

Nun Wins Contempt Appeal In Theft of F.B.I. Papers Case

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By ARNOLD H. LUBASCH JUL 24 1971

A Roman Catholic nun won her court battle yesterday to avoid going to jail for refusing to testify about documents stolen from the Federal Bureau of Investigation.

The United States Court of Appeals ruled here that a contempt-of-court citation against the nun was invalid because the stolen F.B.I. documents did not constitute the interstate theft of merchandise valued at \$5,000 or more.

The contempt case developed when the nun, Sister Carol Vericker, refused to testify last month during a Federal grand jury investigation in Brooklyn, although she was granted immunity from prosecution.

The 29-year-old nun was asked several questions concerning the May 8 theft of documents from an F.B.I. office in Garden City, L. I., and about "a national conspiracy to break into F.B.I. offices."

In granting the nun immunity, Federal prosecutors stated that the grand jury wanted to know about violations of laws covering the interstate transportation of stolen property.

3 Judges Hear Appeal

District Court Judge Anthony J. Travia cited the silent witness for contempt and ordered her to jail for refusing to testify under immunity, but he stayed the order while she appealed to the higher court.

In a decision by a three-judge panel, consisting of Henry J. Friendly, J. Edward Lumbard and James L. Oakes, the Court of Appeals for the Second Circuit vacated the contempt judgment on the ground that the testimony had been ordered un-

der a defective grant of immunity.

The nine-page decision noted that the immunity had been granted under specific statutes concerning the interstate transportation of "any goods, wares, merchandise, securities or money of the value of \$5,000 or more."

The appeals panel added that the questions put to the nun made it clear that "the property with which the grand jury was concerned was stolen F.B.I. documents."

'It Is Regrettable'

"We do not underestimate the gravity of such an offense," the three judges observed.

However, they continued, the questions asked of the nun failed to indicate crimes that qualified under existing law for granting the full immunity that was granted in this case.

"It is regrettable that the judgment of contempt must be vacated although immunity could validly have been granted if the grand jury had been investigating considerably less serious crimes," the appeal judges stated.

"But the remedy for what seems a legislative oversight lies with the legislature, not in a court's broadening the language that Congress used," the ruling added.

The nun's attorney, Lewis M. Steel, had argued that the Federal prosecutors had contended that the grand jury was inquiring about the interstate transportation of stolen goods only because they wanted to compel the witness to testify under a grant of immunity.

See also this file 12 May 71, NYTimes, Bill Kovach: "Group Reports Attempt to Rob L.I. Offices of F.B.I."