

A SUMMARY OF GERONIMO'S HABEAS CORPUS PETITION

Geronimo's petition for a writ of habeas corpus asks the Court to set aside his conviction on the basis of recently discovered evidence which proves that the charges against him, as well as key testimony and other evidence used against him at his trial, were false. The petition shows that there is compelling evidence that the case was deliberately engineered against him by members of the Los Angeles FBI "racial matters" squad---which carried out COINTELPRO operations against the Black Panther Party---and the so-called Criminal Conspiracy Section of the Los Angeles Police Department (LAPD), acting in concert with an Assistant District Attorney who is now a Los Angeles County Superior Court Judge. It is apparent the frame-up was conceived and executed as part of a COINTELPRO-based campaign designed to "neutralize" Geronimo and the Black Panther Party in Los Angeles.

Geronimo was convicted of the murder of a woman who, with her husband, had been robbed of a pittance and then shot, for no reason, at a tennis court in Santa Monica in December, 1968. The case against him was based on highly circumstantial evidence supposedly linking him to the alleged murder weapon and a getaway car, together with personal identifications by the husband and a nearby shopkeeper which were contradictory, belated and problematic, to say the least. The most crucial testimony came from an informant or secret agent of the FBI and the LAPD,

Julius Butler, who was also a member of the Black Panther Party chapter in L.A., who claimed that Geronimo confessed to him that he had committed this brutal and senseless crime.

The guilty finding came after ten days of deliberation by a jury from whom the truth about Julius Butler's police status was carefully kept hidden, as it was from the defense, by means of evident perjury by Butler and his police contact or control agent, and suppression of evidence and other misconduct by the prosecution. In addition, it has been discovered that the jury foreperson unlawfully met with other members of the jury during the deliberations, separately from the rest of the group, and urged them to vote for conviction. This was a flagrant, illegal violation of the deliberation process, and it is fundamental law in California that any such conduct requires absolutely that the conviction be set aside. This claim, standing alone, is sufficient grounds to grant Geronimo's petition immediately; but there is much more.

/ + An ex-BPP member, Tyrone Hutchinson, has given a sworn statement that, while in the custody of the LAPD he told the police---specifically including Sgt. Callahan, the LAPD case officer assigned as the prosecutor's police assistant---that two associates of the chief prosecution witness, Julius Butler, had admitted to Hutchinson that they had done the robbery and shooting at the tennis court. The prosecution completely suppressed this information, despite its fundamental constitutional obligation to disclose it to the defense.

✓ + Six prominent former members of the Black Panther Party, including former national BPP Chairman Bobby Seale, his brother John Seale, and BPP chief of staff David Hilliard, have provided sworn declarations stating that Geronimo was in Oakland with them at a BPP meeting at the very time the crime was committed in Santa Monica. All six explain that they were previously antagonistic to Geronimo, and committed to silence about the case, because of the murderous split in the BPP in 1971 (which later proved to have been fomented by FBI agents in secret, illegal COINTELPRO operations) between factions led respectively by Huey P. Newton and Eldridge Cleaver.

✓ Three other witnesses testified at the trial about Geronimo's presence in Oakland on the day in question, but the California Court of Appeal in 1980 denigrated the value of these three witnesses because of their lack of specificity. That Court also commented on the absence of testimony from other Panther witnesses, particularly the "host" of the meeting on the day of the killing, which was David Hilliard. Since the recent death of Huey Newton, the evidence that the Court said was missing is now available.

✓ + The alibi is further supported by declarations from two experienced and highly respected legal investigators who, while working on an unrelated BPP case in 1975, inspected logs of a (totally illegal) FBI wiretap on a BPP phone in Oakland, and saw reference to the content of a telephone call that Geronimo received at that wiretapped Oakland location two and a half hours

before the murder. They relate that they previously believed this information was known to Geronimo's lawyers, and used by them without success; and it was only in a chance conversation with Geronimo's new attorney, Robert Bloom, that the information came to light.

✓ + Furthermore, Geronimo has newly discovered evidence which proves beyond doubt that Julius Butler, a co-member of the Panther Party whose allegation that Geronimo confessed the crime to him was the critical evidence in the trial, had an extensive background as an informant against the BPP for the FBI, and an even longer history as an informant for the Los Angeles police. The new evidence shows that this key witness, in this extremely close case, lied blatantly in his testimony about this law enforcement connection. The evidence shows Butler also lied under oath about important circumstances relating to a letter he wrote in which he made his first claim that Geronimo had confessed to him.

✓ The new evidence showing Butler's police and FBI connections includes a sworn declaration from a former LA police captain, Ed Henry, who says Butler was a police informant as far back as 1966; plus statements by former LAPD Sgt. DuWayne Rice, a contact officer for Butler in his informant role; plus newly disclosed memos and documents from FBI files which unequivocally confirm Butler's status as an informant. It shows that testimony by Butler and Sgt. Rice about the letter, its delivery to Rice, and various officers' knowledge of its contents---all matters which

were strenuously argued and heavily relied upon by the prosecution in proving its case---was presented to the Court and jury despite the undoubted knowledge of the prosecution that the testimony of both men was false.

Indeed there is strong evidence supporting the conclusion that the trial DA himself, Richard Kalustian---who is now a Superior Court judge in Los Angeles---was an active, knowing participant in the frame-up. It is clear he must have been aware that Julius Butler was an informant, and that Butler and Rice were falsely denying it. He also knew that the FBI was involved in the case, yet he covered up and misrepresented this and other facts about Butler and the letter throughout the trial. He altered and suppressed his own notes about a key interview with Sgt. Rice, and misrepresented facts relating to the crucial Butler letter.

Geronimo's lawyers have filed the Petition in San Francisco, rather than Los Angeles, because of the conflict of interest that would arise were a judge from the Los Angeles Superior Court to be placed in the position of evaluating Judge Kalustian's conduct, integrity, and credibility. Geronimo's attorneys and most of the new witnesses are located in the Bay Area, and the California Attorney General has a major office in San Francisco as well.

The Petition shows that the defense at the trial was deliberately and illegally deprived by the prosecution of much material information, and knowledge of the existence of witnesses

who had the information. These matters include: the surviving victim identified another man as the perpetrator; the identity of the two suspects who made their admissions to Tyrone Hutchinson; the existence of a different, third, suspect investigated by the police, whose identity has never been disclosed; the alibi matters noted above; the involvement of the FBI anti-BPP squad (a prominent member of which who was deeply involved in the machinations against Geronimo, was Richard W. Held, now the head of the FBI office in San Francisco); and the complex and sinister web of State and FBI manipulation, misdirection, half-truth and outright falsehood about Julius Butler and his fraudulent testimony.

In point of fact, the evidence now shows overwhelmingly that the case against Geronimo, upon which he has been falsely imprisoned and persecuted in maximum security for twenty years, was a major operation in the FBI's nationwide, grossly anti-constitutional COINTELPRO campaign---which aimed, in the words of J. Edgar Hoover, to "expose, disrupt, misdirect, discredit or otherwise neutralize" the Black Panther Party, and "destroy what it stands for". It is equally clear that the FBI office in Los Angeles worked intimately with the local police, recognized no limits of legality whatsoever on their activities, and engaged in massive cover-ups which have continued to this day. This petition seeks redress at last for one of the most blatant and sordid actions perpetrated by the FBI under the COINTELPRO activities

which were profoundly condemned by the United States Senate in
its Church Committee Report published in 1976.

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