



The issues below are a result of a legal analysis of the transcript and investigation by the Amici, 22 Members of British Parliament and For Chicana/Chicano Studies Foundation, and are presented in the Amicus Briefs and the Joint Petition for Writ of Mandamus.

Structural defects in Mumia Abu-Jamal's trial mandate the automatic reversal of his case and egregious violations require his immediate release

The Joint Petition for Writ of Mandamus filed by counsel for the amici contains factual information and legal analysis that you need to know and that is critical to Mumia's freedom!

The violations highlighted include:

THE DENIAL

- The denial of Mumia Abu-Jamal's right to represent himself at trial violated his 6th amendment right. There was no justification to deny Mumia's right to self-representation and force and unwanted lawyer on him. As the Supreme Court points out in *Faretta v. California*, 422 U.S. 806 1975, 820-821: "The language and spirit of the Sixth Amendment contemplate that counsel, like the other defense tools guaranteed by the amendment, shall be an aid to a willing defendant — not an organ of the State [emphasis added] interposed between an unwilling defendant and his right to defend himself personally. To thrust counsel upon the accused, against his considered wish, thus violates the logic of the Amendment. In such a case, counsel is not an assistant, but a master; and the right to make a defense is stripped of the personal character upon which the amendment insists ... An unwanted counsel "represents" the defendant only through a tenuous and unacceptable legal fiction. [emphasis added] Unless the accused has acquiesced in such representation, the defense presented is not the defense guaranteed him by the Constitution, for, in a very real sense, it is not his defense." [emphasis in original]. The grotesque scenario described in *Faretta*, in which counsel "represents" a defendant through a legal fiction but serves in reality as an *organ of the State*, is precisely what occurred in the case of Petitioner Mumia Abu-Jamal.
- The denial of Mumia Abu-Jamal's right to the assistance of John Africa violates his 6th amendment rights. Mumia had a right organize and prepare his own defense. Part of Mumia's organization of his defense was to have John Africa at his table for advice. Months before, John Africa, who was also falsely accused, had successfully defended himself and was acquitted in a federal case. During the trial, Mumia asked repeatedly for Judge Sabo to show him the rule or the law that the judge claimed prevented him from having John Africa assist him in his defense. It was only after the trial was over that Judge Sabo revealed the *real reason* for his denial of Mumia's right to have John Africa at the counsel table. Judge Sabo admitted as a reason for the denial of John Africa—his appearance and lifestyle, and the MOVE Organization. There was no law and there was no rule.

THE FRAUD

- Judge Sabo, prosecutor McGill, court-imposed attorney Anthony Jackson, and Supreme Court Justice McDermott perpetrated a fraud upon Mumia Abu-Jamal when they conducted a sham Pennsylvania Supreme Court proceeding. Mumia Abu-Jamal was deprived of his Constitutional right to represent himself by a phony proceeding that had no legal validity, but instead was an unlawful conspiracy in violation of federal law designed to deprive him of his Constitutional rights and to deceive him into believing that he had exhausted all possible avenues of appeal. *Article IV, Section D of the IOP's (Pennsylvania Supreme Court Internal Operating Procedures) specifically prohibits a single justice from dismissing or otherwise determining an appeal. Yohn v. Love, 76 F.3d 508, (1996)*

THE CONSPIRACY

- The transcript of the "in camera" proceedings from which Mumia was excluded reveals an active connivance of the court-imposed attorney Anthony Jackson, prosecutor McGill, and Judge Sabo in which they conspired together to ensure Mumia's conviction and attempted to ensure that Mumia would not be able to successfully appeal.

THE "STACKED" JURY

- Judge Sabo removed Jane Dawley, a black woman juror. This juror was the only juror that had been selected while Mumia was allowed to participate in the jury selection process. Judge Sabo dismissed Jane Dawley with the complicity of the prosecutor and the court-imposed attorney and replaced her with Edward Courchain, a white male juror who had repeatedly admitted that he could not give Mumia a fair trial. *Courchain then became the foreman of the jury*. In order to accomplish this, Judge Sabo denied both a challenge for cause and a peremptory challenge against Courchain. Then, Judge Sabo personally selected this juror.

The Mandamus brief in its entirety is on the web at www.mumia.org or can be emailed (the Amicus Briefs are also available). The two-volume appendix, which includes the exhibits referenced in the Mandamus are available for the cost of copying and mailing from International Concerned Family & Friends of Mumia Abu-Jamal. The amicus briefs themselves are Exhibit (C) and (D) in Appendix Volume One.

Chicago Committee to Free Mumia Abu-Jamal
tel: 773/381-6507 • email: organizers@chicagofreemumia.org
web: www.chicagofreemumia.org

DEFINITION OF LEGAL TERMS*

Amicus Curiae, Amici, Amicus, and Briefs:

In Latin, "amicus" means friend and "curiae" means court, "amici" means friends. "Brief" means a legal statement prepared by a lawyer arguing a case in court. Amicus curiae: "A person with a strong interest in or views on the subject matter of an action may petition the court for permission to file a brief ostensibly on behalf of a party, but actually to suggest a rationale consistent with its own views. Such amicus curiae briefs are commonly filed in appeals concerning matters of broad public interest; e.g. civil rights cases".

Writ: An order issued from a court requiring the performance of a specified act, or giving authority to have it done

Mandamus: Latin. We command. Mandamus has traditionally issued in response to abuses of judicial power. Thus, where a district judge refuses to take some action he is required to take or takes some action he is not empowered to take, mandamus will lie (will be proper).

Structural Error: A structural error is a constitutional error that is a defect in the trial mechanism itself affecting the entire process. *Arizona v. Fulminante* 499 U.S. 279 (1991)

In Camera: In chambers, in private. A cause is said to be heard in camera either when the hearing is had before the judge in his private chambers or when all spectators are excluded from the courtroom.

Challenge for Cause: A request from a party (that is either the defense or the prosecution) to a judge that a certain prospective juror not be allowed to be a member of the jury because of specified causes or reasons.

Peremptory: imperative; final; decisive; absolute; conclusive; positive; not admitting of question, delay, reconsideration or any alternative. Self determined; arbitrary; not requiring any cause to be shown.

Peremptory Challenge:

A request from a party (that is either the defense or the prosecution) that a judge not allow a certain prospective juror to be a member of the jury.

* from Black's Legal Dictionary