

1-6-08 - Church's abuse defense takes hit

By KEVIN O'CONNOR , Rutland Herald (VT) Staff

A judge has thrown out a jury decision that Vermont's Catholic Church isn't liable for a pedophile priest because an accuser's civil lawsuit was believed too old to prosecute under the state's statutes of limitations.

"This defense of statute of limitation should not have been submitted to the jury," Judge Matthew Katz wrote in a ruling this week.

As a result, the statewide Roman Catholic Diocese will have to pay \$15,000 to James Turner, a 47-year-old Northeast Kingdom native, for his claims that it failed to protect him from the former Rev. Alfred Willis, a priest in Burlington, Montpelier and Milton before being defrocked in 1985.

Worse for Vermont's largest religious denomination, Katz's ruling could take away its defense argument in 25 similar pending lawsuits.

"This is a very important ruling from our point of view," Jerome O'Neill, the lawyer for all the accusers, said Friday. "Assuming other judges apply the same analysis, the statutes of limitations as a defense to the diocese as a practical matter is gone."

In a trial late last year, church counsel didn't dispute Turner's charges that Willis performed oral sex on him at age 16 in 1977, but argued the plaintiff was too late in filing his civil lawsuit under Vermont statutes of limitations.

State law allows accusers to file cases up to six years after they realize their abuse has caused personal harm. The diocese told the jury that Turner had spoken to family members about his concerns long before that time. But the judge, ruling this week on an appeal, said realization of a priest's actions is different than understanding church culpability.

"Knowing a priest breached a duty does not, per se, tip off the reasonable person that the diocese has also breached a duty," Katz wrote in a two-page decision.

Neither O'Neill nor church lawyers have decided whether to appeal the conflicting judge and jury rulings in the Turner verdict, whose \$15,000 in compensatory damages is considered small.

But the attorneys are scheduled to appear in Chittenden Superior Court in Burlington next week to select a jury for another priest misconduct lawsuit set for trial Feb. 11.

Lawyers on both sides are speaking about a possible financial agreement to drop the upcoming case, in which John Perrotte is suing the diocese on similar neglectful supervision charges involving Willis.

"We always hope that we settle cases," church counsel Thomas McCormick said Friday.

Settling all 25 pending lawsuits could be expensive, as the diocese has paid a total of more than \$1.5 million to resolve just six other accusers' filings in the past six years.

The diocese doesn't have insurance for priest misconduct, but says it held a comprehensive liability policy with the United States Fidelity and Guaranty Co. from 1972 to 1978. The church can't find its copy of the policy, however, so it has taken the insurer to court in hopes the company will unearth the paperwork and pay for the church's legal fees and settlement costs.

U.S. District Court in Burlington has yet to rule on the insurance case.