

British court: Church can be held liable for crimes of clergy

Simon Caldwell | Catholic News Service | Nov. 9, 2011

MANCHESTER, England -- A British court has ruled that the Catholic Church can be held legally liable for the crimes of abusive clergy.

The Nov. 8 ruling by the High Court in London for the first time defined in British law the relationship of a priest to his bishop as that of an employee to an employer, instead of seeing the priest as effectively self-employed.

This means that a bishop and a diocese can be punished for the crimes of a priest. Survivors' groups hope that it will also mean that many people who claim to have been abused by clergy will be able to claim compensation more easily.

The court granted the trustees of the Diocese of Portsmouth extra time to appeal the decision.

The case involves a 47-year-old mother of three, referred to only by the initials JGE, who claims she was repeatedly sexually assaulted by Father Wilfred Baldwin as a 7-year-old girl in The Firs children's home in Waterlooville, in southern England, in the early 1970s.

She claims that she also was attacked in the dressing room of a church on the day she made her first Communion.

Besides the Diocese of Portsmouth, she is also seeking damages from the English province of the Sisters of Our Lady of Charity, which ran the home, because she said the nuns witnessed the abuse but did not intervene.

The court was not asked to judge the truth of the allegations but was specifically asked, as a preliminary hearing on the case, to rule on the question of whether the "relationship between a Catholic priest and his bishop is akin to an employment relationship."

Justice Alistair MacDuff said that although the priest had no formal contract of employment there were "crucial features" that made a bishop vicariously liable for his actions.

He said the church gave Father Baldwin the "premises, the pulpit and the clerical robes" and that he was given full authority and free rein in the community to "act as a representative of the church."

"Whether or not the relationship may be regarded as 'akin to employment,' the principal features of the relationship dictate that the defendants should be held responsible for the actions which they initiated by the appointment and all that went with it," said the judge.

JGE first made her complaint in 2006 when police officers investigating complaints against Father Baldwin contacted her to ask if she had been abused by him. Inquiries concluded the same year with the death of the priest, at the age of 75.

JGE is now seeking compensation for pain, injury, humiliation and hurt feelings, saying that she suffered post-traumatic stress disorder, a borderline personality disorder, and that she has attempted suicide as a result of the abuse.

The court ruling was welcomed by the victims' support group, Ministers and Clergy Sexual Abuse Survivors.

But in a Nov. 8 statement the group also expressed frustration on behalf of "hundreds if not thousands of victims" who were seeking damages but would have to await the "outcome of the appeal now to be brought by lawyers employed by the Catholic Church seeking to have this latest ruling overturned."

The group claimed that while the church spent millions of pounds attempting to avoid liability "the victims receive no support, and their suffering continues as they are re-traumatized by having to go through such adversarial and hostile legal processes to achieve justice."

The Portsmouth Diocese said in a Nov. 8 statement that it was "committed to creating a safe environment for all" and that it "works hard to ensure the welfare of children and vulnerable individuals."

"The judgment of Mr. Justice MacDuff involves complex and fundamental legal issues which remain the subject of legal proceedings," it added. "In the circumstances, the Diocese of Portsmouth does not consider it appropriate to make any further comment about the case at this time."

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