

7-26-08 - Abuse victim seeks punitive damages from archdiocese

By Robert King, Indianapolis Star (IN)

When his childhood priest admitted to sexually abusing boys, a man suing the Archdiocese of Indianapolis said he thought the church also might confess that it should have taken steps to protect him and the other victims.

But so far the church has admitted only that the priest was a molester, accepting no responsibility itself.

So the man known in court documents only as John Doe NM is trying a new tactic to get the church to face its failures. His attorney has filed papers seeking punitive damages against the archdiocese -- raising the specter of the multimillion-dollar jury awards that have punished other dioceses across the country.

"I wanted someone to stand up and take responsibility for it," John Doe NM said. "That's what they preach. But they still haven't done it."

The motion filed late Thursday in Marion Superior Court adds a new dimension to the 3-year-old lawsuit, the closest to trial of the 13 that have been filed against the archdiocese regarding Harry Monroe, a former priest.

It goes beyond seeking compensation for medical expenses, pain and suffering by aiming to punish the archdiocese for "maliciously, fraudulently and willfully" giving Monroe access to children when church officials knew he was a threat.

The move could force the archdiocese to turn over more records on other abusive priests and potentially lay the full scope of its financial holdings before a jury, which could decide to carve out a chunk as punishment.

"It does ratchet up the stakes," said Charles Geyh, an Indiana University law professor.

Archdiocesan spokesman Greg Otolski was not familiar with the court filing and could not discuss case details.

Pat Noaker, the attorney representing the plaintiffs, said the decision to seek punitive damages follows a series of revelations in the pretrial discovery process:

Monroe's admission, under oath, that he sexually abused at least five of the 13 plaintiffs. Monroe did not contest allegations by the others, but said he couldn't remember details of those encounters. The incidents took place from 1974 to 1984 while he worked at parishes in Indianapolis, Terre Haute, and Tell City in Southern Indiana.

Monroe's statement that church officials knew he had been arrested for indecent exposure in college; that in his earliest parish assignments they knew he took boys into his private parish quarters and on overnight camping trips; and that they were aware of a tape recording that contained audio of Monroe's lewd conversation with a boy.

A letter from an archdiocesan official sent to Monroe in California, while he was at a "rehab clinic" for sexually abusive priests.

Despite that knowledge, the archdiocese repeatedly reassigned Monroe to new parishes without warning parents and priests there about his abusive tendencies. These were not mistakes of neglect, Noaker contends, so much as intentional disregard for the inevitable consequences.

"They have got proof on paper," John Doe NM said. "They have got the admission of the person who did it. They knew the whole time and it is like they are still trying to deny it."

Archbishop Daniel M. Buechlein, who was not a bishop during Monroe's career, has declined to discuss the case.

Jay Mercer, who has represented the archdiocese in court, has not disputed that Monroe was an abuser. But he has argued that these cases should be dismissed for being filed after the statute of limitations had expired.

At a December hearing, he argued -- unsuccessfully -- that the victims' claims should be tossed out because merely assigning a priest to a parish makes no active statement that the priest is of noble character and of no threat to children.

Mercer did not return calls Friday.

Otolski said church policy is to encourage victims to come forward and report their abuse to civil and church authorities. The archdiocese spent \$114,000 last year on counseling and related medical care for abuse victims, he said, and is willing to help victims without questioning the facts of their cases.

For the Catholic Church in America, the sexual abuse crisis has cost an estimated \$3 billion in legal settlements, jury awards and other costs, according to BishopAccountability.org, a Massachusetts-based organization that tracks the crisis.

The Indianapolis archdiocese has yet to pay a jury award or settle a case, Otolski said. The archdiocese lists \$281 million in assets, according to its 2007 annual report.

Don Gjerdingen, an Indiana University law professor, said uncertainty from the threat of punitive damages could goad the church into settling the Monroe cases.

Some states set no limit on punitive damage awards, but Indiana limits them to no more than three times the victim's compensation for injuries, pain and suffering.

Even so, plaintiffs such as John Doe NM stand to reap financial rewards from a win in court.

John Doe NM, who has had some success as a businessman, said his case has never been about money.

He said the church needs to be forced to own up to the part it played in his abuse -- its failure to remove Monroe from the priesthood when it saw early on that he was a danger to children.

John Doe NM, whose real name is being withheld by The Indianapolis Star, was a 10-year-old altar boy at the now-defunct St. Catherine parish on the Southside when he says Monroe began abusing him in 1976. For decades, he tried to put it aside. But he blames his lifelong insecurity, grown from the abuse, for contributing to his divorce and a nervous breakdown. Despite his success, he wonders about something no jury can give him.

"What could I have done," he asked, "if I had a normal childhood?"