

Judges dismiss two suits against diocese

Mike Latona/Catholic Courier

Judges have dismissed two sexual-abuse lawsuits against the Diocese of Rochester. The cases involved Robert O'Neill, a retired diocesan priest who was removed from ministry in May 2002, and Albert Cason, a former diocesan priest removed from ministry in 1985.

In the O'Neill case, state Supreme Court Justice Robert Lunn ruled in Rochester May 7 that the applicable statute of limitations had expired for 10 plaintiffs who were seeking unspecified damages. The plaintiffs, all adult males, claimed in their lawsuit that O'Neill committed acts of sexual abuse against them in the 1970s and 1980s, while they were teenagers and O'Neill was serving at parishes in the diocese.

State law stipulates that juvenile victims of sexual abuse must file civil lawsuits within three years after their 18th birthdays. Yet the plaintiffs contended that the statute of limitations should be waived because they alleged the Diocese of Rochester made false statements, intentionally concealed information and failed to prevent or discover O'Neill's alleged sexual misconduct.

Justice Lunn found none of these arguments legally valid. In addition to upholding statutes of limitations, the judge cited church-state issues, stating, "Any attempt by the court to define standards and rules under which a priest is retained or supervised necessarily and impermissibly involves the court in church

doctrine."

Rochester's Paul J. Yesawich III, attorney representing the diocese, said he was pleased but not surprised about the lawsuit's dismissal. "It's a result of the court following well established legal precedent," he said.

Barring an appeal by the plaintiffs, Justice Lunn's ruling ends a series of court events that began in June 2002 when three men filed a lawsuit against both O'Neill and the Diocese of Rochester. Seven plaintiffs were later added to the suit. Charges against O'Neill were dismissed by Justice Lunn in December 2002. That decision also was based on the statute of limitations having expired.

O'Neill, 66, retired in 2001 due to health concerns. He was removed from all ministry by Bishop Matthew H. Clark in May 2002 based on allegations that he had committed sexual misconduct in the past.

The \$50-million lawsuit involving Cason was dismissed in Rochester May 8 by state Supreme Court Justice Evelyn Frazee, who ruled that the statute of limitations for the plaintiff, "John Doe," had expired in 1976. That suit involved an allegation of sexual abuse by Cason during his tenure at St. John the Evangelist Parish in Spencerport, where he served from 1968-73.

Several other sexual-abuse lawsuits involving Cason are still pending. According to Yesawich, who is defending the diocese as well as Bishop Matthew H. Clark on the Cason suits, the diocese has moved for dismissal on all those suits.

Sr. Bernadette McNiel

Sister of St. Joseph Bernadette McNiel, 93, died at the congregation's motherhouse on April 28, 2003.

Formerly Sister Bernadette de Lourdes, she entered the order from St. Joseph's Parish in Rochester. She was observing her 70th year as a Sister of St. Joseph (see page 15).

Sister McNiel attended Nazareth Normal School and received her bachelor's degree from Nazareth College. After teaching in diocesan schools for 38 years, she worked in the guidance office at DeSales High School in Geneva and in the business office at St. Joseph's Villa. Following her retirement in 1986, she

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performed volunteer work until 1995 when she moved to the convent infirmary.

Sister McNiel is survived by her brother, Robert (Margaret) of Calif.; her sister-in-law, Bernice; nieces and nephews; and her sisters in the congregation.

Her memorial Mass was celebrated on May 2 at the motherhouse with burial in Holy Sepulchre Cemetery. Memorial contributions may be made to the Sisters of St. Joseph, 150 French Road, Rochester, NY 14618.

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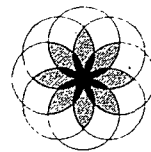


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