

PA Department of Corrections Gives Up, For Now! Mumia Abu-Jamal Moved Out of Administrative Custody! Free Mumia from the Hell Hole of Prison!

By Rachel Wolkenstein
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Fifty days after the Philadelphia District Attorney conceded defeat in its attempt to legally lynch Mumia Abu-Jamal, the Pennsylvania Department of Corrections (DOC) was compelled to abandon its efforts to keep Mumia in the tortuous conditions of Administrative Custody (AC) (more commonly known as solitary or “the hole”). In the face of an ever-growing international protest campaign, the threat of legal action and Mumia’s courage and political integrity, on Friday morning, January 27, 2012, Mumia was moved into general population at SCI Mahanoy.

For weeks the DOC insisted that Mumia would be held in AC until it received the “paper work” stating he is resentenced to life imprisonment. This bogus rationale is representative of the arbitrariness and abuse of power exercised by the DOC, since its own documents state that the District Attorney agreed Mumia no longer had a death sentence. When Philadelphia District Attorney, Seth Williams, with the backing of the FOP, agreed to life imprisonment rather than trying again for an execution, they threatened to make Mumia’s life imprisonment as restrictive and difficult as possible.

Once Mumia was taken off death row on December 8, 2011, he should have been transferred to general population. Instead, days later, Mumia was taken from his cell at 4 a.m. shackled and driven for seven hours across the state with rifles pointed at him and then thrown into the hole at SCI Mahanoy. This precipitous transfer was in response to the howl of rage by the FOP to Mumia’s address to an over 1000-strong gathering at Philadelphia’s Constitution Center, at which supporters vowed not to accept a life sentence for Mumia, but instead demanded his freedom from prison.

As soon as it was learned that Mumia was in the hole at Mahanoy, without phone calls, his writing materials, books and other property, or adequate commissary, protests flooded the phone lines, fax machines and emails at DOC, SCI Mahanoy and the District Attorney’s office. Mumia appealed his AC confinement stating that the conditions were worse than what he suffered on death row. Legal demands to immediately transfer Mumia to general population were sent to the DOC Secretary John Wetzel stating that Mumia’s AC confinement violated his protected liberty interests and his human and civil rights. Preparation was made to file a federal civil rights lawsuit on Mumia’s behalf challenging his continued imprisonment in Administrative Custody.

On Thursday January 26, unbeknownst to each other, two separate struggles were taking place, one inside and the other outside the prison. Mumia had his weekly Program Review Committee (PRC) hearing, headed up by a Deputy Superintendent at SCI Mahanoy. Before that morning review, Mumia was informed that he would be released into general population. But then a last minute condition was tacked on: signing a “security agreement” that stated (1) Mumia is a former capital case prisoner and therefore an institutional security risk and (2) Mumia’s agreement to go straight back to the hole if a disciplinary complaint is filed against him.

Mumia rejected this latest coercive measure. Instead he countered that he was being labeled a security risk based on his politics and exercise of constitutionally protected activities. He maintained that during 30 years of incarceration his only prison infractions were based on his exercise of First Amendment rights. Mumia fought those disciplinary actions using what legal redress was available in the prison and in the courts. In *Jamal v Price* (1998), the Third Circuit Court of Appeals held that Mumia has a constitutional right to publish his writings from death row free from censorship of its content. Additionally, during his last five years on death row Mumia was a block worker, given and using tools like shovels in the yard. This would not have been allowed if Mumia were considered a “security risk.” Nonetheless, prison officials told Mumia at the morning PRC meeting and again at a second specially convened meeting in the afternoon that his counter agreement was not acceptable and he would not be moved into general population unless he signed the “security agreement.”

During the course of that same day, Mumia's supporters held a Philadelphia press conference demanding his release into general population and highlighting the condition of tens of thousands of prisoners in these torture blocs in the U.S. Then a delegation drove to DOC headquarters in Camp Hill, PA to present Secretary of Corrections, John Wetzel over 5500 petitions and notice of a complaint filed with the United Nations Special Rapporteur on Torture. Despite previous notice of the delegation, Secretary Wetzel refused to meet with them. But the presence of the delegation—and the international support they represented—was unquestionably felt.

The DOC did a complete about-face. Early Friday morning, January 27, Mumia was brought in from the yard and without being given any explanation, was moved into general population.

This was a confirmation, by the DOC's own actions, that Mumia's confinement in AC, under daily conditions more onerous than death row, was punitive and retaliatory, fed by the Philadelphia District Attorney's office and the FOP, for defeating his death sentence and not bending as "the voice of the voiceless." It is also confirmation, in the words of Frederick Douglas that "power cedes nothing without a demand, it never did and it never will."

Mumia is now in general population. For the first time after thirty years he was able to kiss and hug his wife. He will soon be able to hug his children and grandchildren. He will have more phone access. But he remains in the slow death of "incarceration nation." The state holds the threat of "the hole" over every prisoner. Tens of thousands are rotting now in solitary confinement across the United States. Mumia has described this as the institutionalized normalization of torture unlike anywhere else in the world.

The Struggle is For Freedom

From general population Mumia relayed the following message in his first phone call to his wife, Wadiya Jamal: "My dear friends, brothers and sisters – I want to thank you for your real hard work and support. I am no longer on death row, no longer in the hole, I'm in population. This is only Part One and I thank you for the work you've done. But the struggle is for freedom!"

Mumia Abu-Jamal is an innocent man. For almost three decades he was held in solitary confinement under the ever-present threat of state execution. Mumia was framed for a crime he did not commit in a politically motivated and racially biased prosecution and trial. His crime in the eyes of the state is that he was and continues to be "the voice of the voiceless." As a former spokesman for the Black Panther Party and continuing supporter of the MOVE organization the state sees in Mumia the face of black revolt.

Not one element of the prosecution's so-called evidence is true or accurate. The putative eyewitness statements, confession and ballistics are all lies. Evidence of Mumia's innocence was suppressed. The trial and post-conviction appeals judge was a "hanging judge" and self-proclaimed racist. None of the state or federal courts reviewing Mumia's case overturned his conviction – on any of the multitude of legal issues, from the racially biased jury selection to the police and prosecutorial misconduct that permeated his case.

Now, on the legal terrain, there should be a challenge to Mumia being resentenced to life imprisonment. He has spent thirty years in solitary confinement on death row, and during the last ten years there was a federal court order declaring his death sentence unconstitutional. This should provide legal grounds for Mumia's release on the basis that life imprisonment is in violation of the Eighth Amendment protection against cruel and unusual treatment and prohibitions against torture under international law. Legal experts, including attorney Lennox Hinds, are exploring these issues.

Mumia's conviction must again be challenged on the grounds of his actual innocence and the total absence of due process, in a conviction obtained through police and prosecutorial misconduct. Continued investigation and exposure can and will lead to new evidence of both Mumia's innocence and the frame-up. This will be added to the mountains of such evidence that already exists and has not been considered by any court. It is the truth surrounding the killing of police officer Daniel Faulkner combined with the political targeting of Mumia that has made this case so legally as well as politically explosive.

The recent decision by Philadelphia DA Seth Williams that he would not seek a new death sentence was a concession of defeat for the state. It was neither legally possible nor politically advantageous to hold a new sentencing trial. But the forces that tried to execute Mumia will not stop in trying to silence his voice. The fight to free Mumia involves recognizing the reality of capitalist injustice and mounting a political and legal campaign that has no illusions in the justice of the courts or reliance on the political structure. It will take such an international mass mobilization to free Mumia from the hellhole of prison.

Rachel Wolkenstein is an attorney who has worked with Mumia as attorney, political activist and friend since 1987. She was co-counsel for Mumia during the PCRA hearings and appeals from May 1995-June 1999, and in charge of the defense investigation. Wolkenstein was counsel to Mumia challenging his AC confinement. Contact info: rwolkensteinesq@aol.com, [917 689-4009](tel:917-689-4009). Special thanks goes to Bret Grote for both his legal assistance and his overall knowledge as an investigator with the Human Rights Coalition, HRCoalition.org.