

Leonard Peltier's Prison Escape

by Robert J. Ladd (1966-1995).

Case Agent for the Investigation

Time passes quickly and we will soon see the end of the Obama Presidency. Already there are rumors and speculation that our President might provide clemency to Leonard Peltier. (We have all heard similar rumors before.) Whatever views you hold regarding Peltier, one significant aspect of his history is not well-known and should be of interest.

Leonard Peltier escaped from a federal prison. Really? Yes he did, but his freedom lasted only three days and one of his fellow escapees was shot dead during the escape. Other than a few newspaper articles at the time, there seemed to be little lasting interest in this story and the escape events have now faded into history. A review of internet sources finds very little about Peltier's escape. There is no mention of his escape in his lengthy internet Wikipedia encyclopedia article, and no detail of his escape, capture or subsequent trial on the No Parole Peltier Association (NPPA) website. One internet article indicates it was an attempted escape; it was much more than an attempt.

Peltier escaped from the Federal Correctional Institution (FCI) in Lompoc, CA on July 20, 1979. This federal prison facility began as a military disciplinary barrack shortly after World War II and was transferred to the U.S. Bureau of Prisons during the 1950s as a civilian prison. It first became an FCI, housing about 1,200 federal and a few contract state inmates. Later it became a U.S. Penitentiary. The Peltier escape happened during the transition to a penitentiary, but before security improvements were completed. In 1979, the outside security consisted of two chain link fences topped with barbed wire; now, there are three electrified fences, coils of razor wire have been added and new, taller gun towers have been built. The outside night lighting has also been vastly improved.

The interior design of the Lompoc prison facility is

similar to the former Alcatraz prison, now a popular tourist attraction in San Francisco. The Lompoc prison is on federal land with exclusive federal jurisdiction, in an outlying part of Vandenberg Air Force Base. Lompoc is a small town on the Central Coast of California. The nearest larger communities are Santa Barbara, some 45 miles southeast and Santa Maria, about 25 miles northeast, where a Resident Agency is located.

The Escape

A 10 pm telephone call got things started. On the phone was the shift Lieutenant at the FCI, reporting that Leonard Peltier had escaped. There had been gun fire outside the perimeter fences; a second escaping inmate was shot dead and a third inmate was on the loose.

The FCI was a riot of activity that night and it took several hours to gain control and to understand fully the diverse activities. The escape sequence was determined as follows. That evening, there had been a scheduled monthly meeting of the Tribe of Five Feathers, a sanctioned inmate organization of Native American Indians. About half of the 61 Indian inmates had attended the meeting held in the FCI inmate activity center. Midway through the meeting, inmates Peltier, Thundershield and several others were allowed to return to their housing units, which was not unusual. The

meeting continued until 9:15 pm, when 14 civilian visitors were escorted out and the remaining inmates were released back to their housing units in preparation for the 10 pm head count.

At 9:25 pm, fire alarms in H Unit Cell Block activated and two smoking cell fires (mattresses and blankets) were found in Peltier's and Thundershield's cells. At 9:30 pm, a tower officer reported that three individuals were seen running toward the back security fences from the area of inmate housing units. The escaping inmates scaled both security fences. After verbal warnings, the tower guard fired three shotgun rounds at



Leonard Peltier on wanted poster

the escapees. The inmates ran toward darkness, past the outside power house and warehouse buildings. They headed toward a tree line of mature growth eucalyptus trees, a natural barrier which would delay responders.

After the shotgun was discharged, someone began firing a semiautomatic rifle from darkness between the warehouse buildings toward the gun tower and at a guard responding in a pick-up truck, the outside patrol unit. The powerhouse engineer, a former guard, heard the shooting, realized an escape was in progress, and ran to the gun tower, calling for a weapon to be dropped to him. A revolver was lowered and the engineer followed the escape route in pursuit. The engineer came upon two inmates and ordered them to surrender. One inmate ran off (Peltier) and the other ran at the engineer, who fired several shots. Inmate Dallas Thundershield fell to the ground mortally wounded and died before any medical help could respond. About 90 minutes later, a search team found inmate Bobby Gene Garcia hiding in brush about a mile from the FCI, unarmed and not injured. Other search teams were assembled and dispatched for extensive searches through the semi-desert land until daylight, looking for Peltier, but without success. Daytime searches also failed and Peltier made good his escape.

Leonard Peltier was serving two federal consecutive life sentences for the murder of two FBI Agents — Ronald A. Williams and Jack R. Coler. Dallas Thundershield was serving a three-year federal sentence for rape on a reservation. Bobby Gene Garcia was serving two New Mexico state life sentences for murder — he was being boarded in the federal prison system.

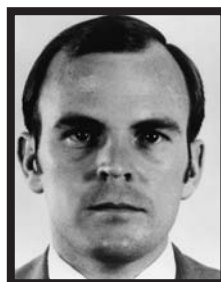
A couple of hours after the escape, a prison official casually asked what the FBI wanted done with the armed civilian apprehended along the tree line at the time of the escape. (What? A conspirator in custody at the scene of the escape!) This person remained under guard, handcuffed to a tree where he was found. A loaded, unfired, military .45 caliber pistol was found at his feet. Roque Orlando Duenas, identified as an American Indian, was generally uncooperative and refused to be interviewed. He was in possession of a hand-drawn map, showing the exact escape route used. The next day, Duenas was charged with aiding and abetting an escape and was held in federal custody.

Peltier's followers had established a Save Leonard Peltier movement in the Lompoc area. The center of their activities was from a house rented by Carlotta Kauffman (reportedly Peltier's fiancée and an Indian activist) several miles from the FCI. The house was placed under surveillance; late night activities were in progress. Peltier escaped in a different direction than the house, and there was no probable cause to believe that Peltier might seek sanctuary with Kauffman that night. A knock and announcement was made; the door was opened by Maxwell "Max" Trowbridge Gail, an actor, best known for his portrayal of the ethnic Stan "Wojo" Wojciehowicz on the television sitcom, Barney Miller. Entrance to the house was angrily denied. Surveillance continued until morning hours, but there were no signs of Peltier.

It was established that inmate Thundershield chose to be

Comment by Ed Woods

Excellent details of a seminal event in Peltier's criminal history from someone with first-hand knowledge. As Bob Ladd suggested, had Peltier been named to the FBI's Top Ten list, he would have made criminal history again for being the first to be named twice. Peltier has always been one of Hollywood's most favorite causes. It has been reported that the proximity of actor Max Gail to the escape route and plan was not coincidence, but more of a coming-out party. Gail also may have acted as a diversion of sorts by showing up late at Lompoc that evening to give a motivational speech. Let's not forget, either, the motor home Peltier was riding in while fleeing Pine Ridge to Canada, when pulled over by an Oregon State Trooper was registered in the name of Marlon Brando. (Under the seat was Jack Coler's service revolver in a paper bag bearing Peltier's thumbprint.) No surprise that attorney Bruce Ellison was deeply involved in the Lompoc trial supporting and engaging, even encouraging disruption of the court proceedings. According to government affidavits filed subsequent to the 1976 Cedar Rapids trial of co-conspirators Bob Robideau and Dino Butler, Ellison stooped to incredible lows and well beneath the dignity of an alleged officer of the court with actions that went far beyond just disruption.



SA Jack R. Coler



SA Ronald A. Williams



Lompoc Federal Correctional Institution

Peltier's "bodyguard" in the prison — they were inseparable. This may explain his sacrificing himself in order to protect Peltier during the escape, when he was shot. Roque "Rocky" Duenas was determined to be Peltier's long-time personal friend and close associate outside of prison; this is an explanation of why he was present outside the prison during the escape. Duenas probably assembled the weapons, cache of ammunition and first aid kits found during outside searches that night. Evidence recovered outside the FCI boundary fences included a Ruger Mini 14 rifle (recently fired, empty magazine), a military .45 caliber pistol (loaded) and a Commando Mark III semiautomatic .45 caliber rifle, the latter reportedly being Peltier's weapon of choice. (The Mark III looks very similar to a Thompson sub-machine gun.)

The next several days were a blur of activities. The day following the escape, the Bureau asked for a negative of Peltier's latest prison photograph. A "heads up" call from the Los Angeles office strongly suggested that Peltier would be added to the Top Ten Fugitives list within a week. Area law enforcement in Santa Barbara and San Luis Obispo counties were on alert for Peltier, but two days after the escape, the consensus was that Peltier was long gone. A large number of interviews were accomplished and a mountain of paperwork was being assembled regarding the escape.

The Apprehension

The third morning after the escape, a retired rancher living near Santa Maria saw "a Mexican" shortly after daybreak stealing unripened melons from his vegetable patch. He fired a couple of rounds from his .22 caliber rifle to scare the intruder away. Later, the rancher walked to his garden to see what damage had been done, and was confronted by the Mexican who was armed with a Mini-14 rifle. The intruder took the rancher's wallet, boots and pickup truck key, then apologized to the rancher, claiming he was a political prisoner. The intruder drove away at high speed in the rancher's old truck, but the gravel road was rough and the transmission failed. The intruder then ran into nearby rugged terrain and disappeared.

The rancher called the Santa Barbara Sheriff's office,

who quickly formed a search party, which included Special Agent (SA) Jim Wilkins. Tracking began and about an hour later, Peltier was found, uninjured, hiding under low hanging branches of a tree with a loaded Mini-14 rifle at his side. He was booked in the county jail, and after an attempted interview, was turned over to responding FCI guards. SA Dan Payne attempted to interview Peltier, who stated he was very tired, very hungry and surprised at how difficult it was to travel through the rugged countryside. He further indicated he was not physically prepared for the escape ordeal. Peltier seemed distressed to learn that Thundershield was dead, but had nothing else to say about his activities.

The recovered weapons in total consisted of: two Mini-14 rifles, one Commander Mark III and a military .45 caliber pistol. The pistol was traced from manufacture (1916) to a military unit during the First World War. One Mini-14 rifle and the Commander Mark III were traced to Charles Swett of Snohomish, WA, who sold them for cash to a stranger. Swett did admit to knowing and being personal friends of Leonard Peltier and Roque Orlando Duenas. The second Mini-14 was traced to a gun store near Oakland, CA, where it was sold to Kenneth Dale Tiger four days before the escape. Tiger refused to be interviewed regarding this matter.

The U.S. Attorney

The then-Chief Assistant U.S. Attorney (AUSA) Paul Flynn, Central District of California, at Los Angeles, decided to personally prosecute this matter, even though he had not been involved in criminal matters for several years. He designated AUSA Robert Biniiaz as co-counsel. A recent hire, he lacked federal trial experience, but had excellent legal training. Flynn voluntarily provided defense attorneys, four sets of all FBI documents, FCI employee memorandums and photographs. No information was redacted.

The trial was scheduled for November 14, 1979. Two weeks before the trial, Chief AUSA Flynn found his administrative duties overwhelming, so AUSA Lourdes G. Baird was substituted as lead counsel for the trial, and AUSA Robert Biniiaz remained as co-counsel. There was a flurry of activity to prepare for trial.

The Trial

The trial was held before the Honorable Lawrence T. Lydick, Central District of California, at Los Angeles. Proceedings began on November 14, 1979 and continued until December 19, 1979, when the jury began deliberations. It was a very long six-week trial and there were some unique events. By the first day of the trial, American Indian Movement (AIM) members and their friends had encamped on the grass in front of the court building in downtown Los Angeles. Tepees were erected, a wood fire was burning, drummers beat drums, chanters chanted and there was a general nuisance on federal property. There was also a row of monks at curbside, chanting constantly and rattling their tambourines, blocking a bus stop. An individual wearing a buffalo head and robe marched ceremonially around the federal building all day long. Unidentified individuals passed out leaflets in support of AIM causes and to bring public attention to Peltier's life and travails. There were daily press conferences from the steps of the courthouse, where defense attorneys voiced allegations and AIM conspiracy theories and reported on the trial activities. There was extensive TV coverage with numerous TV broadcast trucks surrounding the building daily. It was truly a California happening, the stuff of a B grade movie.

Unfortunately for AIM, their temporary village and most of the noise generated was directly outside the Chief Judge's chambers. Senior Judge A. Andrew Hauk ordered the U.S. Marshal to break up the encampment, which was done in a very unceremonious manner. About 50 persons were forced from the grassy area. Deputy Marshals also arrested numerous malcontents on misdemeanor charges, and it was only then discovered that one of the orange-robed curbside monks was a woman.

In 1979, there were no security procedures concerning foot traffic into the Federal Court Building, but by special arrangement, metal detectors were installed in the hallway outside Judge Lydick's court room. The spectator seating in that courtroom was always filled to capacity. Most spectators appeared to be Native American Indians, who were often disruptive. No spectator would stand when Judge Lydick entered or departed the courtroom. In contrast, most spectators would stand and provide a stiff arm salute whenever the defendants were escorted in or taken away. Often, there were group murmurings as spectators reacted favorably or unfavorably to the proceedings. A large number of U.S. Marshal Deputies were assigned in and about the courtroom. Sidebar discussions between the judge and attorneys happened very often. They were often loud, lengthy and overheard to be insulting. Whenever a sidebar began, a certain marshal deputy would take a small notepad from his shirt pocket and place a tick mark on his pad. By the end of the trial, there were 274 tick marks. Several mornings during the trial, the front row benches held elderly American Indian women wearing traditional Indian garb. They would silently wave their hands about, with tears running down their cheeks, silently crying.

TV actor Max Gail (previously mentioned) made three appearances during the trial, once by himself, once with actor Hal Lynden and once with fellow actor Danny DeVito. A stiff arm salute toward Peltier was always provided by the actors, but many apparently missed DeVito's salute because of his short stature. One of the trial spectators, unique because of her conservative attitude and dress, was the pop/rock artist and Native American activist Buffy Sainte-Marie. Most spectators came daily, but also changed their names daily on the Marshal's sign-in sheet.



LEONARD PELTIER

Photo courtesy of fbi.gov

The Defense

There were several defense attorneys. Lewis Gurwitz of Cambridge, MA, was the lead attorney and moving influence for the defense team. At one point, he claimed to represent Roque Orlando Duenas. (Gurwitz's business card was found in Peltier's personal property.) Another defense attorney was Bruce Ellison of Rapid City, SD, who claimed to have represented Peltier at his murder trial. Rudy Diaz and Karen Smith of the U.S. Public Defenders Office in Los Angeles represented inmate Bobby Gene Garcia, an indigent. Attorney Wendy Eaton of Santa Barbara was the attorney of record for Roque Orlando Duenas, but her trial activity consisted of submitting frivolous writs to the court, daily, causing the U.S. Attorney's Office to assign various AUSAs to provide responses. At one point, Judge Lydick ordered the prosecuting AUSAs to provide overview assistance to defense Attorney Eaton regarding various aspects of federal law and procedures for writ writing. (Apparently, the judge had writ reading frustrations and passed them to the prosecutors.)

Also present daily during the trial was the aforementioned Carlotta Kauffman who was the sacred peace pipe bearer, which she presented to Attorney Gurwitz each morning. American Indian defense witnesses refused to take an oath regarding testimony unless holding the sacred peace pipe. Defense attorneys and some defense witnesses made considerable effort to air Indian grievances accumulated over many decades, and much was stated about the unfair treatment of Peltier in the current trial and during his previous murder trial. Unfair treatment centered on extradition of Peltier from Canada thought to be a kidnapping, his murder trial to be illegal and containing reversible error and harsh treatment of Peltier in the U.S. prison system, among other matters. The defense investigator was Paulette Frances D'Auteuil, a woman known to be involved in inmate causes.

Peltier's defense at trial amounted to a massive federal

government conspiracy to kill Leonard Peltier, forcing him to escape from the Lumpoc FCI to save himself from being “neutralized” (murdered) at the hands of the prison officials and guards. This conspiracy was somehow caused by Peltier’s being wrongfully convicted of killing two FBI Agents. Once he escaped, Peltier could not surrender to any local law enforcement because all law enforcement were either part of the conspiracy or would return Peltier to prison, where the conspirators were waiting. As proof of the conspiracy, the defense indicated that a mysterious man wearing a suit was seen by an inmate talking to an official at the Marion Penitentiary where Peltier was previously housed. Federal prison inmate, Robert H. Wilson, aka Standing Deer, was prepared to testify about his conspiracy as Wilson was recruited to neutralize Peltier. But he acted as a double Agent for Peltier’s benefit instead, warning Peltier of the conspiracy in a letter mailed through an accommodation source in Oregon. It was also alleged that Peltier’s transfer to FCI, Lumpoc, was in furtherance of the conspiracy. AUSA Baird filed a motion in limine, which successfully barred this conspiracy theory from being presented to the jury.

The Department of Justice (DOJ), Office of Professional Responsibility, was notified and an extensive investigation was conducted wherein many Lumpoc FCI and Marion prison employees were interviewed. The result was that Wilson’s conspiracy affidavit was deemed by DOJ to be without merit.

During the trial, attorneys Gurwitz and Ellison were found to be in contempt of court, but no sanctions were taken against them. During closing arguments, Public Defender Karen Smith fainted, causing a delay, which brought about a display of bad temper and loud swearing between Judge Lydick and Attorney Gurwitz.

Defense witnesses, other than federal employees were:

Robert H. Wilson, aka Standing Deer, a federal prison inmate

Darrel Dean Butler, who claimed to be a Canadian citizen

Archie Fire Lane Deer, aka Archie Percy Fire (TN), a spiritual advisor and medicine man of Santa Barbara, CA

Charles C. Stevenson, Jr., a legislative aide for U.S. Congressman Dellums, a character witness for Roque Duenas

Leonard Crow Dog, a character witness for Leonard Peltier and Roque Duenas

Leonard Peltier, defendant

Bobby Gene Garcia, defendant

Roque Orlando Duenas was also put into custody

Convictions

The trial jury was charged and began deliberations on December 19, 1979. Verdicts were returned on December 22, 1979. Peltier was found guilty of escape and guilty of being a felon in possession of a firearm. Garcia was found guilty of escape. The jury was unable to provide a decision

concerning Duenas for aiding in the escape. Peltier, Garcia and Duenas were each found not guilty of conspiracy and assault. Peltier was sentenced to serve a consecutive five-year sentence for escape, and to serve a consecutive two-year sentence for felon in possession of a firearm. Garcia received the same consecutive five-year sentence for escape.

The Aftermath

Once the convictions were returned, the Honorable Judge Lydick recused himself. The mistrial concerning Duenas was referred to the Honorable Judge Robert M. Takasugi. Later, on March 10, 1980, Duenas pleaded guilty to aiding the escape, and was sentenced to time served in custody (7 months, 20 days).

After the trial jury was released from their service, it became known that three women on the jury were reluctant to vote for conviction of any American Indian because of the perceived belief of historical bad treatment of Indians generally. One of the lady jurors had accepted an AIM leaflet being distributed outside the court building, believed what she read and recruited two other women jurors. The jury convictions were a result of a compromise agreement made during jury deliberations. During the trial, Peltier testified that there was a conspiracy to escape and that Duenas was part of it. Peltier gave Duenas specific instructions concerning the escape and Duenas did them as a willing participant.

Peltier and Garcia were returned to the federal prison system to continue serving their sentences.

Subsequent to the trial, Paulette D’Auteuil married Bobby Gene Garcia. Still later, during December 1980, at the U.S. Penitentiary, Terre Haute, IN, Garcia committed suicide by strangulation using strips of a bed sheet. Although the details are no longer recalled, it was told that Leonard Peltier and Carlotta Kauffman were married during the trial. The ceremony was in a federal judge’s chamber, during a noon hour and the ceremony was officiated by an Indian inmate, possibly by a defense witness.

Again, lacking the details, but within a couple of years following the trial, Roque Duenas went fishing in a rowboat on Puget Sound near Tacoma, WA. The rowboat was found abandoned and upside down in the water several days later; Duenas was nowhere to be found and was believed to have drowned. AIM representatives instead circulated a story that Duenas had been killed by the FBI, claiming there were bullet holes in the boat when it was found. A Coast Guard investigator did an independent investigation regarding this allegation. The result was that a Coast Guardsman had used a pike pole on the rowboat when it was found. The holes in the boat were square-shaped conforming to the

The vast government conspiracy to neutralize (kill) Leonard Peltier, claimed by the defense to justify Peltier’s escape, has not happened in the 37 years since his escape and trial.

shape and size of the tip of the pike pole used, damage to the boat from outside to inside. There were no bullet holes in the boat. So far as is known, Duenas has not been seen since.

Former AUSA Baird went on to become the U.S. Attorney for the Central District of California at Los Angeles (1988-1990). Thereafter, from 1992–2005, she served as a U.S. District Court Judge, Central District of California at Los Angeles. She retired in 2005.

Former AUSA Biniash has now retired from a successful law practice in the Los Angeles area. An internet search located information that a Lewis S. Gurwitz, age 56, involved in Indian causes, of Winthrop, MA, died on September 1, 1994 of a heart attack in Edmonton, Alberta, Canada.

Leonard Peltier continues to serve two consecutive life sentences for the murders of FBI Agents Ronald A. Williams and Jack R. Coler. He has two additional consecutive sentences to serve after the murder convictions, based upon his escape from federal custody. His next parole hearing is scheduled during 2024 according to an internet article.

Peltier could be held personally responsible for the death

of his fellow inmate, Dallas Thundershield, who would have been released from prison within months of his death. None of the defendants were charged with the murder of inmate Thundershield because the predicate crime of escape is not specifically listed in the federal statute for the crime of murder/conspiracy of a co-defendant during the commission of a felony. You might say that Peltier dodged the bullet on this one. One can only hope that future federal parole boards, who may not be aware of the escape, will consider the seriousness of this event when deciding Peltier's future. The same holds true of any person in authority reviewing a petition for clemency that Peltier might offer now or in the future.

Of the defendants involved in the 1979 escape, only Leonard Peltier is still alive. Thundershield died during the escape. Garcia committed suicide about 18 months after the escape. Duenas apparently drowned. The vast government conspiracy to neutralize (kill) Leonard Peltier, claimed by the defense to justify Peltier's escape, has not happened in the 37 years since his escape and trial.

PHOTO FROM THE FILES



NAC #1 and #2 July 11, 1955

Submitted by Lanford L. Blanton (1955-1980)

NAC #1 Listed in alphabetical order: Rodney Alan Baker, John Beaton, James P. Benedict, Lanford L. Blanton, Harold M. Brown, Irvin B. Bruce, Joseph G. Butler, Jr., Wayne Lansing Carter, Robert H. Claudius, William B. Cole, Jr., John F. Connor, Daniel J. Connors, Louis S. Craig, Joe W. Darden, James E. Decker, C.F. Dzierzanowski, Paul Edward Eiden, James E. Ethridge, Arthur R. Fisher, Patrick J. Fletcher, Francis X. Gantley, Gerald Lewis Geary, Dennis Marvin Gibbs, James H. Gump, Edmund F. Haggerty, T.J. Harrington, Jr., Joseph F. Hengemuhle, J. Gerard Hogan, William P. Holloway, John William Hopkins, George C. Horner, George R. Hughes, James H. Humphries, Ralph Arvid Johnson, Robert L. Johnson, Thomas M. Johnson, Harry D. Jones, Vernon E. Jossy and Thomas F. Kelleher, Jr.

NAC#2 Listed in alphabetical order: Nelson B. Klein, James C. Kraus, John H. Lemmler, Charles E. Lober, Harry W. Major, Gary N. Mavity, William A. McAdoo, Jr., Charles D. McAtee, James F. McGuire, Paul R. Mitchell, Donald W. Moore, Jr., Kenneth R. Murphy, Thomas A. Muscatello, Henry C. Ninas, James A. Nolan, Edmund S. Pert, Virgil Ray Piper, Robert B. Ranck, Clair W. Ritchey, Jr., Delbert D. Roberts, George H. Roth, Jr., Byford G. Sealy, Charles L. Sheboy, Wilbur E. Stahl, Paul J. Stapleton, Howard E. Stoelting, John C. Sullivan, William R. Swope, Hinton L. Tayloe, Robert J. Tuberson, Paul M. Van Driesche, Philip R. Wanerus and Charles P. Winder