

# Judge finds Fr. Berrigan, co-protesters guilty

By Lee Strong  
Staff writer

ROCHESTER — Jesuit Father Daniel Berrigan and four Rochester residents were convicted Jan. 30 of trespassing charges stemming from an October protest outside the University Avenue offices of Planned Parenthood of Rochester and the Genesee Valley.

The protest, which took place Oct. 26, 1991, was aimed at the organization's plan to open an abortion clinic in Rochester in 1993 (see accompanying story).

Following the one-day trial — highlighted by testimony from Auxiliary Bishop Thomas Gumbleton of the Archdiocese of Detroit and defense attempts to label Planned Parenthood a "racist, bigoted" organization — Rochester City Court Judge Teresa Johnson found Father Berrigan, Janet Bezila, Carol Crossed, Donna Kearney and John "Pat" O'Hara guilty of blocking the entrance of Planned Parenthood's 114 University Ave. office.

In addition to sentencing the five activists to 40 hours of community service, Johnson ordered them to stay away from the Planned Parenthood office for six months.

"We said something to the Rochester community about our convictions, and I hope that it will make people more thoughtful about the crimes of Planned Parenthood," Father Berrigan declared after the trial.

During the proceedings, Father Berrigan — known as an anti-war activist since the 1960s — testified that he took part in the Planned Parenthood protest because, "There were crimes being committed within — crimes of commission — and if I had not been there, it might have been a crime of omission on my part."

At a press conference held prior to the Jan. 30 trial, Father Berrigan stated: "I have been busy with the war question for years, but I've all along been very clear on the abortion issue."

Bishop Gumbleton, who flew to Rochester to serve as a character witness for several of the defendants, testified that the activists' protest "was consistent with both biblical and Catholic Church teachings."



Babette G. Augustin/Photo editor  
Jesuit Father Daniel Berrigan (left) and John "Pat" O'Hara pause for a press conference in front Rochester's Hall of Justice Jan. 30. The two men and three others were convicted of trespassing charges stemming from an anti-abortion protest in October, 1991.

The demonstration, Bishop Gumbleton said during his testimony, was consistent with the Old Testament tradition of "prophets standing up against civil authority" and being "in conflict with that civil authority."

According to Catholic teachings, Bishop Gumbleton said, "there are times when you must disobey a law," when that law conflicts with the God's law.

The protest, part of the Rochester-based Faith and Resistance Community's fourth annual retreat, followed an Oct. 25 anti-war demonstration at the Kenneth L. Keating Federal Building, 100 State St.

During the trial, attorney John Regan Jr., who was defending Donna Kearney, repeatedly attempted to introduce testimony alleging that Planned Parenthood engages in racist policies.

As part of his argument, Regan tried to submit into evidence several statements by Planned Parenthood's founder, Margaret Sanger. According to Regan, Sanger urged the establishment of services in minority neighborhoods to "eliminate" African-Americans.

Regan also requested that Gregory Soehner, executive director of Planned

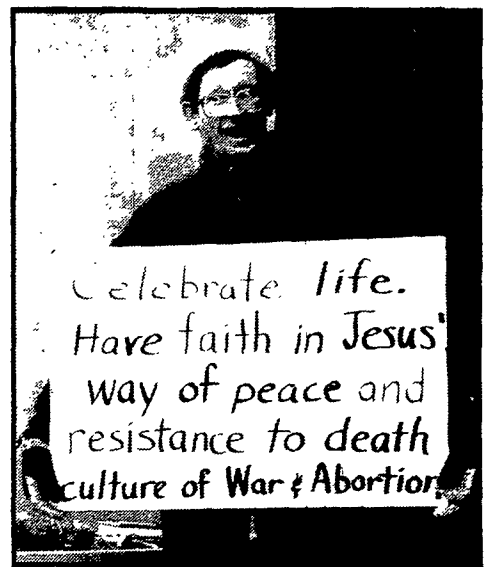
Parenthood of Rochester and the Genesee Valley, be called to testify about Sanger's goals and Planned Parenthood's current activities. Regan noted that the proposed abortion clinic would be located in a primarily minority neighborhood.

But Johnson refused to allow the testimony or to call Soehner as a witness.

As part of his defense, Regan also attempted to show that the actions of his client and her four co-defendants were justified because they were intended to prevent a greater evil.

Johnson ruled, however, that the five activists' actions did not fit the criteria for a "justification" defense, as outlined in a Dec. 19, 1991, decision by the New York State Court of Appeals in the case of *People vs. Marsha Craig*. That decision limited the justification defense to cases in which the actions are emergency measures intended directly to prevent a harm.

Despite the judge's rulings, Regan stated after the trial that he felt "Judge Johnson granted quite a lot of leeway," and that "everyone got a chance to tell



Mark Scibilia-Carver reacts to an associate's comment while standing outside the Hall of Justice. He was among about 20 people who turned out to support the five defendants during the daylong trial.

the judge why they did what they were doing."

During the trial, for example, Bezila challenged the notion that Planned Parenthood provides health services to its clients.

"A clinic that kills 50 percent of its patients for the benefit of the other 50 percent reduces to absurdity the profession and practice of medicine," she said.

Father Berrigan testified that "a decent society would no more have an abortion clinic than it would the Pentagon."

In response to a question about the effectiveness of the protest in challenging abortion and Planned Parenthood, Father Berrigan pointed to recent news about nuclear disarmament.

"After 25 years of accomplishing nothing in the whole question of disarmament and the arms race," he said, "I'm quite willing to say it's the long haul that works — as it worked in Eastern Europe, as it worked in South Africa, and as it will work in the case of Planned Parenthood."

## Youth choir rocked by scandal may carry on, spokesman says

WATKINS GLEN — Despite charges pending against its former director, the Praise and Power youth choir may continue to perform.

Choir spokesman James Mirando said Tuesday, Feb. 4, that continuing the choir seemed to be the consensus among the 75 children and parents who met at St. Mary's Parish, 901 N. Decatur St., on Monday, Feb. 3, to discuss the group's future.

"I have a very good feeling that we are going to continue, but we have a very long road ahead of us," Mirando told the *Catholic Courier*.

Mirando stressed that it was "premature" to make a definitive statement about the choir's future. But he said that a group of the choir's parents is re-examining its bylaws and con-

sidering actions that would enable Praise and Power to continue.

Choir members and residents of the surrounding communities were stunned in January when the choir's founder, Leo McDermott II of Horseheads, was charged with third-degree sexual abuse in the Tioga County village of Waverly.

According to the charges, McDermott allegedly sexually abused a 16-year-old member of Praise and Power during the ride home from an Elmira-area performance.

McDermott had previously served almost eight months in an Ohio prison after being convicted of corrupting a minor in 1989, according to Schuyler County authorities.

The Christian-rock youth choir started at St. Mary's Church, Watkins Glen, in early 1991. The group is no longer officially affiliated with the parish.

Until November, 1991, McDermott worked as St. Mary's music director. His position was terminated after he announced plans to become a non-denominational Christian minister.

— Rob Cullivan

## Despite agency's clinic plans, deal restores United Way funds

ROCHESTER — United Way of Greater Rochester and Planned Parenthood of Rochester and the Genesee Valley announced a compromise Jan. 31 that will enable Planned Parenthood to continue receiving United Way general allocations despite its plan to open an abortion clinic next year.

At issue was the October, 1991, announcement by United Way of Greater Rochester that it would change Planned Parenthood's funding status as soon as the agency opened the abortion clinic. From that point forward, United Way officials said they would classify Planned Parenthood as a "donor option" agency.

The change in status meant Planned Parenthood would receive only those United Way funds specifically designated for it by contributors to the United Way campaign, as opposed to receiving allocations from United Way's general funds.

The compromise calls for Planned Parenthood to take steps to ensure the fiscal separation of the abortion services from its other programs. Under the agreement, the clinic would have an advisory board and a

financial auditing service separate from other Planned Parenthood operations.

"(W)e never intended to use United Way dollars to provide the (abortion) service, and through the fiscal separation included in our agreement we will guarantee that United Way dollars will not be used for this purpose in the future," declared Gregory Soehner, executive director of Planned Parenthood in Rochester.

"What we're hoping is that people on both sides of the issue will feel that their interests are protected," said Joseph Calabrese, United Way executive director.

Nevertheless, pro-life forces are considering responses to the compromise move, according to Carol Crossed, one of the five protesters convicted Jan. 30 for trespassing at the University Avenue office of Planned Parenthood on Oct. 26, 1991.

She said a possible boycott of the United Way's annual fund drive is among the responses being discussed. The appeal begins in April.

— Lee Strong

### Correction

Due to inaccurate information told to staff writer Rob Cullivan, the *Catholic Courier's* Jan. 23 article "Urban parishes in Rochester to consider clustering" incorrectly identified John W. Medico. Medico is a permanent deacon.