

# BishopAccountability.org

---

## Decision Favors Quinn

Priest Sex-Abuse Ruling Might Have Impact Statewide

The Associated Press, carried in Observer-Dispatch  
February 22, 2006

<http://www.uticaod.com/apps/pbcs.dll/article?AID=/20060222/NEWS/602220313/1001>

ALBANY — The state's highest court ruled Tuesday that the statute of limitations could be used as a defense by Roman Catholic dioceses in two key sexual-abuse cases, including that of a former Utica priest.

The rulings dealt a setback to people across the state who were hoping to reinstate cases that had been dismissed.

In its decisions, the Court of Appeals said those who claimed they were sexually abused by priests in two New York state dioceses waited too long to take their cases to court and failed to show the dioceses prevented them from filing suit sooner.

John Zumpano, a former parishioner of St. Agnes Church in Utica, was among those the high court ruled against. Since 2003, Zumpano of New Hartford has been arguing he was molested as a teenage Catholic School student more than 40 years ago by the Rev. James Quinn of the Syracuse diocese. Zumpano claimed the alleged abuse he suffered from 1963 to 1970 rendered him mentally incapable of bringing a suit before the 10-year legal time limit.

In his \$150 million lawsuit, Zumpano also argued the Syracuse diocese tried to conceal any wrongdoing in order to delay or prevent legal action and dissuaded legal action through its control over him.

But Zumpano's arguments that the statute of limitations should be quashed because he had a mental disability were not convincing, the court said in its 6-0 decision. He held a full-time job for nine years as an adult and successfully prosecuted a personal-injury action on his own behalf in 1986, Ciparick wrote.

Zumpano's attorney, Frank Policelli, who argued the case Jan. 3 in Albany, said he disagreed with Tuesday's ruling and thinks a jury should decide the issues in the case.

"The most disappointing aspect of the decision is that the court completely ignored the questions at the core of our argument and did not address these issues at all," Policelli said in a statement. "I have not decided whether or not to petition the U.S. Supreme Court. Mr. Zumpano and I will evaluate our options and decide where to go from here."

In a statement, however, Quinn said he was pleased with the ruling.

"It goes without saying that these past three years have been the most difficult of my life and I am anxious to move on and continue to live out my priestly ministry," Quinn said in the statement.

Though the court did not rule on the merits of the alleged victims' claims, any further action would depend on whether state lawmakers reconsider the statute, one judge wrote.

"However reprehensible the conduct alleged, these actions are subject to the time limits created by

the (state) Legislature," Judge Carmen Beauchamp Ciparick wrote for the court. "Any exception to be made to allow these types of claims to proceed outside of the applicable statutes of limitations would be for the Legislature (to decide)."

In the decision, expected to have ramifications across the state, Ciparick noted there have been "countless" cases in recent years of people seeking compensation from priests who allegedly sexually abused them.

Nationwide, hundreds of cases have been dismissed because the statute of limitations had expired and many more never get filed for the same reason, according to David Clohessy, National Director of the Survivors Network of those Abused by Priests — also known as SNAP — a national support group for clergy abuse victims.

"It's tragic that bishops and priests can evade responsibility by hiding behind legal technicalities," Clohessy said. "Because of this ruling, dozens of dangerous predators will not be disclosed and kids will be hurt. Kids are safe when molesters are exposed."

In the second case, 42 plaintiffs argued the Brooklyn diocese should be prevented from raising the statute of limitations defense because it refused to report abuse complaints to authorities, transferred accused priests to new parishes, paid off some who complained of abuse, and did other things to hide the abuse until the statute of limitations expired.

The court found otherwise.

"Conduct like this might be morally questionable in any defendant, let alone a religious institution, but it is not fraudulent concealment as a matter of law," Ciparick wrote in her decision. "A wrongdoer is not legally obliged to make a public confession, or to alert people who may have claims against it, to get the benefit of a statute of limitations."

The Catholic Conference of New York agreed with the court's decisions, spokesman Dennis Poust said.

"Justice goes both ways and the court realized that the Legislature intends for statutes of limitations to be in place to protect defendants from stale claims," he said. "And, in these cases, the court was clear that the plaintiffs could not show that the dioceses involved took any action to prevent the plaintiffs from bringing claims in a timely fashion."

The majority of incidents of sexual abuse by priests occurred decades ago, Poust said. The church, especially since the beginning of the 1990s, has been more aggressively rooting out problems. Sex abuse is a society-wide problem, not limited to the Catholic Church, he noted.

Sen. Thomas Duane, D-Manhattan, however, said he was disappointed with the court's decisions and challenged fellow lawmakers to pass a law that would allow more victims to sue even if the legal time limit had expired.

"The time is really well past for giving victims of clergy sex abuse their day in court," Duane said.

The senator has pushed legislation that would give a three-year window from the date legislation was signed to file lawsuits. Future plaintiffs would have longer to come forward, he said.

In the Brooklyn case, the decision was 5-1, with Judge George Bundy Smith dissenting. The plaintiffs said the defendants knew there was an ongoing problem of sex abuse but failed to notify them, but the court said that was not sufficient to warrant overriding the statute of limitations. The suit alleges that the church did not report abuse to police; that it reassigned priests without letting anyone know the accusations against them; and made private payments to victims who complained so charges would not be publicized.

Contributing: Cara Matthews and Rocco LaDuca, Observer-Dispatch; Mark Johnson, The Associated Press

---

Any original material on these pages is copyright © BishopAccountability.org 2004. Reproduce freely with attribution.