

# **The Catholic Diocese of Bridgeport Must Not be Allowed to Hide Behind the First Amendment**

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Accusations, revelations, lawsuits, legal battles, and settlements have, in recent years, finally brought to light some of the long-hidden instances of clergy sexual abuse in the American Catholic Church. Well-publicized cases have raised the public's awareness of just how widespread this abuse was and how utterly thorough and entrenched the institutional cover-up had been.

It quickly became apparent that this was not a situation that could be dismissed as a case of a few malignant individuals in a large, benign organization; on the contrary, the malignancy permeated the Church. The extent of the abuse and the pervasiveness of the institutionally enforced secrecy is staggering. Perhaps the most disturbing and telling revelation of all was that various Church officials had reassigned to other parishes priests who had allegedly committed sexual abuse against children (in most cases with very good evidence to back up those allegations), thereby willfully ignoring both the priests' alleged prior victims and knowingly placing even more children in potential danger.

The abuse was rampant and the cover-up was endemic. This scandal involved both the violation of children and an organizationally enforced blatant refusal to admit culpability or to properly atone for the crimes. This institutional denial of guilt demonstrates a particularly powerful type of contempt for victims. Because the Church has frequently shown that it perceives itself to be above the law, and because Church officials repeatedly display a galling sense of entitlement and an expectation of special treatment that most other institutional perpetrators of sexual abuse do not, it has become the institution that is currently most closely associated with child sexual abuse in the United States. Despite many Church officials' claims that this is an unfair

association that has been created and disseminated by biased, anti-Catholic forces, the Church itself is to blame for this association and for its perpetuation.

Clearly, the Church's primary concern in these cases, and regarding the issue as a whole, is to protect its reputation, resources, power, and level of influence. Despite the Church's very well-publicized assertions to the contrary, they are not concerned with helping victims to heal, providing them with appropriate restitution, or protecting their rights. From an institutional perspective, the victims have been both a threat and a nuisance for the Church, primarily because the Church's power and reputation depended to a large extent on the victims' willingness or lack thereof to keep secret the abuse they suffered.

The actions that the Church is currently taking in order to protect itself have the same motivations and intentions that priest reassignment did. The Church is desperate to avoid dealing with the problem and will go to extremes to shelter itself and its reputation, in the process disregarding both victims and potential victims. The Church has been and is still willing to disregard and demean victims of alleged clergy abuse if and when these victims threaten the privilege and the power of the Church. The many instances of priest reassignment, each of which involved knowingly exposing children to alleged pedophiles, illustrates the Church's willingness to do almost anything in order to protect itself and its interests.

The Church has devoted much of its substantial power and resources to keeping its secrets concealed. In some cases, this has involved Church officials attempting to prevent the release of documents that would shed light on the true extent of both the abuse and the cover-ups. This blatant refusal to be open and transparent is not only unethical. In some cases, it is also in violation of the law.

Last week, in one such case, the Roman Catholic Diocese of Bridgeport, Connecticut, was dealt a major setback in its ongoing attempts to prevent the unsealing of documents detailing clergy sexual abuse lawsuits.

On August 27th, United States Supreme Court Justice Ruth Bader Ginsburg issued a ruling that denied the diocese's emergency request to keep the documents under seal until the Court decides whether or not to hear the case of *Rosado v. Bridgeport Roman Catholic Diocesan Corp. et al.*

The more than 12,600 judicial documents in question detail sexual abuse lawsuits filed against six Bridgeport diocese priests. The majority of these lawsuits were filed in the mid-1990s, regard abuse that allegedly occurred in the 1960s and 1970s, and were

settled out of court in 2001 for undisclosed amounts and with the agreement that the content of the settlements and documents relating to it would remain permanently sealed.

The documents include three depositions given by Edward Egan, who was Bishop of Bridgeport from 1988 to 2000, when the majority of the lawsuits against the priests in his diocese were filed. Egan recently retired as the Archbishop of New York. These documents would likely provide specific information regarding how Egan dealt with the allegations and may reveal the extent of his culpability in the matter. Such disclosures could greatly damage the reputation of both Egan and of the diocese as a whole.

In 2002, after it was discovered that the documents had not been destroyed, four newspapers filed a lawsuit in an attempt to have them unsealed. A 2009 decision by the Supreme Court of Connecticut upheld a 2006 Waterbury Superior Court's ruling that the newspapers must be allowed access to the documents. The state Court also rejected diocesan officials' assertions that the documents had constitutional privileges, specifically relating to the diocese's claim that unsealing the documents would violate the diocese's rights under the First Amendment's religious clauses. The diocese is now appealing to the United States Supreme Court to consider the case (*Rosado v. Bridgeport Roman Catholic Diocesan Corp. et al.*) and to overturn the state Court's decision.

Their request for appeal is based upon two legal issues. The first regards the state Court's definition of "judicial documents" and the second arises from the diocese's argument that the decision to unseal the documents violates their First Amendment rights, as they claim that they offered these documents with the understanding that they would never be unsealed. However, the state Court ruled that the diocese waived the right to keep the documents perpetually sealed and protected under the First Amendment when they did not, at the time of the ruling, protest on First Amendment grounds.

The diocese argues that the Supreme Court should hear the case because the First Amendment prohibits civil authorities from involving themselves in internal Church decisions regarding priest assignments. Attorneys for the diocese have also argued that because state and federal courts have differed on their definitions of "judicial documents," the Supreme Court should use this case as an opportunity to set a clear legal definition. □□ In the clergy abuse lawsuits, the diocese was blamed for reassigning six priests who had a history of alleged sexual abuse. The diocese has argued that it

cannot be sued for this practice because such choices are private church decisions. It also asserts that any document dealing with such decisions is protected by the religious clauses of the First Amendment, saying in a recent writ that:

Because courts lack a legitimate role under the First Amendment to examine a church's employment decisions regarding its ministers, the courts similarly lack constitutional authority to require a church to produce and publicly disclose confidential internal documents or testimony that would be germane only to second-guessing those decisions.

But decisions that may have led to the sexual abuse of children need to and deserve to be second-guessed. If the documents contain nothing implicating either the diocese or specific individuals in the knowing perpetuation of alleged sexual abuse, then the diocese wouldn't be fighting so vociferously and persistently to prevent their release. □□ Just as a secular counselor or therapist is legally required to report to law enforcement when a patient makes threats of violence against their self or others, the diocese should be compelled to act in a similar manner and should be prohibited from invoking religious privilege in order to keep hidden their protection of alleged pedophiles. □□ Legal precedent doesn't bode well for the diocese: in 2003, Massachusetts Superior Court Judge Constance M. Sweeney denied the Archdiocese of Boston's request to dismiss claims from hundreds of alleged clergy sexual abuse victims. As in the Bridgeport case, the archdiocese argued that its religious freedom would be violated if civil courts intervened in its decisions regarding priest assignments. □□ The Bridgeport diocese believes that because they are a religious institution, the government shouldn't have any say in which priests they choose, how they choose them, and what decisions they make regarding the placement of the priests. However, individual rights, especially the rights of children who have allegedly been sexually abused, must always take precedence over religious rights. The diocese, both in the past and today, is misusing and abusing the First Amendment in order to harbor known alleged child abusers and to protect those who willfully chose to put children in harm's way. The diocese knowingly reassigned and failed to remove priests who were accused of sexual misconduct and now assert that the decisions and practices of their Church, even when those decisions and practices cause, perpetuate, or defend child sexual abuse, are above the law. □□ Until the Court decides whether or not to consider their case, the diocese wants the documents in question kept sealed and thus filed the emergency request in an attempt to maintain the stay on their release. Justice Ginsburg denied their request,

ruling that only 15 documents of the more than 12,600 in the 23 separate files (one for each lawsuit filed against six separate priests) can be kept from the public record. Of those 15 documents, at least two are depositions.

After Ginsburg's decision, the diocese said that it was disappointed but that it would continue with its fight to prevent the release of the documents, saying in a statement that it:

[I]ntends to proceed with its announced determination to ask the full U.S. Supreme Court to review the important constitutional issues that this case presents.

Notice here that the statement is focused on “constitutional issues.” The diocese and its attorneys in this case have repeatedly maintained that their primary concern is with protecting and defending First Amendment rights. By falsely insisting that this is the case, they are attempting to reframe the issue and to shift attention away from their actual motives.

Jonathan Albano, an attorney representing three of the newspapers that have asked to have the documents unsealed (The New York Times, The Boston Globe, and The Washington Post), argues that Ginsburg's refusal to maintain the seal obligates the diocese to release the documents and that the case involves previously resolved state law, saying that:

It's somewhat disappointing that the diocese continues to approach the litigation in a way that delays the public's right to see these documents. There's been seven years of litigation.

He acknowledges the diocese's right to ask the full Court to review Ginsburg's decision, saying:

At the end of the day, the diocese will be able to say they were heard before every court that was available to them.

Indeed. The diocese will eventually have exhausted every possible legal option. They are running out of chances.

All of these frantic maneuvers by the diocese demonstrate an immense fear of the documents becoming public. Despite a number of defeats in various courts, the diocese still refuses to abide by any of these rulings. Of course they have the right to keep appealing as long as it is legal to do so. However, their dogged insistence on pursuing the case until they get the answer they want indicates that they feel entitled to receive special treatment from the judicial system.

The diocese was so unhappy with Ginsburg's decision that on August 28th, attorneys for the diocese specifically asked United States Supreme Court Justice Antonin Scalia, a conservative Catholic and the father of a priest, to look at their case and to reconsider their request to have the stay continued.

The amount of arrogance on display here is shocking and disturbing.

The diocese seems to think that because they didn't like Ginsburg's decision, they now have the right to not only have the decision reviewed, but to also choose the Justice who will review it. They've obviously chosen Scalia under the assumption that he, as a conservative Catholic, will rule in their favor, once again indicating that the diocese will not stop until they get the answer that they want.

Since when does anyone, be it an individual or an organization, have the right to decide which Justice considers their case?

The source of this arrogance and of the massive sense of entitlement on display here is no mystery. The Church is accustomed to having things their way and is used to making their own rules, and they resent when the legal system “intrudes” into their selfish, secretive world. Church officials have shown a willingness to protect each other at any cost and clearly expect the outside world to bend to their beliefs, expectations, and practices, citing “religious privilege” whenever they are asked to justify their expectations or behavior.

In addition to demonstrating a staggering sense of entitlement, this move also displays the diocese's desperation. They know that they have almost exhausted their legal options and see Scalia as a last-ditch hope.

This arrogance, dishonesty, and desperation was made manifest last weekend in a letter from the diocese's Bishop William E. Lori that was distributed to all 87 parishes in the diocese. In the letter, Lori explained the diocese's reasons for opposing Ginsburg's ruling and for deciding to continue with their legal fight. And, in a discussion of the

diocese's current actions and the recent decisions in this case, Lori had the gall to say that:

[I]t is important to note that the Diocese has not pursued this matter in an effort to cover up the issue of sexual abuse.

That's not only blatantly dishonest. It's also a slap in the face to the victims who not only had to allegedly endure horrible sexual abuse, but have also had to watch the diocese spend many years waging expensive legal battles in an attempt to protect itself from having to take responsibility for its actions and inaction. The diocese is clearly engaged in an effort to prevent the release of information that would harm the reputations of itself and of many of its officials. The victims know this, and the bishop's dishonest denial of the diocese's true motives both insults their intelligence and opens their wounds anew.

The Church's rampant dishonesty regarding this issue is nothing new. They've repeatedly promised to be open and honest regarding their past and present mistakes, but have broken this promise time and time again.

In 2002's Charter for the Protection of Children and Young People, American Catholic bishops pledged openness and transparency, promising that dioceses would be:

[O]pen and transparent in communicating with the public about sexual abuse of minors by clergy within the confines of respect for the privacy and the reputation of the individuals involved.

Yet openness and honesty do not exist in the Bridgeport diocese, and Church officials and their lawyers are working diligently to make sure that remains the case.

The Supreme Court most likely will not make a decision regarding whether or not to take up their case until this fall.

New Jersey attorney Stephen Rubino, who has previously represented sexual abuse victims, does not believe that the Court will decide to hear the case, arguing that:

There's no First Amendment protection to keep secret records of criminal activity.

That sums it up perfectly. The diocese can insist all they like that this case is about “religious privilege” and constitutional protections. It's not. It's about protecting themselves and their reputations, covering up past crimes, and a refusal to take responsibility or to properly atone for their misdeeds.

The diocese is solely concerned with its own self-interest and is cowardly hiding behind its mistaken interpretation of the religious clauses of the First Amendment.

They cannot be allowed to hide any longer. A bright light must be shone on them, on their criminal activities, and on the true extent of the cover-ups. They must not be allowed to continue avoiding the consequences of their actions and inaction. □□ In order to send a clear message to the diocese and to the Church as a whole, the Supreme Court must refuse to hear this case.

Let these documents be inspected by anyone who wishes to do so. If the diocese has nothing to hide, then they shouldn't be afraid to make the information a part of the public record. □□ The Church must act on their promises to be open and transparent and must not be allowed to abuse the First Amendment in this way. Their pervasive institutional corruption cannot continue. It is essential that victims' rights take precedence over the Church's religious rights. Justice must be served.

Let's shine that bright light on the darkest, dankest, and most disturbing aspects of the Church. For too long, they've been allowed to hide behind the First Amendment and to choose which aspects of their institution they want on display, and which aspects they want kept secret. When it comes to the sexual abuse of children, the most disturbing of acts, the Church must not be allowed to make that choice. □□ It is never acceptable for an individual or an organization to protect or defend allegedly abusive individuals. This includes religious institutions. An institution must not be allowed to invoke “religious privilege” in order to protect itself from scrutiny in these matters and it is reprehensible that the Bridgeport Diocese is currently doing just that. □□ The Church's secrets must be brought to light so that the Church and its officials can be held fully responsible for their misdeeds. The Church's dishonesty and secrecy must not be allowed to proceed unchecked. The First Amendment does not protect their criminal acts. □□ Let's train the bright light of the public eye on the darkest secrets of the Church. It's long past due.

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