

UNITED STATES DISTRICT COURT

X
UNITED STATES OF AMERICA :
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 :
 -vs- : No. 82-CR-312-CSH
 :
 MUTULU SHAKUR, :
 :
 Defendant :

 X

AFFIDAVIT AND MEMORANDUM IN
SUPPORT OF MOTION
TO DISMISS THE INDICTMENT

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States Federal Government and the governments of the various states and municipalities in the United States, and its North American Empire. (1)

3. The New Afrikan nation in North America is called the Republic of New Afrika. The nation is a colony of the United States of America, and has been colonized since it's inception by the United States or its European predecessors. The New Afrikan independence movement is a national liberation struggle being waged for the purpose of freeing the New Afrikan nation from the United States. The movement seeks specifically to liberate the territory of Alabama, Georgia, Mississippi, South Carolina and Louisiana. These states comprise the central portion of the southeastern blackbelt in which the New Afrikan nation was born. The New Afrikan independence movement seeks to establish an independent Black state within the boundaries of this territory. This movement moreover claims the right to self-determination for New Afrikans (Blacks in America) on all the land in America (North and South) on which New Afrikans have lived for a long time, developed and fought to defend. Dr. Shakur and the Revolutionary Nationalist forces of the New Afrikan independence movement, moreover, support the struggle for Puerto Rican independence, the struggle for the socialist reunification of Mexico (including it's Northern territory now colonized by the U.S.A. and held as the Southwest portion of the American empire), the struggle for Native American sovereignty rights, and the struggle for socialist revolution within the white North American nation in the United States. (2)

4. The charges contained in the present indictment against Dr. Shakur arise from acts of war which are part of and incident to a political conflict, and uprising, and military warfare between the United States government and the American governments on one side, and armed forces of the New Afrikan independence movement and enraged masses in the New Afrikan nation on the other side. As such these charges are not proper subjects of criminal prosecution. (3)

5. Dr. Shakur is charged in the present indictment because of the present long-term activity and membership in the New Afrikan Independence movement as a soldier, an intelligence functionary, a health care worker, and political activist. He is also charged because he is suspected of being a member of an underground New Afrikan Freedom Fighters Unit, which was allegedly responsible for the armed actions which gave rise to the counts in the indictment. Dr. Shakur is therefore improperly charged, and is entitled to the international legal protection afforded prisoners of war, and freedom fighters who are combatting racist political regimes.

HISTORY OF THE NEW AFRIKAN NATION
AND ITS STRUGGLE AGAINST U.S. COLONIALISM

6. (a) Afrikans began arriving in what was to become the British colonies in America sometime around 1619. Within 40 years the social practice and the laws of the emerging new European nation here had made it clear that Afrikans, free and slave, were not permitted to join this new white nation; nor were the Afrikans--the majority of whom were slaves--to be allowed to join the Indian nations here in peace and in numbers, largely because of the European policy of hunting down "fugitive" slaves.

(b) Thus, law and custom in North America by 1660 had forced the creation of a new Afrikan nation here. That nation was composed of Afrikans with residual sovereignty from many different nations and tribes in Afrika, with white genes injected by the slavemasters, who almost universally left their children with their Afrikan mothers and Afrikan group, and with Indian genes. Colonial laws and the practices of oppression by whites facilitated the emergence of a new Afrikan nation in the English colonies one hundred years before the U.S. Declaration of Independence. It was a nation whose inherent sovereignty was drawn from the residual sovereignties of the Afrikan nations and tribes from which the Afrikans in America had come. It was a nation cemented by the essentially homogenous Afrikan cultural background and the essentially similar interaction of all the Afrikan peoples here with an essentially homogenous oppression. (4)

7. (a) The U.S. has been waging war against New Afrikan (Black) people since the time of the international slave trade in Afrikan people. Although not formally declared, this war has persisted on the soil for over 300 years. The dehumanization and atrocities of slavery and the slave trade were not isolated occurrences but, to the contrary, were mandated by formal laws that were codified and even enshrined with the U.S. Constitution.

(b) Article One, Section Nine of the U.S. Constitution expressly guaranteed and sanctioned the warfare which constituted the slave trade in Africans in every state that might desire it, for twenty years. The U.S. war did not stop there, but upheld within its Constitution at Article One, Section Two, Clause Three, the further dehumanization of the Afrikan, by relegating his status to that of 3/5's of a white man. Finally, the U.S. war against the Afrikans was reaffirmed within its Constitution at Article Four, Section two, Clause three. Known as the fugitive slave provision, this article mandated that no slave, even if he or she had reached a free state, was safe, and it was the duty of U.S. citizens to capture and return them to slavery. (5)

8. (a) Even before the British colonies in America were established, New Afrikans in North America resisted colonization by other European colonies.

(b) New Afrikan people have a 400 year history of struggle and resistance to the kidnapping, enslavement, genocide and forced migration and colonization of the New Afrikan nation. Freedom, independence, self-government and self-determination have been objectives sought by Black people ever since Afrikans were brought to this country as slaves. In 1526, when Afrikans were brought to the U.S. by the Spanish, Black people rebelled and sought a way of life that was more rewarding and beneficial. In 1526, captive Afrikans rebelled against the Spaniards in South Carolina and sought help of the Native American, who assisted in driving the Spanish away, making it possible for Afrikans in America to begin the self-governing process. Time and time again afterwards, Black people gave their lives for what was dearest to any human being -- freedom and self-determination.

(c) In 1619 Afrikans were forcibly brought to this land by the English. Many became Maroons who were runaway slaves who established their own social structure in the woods, mountains, and swamps, armed themselves and created bases from which they could operate and to which other slaves might flee. In Louisiana, a maroon village existed called des Natanapalle, where Afrikans lived, governed themselves and protected themselves from recapture. A similar village of self-governing New Afrikans existed in 1729 in the Blue Ridge Mountains. Another self-governing group of runaways occupied a fort near St. Augustine, Florida.

During the U.S. revolutionary war period, when white people were fighting to gain their freedom, captive Afrikans assisted the British and Americans in hopes of getting freedom. They did not get this opportunity from either of the white groups. Therefore, immediately after the end of the war in 1783, Black people in South Carolina and Georgia fled with arms and established a village of their own where they governed themselves and carried on guerilla warfare against whites for years. During 1786 and 1787, most of these settlements were attacked and destroyed by white militiamen. When attacked, these Black nationalists almost always resisted, and fought with whatever they had until they were killed or seriously wounded.

(d) In 1800 between 2000 and 5000 Black people planned a rebellion near the city of Richmond, Virginia. Gabriel Prosser, one of the leaders of this revolutionary movement, and other Black independence seekers planned to capture key points in the city and trigger a general slave revolt throughout Virginia and the rest of the states. A violent storm and two traitors, however, nipped this insurrection in the bud, but nothing stopped the desire of the Blacks to be free. Two years later, a similar rebellion involving close to 10,000 slaves was uncovered.

(e) In 1811, a revolt of slaves in St. Charles and St. John parishes in Louisiana took place. The U.S. army had

to be called in to recapture them. Most of the slaves were killed in battle and decapitated, and their heads were hung in different spots near New Orleans for public view. In Cabarrus County, North Carolina, in that same year a group of runaway slaves who had been governing themselves were slaughtered by white troops because they refused to cease their activities. Without a doubt, scarcely a day passed when there was not an insurrection or act inflicted by Black people aimed at achieving their right to freedom and self-determination.

(f) A fort built by the British at Appalochicola Bay, Florida, during the War of 1812, was occupied by fugitive slaves and maintained for some time after the British left. More than 300 Blacks and some Native Americans, took over the fort, governed themselves and used the fort as shelter for other runaway Blacks. In 1816, U.S. troops set out to destroy this Black nationalist stronghold. They surrounded the fort for ten days and then bombarded it with cannons until all but nearly 40 of the inhabitants were dead.

(g) In 1822, an elaborate plan led by Denmark Vesey and others, involving 9000 slaves having several cells of operation and including the utilization of disguises was uncovered, but the will of Blacks to resist was not undaunted. In the 1830's, self-governing camps of runaways existed all over North Carolina; in Wilmington, New Bern, Elizabeth City, near Dover Swamp, Gaston Island, on Price's Creek and in several other spots. These small self-governing camps were only a step toward what Black people really wanted -- a country and government of their own.

(h) In 1831 Nat Turner and others began an insurrection which, it was hoped, would lead to a general slave rebellion throughout Virginia. Sixty white people were killed before their capture.

(i) Between 1835 and 1842, whites witnessed more struggle by Black Nationalists. Maroons were particularly active in Georgia, South Carolina, North Carolina, Virginia, Maryland, Alabama, Louisiana, and Texas. To the Black people who were forced to come to this land, Black nationalism was not viewed lightly. Independence was what Blacks wanted; here, in Canada, or Mexico, wherever necessary.

(j) In 1849, about 300 slaves in the region of St. Mary's, Georgia, planned to seize a boat and go to the West Indies. A delay in the arrival of the boat caused their plan to be uncovered. Between 1850 and 1860 there was more trouble than ever as Blacks became even more daring in their insubordination to white rule. For 250 years they had sought to express their desires for self-determination by rebelling, and establishing self-governing camps, in spite of efforts of whites to destroy such governments. These Blacks were, in effect, contributing

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what they could to the development of a Black self-governing nation that would make life easier for the Black people who were forced to come to this land. In 1959, white anti-imperialist and abolitionist, John Brown, New African Osborne Anderson,

and their rebell army led the famous attack on Harpers Ferry. The successfully captured the Ferry and took numerous prisoners. The action was intended to be the first in a series designed to establish a free state and to destroy slavery. These revolutionary alliance was secretly backed by a Provisional Government of Blacks and Whites. A constitution was drafted and several conventions held before the Harpers Ferry attack. United States Marines were used to crush the small army of freedom fighters and abolitionists.

(k) Prior to the civil war, Henry Highland Garnet said that the slaves should rise up in rebellion to achieve their freedom. Instead of submitting and accepting slavery, Garnet said, "Let our motto be resistance, resistance, resistance." Harriet Tubman also determined that resistance was the best response. As a conductor of the Underground Railroad, which was an elaborate network of methods for slaves to escape to free territory, she and many others dealt a crippling blow to the institution of slavery. David Walker, Harriet Tubman, Henry Highland Garnet, Denmark Vesey, Gabriel Prosser and Nat Turner were only a few of the many who critically analyzed the condition of Black people and came to the conclusion that the best course of action must be to resist the war the United States was waging against New Afrikan people.

(l) In all there was well over 200 revolts by New Afrikans while the colonized Black population was formally enslaved.

(6)

9. (a) The New Afrikan nation came into possession of land and formal government during the last half of the Civil war. Recognition of the freedom of the New Afrikan nation under American law was first established under the Confiscation Acts of the 6 of August of 1861 and the 17th of July of 1862 wherein New Afrikans who came into Union Lines were declared to be free. Lincoln's unequivocal Emancipation Proclamation, issued as a "fit and necessary war measure for suppressing said rebellion, "states": "I do order and declare that all persons held as slaves within said designated States and parts of States are, and hence forward shall be, free; and that the Executive Government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons. "Finally, all slaves in the United States were freed when the thirteenth amendment to the United States Constitution went into effect on the 18th of December of 1865. The effect of this Amendment--which pointedly did not offer U.S. citizenship to the now freed Afrikan--was to remove the municipal law which effected slavery, thus leaving the New Afrikan nation as a free political entity, legally on territory claimed by the United States.

(b) Before the thirteenth amendment, citizens of the New Afrikan Nation, first freed by the Confiscation Acts and the Emancipation Proclamation and their own daring escapes from slavery, came into possession of their first land and Black government by action of the Union Army. During the Christmas season of 1864, for instance, U.S. Secretary of War Edwin McMasters Stanton and U.S. Army General William Tecumseh Sherman met in Savannah, Georgia, with a New Afrikan government council representing slaves and free Blacks. General Sherman then issued his Special Field order No. 15 in which he set aside for the New Afrikans "the islands from Charleston south, the abandoned rice fields along the rivers from 30 miles back from the seas and the country bordering the St. John's River, Florida." Special Order No. 15 further said, "...in the possession of which land the military authorities will afford them protection until such times as they can protect themselves or until Congress shall regulate their title." Further, in accordance with the negotiating position of this Savannah based Southeast Coast New Afrikan government, General Sherman's order also provided that "on the islands and in the settlements hereafter to be established, no white person whatever, unless military officers and soldiers detailed for duty, will be permitted to reside; and the sole and exclusive management of affairs will be left to the free people themselves, subject only to the United States military authority and the acts of Congress." Forty thousand New Afrikans were settled under this order.

(c) Similar centers of New Afrikans government were established in Mississippi. Captain John Eaton, named Superintendent of Negro Affairs by General Ulysses Grant in 1862, had by July 1864, settled 72,500 new Afrikans "in cities on plantations and in freedman's villages." At Davis Bend, Mississippi, including the plantations of Confederate President Jefferson Davis, a New Afrikan government was established by the Union Army in December 1864. Here all the property was under New Afrikan governmental control, with districts under New Afrikan sheriffs and judges and other officers.

(d) Again, as on the east coast, these centers of New Afrikan government in Mississippi remained under the protection of the U.S. Army and were ultimately subject to United States law, like many of the Indians nations. But also, like the East Coast centers of the New Afrikan nation, these communities and their governments were established on land that was in territorial status, and they were composed of persons who, like the residents of the Thirteen colonies, possessed the inalienable right of liberty.

(e) United States Vice President Andrew Johnson assumed the presidency following the assassination of Abraham Lincoln in April 1865. President Johnson favored overseas colonization

for the New Afrikan nation---but not at United States expense. Although he did not favor United States citizenship for the New Afrikans, he supported the position of the Congress, which by the middle of 1866 had decided for United States Citizenship for the New Afrikans and against independence for the New Afrikan nation. President Johnson led in suppressing the established centers of the New Afrikan government.

(f) By 1867 all of these centers--from the territory of Tunis Campbell, and the South Carolina sea islands government in the east, to Davis Bend and the Mississippi governments in the west had been put down by the United States Army, the United States courts, and other United States functionaries. Significantly the U.S. Army was resisted in several places by armed New Afrikan militia--a clear sign that these centers of New Afrikan government had opted for complete independence. This use of the right to independence, carried out on land to which New Afrikans asserted sovereign rights, based on principles of long occupancy and reparations, while that land was still in territorial status, had given full substance to the existence of the New Afrikan nation.

(g) Since that time, Americans, have attempted to force U.S. citizenship upon New Afrikans with the fourteenth amendment. At no time since the thirteenth amendment, however, has the United States government participated with the New Afrikans in a plebiscite or invited New Afrikans in America to participate in plebiscite to determine their political status by free and informed choice as required by the United States Constitution and the United Nations Charter.

(h) In fact, since the passage on the thirteenth amendment, the United States government has done everything it can to repress the just aspiration of New Afrikan people for nationhood. This had included: the imposition of a reign of terror to turn back the advances of Black people during Reconstruction for control of their land; the criminalization and destruction of the Marcus Garvey movements; the forced migration out of the homelands in the South; the assassination of leaders such as Malcolm X, Fred Hampton and Martin Luther King; the development of the COINTELPRO war strategy to destroy the Black Panther Party and the Black Liberation Army; and the prosecution of the instant indictment intended to criminalize the New Afrikan Independence Movement. Rather than recognized the legitimate sovereignty of the New Afrikan Nation, the United States Government is still waging an undeclared war against Black people and their nation.
(7)

10. The physical, social, political, economic and psychological damage caused to New Afrikan people by the war is enormous. Estimates of those Afrikans who died during the middle passage

of the slave trade range from four million to one hundred million. Hundreds of thousands were killed or maimed during slavery. Often slave traders and slave masters cut out the tongues of recalcitrant Afrikans who refused to relinquish their native culture and language. Limbs were amputated from those who persisted in attempts to escape. The social, political and economic costs of hundreds of years of free Afrikan labor in America are unparalleled in modern history. The mental cost of this carnage has been compared to that suffered by Jews in Nazi Germany. (8)

11.(a) War losses did not end with slavery, but in fact exceeded those of slavery during various post slavery periods. There was the black codes era immediately after slavery when blacks were virtually reenslaved by state policy and legislation which were supported by U.S. President Andrew Johnson and his southern policy of reconciliation with the old confederacy. This was followed by the reconstruction period wherein black nationalists were brutally suppressed by U.S. Marshalls, as Northern Republicans courted black moderates into an electoral alliance designed to defeat anti-industrialization economic and monetary policy of the die-hard southern aristocracy. The task of reconstruction for the leading Northern Republicans was to consolidate their civil war military victory into northern economic dominance over the west and the south. This task was made more difficult by the black codes and the Johnson reconciliation policies, which gave the old confederacy back its slaves and its plantations, and infact increased confederate representation in the U.S. House of representatives.

(b) The advantage to the confederacy in the house was a consequence of the abolition of constitutional slavery, while leaving the white confederates in command of the land and the state political machinery in the black belt.

(c) Once slavery was stricken from the federal constitution, blacks were to be counted equally with whites for political representation purposes. Thus the population count in the southeast rose substantially. But, still politically disenfranchised, New Afrikans were in no position to vote for themselves or anyone else in congressional elections. Consequently the benefit of expanded congressional representation was enjoyed exclusively by southern whites immediately after the civil war. Most of these whites were hostile to the Northern Republican and their economic programs. (9)

12.(a) The Northern Republican's response to this situation was Reconstruction. This meant declaring blacks citizens even if they didn't want U.S. citizenship. It also meant that blacks would be allowed to vote, and offered carpetbaggers and scalawags to vote for. What New Afrikans were never given were reparations, political independence, a fair share of the wealth, or a fair opportunity to obtain the same. This was fatal, because without

independence, political or economic, blacks were made pawns of white capitalist plans.

(b) After the Northern industrialist and bankers had consolidated their control over the national economy, the entire New Afrikan population was betrayed. A Northern republican Rutherford B. Hayes agreed with Southern Senator Tilden and other southern gentlemen to withdraw union troops from the southeast, and to allow white southerners to have their way with the black population. These southern gentlemen in turn would cease their political maneuvers which were blocking Hayes' election to the presidency. This deal was called the Hayes-Tilden compromise of 1877. (10)

13.(a) Union troops were withdrawn and white supremacists in the south had their way with a New Afrikan population in the blackbelt. Over eighty-five percent of the black population was still in the black belt at the time.

(b) With secrete and sometimes open support by white politicians and government officials white supremacist terrorist armies "retook" the electoral political structure in the southeast with assassination, lynchings, rape, burnings, torture and intimidation of millions of New Afrikans and their white supporters. In this manner the Kluklux Klan, the democratic clubs, the know nothing party and the white-mothers sewing circles "redeemed" the south.

(c) In 1874 the majority of the legislatures, and the vast majority of the population was Black in Mississippi, Louisiana, and South Carolina. Alabama, Georgia, Kentucky, Tennessee, Florida and several other southern states with near majority, or sizable black populations also had large black participation in the electorate, and black representation in state and local offices. By 1890 less than two percent of the electorate was black in each of these states, and black elected officials were virtually non-existent, although the percentage of blacks in the state population were still over 80% in the case of Mississippi, Louisiana, and South Carolina. The other states mentioned above also still had near majority or large black populations in 1890.

(d) The present day governments of the southeastern states are lineal descendants of governments established by the Klu Klux Klan and other terrorist organizations, by way of the boldest and most ruthless political operation in American history. (11)

(e) The United States government was well aware of the manner in which Afrikans in the Southeast were politically and physically butchered. A 1976 U.S. Senate report after summarizing its findings on the white supremacist take over in Mississippi concludes by sayng. "They have secured power by fraud and force,

and if left to themselves they will by fraud and force retain it. "And this is precisely what the United States did-it left the Mississippi insurgents to themselves. (12)

14. The insurgents were pretty much left alone for well over fifty years. They borrowed a segregationist policy, first used in Boston, and established a Jim Crow-American Apartheid-social, economic and political order. This order produced years of lynchings, social degradation and economic discrimination against New Afrikans-north and south. (13)

15. Contemporary statistics in every area of human life demonstrate that American colonial oppression of the New Afrikan nation continues to this day. The gap between the blacks in terms of average income, net economic worth, employment, business and home ownership, and education, and whites in the same area is wide and getting wider. Less than 4% of doctors are black, less than 3% of lawyers and judges are black. Black participation in technology, scientific fields, and skill trades is even worst. Yet blacks who constitute only 14% of the population in the American Empire, are 42% of the prison population, 54% of those executed before 1976 and 45% of those on death row currently. Blacks are the last to get police assistance and the first to be brutalized by police. Sixty percent of these killed by police each year are black. The United States incarcerates more blacks than any other nation in the world including South Afrika. (14)

16. Black struggle for liberation has been as consistent as the oppression against the New Afrikan nation. Land rebellions erupted in the south as blacks organized to seige land denied them after the civil war. In the early 1920's the Afro-American blood brotherhood organized black communities to resist lynchings. Their campaign was successful, until the governor of Oklahoma ordered the bombing of black resistance fighters organized by the Afro-American blood brotherhood in Tulsa. The brotherhood sought self-determination for blackss in the black belt. Efforts were made by Edwin McCabe and his followers to settle Oklahoma as a black state. Pap Singleton led a similar movement into Kansas. (15)

In the 1920's and the 1940's there were major mass black rebellions across the country. Chief among these were rebellions in East St. Louis, Illinois and Detroit, Michigan. (16)

17. In addition to the Afro-American blood brotherhood numerous leaders and organizations represented New Afrikans in the struggle for self-determination in the first half and during the middle of the 20th century. Among these were Noble Drew Ali and the Moorish American Movement, Marcus Garvey and the Universal Negro Improvement Association, and Elijah Muhammed

and the Nation of Islam.

18.(a) The 1960's marked the beginning of the modern day New Afrikan Independence movement. This era began with Afrikan people struggle against "Jim Crow" in what was called the civil rights movement. By the end of the 1960's the civil rights movement had ignited a much more militant phase of the black liberation struggle called a black power movement. By the end of the 1960's the modern day black independence struggle had surfaced.

(b) The black masses struggled against American colonial oppression by way of protest, civil disobedience and mass rebellions, reminiscent of black resistance in the chattel slavery period. By the end of the 1960's over 150 U.S. occupied cities had burned, some of them several times. Thousands of high school and college demonstrations erupted, many of these were armed protest.

(c) Armed underground revolutionary units also struggled against police, who occupied and brutalized the New Afrikan community, national guardsmen, and in many instances directly against the American Army. On many occasions armed black guerilla units engaged American soldiers and police for several days during urban rebellions. In Cleveland, Ohio, Fred Ahmed Evans, a self acknowledged citizen of the Republic of New Afrika, led a force of New Afrikan urban guerillas in armed resistance to military occupation of the Black community by American police, and National Guard. This occurred in June of 1968.

19.(d) The political leadership of the 1960's black liberation movement emerged from the civil rights movement on one hand and the Nation of Islam on the other. Martin Luther King Jr. and the SCLC, the NAACP and the Student Nonviolent Coordinating Committee led the movement against Jim Crow in the earlier part of the 1960's.

(e) At the same time Malcolm X became the leading spokesperson for the nation of Islam and rekindled organized black aspiration for self-determination and independence. In and around Malcolm revolutionary New Afrikan nationalism was reborn in the 1960's. Malcolm organized black nationalists, and after leaving the nation of Islam in 1963-64 he called for nationalists to join the civil rights movement, and to elevate it to a movement for human rights and self-determination.

(f) The Revolutionary Action Movement led by Muhammed Ahmad (Max Stanford) Herman Ferguson and others heeded Malcolm's call. Before and after Malcolm's assassination RAM organized political structures above and below ground in urban centers throughout the country. RAM also infused itself into SNCC and was partially responsible for SNCC's movement toward a revolutionary nationalist position. It was from SNCC that the demand for Black power would arise.

(g) As RAM organized, formed coalitions, and formed black military structures like the black guard in urban centers, SNCC electrified black students on campuses throughout the country. In August of 1966, RAM and SNCC formed a coalition designed to create black panther parties across the country. These parties were formed as alterations of the democratic and republican parties in the south and the north. (17)

(h) In October of 1966, however, Huey P. Newton and Bobby Seale, would organize the Black Panther Party for Self-Defense in Oakland California. It was this party which would become the vanguard of the popular revolutionary black nationalist movement in the 1960's.

(i) Among other things the Panthers organized Black communities to protect themselves from police terror and brutality

and called for "a U.N. supervised plebiscite to be held throughout the Black colony in which only black colonial subjects will be allowed to participate, for the purpose of determining the will of black people as to their national destiny."

(j) On March 31, 1968, the Provisional Government of the Republic of New Afrika was born. It was formed by over 500 black grass root and national leaders and political workers from across the country. The convention which founded the Provisional Government was called by the Malcolm X Society of Detroit. The convention set-up a preindependence black provisional government, signed a black declaration of independence from the United States, identified the black belt and many urban communities as black territory, and identified the liberation of the five black belt states of Alabama, Georgia, Mississippi, South Carolina and Louisiana as a primary objective of the New Afrikan liberation struggle. The convention also called for a black plebiscite on the question of national destiny, and declared the Provisional Government's intent to struggle for the establishment of an independent black state in the five state area. Representatives from RAM, SNCC, black cultural nationalist groups, the Malcolm X society and Malcolm's wife, Betty Shabazz, were elected to head the provisional government.

(k) The Provisional Government and its objectives have been supported by various national conventions and black referendums since its inception. Two thousand delegates meeting in the Congress of Afrikan People in 1970, in Atlanta, Ga. passed a resolution supporting this New Afrikan formation and its goals. In 1972, over 10,000 black delegates gather at the National Black Convention in Gary, Indiana and adopted a black agenda which included the recognition of the right to self-determination of the Republic of New Afrika in the black belt south.

(l) In 1975 over 5,000 blacks participated in the first national black elections for Provisional Government officials,

and approved the call for a plebscite, reparations for blacks, and freedom for New Afrikan prisoners of War and political prisoners. In 1983 over 3,000 participants joined the Provisional Government in celebrating its 15th anniversary at the Black Nation Day Convention in Detroit.

(m) Other black nation day observance's have drawn broad black support in Atlanta and Washington D.C. over the last few years.

U.S. SECRETE WAR AGAINST THE AFRIKAN MOVEMENT

20.(a) The United States Government, the state and local American governments, and various American Capitalist institutions (i.e. General Motors, Ford Motor Co., Chrysler etc.,) greeted the rise of black nationalism, and the New Afrikan Independence struggle with a comprehensive secrete war designed to disrupt,

divide and neutralize (destroy) the black movement and its leadership. The American war against the black movement was marshalled under many names. The White House had the Houston plan, the FBI, Cointelpro, the C.I.A., Operation Chaos, the local governments "red squads"; private capitalist organizations like Ford Motor company, G.M and Chrysler organized to stop black worker movements; and the U.S. Army intelligence, Navy Intelligence, Internal Revenue Service and the National Security Organization all played a part.

(b) Black leaders, like Malcolm, King and Fred Hampton were assassinated. Others like Muhammed Ahmed and, Herman Ferguson of RAM, H. Rap Brown of SNCC., Imari Obadele of the Provisional Government of the Republic of New Afrika, Bobby Seale, Huey P. Newton, the Panther-21 of New York, and hundreds of other leaders and workers were imprisoned. Robert Williams of RAM, the RNA and the NAACP was chased into exile. Community programs were destroyed. Organizations were divided against one another. Government agents, informants and provocatures sabotaged organizations from within. FBI agents and police departments shot-up, and sometimes blew-ups organizational headquarters of numerous nationalists formations across the country. These government assaults masqueraded as police actions in the media, but were accomplished with fully armed troops, sometimes tanks, and always with force of full military engagements. The government meanwhile used a media campaign, drugs, and other schemes to defuse the New Afrikan masses, as it decapitated Black leadership.

21.(a) The Black Liberation Army was formed as a response to the late 1960's, early 1970's U.S. secrete war against the black movement. Armed encounters between Black liberation Army units and police and armed guards of various American government insured banks and financial institutions, resulted in the deaths of many black liberation army soldiers, and American police, and armed guards.

(b) Among others, Black Liberation Army soldier Assata Shakur was captured by American police in 1973. After being acquitted of numerous charges against her in New York, she was tried and convicted on a felony murder charge allegedly arising from a gun fight between police and her comrades during her capture in 1973. She was wounded during the incident, and her comrade Zayd Malik Shakur, and a New Jersey state trooper were killed. (18)

22.(a) The Black liberation army was not the only black liberation movement response to the U.S. governments secrete war effort. The National task force for cointelpro litigation and research was developed to gather intelligence on the American war against the black movement. Information gathered by the task force was shared with various movement formations in order to enable these groups to expose the war, and to secure themselves by way of public support, civil suits, politically educated defense work in criminal cases, and thru their own security processes (i.e. self defence groups).

(b) Furthermore, hundreds of health care workers and professionals, organized medical, political and social programs designed to curtail the heroin epidemic and other forms of chemical genocide, and to expose the role of government, and western capitalists medical and business agents in the drug trade. The Lincoln Detox program, and eventually BAAANA were leading institutions in these efforts. (19)

INTERNATIONAL APPEALS BY NEW AFRIKANS FOR
SELF DETERMINATION AND HUMAN RIGHTS

23.(a) During the period of chattel slavery, Black people made a conscious attempt to internationalize the plight of Afrikans held captive in North America. In 1827, David Walker, son of an African slave, published his Appeal to the Coloured Citizens of the World. Walker's Appeal not only was a clear message to blacks in slavery to move towards liberation, it was also a call to the international community to support the struggle for Black self-determination and an end to the chattel slavery system.

(b) In 1920, Marcus Garvey presented to the League of Nations, the forerunner to the United Nations, twelve complaints and fifty-four point document entitled Declaration of Rights of the Negro Peoples of the World. This document was ratified by a UNIA delegate Convention of twenty-five thousand participants representing twenty-five countries.

(c) By 1944, the League of Nations had dissipated, and the call for a United Nations was prevalent. From the earliest days, Black people saw in the formation of the United Nations, a possible source of relief. A number of Blacks in America was active in the conference for the establishment of the United Nations which convened in San Francisco in April of 1945. Blacks

took great interest in the article on human rights in the United Nations Charter, especially the clause that reads: "the United Nations should promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinctions to race, sex, language or religion."

(d) Early in the formation of the U.N., Amy Jacques Garvey sent to representatives of that body a sixty-five page Memorandum entitled "correlative of Africa, West Indies and the Americas", urging them to declare... "an African Freedom Charter and an International Inter-Racial Freedom Council to make applicable its principles."

(e) In 1947 the United Nations also received An Appeal to the World -- a statement on the Denial of Human Rights to Minorities in the Case of Citizens of Negro Descent in the United States of America and an Appeal to the United Nations for Redress prepared for the National Association for the Advancement of Colored People, under the editorial supervision of Dr. W.E.B. DuBois, who also wrote the definitive introductory chapter.

(f) In 1951 William Patterson, W.E.B. DuBois, Paul Roberson and others submitted to the U.N. the renowned petition entitled, We Charge Genocide, which chronicled the terroristic sufferings and deaths inflicted upon Black people and charged the U.S. with violations of the Genocide Convention and commissions of act of physical and mental destruction against blacks. (20)

(g) In 1958, the United Nations was petitioned by the Universal Association of Ethiopian Women, represented by Queen Mother Audley Moore and Dara Abubakari. These women further elaborated the charges echoed by many.

(h) A petition was filed with the United Nations 11 December 1978, by the National Conference of Black Lawyers, the National Alliance Against Racism and Political Repression and the United Church of Christ, Commission for Racial Justice. This petition was filed with the UN Human Rights Commission and its sub-commission on the Protection of Minorities. Here, the emphasis was on Black and Native American political prisoners and prisoners of war wrongfully held and badly treated in United States' prisons. (21)

(i) On November 5, 1979, the National Black Human Rights Coalition petitioned the U.N. with charges of genocide and human rights violations against Black people, and demanded self-determination for the Black Nation. (22)

(j) The Provisional Government of the Republic of New Afrika has also appealed to international bodies. On 2 October 1975, 29 May 1975 and 27 September 1976, the Provisional Government appealed to the United Nations Special Committee of 24 on Decolonization.

These Provisional Government transmitted the results of the first National Black Elections of the Republic of New Afrika to the United Nations.

DR. MUTULU SHAKUR AS A
TARGET OF U.S. SECRETE WARFARE

24.(a) The FBI in secrete cointelpro memoranda make clear its intention with regard to neutralizing the leadership of the black liberation movement in general, and the New Afrikan Independence movement in particular. Local law enforcement agencies shared these objectives and, had similar ones. (23)

(b) Dr. Shakur, and other black political leaders closely associated to him have been key targets of these anti-black movement leadership objectives. He has also actively struggled to defend himself and his movement against the secrete war.

(c) On March 29, 1969 he was one of 140 New Afrikans attack in a 800 round military assault by Detroit police in the New Bethel church in Detroit, Michigan. This attack occured one year after the Provisional Government was referred by the U.S. Justice Department to the FBI as a target for political surveillance. Dr. Shakur was one of the armed black legioneers who helped defend the New Afrikans from the attack. He was arrested along with everyone else in the church on charges of killing one of the police aggressors and wounding another. He was later released without formal charges. (24)

(d) FBI memoranda show that the Bureau maintained political surveillance on Dr. Shakur at least from October 15, 1969 thru January 21, 1977. Among other things FBI reports of surveillance contain: (1) Dr. Shakur work in the Provisional Government of the Republic of New Afrika, and in the RNA Black Legion, (2) The New Bethel assault, (3) Detailed description of Dr. Shakur, under his slave name of Jeral Wayne Williams, (4) FBI summaries describing the Provisional Government as a black extremist group, and the black legion as a segment of the RNA organized on military lines, (5) Summaries of RNA political independence objectives, and notes on RNA officers, including Attorney Milton Henry, Robert F. Williams, Imari Obadele, S/N Richard Henry, and Chokwe Lumumba S/N Edwin Taliaferro, (6) References to Dr. Shakur in some unspecified relationship to the Black Panther Party and/or one of its members, (7) references to Dr. Shakur as a citizen of the RNA, as the Minister of Defense of the RNA in the New York area and as the Eastern Region Minister of Interior of the RNA, (8) reference to Dr. Shakurs participation in the Congress of the Afrikan Peoples Party in December of 1974, (9) Reference to Dr. Shakur in an unspecified connection to the Black Liberation Army and Urban Guerrilla Warfare on a Janurary 16,1973 document, (10) reference to Dr. Shakurs communication with Black Panthers, encouraging their assistance in obtaining political asylum for 3 RNA citizens in Cuba, following a confrontation between these New Afrikans and an armed New Mexico State Troper. These references note that the New Afrikans diverted a plane to Cuba after the

confrontation which resulted in the death of the trooper, (11) Referenced is made to finding, Dr. Shakurs name on a list which was seized during a raid on RNA in Jackson, MS. This raid was on August 18, 1971 predawn assault on RNA headquarters by FBI and Jackson police. Over 100 rounds and a tank were utilized by police to serve a felony warrant on a person who was not present in the house, and a stale misdemeanor warrant on one person who was there, (12) Reference is made of FBI intentions to interview individuals close to Dr. Shakur; reference is made to Dr. Shakurs name in connection with the Afrikan prisoner of war solidarity day observance in Jackson, MS. in 1973, (13) Reference is made to FBI attempts to locate and interview Shakur in February of 1972. Reference is made to Dr. Shakurs attendance at a Afrikan Peoples Convention. Shakur is said to be representing 4 Black liberation army members, who are allegedly with him, (14) reference is made to Shakur and the March 1972 Black National Convention, Dr. Shakur is labelled a leader of a RNA faction, (15) Reference is made to a file being maintained on Dr. Shakur because he is allegedly potentially dangerous because of his background, alleged emotional instability or activity in groups engaged in activities inimical to U.S., (16) Reference is made to FBI investigation of Dr. Shakur in connection with possible violation of U.S. laws prohibiting Rebellion and Insurrection, Advocating the overthrow of the government, neutrality matters and anti-riot laws, (17) References to Dr. Shakurs attendance at a Prairie Fire Organizing (PFOC) Committee conference in San Francisco in November of 1976. He was representing the Republic of New Afrika at the time and, (18) Reference to Lincoln Hospital Detoxification Center in February of 1976. (25)

(e) Other evidence indicates that U.S. government's agents or local police have been involved in physical assaults on Dr. Shakur and persons closely associated with him. Much of this information has been discussed in the context of Dr. Shakurs bail motion. This includes an incident when Dr. Shakur was run off the road, and nearly a victim of a traffic fatality. The court, should also recall the mysterious death of one of the doctors at the Lincoln detox program, and the unexplained death of Attorney Stanley Cohen, an associate of Shakur who represented Assata Shakur. (26)

(f) When Assata Shakur was captured, Dr. Shakurs childhood companion, and extended family member Zayd Malik Shakur was killed by the police. Shortly before Dr. Shakurs arrest in February of 1986, Zayd's biological brother, and Shakur's political comrade and extended family member Lumumba Shakur was murdered by unknown persons in Louisiana. The FBI had labelled Lumumba as the head of the Black Liberation Army, following the brinks incident in 1981.

Testimony has also been given regarding the unsolved assassination of RNA New Bethel defendant Chaka Fuller in 1970, and the FBI's specific attempts to sabotage and destroy the Provisional Government and its leadership. (27)

THE PRESENT CASE

25.(a) According to government witness Tyrone Rison, who testified at the first trial regarding this Indictment, the acts alleged in the indictment were committed by an armed unit of the Black Liberation Army called the family and/or the collective.

(b) These acts included the taking of money from armored cars by way of Armed attacks, and the liberation of Assata Shakur. Rison's testimony, and physical exhibits offered at trial by the U.S. government suggest that the actors were revolutionaries committed to the liberation of New Afrika, and that their deeds were designed to secure funds from the New Afrikan struggle, to maintain community service institutions for the oppressed black population, and to support other Afrikan liberation struggles in the world. The trial testimony also demonstrates that all the deaths of guards and police which are charged in the indictment were incidental to this revolutionary units primary political objectives and military actions. (28)

(c) A communique from the coordinating committee of the Black Liberation Army in fact acknowledges that Assata Shakur was a prisoner of war and freed from prison by the Black Liberation Army. (29)

(d) Another communique issued November 5, 1981 claims that the October 20, 1981 brinks incident was an expropriation attempt by a Revolutionary Armed Task Force, led by the Black liberation Army and consisting of black freedom fighters and white American anti-imperialists. The November, 1981 communique states that the alliance between anti-imperialist and black freedom fighters was precipitated by various acts of terror against the black community by white civilian terrorists, and the U.S. government. It also notes that the use of mercenaries to put down the rebellion in Miami gave rise to the alliance. (The black community erupted into rebellion in Miami in 1980 after police killed a black man.) The document also alleged intelligence efforts which uncovered and confirmed relationships between the U.S. government, U.S. capitalists, and right wing organizations like the KKK. It further declares a commitment on behalf of its authors to the black nation, to the black army, and to preventing a black holocaust. (30)

(e) An additional communique from the Revolutionary Armed Task Force of the Black Liberation Army issued on August 21, 1982 further explains the political mission of that underground unit, and articulates its views on various subjects. It like the November, 1981 message pays tribute to Mtayari Shabaka Sundiata, and resolves that the task force will struggle on to prevent a black holocaust and in support of the liberation of New Afrika.

(f) Tyrone Rison in his testimony described the command structure of the "family", He claimed it was directed by a core group called the Action 5. He further indicated that on at least one occasion he was present when representatives of the "family", met with a number of representatives from other Black Liberation Army units. He also described the "families" pattern of extensive and consistent training, and political education.

(g) Rison alleges that Dr. Shakur, Mtayari Shabaka Sundiata, Sekou Odinga, Kuwasi Balagoon, and he were all part of the Action five. (31)

26. The above stated facts and allegations demonstrate that a state of war exists between the United States Government and New Afrika, and that the acts alleged in the indictment in the present case, if true, are part of and incidental to this war, and are not properly subject to the jurisdiction of a criminal court.


27. The foregoing also demonstrates that Dr. Mutulu Shakur is a long time political activist, freedom fighter and leader in the struggle for New Afrikan Independence. The prosecution against him as an alleged participant in the acts alleged in the indictment have no legitimate legal basis, but are designed to compromise Dr. Shkur's participation in the New Afrikan independence movement, and to cripple this movement.

28. The acts charged moreover even, if committed by Dr. Shakur, are not properly subject to prosecution, because these acts are political offenses entitled to special consideration, and exemption from criminal process under international doctrine associated with the political offense exception in extradition cases. This doctrine should be applied to New Afrikans in America, because of the unique conditions of colonialism and liberation struggle which arise from the colonization of New Afrikans within the boundaries of the United States North American Empire. (USA)

29. The present prosecution perpetuates the genocidal war against New Afrikan independence by process of low intensity operations. By low intensity warfare, the United States and other Western colonial powers engage political revolutions, National liberation struggles and insurrection by criminalizing revolutionary leaders, blocking and distorting public information with regard to the revolutionary causes, and thereby isolating legitimate movements from the populations which produced them. This form of warfare robs the judicial system of its independence, and converts it into an instrument of war. (32)

30. For the foregoing reasons and for those reasons explained in the attached memorandum, Dr. Shakur moves this court to dismiss the indictment in the present case, or any part of it, which the court finds it lacks jurisdiction to entertain.


In the alternative the defense moves this court to instruct the jury to acquit the defendant on any count in the indictment which they find arises from an act of war, and/or which is an excepted political offense.


CHOKWE LUMUMBA, ESQ.

Subscribed and sworn to before me on this 31st day of October,
1987

NOTARY PUBLIC

COMMISSION EXPIRES


Lucien R. Taliabarro, Jr.
Notary Public, Wayne County, MI
My Comm. Expires March 5, 1988

FOOTNOTES

(All references to transcripts are to proceedings in the present case, or the previous Brinks Case, on the date indicated).

1. Tr. 12, 16, 17, 31, 92-97, 133-135, 162-164, December 2, 1986; Tr. 198-212, December 23, 1986.
2. Tr. 8674-8729, 8764-8775, 8798-8813, August 15, 1983, tr. 163, December 22, 1986.
3. Tr. 8578-8651, August 15, 1983.
4. I. OBADELE, I. AND G. OBADELE, THE ARTICLE THREE BRIEFS (1973): L. BENNETT JR., BEFORE THE MAYFLOWER (1966)
5. I. OBADELE, I, "HUMAN RIGHTS IN AMERICA, " THE BLACK COLLEGIAN, OCT./NOV., 1980, AT 22-30.
6. ID. AT 29, HERBERT APTHEKER, AMERICAN NEGRO REVOLTS, 1963
7. ID. AT 22-34, 123-124; OBADELE (ARTICLE THREE BRIEFS): V. HARDING, THERE IS A RIVER, C. LUMUMBA, "PERSEPECTIVES ON HUMAN RIGHTS...,THE BLACK SCHOLAR, MARCH - APRIL, 1980 AT 47-49.
8. L. BENNETT JR. (BEFORE THE MAYFLOWER) THE AMISTAD CASE 12 (1968) (PUBLISHED BY THE BASIC AFRO-AMERICAN REPRINT LIBRARY): S. ELKINS, SLAVERY. (1963)
9. ID., F. HENRI, BLACK MIGRATION, (1975) AT 12, 39, 17, 23
10. ID., R. LOGAN, BETRAYAL OF THE NEGRO, (1954)
11. L. BENNETT, JR. (BEFORE THE MAYFLOWER)
12. SELECT COMM. TO INQUIRE INTO THE MISSISSIPPI ELECTION OF 1875, REPORT ON OUTRAGES IN MISSISSIPPI, S. DOC. NO 527, VII, 44th CONG. 1st SESS. 2 (1876): W. DUBOIS, BLACK RECONSTRUCTION IN AMERICA (1932) 381-525.
13. L. BENNETT JR. (BEFORE THE MAY FLOWER): R. GINZBURG, 100 YEARS OF LYNCHINGS, (1962)
14. NATIONAL URBAN LEAGUE, THE STATE OF BLACK AMERICA (1985)
15. DUBOIS (BLACK RECONSTRUCTION): L BENNETT, JR. (BEFORE THE MAYFLOWER): F. HENRI, (BLACK MIGRATION)
16. L. BENNETT JR. (BEFORE THE MAYFLOWER)
17. M. AHMAD, HISTORY OF RAM-REVOLUTINARY ACTION MOVEMENT; AT 1-44 (1981)

18. Tr. 8578-8651, 8674-8729, 8764-8775, 8798-8813, AUGUST 15, 1983.
19. Tr. 95-97, DECEMBER 22, 1986, Tr. 198-212, DECEMBER 23, 1963.
20. W. PATTERSON, WE CHARGE GENOCIDE (1971)
21. HINDS, ILLUSIONS OF JUSTICE (1978)
22. LUMUMBA (PERSPECTIVES ON HUMAN RIGHTS) at 46.
23. Tr. 1-29-, DECEMBER 22-23, 1986.
24. Tr. 165-167, DECEMBER 22, 1986; SEE EXHIBIT C-1, and SHAKUR AFFIDAVIT AT 2, ATTACHED TO SHAKUR'S BAIL APPLICATION (SUPPLEMENTAL AFFIDAVIT OF LUMUMBA, DATED NOVEMBER 26, 1986).
25. SEE ATTACHED FBI MEMORANDA, EXHIBITS A-1 THRU A-29.
26. Tr. 213-214 DECEMBER 23, 1986, Tr. 96-98, DECEMBER 22, 1986
27. Tr. 21-22, 29-30, 31-34, 174, DECEMBER 22, 1986, ALSO SEE EXHIBITS C-2 THRU C-4 ATTACHED TO LUMUMBA, NOVEMBER 26, 1986 SUPPLEMENTAL AFFIDAVIT IN SUPPORT OF BAIL.
28. SEE ATTACHED COMMUNIQES, EXHIBITS B-1 THRU B-3.
29. ID.
30. ID.
31. Tr. 2344-2779, 3064-3108, 3111-312, MAY 10, 1983, ALSO SEE EXHIBIT
32. F. KITSON, LOW INTENSITY OPERATION, AT 1-200 (1971).