

NEW YORK 3 FREEDOM CAMPAIGN NEWSLETTER

(Herman Bell, Anthony 'Jalil' Bottom & Albert 'Nuh' Washington)

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Vol 1 No. 1

Who Are The New York 3?



Albert Washington

Herman Bell

Anthony Bottom

Herman Bell, Anthony 'Jalil' Bottom and Albert 'Nuh' Washington, (collectively known as the New York 3) are former members of the Black Panther Party and the Black Liberation Army who were convicted in 1975 of the assassination of two New York City police officers (Waverly Jones and Joseph Piagentini). They were sentenced to 25 years to life. That's all that the state of New York and the government of the United States would have you know and believe the New York 3 are. Within these pages we will attempt to tell you the rest of the story.

HERMAN BELL

On January 14, 1948 I was born into a family of sharecroppers in rural Mississippi. Sharecropping was feudalism in a modern day form in which white landowners were the feudal lords and Black field hands were the peasants or serfs.

In July 1955 I went to live with my father in Brooklyn, NY and as the cultural shock diminished I

observed the world through new eyes. During my early high school days I became a talented football star and later won a scholarship to play in the Bay Area.

In the fall of 1967 I arrived in Oakland, California on my football scholarship and shortly thereafter met the sister who later became the mother of our two sons, Johnas and Keith. The Vietnam War was escalating and many young Blacks were sent to fight a

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Herman Bell (continued from page 1)

people they knew nothing about and while so many of them returned home in body bags, others returned on crutches, mangled and maimed and psychologically scarred. College students demonstrated in the streets and on the campus and some of them were killed by national guardsmen sent in to quell the rebellion. Malcolm and Dr. King had been murdered.

Joining the Black Panther Party

For me, joining the Black Panther Party was the most logical step to take as I strongly identified with its survival programs and its efforts to politically educate and organize the Black community. Then came COINTELPRO whose mission was to destroy all Black political organizations in America at any cost and by any means necessary.

It is responsible for the death and imprisonment of a major segment of the Black leadership of the 60s and 70s, and after it covertly disrupted targeted organizations, the government embarked on armed, search and destroy missions under the guise of BLA related "criminal" investigations.

In January 1971 I went underground because of a relentless FBI and police attack on the Party. Revelations that Party leadership had reached irreconcilable differences merely added fuel to the fire. Given the prevailing circumstances one either went underground or left the country. I chose to stay, as did many of my comrades, and in anticipation that some of us would stay the authorities continued to beat the bushes in search of us.

Capture and Imprisonment

On September 2, 1973 I was captured, extradited to New York on trumped up charges of having killed two NYC policemen, and railroaded to prison for life with no possibility of parole until after serving twenty-five years. Under COINTELPRO there were frameups as part of a (successful) strategy to criminalize the Black Liberation Movement.

Since our capture and subsequent imprisonment we, political prisoners, have been singled out for special treatment (placement in behavior modification units) in an attempt to get us to renounce our political beliefs and

to break our spirits. Shawangunk Prison has such a unit. I am in it now* - but in opposition to our placement in here we locked in our cells on 10/5/88 and refused to come out and we are still locked in.

In closing, I find it necessary to tell you that we get no support from you, nor does the Black Liberation Movement as a whole because it has been successfully criminalized by the government, which is why so many of you young people and older activists flock to Central American demos and organizations but ignore your own social movement.

Poor organization and ineffective

leadership is partly responsible for your attitude but what of your attitude toward your future and the future of your children? You should know that the life

expectancy of our people is on a serious decline. In the 60s and 70s our people organized forums to address our problems and then mapped out a plan of action and took to the streets. Today you seem disinclined to be assertive in dealing with the very things that determine the quality of our material existence. Without sacrifice there can be no victory!

(*Herman wrote this piece in 1988. He is no longer at Shawangunk, but has been transferred to Eastern Correctional Facility at Napanoch.)

**The Support for
Political Prisoners
must be ongoing
and continuous.**

Anthony 'Jalil' Bottom

I was born October 18, 1951 in Oakland, California, the first of four children in my family. My early years were spent in San Francisco.

During the civil rights movement I participated in NAACP youth organizing and was one of many who engaged in street riots against racism and police brutality in San Francisco. At the age of 16 1/2, on April 4, 1968, the night Martin Luther King, Jr. was assassinated, the BSU Chairman of San Jose State and City College, myself and a couple of high school students were arrested in a car for possession of high powered rifles and molotov cocktails. After the assassination of Rev. King I began to believe a more militant response to national oppression and racism was necessary and (Continued on Page 3 Column 1)

Anthony 'Jalil' Bottom (*Continued from Page 2 col. 2*)

began to look towards the Black Panther Party for Self-Defense for leadership.

I became affiliated with the Black Panther Party when I was 18 years old. Having moved back to San Francisco from San Jose, I was recruited into the Black underground by old elementary school friends who had since become Panthers.

Less than two months from my twentieth birthday I was captured, along with Albert 'Nuh' Washington in a midnight shoot-out with San Francisco police. I was subsequently charged with a host of revolutionary underground activities, including the assassination of two NYC police officers, for which I'm currently serving a life sentence.

Having been imprisoned since 1971, Nuh and I are two of the longest held Black political prisoners outside of South Africa. Two others are Elmer "Geronimo" Pratt and Romaine "Chip" Fitzgerald.

Since my imprisonment I have been held in four major maximum security prisons in New York State. It was while in the infamous Adjustment Center in San Quentin, celled next door to the indomitable Ruchell Magee, that the idea was first generated to petition the United Nations on the existence of political prisoners in the United States.

Petition to United Nations Initiated

Hence, in 1976 I launched the National Prisoners Campaign to Petition the United Nations. With Sundiata Acoli being the East Coast representative, and many BLA comrades in prisons across the country supporting this endeavor, along with a thousand progressive prisoners signing petitions, we successfully had a petition submitted and discussed in Geneva, Switzerland. This effort created the conditions for Lennox Hinds and the National Conference of Black Lawyers to have the UN International Commission of Jurists tour U.S. prisons and speak with specific political prisoners. The International Commission of Jurists then reported to the UN Subcommittee on Discrimination and Treatment of Minorities, and other UN bodies, that political prisoners did in fact exist in the United States.

Presently my co-defendants on the 1975 New York conviction, Herman Bell and Albert 'Nuh' Washington and I, known as the New York 3, are fighting for our release from prison. We have since

learned via Freedom of Information Act (FOIA) documents that this case had been under the direct investigation of a Nixon White House inspired conspiracy to imprison members of the BPP/BLA group. This conspiracy was developed on May 26, 1971 in a White House meeting and code named "Newkill". This meeting occurred five days after the May 21, 1971 assassination of the two New York City police officers.

We have since learned that the prosecutor withheld thousands of pages of exculpatory material in collusion with the FBI and the Nixon administration. We now possess Newkill documents with the signatures of "Watergater" John Erlichmann and FBI Director J. Edgar Hoover, and with specific instructions to ensure a coverup of Newkill, and that all such information be withheld from our defense attorneys. This includes an FBI ballistics report that determined the weapon claimed to have been used by me could not be conclusively determined to be the murder weapon. Witnesses had been tortured, bribed and imprisoned in order to obtain a conviction.

This is the only BPP/BLA case in which the prosecutor made millions of dollars in writing a book and having a TV movie aired on CBS.

The case of the New York 3 is one of the most significant political prisoners of war cases since the BPP leadership trials. In this case progressive people will learn to what extent the government will act to imprison those persons they feel are a threat to continued practices of national oppression and racism.

Albert 'Nuh' Washington

My name is Albert Washington. I am a political prisoner. I am called Nuh (NOah) and, like a handful of others, I am one of the longest held political prisoner in this country.

As a member of the Black Panther Party I worked to raise the political consciousness of Black people and teach them self-defense. The government-sponsored COINTELPRO created situations that led to the split in the Black Panther Party and forced many of us underground. Underground, we became the Black Liberation Army and engaged in active self-defense. In defending the Black community in San Francisco I was shot and captured along with Jalil Abdul Muntiqim (Anthony Bottom). Later I was charged with killing two

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ALBERT 'NUH' WASHINGTON
Continued from Page 3 Column 2

New York City police officers along with Jalil and Herman Bell.

Taught Political Education

The state has conceded that I have committed no act, but that I taught political education classes. For that I have been sentenced to life imprisonment and subjected to the tightest security, not only in the states of California and New York, but in the country as well.

Just recently, I have been moved to a prison over 400 miles from New York to isolate me from my family, friends and other prisoners.* Special orders were put on me and I have been placed in a unit which houses 42 prisoners. There are seven or more on my tier. This block is called the White House because the majority of prisoners in it are white. The place has a triple fence, sensors, and cameras. I see only the sky in the yard which I go to by myself. All movement is controlled and mine is more controlled. I can take 2 1/2 steps back and forth in the cell, 96 paces around the yard. This is the only prison in New York where your family and friends can not bring you anything. The light is always on outside the cell so my cell is never dark. Prisoners are encouraged to buy televisions and talk with the staff about themselves and others.

I am a political prisoner because I spoke out against racism and oppression. There is also another aspect to this imprisonment and that was in overcoming the negative life open to Black youth. My parents gave me love and I, in turn, tried to give it to others. Blacks are encouraged to be self-centered and individualistic and thus be weak against resisting organized oppression.

My family instilled in me values and a sense of pride in myself, family and people. They were always there. I am not allowed family reunion visits because I am considered a high-security escape risk, while others who have escaped can get them. It is now harder for my mother to visit me. My friends must make plans to get here. I have not held my wife in a long time.

I tell jokes and educate my fellow prisoners, which is why I am transferred a lot. The Black Panther Party is physically gone but the spirit lives in a lot of us. Just recently a brother asked me for the goals and rules of the Black Panther Party, and a few people wish to be part of it again.

Eighteen years as a prisoner and the memory of

being with the people still brings a smile to my face and it is something I share with my fellow prisoners. The concept of unity, movement and love.

I am a Prisoner of War as well as a Political Prisoner because of the historical and contemporary acts of war carried out against Blacks/New Afrikan people inside and outside these United States by the government and those who believe in white supremacy.

There is very little in here of me yet it is all me. I am kind to my fellow prisoners and I feel for others. I would like to take a walk at night and hug my baby.

I'd like to do all the things that people take for granted in their so-called freedom. Not being able to touch and share special moments with another makes one generalize. I tell myself I am all right, but who can be all right after all these years under these conditions? Still, I am in command of my politics.

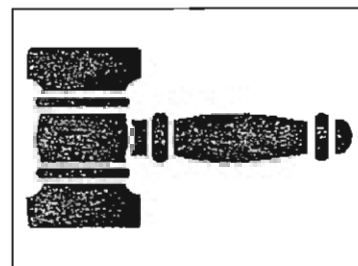
I can laugh and love, so the damage is not that bad. Whatever strength I have comes from the knowledge that I am a political prisoner and the things we stand for were/are correct.

(* Albert Washington is no longer at Wende Correctional Facility. He has since been moved to Auburn Correctional Facility and another political prisoner/prisoner of war, Robert 'Seth' Hayes, is now at Wende.)

HOW WERE THE NY3 DENIED A FAIR TRIAL?

The first time the NY3 were tried for this crime, 10 jurors voted to acquit Nuh and 5 insisted that no case had been proved against Herman or Jalil. At the second trial,

before a different judge, all three were found guilty and sentenced to terms of 25 years to life in prison. The small portion of their FBI files which the Three had been able to pry loose, together with the testimony at their trials and some inadvertent slips in a book by their chief prosecutor, Robert Tanenbaum, show that the second verdict was the result of pervasive misconduct on the part of the police, the District Attorney's office and the judge.



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How Were The Three Denied A Fair Trial

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1. The prosecution concealed an FBI ballistics report which showed that the gun found in Jalil's possession when he was arrested in San Francisco and introduced against him as a murder weapon had NOT been used in the killings. The FBI lab found that bullets from a test firing of the gun taken from Jalil did not match the bullets the police had recovered from the assassination scene and the bodies of the victims. The prosecution had a NYCPD ballistics expert falsely testify that his tests, showing that the same bullets did match, were the only ones ever done on Jalil's gun. Although former prosecutor Tanenbaum now swears that he never saw or heard about the FBI ballistics report, FBI documents show he not only had the report before trial, but personally assured the Federal Bureau of Investigations that he would conceal it from the court and the defense--along with other FBI documents the NY3 still have not been allowed to see.

2. Herman's friend and co-worker, Ruben Scott, was beaten unconscious by New Orleans police, tortured with a cattleprod and needles to his testicles, and told he would not have to serve any time on a pending murder charge if he testified against the NY3. Scott proceeded to make up a series of conversations and events that seriously incriminated Herman. At his first opportunity for what he thought was a private conversation with an impartial official, however, Scott confided to trial Judge Edward Greenfield that these were lies designed to placate the police. Instead of taking steps to protect Scott, the judge returned him to police custody and notified only the prosecution that he was wavering in his testimony. Judge Greenfield withheld this information from the defense for 5 1/2 crucial weeks while NYCPD detectives who had been present when Scott was tortured in New Orleans persuaded him to testify as planned. Since the trial Scott has sworn that what he told the judge was true and that he lied on the witness stand because he feared for his life.

3. Two women friends of the Three were jailed for 13 months and told they would lose custody of their young children if they refused to say what the prosecution wanted. Each was rewarded for her cooperation with a stipend of \$150 a week plus rent for an apartment newly furnished by the State. (One later boasted she had never lived so well!).

4. The FBI and police were unable to explain a series of irregularities which cast doubt on their claim that Herman's fingerprints were on a car parked near the

assassination scene. In the process two police witnesses insisted that another print from the same car could not be identified. Late in the trial, however, the defense learned that prosecutor Tanenbaum had--with Judge Greenfield's permission--secretly altered the evidence to hide the fact that he and the police knew all along that this print belonged to a potential suspect whose existence was being concealed from the defense. The judge barred lawyers for the NY3 from informing the jury about the suspect or the perjury and cover-up.

5. Apart from Jalil's possession of a gun that supposedly had been used in the assassination, the government's case against him rested mainly on dubious identification by eyewitnesses. At a pre-trial lineup one such witness had "thought" Jalil "might be" one of the killers, while four others said he "definitely was not". But after extended discussion with Tanenbaum and the police, who destroyed the records of what photos they were shown, two eyewitnesses testified that it definitely was Jalil after all.

6. Despite these contrivances, there still was no evidence against Nuh (who had nearly been acquitted in the first trial) other than his political beliefs and associations. Judge Greenfield hid the inadequacy of the prosecution's case by acting throughout his instructions to the jury as if all the evidence applied equally to all three defendants. He consistently lumped the three together and refused to indicate what had been proved against each.

7. Greenfield also barred defense attorneys from asking FBI and police witnesses about their agencies' policy of lying to discredit Black militants and to get them convicted on false charges. He improperly limited other cross-examination, ruled out testimony about violent splits in the BPP (which would have explained why the defendants had been armed) and denied the defense access to records of the payments that the prosecution had made to its witnesses. During his generally biased charge to the jury, Greenfield held up (but declined to read or pass out) what he said was a list of the dozens of witnesses whom he sarcastically and erroneously claimed the jurors would have to condemn as deliberate liars in order to vote for acquittal. When a juror reported receiving threatening phone calls which he thought were from the BLA (but could have come from law enforcement agents seeking to discredit the defendants and turn the jurors against them). Greenfield refused to declare a mistrial or even to ask if other jurors had similar experiences. Throughout the proceedings, the judge made clear to the jury--through his comments, facial expressions and tone of voice--his abiding disdain for and disbelief in the defense.

HOW HAVE THE NY3 BEEN DENIED AN IMPARTIAL POST-TRIAL REVIEW OF THEIR CONVICTIONS?

1. All three convictions were upheld on appeal without any written opinion or other explanation from the court. Such a procedure is virtually unprecedented in a case like this, which involves a severe sentence and substantial legal issues.

2. When the NY3 sought review by the highest court of the state they were told that they had raised significant issues which merit serious consideration. They were subsequently informed, again without any written opinion or other explanation, that their case would not be heard.

3. Ruben Scott's post-trial admission that he had lied under pressure from prosecutors and police should have been sufficient basis for a new trial. Judge Greenfield tried to suppress the entire matter, however, including allegations by Scott that pointed to the judge's own misconduct, by taking no action for 14 months on a motion for re-trial. He refused to take any testimony or even to hold a hearing, and finally denied the motion in an opinion which simply repeated the prosecution's distortions of fact and misstatements of law. The appellate court affirmed without any hearing or explanation.

4. In October, 1985, after stalling for more than 10 months, Judge Greenfield refused to disqualify himself from ruling on a new trial for the NY3, even though the issue of his judicial misconduct during the original trial made him an interested party and a key witness. Greenfield went on to dismiss the entire matter without any hearing or even an opportunity for lawyers to present a full written statement of the grounds for a re-trial. The NY3 appealed this ruling and filed a complaint with the New York State Commission on Judicial Misconduct.

5. Meanwhile, ex-prosecutor Tanenbaum had been hired by CBS to co-produce a docu-drama based on his libelous book about the NY3, and had excluded any presentation of their side of the story. At the same time, Corrections officials had denied lawyers for the NY3 permission to meet jointly with the NY3 to discuss their case.

6. With the 1985 denial by Greenfield and subsequent refusal of the Appellate Court to overrule

Greenfield's decision, for the first time in 12 years the way had been cleared for the Case of the NY3 to be heard by someone other than the trial Greenfield.

7. In December of 1990 the NY3 legal team filed a Motion for Habeas Corpus in federal court alleging sixteen violations of the Constitution, claims under which the NY3 should be granted a reversal of their convictions, including:

- a) the prosecution withheld exculpatory ballistics evidence and knowingly permitted perjury to conceal its existence;
- b) the judge and prosecutor withheld exculpatory evidence concerning Rubin Scott's crucial testimony against the NY3, engaged in improper *ex parte* (without the benefit of witnesses) communications concerning that evidence, and secretly intervened to extract false testimony from Scott;
- c) the defense was not permitted, despite an offer of proof, to show that the FBI witnesses called by the prosecution had a compelling motive to lie and to falsify the evidence; and
- d) Justice Greenfield, the trial judge, improperly refused to recuse (remove) himself from consideration of petitioner's 1982 post-conviction motion and gave improper personal testimony in his opinion denying that motion.

In September of 1991 Justice Morris E. Lasker asked for oral argument on 9 of the 16 claims. In November of 1991 Judge Lasker denied 8 of the 9 claims and requested further argument on the 9th and final claim, to wit:

...the prosecution withheld exculpatory ballistics evidence and knowingly permitted perjury to conceal its existence.

A PACKED COURTROOM WATCHED

On Monday December 9, 1991, before a courtroom packed with supporters of the New York Three, the New York Three legal team argued that the ballistics evidence
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HOW HAVE THE NY3 BEEN DENIED AN IMPARTIAL POST-TRIAL REVIEW?

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which could very well have led to the acquittal of these brothers was withheld from the defense team and that Detective Simmons, knew about this evidence and knowingly and willingly lied when he testified that the only ballistics test that were done on the weapon was the one that he testified to.

Point No. 9 BPP Ten Point Program and Platform states:

" We Want Black people when brought to trial to be tried by a jury of their peer group or people from t h e i r B l a c k communities...". We believe that the courts should follow the constitution... To do this the courts will be forced to select a jury from the black community from which the Black defendant came. We have been, and are being tried by all-white juries that have no understanding of the "average reasoning man" of the Black community.

Write to the NY3:

Albert 'Nuh' Washington 77A1528
135 State Street
Auburn, New York 13021

Herman Bell 79C262
Box 3338
Napanoch, NY 12458-0338

Anthony 'Jalil' Bottom 77A4283
Box 700
Wallkill, NY 12589

WHAT'S HAPPENING NOW?!!

On January 24, 1992 Judge Morris E. Lasker, in a one page letter to the NY3 legal team stated:

"Since the most recent hearing on this case, I have studied the trial transcript. I have concluded that in order to reach a decision as to whether any defect in informing the defendants of information known to the prosecution relating to ballistics, etc., constituted harmless error, and evidentiary hearing should be held as to the following questions:

1. What ballistics tests were taken and who took them?
2. What were the results of such tests?
3. Who knew of the results of these tests and when?
4. What material and facts were revealed to the defense and when?

The list above is not meant to be exclusive.

I shall be out of court until early April. Accordingly I have set the hearing for 9:30 A.M. on April 28, 1992 in courtroom 905. I am hopeful the hearing can conclude on that day but I'm prepared to continue..., if necessary.

Very truly yours,

WHAT DOES THIS MEAN?

This means that the New York 3, for the first time in over 20 years, have been granted the opportunity to show that the government conspired to incarcerate them. An evidentiary hearing is a trial before a judge of the facts of a particular aspect of a case. In order to provide the necessary legal representation for the New York 3 their legal team has determined that we must conduct our own independent investigation of the role of the NYPD/District Attorney/FBI/Department of Justice coverup of their joint role in the frameup of the New York 3. Witnesses will be called, depositions will be taken, subpoenas will be issued and we will be calling expert witnesses.

support the new york 3

(Herman Bell, Anthony 'Jalil' Bottom, & Albert 'Nuh' Washington)

Herman Bell, Anthony 'Jalil' Bottom and Albert 'Nuh' Washington are Black political activists from the 1960s, who worked with the Black Panther Party and Black Liberation Army, and were incarcerated for the killing of two New York City police officers. They have been in prison since the early 1970s. They have been fighting in the courts to re-open their case on the basis of new evidence which proves that their trial was entirely unfair and has never been impartially reviewed. For a dozen years the only review of the case was done by the trial judge (Greenfield) who kept insisting that he had made no errors during the course of the trial and the trial was entirely impartial and fair.

In December of 1990 the attorneys for the New York 3 filed a habeas corpus in federal court. After two oral arguments of the issues outlined in the habeas petition, before federal judge Morris E. Lasker, the Three have finally been granted an evidentiary hearing on one issue in the case that could very well mean that they could be freed from prison.

In order to obtain a conviction in this case the State of New York, City of New York and government of the United States through it's Department of Justice, Federal Bureau of Investigation employed all the dirty tricks it could from its dirty tricks bag, i.e. manufacturing evidence, co-ercing and paying off witnesses, planting evidence, torturing witnesses, you name it and some of it was done.

We need your help to insure that this time around the NY3 can be freed. Make a pledge of your time and/or money to do support work for the NY3.

Fill out, clip and return the attached coupon.

FREE THE NEW YORK 3 and ALL POLITICAL PRISONERS/PRISONERS OF WAR!

I would like to help support the NY3. I pledge:

\$1000 \$500 \$100 \$75 \$50 \$25 Another amount \$ _____

I would like to help with mailings.

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I would like to organize a branch of the New York 3 Freedom Campaign in my area.

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