

## Judge orders Kansas City bishop to stand trial in abuse case

Joshua J. McElwee | Apr. 5, 2012



Bishop Robert W. Finn of Kansas City-St. Joseph, Mo., in a 2010 photo. (CNS photo/The Catholic Key)

**KANSAS CITY, Mo.** -- The first criminal case against a sitting U.S. bishop in the decades-long clergy sex abuse crisis will go forward after a county judge's decision Thursday that Bishop Robert Finn, head of the Kansas City-St. Joseph diocese, must stand trial on charges of failing to report suspected child abuse.

The decision, released April 5 by Jackson County, Mo., Circuit Court Judge John Torrence, denies several motions Finn's lawyers had brought in the case, arguing that charges against the bishop should be thrown out over questions of constitutionality and whether Finn can be considered a "mandated reporter" according to Missouri law.

"The Court finds that the evidence in this case is sufficient to allow a jury to conclude that Bishop Finn was a designated reporter as defined by Missouri law," Torrence wrote in his decision.

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[Read Judge John Torrence's order here.](#)

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The charge against Finn centers on the case of Fr. Shawn Ratigan, a diocesan priest who was arrested last May on charges of possession of child pornography. While the bishop said he was aware of questionable images on the priest's laptop as early as December 2010, Ratigan was not reported to police by the diocese until May 2011.

In separate indictments in October, prosecutors charged both Finn and the Kansas City-St. Joseph diocese as a whole with criminal misdemeanors in the case.

Finn and the diocese have pleaded not guilty to the charges. In motions filed by his lawyers in mid-February, the bishop had said that because others in the diocese were primarily tasked with reporting abuse, he was absolved of primary responsibility in the case and should not be considered a mandated reporter.

Thursday's decision clears the way for a trial in the case. A press statement Thursday morning from the Jackson County prosecutor's office -- which said prosecutors "were pleased" to read Torrence's ruling -- said the trial is currently set to begin Sept. 24.

In his six-page decision, Torrence answers the seven motions filed by lawyers in February for Finn and the diocese, denying all but two of their requests.

Among those Torrence denied is a request by Finn's lawyers to hold separate trials for the bishop and the diocese.

The motion, filed by Finn's lawyers, had alleged that a combined trial would necessarily subject the jury to "substantial prejudice" toward the bishop once they hear the evidence presented by prosecutors against the diocese. It also claimed that by trying the cases together, the judge would essentially pit the diocese and the bishop against one another at trial, creating "the potential for a mutually antagonistic situation between Bishop Finn and the Diocese."

Torrence writes, "The trial will not consist of complex issues and the jury should have no problem compartmentalizing the evidence" against the diocese and the bishop.

Torrence also writes that "serious consideration" will be given by the court to the use of "limiting instructions" in order to ensure that the jury is not biased in either case.

"This Court genuinely believes that a joint trial of both defendants will not result in actual prejudice to either party," he continued.

Two of the other motions denied by Torrence had argued that the charges against the bishop were unconstitutional both as applied in the case and "on their face."

Finn's lawyers argued that Missouri law requiring mandated reporters to "immediately report" suspected abuse was "unconstitutionally vague" because it doesn't specify exactly how quickly people are expected to report those suspicions.

"This Court finds and concludes that persons of ordinary intelligence have no difficulty understanding the meaning of 'immediately report,' " Torrence writes.

Finn's lawyers had also argued that Missouri law specifying people report to police when there is a "reasonable cause to suspect" child abuse could also be considered unconstitutionally vague in some situations.

Torrence writes that it is not up to the judge to imagine a situation where charges would be unconstitutional, but to apply them as seen in the "facts at hand."

"Suffice it to say that the facts in this case appear sufficient to allow a jury to conclude that, at various times, the defendants had reasonable cause to suspect a child may have been subjected to abuse," the order continues.

The judge granted requests by the defendants to extend pre-trial deadlines in the case and to quash additional subpoenas from the prosecution, saying they amount to a "post-Indictment discovery tool" in violation of Missouri law.

Finn's lawyers' February motions seemed to direct blame for the diocese's lack of response in the Ratigan case to Msgr. Robert Murphy, the diocesan vicar general, who received the first reports of concerns about the priest's behavior.

Asserting multiple times that Murphy had not provided Finn with anything more than brief, insubstantial updates regarding Ratigan in the year before the priest's arrest, the motion requesting separate trials alleged that the diocesan sex abuse response team "became solely responsible" for making a report to police about the priest.

Citing Murphy, who served as a member of the diocese's clergy sexual abuse response team until he was removed from the position last summer, the motion alleges Finn's obligations to report the suspected abuse "extinguished" when Murphy, who remains the diocese's vicar general, became aware of it.

Torrence writes that the "evidence in this case is sufficient to allow a jury to conclude that Bishop Finn was a designated reporter as defined by Missouri law."

Thursday's decision concerns one of two Missouri jurisdictions in which Finn has come under criminal scrutiny for his actions in the Ratigan case.

In a separate agreement with prosecutors in Clay County, Mo., in November, prosecutors suspended misdemeanor charges against the bishop in the case so long as Finn agreed to give the prosecutors immediate oversight of the Kansas City-St. Joseph diocese's sex abuse reporting procedures in their county.

As part of the agreement, Finn agreed to meet with diocesan parishes in the county to outline diocesan reporting procedures for suspected child abuse. Finn also agreed to monthly meetings with Clay County prosecutor Daniel White to discuss all reported suspicions of abuse in the county.

Finn held the parish meetings in the spring. A call to the Clay County prosecutor's office to inquire as to the status of the bishop's meeting with prosecutors was not immediately returned.

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