

Court clears way for priest lawsuit

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In a precedent-setting decision, the Tennessee Supreme Court has cleared the way for a \$68 million child sexual abuse lawsuit against the Roman Catholic Diocese of Nashville to move forward.

The unanimous decision of the Supreme Court justices sets a new legal standard for reckless infliction of emotional distress.

"We hold that reckless infliction of emotional distress need not be based upon conduct that was directed at a specific person or that occurred in the presence of the plaintiff," Chief Justice Frank F. Drowota, III, wrote in the opinion filed Tuesday.

The decision follows an October hearing of consolidated lawsuits against the Catholic Diocese by two boys who were sexually abused by a former priest and reverses Court of Appeals and trial court decisions.

The two boys, now in their early 20s, claim the Roman Catholic Diocese of Nashville was to be held responsible for the abuse they suffered because they allege failure on the part of church officials to properly report former priest Edward McKeown's conduct to authorities after they discovered the priest's sexual abuse.

The Tennessee Court of Appeals sided last year with the trial judge, Davidson County Judge Walter Kurtz, in his decision that the Nashville Diocese was not liable for the molestation that happened years after the Diocese ended any affiliation with McKeown.

Now the Tennessee Supreme Court is sending the case back to the trial court for further proceedings.

McKeown became a priest in 1970, and in 1986 a parent reported to the Diocese that McKeown had molested her son in 1972 or 1973 while the boy was attending a Diocese school.

When the Bishop confronted him, McKeown admitted the abuse.

In 1986, McKeown underwent psychological and medical evaluation and was diagnosed with pedophilia (attraction to children who have not reached puberty yet) and ephebophilia (attraction to an adolescent sex partner).

"Records of the evaluation indicate that McKeown admitted that he 'had sexual contact with minors on the average of once or twice a month for the past 14 years,'" Drowota wrote in the opinion. "The typical age of his victims was stated to be 12 to 13 years old."

Consequently the Diocese sent him to an in-patient facility in Connecticut for treatment of his sexual disorder.

After the evaluation process and after the in-patient treatment, Nashville Diocese officials were warned that there was no cure for McKeown's condition and he should not be in frequent or ongoing contact with adolescents.

The Diocese finally relieved McKeown of his duties in 1989 after officials discovered that he had presented a condom to a minor boy at a Christmas party.

The Diocese assisted him financially until 1994 - a total of \$50,000. The plaintiffs termed the amount as "hush money."

The plaintiffs met McKeown in the trailer park they lived in. He befriended them and their mothers, and in 1994 started molesting John Doe 2 and the following year John Doe 1.

Even though McKeown was at that time not affiliated with the Church, the Does fault the Diocese for not properly investigating and reporting McKeown to the authorities so that he would have been prosecuted and imprisoned.

The plaintiffs seek compensatory damages and punitive damages from the Diocese.

John Day, attorney for the plaintiffs, said he believed throughout the process that the Tennessee Supreme Court would decide this case.

"This is a historic decision that will make law across the nation," Day said.

While other dioceses across the nation were forced to close parishes because of the cost of settlement agreements, the Catholic Diocese of Nashville would not be faced with such a fate, Day said, because most victims lost their legal rights to sue if they did not sue within a year of the time they were abused.

"So unlike Boston, unlike California, unlike several other states which have different laws when a lawsuit must be filed, most of the people in Tennessee lost their rights years ago," Day said.

Rick Musachio, director of communications of the Roman Catholic Diocese of Nashville, said the Diocese is disappointed with the Supreme Court's decision.

"We were certainly looking forward to a final resolution of this case. As we have done from the outset, we maintain that our responses to the facts of this case were proper and appropriate, and will allow the legal process to go forward," he said.

McKeown was prosecuted for sexual abuse of minors, convicted and is in prison.