

First Amendment No Shield For Church in Abuse Cases

Judge Rules Data Were Wrongly Withheld

By SAM DILLON

Over the nine years since Leland White sued the Roman Catholic church in Rhode Island seeking damages, asserting that his parish priest sexually abused him in 1970, eight other men have lodged similar accusations against the same priest, who has pleaded guilty to criminal abuse charges. But the Diocese of Providence has given little quarter.

Citing its First Amendment religious rights, the diocese has refused to turn over thousands of documents requested by Mr. White and nearly 40 other Catholics who have sued the Rhode Island church, saying they were abused by priests. For nearly a decade, the courts have upheld the church.

But that appeared to change this week when a state justice, citing the American bishops' acknowledgment last month at their meeting in Dallas that the church's culture of secrecy had hurt the church and its flock, ruled that the First Amendment could not be construed as a blanket shield protecting the church from requests for information in inquiries into priestly assaults on children.

"By no elastic stretch of the most fertile imagination can one rationally conclude that such information or any such communication deserves or merits confidentiality as expressions of religious freedom," Justice Robert D. Krause of State Superior Court wrote in his ruling, issued on Monday.

Lawyers for people who say they have been abused by priests in Rhode Island and across the nation called Justice Krause's ruling a watershed in one of the longest and hardest-fought legal cases provoked by priestly sexual misconduct. It underlined the way the American bishops' self-criticism and pledges of more open policies on sex abuse, made at their June meeting in Dallas, continue to reverberate, even in the court system.

"Judges are telling the church to stop wasting our time by coming here and trying to use the First Amendment to defend the indefensible," said Sylvia Demarest, a lawyer who won a \$31 million sex abuse settlement from the Diocese of Dallas in 1997 and was studying Justice Krause's ruling yesterday.

Mr. White, 46, of Arlington, Va., said in an interview that he was abused by the Rev. James Silva, his parish priest in Newport, R.I., in 1970, when he was 14. Father Silva, Mr. White said, befriended him, asked him to help answer the phones one night late at the rectory, then requested that he stay overnight and crawled into bed with him.

After Mr. White sued Father Silva, Bishop Louis E. Gelineau and the Diocese of Providence in 1993, several other men stepped forward to say they had also been abused by Father Silva, one of them so recently that the criminal statute of limitations had not expired. Father Silva was charged and pleaded guilty in 1995 to sexual abuse. The diocese has barred Father Silva from exercising his ministerial duties, but Karen Davis, a spokeswoman for the diocese, said she could not immediately specify when.

Mr. White is one of nearly 40 Catholics who have sued the Diocese of Providence saying that they were abused by Father Silva and at least nine other Rhode Island priests. Their suits have been consolidated before one judge. They have sought fruitlessly for a decade to gain access to diocesan documents that church officials have routinely handed over in similar suits elsewhere in the legal process called discovery.

"I don't know of any case around the country where so many victims have been in court for so long and gotten so little," said David Clohessy, the St. Louis school administrator who is national director of the Survivors Network for People Abused by Priests.

William T. Murphy, a lawyer for the Diocese of Providence, did not say whether he intended to appeal Justice Krause's ruling. He said it was too early to measure the effect because, he said, the justice left unclear whether he intended it to be applied only to documents the plaintiffs might request in the future, or retroactively to many documents a previous judge had already ruled that the church did not have to turn over to the plaintiffs. The church has resisted turning over documents to the plaintiffs in some cases in the consolidated lawsuit. Mr. Murphy said, to protect the privacy of Rhode Island Catholics who have given the church confidential information about abusive priests.

"This ruling raises more questions than it answers because it didn't say anything about these prior orders,"



Mary Murphy/Providence Journal

Justice Robert D. Krause of State Superior Court in Rhode Island.

Mr. Murphy said.

But Tim Conlon, a Providence lawyer who represents 32 of the Rhode Island plaintiffs, said the ruling was anything but ambiguous.

"This is a watershed breakthrough in terms of our ability to get documents and information," Mr. Conlon said. "In Rhode Island the Catholic Church has made it its business to clog the discovery process with complex legal arguments about why information should not be produced and has avoided releasing actual information."

In his order, Justice Krause cited a document written by the United States Conference of Bishops in Dallas, the Charter for the Protection of Children and Young People, in which the bishops acknowledged that "secrecy has created an atmosphere that has inhibited the healing process and in some cases enabled sexually abusive behavior to be repeated."

He cited the Bishops' Charter to illustrate how public understanding of the church's handling of sex abuse accusations has changed rapidly, obligating everyone, including the courts, to re-evaluate long-held positions.

"Circumstances have indeed changed," he wrote. "The church hierarchy became publicly embroiled in a nationwide clamor for reform and for public disclosure of matters relating to priests who sexually assault children. Insistence upon disclosure emanated not only from those not associated with the church, but indeed from bishops within the church as well."