

June 19, 2007 - LA Court allows release of clergy personnel files

The ruling states that protecting children from abuse outweighs a priest's right to privacy.

Los Angeles Times, by John Spano and Greg Krikorian

A judge ruled Monday that confidential personnel files on Roman Catholic clergy accused of molesting children can be made public even if the clerics were never charged with a crime and legal claims against them were not proven.

"The rights of privacy must give way to the state's interest in protecting its children from sexual abuse," Los Angeles County Superior Court Judge Peter D. Lichtman said in his 22-page ruling.

The decision concerns a small number of Franciscan friars, who will have an opportunity to object to disclosure of specific documents before the files are opened.

Nevertheless, the ruling could have dramatic ramifications on more than 500 legal claims pending against the Los Angeles Archdiocese, which is accused of failing to protect parishioners from sexual victimization over the last 60 years.

In Los Angeles, lawyers spent years trying to negotiate a settlement, estimated to be as much as \$1 billion, without success. The first trials are set to begin in July.

Now, the church is also facing possible disclosure of how it handled abuse complaints.

"I think it's very significant," John C. Manly, an attorney who represents plaintiffs in Los Angeles and Orange counties, said of Lichtman's ruling.

"This sends a message ... that if you engage in the concealment of child sexual abuses, you will not only pay for your misdeeds but the public at large will be able to see what you did," Manly said.

J. Michael Hennigan, lawyer for Cardinal Roger M. Mahony and the L.A. Archdiocese, declined to comment, saying he had not seen the ruling. Donald Steier, who represents many accused priests in Los Angeles, also declined comment.

Robert G. Howie, an attorney for the friars, said the ruling misinterpreted California law on privacy rights, which he said were stronger than in other states.

"You've got officials in Washington who want to do everything they can do to prevent another 9/11. Does that mean they can conduct wiretaps whenever they want to?" Howie asked.

But 1st Amendment lawyers praised the judge's decision.

"The court properly balanced the constitutional right to privacy against the right of the public to protect its children and safeguard itself against future harm, and it found that the public's right to know overwhelmingly won out," said Tom Newton, general counsel for the California Newspaper Publishers Assn.

The ruling came in the cases of 10 current and former Franciscans who were accused of fondling, masturbating, orally copulating and sodomizing boys and girls for 30 years starting in the 1950s.

Most of the allegations arose at St. Anthony's Seminary in Santa Barbara, which closed in 1987.

The church in March 2006 agreed to pay more than \$28 million to 25 accusers. The victims asked Lichtman to release the files.

Lawyers for the Franciscan friars objected, contending that because the claims had been settled, Lichtman had no authority to order the files opened. In 2005, Lichtman released more than 10,000 pages from the personnel files of 15 priests and teachers as part of a court-approved \$100-million settlement between the Diocese of Orange and 90 alleged molestation victims.

But the judge said at the time that he was "powerless" to pry open files on eight other priests and teachers who objected because the lawsuits had been settled.

On Monday, however, in a 22-page ruling, Lichtman stated flatly that California's "compelling interest in protecting children from harm is present regardless of the stage of the litigation."

"To answer any of the above questions in the affirmative would be to punish the alleged victims for seeking an early resolution of the cases and needlessly prolong matters through trial," Lichtman ruled. "It would provide the alleged perpetrators and enablers with a safe haven for settlement. The defendants' conduct would be forever hidden and safe from scrutiny."

Lichtman noted that all of the priests whose dossiers were in question had admitted abuse or "show[n] dangerous propensities toward youth."

Lichtman cited Franklyn Becker, a friar accused of multiple molestations. "In sworn testimony, Becker testified about his attraction to boys, his interest in the Man-Boy Love Association, his leanings toward being attracted to post pubescent boys, and that he gave names of people to the Archdiocese that might come forward with allegations," Lichtman wrote.

Lichtman also said that, according to sworn testimony provided by the plaintiffs, Santa Barbara had one of the highest per-capita concentrations of clergy pedophiles in the history of clergy abuse cases in the United States, with 41 clergy accused of assaulting 76 children.

The opinion gives victims "a tremendously strong argument, thanks to Judge Lichtman," said Timothy C. Hale, who argued the case for the accusers of the Franciscans.

"Often, it comes down to one simple choice: do we safeguard the reputations of one powerful adult or the well-being of many powerless kids," said David Clohessy, national director of the Survivors Network of those Abused by Priests. "The judge made the right call."