

**ARK644 DOE v Archdiocese of N.Y.**

2022 NY Slip Op 34379(U)

December 16, 2022

Supreme Court, New York County

Docket Number: Index No. 951179/2021

Judge: Laurence L. Love

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This opinion is uncorrected and not selected for official publication.

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

**PRESENT:** HON. LAURENCE L. LOVE **PART** **63M**

*Justice*

-----X

ARK644 DOE,

Plaintiff,

- v -

ARCHDIOCESE OF NEW YORK, DIOCESE OF  
BROOKLYN, DIOCESE OF BURLINGTON, ST. FRANCES  
DE CHANTAL, DOES 1-5 WHOSE IDENTITIES ARE  
UNKNOWN TO PLAINTIFF

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 52, 53, 56, 57

were read on this motion to/for

DISMISSAL

Upon the foregoing documents, it is

The following read on Defendant – Diocese of Burlington’s pre – answer motion to dismiss the complaint, CPLR 3211(a)(8) – lack of personal jurisdiction.

Plaintiff alleges abuse per the Child Victims Act, CPLR 214-g, with causes of action against all Defendants for (i) negligence, (ii) negligent training and supervision of employees, and (iii) negligent retention of employees. Per the complaint, “Plaintiff ... attended St. Frances De Chantal in the Bronx. [Father] Courcy engaged in unpermitted sexual contact with Plaintiff. (see NYSCEF Doc. No. 1 Pars 23, 25).

“[T]he long – arm statute [CPLR 302] confers jurisdiction over it in light of its contacts with this State. If the defendant’s relationship with New York falls within the terms of CPLR 302, [the Court next] determine[s] whether the exercise of jurisdiction comports with due process” (see *La Marca v. Pak – Mor Mfg.*, 95 NY2d 2010, 2014 [2000]).

“On a motion to dismiss pursuant to CPLR 3211, the pleading is to be afforded a liberal construction. We accept the facts as alleged in the complaint as true, accord plaintiffs the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory” (see *Leon v. Martinez*, 84 N.Y.2d 83 [1994]).

Defendant’s affirmation affirms, “Courcy was ordained in Vermont in 1962 and last served in Vermont in 1971. From that point on, he served in various non – Vermont Dioceses, including within Brooklyn and New York Dioceses and at St. Frances de Chantal parish and school at the time of Plaintiff’s alleged abuse. The Burlington Diocese never ‘placed’ Courcy in any non – Vermont Diocese including, but not limited to, the New York Diocese, the Brooklyn Diocese and/or the St. Frances de Chantal parish or school. At no time during his tenure at St. Frances de Chantal was Courcy controlled or supervised by the Burlington Diocese” (see NYSCEF Doc. No. 23 Par. 6).

The affidavit of “the Vicar General and the Chancellor for the Diocese of Burlington” affirms, “[t]he Diocese is not engaged in interstate commerce and conducts its affairs within the State of Vermont only. The Diocese of Burlington has no authority within the Diocese of Brooklyn and the Diocese of Brooklyn has no authority within the Diocese of Burlington” (see NSYCEF Doc. No. 26 Pars. 8, 10).

Plaintiff’s affirmation affirms, “Fr. Courcy sexually assaulted Plaintiff in New York while acting for the benefit of, with the knowledge and consent of, and while under the control of Defendant. Therefore, this court has specific jurisdiction pursuant to CPLR 302(a)(2). This Court also has jurisdiction because the Diocese transacted business in New York through Fr. Courcy, whom it trained in New York and sent to New York for several years while a priest of

the Burlington Diocese. These business transactions in New York are sufficient to confer jurisdiction pursuant to CPLR 302(a)(1)” (see NYSCEF Doc. No. 29 Pars. 5 – 6).

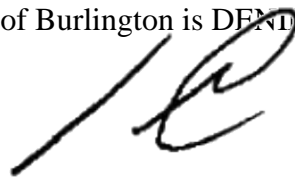
Plaintiff submits an “Independent Report on Priest Sex Abuse Cases for the Diocese of Burlington, VT (1950 – 2019).” Said Document establishes that Fr. Courcy served in Vermont “1971 (January – May) – approximately 3.5 years)” (see NSYCEF Doc. No. 30 P. 8).

Plaintiff submits an affidavit from Jennifer Haselberger, a canon lawyer and owner of Canonical Consultation and Services, LLC. “My testimony is based on ... the documents and testimony available in this case. The documents in Exhibit C demonstrate that the Diocese of Burlington was aware that Father Courcy was having significant issues with his interactions with minors by 1965. A bishop exercises control over all the clergy of his diocese, regardless of where they are residing. In its memorandum of law, the Diocese of Burlington maintains that ‘its principal place of business is in Burlington, Vermont. All of the Diocese’s parishes, offices, schools, and staff are located in Vermont. The Diocese’s territory is limited to Vermont and it has never engaged in any ecclesiastical activities in New York. The Diocese owns no property in New York, and does not transact any business in New York, nor does it have any connection to New York State.’ That statement is demonstrably false. The Diocese of Burlington has no seminary, and so it has to send its deacons, priest, and seminarians outside of the diocese for education. The Diocese of Burlington regularly conducts business in the State of New York by transacting with organizations located in the state such as the Pontifical Mission Societies (PMS) located on 36th Street in New York City. The Diocese of Burlington collects money annually for the PMS through the World Mission Sunday collection and remits monies collected to the New York office. This is so regular and anticipated that it has its own line items in the Parish chart of Account used by the diocese” (see NSYCEF Doc. No. 42 Pars. 7, 11, 16, 20).

Plaintiff’s submits various “Official Catholic Directory” excerpts that do not necessarily show how the Diocese of Burlington sends its “deacons, priests, and seminarians outside of the diocese” (see NYSCEF Doc. Nos. 32 – 35).

In conclusion, there has been enough submission of documents and testimony that “accord plaintiffs the benefit of every possible favorable inference.” The question remains on whether the Diocese of Burlington had control of Father Courcy.

ORDERED that the motion to dismiss of the Diocese of Burlington is DENIED.



12/16/2022  
DATE

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LAURENCE L. LOVE, 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