

Two-Year

Sentence for

Berrigan

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Harrisburg, Pa.

The Rev. Phillip Berrigan was sentenced to two years in prison yesterday for smuggling four contraband letters out of the Lewisburg, Pa., federal penitentiary while he was an inmate there in 1970.

The sentence is to run concurrently with another that he is already serving.

His co-defendant, Sister Elizabeth McAlister, was sentenced to one year for smuggling three letters in to Father Berrigan during the same period.

Immediately after United States District Judge R. Dixon Herman handed down the sentences, the justice department dismissed all pending conspiracy charges against Father Berrigan, Sister Elizabeth and six other anti-war activists.

DELIBERATION

After 60 hours of deliberation here last April a federal court jury convicted the two key defendants of seven charges of smuggling contraband in and out of prison but reported that it was hopelessly deadlocked on charges that the eight had conspired to kidnap presidential adviser Henry Kissinger, to bomb tunnels un-

See Back Page

BERRIGAN SENTENCE

From Page 1

der federal buildings in Washington and to raid other federal offices.

Defense attorneys took immediate steps yesterday to appeal the letter-smuggling convictions, which they contend resulted from illegal discriminatory prosecution and entrapment by a prisoner who was a government informer.

PRISON

They expressed confidence that the U.S. court of appeals for the Third Circuit would strike down the convictions, because the law against prison contraband has never before been used to prosecute prisoners exclusively for sending and receiving letters.

By the time the jury returned its verdict here last spring, the Federal Bureau of Prisons had revised its regulations to permit the uninhibited flow of mail between inmates and outsiders, regardless of whether they are on an approved list of correspondents.

The sentences meted out by Herman represented only a fraction of the maximum penalty possible for each defendant — 40 years for Father Berrigan and 30 years for Sister Elizabeth.

Herman actually gave Father Berrigan a two-year sentence on each of the four counts on which he was convicted, but directed that they run concurrently.

TERMS

Additionally, the judge said that the priest's sentence in the Harrisburg case would run concurrently with the three years he has left to serve on his conviction for a 1968 draft board raid in Catonsville, Md. He is also serving time for a conviction involving the pouring of blood on draft files in Baltimore in 1967.



FATHER BERRIGAN
Appeal planned



SISTER ELIZABETH
One-year-term

Under the terms of Herman's order, if Father Berrigan is granted parole on the earlier charges—which he has thus far been denied—he could also be released immediately on his Harrisburg conviction.

Sister Elizabeth was given a one-year prison term on each of the three counts on which she was convicted here, but the judge said that her terms would also run concurrently.

After the sentencing procedure, which took about 90 minutes, Father Berrigan was returned to the federal penitentiary in Danbury, Conn., by federal agents. Herman permitted Sister Elizabeth to remain free on \$10,000 bond.

The sentencing came after Herman's denial on August 25 of a long-pending defense motion to set aside the convictions for smuggling the letters in and out of the Lewisburg penitentiary.

In a 41-page opinion, the judge rejected the defense contention that Father Ber-

rigan and Sister Elizabeth were the victims of "impermissible discrimination" and that the case against them was tainted by government wiretapping.

DEFENSE

After declining to put on any defense of their own last spring — relying instead on efforts to discredit the testimony of the informer — Father Berrigan and Sister Elizabeth made their first statement in the Harrisburg courtroom during yesterday's sentencing.

But rather than dealing with the merits of the case, they delivered impassioned speeches about the war in Southeast Asia and the state of American society.

The Justice Department decision to drop the still pending conspiracy charges, made in June, was based on a feeling that no future jury would act differently than the one already empaneled here, which voted 10-2 in favor of acquittal the first time around.