

Innocence Betrayed: Free Omar Askia Ali After 32 Years in Prison

Yvonne King

OMAR ASKIA ALI, an African-American Muslim who has been in prison for 32 years, has claimed since his arrest on 7 January 1971 that he is innocent. A sentence of life plus 10 to 20 years was given to Omar Askia Ali, then known as Edward Sistrunk, after he was convicted of participating in a robbery and homicide at Dubrow Furniture Store, in South Philadelphia on 4 January 1971. The race of the person who was killed during the robbery was not relevant, as it often is in homicides involving African-American defendants. However, Omar's commitment to ridding his North Philadelphia community of drugs was relevant. As an active member of the Nation of Islam, Omar's confrontations with drug dealers were highly visible and effective. Considering, at that time, that some members of the Philadelphia Police Department were benefiting from the drug trade, Omar's efforts were obviously seen as a threat by them and others in the trade. Some police were shaking down drug dealers, while other police officers were protecting them. It is important to note that the police detective on Omar's case, William O'Brien, was one of the latter. According to a *Philadelphia Daily News* article, "[O'Brien] admitted being hooked on drugs and alcohol when he began stealing money during the drug raids with the other squad members." O'Brien was eventually charged, tried, and convicted of bribery, and sentenced to five to ten years.

The 1960s and 1970s were volatile times in cities across the nation, including Philadelphia. The relationship between the state apparatus, particularly police departments in urban areas, and black militants, including organizations such as the Black Panther Party and the Nation of Islam, was generally hostile. The image of Black Muslims in the 1970s as portrayed by the state and the media was usually a negative one, often instilling fear, especially among whites. Omar, as a member of the Nation of Islam who was struggling to rid his community of drugs, was a role model to many, but competition to corrupt police officers and their agents in the drug trade. As in most businesses they would try to eliminate their competition, and Omar seems to have been a victim of this.

It is interesting to note that in his book *Philadelphia's "Black Mafia": A Social and Political History*, Sean Patrick Griffin, a former Philadelphia policeman turned academic,

cites the Dubrow Furniture Store robbery as the work of eight Black Mafia affiliates. According to Omar, he was not a member of the Black Mafia or otherwise associated with them. He was a responsible family man, who owned a business, and served his community primarily through the Nation of Islam.

After his arrest in January 1971, Omar also became a victim of the racism in the Prosecutor's Office, not only at his first trial, but also at his second, nearly ten years later. This victimization manifested in Omar being tried by all-white juries. When selecting a jury in criminal trials, the prosecution and the defense are given the authority, in the form of peremptory challenges, to have people stricken from serving as jurors without giving reasons for doing so. Consequently, prosecutors have taken advantage of this procedure to deliberately remove blacks from juries because of their race.

This year Omar's attorney, Peter Goldberger, explained on a radio program in January 2003 how the Prosecutor's Office succeeded in getting an all-white jury at Omar's second trial around. During a 1992 hearing in Omar's long, ongoing appellate process, which continues to this day, Attorney Goldberger informed the audience that "the actual private notes of the prosecutor were brought out into evidence". He continued,

at first [the Assistant District Attorney] denied that there were any such notes, denied that there was any plan to exclude all Black people from the jury, but the defense was able to get ... the actual copy, which had the handwritten notes of the prosecutor in a code, not a very subtle code, that shows that she was keeping track, juror by juror, number by number, of the race of every person that came into that room for jury duty and making sure that that number on the **B** side got smaller and smaller, while the numbers on the **W** side got larger and larger.

In 1995, a federal judge in Philadelphia was persuaded by this argument (among other things), and ordered that Omar be set free unless the state gave him a new trial. The State appealed this decision and the Third Circuit Court of Appeals reversed the judgment granting Omar this relief. Even though the United States Supreme Court had held, in *Batson v. Kentucky*, 476 US 79 (1986), that "the Equal Protection Clause is violated whenever a state prosecutor exercises a peremptory challenge to exclude a [person] from the jury because of his or her race", Omar did not succeed. Goldberger explained that

even though we had absolutely proved a racist exclusion of all African-Americans from the jury, Omar could not benefit from that fact because of the decision by his lawyer in the mid-1980s, against Omar's personal urgings to keep that issue front and center, to drop it from her brief. There is a technical rule that the federal court cannot look at issues that weren't looked at earlier by the state court.

Currently, Omar Ali's case is being appealed yet again. His lawyer informs us that the issue is "the way the prosecutor cross-examined the witnesses and argued the case to the jury by innuendo of race and religion". A former assistant district attorney, Norris Gelman, who

represented one of Omar's other two co-defendants at the first trial, claims that "instead of relying on the evidence to secure a conviction, this [Omar's] case was tried in a way that the evidence was sort of subordinated to the other major themes ... of race and religion, which are not evidential, but were made to be evidential by this prosecutor who did select an all-white jury". Gelman went on to state that neither race nor religion "proves the historical fact of who was involved and who did what. It just plays to the various prejudices of various people. I do not think that Omar got a fair trial."

Despite the extent to which Omar Askia Ali has been a victim of police corruption, prosecutorial misconduct and incompetent legal assistance, resulting in 32 years of incarceration, he has participated in numerous programmes for self-improvement and established some to help others. They are too many to describe; however, the Boxing Association of America (BAA) certainly stands out because it was designed to help prison inmates and people on the outside. Omar founded the BAA in 1979 at Holmesburg Prison. The BAA boxing team was invited to the Civic Centre in 1982 to fight other amateur boxers in front of 2000 spectators, including then Congressional candidate William H. Gray III, Councilmen John Street and Lucien Blackwell, and the Pennsylvania Boxing Commissioner James Binns. They did so without incident. When interviewed at the event, the Holmesburg Superintendent David Owens stated that he "thought that within five years we should have the boxing team in the community and have it accepted by the community, but here they are doing it in only three years." The BAA hopes eventually to build a multi-purpose community centre in an at-risk community in order to deter crime by providing services that change behaviour and encourage self-development.

The US Constitution entitled Omar to a fair trial, but in 1971 he did not get one. In 1981, when he was granted a new trial, the entitlement still existed, but again Omar did not get a fair trial. In early 2003, in response to the prosecutor's deliberate exclusion of blacks from Omar's juries, former Assistant District Attorney Gelman said, "the idea of winning at all cost, no matter what the price, prevailed far too often in those days, but not today. The price was a fair trial and the [U.S.] Constitution, far too high a price to pay for a single conviction." We wish to be as optimistic as District Attorney Gelman in believing that the attitudes are, indeed, different today.

Let us make a commitment to publicize this case because, clearly, Omar Askia Ali should be home with his family, who remain steadfast in their efforts to free him, and back in his community to participate in its much-needed development.

For more information, contact Omar's wife:

Mrs Karen Ali

PO Box 42702

Philadelphia, PA 19101-1730

USA

Telephone: 215-386-1730

Write to OMAR ASKIA ALI at:

SCI Houtzdale

PO Box 1000

Houtzdale, PA 16698-1000

USA

Send donations to:

Mr Peter Goldberger

50 Rittenhouse Place

Ardmore, PA 19003-2276

USA