

Appellate court rules priests' records aren't sacred

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The **Rockford** Catholic Diocese must allow trial judges to review internal church documents when clergy are accused of crimes, Illinois' 2nd **Appellate Court** ruled Tuesday.

The **court** - not the church - gets to make the determination whether to keep information out of the courtroom, justices wrote in the opinion.

The **court** also ruled that confessional privilege does not extend to panels investigating alleged abuse.

Law experts heralded the ruling as precedent-setting and one that will pave the way to greater transparency in abuse lawsuits against clergy members.

"It brings the church in line with what is required of other organizations," said Rodney Blackman, a law professor at DePaul University. "If you were to substitute a secular organization for the Catholic Church, and it was alleged to have done a cover up, I think that all the internal memos would be subject to discovery."

Kane County Assistant State's Attorney Jody Gleason said the ruling could potentially remove hurdles to prosecution of future cases involving religion organizations.

"We obviously think the ruling is a very good ruling and we are certainly very happy that the public opinion is out there as a precedent," she said.

Diocese attorney Ellen Lynch did not return a call to find out whether the diocese will appeal the decision.

The **court** said the church must follow the same rules as secular organizations and hand over personnel files, transfer records for church assignments and the results of internal church investigations to a trial judge to decide whether any of the information falls under legal privilege and can be kept out of **court**.

The **Rockford** Diocese refused to hand over those documents to the Kane County state's attorney's office in the case of former Geneva priest Mark Campobello, who is scheduled to head to prison Friday. Diocesan attorneys contended that church law required information generated by the church's misconduct investigations remain confidential in order to encourage others to come forward.

The **court** concluded that church law did not supersede criminal investigations.

"Merely because Canon 489 is controlling the internal operation of the affairs of the church does not mean that it permits evidence pertaining to sexual molestation of children by priests to be secreted and shielded from discovery that is otherwise proper," Justice Jack O'Malley wrote in the opinion.

Similarly, the justices shot down arguments that outside involvement in an internal church investigation is a violation of freedom of religion as set up by the U.S. Constitution and protected by "critical self-analysis privilege."

The **court** ruled the diocese failed to prove that turning over the records would impinge upon the

freedom of religion, how the church administered its school or parish or how it determined whether Campobello violated church law. The state was only seeking records for use in a secular court.

"There is no potential for state subversion of religious objectives," O'Malley.

Justices also ruled that discussion between Campobello and the church's investigation commission did not qualify as protected under the guise of his seeking spiritual guidance.

The ruling could have implications on church abuse lawsuits across the state. Although other districts are not bound by the ruling, **appellate** judge's typically weigh decisions in other courts, said J. Michael Weilmuenster, a Belleville attorney fighting Bishop Wilton Gregory of Belleville for mental health records of a priest accused of abuse.

"It does dovetail into my case because a lot of the documents they have claimed to be privilege are notes and correspondences," Weilmuenster said. "Slowly but surely you see the courts recognizing the enormity of this problem and trying to address ways the victims get the documents and information that they are entitled, to find out what the diocese knew."

In Illinois, it typically has been the clergy that has decided what to be kept private, experts said. The **appellate** ruling leaves that decision up to the trial judge when it is unclear whether the internal church discussions were solely for spiritual guidance for the accused.

"That is exactly the line that needs to be drawn in these types of cases," said Northwestern law Professor Ronald Allen. "They are not, and should not be, viewed as above the law."

The **appellate court's** upholding of a Kane County judge's order for the documents likely will have little impact on Campobello's criminal charges. But the ruling has implications for future cases, including possible civil suits against him.

Campobello, 39, has until June 13 to withdraw his plea of guilty to aggravated criminal sexual abuse against two teen girls at St. Peter Elementary School in Geneva and Aurora Central Catholic High School. He has been sentenced to eight years in prison. His attorneys did not return calls on whether he would stick with his plea.

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