

Nun in Alleged Plot Ordered Released Without Bail

By DONALD JANSON
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PHILADELPHIA, Jan. 29 — Over the objections of the Department of Justice, the United States Court of Appeals for the Third Circuit here today ordered Sister Jogues Egan released from jail without bail pending appeal of a lower court order citing her for contempt.

A few hours later Sister Jogues appeared before United States Commissioner Sebastian Natale in Harrisburg and was released.

The 52-year-old New York City nun was jailed in York, Pa., on the order of Federal District Judge R. Dixon Herman Tuesday when she refused to testify before a Federal grand jury in Harrisburg. The jury is investigating allegations of conspiracy to bomb Washington heating tunnels and to kidnap Henry A. Kissinger, President Nixon's national security adviser. Sister Jogues was moved to the Dauphin County Jail in Harrisburg last night.

A three-judge panel headed by Phillip Forman ordered the Government and defense to file briefs in the contempt case by next Friday.

Jack J. Levine, Sister Jogues's attorney, said he would ask the panel to hear oral arguments as well. The nun contends that immunity from prosecution granted her by the Government in return for the testimony it seeks is inadequate protection against self-incrimination.

The Government first offered her immunity under the 1970 Act to Control Organized Crime. Sister Jogues contended that the immunity provision of this law was unconstitutional because, while the Government could use nothing related to her own testimony to indict her later, it could prosecute her if it has independent testimony relating to something she said.



Sister Jogues Egan, right, being released from jail in Harrisburg, Pa., by deputy U.S. marshal and guard.

United Press International

The Rev. Philip F. Berrigan and five other persons were indicted by the grand jury on the bomb plot and kidnapping charges Jan. 12. Sister Jogues and six others were named as co-conspirators but were not

indicted. However, the grand jury is continuing its investigation and Federal attorneys have said there may be further indictments.

On Tuesday the Government shifted its offer of immunity

for Sister Jogues to one based on a statute older than the 1970 act. Guy L. Goodwin, Justice Department lawyer from Washington in charge of prosecuting the case, told the court today the second offer provided broader immunity and that the citation for contempt had been based on the nun's refusal to testify under the broader grant.

Mr. Levine said he had been given insufficient time Tuesday to prepare an argument on the applicability of the older statute in Sister Jogues's case.

Illegal Wiretaps Alleged

He contended today that the older statute provided Sister Jogues no immunity from prosecution for crimes other than kidnapping or conspiracy, even though Judge Herman said she would be free from prosecution for such crimes as interstate transportation of explosives

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Despite U.S. Objections

and destruction of Government property. Some of the questions she refused to answer Tuesday concerned the subject of plotting to "bomb computers and the Pentagon."

Sister Jogues also contends she was illegally called as a grand jury witness because she was subpoenaed on the basis of illegal wiretaps and her counsel should be permitted to argue the issue.

The panel ruled that the issues raised today were not "frivolous," as the Government contended, but sufficiently substantial to warrant an appeal.

The panel released her on her own recognizance, under the supervision of Sister Edmund Harvey, provincial executive director of the Religious of the Sacred Heart of Mary in New York.

The court rejected the Government's request that she be

confined to her residence and said she could move at will in New York or the states of the Third Circuit Court of Appeals, Pennsylvania, New Jersey and Delaware.

Grand jury sessions in Harrisburg were adjourned indefinitely yesterday afternoon. The six persons named as defendants so far will be arraigned in Pennsylvania's capital Feb. 8. Besides Father Berrigan, they are the Rev. Joseph R. Wendroth, the Rev. Neil R. McLaughlin and Anthony Scoblice, a former priest, all of Baltimore; Sister Elizabeth McAlister, New York, and Eqbal Ahmad, a Pakistani scholar now in Chicago.

A decision in the contempt case of Sister Jogues may be handed down before then. The other judges on the appeals court panel are Ruggero J. Aldisert and John T. Gibbons.