

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

JAN 11 2016 10:01:57
 CLERK OF CIRCUIT COURT
 LAW DIVISION
 ROOM 1000
 111 W. WASHINGTON ST.
 CHICAGO, IL 60601

JOHN DOE 239,)
)
 Plaintiff,)
)
 v.)
)
 THE CATHOLIC BISHOP OF CHICAGO,)
 a corporation sole, and THE ARCHDIOCESE OF)
 CHICAGO,)
)
 Defendants.)

No.

FILED
 2015 FEB -4 PM 12:34
 DEPARTMENT OF CLERK OF CIRCUIT COURT
 LAW DIVISION

COMPLAINT

The Plaintiff, John Doe 239 (“John Doe”), by and through his attorneys, Kerns, Frost & Pearlman, LLC, and Jeff Anderson & Associates, P.A., and for his Complaint against The Catholic Bishop of Chicago, a corporation sole, and the Archdiocese of Chicago (collectively the “Archdiocese”) states as follows:

PARTIES

1. John Doe 239 is and was at all relevant times a resident of Cook County in the State of Illinois.
2. The Catholic Bishop of Chicago, a corporation sole, is and was at all relevant times an Illinois corporation. The Archdiocese of Chicago is an ecclesiastical entity of the Roman Catholic Church. At all times material to the Complaint, the Archdiocese of Chicago was conducting business in the State of Illinois, with its principal place of business in Cook County, Illinois.
3. The Archdiocese is led by its Archbishop. The Archbishop is the chief operating officer and ordinary of the Archdiocese and has ultimate authority and responsibility for, and at

all times relevant had complete control over all matters within the Archdiocese, including employment matters related to priests.

FACTS

4. Father Daniel McCormack (hereinafter “McCormack”) was ordained a priest of the Archdiocese in approximately 1994.

5. At all times material, McCormack was a Roman Catholic priest under the supervision, employ, agency and/or control of the Archdiocese. McCormack was at all relevant times an employee, agent, or apparent agent of the Archdiocese.

6. The Archdiocese owns, operates and/or controls a seminary system consisting of a minor seminary/college (Niles College at Loyola) and a major seminary/divinity school (St. Mary of the Lake in Mundelein, Illinois) for the purpose of educating, evaluating, and training young men to become priests within the Archdiocese.

7. The Archdiocese is responsible for the assignment, supervision, and promotion of seminarians within the Archdiocese’s seminary system.

8. Prior to becoming a priest, from 1986 to 1991, McCormack attended Niles Seminary and Mundelein Seminary.

9. While he was an adult in the Archdiocese’s seminary system and under the Archdiocese’s supervision, McCormack sexually abused, touched, or molested a minor boy during a school-related trip to Mexico.

10. Also, while he was an adult in the Archdiocese’s seminary system and under the Archdiocese’s supervision, McCormack engaged in improper or predatory sexual conduct with young adult males that were also seminarians.

11. In or about 1992, while McCormack was still a seminarian, seminary officials, faculty members, and on information and belief, the Vice Rector of St. Mary of the Lake Seminary, in Mundelein, Illinois, learned of McCormack's acts of sexual misconduct and molestation referred to above.

12. In or about 1992, despite learning of McCormack's proclivities for engaging in sexual misconduct and molestation, the Archdiocese did not report McCormack to civil authorities, or otherwise warn the public.

13. Also despite learning of McCormack's sexual proclivities for engaging in sexual misconduct and after permitting him to become a priest, the Archdiocese and its Archbishop assigned him to work in various parishes in and around Chicago, Illinois, where he was regularly around or had access to children as a parish associate pastor, pastor, and leader within the schools in those parishes.

14. McCormack was authorized to represent himself as a priest of the Archdiocese of Chicago, to teach and counsel the public, including minors, on behalf of the Archdiocese, and to otherwise exercise the rights, privileges, and responsibilities of a priest.

15. In 1994 and following his ordination, the Archdiocese assigned McCormack to his first parish associate pastor assignment at St. Ailbe Parish, in Chicago, Illinois.

16. While at St. Ailbe's parish, the Archdiocese allowed McCormack to have access to children despite the prior reports to the Archdiocese that McCormack had sexually abused at least one minor boy and engaged in sexual misconduct with young male seminarians. McCormack took advantage of this Archdiocese-sanctioned access.

17. On information and belief, others at the parish and school, including priests, teachers and staff, could observe kids going to, coming from, or being in the rectory with McCormack.

18. In or about 1998, McCormack was appointed by the Archdiocese to teach, counsel, instruct, and guide child parishioners at Holy Family Parish.

19. In October 1999, the principal of Holy Family School, who was a nun, received a report that Daniel McCormack asked a fourth-grade boy to pull down his pants in the sacristy at Holy Family.

20. When confronted with the report in or about 1999, McCormack admitted that “he used poor judgment.”

21. The principal reported this incident to an official at the Office of Catholic Schools, and was told by the official that “if the parents aren’t pushing it, let it go.”

22. The principal reported McCormack's behavior with children in 2000 to Archdiocese officials numerous time. She told several Archdiocese officials verbally and in writing about an incident involving a young boy.

23. The Defendants did not at any time prior to the time that Plaintiff was abused report McCormack to civil authorities after receiving these reports, did not tell any of the parishioners at any of the parishes where McCormack worked about these reports, and did not tell any other children to whom McCormack had access, or parents, about the reports.

24. In or about September 2000, rather than remove McCormack from ministry and restrict his access to children, the Defendants, promoted McCormack to the position of Pastor of St. Agatha’s parish, in Chicago, Illinois. At the time that he was assigned to St. Agatha’s, the

Defendants knew or should have known of the prior reports or allegations of sexual abuse of minors and of sexual activity with seminarians by McCormack.

25. While at St. Agatha's parish, Defendants continued to allow McCormack access to children, despite the prior reports that McCormack had engaged in sexual misconduct with at least two minor boys, and two young male seminarians. The Defendants did not inform the public or members of St. Agatha's of McCormack's deviant sexual history, and the danger that he posed to children.

26. St. Agatha's included a church, a rectory, an afternoon day care, and an elementary school campus that was part of Our Lady of the West Side. While at St. Agatha's and Our Lady of the West Side, McCormack provided instruction, mentoring, education and guidance to parish children, and also became the coach of St. Agatha's boys' basketball team.

27. On information and belief, in 2002 the Cardinal represented to the public that the he and the Archdiocese had adopted a "zero tolerance" policy that mandated that priests involved in childhood sexual abuse be removed from ministry. He also represented to the public that a priest with even one act of sexual misconduct with a child should not be allowed in public ministry in order to protect children.

28. On information and belief, in 2004 Cardinal George and the Archdiocese represented to the public that there were no priests that were accused of childhood sexual abuse that were in public ministry in the Archdiocese of Chicago.

29. From 1999 to 2005, officials of the Office of Catholic Schools, and Archdiocesan organization, received numerous allegations of suspicious activities involving McCormack with children. These allegations caused the teachers to undertake their own "informal monitoring" of their minor students when McCormack was in the school.

30. On September 5, 2003, the Defendants received a report of possible misconduct by McCormack with children. The female that reported the misconduct left a telephone number for a return call to make sure that the Defendants responded appropriately to the complaint.

31. After receiving the September 5, 2003 report, the Defendants took no action to remove McCormack from ministry, restrict his access to children, warn the public and the children to whom he had access, report McCormack to civil authorities, or otherwise protect children from McCormack.

32. In August of 2005, the Defendants, via the Office of the Vicars for Priests, learned that McCormack had been arrested and was being questioned by the Chicago Police Department regarding allegations of sexual abuse of a minor boy.

33. In or around August 2005, the Defendants received information that the allegations of sexual abuse by McCormack being investigated by the Chicago Police Department were credible.

34. In August of 2005 the Defendants did not inform law enforcement of the previous incidents of sexual misconduct by McCormack.

35. In August 2005, the Archdiocese did not remove McCormack from ministry, restrict his access to children, or inform any of the parishioners, including any of the children, parents or workers at St. Agatha's parish that law enforcement was investigating McCormack for child sexual abuse.

36. In September of 2005, the mother of a 10 or 11 year old boy twice called the Defendants and reported in detail that McCormack had sexually molested her son on multiple occasions in 2003.

37. Also in September of 2005, the mother of the 10 or 11 year old boy met with the principal and a teacher at Our Lady of the Westside School. The mother again reported in detail that McCormack had sexually molested her minor son.

38. Both the principal and teacher at Our Lady of the Westside School are employees of and under the control of the Defendants.

39. In September 2005, the Defendants did not remove McCormack from ministry or restrict his access to children, and did not inform any of the parishioners, including any of the children, parents or the majority of the workers at St. Agatha's parish that the Defendants had recently received new reports from a mother that her child was molested by McCormack.

40. On or about October 15, 2005, the Defendants' Professional Review Board recommended that McCormack be removed from his position as pastor at St. Agatha's for the safety of children. The Defendants, however, chose not to remove McCormack from ministry until January 2006.

41. John Doe 239 met McCormack in approximately 2000 while he was a student at the elementary school located at St. Agatha parish, in Chicago.

42. Plaintiff revered and trusted McCormack as a priest, authority figure at St. Agatha and in the community, and a male role model.

43. Plaintiff would encounter McCormack on nearly a daily basis at school, as well as on Saturdays while participating in the SAFE tutoring program at St. Agatha, and while serving as an altar boy.

44. McCormack began taking advantage of that trust and began sexually abusing Plaintiff shortly after first meeting John Doe 239.

45. McCormack sexually abused Plaintiff on a regular and repeated basis between 2000 and 2006.

46. Incidents of sexual molestation alleged in this Complaint occurred on property owned by, operated by, or under the control of the Archdiocese.

47. On information and belief, McCormack abused other children before, during the same timeframe as, and after he abused John Doe 239. McCormack's abuse of children continued until he was finally arrested in January 2006 for sexually abusing minor boys.

48. Before Plaintiff was first sexually abused by McCormack, the Archdiocese had actual and/or constructive knowledge of material facts regarding McCormack's inappropriate and sexually abusive behaviors, but failed to act on that knowledge to protect children including John Doe 239.

49. In 2006, the Archdiocese of Chicago publicly admitted that there were 55 clerics of the Archdiocese who had allegations of sexually molesting minors substantiated against them since 1950. In 2014, the Archdiocese added 10 more clerics to its list of clerics who had allegations of sexually molesting minors substantiated. The Archdiocese has released some of the documents pertaining to 30 of the 65 listed clerics that expose the histories, patterns and practices used to molest minors, and the Archdiocese's knowledge of the clerics' dangerous tendencies. The Archdiocese has not released documents pertaining to the remaining clerics who had allegations of sexually molesting minors substantiated. Also, the Archdiocese has not released the names of other clerics accused of molesting minors or documents about them. As a result, children are at risk of being sexually abused.

50. As a direct result of the Archdiocese's conduct, Plaintiff was sexually abused by McCormack and has suffered and will continue to suffer great pain of mind and body, severe and

permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation, physical, personal and psychological injuries, was prevented and will continue to be prevented from performing his normal daily activities and obtaining the full enjoyment of life, has and/or will incur expenses for medical and psychological treatment, therapy and counseling, and on information and belief has and/or will incur loss of income and/or loss of earning capacity.

COUNT I: PUBLIC NUISANCE (COMMON LAW)

Plaintiff incorporates Paragraphs 1 through 50 of this Complaint as if fully set forth under this count and further alleges that:

51. Residents of Chicago, Illinois, and the greater Midwest have a common right to be free from conduct that unreasonably interferes with the general public's right to public health, public safety, and conduct that disrupts the peace and comfort of members of the general public.

52. The Archdiocese continues to conspire and engage and/or has conspired and engaged in efforts to: 1) conceal from the proper civil authorities sexual assaults committed by McCormack and the Archdiocese's other agents, against minor children; 2) protect the Archdiocese's agents from criminal prosecution for their sexual assaults and abuse against children; and/or 3) allow known child molesters to live freely in the community unknown to the public.

53. The deception and concealment by the Archdiocese was and is a significant and unreasonable interference with the health, safety, peace, and comfort of the general public, including, but not limited to, residents in the Archdiocese of Chicago and all other members of the general public who live in communities where the Archdiocese's accused molesters live. The Archdiocese's failure to report multiple allegations of sexual assault and abuse of children to

proper authorities has significantly endangered the safety and health of the general public by allowing child molesters to avoid prosecution and remain living freely in unsuspecting communities. These child molesters, known to the Archdiocese but not to the public, pose a threat of abuse to the general public.

54. The deception and concealment by the Archdiocese was and is specially injurious to Plaintiff's health because he was sexually assaulted by the Archdiocese's agent, McCormack.

55. The Archdiocese's significant and unreasonable interference with the health, safety, peace, and comfort of the general public was also specially injurious to Plaintiff's health in that he experienced mental and emotional distress because he had been the victim of the Archdiocese's deception and concealment; Plaintiff had not been able to help other minors being molested because of the deception and concealment; and because Plaintiff had not been able to receive timely medical treatment needed to deal with the problems he had suffered and continues to suffer as a result of the molestation. As a result, Plaintiff has suffered and continues to suffer lessened enjoyment of his life, impaired health, emotional distress, and/or physical symptoms of emotional distress.

56. Plaintiff has also suffered and continues to suffer special and peculiar pecuniary harm as a result of the Archdiocese's significant and unreasonable interference with Plaintiff's and the general public's rights, which continues as long as decisions are made and actions taken to keep the information about the abuse and the accused priests concealed.

57. The continuing public nuisance created by the Archdiocese was, and continues to be, the proximate cause of the significant and unreasonable interference with the health, safety, peace and comfort of the general public and of Plaintiff's special injuries and damages as alleged.

58. In doing the aforementioned acts, the Archdiocese acted intentionally, maliciously and with conscious disregard for Plaintiff's rights.

59. As a result of the above-described conduct, Plaintiff has suffered injuries and damages more particularly described above; and such other damages to which experts in this case may testify.

WHEREFORE, Plaintiff John Doe 239 requests injunctive relief against Defendants in the form of a Court order requiring the Archdiocese to publicly release the history of abuse of each accused child molesting cleric and each such cleric's pattern of grooming and sexual behavior. This includes the release of the Archdiocese of Chicago's documents on the clerics.

COUNT II: NEGLIGENCE

Plaintiff incorporates Paragraphs 1 through 50 of this Complaint as if fully set forth under this count and further alleges that:

60. The Archdiocese accepted minor parishioners and held St. Agatha parish and school out as safe place for children and held McCormack out as a fit priest.

61. The Archdiocese agreed to and did undertake to provide for the supervision, care and physical safety of children at and upon the premises of St. Agatha, including Plaintiff.

62. The Archdiocese, by and through their agents, servants and employees, knew or should reasonably have known of McCormack's dangerous and exploitative propensities as a child molester.

63. At all relevant times, the Archdiocese owed a duty of reasonable care to the Plaintiff to protect the Plaintiff from harm, including inappropriate sexual touching, contact and/or abuse by McCormack.

64. Further, at all relevant times, the Archdiocese, as master, also had a duty to use reasonable care to supervise and control McCormack, its servant, so as to not create an unreasonable risk of bodily harm to others, including specifically minor children such as John Doe.

65. The Archdiocese knew or had reason to know that they had the ability to control McCormack, and knew or should have known of the necessity and opportunity for exercising such control.

66. McCormack used premises owned by, operated by, or under the control of the Archdiocese, and the instruments of his employment as a priest granted to him by the Archdiocese, including his status, authority, and influence as a priest, to access Plaintiff.

67. McCormack was on the premises of St. Agatha Parish by his appointment as associate pastor and as pastor by the Archdiocese, and the Archdiocese knew that it had the ability to control McCormack, and that he was or was likely to be alone with minor boys to which he had and was given access by the Archdiocese.

68. McCormack in fact obtained access to John Doe 239 and was able to seclude and abuse him as a direct result of his position as a priest and authority figure at St. Agatha school and parish.

69. Notwithstanding the foregoing, the Archdiocese breached its duties of reasonable care to the Plaintiff by committing one or more of the following acts and/or omissions:

- a. failed to properly investigate reports of inappropriate sexual behavior, conduct and/or abuse by McCormack while he was a seminarian and while he was a priest prior to assigning him to St. Agatha parish;

- b. did not report McCormack to civil authorities after receiving reports of his sexual misconduct with minors;
- c. failed to remove McCormack from ministry or from work that would allow him unlimited access to minors;
- d. failed to adequately supervise or control McCormack who sexually abused Plaintiff;
- e. failed to warn the public or Plaintiff and his family, that McCormack had engaged inappropriate sexual activity with children and was a danger to others;
- f. allowed McCormack to have unsupervised contact with Plaintiff, wherein McCormack was able to sexually abuse Plaintiff;
- g. failed to take adequate steps to prevent sexually dangerous priests such as McCormack from being given positions of trust and authority within parishes and schools, such as St. Agatha, where they had unfettered access to children, such as John Doe 239;

70. As a direct and proximate result of the Archdiocese's conduct, Plaintiff has sustained and continues to sustain the injuries and damages alleged herein.

WHEREFORE, the Plaintiff, John Doe 239, requests that judgment be entered in favor of the Plaintiff and against the Defendants, in an amount in excess of the jurisdictional limits of this Court and such other relief as this Court deems just and equitable.

JURY DEMAND

Plaintiff demands a jury trial.

Respectfully Submitted,


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