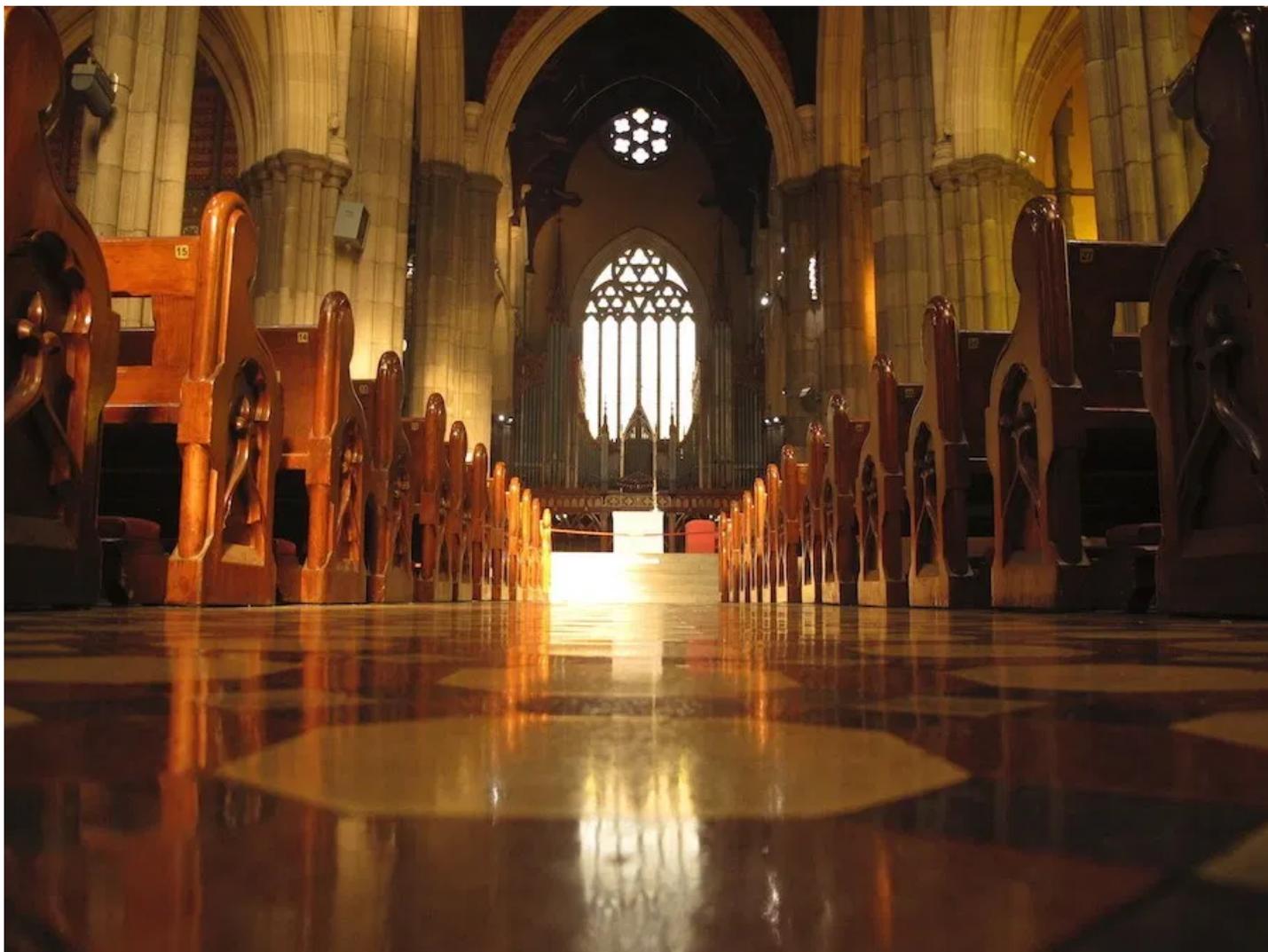


Texas Diocese Asks Court to Toss Libel Suit Over List of Accused Abusers

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(AP Photo/Rod McGuirk, File)

(CN) — The Catholic Diocese of Lubbock urged the Texas Supreme Court on Wednesday to dismiss a defamation lawsuit brought by a former deacon who claims it falsely outed him as a child molester.

Texas Catholic bishops say the case threatens to uproot tenets of church autonomy enshrined in the First Amendment and open churches up to crippling liability simply for following their principles.

Jesus Guerrero said he was “shocked, confused, hurt and I knew that it wasn’t true” when the diocese published a list of clergy it said had been “credibly accused of sexual abuse of a minor” in January 2019 and his name was on it, according to his [brief](#) with the state high court.

Guerrero’s work for the church ended in 2008 when it suspended him in the wake of allegations he was involved in sexual misconduct with a “vulnerable” woman in her 40s. He denies he did anything inappropriate with her.

Dogged by accusations the Catholic Church protected sex offenders among its ranks, the Texas Catholic Conference of Bishops decided to release the names of all clergy credibly accused of sexually abusing a minor in line with new rules set by Pope Francis.

Each of the state's 15 Catholic dioceses [released](#) their own lists of credibly accused clergy on Jan. 31, 2019.

Guerrero claims the Lubbock diocese and its officials stated in a press release and media interviews about the list that the outing of predatory clergy was part of the church's work to ensure children are safe, but did not clarify that under canon law the word minor includes "vulnerable" adults.

He says the diocese further defamed him when a church chancellor told a local TV station "credibly accused" means the person admitted to committing sexual abuse, they had been found guilty in a court of law, or the abuse had been witnessed by somebody and they testified about it.

With Guerrero's children questioning him about the allegations and people in the church community looking at him funny and avoiding him, Guerrero says, he demanded the diocese take his name off the list.

It refused, so he sued it for defamation and intentional infliction of emotional distress, seeking more than \$1 million damages.

The diocese then published a second, revised list on its website in April 2019 in which it clarified it had no evidence Guerrero had sexually abused a minor under age 18 and it regretted the misunderstanding it had caused by publishing the first list.

The diocese [claims](#) courts have no jurisdiction over the case because the First Amendment and Texas Supreme Court precedent bar civil suits from clergymen arising from internal church decisions based on church law.

But a trial judge refused to dismiss the case. Texas' 7th Court of Appeals in Amarillo dismissed the infliction of emotional distress claim, but refused to dismiss the defamation claims.

The appeals court found because the diocese had "placed the controversy in the realm of Caesar or the secular world by opting to leave the confines of the church" when it publicized the list, church autonomy protections did not apply.

Hearing the diocese's appeal Wednesday, Texas Supreme Court justices tried to parse out where the line is a church would have to cross to open itself up to defamation liability.

"If anything, the Catholic Church is to be commended for committing itself to transparency and accountability on clergy sexual abuse, not sued for it," said the diocese's counsel William Haun, with the Washington firm The Becket Fund for Religious Liberty.

He said it makes sense the diocese published the list on its website because it ordinarily uses the site to reach its 136,000 members spread over 25 West Texas counties and more than 60 parishes.

And there could be nonpracticing Catholics disillusioned by the issue of clergy sexual abuse, so it is important for the church to spread the word far and wide, Haun said.

Justices Eva Guzman and Jeffrey Boyd questioned whether the fact that the diocese issued a press release about the list and put the info on a public website moved it out from under church autonomy protections.

Hahn said no.

"Religious autonomy is not stripped from religious organizations simply because they speak in public on matters affecting their religious exercise and moral witness," he said.

The state of Texas, whose Republican Attorney General Ken Paxton routinely throws his support behind cases advocating for expanded religious freedom, filed an amicus brief in support of the case. Thirty-four Texas state lawmakers, the Jewish Coalition for Religious Liberty and Southern Baptists of Texas Convention also filed briefs backing the diocese.

Texas Assistant Attorney General Beth Klusmann argued for the state in Wednesday's hearing. Justice Debra Lehrmann asked her if an innocent person would have any recourse in the courts if they were included on the diocese's list of credibly accused clergy.

Klusmann said even if it had named an innocent person, the diocese would not automatically be liable for defamation.

“There is room for churches to make errors under this doctrine, similar to sovereign immunity. It doesn’t mean the government can’t make an error, it just can’t deliberately violate constitutional rights,” she said.

She said a person may need to resort to nonjudicial means to clear their name.

“But the church autonomy doctrine is going to protect those internal decisions,” Klusmann said.

The diocese argues that because it only permanently suspended Guerrero from performing clerical functions, it did not excommunicate him and he remains an ordained deacon, he would have to resolve his claims through a church-run tribunal.

Calling that argument a “ruse,” Guerrero says he is not a church employee and it has been more than 10 years since he was permanently removed from the ministry.

His attorney Nick Olguin argued the case has nothing to do with the Catholic Church’s religious tenets because the diocese accused him of a secular crime.

“They aren’t talking about their religious tenets and what they believe it to be, they don’t have a monopoly on that. Churches have never enjoyed complete immunity,” he said.

Justice Jimmy Blacklock said he believes the diocese is protected against the lawsuit by the First Amendment. He said the lower court’s finding that a church’s internal statements are protected, but not their public statements, seems backward to him.

“Perhaps it’s even more important that...the church’s decisions about how to pursue its mission in public are even deserving of more protection both under the free exercise of religion and freedom of speech than are its internal deliberations,” Blacklock said.

Olguin shot back that not allowing Guerrero’s case to proceed basically affords the diocese complete immunity to say anything, even when they are dealing with innocent people.

“Basically, what the diocese wants to do is play the game, make the rules and never be called on a foul,” he said.

The court did not say when it would issue a ruling.

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