

V.Z. v Archdiocese of N.Y.

2024 NY Slip Op 31513(U)

April 18, 2024

Supreme Court, New York County

Docket Number: Index No. 950164/2019

Judge: Sabrina Kraus

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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. SABRINA KRAUS **PART** **57M**

Justice

-----X

V. Z.,

Plaintiff,

- v -

ARCHDIOCESE OF NEW YORK, ST. FRANCES DE
CHANTAL ROMAN CATHOLIC CHURCH, THE ROMAN
CATHOLIC DIOCESE OF BURLINGTON

Defendant.

-----X

INDEX NO. 950164/2019

MOTION DATE 02/26/2024

MOTION SEQ. NO. 004

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 004) 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87

were read on this motion to/for RENEW/REARGUE/RESETTLE/RECONSIDER .

BACKGROUND

Plaintiff commenced this action pursuant to the Child Victim’s Act (“CVA”) seeking damages for alleged sexual abuse he suffered as a child.

PROCEDURAL HISTORY

Plaintiff filed a complaint asserting a cause of action for negligence on September 27, 2019.

On October 7, 2019, the Court issued an order permitting Plaintiff to proceed pseudonymously.

On July 21, 2022, the Archdiocese of New York appeared by counsel and filed an answer asserting 18 affirmative defenses including failure to state a cause of action, that it was not responsible for the alleged acts of its employee, that the request for punitive damages is inappropriate, and that the CVA is unconstitutional.

On July 22, 2020, St. Frances De Chantal Roman Catholic Church appeared by counsel and filed an answer asserting 17 affirmative defenses which essentially mirror those asserted by the Archdiocese.

On June 25, 2021, the Roman Catholic Diocese of Burlington filed a motion to dismiss pursuant to CPLR §3211(a)(8). Pursuant to a decision and order dated March 3, 2023, the court (Love, J) granted the motion and dismissed the action as to the Diocese of Burlington. Judgment was entered reflected said dismissal on April 19, 2023.

Plaintiff filed a Notice of Appeal on April 11, 2023. Plaintiff's time to perfect the appeal has been extended to the Appellate Division First Department's September 2024 Term.

PENDING MOTION

On March 26, 2024, Plaintiff moved for renewal of the decision granting the Diocese of Burlington's motion to dismiss. On April 15, 2024, the motion was fully submitted and the court reserved decision. For the reasons set forth below, the motion is denied.

ALLEGED FACTS

The following facts are alleged in the complaint.

Father "Leo" Courcy ("Courcy") was a serial pedophile who sexually abused numerous boys in his tenure as a Priest. Courcy served as a Priest in parishes of the Diocese of Burlington from approximately 1962 to February 1965. In this time frame the Diocese of Burlington received one or more credible allegations of child sexual abuse by Courcy, causing Courcy to be placed on an extended leave of absence for approximately one year.

Courcy returned to active duty and assignments within the Diocese of Burlington, from approximately February, 1966 to December, 1966. One or more credible allegations of sexual abuse were again made against Courcy in this time frame. In response, the Diocese sent Courcy

to Jemez Springs, New Mexico, where a Catholic Order known as the Servants of the Paraclete operated a "treatment" center for pedophile priests.

Courcy was treated at the Servants of the Paraclete facility for pedophilia and stayed in New Mexico from approximately January, 1967 to June, 1970. During this time, Courcy sexually abused boys as a Priest in New Mexico, on assignments from the Diocese of Santa Fe. After a brief stint serving as a Priest in Amarillo, Texas, Courcy returned to active assignments in parishes in the Diocese of Burlington, in or about January, 1971.

At this point, the Diocese of Burlington knew with substantial certainty that Father Courcy would engage in child sexual abuse in his assignments as a Priest. Yet the Diocese kept his history of pedophilia in secrecy and maintained his faculties to actively serve as a Priest ministering to families and children.

The Diocese of Burlington transferred and reassigned Courcy to the Archdiocese of New York in or about the late 1970s. Courcy remained under the supervision and control of the Diocese of Burlington. His assignments included St. Frances de Chantal Church.

Courcy's faculties to minister in the Catholic Church were revoked by the Diocese of Burlington and/or the Archdiocese of New York in or about February 1993, after one or additional credible allegations of child sexual abuse had been made against Courcy.

Plaintiff was raised in a devout Catholic family. In the mid 1980's, he attended St. Frances de Chantal. Courcy groomed Plaintiff and his mother and gained their trust. Plaintiff's parents were going through a difficult divorce, Plaintiff's mother was an alcoholic, and Courcy would come to Plaintiff's house in the evening for pastoral counseling of Plaintiff's mother. Courcy would ask Plaintiff's mother if he could stay overnight. On these overnight stays, Courcy sexually assaulted Plaintiff. For example, during the night he would fondle Plaintiff's genitalia

while he laid in bed and masturbate himself to ejaculation on Plaintiff. Courcy's sexual abuse of Plaintiff occurred on multiple occasion, when Plaintiff was 11 - 12 years old.

While Defendant annexes the affidavit of Reverend Monsignor John J. McDermott, which purports to dispute some of these allegations, Defendant also attaches this Court's decision in *ARK644 Doe v. Archdiocese of New York et. al.*, Index No. 951179/2021, one of several pending matters where allegations of Courcy abusing children are raised. In that decision, additional factual allegations were noted which contradict the factual assertions in Monsignor McDermott's affidavit.

Specifically in that decision the court noted the additional relevant factual allegations:

Courcy was a priest employed by Burlington Diocese from ordination when he became a priest until his removal from the priesthood in 2009. Even before Courcy's ordination, Burlington Diocese was aware that Courcy was not suited to work with children. The Burlington Diocese ordained Courcy in New York in 1962. Courcy began ministering in Vermont on May 19, 1962. Just 3 days later, a report was written indicating that Courcy had difficulty collaborating with those of his own age and was hyper focused on working with youth.

By January 1965, Burlington Diocese sent Courcy for treatment at the Institute of Living, one of the primary treatment centers in the U.S. for Catholic priests who sexually abused children. (The Burlington Diocese) paid for this hospitalization. In 1966, several doctors at the Institute informed the Bishop that Courcy was not equipped for teaching and counseling students, and that teaching or parish work was not best for Courcy.

In September 1965, Courcy was admitted to the Fanny Allen Hospital for several months. Courcy was then admitted to the Psychiatric Department of DeGosebriand Hospital. (The Burlington Diocese) allowed Courcy to continue to present himself as a priest, celebrate Mass, and work with parishioners during this time, despite its own concerns, and the concerns of the doctors treating Courcy.

In 1966, for unspecified reasons, Courcy was terminated from a parish assignment and sent to Via Coeli/Servants of the Paraclete—another well-known treatment facility for priests who had sexually abused children. Courcy was told he must remain at this treatment facility indefinitely until the Bishop personally authorized Courcy to leave. The Chancellor of Burlington Diocese informed one of the priests at Servants of the Paraclete that Courcy should be removed completely from all communication, especially with young people. One of Courcy's doctors acknowledged that Courcy had psychosexual disturbances.

In 1967, the Bishop of Burlington Diocese acknowledged that Courcy should not be counseling students but would consider leave to work outside the diocese. One of the priests at the treatment center warned Burlington Diocese that he is not convinced that Courcy could return to full ministry. Nevertheless, during this time, Courcy ministered in Santa Fe and El Paso. The Chancellor of Burlington Diocese was informed that the Archbishop of Santa Fe advised Courcy to return to Servants of the Paraclete because his work was unsatisfactory.

In 1969, Courcy was again admitted to the Servants of the Paraclete. The Bishop of Burlington Diocese wrote a letter to Courcy reprimanding him and acknowledging Courcy's psychosocial or psychiatric problems.

In 1970, the Bishop of (The Burlington Diocese) wrote a letter to one of the priests working at the Servants of the Paraclete to see if he knew of any other dioceses wanting to take Servants of the Paraclete guests, like Courcy, during their recovery period.

In 1971, (The Burlington Diocese) sent Courcy to the Archdiocese of Ottawa and informed Burlington Diocese parishioners that Courcy had always had serious problems, both in the Burlington Diocese and in other dioceses.

In 1974, (The Burlington Diocese) sent Courcy to Fordham University in New York to get his degree in Religious Education. In 1975, Courcy wrote a letter to the Bishop of Burlington Diocese seeking to be assigned in Burlington Diocese. The Bishop responded that it was preferable for Courcy to not take up duties in Burlington Diocese again because Courcy's problems were disturbing.

In 1979, the Bishop of Burlington Diocese gave the Vice Chancellor of the Diocese of Brooklyn his permission for Courcy to work in New York and informed him that "Priests on the Personnel Board of the Diocese of Burlington consistently advised me to allow Father Courcy to serve outside the diocese because he can be a source of disturbance within. Every place that he has been – and there have been several – the history is the same." The Bishop acknowledged that Courcy had proven to be a very disruptive influence in a smaller diocese, where the number of people is small and stories are rapidly passed from one to another. The Bishop also informed the Diocese of Brooklyn that it would be wise to have someone check in on Courcy periodically every now and then to take prompt action when difficulties arose, advising that Courcy's past record would support prompt action.

In the early 1980s, Courcy asked to come back to Burlington Diocese, but the Bishop denied these requests and explicitly told Courcy that it was best for him to stay in the Diocese of Brooklyn, away from Vermont, based upon the recommendation of the Diocesan Personnel Board.

(NYSCEF Doc 87 & Ex A to Defendant's 4/15/2024 memorandum of law).

DISCUSSION

Initially, the court had a question as to whether the motion to renew is timely. Through the additional requested submissions, Plaintiff has established that its motion to renew is timely as the time to perfect the appeal of the underlying decision has not lapsed. *Dinallo v. DAL Elec.*, 60 A.D.3d 620, 621 (2d Dept 2009); *See also Wilmington Tr. N.A. as Tr. To Citibank, N.A. v. Fife*, 212 A.D.3d 550 (1st Dept 2024).

Notwithstanding the same the court is constrained to deny the motion.

As in the related case of *ARK644 Doe v. Archdiocese of New York et. al.*, Index No. 951179/2021, Plaintiff's motion seeking to renew and vacate the March 8, 2023, order granting Defendant's motion to dismiss primarily relies on this court's decision in *ARK301 Doe v. Diocese of Brooklyn et. al.*, Index No. 512965/2020, as its basis for renewal. In rejecting Plaintiff's motion to renew in *ARK644 Doe*, this court specifically ruled that its decision in *ARK301 Doe* was not a clarification of decisional law.

Having carefully reviewed the additional case relied upon by Plaintiff, *PC-16 DOE v. Hill Regional Career High School*, 223 A.D.3d 518 (1st Dept. 2024), the Court does not find it is a clarification in decisional law that would support renewal.

This is an undesirable result, as the facts alleged, which must be viewed in the light most favorable to Plaintiff at this early pleading stage, support an inference that the Burlington Diocese not only knew of Courcy's propensities, but that they intentionally steered him out of Vermont into other jurisdictions so that the Vermont Parishioners would not suffer at his hands. When Courcy asked to leave New York to return to Vermont they prevented him from doing so.

While this Court has already expressed its disagreement with the underlying decision, there is no pending motion for reargument before this Court, and finding no basis for renewal, the Court is constrained to deny the motion.



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4/18/2024

DATE

SABRINA KRAUS, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE