

The Framing of Mumia Abu-Jamal

Author J. Patrick O'Connor criticizes the media, who "bought into the prosecution's story line early on and has never been able to see this case for what it is: a framing of an innocent and peace loving man."

How exactly was Mumia framed?

J. Patrick O'Connor: Mumia's early association with the Philadelphia branch of the Black Panther Party marked him as a subversive to George Fencel, the chief inspector of the Philadelphia Police Department's Civil Defense Bureau. His subsequent sympathetic coverage of MOVE while reporting for the local public radio station made him an avowed enemy of Mayor Frank Rizzo.

Minutes after Officer Faulkner was shot at 3:55 a.m., Inspector Alfonso Giordano—who reported directly to Fencel—took command of the crime scene and personally set in motion the framing of Abu-Jamal. It would be Giordano who claimed that Mumia told him in the paddy wagon that he dropped his gun after he shot Faulkner; it would be Giordano who arranged for prostitute Cynthia White and felon Robert Chobert to identify Abu-Jamal as the shooter. Giordano and White would be the D.A. Office's only witnesses at the preliminary hearing to hold Abu-Jamal over for trial where Giordano repeated this "confession."

Giordano is as corrupt a police officer as one can imagine. For years he had been extorting kickbacks—personally averaging \$3,000 per month—from Center City prostitutes, pimps and bar owners, which explains his early arrival at the crime scene. He knew Cynthia White and her pimp. He coerced her at the scene to identify Abu-Jamal as the shooter. She would be the only witness the D.A. had to claim to see Abu-Jamal holding a gun over Faulkner. In her original statement to the police—given within an hour of the shooting—she had Abu-Jamal running from the parking lot and from as far away as 10-yards firing off "four or five shots" at Faulkner before the officer fell.

In her third interview with police detectives, given on Dec. 17, she fine-tuned her statement to comport with the actual evidence in the case that Faulkner was shot at close range.

In one of the most sinister aspects of Abu-Jamal's case, the police department waited until the Monday after Abu-Jamal's conviction to "relieve" Giordano of his duties on what would prove to be well-founded "suspicions of corruption." Four years after Abu-Jamal's trial, Giordano pled guilty to tax evasion in connection with those payouts and was sent to prison.

Incredibly, the police arriving at the crime scene would later claim not to have conducted any tests to determine if Abu-Jamal had recently fired a gun by checking for powder residue on his hands or clothing, nor did they claim to even feel or smell his gun to determine if it had been recently fired.

Tests such as these are so routine at murder scenes that it is almost inconceivable the police did not run them. It is more likely that they did not like the results of the tests.

From the outset, the investigation into the shooting death of Officer Faulkner was conducted with one goal in mind: to hang the crime on Mumia Abu-Jamal.

There was no search for the truth, no attempt at providing the slain officer with the justice he deserved. Giordano handed Abu-

Jamal to the D.A.'s Office with his own lie about Abu-Jamal confessing to him and packing off Cynthia White in a squad car to tell her concocted account of the shooting.

When the D.A.'s Office was forced to back away from the corrupt Giordano, Assistant D.A. Joseph McGill elicited a new "confession" to replace Giordano's in February when security guard Priscilla Durham and Officer Garry Bell, Faulkner's best friend on the police force, responded to his promptings by saying they heard Abu-Jamal blurt out at the hospital, "I shot the mother-fucker and I hope the mother-fucker dies."

Not one of the dozens of other officers present at the hospital would make such a claim. In fact, the two officers who accompanied Abu-Jamal from the time he was placed in the paddy wagon until he went into surgery, reported that he made no comments in signed statements given to detectives assigned to the case that morning.

The prosecution knew that its new "confession" could be skewered if Abu-Jamal's defense attorney, Anthony Jackson, called the two officers who accompanied Abu-Jamal to the stand, so all the prosecution really had was Cynthia White. With White saying she saw it all from beginning to end, and willing to testify that she saw Abu-Jamal blow the helpless Faulkner's brains out in ruthless cold blood, McGill had his case made, providing White's credibility could survive Jackson's cross-examination.

McGill bet the entire case that it could, and despite the utter web of lies she told the jury, was right.

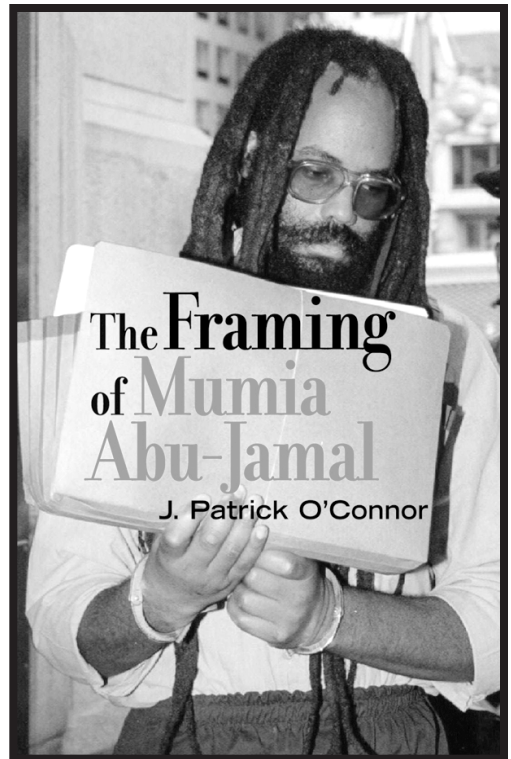
Why do you think that Kenneth Freeman was the actual shooter of Officer Daniel Faulkner?

O'Connor: Kenneth Freeman was Billy Cook's street vendor partner and was riding with him in the VW when Faulkner pulled the VW over. Freeman got out of the VW and subsequently handed Faulkner a phony driver's license application bearing the name of Arnold Howard, which Howard had recently loaned to him. Howard's papers were found in Faulkner's shirt pocket. Police rounded up both Howard and Freeman in the early morning hours of December 9 and brought them in for questioning. At the Post-Conviction Relief Act hearing in 1995, Howard testified that on several occasions, Cynthia White picked Freeman out of a lineup.

At Billy Cook's March 29 trial for assaulting Officer Faulkner, with McGill as the prosecutor, White told McGill in direct testimony that the passenger in the VW "had got out." McGill said, "He got out of the car?" White responded, "Yes." (At Abu-Jamal's trial, McGill got White to testify that only Abu-Jamal, Cook, and Faulkner were at the scene.)

Various witnesses said they saw a black man running from the scene right after the shooting. Some of the eyewitnesses said this man had an Afro and wore a green army jacket. Freeman did have an Afro and he perpetually wore a green army jacket. Freeman was tall and burly, weighing about 225 lbs. at the time.

Cab driver Robert Harkins was driving right



"What makes getting to the truth about this case so difficult is that the prosecution built its case on perjured, bribed and coerced testimony with a calculated disregard for what the actual evidence established. Maureen Faulkner, the Philadelphia Fraternal Order of Police and the Philadelphia D.A.'s office have consistently obstructed the truth about who killed Officer Faulkner from being known."

-- author J. Patrick O'Connor

by the parked police car and the VW when he saw a police officer grab a man. The man "then spun around and the officer went to the ground," falling face down backwards, landing on his hands and knees. The assailant shot the officer in the back, causing him to roll over on his back, and then executed him with a shot to his forehead.

Harkins described the shooter as a little taller and heavier than the 6-foot, 200-pound Faulkner. Robert Chobert told police in his first statement that the shooter had an Afro and weighed about 225 pounds. (Abu-Jamal, also about 6-foot, wore in his hair in dreadlocks and weighed 170 pounds at the time.)

In Billy Cook's April 29, 2001, affidavit he declared that Freeman was with him the night of the shooting, was armed, and fled the scene after Faulkner was shot. Cook said he did not see who shot Faulkner.

Freeman would meet an ignominious death hours after Philadelphia police firebombed the MOVE house on Osage Avenue in 1985, killing 11 MOVE members, including John Africa, whose corpse had been beheaded. Freeman's dead body was found bound, gagged and naked in a vacant lot. There would be no police investigation into this obvious murder. The coroner listed his cause of death as a heart attack. The timing and modus operandi of the abduction and killing alone suggest an extreme act of police vengeance.

"Patrick O'Connor's new book, *The Framing of Mumia Abu-Jamal* is based on a meticulous review of 12,000 pages of court transcripts, legal briefs, police records and an exhaustive examination of the constitutional violations perpetrated by America's criminal 'justice' system. His evidence makes a powerful case that Mumia Abu-Jamal should be granted a new trial, and having been cruelly kept on death row for 26 years, he should be immediately freed."--author, **Howard Zinn**

The 3rd Circuit's Rejection of the Batson Claim and Judge Thomas Ambro's Dissent

In its ruling on the *Batson* claim, the majority stated that it believed Abu-Jamal had "*forfeited his Batson claim by failing to make a timely objection. But even assuming Abu-Jamal's failure to object is not fatal to his claim, Abu-Jamal has failed to meet his burden in providing a prima facie case.*" The majority wrote that he failed because his attorneys at his PCRA evidentiary hearing failed to elicit the prosecutor's reasons for removing 10 otherwise qualified blacks by means of peremptory strikes during jury selection.

...The majority denied Abu-Jamal's *Batson* claim on a technicality of its own invention, not on its merits. It also ignored its own previous opposite ruling in the *Holloway v. Horn* case in 2004.

Judge Thomas Ambro's dissent was sharp: "*...I do not agree with them [the majority] that Mumia Abu-Jamal fails to meet the low bar for making a prima facie case under Batson. In holding otherwise, they raise the standard necessary to make out a prima facie case beyond what Batson calls for.*"

When ruling in *Batson* in 1986, the U.S. Supreme Court imposed no timeliness restrictions as to when a *Batson* claim may be raised, nor has the court done so in the intervening 22 years.

Neither did it require that the racial composition of the entire jury pool be known before a *Batson* claim could be raised.

In fact, the Supreme Court recently added heft to its *Batson* ruling, ruling in *Snyder* that the purging of only one black juror on the basis of racial discrimination was grounds for a new trial.

In addition, the Supreme Court ruled in 1986 that to establish a prima facie case for a *Batson* claim, the defendant must show only "an inference" of prosecutorial discrimination in purging potential jurors. Even the Third Circuit has never previously allowed the timing of a *Batson* claim to be material, nor had it ever ruled previously that not knowing the racial composition of the entire jury pool was a fatal flaw in lodging a *Batson* claim.

The fact that the prosecutor in Abu-Jamal's case used 10 of the 15 peremptory challenges to exclude blacks from the jury – a strike rate of 66.67 percent against potential black jurors – is in itself an extremely strong inference of discrimination.

The result was that only 3 of the 12 jurors impaneled were black. As Judge Ambro correctly stated in his dissent, "*It is my belief that the 66.67 percent strike rate, without reference to the total venire [jury pool], can stand on its own for the purpose of raising an inference of discrimination.*"

Ambro followed that assertion by writing, "*My colleagues attempt to downplay the strike rate by saying it is essentially meaningless without reference to the racial makeup of the venire as a whole. They claim it is impossible to understand such a high strike rate without 'contextual markers' about the entire jury venire. While such 'markers' would be helpful, the lack of a record containing that information should not serve as an absolute bar to Abu-Jamal's claim. Simply put, the failure to develop a record of the entire venire pool or all black members in that pool (against which to compare the prosecutor's use of peremptory strikes) does not defeat a prima facie Batson claim. This is because Batson does not place the burden on the petitioner to develop a full statistical accounting in order to clear the low prima facie hurdle of the Batson analysis.*"

In commenting on *Holloway v. Horn*, a case with striking similarities to Abu-Jamal's *Batson* claim, Ambro demonstrated just how disingenuous the panel's ruling against Abu-Jamal's *Batson* claim was: "*In Holloway, we emphasized that 'requiring the presentation of [a record detailing the race of the venire] simply to move past the first [prima facie] stage in the Batson analysis places an undue burden upon the defendant. There we found the strike rate – 11 of 12 peremptory strikes against black persons – satisfied the prima facie burden despite the lack of contextual markers my colleagues now seek here.'*"

In *Holloway*, the Third Circuit ruled that the PA Supreme Court decision denying *Holloway's* *Batson* claim was "contrary to" and an "unreasonable application of" the *Batson* standard. In fact, in rendering its *Holloway* decision, the Third Circuit specifically rejected the requirement that a petitioner develop a complete record of the jury venire.

In making its ruling in Abu-Jamal's appeal, it reversed itself to make the pretext of an incomplete jury record his fatal misstep.

J. Patrick O'Connor explains:

I was an associate editor for *TV Guide* at its headquarters in nearby Radnor, PA during the time Officer Faulkner was killed and Abu-Jamal was put on trial and convicted of murdering him.

I'd often listened to Abu-Jamal on the local public radio station (*WHYY*) where he was a reporter...He had an incredibly distinctive voice, full of compassion for the downtrodden.

The murder of a police officer did not fit my image of him even though the major Philadelphia newspapers made the case against him appear to be an open-and-shut one, the verdict

Vendetta: A Review of Murdered By Mumia, written by Maureen Faulkner and Michael Smerconish

There's a great deal to admire about Maureen Faulkner, the widow of Philadelphia Police Officer Daniel Faulkner who was shot to death on December 9, 1981. Less than six months later she bravely sat through the entire trial that concluded with Mumia Abu-Jamal's conviction for first-degree murder and a sentence of death.

Over the next 25 years, while Abu-Jamal was becoming the Alpha symbol of the anti-death penalty crusade, Maureen Faulkner became its Omega...

...Readers who come to this book looking for an enlightened assessment of the most controversial death-row case in recent memory will not find it here. The book is a polemic from beginning to end, laced with the pain Mrs. Faulkner has suffered and the vitriol she has

Philadelphia Today: District Attorney Lynne Abraham and the Legacy of Frank Rizzo

In a real sense, D.A. Lynne Abraham, just as Frank Rizzo before her, embodies the worst of Philadelphia.

Known as "the Queen of Death" for her zeal in seeking the death penalty, she was depicted as the nation's "deadliest D.A." in a NY Times Magazine article in 1995.

Her personal vendetta against Abu-Jamal equals that of Officer Faulkner's widow. The day Federal District Court Judge Yohn overturned Abu-Jamal's death sentence in 2001, Abraham put her antipathy for Abu-Jamal this way: "*Today, Mumia Abu-Jamal is what he has always been: a convicted, remorseless, cold-blooded killer.*"

The case of Mumia Abu-Jamal represents an enormous miscarriage of justice, representing an extreme example of prosecutorial abuse and judicial bias. What makes getting to the truth about this case so difficult for people, particularly people in Philadelphia, is that the prosecution

of death justified.

Sometime in the mid-1990s I began hearing and seeing the "Free Mumia" slogan. In 1996, when *HBO* premiered the one-hour documentary "*Mumia Abu-Jamal: A Case for Reasonable Doubt?*", I developed some questions about the verdict and certainly the fairness of his trial...

Amnesty International published a report in 2000 stating it had "*determined that numerous aspects of Mumia Abu-Jamal's case clearly failed to meet minimum international standards safeguarding the fairness of legal proceedings.*"

I began to research the case.

I began to research the case. She truly loathes Abu-Jamal, referring to him variously as "a latter-day Charles Manson," "this evil man," and "such vermin." Her term for those who support her arch-enemy is "Mumidiots." She reports that she resents and remembers every one of them.

Her obsessive hate for Abu-Jamal has blinded her to the prosecutorial misconduct and judicial bias that plagued his trial and justifiably fueled his rise to a world stage. The real villains in her life were the police and prosecutors who framed Abu-Jamal for Officer Faulkner's killing. They are the ones, not the long drawn out appellate process that has kept Abu-Jamal alive, who have denied her the closure she was due more than 25 years ago.

The local media bought into the prosecution's story line early on and has never been able to see this case for what it is: a framing of an innocent and peace loving man. Two things account for the unprecedented national and international interest in this case. First and foremost is the man himself. Despite more than 25 years in the bleakest existence possible in isolation on death row, Mumia Abu-Jamal remains what he has always been: an articulate, compassionate righter of wrongs.

The second thing that makes this case so compelling to such a wide audience is that his trial represents such a monumental abuse of government power to railroad this one man.

This really says no citizen is truly free until this wrong has been undone.

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See: Abu-Jamal-News.com, FreeMumia.org, FreeMumia.com EmajOnline.com PrisonRadio.org
These quotes by J. Patrick O'Connor featured here are excerpted from essays and interviews compiled by *Journalists for Mumia Abu-Jamal.*