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Our File

March 21, 2005

**COPY**

Kenneth V. Georgetti, President  
Canadian Labour Congress  
2841 Riverside Drive  
Ottawa, ON K1V 8X7

Dear Brother Georgetti:

On February 21, 2005, Madame Justice Elizabeth Bennett of the BC Supreme Court granted extradition to the United States of John Graham who was co-indicted with Arlo Looking-Cloud for the killing of Anna Mae Pictou Aquash on the Pine Ridge Reserve in late 1975.

In her decision, Justice Bennett was very critical of the summary of evidence certified by a US attorney and submitted by the US as being the whole truth and nothing but the truth. The summary of evidence, which outlined the evidence available for trial in the US, was shown by John Graham's counsel Terry LaLiberte, that none of the evidence was in fact available for trial. Justice Bennett also took issue with the identification of John Graham that was presented to the court by the United States.

Because of Section 32 (1) and (2) dealing with the rules of evidence under the new **Extradition Act 1999**, Justice Bennett decided she could not rule against the extradition and she focussed her decision on the hearsay evidence of John Trudell which is part of the record of the trial of Arlo Looking-Cloud. (Terry Gilbert has filed an appeal on behalf of Arlo Looking-Cloud on a number of grounds including the hearsay given by John Trudell. Trudell's evidence was essentially a story he had been told in a hotel room in the early 1990s.)

John Graham's counsel sought disclosure on several matters in the summary of evidence and Justice Bennett in December 2004 asked for an explanation of some matters in the record of the case. None was forthcoming from the United States, which was represented by two Canadian department of Justice lawyers.

There is no forensic evidence that was submitted in the summary of evidence and the **Extradition Act 1999** precluded Justice Bennett from weighing the evidence as to its veracity nor could she order disclosure. There is apparently no ability under the new **Act** to test the evidence through testimony and cross-examination.

This case has a number of similarities to the extradition of Leonard Peltier and notwithstanding the fraudulent affidavits of Myrtle Poor-Bear, it appears that the summary

of evidence that doesn't meet the test of sufficiency and the hearsay of John Trudell will allow the extradition of John Graham. If that occurs, it will repeat the mistakes of the Leonard Peltier case.

Every Canadian should be concerned that the **Extradition Act 1999** sweeps aside constitutional rights and allows the United States to seek and be granted extradition on the basis of hearsay, and other evidence that is not subject to the legal standard that are set out for trials in Canadian courts. There are several cases that are before the Court of Appeal on the constitutionality of Section 32 (1) and (2) of the **Extradition Act 1999**, which may well have an effect on the admissibility of hearsay evidence.

However, at this time only the Minister of Justice has the ability to demand disclosure of evidence from the United States of the record of the case and the summary of evidence certified by a US Attorney as being available for trial in the case against John Graham. Madam Justice Bennett was precluded by the Extradition Act 1999 from examining the evidence in order to determine its veracity, its availability and its sufficiency. She made her decision to grant the extradition of John Graham because the Act required her to accept the hearsay evidence of John Trudell as admissible resulting in her decision to grant the extradition.

The Federation dealt with this matter last summer and at this point because of Madam Justice Bennett's decision, I am asking on behalf of the Federation that the Canadian Labour Congress seek a meeting with the Minister of Justice in order to intervene on John Graham's behalf to not grant the extradition because of the abuse of process. This abuse of process is inherent in the unreliable and insufficient summary of evidence certified by a US Attorney who should have known better for the apparent lack of diligence, availability of evidence or the test of sufficiency of the evidence presented to Madame Justice Bennett.

The Federation believes the labour movement has an opportunity to prevent another travesty of justice from occurring as was the case in the Leonard Peltier extradition and the Federation asks that you intervene with the Minister of Justice in this extremely important case.

~~I can inform you that John Graham's counsel Terry LaLiberte will be filing an appeal on Justice Bennett's decision on March 2, 2005.~~

Thank you for your consideration and attention in this matter.

In solidarity for justice,

  
JIM SINCLAIR  
President

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