

Facts About Rap Icons Godmother Assata's Trial

Written by Robert ID1756

Friday, 05 August 2005 05:01 -

The hip-hop and rap community and many politicians and community activist have come to the aid of Assata Shakur and many of us support the Hands off Assata Campaign, but still there are many who do not understand what happened to Assata and why the Million Dollar bounty is placed on her.

Assata Shakur is the godmother of the late hip-hop rap icon Tupac Shakur. With all the attempts to further the kidnapping of Tupac's godmother and political activist Assata Shakur, the 'Hands Off Assata Campaign' has been growing as a grassroots movement.

Now Evelyn A. Williams, a member of Assata's New Jersey trial legal defense team, and her appeal lawyer; gives us the facts in the New Jersey trial of Assata Shakur, and maybe thee facts will help all understand what really is going on with Assata's struggle.

STATEMENT OF FACTS IN THE NEW JERSEY TRIAL OF ASSATA SHAKUR:

Written by Evelyn A. Williams

As a member of Assata's New Jersey trial legal defense team, and her appeal lawyer, I think a correct statement of the circumstances of New Jersey Trooper Werner Foerster's death as established by exhibits, trial testimony and forensic evidence and that conclusively repudiate the revisionist lies now being advanced by the State of New Jersey as "fact", need to be repeated.

It is be remember that the only surviving eyewitnesses to the NJ Turnpike shoot-out were (1) Sundiata Acoli, (2) Trooper Harper, (3) Assata and (4) the driver of a car traveling along the NJ Turnpike at the time of the incident. Zayd Malik Shakur, a passenger, was killed during the shootout.

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1. Sundiata did not testify at trial, nor did he make any pre-trial statements.

2. Harper's testimony and actions are contained in the following documents (admitted into evidence)
 - a. The three official investigative reports prepared by Harper, in which he wrote that after he stopped the Pontiac, he ordered Sundiata to the back of the car to show his driver's license to Trooper Foerster who had arrived at the scene. That Sundiata complied without incident. That as he looked into the inside door of the Pontiac to check the registration, Foerster yelled at him and held up an ammunition clip. He stated that at the same time Assata reached into a red pocketbook, removed a gun from it and fired at him. That he immediately ran to the rear of his car and fired at Assata, who had emerged from the car, and was firing at him from a prostrate position alongside of the Pontiac. And it was at this point that he shot her. (admitted into evidence)

 - b. His Grand Jury testimony where he swore under oath to the truth of the statements he had made in his 3 official reports. (admitted into evidence)

 - c. Trial transcripts of his testimony at both Sundiata's and Assata's trials where he admitted, under cross-examination, that he had lied in all three of his official reports and in his Grand Jury testimony. That the truth was that Foerster had never shown him an ammunition clip; that Foerster had not yelled to him; that he had not seen a gun in Assata's hand while she was seated in the car; that Assata did not shoot him from the car; and that he had not seen a red pocketbook.

 - d. Audio tapes of the official recorded NJ Turnpike radio communications between all NJ State Trooper cars traveling the Turnpike near the scene of the shoot-out, dated May 2, 1973, which revealed that two additional turnpike patrol cars, those driven by Trooper Robert Palenchar and Trooper Woerner Foerster, had been ordered to aid Harper at the stop prior to the shoot-out. (admitted into evidence)

 - e. The verbatim, hand-written record of what transpired inside the NJ Turnpike Administration Building when Harper entered it at or about 1AM on May 2, 1973, to report the shoot-out to Sergeant Chester Baginski who was in charge of maintaining the official record of turnpike

occurrences on that (refereed to as the Station Bible). Harper reported that he had just been involved in a shoot-out after he had stopped a Pontiac containing three Black people, two men and a woman, that he had been wounded, and that the Pontiac was proceeding South on the turnpike. He gave the license plate number, but did not mention that Trooper Foerster had arrived at the scene. (admitted into evidence)

f. Audio tapes of the investigation conducted by Detective Sgt. First Class Richard H. Kelly in the Administration Building at 7:37AM that morning to determine why over an hour elapsed from the time Harper entered the Administration Building that night and the discovery of Foerster's body. Statements by each of the troopers present when Harper came into the Administration Building revealed that Harper had not reported Foerster's presence at the scene and that no one was aware of the fact that Foerster lay on the road beside his car in front of the Administration building for over an hour, when his body was accidentally discovered by Trooper O'Rourke who had left the Administration building to investigate the scene of the shoot-out, less than 200 yards away. (admitted into evidence)

3. Assata testified that Harper stopped the car without any known reason, shot her with her arms raised at his demand, and then shot her in the back as she was turning to avoid his bullets. Almost mortally wounded, and semi-conscious, she climbed into the backseat of the Pontiac to avoid further bullets. Sundiata drove the car five miles down the road and parked it, where she remained until State Troopers dragged her onto the road.

4. A driver traveling north along the turnpike at the time of the incident testified at trial that he had seen a State Trooper struggling with a Black man between a parked white vehicle and a State Trooper car whose overhead revolving lights lit up the area. He was unable to identify the Black man, and further stated that he saw no one else on the road or at the scene. He immediately reported what he had seen to New Jersey Police Headquarters.

It therefore remained only forensic evidence to help determine the facts of that night as much as they could be determined. The forensic evidence examined by both the New Jersey crime laboratory in Trenton, New Jersey and FBI crime laboratories in Washington, D.C. established the following:

1. The finger print analyses of every gun and every piece of ammunition found at the scene showed there were no fingerprints of Assata found on any of them. (The official analyses admitted into evidence)

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2. Neutron Activation Analysis taken immediately after Assata was taken to the hospital that night showed there was no gun power residue on her hands. Effectively refuting the possibility that she had fired a gun. (The official analyses were admitted into evidence)

3. As a result of the bullet Harper shot under her armpit, while her arms were raised in, her median nerve was severed, immediately paralyzing her entire right arm, shattering her clavicle, and lodging in her chest so close to her heart that an operation to remove it was not feasible. A neurologist testified to that fact at the trial.

4. A pathologist testified that "There is no conceivable way that the bullet could have traveled over to the clavicle if her arm was down. That trajectory is impossible."

5. A surgeon testified that "it was anatomically necessary that both arms be in the air for Ms. Chesimard to have received the wounds she did."

The state offered no expert witnesses to refute this medical testimony.

6. Photographs depicting the gunshot entry wound under her armpit and the entry wound of the bullet Harper shot into her back were admitted into evidence during the trial.

Therefore, since no evidence existed that proved Assata fired the bullet that killed Trooper Foerster, why was she found guilty of his murder? There are several explanations:

The first is that the climate of hatred, prejudice and racism that had so contaminated the Middlesex County jury pool in 1973 that a change of venue was ordered, continued to exist in 1977. The unanimous opinion of the 1973 jury pool was "If she's Black, she's guilty." After three defense motions for change of venue, Judge Leon Gerofsky granted the motion, stating, "It was almost impossible to obtain a jury here comprised of people willing to accept the responsibility of impartiality so that defendants will be protected from transitory passion and prejudice." The trial was then moved to Morris County where Assata's trial was severed from Sundiata's

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because of her pregnancy.

In 1977 Assata began trial for the second time in this same Middlesex County, and this time jury nullification was insured: The jurors chosen to determine Assata's guilt or innocence consisted of five jurors who were either relatives or close personal friends of state troopers or of state law enforcement officers.

However, Assata was not convicted of firing the shot that killed Trooper Foerster. She was convicted as an accomplice to his murder under New Jersey's "aiding and abetting" statute. Under New Jersey law, if a person's presence at the scene of a crime can be construed as "aiding and abetting" the crime, that person can be convicted of the substantive crime itself. Judge Theodore Appleby charged the jury that they were permitted to speculate that Assata's "mere presence" at a scene of violence, with weapons in the vehicle, was sufficient to sustain a conviction of the murder of Trooper Foerster. She was also convicted of possession of weapons – none of which could be identified as having been handled by her and of the attempted murder of Trooper Harper, who had sustained a flesh wound at the time of the shootout.

Now, 32 years after her conviction, a new, fabricated version of Foerster's death has emerged:

There is absolutely no evidence to support statements made by Col. Joseph R. Fuentes, superintendent of the New Jersey State Police, who said that "It was later determined that Werner Foerster's service weapon was ripped from his holster as he lay wounded on the pavement, and he was executed with two shots to the head from his own service weapon."

But his motivation for making those statements is clear:

1. To justify Assata being placed on the domestic terror watch list along with Osama bin Ladin. He said, "Anyone with a mindset that would execute a police officer once they were on the ground is dangerous enough to be considered a domestic terrorism threat." But Assata is the only person convicted of a single domestic crime who has been classified a terrorist and put on the terrorism watch list, thereby nullifying the very definition of "terrorism"

2. To justify the \$1 million dollar bounty to be paid from tax payers money. He said, "The reward money should make Chesimard a much more attractive quarry for professional bounty hunters."

New Jersey State Assembly Speaker, Albio Sires, a longtime member of CANF (Cuban American National Foundation, representing Cuban exiles), said: "If Cuba's citizenry could be informed of the \$1 million bounty and the real story of Chesimard's crimes, there is an increased likelihood of her being brought to Justice.... We want the Cuban people to know the real story about Joanne Chesimard and not the deceptive representation advanced by the Castro regime. We want people to realize that she is not a hero and she is really a violent criminal who is wanted for killing a State Trooper and escaping justice."

By falsely asserting that Assata shot Foerster in the head while he lay helplessly on the ground, killing him "execution style", the US Justice Department hopes to strip Assata of any of the sympathy and political support she now receives in the United States and from the citizens of Cuba. By labeling her a cold-blooded cop killer, the hope is that the real circumstances of the NJ Turnpike as well as all the years prior to that event during which time Assata was relentlessly hunted with the stated purpose of killing her on sight for having committed crimes of which the government knew she was innocent, will be forgotten.

But even as official lies are now being manufactured to convert Assata into a terrorist, so that Cuba can be accused of "harboring a terrorist" and to justify kidnapping her, there are, in fact, two well-known and admitted, convicted terrorists who are now being given safe harbor in the United States.

The US government has refused to extradite admitted terrorist, Luis Posada Carriles, (charged with the shoot down of a Cuban airliner in 1976, killing 73 civilians and convicted of other terrorist acts including the Bay of Pigs). The US government has also refused to extradite Posada's convicted fellow terrorist, Orlando Bosch, who escaped from Venezuela and came to Miami in 1987 with the assistance of the CANF, Jeb Bush and his father, the then US Attorney, Gonzalez, who personally approved the bounty, also approved prisoner torture at Abu Ghreb. Or that the approval came after New Jersey resident, Michael Chertoff, was named Secretary of the Department of Homeland Defense.

There are the facts. Let us not forget them.

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