

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

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CIRCUIT COURT OF COOK
COUNTY OF ILLINOIS
LAW DIVISION

DARRYL MCARTHUR,

Plaintiff,

v.

THE CATHOLIC BISHOP OF CHICAGO,
a corporation sole, and THE ARCHDIOCESE OF
CHICAGO,

Defendants.

No.

201312013992
CALENDAR/ROOM Z
TIME 00:00
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COMPLAINT

The Plaintiff, Darryl McArthur (“McArhtur”), by and through his attorneys, Kerns, Frost & Pearlman, LLC, and Jeff Anderson and 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. Darryl McArthur 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, however, 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. St. Ailbe included a church, a rectory, and an elementary school campus. While at St. Ailbe, McCormack provided instruction, mentoring, education and guidance to parish children. McCormack was also the coach of St. Ailbe's boy's basketball and football teams.

17. At the time that he was assigned to St. Ailbe, the Archdiocese, through its leaders, agents, representatives and employees, knew or should have known that McCormack had sexually abused minor boys and/or engaged in sexual misconduct with seminarians.

18. The Archdiocese did not inform the public, parishoners, students or their parents, of St. Ailbe of McCormack's deviant sexual history, and the danger that he posed to children.

19. 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.

20. For instance, during his assignment to St. Ailbe, McCormack would bring boys into the rectory for "baptism class" and to socialize. The boys would on some occasions be alone, and on other occasions be in small groups of a few boys.

21. 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.

22. Darryl McArthur, attended St. Ailbe parish and school from approximately 1989 to 2000 when he graduated 8th grade.

23. Plaintiff met McCormack when he was approximately 8 or 9 years old in 1994 and a 4th grade student at St. Ailbe.

24. Plaintiff revered and trusted McCormack as a priest and authority figure at St. Ailbe, and in the community.

25. However, beginning in approximately 1994 McCormack took advantage of that trust when he began sexually molesting Plaintiff.

26. The first instance of abuse occurred when after McCormack had invited Plaintiff to join the school's boys basketball team. McCormack approached Plaintiff during recess on the

playground at St. Ailbe and invited him to McCormack's private bedroom in the church rectory to try on a basketball uniform.

27. During this first incident of abuse, McCormack had Plaintiff disrobe, and then fondled Plaintiff's genitals and buttocks under the guise of trying on and fitting a basketball uniform.

28. McCormack's sexual abuse of Plaintiff progressed during the course of the 1994-1995 school year when Plaintiff was in 5th grade. The abuse occurred over approximately a period of 2 years beginning in Plaintiff's 4th grade year and continuing into his 6th grade year at St. Ailbe.

29. McCormack abused Plaintiff on a routine basis between approximately 1994 and 1996. The abuse alleged in this Complaint occurred on property owned by, operated by, or under the control of the Archdiocese, including, for example, in the St. Ailbe rectory, and in the church just prior to mass when Plaintiff was an altar server.

30. McCormack's abusive conduct involved various sexual acts such as McCormack fondling Plaintiff, exposing and masturbating himself in front of Plaintiff, taking photos of Plaintiff while Plaintiff was naked, showing Plaintiff naked pictures of himself, and forcing Plaintiff to engage in other sexual acts.

31. On information and belief, McCormack abused other children before, at the same time as, and after he abused McArthur. McCormack's abuse of children continued until he was finally arrested in January 2006 for sexually abusing minor boys.

32. 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 behavior, but failed to act on that knowledge to protect children including Darryl McArthur.

33. 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 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, has incurred and will continue to incur loss of income and/or loss of earning capacity.

COUNT I: NEGLIGENCE

Plaintiff incorporates Paragraphs 1 through 33 of this Complaint as if fully set forth under this count and further alleges that:

34. The Archdiocese accepted minor parishioners and held Saint Ailbe's parish and school out as safe place for children and held McCormack out as a fit priest.

35. The Archdiocese agreed to and did undertake to provide for the supervision, care and physical safety of children at and upon the premises of Saint Ailbe's, including Plaintiff.

36. 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.

37. 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.

38. 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 Darryl McArthur.

39. 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.

40. 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.

41. McCormack was on the premises of St. Ailbe 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.

42. McCormack in fact obtained access to Darryl McArthur and was able to seclude and abuse him as a direct result of his position as a priest and authority figure at St. Ailbe school and parish.

43. 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. Ailbe's 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;
- b. failed to adequately supervise or control McCormack who sexually abused Plaintiff;
- b. 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;
- c. allowed McCormack to have unsupervised contact with Plaintiff, wherein McCormack was able to sexually abuse Plaintiff;
- d. 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. Ailbe, where they had unfettered access to children, such as McArthur;

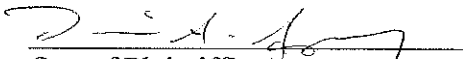
44. As a direct and proximate result of the Archdiocese's conduct, Plaintiff has sustained and continues to sustain the injuries and damages alleged herein.

WHEREFORE, the Plaintiff Darryl McArthur 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,


One of Plaintiff's Attorneys

Marc J. Pearlman
David A. Argay
KERNS, FROST & PEARLMAN, LLC
30 W. Monroe St., Ste. 1600
Chicago, IL 60602
(312) 261-4550
Firm ID No. 43936

Jeffrey R. Anderson
JEFF ANDERSON & ASSOCIATES, P.A.
366 Jackson St., Ste. 100
St. Paul, MN 55101
(651) 227-9990