

BUFFALO CHIP

Fall 2001

QUESTIONS ABOUT THE CASE: CHAPTER THIRTY-ONE

First-time readers of *Buffalo Chip* may be unaware that Ed Poindexter and Mondo we Langa have been incarcerated by the State of Nebraska for the past thirty-one years, for the 1970 bombing murder of Omaha policeman Larry Minard. Ed and Mondo (formerly David Rice) were members of the National Committee to Combat Fascism, an offshoot of the Black Panther Party, and so were targets of the FBI's 60s COINTELPRO operation, which targeted civil rights activists and attempted to destroy their effectiveness.

In 1980, former FBI Director L. Patrick Grey and Edward S. Miller, former FBI official, were convicted of having "conspired to injure and oppress the citizens of the United States," primarily through COINTELPRO. Prof. Ward Churchill, who has written extensively about COINTELPRO, has noted that neither Grey nor Miller spent a day in jail as a result of their convictions. Why? In April 1981 President Reagan interrupted their appeals process to announce he was pardoning them, since their misdeeds had occurred during an especially turbulent and divisive period in our history, and it was time to "put all this behind us, and to forgive those who engaged in excesses" during the political conflicts of the era.

Yet Ed and Mondo are only two of a number of victims of the FBI's COINTELPRO operation who remain in prison, while those who committed the crimes against them were pardoned. *Can't Jail the Spirit*, first published in the 1970s and reprinted in the 90s, tells the stories of some of them. Only a few, like former Black Panther Geronimo Pratt, have succeeded

(cont. on p.5)

RECONCILIATION

Since 1994, when *Buffalo Chip* was first reincarnated (Mondo named Omaha's 60s underground paper "*Buffalo Chip*"; we have called for an end to human rights abuses by the U.S. justice system: police forces, courts and prisons. We have published news items from nationwide sources demonstrating that our justice system is in trouble and too many people are in prison.

Now, as we all wonder when the next terrorist attack will be, the world is watching to see how we will defend the freedoms guaranteed in our Constitution. We are challenged to prove that we care about the rights of every human being. Yet we now live in a new climate of fear, and those accused and those in prison are in greater jeopardy than ever. Those who seek justice are at our mercy, and if ever there was a time to be merciful, it is now.

There are signs, however faint, that the terrible events of September 11 may have eased some of the tensions between Americans. We can hope that this attack on all of us might bring some kind of reconciliation in this case, which has damaged so many innocent families.

An October headline in *The New York Times* reads: "Sept. 11 Attack Narrows the Racial Divide." The story, by Somini Sengupta, goes on to describe many examples of reconciliation between police and people of color, and between the many ethnic groups who have been so at odds with each other in our country.

In Brooklyn a crew of black and Latino teenage boys say they can no longer think of the police as enemies -- and they say that police patrolling their neighborhoods (most of whom are white) no longer eye them with sus-

(cont. on p.4)

Throwing Away the Key

Catch 22, Chapter 31

by Mondo

In March 1993, the Nebraska Parole Board, led by chairwoman Ethel Landrum, voted to recommend to the Board of Pardons that my life sentence be commuted to a specific term of years, thus making me eligible for parole. In Nebraska, a person sentenced to life on a first-degree murder conviction cannot be considered for parole unless the Board of Pardons – consisting of the Governor, Secretary of State, and Attorney General – commutes that life sentence to a specific number of years.

Since I am an African and, at the time of my arrest, was a member of the Omaha, Nebraska chapter of the National Committee to Combat Fascism (NCCF), the organizing arm of the Black Panther Party, the Parole Board decision ignited a firestorm of controversy. Police spokesmen and politicians in particular condemned the action and spoke as if they wanted the heads of the members of the Parole Board – in particular, that of Chairwoman Ethel Landrum, an African. The *Omaha World-Herald*, predictably, editorialized against the board recommendation and urged that I be kept in prison. Surprisingly, the *Lincoln Journal-Star* praised the Parole Board vote and suggested that my release into the community would not be a threat to its safety.

Some months after the recommendation, I filed application to the Board of Pardons for a hearing that I had been wrongly tried and convicted, and called upon the Board either to release me or to commute my sentence to a specific term of years. A spokesman for that body had stated that the Board of Pardons could exercise such authority in a case it determined to be a "travesty of justice." Secondarily, my application was based on the amount of time I had done in comparison with the amount done by other lifers whose sentences had been commuted, and on my prison record – no acts of violence, not a single fight, no escape attempts nor other actions that could be interpreted as constituting a threat to institutional safety. The application also cited my

(cont. on p.3)

Actual Innocence, by Jim Dwyer, Peter Neufeld and Barry Scheck (New York: Doubleday, 2000) by Nan Graf

The authors of *Actual Innocence* repeatedly emphasize that most state laws do not enable easy release of the wrongly convicted: only California, Illinois and New York provide adequate legislation for release of the innocent. The other 47 states have the support of Chief Justice William Rehnquist, who wrote the U.S. Supreme Court opinion that the federal courts "do not have to entertain claims of innocence." He suggested that prisoners who maintain their innocence should ask governors of their states for clemency or pardons. Anyone with questions about where this might leave Ed and Mondo should read Mondo's piece in this issue.

Actual Innocence demonstrates the politics surrounding an innocent person's battle for justice and release with the case of Walter Snyder, who was proved innocent via DNA testing -- but ineligible for release by the state of Virginia. Governor Winder finally did show political courage by granting Snyder a pardon in an election year, after he was persuaded by the Innocence Project attorneys that Snyder was wrongfully convicted.

In Nebraska the innocent person must deal with not one, but three politicians to gain a pardon: the Governor, Attorney General and Secretary of State -- and must win 2 of their 3 votes. Though both Ed Poindexter and Mondo we Langa have consistently maintained their innocence, and though evidence abounds that they were victims of the FBI's COINTELPRO operation, the Nebraska Board of Pardons has refused even to grant a hearing to listen to the exonerating evidence they've collected since their trial -- including thousands of pages of FBI files, both on Ed and Mondo individually, and on COINTELPRO abuses against civil rights activists during the 60s and 70s.

When Angela Davis came to Nebraska

(cont. on p.4)

Catch 22 (cont. from p. 2) involvement in the Harambee Afrikan Cultural Organization and other prisoner groups; my writing of published essays, poems, and other accomplishments; and the fact that I had been out of the institution thirteen times on travel orders;

In December of 1994, New York attorney Lennox Hinds, my lead council, and local attorney John Stevens Berry, appeared at the public meeting of the Board of Pardons to ask that I be granted a hearing on my application. After long and often heated exchanges, Hinds charged the Board of Pardons – in particular, some people’s Governor Ben Nelson, and some people’s Attorney General Don Stenberg – with making a game of the process, and walked out of the hearing room.

Hinds was specifically referring to the Board’s grounds for refusing to grant me a commutation hearing: that my record over the previous five years contained disciplinary reports, and the Parole Board’s policy required that any person serving a life sentence on a first-degree murder conviction must have five years without any disciplinary reports before the Board of Pardons could recommended commutation. In actual practice, the Parole Board only considered in this requirement reports of a serious nature, involving loss of “good time” and or time in solitary confinement. The Chairwoman of the Parole Board made this clear in her testimony at the hearing. The Board of Pardons, however, chose to take into account *any* disciplinary reports in my case, no matter how minor and/or petty.

After the 1994 Pardons Board refusal to hear my case, the public controversy continued. In spite of this, the Parole Board for the next five years maintained its policy of using only reports of a serious nature to withhold recommendations for commutation or parole of a prisoner. The few reports against me were minor, and despite a number of personnel changes, including the departure of Ethel Landrum, who moved to a position in the federal probation system, the Parole Board annually continued to recommend commutation of my sentence.

Then in March of 1999, at my annual ap-

pearance before the Parole Board, I was informed that this time I would not be recommended for commutation. The Board had devised a simple plan to insure that it would not find itself in the position of having to consider me – or any other person serving a life sentence – before them.. The Parole Board had changed its policy, and decided that hereafter even the most minor disciplinary report would make a prisoner ineligible for parole or commutation. Under these new criteria, I am not eligible for Parole Board review until the year 2003.

Under this revised policy, persons doing life sentences will certainly be disqualified for consideration, because there are so many rules in this joint that no prisoner can know them all. Moreover, many of these rules have no bearing on the safety or “good order” of the institution, constitute unreasonable restrictions on our being, and/or actually promote disrespect for authority.

For example, if a prisoner is so criminally inclined as to want another prisoner to keep up with the news of the day and is seen allowing another prisoner to read his newspaper or magazine, he may receive a disciplinary report, in which he will be charged with “passing or receiving” and “giving, or loaning, or selling items to others.” The recipient of the publication may be charged with “possession of unauthorized items.” In addition, disciplinary reports will probably contain the charges of “disobeying direct orders” (whether an order has been given or not), “disruption of authorized duties” (despite the fact that issuing disciplinary reports is an authorized duty of guards and other staff), and “violation of regulations.”

Or consider the matter of visiting. A prisoner is allowed to kiss and hug a person in the visiting room once at the beginning of the visit and once at its conclusion. Should he get in an “extra” kiss and/or hug, he is subject to a disciplinary report and may have the visit terminated. Aside from any charge(s) directly related to his violation of the imposed visiting decorum, his disciplinary report will contain the charges of “disobeying direct orders,” “disruption of authorized duties,” and “violation of regulations.”

The ultimate weakness of violence is that it is a descending spiral, begetting the very thing it seeks to destroy. Instead of diminishing evil, it multiplies it ... Through violence you may murder the hater, but you do not murder hate. In fact, violence merely increases hate ... adding deeper darkness to a night already devoid of stars. Darkness cannot drive out hate; only love can do that.

Martin Luther King

MONDO (cont. from p. 3) To cite one more example, should a prisoner purchase a jar of coffee from the prison store and eventually keep the plastic jar and lid after it's empty — maybe for the purpose of having something cool to drink on the yard in the summertime — he may receive a disciplinary report, which may include such charges as “possession of contraband” and/or “possession of unauthorized articles,” “disobeying direct orders,” “disruption of authorized duties,” and “violation of regulations.” These last three charges are included in most disciplinary reports that are written and maximize the chances that a prisoner will be found guilty of something.

Though I've been locked up for more than thirty years, I am fortunate in that I have loved ones and supporters who work together with attorneys and others, because they know that I am here wrongly, and they know that the “justice” system mocked justice in the process by which Ed Poindexter and I were tried and convicted. But for most prisoners here there is no such support. Most who are doing life sentences on first-degree murder convictions will have to rely solely on the Board of Pardons and Parole Board if they are to leave this place alive. Many of the people who are locked up in here are decent human beings. And of course, there are some in here, as there are on the outside, who are not so decent. Whatever the case, neither the Parole Board, the Board of Pardons nor the Department of Corrections has the moral prisoners and their families and other loved ones. Since these institutions apparently do believe they have this right, they should rip away at least some of the pretense and simply notify the public that they can and shall do what

they please. authority to play with the lives and destinies of prisoners and their families and other loved ones. Since these institutions apparently do believe they have this right, they should rip away at least some of the pretense and simply notify the public that they can and shall do what they please.



Graf's Book Review (cont. from p.2)

in August 2000 to speak on behalf of Ed's and Mondo's release, she emphasized that they would have been released before now if they were murderers; it's because they are political prisoners who spoke out against police brutality in the black community that they remain in prison.

At the end of *Actual Innocence*, Dwyer, Neufeld and Scheck tell readers that “All wrongfully convicted people take the lash of punishment for someone else's crime.” This can serve as a reminder to supporters of Ed and Mondo that the real killer of Officer Minard is still out there somewhere, and needs to be apprehended.



HOW YOU CAN HELP:

Write to the Nebraska Board of Pardons, P.O. Box 94754, Lincoln, NE 68501 (Governor Mike Johanns, Secretary of State John Gale, and Attorney General Don Stenberg), and share your thoughts on whether they should hold hearings to provide a public forum so that persons claiming innocence can present evidence that has come to light after a prisoner has exhausted attempts to get a court hearing.

AND:

Write the Nebraska Parole Board, P.O. Box 94754, Lincoln, NE 68509-4754, and tell them whether you believe they should reinstate their earlier policy and consider only serious offenses when determining eligibility for parole.

QUESTIONS (*cont. from p. 1*) in finding the hidden "smoking gun" which so indubitably established his innocence that even the most conservative judge and prosecutor must finally relent. He was freed in 1997 after 26 years in prison.

Many who knew Ed and Mondo had serious doubts about their guilt. Then, when passage of the Freedom of Information Act in the 1970s forced the FBI to provide information gathered through COINTELPRO, Ed and Mondo began to receive their files — and the doubts became convictions.

Local supporters are not alone in their belief that Ed and Mondo at least deserve to be heard, and that the public deserves to know the details of what happened to them. Amnesty International (AI) adopted their case and assigned it to the AI chapter in Bremen, Germany. AI has been active in monitoring the case since 1990, when it first called either for release or a new trial.

These are a few of the reasons that Nebraskans For Justice, a non-profit organization formed to monitor human rights abuses in the U.S. justice system, particularly in Nebraska, decided to adopt their case and work to free them. For new readers, here is some background.

On Monday, Aug. 17, 1971, a few minutes past 2 a.m., a police dispatcher in Omaha got a 911 call which lured police to a vacant house at 2867 Ohio Street where a suitcase bomb was planted. The bomb exploded, instantly killing Officer Larry Minard, a 7-year veteran and father of five. Seven other officers were injured.

As members of the National Committee to Combat Fascism, an offshoot of the Black Panther Party, David Rice, 23 (who has since changed his name to Mondo we Langa), and Ed Poindexter, 25, were prime suspects. They very ostentatiously monitored police behavior in the black community. They were constantly harrassed by local and federal law enforcement. Another suspect was 15-year-old Duane Peak, who was the main witness against Rice and

Poindexter at their trial. Peak testified that they devised the plan and made the bomb, and that he did their bidding by putting the suitcase at 2867 Ohio Street and making the bogus 911 call. Rice and Poindexter were arrested, tried and convicted, and given life sentences.

It's now been over three decades since the events at 2867 Ohio Street that took a policeman's life, but this Nebraska human rights case won't go away. Past issues of *Buffalo Chip* have addressed some of the questions that make so many people think Ed and Mondo did not commit this crime.

For example, the 911 tape: there are those who insist that the voice they hear on the tape is not Duane Peak's. If that's true, then the prosecution's case against Ed and Mondo falls apart. Another issue of *Buffalo Chip* questioned allegations that particles of dynamite were supposedly found on Ed's and Mondo's persons.

But if you're innocent and convicted anyway, you've got a long row to hoe. The Supreme Court continues to narrow opportunities for the incarcerated innocent to be heard -- the Court has actually ruled that the federal courts "do not have to entertain claims of innocence." Instead, those who claim innocence are told to go to state Pardons Boards for redress.

This puts the innocent in a Catch 22 trap: state officials say that's not their job. In the punitive, retributive climate of the past 20 years, no matter how exemplary a prisoner's life and behavior may be, no matter how little threat that prisoner may pose to society -- and no matter how much evidence is presented that casts doubt on the fairness of the trial or the innocence of the petitioner -- parole and pardons boards have become more and more restrictive in their criteria for pardon, parole or commutation. These bodies are made up of elected and appointed officials who must be urged to summon up the political courage to agree to at least a formal hearing on claims of innocence or unfairness, so that the massive amounts of information gathered in cases like Ed and Mondo's can be heard in a public forum

In spite of these obstacles, Mondo we
cont. on p. 6

QUESTIONS (cont. from p. 5) Langa and Ed Poindexter continue to maintain their innocence and their hope that that innocence will be proven. Their supporters are convinced that the true murderer of Officer Larry Minard remains at large. If this is so, the state of Nebraska has stolen the lives of two innocent men, not because of what they did thirty-one years ago, but because of what they said.

Nothing will change until citizens demand that their elected officials uphold human rights in the justice system. It's time for "forgiveness" to be extended to the victims of COINTELPRO, as it was over two decades ago to its perpetrators.

Yet, in the face of what must be an almost unbearable burden -- what could be worse than false imprisonment? -- Ed and Mondo continue to set an example of courage and patience for those working for them. And there is hope. Nebraskans for Justice has recruited a dedicated team of attorneys, and continues to gather new information about the case.

We thank our readers for their generous support, which allows us to bear the costs incurred in our efforts to free Ed and Mondo after far too long a time. Please help if you can.. Make checks to Nebraskans for Justice, P.O. Box 4307, Omaha, NE 68104. Thank you!

RECONCILIATION (cont. from p. 1) picion. And several Haitian-American groups -- formerly highly critical of NYPD -- have written a local police chief expressing admiration for the officers. Louis Johnson, 18, the child of Trinidadian immigrants, said it had been routine for police to follow him. Now, he says, "they don't really bother us. They ... stop everyone that has Middle Eastern features." [Another story]."

The boys don't feel the same, either. "I just thought of myself as black," Mr. Johnson said. "But now I feel like I'm an American, more than ever. Miqueo Rawell-Peterson, 17, noted that the police were among the first to rush into the burning towers. "Now," he said, "we look at [the police] more as heroes, instead of -- I guess, what you'd say, enemies."

Street cops call this going "from zero to hero" as people smile and say thank you. "Everyone's taken a second look at how they conduct themselves, said Lt. James Woods, of Brooklyn South patrol office. "There's a lot more public display of ... kindness."

A resident of Greenpoint, Brooklyn, describes the change in his neighborhood pizzeria. Before September 11, there was the usual New York jostling among loud and rambunctious black and Latino boys, prompting dirty looks from the elderly Polish women. Since September 11, the boys come in quietly. They ask the women if they've ordered. The women look at them, step aside and say, "Go ahead."

Richard Greene, director of Crown Heights Youth Collective, attributes the change to the terrorist attack. "Absolutely, it has altered human relations. Race has a piece in that. Everyone in New York has had a sobering wake-up call as to our frailty as human beings."

Now is the time for reconciliation -- and not just in New York.



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