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U.S. SUED BY TWO IN BERRIGAN CASE

Nun and Professor Charge
Illegal Surveillance Acts

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PHILADELPHIA, Oct. 10 —

Sister Elizabeth A. McAlis and Prof. William C. Davidon sued the Federal Bureau of Investigation and the Justice Department in Federal District Court here today, charging illegal electronic surveillance.

Sister Elizabeth was one of the defendants in the Harrisburg Seven trial earlier this year and Professor Davidon was named by the government as a co-conspirator but was not indicted.

Charges that Sister Elizabeth and the other Harrisburg Seven defendants conspired to kidnap Henry A. Kissinger, Presidential adviser on national security affairs, and blow up heating tunnels to Government buildings in Washington were dropped after the jury voted 10-to-2 for acquittal. Sister Elizabeth and the Rev. Philip F. Berrigan were convicted only of a minor charge of smuggling letters to and from Lewisburg Federal Penitentiary, where Father Berrigan was imprisoned.

Sister Elizabeth and Professor Davidon charged today that their telephone conversations had been tapped in 1970 and 1971 in violation of their constitutional rights to privacy, freedom of speech and freedom of assembly.

Mitchell Linked

They contend that the wire-tapping was done at the direction of John N. Mitchell then Attorney General, without a court order or legislative authorization.

Defendants in the case include Mr. Mitchell; his successor, Richard G. Kleindients, and L. Patrick Gray 3d, acting director of the F.B.I.

The plaintiffs cited a Mitchell deposition submitted to the Federal District Court in Harrisburg last year in which he asked the court not to order disclosure to Sister Elizabeth of "telephonic overhearings of her voice."

Mr. Mitchell said in the deposition that her conversations had been recorded "during the course of a national security surveillance of a telephone installation to which she initiated calls or from which calls were initiated to her."

Transcripts Given Judge

As required by the court, Mr. Mitchell submitted for Judge R. Dixon Herman's inspection a description of the premises where the tap was placed and transcripts of the conversations overheard. He asked the judge to keep them sealed.

The surveillance, he said, was "authorized by the President, acting through the Attorney General," and was essential to "protect against a clear and present danger to the structure or existence of the Government of the United States."

The jury found no conspiracy that threatened the Government.

During post-trial proceedings, the contents of her monitored conversations were made known to Sister Elizabeth.

Professor Davidon said that the Government had not yet formally advised him that his telephone conversations had been intercepted.

The plaintiffs seek \$101,000 each in compensatory and punitive damages.