**Mumia Abu Jamal Appeal**

Roots Action

February 13, 2019

In 1981, Mumia Abu-Jamal was a former Black Panther and respected public radio journalist in Philadelphia, when he was jailed after a disputed incident in which police officer Daniel Faulkner was killed. **In 1982, Abu-Jamal was convicted of murder and sentenced to death by Judge Albert Sabo, known as a “hanging judge”** who’d sent more people to Death Row than any other U.S. judge.

Human rights groups like **Amnesty International** criticized the trial, pointing to racial bias and “possible political influences that may have prevented him from receiving an impartial and fair hearing.” Unsuccessful appeals over the years have argued that prosecutors suppressed evidence and that blacks were systematically purged from the jury.

But after 37 years behind bars, much of it on death row in solitary confinement, Abu-Jamal now has some real hope.

Last December, Abu-Jamal won a major victory when Philadelphia Judge Leon Tucker ruled that he had the **right to re-appeal his case** because of the appearance of bias during the appeals process – specifically that a former DA-turned-Pennsylvania Supreme Court justice who’d blocked Abu-Jamal’s appeals should have recused himself from the case.

This victory, clearing the path for a possible new trial, seemed especially hopeful because in 2017 Philadelphia voters, especially African American voters, had elected Krasner – a **longtime foe of mass incarceration, the death penalty, and racism in criminal justice.**

At the end of January, Krasner shocked many by announcing that **he would challenge Judge Tucker’s decision to give Abu-Jamal the right to appeal,** apparently over his concern that it might open up appeals for other convicted prisoners. Days later, Krasner was disinvited from a progressive law conference at Yale which he was to keynote, and conference organizers urged Krasner to drop his resistance to Abu Jamal’s appeal: “We cannot understand how DA Krasner’s decision in this case serves justice or the transformative vision that he ran on.”

RootsAction is an independent online force endorsed by Jim Hightower, Barbara Ehrenreich, Cornel West, Daniel Ellsberg, Glenn Greenwald, Naomi Klein, Bill Fletcher Jr., Laura Flanders, former U.S. Senator James Abourezk, Frances Fox Piven, Lila Garrett, Phil Donahue, Sonali Kolhatkar, and many others.

Background:

>> Amnesty International: “A Life in the Balance: The Case of Mumia Abu-Jamal” (Feb. 2000)

>> Essence: “Judge Rules Mumia Abu-Jamal Can Reargue Appeal To The Pennsylvania Supreme Court” (Dec. 28, 2018)

>> Philly.com: “Philly DA Larry Krasner disinvited to speak at Yale Law conference” (Feb. 2, 2019)

>> The Intercept.com: “Larry Krasner Responds to Progressive Critics” (Feb. 9, 2019)

**LARRY KRASNER RESPONDS TO PROGRESSIVE CRITICS: MUMIA ABU-JAMAL APPEAL IS “INCREDIBLY COMPLEX AND NUANCED”**

Eoin Higgins

February 9 2019

IN HIS FIRST public comments about his office’s January decision to fight a new appeal from incarcerated activist Mumia Abu-Jamal, Philadelphia District Attorney Larry Krasner **asked for patience from critics.**

The appeal, argued Krasner, is based on a judge’s decision that has implications that stretch far beyond Abu-Jamal’s case. Once his motion is filed, he said, opponents may view it differently.

“This is a narrow, technical decision in one sense, but incredibly complex and nuanced and **affects many other cases**,” Krasner said, adding that his previous discovery of **six boxes of evidence in the case, which he turned over to the defense,** should be evidence of his commitment to a just outcome.

Last week, the organizers of the Rebellious Lawyering Conference at Yale Law School **disinvited Krasner as their keynote speaker, citing the Abu-Jamal case.**

Despite the emotional and political potency of the Abu-Jamal appeal — he was convicted in 1982 of killing a police officer, and his case, which his supporters say was a frame up by police, has generated controversy in Philadelphia and around the country for decades — Krasner told The Intercept, the process must play out. “I hope that the people who are critical take a deep breath and wait and see what it is we actually say in the brief that we file in this matter,” said Krasner.

The Abu-Jamal case is a test of Krasner’s limits.

Philadelphia voters elected Krasner as district attorney in 2017 on the back of his radical, criminal justice reform-minded platform. Thus far, results have been generally in line with those promises: Krasner’s office has effectively **decriminalized marijuana possession and stepped in to allow parole for members of the MOVE 9.** He fired a bloc of prosecutors he said were unwilling to rethink their approach to justice and issued **sweeping new guidelines for bail and prosecutions** that have become a model for reformers.

But the Abu-Jamal case is a test of his limits. Critics say that by attempting to block Abu-Jamal’s appeal, Krasner is acting in line with police interests — even though he sued the department 75 times before becoming the district attorney. The district attorney, for his part, says there’s much more to Abu-Jamal’s case than meets the eye.

Abu-Jamal was accused of murdering police officer Daniel Faulkner on December 9, 1981, and he was convicted and sentenced to death the following year. Abu-Jamal was a longtime Philadelphia activist with the city’s famous MOVE organization, and his supporters have consistently held that the case was corrupted from the beginning by a police setup and the cooperation of the city’s judicial system. They believe the city was prepared to sentence Abu-Jamal to death whether or not he committed the crime, a view that they say is backed up by the contradictory evidence brought forth by the prosecution and the possibility of another gunman at the scene. (**Abu-Jamal’s sentence was changed in 2011 to life in prison**.) Meanwhile, throughout the lengthy appeals process that is typical of death penalty cases, advocates for Faulkner’s family, including his widow, Maureen, fought vociferously to keep Abu-Jamal behind bars.

Abu-Jamal’s case, for opponents of police brutality and mass incarceration, was a **cause célèbre for decades in progressive circles**, and took on just as much symbolism for police unions, who see any support of Abu-Jamal as justification of violence against police.

Abu-Jamal’s right to appeal appeared exhausted in 2012, when an attempt to rehear forensic evidence was rejected by the Pennsylvania Supreme Court. But the process was revived in 2018, when Abu-Jamal’s defense team identified a new target: one of the judges on the Pennsylvania Supreme Court, Ronald Castille, who ruled on a number of Abu-Jamal’s appeals between 1998 and 2012. Abu-Jamal’s team argued that Castille should not have been involved in the case because he was Philadelphia’s district attorney from 1986 to 1991, a period overlapping some of Abu-Jamal’s appeals. On December 28, 2018, Philadelphia Common Pleas Judge Leon Tucker agreed and ruled that Abu-Jamal had the right to appeal.

“There is no evidence that Justice Castille was directly involved with the case as a prosecutor,” wrote Tucker, “but it would be difficult for a judge in his position not to view a case being reviewed on appeal that was handled by his office when he was the District Attorney, **as a criticism of his former office and perhaps of his own leadership.**”

Following Tucker’s decision, Krasner’s office filed notice on January 25 that it would be submitting a brief in opposition to Abu-Jamal’s request for a new appeals process. Krasner, who told The Intercept he was limited in what he could or couldn’t say about the ongoing litigation, repeatedly stressed that Tucker’s order could have ramifications beyond the Abu-Jamal case. “The opinion that was written by the court contained language that, potentially, **could result in having to rehear possibly thousands of cases**,” Krasner said. “Thousands.”

ABU-JAMAL’S ADVOCATES WIDELY celebrated Tucker’s decision and are very critical of Krasner’s position on the issue. Criminal justice reform advocates have also rebuked Krasner for the move.

Retired attorney Rachel Wolkenstein, who spent decades of her life fighting for Abu-Jamal’s freedom as an activist and represented him during the appeals process from 1995 to 1999, told NPR that the ruling was “the best opportunity we have had for Mumia’s freedom in decades.”

In an interview, Sam Spital, an attorney with the **NAACP Legal Defense Fund** who works on the Abu-Jamal case, said that Tucker’s ruling underscored the importance of a lack of bias in a case like Abu-Jamal’s. “This is an incredibly important principle,” said Spital. “The decision-maker, the judge, has to not have actual bias or the appearance of bias.”

Rebecca Kavanagh, a New York City based public defender, found Krasner’s decision to have his office fight Abu-Jamal’s appeal baffling — and a fall from grace for an inspirational figure who instituted a reformist agenda in his office. By attempting to block Abu-Jamal’s efforts to continue his appeal, Kavanagh said, Krasner betrayed the principles that put him into office and made him a national figure.

“It is difficult to read this as anything other than District Attorney Krasner **bowing to pressure from the police unions**, which was something we have not seen him do before,” wrote Kavanagh. “To do it now in this seminal case, to speak the usual spin we hear from district attorneys, but not normally from him, is profoundly disheartening.”

“I am no less concerned about all of the unfamous, poor, nameless people whose cases deserve individual justice.”

Krasner, in his interview with The Intercept, suggested that people invested in reopening Abu-Jamal’s case might unknowingly be ignoring how the ruling might affect other cases. “I understand that Mumia Abu-Jamal is a celebrity. I understand that his story, much like Meek Mills’s story, captured the interest of people because he’s a known figure,” said Krasner, referring to the rapper whose 2017 arrest brought attention to criminal justice issues in Philadelphia. “But I am no less concerned about all of the unfamous, poor, nameless people whose cases deserve individual justice.”

Kavanagh pushed back on that framing of the case. “There is nothing about doing justice for Mumia Abu-Jamal individually here that would somehow prevent justice being done for others,” Kavanagh said. “Krasner is clearly putting Mr. Abu-Jamal into a category separate and apart from other people who have also been targets of state-sponsored violence and corruption.”

Local activist Mike Africa Jr. said he suspected a different motivating factor for Krasner. In an interview with the District Sentinel on Wednesday, Africa said that Krasner’s decision to fight Abu-Jamal’s appeal was hard to understand — though it could have something to do with city politics. “He has a lot of pressure on him from the [Fraternal Order of Police],” said Africa, in comments emblematic of a lack of faith in the system. “And I know that he has a lot of pressure on him from Maureen Faulkner and that side of the politics.”

The police organization, which has referred to Abu-Jamal as “our country’s most notorious cop-killer” cheered Krasner’s decision. Philadelphia Police Foundation President John McNesby, a member of the city’s Fraternal Order of Police, called the decision to fight the appeal “the right thing to do” in January comments to Philly.com.

In support of his argument that the situation is more complicated than critics say, Krasner cited the fact that his office had turned over six boxes of previously unseen files to Abu-Jamal’s attorneys on January 10. Abu-Jamal’s supporters have said that the existence of so many files that had not previously been accounted for could be evidence of Abu-Jamal’s innocence.

“What these missing boxes represent is confirmation of what we’ve known for decades,” Wolkenstein told NPR. “**There’s hidden, exculpatory evidence in Mumia’s case**, and that is evidence that Mumia’s guilt was intentionally manufactured by the police and prosecution and the truth of his innocence was suppressed.”

The district attorney also acknowledged the political trickiness of the process. “This is a case that, no matter what decision you make, you’ll have a lot of upset people,” said Krasner. He said he hopes that “people on both sides take a breath, look at all the developments in the case, including our revelation of the existence of the six boxes we found and including our brief in this matter and understand that this is part of a decades-long period of litigation in this case, that doesn’t look like it’s going to end anytime soon.”

According to Krasner, decisions his office has made in the case thus far shouldn’t be seen as indicative of future choices in pursuing the case. The top priority for his office remains justice, the district attorney told The Intercept, making clear that he would attempt to find the balance between the interests of both sides. “As this case evolves, we will continue to try to make the right decisions and to see things in all their complexity and nuance,” said Krasner. “At the same time, we will try to do individual justice to all of the people affected by the case involving Mumia Abu-Jamal.”