore or forget. It is law written with stubs of pencils, or with four-inch-long rubberized flex-pens, with grit, glimmerings of brilliance, and with clear knowledge that retaliation is right outside the cell door. It is a different perspective on the law, written from the bottom, with a faint hope that a right may be wronged, an injustice redressed. It is Hard Law."

Each book, \$10 (our cost) + \$1 shipping = \$11

Free Mumia buttons - \$1 each, or 50 cents each for 10 or more.
Proceeds (above costs) of these buttons goes to Mumia's legal defense.

remit to/order from:

Labor Action Committee To Free Mumia Abu-Jamal
PO Box 16222 • Oakland CA 94610

