

OCT. 9 and NOV. 9 in Philadelphia

All Out for Mumia Abu-Jamal

**By Betsey Piette
Philadelphia**

The nearly 29-year struggle to free political prisoner Mumia Abu-Jamal faces a critical juncture with the announcement that the U.S. Court of Appeals for the Third Circuit will review Abu-Jamal's death sentence on Nov. 9. It is imperative that all who stand for justice and against racism and state repression pack the courtroom in Philadelphia.

In 2008 the Third Circuit Court granted Abu-Jamal a new sentencing hearing based on flawed jury instructions in the sentencing phase of his 1982 trial. However, on Jan. 19 of this year, the U.S. Supreme Court granted the Philadelphia district attorney's petition for a review of a 2001 ruling by federal Judge William Yohn which overturned Abu-Jamal's death penalty but not his conviction.

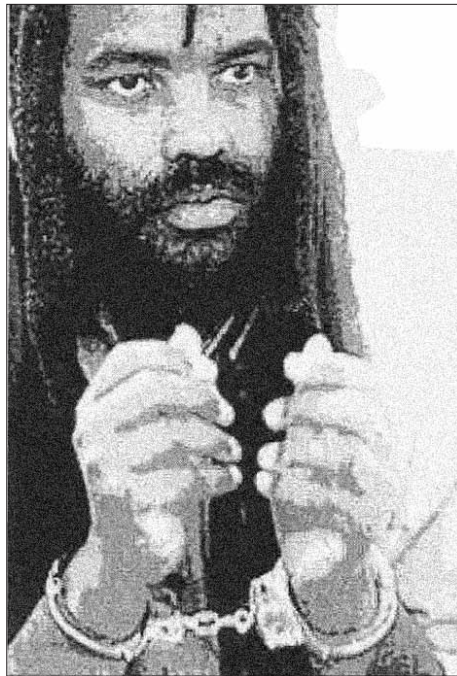
The Supreme Court went against Yohn's decision as well as the 2008 Third Circuit ruling granting a new sentencing-phase jury trial if the Abu-Jamal's death penalty was to be reinstated. In the week before the Jan. 19 decision the Supreme Court ruled on *Smith v. Spisak*, a case that also involved questionable instructions to the jury during the sentencing phase, although the case differs from Abu-Jamal's in both legal and political aspects.

Ruling in white supremacist's case used against Mumia

Neo-Nazi and white supremacist Frank Spisak killed three people and then bragged about it in court. Abu-Jamal, a former Black Panther organizer, was convicted of killing Philadelphia police officer Daniel Faulkner on Dec. 9, 1981, but has always maintained his innocence. Several prosecution witnesses from his 1982 trial have since recanted their testimony.

Spisak's lawyers had appealed based on the 1988 Supreme Court ruling in *Mills v. Maryland*, which addresses confusing jury instructions. The Sixth Circuit Court of Appeals had overturned Spisak's sentence based on *Mills*, but the U.S. Supreme Court decided the standard did not apply in Abu-Jamal's case.

It would appear that the Supreme Court, which had had the district attorney's appeal of Yohn's decision since 2001, was waiting for a case like Spisak's so they could justify their re-



versal in Abu-Jamal's case, even though the two cases and the two defendants differ as night from day. Even though Abu-Jamal's case met the *Mills* standard, the Supreme Court refused to apply it, in what was clearly a decision motivated by politics and not law.

Anti-Mumia film debuts

The announcement of the Nov. 9 hearing came on Sept. 21, the same day that a Fraternal Order of Police-promoted "documercial" by Tigre Hill titled "The Barrel of a Gun" premiered at the Merriam Theater in Philadelphia. This film was originally scheduled to preview in February, but Abu-Jamal supporters suspect it was purposely delayed to coincide with the announcement of the Court of Appeals hearing.

The premise of Hill's "The Barrel of a Gun" is based on an argument first raised by Michael Smerconish and Maureen Faulkner in their 2007 book "Murdered by Mumia: A Life Sentence of Loss, Pain and Injustice." Smerconish, along with prosecutor Joseph McGill, raises the baseless idea that the killing of Daniel Faulkner was the direct result of a long-harbored hatred of the police on Abu-Jamal's part and had maybe even been a pre-planned "hit" engineered by Abu-Jamal and his brother Billy Cook.

During the July 1982 sentencing phase of

Abu-Jamal's trial under now-deceased Judge Albert F. Sabo, McGill introduced an article written by Abu-Jamal in early 1970 when he was a 15-year-old member of the Black Panther Party. In it Mumia referred to Mao Tse-Tung's quote "Political power grows out of the barrel of a gun" in reference to the behavior of the Chicago police who had recently murdered party members Fred Hampton and Mark Clark. These assassinations came on top of 28 murders of Black Panther Party members by the police.

Pro-cop propaganda

Just as McGill attempted to do during the sentencing phase before a nearly all-white, predominantly middle-class jury, Hill uses this quote out of context in the movie to attempt to portray Abu-Jamal as an "angry Black man," introducing his membership in the Black Panther Party to imply he was "out to kill cops." Yet Abu-Jamal had no record of violent conduct prior meeting Faulkner that fateful night.

Hill's film is so one-sided, so pro-police and prosecution that it was described by Philadelphia Inquirer columnist Annette John-Hall as: "Two hours of overblown conclusions from disconnected dots." John-Hall, who is African-American as is Hill, wrote, "I've known Hill for more than 10 years ... but I left the screening of his movie shaking my head in disbelief." (Sept. 24)

In response to Hill's portrayal of Abu-Jamal as a "premeditated killer," John-Hall notes, "A 1981 article in the Bulletin put Abu-Jamal, then a cabdriver, at 13th and Locust with a flat tire" at the time of Faulkner's shooting.

Writing in PhillyMag's "The Philly Post," columnist Jason Fagone describes Hill's film as "deeply, viscerally bad." While admitting upfront that he personally believes Abu-Jamal did shoot Faulkner, Fagone states, "[The movie] plays in many spots like a propaganda film created expressly for a single small community — Philadelphia law enforcement — and the tragedy of "The Barrel of a Gun" is that it's so confused and disingenuous that it's ultimately not even much good as propaganda." (Sept. 22)

Photos show police mishandled 'evidence'

Supporters of Abu-Jamal responded to Hill's one-sided pro-FOP film just as they did when

Smerconish and Maureen Faulkner's book was featured on NBC's Today Show with Matt Lauer in 2007 — by uncovering even more factual evidence of Abu-Jamal's innocence.

In December 2007, Journalists for Mumia provided an extensive press packet to Lauer before his interview with Smerconish and Faulkner that contained photos taken by press photographer Pedro P. Polakoff just after the Dec. 9, 1981, shooting. The photos show mishandling, manipulation and misinterpretation of the crime scene and seriously call into question "evidence" presented by the prosecution at Abu-Jamal's 1981 trial.

Lauer confronted his guests with these photos, including one showing a police officer holding both Faulkner's and Mumia's guns in his ungloved hand.

Hill makes no mention of the Polakoff photos in his movie, although he filmed the Journalists for Mumia press conference on Dec. 4, 2007, which unveiled the "newly discovered" crime scene photos, which the prosecution knew of but ignored in 1981.

Justice on Trial' premieres

Polokoff's photos were featured prominently in Big Noise Films' "Justice on Trial" that also premiered in Philadelphia on Sept. 21 during a press conference. This film was screened before a standing-room-only crowd of over 200 people at the National Constitution Center in the afternoon and in the evening at the Ritz East. Polokoff is interviewed in the film.

The location of the first screening at the Constitution Center held special significance for Abu-Jamal's supporters, who believe his trial and sentencing violated his constitutional rights and also represent injustices suffered by many prisoners. The screening was attended by a number of young people, including high school students from Latin Boys School.

"Justice on Trial" was directed by Kouross Esmaeli of Big Noise Films and produced by Johanna Fernandez, a professor of U.S. history at Baruch College and a leader of Educators for Mumia. Fernandez and Esmaeli introduced the film and took questions at both screenings.

Their film examines all the civil rights and constitutional violations in this case, including collaboration to conceal exculpatory evidence from the trial by police, prosecutors and openly biased, pro-prosecution Judge Sabo.

Widespread police corruption, brutality

While Hill's film fails to even mention widespread police corruption and rampant police brutality against the Black community in Philadelphia that existed before, during and long after the trial, "Justice on Trial" looks at the case in that context. Fifteen of the police involved in Abu-Jamal's case were later tried on charges of abuse and corruption.

The film makes the point that just like Abu-Jamal, people of color in the U.S. end up incarcerated every day because they are unable to afford adequate representation in the courts.

The film also goes into depth on the activities of the Black Panther Party, including their free breakfast, clothing and health-care programs in over 40 cities. It covers young Abu-Jamal's beating at a 1968 demonstration against George Wallace at the hands of Philadelphia police under the notorious reign of then-Commissioner Frank Rizzo that led Mumia to join the Panthers.

Mumia responds from death row

While Hill's "Barrel" focuses solely on Maureen Faulkner's grief from the loss of her husband, "Justice on Trial" makes the point that Abu-Jamal and his family have also had to deal with emotional separation. Isolated on death row for over 28 years, Abu-Jamal, a family-oriented man, has never been able to touch his grandchildren nor attend his mother's funeral.

Abu-Jamal, who was able to address the afternoon gathering by phone from his cell on SCI Green's death row, described himself as being "surrounded by love" and dismissed Hill's film: "As soon as he took the dough, he was bought and paid for."

For more information on "Justice on Trial," go to BigNoiseFilms.org or contact Educators for Mumia Abu-Jamal at emajonline.com.

Key prosecution 'evidence' debunked

That the prosecution knowingly withheld evidence should be ample grounds for a new trial in Abu-Jamal's case, as more examples of such violations continue to surface.

Two witnesses central to the prosecution's case for conviction and imposition of the death penalty claimed they saw Abu-Jamal stand over Faulkner and shoot downward four times, hitting him once between the eyes. The problem is that the prosecution failed to account for the three missing shots, which at point-blank range

should have left divots in the concrete sidewalk near where Faulkner's body was found.

One of the photos taken by Polokoff, who arrived on the scene soon after the shooting, showed a pool of blood on the sidewalk where Faulkner was shot. Independent journalists Dave Lindorff and Linn Washington had the photo reviewed by an analyst at NASA's Jet-Propulsion Laboratory who concluded that no divot marks were evident.

But Lindorff and Washington took their investigation one step further. Lindorff told Democracy Now's Amy Goodman on Sept. 22: "We did a test on a concrete slab. Linn fired a gun exactly like the one that was licensed to Mumia and fired 18 inches above the concrete into the concrete, with the same bullets that the police said were used in that gun. And it made very dramatic, bright, chipped-out marks in the concrete. You couldn't miss them even in the dark. So where are those marks? If they're not there, it's clear that those two witnesses were lying. And that means there was no execution." The story of their tests can be found at thiscant-behappening.net.

Oct. 9: Oppose the death penalty

In a build-up for the critical Nov. 9 court hearing, activists will gather in Philadelphia on Oct. 9 to observe the World Day Against the Death Penalty — a call for 100 percent abolition of the death penalty.

A rally is scheduled to start at 9 a.m. at Broad and Spring Garden outside the headquarters of the Fraternal Order of Police because of their long-term, vicious commitment to executions, even in cases of innocence. A march will follow at 10 a.m.

As the danger of reinstatement of the death sentence looms for Abu-Jamal, several key members of U.S. anti-death penalty organizations recently made a move to exclude his case from the movement to abolish the death penalty. They argued that Abu-Jamal's inclusion alienated potential law enforcement supporters of the abolition movement.

But falling for the line that allying with the police or other representatives of the repressive capitalist state's apparatus does not serve the anti-death penalty movement's interests. Now is the time for even greater solidarity among all those who oppose the death penalty, police brutality and racism to demand justice for Mumia Abu-Jamal.

For more information, including Sat., Oct. 9 NYC transportation to Philadelphia, visit www.freemumia.com or call **212-330-8029**

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**October 9 will be
a reaffirmation of a real &
unifying abolition movement:**

We demand 100 percent abolition Now! No exceptions (including MUMIA)!

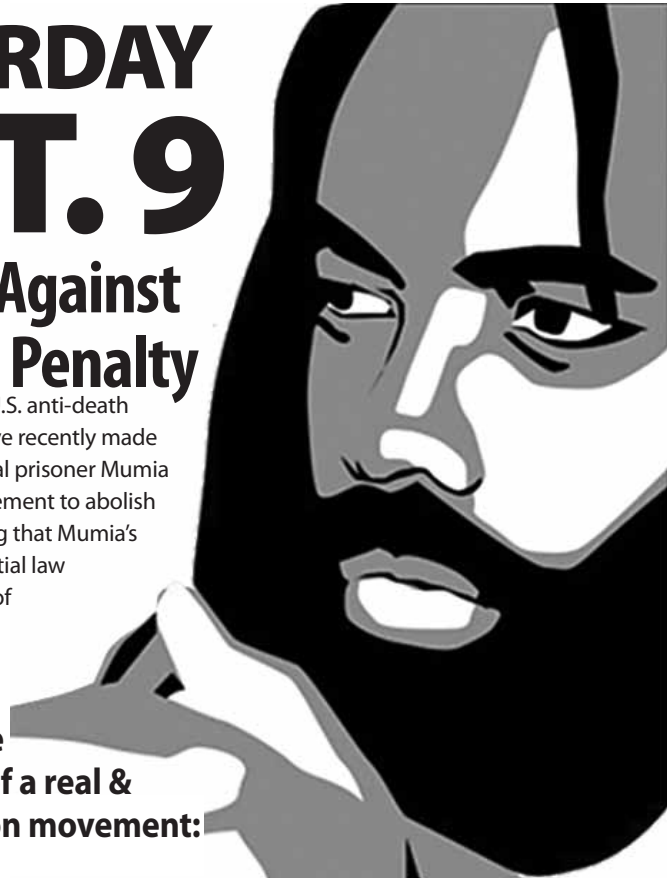
9 a.m. Rally at Fraternal Order of Police Headquarters, Broad St. and Spring Garden
We demonstrate at the FOP because of their long-term, vicious commitment to executions, even in cases of innocence, and their terrorist attacks against those who fight for justice.

10 a.m. March begins **11:30 a.m. Indoor rally** at La Familia, 1310 N. Broad St.

Scheduled Participants: ▲ Welfare Poets,
▲ former death row prisoners,
▲ journalist Linn Washington
& many others

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Sponsors: Texas Death Penalty Abolition Movement, Texas Coalition to Abolish the Death Penalty, Texas Moratorium Network, Campaign to End the Death Penalty, International Concerned Family & Friends of Mumia Abu-Jamal, International Action Center, Witness to Innocence (Philadelphia), exonerees from death row



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