

Judge to decide legality of sealing some cases alleging child sex abuse

Archdiocese wants state law enforced in proceedings against it

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Chief Judge James M. Shake of Jefferson Circuit Court has appointed himself to decide the legality of a state law that seals some civil cases containing allegations of childhood sexual abuse that are more than five years old.

The Roman Catholic Archdiocese of Louisville is seeking to have that 1998 state law enforced in cases pending against it. The archdiocese is the defendant in 105 lawsuits filed since April claiming sexual abuse by more than a dozen priests and employees.

All but one of the 105 cases include allegations of childhood abuse. The other is a claim that a priest abused a high school senior who was 18. The allegations stretch from the 1950s through 1990.

All of the suits allege that archdiocesan officials knew about the alleged abuse and did nothing. None names the alleged abuser as a defendant.

Shake agreed to consolidate all of the cases for the purpose of deciding the 1998 state law's constitutionality. He did not set a hearing date.

The attorney for most of the plaintiffs in the lawsuits, William McMurry, and The Courier-Journal have objected to sealing the cases. McMurry says plaintiffs have a right to file publicly, and attorneys for the newspaper say the statute violates free-press protections in the U.S. Constitution and the state constitution's ban on the legislature interfering with the court system.

The 1998 law covers civil cases that include allegations of child sexual abuse or assault that occurred five or more years in the past and would constitute a felony if prosecuted. Lawsuits meeting that definition must be filed with a motion to seal the case,

according to the law. The case is then sealed until decided otherwise.

The archdiocese, through its attorney, Edward Stopher, wants to seal all of the cases, none of which contained a motion to seal.

In his ruling yesterday, Shake said that beyond deciding the constitutionality of the cases, they would — for now — be consolidated only for deciding issues of discovery, which involve the exchange of information between parties before trial.

Otherwise, he ruled, the cases will remain separate unless a judge later decides otherwise. So, even if the state law is upheld, a decision on whether to seal each case would be considered separately.

Shake also granted a request by The Courier-Journal that it be notified of any lawsuits that are filed and sealed under the 1998 state law.

Jon Fleischaker, an attorney for the newspaper, said last week that the newspaper needed notice of any such cases in order to challenge the constitutionality in each.

Meanwhile, the 105th lawsuit against the archdiocese was filed yesterday by Joseph Glenn Eberenz, a Kentucky State Reformatory prisoner who alleges that a "Fr. Neeson" abused him when he was an altar boy at St. Denis Church in 1954 and 1955. The lawsuit, which is handwritten, seeks \$10 million in damages.

Cecelia Price, a spokeswoman for the archdiocese, said that an archdiocesan priest named Joseph Neeson died in 1966. She said she did not have access to information about his assignments yesterday.

No other accusation has been made against Neeson, Price said.

Eberenz is in prison for forgery, robbery, theft and sexual abuse, according to state records and the Jefferson Circuit Court Clerk's office.

Brian Reynolds, the chief administrative officer for the archdiocese, said that Eberenz "has written us a number of times, and the archdiocese has shared that with local authorities."

He declined to elaborate or comment on Shake's ruling.