

Court overturns two sex-crimes laws

Ruling affects abuse cases in California

Patricia Zapor/CNS

WASHINGTON — In rulings June 26, the Supreme Court tossed out two unrelated sex-crimes laws and set the stage for new struggles over the prosecution of decades-old sex-abuse cases and the expansion of gay rights.

One ruling will have the effect of stopping or reversing the prosecution by the state of California of more than 800 people, including some Catholic priests, for sexual abuse of children. The cases had all passed the statute of limitations on prosecution until a 1994 state law retroactively lifted the time limits.

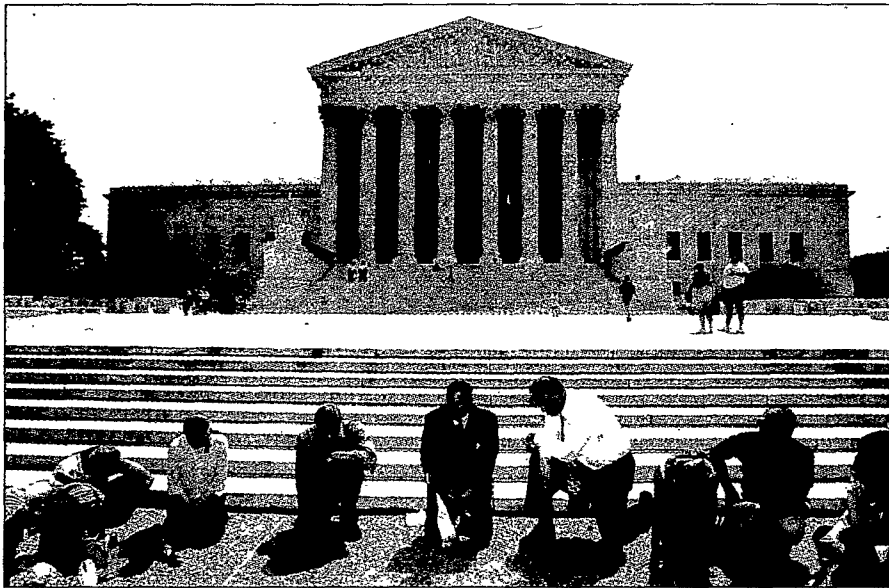
The California Catholic Conference said in a statement that although the court's 5-4 ruling in *Stogner v. California* may affect some criminal cases involving clergy, "we bishops will not let this judgment of the court diminish our moral obligation to help victims of any age and ensure the safety of our youth."

The ruling that drew the most nationwide attention that day, however, was a 6-3 decision to overturn laws in Texas and about a dozen other states that made sodomy between consenting adults illegal. The Texas law applied only to homosexual relationships, but the ruling also set aside laws in states that apply to heterosexuals too.

The ruling written by Justice Anthony Kennedy said the due process clause of the Constitution protects homosexual couples' right to engage in sexual practices without intervention by the government.

Gay rights groups described the ruling as an important anti-discrimination victory and a step toward legal recognition of homosexual relationships.

However, Kennedy spelled out what was involved in the case and what is not, specifically: minors, coercive sexual relationships, public



Reuters/CNS

Christian leaders and others pray in protest outside the Supreme Court building in Washington June 26 as the court struck down sodomy laws that make it a crime for gays to have consensual sex in the privacy of their homes. The court said such laws violate constitutional privacy rights.

conduct or prostitution.

"It does not involve whether the government must give formal recognition to any relationship that homosexual persons may seek to enter," he wrote.

"The Texas statute furthers no legitimate state interest which can justify its intrusion into the personal and private life of the individual," he wrote. Joining Kennedy in the majority were Justices John Paul Stevens, David Souter, Ruth Bader Ginsburg and Stephen Breyer.

Justice Sandra Day O'Connor wrote a separate opinion concurring with the decision.

"Unlike the moral disapproval of same-sex relations — the asserted state interest in this case — other reasons exist to promote the institution of marriage beyond mere moral disapproval of an excluded group," she wrote.

However, the three dissenting justices and some legal commentators said the ruling is the first step toward legalizing homosexual marriage.

"Today's opinion dismantles the structure of constitutional law that has permitted a distinction to be made between heterosexual and homosexual unions, insofar as formal recognition in marriage is concerned," wrote Justice Antonin Scalia in a dissent joined by Chief Justice William Rehnquist and Justice Clarence Thomas.

Others agreed, including Tom Minnery, vice president of public policy at Focus on the Family.

"If the people have no right to regulate sexuality then ultimately the institution of marriage is in peril

and, with it, the welfare of the coming generations of children," he said in a statement.

Mark Chopko, general counsel for the U.S. Conference of Catholic Bishops, said the case "was decided on the narrowest of grounds. Justice Kennedy took pains to insulate this case from broader conclusions. He points to laws against prostitution and rape to show that not every sexual act between adults is outside the reach of legislatures."

Chopko also said Kennedy "is equally careful to note that this case does not involve the question whether the government must formally recognize homosexual relationships."

Georgetown University law professor Chai Feldblum, who submitted a friend-of-the-court brief in the case on behalf of the National Lesbian and Gay Law Association and other groups, said the legal ramifications of the case are enormous.

"While this case, as the majority carefully notes, does not expressly address other laws that discriminate against gay individuals, the opinion does remove from a government's arsenal the weapon of pure moral disapproval of gay people as a rationale for denying them dignity and respect," she said in a statement.

The California case over prosecution of child molestation cases only directly affects that state, which alone had a law retroactively lifting the statute of limitations on the crime.

The case arose in 1998 when now-72-year-old Marion Stogner was accused of molesting his two daugh-

ters between 1955 and 1973. In those years, California's statute of limitations on the crime of child molestation was three years. A 1994 law allowed prosecution of even very old cases of such abuse as long as charges were filed within a year of their report to law enforcement by someone who was under 18 at the time of the alleged misconduct.

California newspapers said among the 800 cases that had been or were currently being prosecuted under the revised statute of limitations were more than 20 involving current or former Catholic priests arrested in the last 18 months.

Sister Barbara Flannery, chancellor of the Diocese of Oakland, Calif., and a sister of St. Joseph of Carondelet, said she did not think the ruling would have any effect on how church institutions now handle reports of abuse. Under a charter approved by the USCCB last year, credible accusations of abuse of any vintage are reported to law enforcement authorities.

"I feel great sadness for all the victims who thought they might get some closure through this law," she told CNS.

A statement from the Archdiocese of Los Angeles noted that, whether or not a case can be legally prosecuted, "all priests found to have abused minors have been permanently removed from ministry. ... The court's ruling does not make way for those men to re-enter ministry or to function in any way as priests."

Just a few days before the ruling, two former Los Angeles priests were arrested and a third ordered to stand trial on charges dating back 30 to 50 years. A Los Angeles County district attorney told the *Los Angeles Times* that cases against 10 priests in his jurisdiction likely would be dismissed.

More cases against priests around the state had been held up pending the Stogner ruling; before the Stogner case developed, other priests or former priests already had been convicted.

BISHOP ANNOUNCES

PASTORAL REAPPOINTMENT

Bishop Matthew H. Clark has announced the following pastoral-leadership reappointment, effective June 24.

• **Charlotte Bruney to a second term as pastoral administrator, St. Vincent DePaul, Churchville.**

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