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Judge tosses out bid by family sexual abuse survivors to sue church for failing to report to police



A Cochise County Superior Court judge has thrown out a bid by two survivors of family sexual abuse to sue the Church of Jesus Christ of Latter-day Saints and two of its bishops for failing to report to police what they may have known of the incidents. (Deposit Photos)

Judge tosses out bid by family sexual abuse survivors to sue church for failing to report to police

Howard Fischer, Capitol Media Services

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2023 of sexual abuse to sue the Church of Jesus Christ of Latter-day Saints for failing to report to police what they may have known of the incidents.

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A Cochise County Superior Court judge has thrown out a bid by two survivors of family sexual abuse to sue the Church of Jesus Christ of Latter-day Saints and two of its bishops for failing to report to police what they may have known of the incidents.

In a newly released ruling, Judge Timothy Dickerson said there is no evidence that church officials had independent knowledge of the abuse other than the confidential communications they had with Paul Adams. And the judge said Arizona laws that require such incidents to be reported —

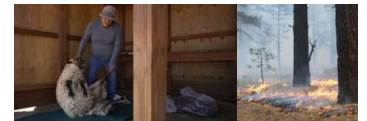
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including by the clergy — specifically say that is overridden when the only source of that information is what was divulged to them in confession or similar conversation.

The Mormon church, as it is more commonly known, released a statement saying it is pleased by Dickerson's decision to dismiss the claims of Adams' children who had sued to hold them responsible for the emotional injuries they endured, in one case for abuse that lasted seven years.

"Contrary to some news reports and exaggerated allegations, the court found that the Church of Jesus Christ of Latter-day Saints and its clergy handled this matter consistent with Arizona law," said the statement released through attorney William Maledon.

In many ways, the new ruling was predictable.

The state Court of Appeals just two weeks ago refused to hear arguments by attorneys for the children that the exemption for reporting sexual abuse for members of the clergy is an unconstitutional special privilege that does not exist for others who have knowledge of children being molested. The judges gave no reason for their decision.

But that does not make Dickerson's ruling the last word.

Now attorney David Abney, who represents the children, is free to file a full-blown appeal of all the trial judge's rulings.

That starts with not only on the legality of the exemption from reporting laws cited by the church in its defense but to other findings by Dickerson, including that the sharing of the information the bishops learned from Adams with other church officials invalidated their claim of privilege.

to the point, the appellate court can't sidestep a full appeal.

Most of the facts are not in dispute.

Dickerson said Adams confessed to John Herrod, a bishop of the Bisbee Ward, that he had sexually abused his elder daughter.

Herrod had Adams' wife, Leizza, attend a second session in which the bishop had Adams tell his wife about the abuse. He counseled the couple and, Dickerson said, either told Adams he should turn himself in to authorities or may have said Ms. Adams should turn him in.

When Herrod left his post in 2012 he relayed the abuse to Kim Mauzy, the new bishop. Adams was excommunicated from the church in 2013 though he continued to reside with his wife and their daughters.

Adams was arrested in 2017 only after investigators from Homeland Security tracked down an online post of him abusing his daughter that was discovered in New Zealand. He committed suicide in jail.

Herrod subsequently told Homeland Security investigators that Adams had confessed to molesting his daughter. But the bishop said that church legal counsel advised him he could only encourage Adams to turn himself in and it was illegal for him to report the abuse.

Abney argued that the church and its bishops abused the privilege. Dickerson, however, was not buying it.

The judge acknowledged the exemption from reporting for clergy is not mandatory but permissive. But it also says that is a decision that members of the clergy get to determine if it is "reasonable and necessary within the concepts of the religion."

“The mandatory reporting statute provides that the clergyman makes the decision as to whether the concepts of their religion make it ‘reasonable and necessary’ to not make a report,” Dickerson wrote. “It is not for a court or a jury to tell a clergyman that he is wrong about the concepts of his religion.”

Dickerson noted that the elder daughter filed a statement that she had told Mauzy she was scared to go home.

But he pointed out this information was not in the complaint or disclosed to the church and its lawyer in the complaint. And that, the judge said, was wrong and an “egregious violation” of disclosure rules — and did not consider it in his ruling.

And Dickerson said even if he did, it would not change his mind and convince him that Mauzy had independent knowledge of the abuse beyond the confession.

“A child saying, ‘I’m scared to go home’ is as a matter of law not sufficient to create a duty for Mauzy to report (the girl’s) fear to the authority,” the judge wrote. And Dickerson said it’s irrelevant that Mauzy had knowledge of what was going on from Adams’ confession.

“To honor the clergy-penitent exception to the mandatory reporting statute, the court must view the statements ‘I am scared to go home’ in a vacuum, without reference to the knowledge Mauzy obtained from the confidential communication,” he wrote.


While cheering the ruling, the church said it is not condoning what happened.


“The abuse of a child or any other individual is inexcusable,” the statement reads, saying the church teaches this and “dedicates tremendous resources and efforts to prevent, report and address abuse.”


Rep. Stacey Travers, D-Phoenix, has a legislative proposal to repeal the exemption now allowing members of the clergy to refuse to report incidents of child abuse that they learn about through confession or other confidential counseling.


The bill died earlier this year when Rep. Quang Nguyen, R-Prescott Valley, refused to give it a hearing in the House Judiciary Committee, which he chairs. The measure is likely to meet the same fate next year if it is again assigned to Nguyen’s committee.

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