

# Conviction Upheld

SFChronicle

AUG 29 1972

## Harrisburg

A federal judge upheld both McAlister on charges of smuggling letters in yesterday the convictions of anti-war priest Philip Berrigan and Sister Elizabeth and out of a prison.

U.S. District Judge R. Dixon Herman refused defense motions to overturn the convictions, and scheduled sentencing for September 5.

Herman, who presided at the trial of Father Berrigan, Sister McAlister and other defendants in the "Harrisburg Seven" case, issued the complicated, 41-page opinion 19 weeks after the defense motions were submitted.

Thomas Mensker, Father Berrigan's attorney, said he would decide after the sentencing whether to appeal the convictions.

The delay in sentencing

has held up a decision on Father Berrigan's request for parole from a federal prison in Danbury, Conn., where he is serving a sentence for a previous conviction.

The defense asked Herman to throw out the letter-smuggling convictions on grounds the government entrapped them, used discriminatory prosecution and gathered evidence through electronic surveillance. Herman denied all arguments.

Father Berrigan and Sister McAlister were convicted April 5, but the jury was deadlocked on a primary charge against all seven defendants of conspiring to help Henry Kissinger, raid draft boards and blow up heating tunnels under federal buildings in Washington.

United Press