

# Split Verdict in Berrigan Trial

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The United States government's kidnap-bombing conspiracy case against the Rev. Philip Berrigan and six others ended in a hung jury yesterday, but the priest and Sister Elizabeth McAlister were convicted of peripheral charges of smuggling prison correspondence.

The defendants hailed the outcome as a victory and interpreted it as a defeat for the government, especially for FBI director J. Edgar Hoover.

U.S. District Judge R. Dixon Herman dismissed the jury and declared a mistrial on the conspiracy charge

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after the jury reported it had reached a verdict on the letters charges, but was hopelessly deadlocked on the conspiracy charge and on single charges against Father Berrigan and Sister McAlister of sending a threatening letter.

## CASE

The nine women and three men jurors had deliberated for more than 59 hours over a span of seven days. They had repeatedly expressed confusion over Judge Herman's explanation of the conspiracy law as it applied to the government's complicated case.

A source close to one of the jurors said the panel "was weighed 80 to 20," but would not say whether the majority percentage favored conviction or acquittal on the conspiracy charge.

"The government's indictment was unclear," said the source. "It was like reading your insurance policy or a business contract. You need a lawyer to explain the small print."

The jury convicted Father Berrigan and Sister McAlister of three counts each involving letters, which were smuggled with the help of FBI informant Boyd F. Douglas Jr., the government's chief witness. A partial verdict returned Sunday had convicted the priest of another letter count. Each count carries a maximum punishment of ten years.

## ATTORNEYS

Former United States Attorney General Ramsey Clark and other defense attorneys expressed confidence the convictions would be overturned on appeal. At Clark's request, Judge Herman set a hearing for May 2 challenging the verdict on grounds of discriminatory prosecution.

Clark pointed out that no one previously had been pros-

ecuted for smuggling letters and that the prosecution acknowledged that all but one of the letters were smuggled with the knowledge, consent and assistance of the government.

The conspiracy case, embroiled in controversy since Nov. 27, 1970, when Hoover publicly accused Father Berrigan of directing a kidnap-bombing plot from his jail cell, may never be tried again.

Deputy Assistant United States Attorney General William S. Lynch, who argued passionately for conviction, was downcast over the deadlock. He declined to say whether he would recommend retrying the case, but he is known to have reservations.

## SOURCE

A government source said the ultimate decision will be made at the attorney general level.

Father Berrigan, serving six years on draft board raid convictions, smiled broadly as he was escorted from the courtroom by deputy marshals after the verdict was read.

The first indictment charged a plot to kidnap presidential assistant Henry Kissinger and blow up heating tunnels in Washington. The second indictment wrapped the kidnap-bombing allegation into a general conspiracy charge that included several draft board raids.

Other defendants include two priests, the Revs. Joseph Wenderoth and Neil McLaughlin, and an ex-priest, Anthony Scoblick, and his wife, Mary Cain Scoblick, an ex-nun.

Judge Herman permitted the defendants to remain free on their existing bonds — \$10,000 for Ahmad and Sister McAlister, \$5000 for Fathers Wenderoth and McLaughlin, \$5000 for Scoblick and personal recognition for his wife.