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The entrance of the Arizona Supreme Court is pictured in Phoenix April 11, 2024. (OSV News/

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August 22, 2026

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Just shy of two weeks after ruling on clergy-penitent privilege, the Arizona Supreme Court issued another unanimous decision Aug. 12 setting a legal precedent for [what qualifies in the state as "confession,"](#) again creating legal implications for the Catholic Church's confessional seal.

While in *Doe v. Corporation of the President of the Church of Jesus Christ of Latter-day Saints* the court ruled on when a member of the clergy may invoke the privilege, *Rodriguez-Ramirez v. Arizona* focused more on the penitent. In the latter case, the court ruled that the defendant's admission to an illegal act could be admitted into court because it did not meet the legal definition of a religious confession.

The case revolves around a former Baptist pastor Mario Rodriguez-Ramirez, who is accused of sexually abusing a minor. When the allegations came to light, he met with a co-pastor and friend, who secretly recorded the conversation containing

Rodriguez-Ramirez's admission of guilt. When he was arrested, Rodriguez-Ramirez invoked clergy-penitent privilege to prevent the recording from being shared in court.

An Aug. 12 news release from the Arizona Supreme Court on the ruling stated, "The Court explained that not every conversation with a pastor counts as a protected 'confession.' A true confession must include admitting fault, and it must be made to seek spiritual forgiveness or guidance."

In his explanation of the court's opinion, Justice James Beene wrote that previous courts applied a three-part framework to the case to determine whether the clergy-penitent privilege applies: whether the person receiving the confession is a member of the clergy; whether it was made while the cleric was acting in his professional capacity; and whether it was made in the "course of discipline enjoined by the church" in which the cleric is a member.

As the Arizona Supreme Court considered this case, Beene said, it added a fourth "threshold" requirement, to be considered before the three-part framework is applied: "whether the communication at issue is a 'confession.'"

Based on the precedent set in *Doe*, Beene wrote that the court defined "confession" as a "confidential acknowledgement or admission of a crime, sin, or fault to a member of the clergy ... for the purpose of absolution."

To invoke the privilege, the party invoking it must establish that the communication in question constitutes a confession, which can apply even if the religious tradition involved does not "observe a rite of absolution," Beene explained.

"We construe 'absolution' by its function, not by denomination," he wrote. "A confession need not follow a formal sacramental rite; it is enough that the penitent discloses a crime, sin, or fault to a member of the clergy while seeking spiritual absolution, consolation, or guidance."

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While "significant portions of the conversation surrounded optics of the allegations and how that would impact the congregation's perception of the defendant and the administrative functioning of the church," Beene wrote that "a communication does

not cease to be a confession merely because it also includes discussion of non-spiritual matters. Similarly, a communication is not transformed into a confession merely because it contains admissions of wrongdoing, spiritual discussion or a prayer.

"Instead," Beene continued, "a communication must be for the purpose of absolution ... to be considered a confession."

In the case, the court found that Rodriguez-Ramirez "neither sought absolution from Padron nor intended that their communication remain confidential," and therefore it "did not constitute a confession."

Although the specific case did not involve Catholic clergy, the precedent could impact how courts view priest-penitent privilege in the future.

While the sacramental seal of confession remains inviolable, conversations outside the confessional or spiritual direction would not fall under the privilege.

If the case had occurred between two Catholic priests, rather than two Baptist pastors, the obligation to report abuse would still exist both canonically and legally, said canon law expert Msgr. John Paul Kimes, a professor of practice at the University of Notre Dame Law School in Indiana.

"If the pastor had some inkling of what was going on, and he went and confronted the parochial vicar and the parochial vicar says, 'Yes, I did that,' it's clearly outside of anything that would be considered the sacramental forum," Kimes said. "So, the pastor would be obliged to report it."

According to the apostolic letter [*Vos Estis Lux Mundi*](#) issued by Pope Francis in 2019 and updated in 2023, any inappropriate conduct discovered in conversations outside of the sacrament of confession or the internal forum should be reported to the local ordinary as well as to local authorities.

While the secrecy and confidentiality of the sacrament of confession is absolute, the discipline of the church could potentially include spiritual direction, which could be covered by the ruling.

"One could make the argument that the discipline of the Catholic Church includes spiritual direction, which would not be covered by the sacramental seal but would have some expectation of confidentiality," Kimes said.

However, in the sacrament of confession, he said, "the seal doesn't belong to the penitent. It doesn't belong to the priest. It belongs to the sacrament, so no one can waive the sacramental seal."