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Diocese Files for Copies of Tapes

Albany Motion Seeks Access to Abuse Victim's Recorded Conversations with Church Officials

By Andrew Tilghman
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The Albany Roman Catholic Diocese is seeking copies of tape recordings that a sexual abuse victim made of his conversations with Bishop Howard Hubbard and other church officials last year.

The tapes -- which the victim made of his own counseling sessions at the diocese's headquarters -- are at the center of a lawsuit filed in December by the man, Curtis Oathout, who claims church officials used his intensive therapy to manipulate him and prevent him from hiring an attorney.

The tapes, some of which were obtained by the Times Union, reveal one session when church officials arranged for Oathout to confront the priest who abused him in the 1970s, the Rev. David Bentley. In another session, Hubbard discussed how and why the church could better help victims who come forward alone rather than with an attorney representing them.

Michael Costello, the diocese's attorney, filed a motion this week in state Supreme Court asking Justice Joseph Teresi to force Oathout to provide the diocese with copies of the tapes.

The motion was the latest move in a lawsuit that prompted Teresi on Feb. 10 to issue a "very strong, strict cautionary" to attorneys, warning them not to make public statements that could prejudice potential jurors in this or any other future lawsuit.

The content of the tapes was first reported Feb. 21 in the Times Union and made national news when excerpts from a transcript appeared in The New York Times.

Last week, a "national broadcast media outlet" contacted the diocese and asked Hubbard to appear on a program with Oathout to discuss the tapes, according to the court papers filed by Costello.

In addition to asking for copies of the tapes -- which could help the diocese prepare for and respond to their public airing -- the motion also indicated that the judge should consider steps to block their release to the media.

"The dissemination of the unilateral audio recordings represents an exploitation of trial evidence, which may or may not be deemed admissible, resulting in irreparable prejudice in the ability of the defendants to conduct their defense," the motion stated.

It also said the court should assess the tapes for "authenticity, verification, completeness, context, sequence and status."

Oathout, now 39, said he recorded the conversations as a way to hold church officials accountable for their statements. He said he used a standard microcassette recorder in his shirt pocket. Some of the tapes obtained by the Times Union contain remarks indicating the church officials were aware that Oathout was taping the sessions.

Oathout's attorney, John Aretakis, said on Tuesday that he believes the judge's language in his "strict cautionary" last month amounts to a "gag order" and declined to comment about the case.

Teresi has clarified his sweeping order to say it only applies to attorneys, not victims of sexual abuse or the diocese.

A hearing for the motion has not been scheduled.

A spokesman for the diocese, Kenneth Goldfarb, declined to comment Tuesday on the motion.

Hubbard met with Oathout more than a dozen times last year as part of the victim's frequent therapy sessions. Hubbard arranged for the man to receive more than \$225,000 -- including a \$150,000 bank check drawn on a Catholic Charities account -- at the height of the national sex abuse scandal last year, church officials have acknowledged.

Oathout began meeting with Hubbard and others at the diocese in April. The sessions continued until October. In November, he hired Aretakis. Oathout said he was molested by several priests and attributes his falling out with the diocese to their unwillingness to help him identify all of his abusers.

Hubbard removed Bentley from his post at a small parish in Deming, N.M., in April of last year, citing credible allegations of sexual abuse. The Albany diocese has settled claims of sexual abuse by Bentley with two of Oathout's brothers.

The diocese is also facing a lawsuit, filed in January, on behalf of four unidentified victims who claim the diocese made the process for reporting claims of abuse intimidating and unpleasant in an effort to discourage victims from coming forward.

In June 2002, Hubbard removed six priests from active ministry due to credible allegations of sexual abuse. Last month, two more were removed due to recent complaints, church officials said.

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