

SUPREME COURT
NEW YORK STATE: SCHUYLER COUNTY

JASON C. HARTLEY,
PLAINTIFF,

-against-

Index No. 08-326A

BISHOP MATTHEW CLARK, THE ROMAN CATHOLIC
DIOCESE OF ROCHESTER, NEW YORK,

COMPLAINT

DEFENDANTS.

JASON C. HARTLEY, by his attorney, John C.T. Hayes, Esq., as and for his complaint in this matter, states and affirms as follows,

1. I am the plaintiff in this action. Although this complaint is signed by my attorney, throughout it references to "I" and "me" are references to me. Allegations made upon information and belief are made by my attorney based upon his review with me of the facts and circumstances of this case, as well as upon his own, independent research.
2. I was born on September 3, 1987, and I now reside in Chemung County in New York State.
3. This is an action in tort.
4. The New York State Supreme Court has jurisdiction of this matter because the tortious acts complained of occurred or affected plaintiff within Schuyler County and Tioga County, New York.

THE DEFENDANTS

5. The Roman Catholic Church is a religious organization, control of which is centered at the Vatican State in Rome, Italy.
6. The leader of the Roman Catholic Church is referred to as the "Pope."

7. Working under the pope, in countries around the world are cardinals, arch-bishops and bishops, all of whom are men.
8. The Catholic Church is hierarchical. Priests are subordinate to bishops; bishops are subordinate to arch-bishops; arch-bishops are subordinate to cardinals; and cardinals are subordinate to the pope.
9. All clerics in this hierarchy start work in the church with training at a seminary, after which they are ordained as priests.
10. Bishops are responsible for the administration and spiritual care of "dioceses."
11. Defendant Matthew Clark is the bishop assigned to the Roman Catholic Diocese of Rochester, New York, and he has held that position at all times relevant to this matter.
12. A diocese is an administrative division of land that encompasses the territorial jurisdiction of a bishop.
13. Defendant Roman Catholic Diocese of Rochester, New York is a diocese of the Roman Catholic Church with offices at 1150 Buffalo Road, Rochester, New York, and it encompasses 12 counties, including Schuyler County and Tioga County, which are both in New York State.
14. Priests are employed by dioceses, and they are responsible for the day-to-day functioning of the churches in the geographical areas to which they are assigned, which are referred to as parishes.
15. Individuals who worship in the Roman Catholic Church are called the "faithful," and they are also often referred to as "parishioners," because they belong to parishes.
16. Men working within the Roman Catholic religious organization owe to their parishioners and to their diocesan membership a duty of care.

17. Men working within the Roman Catholic religious organization owe to the children in their parishes and dioceses a duty of care for the minds and bodies of those children.
18. In the years 1996, 1997, 1998, 1999, 2000 and 2001, I was a member of the "faithful," and I was a parishioner at St. Mary's of the Lake Roman Catholic Church in Watkins Glen, New York.
19. My mother and my sisters were also members of the "faithful," and they were parishioners at St. Mary's of the Lake in Watkins Glen.
20. Watkins Glen, New York is within Schuyler County.
21. St. Mary's of the Lake Roman Catholic Church in Watkins Glen, New York is a parish within the Diocese of Rochester, and it owns real estate upon which is located a house in which the priest of the parish lives at or about 905 N. Decatur St. in Watkins Glen.
22. The offices of St. Mary's of the Lake are located at or about 905 N. Decatur St., Watkins Glen, New York.
23. The house in which the pastor resides is called the "rectory," and it was, at all times relevant to this proceeding, located at the northwest corner of the intersection of 9th Street and Decatur St. in Watkins Glen, New York.
24. Residing in the rectory of St. Mary's of the Lake Roman Catholic Church during the time relevant to this proceeding was Reverend David L. Bonin, commonly referred to as "Father Dave."
25. Reverend David L. Bonin was, at all times relevant to this proceeding, a priest employed by the Roman Catholic Church, Diocese of Rochester, NY.
26. In 1989, Rev. David L. Bonin was assigned by Bishop Matthew Clark to the parish of St. Mary's of the Lake.

27. Reverend David L. Bonin was employed as the Pastor of St. Mary's of the Lake parish from 1989 to 2001.
28. In October 2001, Bishop Matthew Clark assigned Reverend David L. Bonin to the role of Priest Administrator for the parish of the St. Margaret Mary in Apalachin, New York, which is in Tioga County, and also within the Roman Catholic Diocese of Rochester.
29. Reverend David Bonin improperly performed his duties as an employed priest and counselor at St. Mary's of the Lake by using and manipulating his position and his employment as well as the authority and the respect given him as a pastor and a priest in order to:
 - a. Identify the Hartley family as one which had a young boy as a family member;
 - b. Meet the Hartley family and gain their trust and confidence as a spiritual guide, pastor, priest, and supportive counselor;
 - c. Develop the Hartley family's trust and confidence as a valuable and trustworthy friend and mentor to plaintiff, then a young child;
 - d. Gain the support, acquiescence and permission of the Hartley family for Bonin to spend substantial periods of time alone with the plaintiff;
 - e. Win the friendship, trust and admiration of the plaintiff;
 - f. Become the plaintiff's spiritual advisor, mentor and confessor;
 - g. Gain the opportunity to socialize with and spend time alone with the plaintiff;
 - h. Physically touch the plaintiff; and
 - i. Gain the opportunity to commit assaults upon plaintiff's person and his mind.
30. Upon information and belief, Reverend David Bonin died on March 13, 2002.

SEXUAL ABUSE BY FATHER BONIN

31. Commencing in 1998, when I was about nine and a half to ten years old, and until 2001, upon request of the parish pastor, Reverend David L. Bonin, I spent almost every Friday night in the rectory.
32. Between 1998 and 2001, I occasionally spent Saturday night in the rectory.
33. I would spend Saturday night in the rectory only when the boy who regularly stayed there on Saturday nights was not available to do so.
34. Upon information and belief, many parishioners and other employees of the church knew that boys were spending weekend nights in the rectory with Father Dave.
35. Whenever I spent nights in the rectory, I would sleep over night there.
36. Whenever I spent nights in the rectory, alcohol was readily available to me, and I consumed it almost every night I was there.
37. Virtually every time I spent nights in the rectory, Father Dave would engage in somewhat ritualistic routine with me.
38. When I spent nights in the rectory, Father Dave often would sit on the couch or a chair and have me sit across from him in the chair or on a sofa.
39. While I was sitting across from Father Dave, often he would have me raise my legs so he could rub them.
40. After rubbing my legs, or sometimes my back, Father Dave would eventually motion for me to stand in front of him.
41. Father Dave would kiss me on the face and on the lips.
42. Father Dave would massage my body and hug me close to him.
43. After rubbing, kissing and hugging me, Father Dave would drop my pants and my underwear down around my knees.

44. Every time after he lowered my pants and my underwear, Father Dave would touch and rub my testicles and my penis.
45. Every time Father Dave touched and rubbed my testicles and my penis, I would get an erection.
46. The first five or six times Father Dave touched and rubbed my testicles and penis, I had no orgasm. I was only 9 at the time.
47. The first few times Father Dave engaged in this ritualistic routine with me, I had no idea why he was doing these things to me.
48. From about the fifth or sixth time Father Dave touched and rubbed my testicles and penis, I did ejaculate whenever he engaged in the ritual of rubbing, hugging, and kissing me, but I did not really know what was going on for quite awhile.
49. After around a month and a half or two months of this behavior toward me by Father Dave, he said to me; "This isn't right. It has to stop."
50. Every time Father Dave masturbated me, I knew that this was something I could not tell anyone about.
51. When Father Dave masturbated me, I knew that performing the act made him happy.
52. When Father Dave masturbated me, often he would catch my ejaculate in one of his hands and then rub it on my legs and on my pants and my underwear.
53. Every time after Father Dave had smeared my ejaculate on me and my clothing, I would pull up my pants and walk away from him.
54. Every time after Father Dave's ritualistic sex routine had ended, I would go to the liquor cabinet and find alcohol to drink to make me feel better.
55. Father Dave's persistent, three-year course of sexual abuse of me made me feel sick to my stomach, scared, and completely alone in the world.

56. **Father Dave's persistent, three year course of sexual abuse of me made me feel helpless, ashamed, and stupid.**
57. **Father Dave's persistent, three year course of sexual abuse of me made me feel different from all the other boys my age and not normal.**
58. **Father Dave's sexual abuse of me at the St. Mary's of the Lake rectory stopped when he went into the hospital in 2001.**
59. **For Christmas in 2001, my family went to spend part of the holiday with Father Dave at the St. Margaret Mary rectory in Apalachin, New York.**
60. **At the rectory in Apalachin, the sleeping arrangements made by Father Dave were designed such that my family slept at one end of the big rectory and Father Dave and I slept at the other.**
61. **At the rectory in Apalachin, Father Dave had me sleep on a sofa in the hallway outside his bedroom.**
62. **One evening during our Christmas visitation with Father Dave in 2001, he sexually abused me for the last time.**
63. **In Apalachin, Father Dave again, massaged me and rubbed my back and kissed me, and then he lowered my pants and my underwear and he masturbated me. As always, he just smeared my seminal fluid around on me and my clothing, and then he went into his bedroom.**
64. **After Father Dave sexually abused me in Apalachin at age 13, I felt disgusted and awful and scared and ashamed.**
65. **After Father Dave sexually abused me in Apalachin, I found some beer and drank it to make me feel better.**
66. **During all of these ritualistic routines of sexual abuse of me by Father Dave, neither of us spoke to the other except as alleged in paragraph 38, above.**

67. I kept all of Father Dave's sexual abuse of me a secret from everyone for many years.
68. I never gave Father Dave permission to touch me anywhere on my body.
69. I never consented to any kissing or masturbation of me by Father Dave.
70. Upon information and belief, neither of my parents nor my step-father gave Reverend David Bonin permission to touch me in a sexual manner or to serve me alcohol.
71. Reverend David Bonin violated certain New York State Penal Law statutes that were in effect during the years that he sexually abused me and made alcohol available to me.
72. Reverend David Bonin's treatment of me was not reasonable or prudent.
73. Reverend David Bonin's treatment of me was willful and wanton.

NOTICE AND THE DIOCESE

74. This allegation is made upon information and belief. For at least two hundred years, the Roman Catholic Church has been aware that its employed priests, and men employed in the hierarchy thereof, were sexually abusing children in violation of civil law.
75. This allegation is made upon information and belief. As was recently admitted under oath by Monsignor J. Thomas Cini, Vicar General for Administration and Moderator of the Curia, The Roman Catholic Church, since at least the 1800's, was aware of its employed priests and others in its employ committing the crime of sexual abuse of children.
76. This allegation is made upon information and belief. Records dating back to the Council of Elvira in 309 AD reveal a custom of and practice of the Church's Hierarchy concealing from the public knowledge of the crime of sexual abuse of minors by its employed clerics.

77. This allegation is made upon information and belief. In the middle ages, clerics who sexually abused minors were punished with various remedies including a life of prayer and penance in a monastery, civil confinement, sent to the gallows, laicization, and being turned over to civil authorities for capital punishment.
78. This allegation is made upon information and belief. In 1051 AD, Pope Leo IV received a comprehensive Report, the *Book of Gomorrah*, by a Camaldolese Priest, and Cardinal, Peter Damien. The book identified clerical sexual abuse as a systemic problem in the Catholic Church.
79. This allegation is made upon information and belief. The Roman Catholic Church has made persistent attempts to diminish clerical sexual abuse of minors through specific decrees intended to regulate priest's crimes. The decrees against clergy sexual abuse include but are not limited to, Cum Primum in 1566, Universi dominici gregis in 1662, Sacramentum poenitentiae in 174, De modo procedendi in causis sollicitationis in 1992, and De delictis gravioribus in 2001.
80. This allegation is made upon information and belief. In 1971, the Roman Catholic Bishops from around the world gathered for a Synod of Bishops and received a report by Dr. Conrad Baars M.D., *The Role of the Church in the Causation, Treatment and Prevention of the Crisis in the Priesthood*, identifying clerical sexual abuse as a systemic problem in the Universal Church.
81. This allegation is made upon information and belief. In 1985 the United States Roman Catholic Bishops received a report entitled *The Problem of Sexual Molestation by the Roman Catholic Clergy: Meeting the Problem in a Comprehensive and Responsible Manner*. The report identifies clerical sexual abuse as a systemic problem in the United States.

82. This allegation is made upon information and belief. "The Roman Catholic Guide to the Implementation of the Bishop's Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests and Deacons," drafted in 2003, is the most recent policy issued by the Church. Through this policy, as with all prior policies, the Church conspires to obstruct justice, continue institutional secrecy, and thwart civil authorities' efforts to expose the custom of clerical sexual abuse of minors, all with immunity.
83. Commencing in 1992 and continuing through the period when Reverend David Bonin masturbated me weekly, the Roman Catholic Church in the United States was sued hundreds of times by victims of clergy sexual abuse.
84. The lawsuits against priests and the church and its dioceses, bishops, and archbishops, referenced in paragraph 83 above, were the subject of local and national newscasts and journalistic writing.
85. In 1993 alone, ABC Television twice aired Nightline shows that examined the issue of clergy sexual abuse, and CBS's famed 60 minutes aired a segment called "The Archbishop: Cover Up by Roman Catholic Church of Pedophilia by its Priests."
86. In June of 1992, at a meeting of the National Conference of Catholic Bishops a full day executive session was held to address sexual abuse of children by employed clergy.
87. By 1993, the issue of sexual abuse of minors by employed priests caused Bishop Matthew Clark to issue a "sexual-abuse policy."
88. By 1998, the Roman Catholic Diocese of Rochester, New York, and Bishop Matthew Clark had notice that Catholic clerics in their employ were committing sex crimes against boys under the age of 16.

89. By 1998, defendants knew or should have known that Reverend David L. Bonin was a threat to my mental and physical well-being.
90. By 1998, defendants knew or should have known that they should issue warnings to adult parishioners to keep their minor children protected from unsupervised priests.
91. What happened to me was foreseeable by the defendants.

WHAT THE CHURCH DID NOT DO

92. Despite knowing of the potential for sexual abuse of minors by any of its priests during the period 1998 to 2001, the Roman Catholic Diocese of Rochester, New York and Bishop Matthew Clark took no steps, or took insufficient steps, to protect minors, and in particular me, from the sexual abuse that was perpetrated by Reverend David Bonin.
93. Despite knowing that priests living within the Diocese of Rochester were potentially committing crimes of sexual abuse upon children and youth in their parishes during the time I was sexually abused by Reverend David Bonin, defendants failed to make reasonable and prudent evaluations of Reverend David Bonin's mental state.
94. Despite knowing that priests living within the Diocese of Rochester were potentially committing crimes of sexual abuse upon children and youth in their parishes during the time I was sexually abused by Reverend David Bonin, defendants, failed to make reasonable and prudent inquiries regarding Reverend David Bonin's living habits.
95. Despite knowing that priests living within the Diocese of Rochester were potentially committing crimes of sexual abuse upon children and youth in their parishes during the time that I was sexually abused by Reverend David Bonin, Bishop Matthew Clark, the Roman Catholic Diocese of Rochester, New York,

failed to make reasonable and prudent inquiries regarding the names and ages of overnight guests in the rectory where Reverend David Bonin lived in the St. Mary's of the Lake parish in Watkins Glen, New York.

96. Despite knowing that priests living within the Diocese of Rochester were potentially committing crimes against children and youth in their parishes during the time I was sexually abused by Reverend David Bonin, Bishop Matthew Clark, the Roman Catholic Diocese of Rochester, New York, failed to take reasonable and prudent steps to ensure that Reverend David Bonin was not making alcohol available to minors.
97. Despite knowing that priests living within the Diocese of Rochester were potentially committing crimes against children and youth in their parishes during the time I was sexually abused by Reverend David Bonin, Bishop Matthew Clark, the Roman Catholic Diocese of Rochester, New York, failed to take reasonable and prudent steps to ensure that Reverend David Bonin did not exploit me for his own sexual purposes.
98. Rev. David L. Bonin's treatment of me was foreseeable and could have been prevented had the Diocese of Rochester New York and Bishop Matthew Clark not conspired with other dioceses and bishops to keep secret the systemic problem of pedophilia and other sexual abuse that is rampant in the Holy Roman Catholic Church.
99. The defendants' actions and failures to act, as set out in paragraphs 1 through 97 above, caused me to suffer great physical, emotional, psychological, physical and spiritual harm.
100. I have suffered from depression, anxiety, substance abuse, head aches, nausea and gastrointestinal issues since the age of 11.

101. I have suffered from emotional distress brought on by the sexual abuse alleged above.
102. I have suffered from post-traumatic stress brought on by the sexual abuse alleged above.
103. The defendants' actions and failures to act, as set out in paragraphs 1 through 97 above, caused me to lose faith in God.
104. The defendants' actions and failures to act, as set out in paragraphs 1 through 97, above caused me to distrust males who hold positions of authority.

CAUSES OF ACTION

First Cause of Action: Failure to Train Properly

105. Plaintiff reiterates, as if fully set forth here, all of the allegations made above.
106. Knowing what the defendants knew when Rev. David Bonin was sexually assaulting me, defendants nonetheless failed in their duty to me, by failing to properly train Rev. David Bonin regarding how to handle situations of potential sexual misconduct.

Second Cause of Action: Failure to Evaluate Properly

107. Plaintiff reiterates, as if fully set forth here, all of the allegations made above.
108. Defendants owed to me a duty of care which they breached by behaving negligently toward me as set out above for failure to evaluate Reverend David Bonin's mental state properly.

Third Cause of Action: Failure to Supervise Properly

109. Plaintiff reiterates, as if fully set forth here, all of the allegations made above.
110. Defendants owed to me a duty of care which they breached by behaving negligently toward me as set out above for failure to supervise Reverend David Bonin properly.

Fourth Cause of Action: Failure to Suspend

111. Plaintiff reiterates, as if fully set forth here, all of the allegations made above.
112. Defendants owed to me a duty of care, which they breached by behaving negligently toward me as set out above by failing to suspend Reverend David Bonin from service to parishioners.

Fifth Cause of Action: Failure to Terminate

113. Plaintiff reiterates, as if fully set forth here, all of the allegations made above.
114. Defendants owed to me a duty of care, which they breached by behaving negligently toward me as set out above for failure to terminate Reverend David Bonin from service to child parishioners.

Sixth Cause of Action: Failure to Warn

115. Plaintiff reiterates, as if fully set forth here, all of the allegations made above.
116. Defendants owed me, and to their parishioner's generally, a duty of care. They breached that duty owed to me and others by failing to warn me, my parents or other parishioners that a priest in their employ might sexually abuse me or might in fact be sexually abusing me.

Seventh Cause of Action: Failure to Protect

117. Plaintiff reiterates, as if fully set forth here, all of the allegations made above.
118. Defendants owed to me a duty of care. They breached their duty by failing to protect me from their employed priest's criminal, sexual abuse of me.
119. The defendants also breached their duty to me by not seeking out victims of their employed clerics

DAMAGES

120. Defendants acted or failed to act, as set out above, in a negligent, imprudent, unreasonable, and grossly negligent manner, and for their failures I seek monetary damages.

121. Defendants' breaches of duty, as set out above, were willful and wanton, evil and malicious, and those breaches affected me and the public generally. At least one other boy was subjected to the same sort of treatment I received at the hands of Father David Bonin. He, and his family, and, potentially, others were injured by the defendants' breaches of duty as set out above in the seven causes of action against the defendants. For defendants' morally culpable behavior toward me and others, I seek, for their deterrent effect, exemplary, punitive damages

WHEREFORE, plaintiff demands judgment against The Roman Catholic Diocese of Rochester, New York, and Bishop Matthew Clark, for damages in a sum greater than the jurisdictional maximum of all lower courts, and for punitive damages, together with the costs and disbursements of this action, a written apology from Bishop Matthew Clark and a meeting with him to discuss the harm that occurred to me and how the potential for continuing child sexual abuse by clergy may be addressed, and such additional or different relief as the Court deems just and proper in the circumstances.

Dated: November 11, 2008

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