

Judgment of \$1,354,541.39 for Clergy Sexual Abuse against the Archdiocese of Hartford

In January and February of 2012, Attorney McNamara represented a clergy sexual abuse victim in the first case ever tried against the Archdiocese of Hartford for damages due to sexual abuse by a Hartford Archdiocese priest. The Plaintiff, then a 43 year-old man named "Jacob Doe", brought an action in negligence and recklessness against the Hartford Archdiocese for being sexually abused by Reverend Ivan Ferguson from 1981-1983 when he was 13-15 years old, beginning when the plaintiff was in the eighth grade. Ferguson had been placed by the Archdiocese of Hartford at the church of Saint Mary in Derby and also served as director of Saint Mary's School. The lawsuit alleged that the Archdiocese failed to adequately supervise Ferguson, failed to remove him from any position within the Archdiocese of Hartford, and failed to warn or advise its congregations, parishioners, and employees, as well as the plaintiff's parents, of the threat which Ferguson posed.

In his opening statement, Attorney McNamara told the jurors that over the course of the trial, they will hear some of the most "vile, revolting and damaging acts that could be done to a young person", and told the jury that Archbishop Whealon, "chose to put a child abuser in contact with the objects of his sexual desire". The Archdiocese argued that the victim was involved in voluntary homosexual behavior and, "looked forward to it". Attorney McNamara presented evidence that Ferguson befriended the plaintiff, as well as his friend, Matthew Doe, earning their trust and spending considerable time with them. They both served as altar boys under Ferguson. They were mesmerized by "Father Ivan", who treated them like adults. Matthew Doe testified, "He was unlike any priest I had ever met before." Ferguson eventually abused the friendship and trust that he

had created and sexually abused the Plaintiff, causing him severe emotional harm. In Jacob Doe's emotional testimony, he described the abuse, which included Ferguson providing the boys with liquor, showing pornography, fondling, oral sex and eventual sodomy which occurred in the basement of Saint Mary's School.

Matthew Doe also testified. He was with the plaintiff during sleepovers at St. Mary's rectory and at a condominium of one of Ferguson's friends. Matthew Doe stated that he awoke to Ferguson performing oral sex on him, which happened several times, the priest encouraging he and the plaintiff to masturbate in front of Ferguson.

At times after the abuse the boys and Ferguson would sneak over to the church for a private mass said by Ferguson. Jacob Doe's parents' testified about when Jacob Doe finally told them about the abuse by Ferguson. His father was a former church deacon. "We all started to cry", said Doe's father.

Prior to Ferguson's assignment at Saint Mary's, he was stationed in Simsbury at St. Bernard's Church. Upon a complaint of sexually abusing two boys in 1979, Ferguson admitted to Archbishop Whealon in a meeting that the allegations were true. Ferguson also admitted that he had trouble with alcohol. Whealon then sent Ferguson away for treatment at Saint Luke Institute in Massachusetts, an institute run by Catholic clergy for clergy only. Archbishop Whealon instructed another priest to contact the two women who reported the sexual abuse to ask them to tell no one. In a memorandum written shortly after the disclosure, Father Gene Gianelli, then secretary to Archbishop Whealon, wrote that he would not tell one of the mothers where Ferguson was receiving treatment, writing, "She could become a pest if she knew." Under questioning by Attorney McNamara, Gianelli testified that he had no knowledge of the church

ever doing anything for the priest's victims. Attorney McNamara presented evidence to the jury that the Archdiocese did not send Ferguson for treatment at St. Luke for sexual disorders, but rather only for alcoholism.

Ferguson died in 2002 and his testimony was presented by way of a deposition. In the deposition Ferguson admitted that he was treated for alcoholism and did not get treatment for sexual disorders at Saint Luke. Father Michael Peterson, the director psychiatrist/priest who ran Saint Luke, wrote to Archbishop Whealon in 1981, "As you are aware, it is my professional opinion that the other issues that brought Father Ferguson to us for treatment will be in control as long as the disease of alcoholism is in control." The Archdiocese argued that the clinic pronounced him fit for priestly work. There was no documentation presented by the Defendant of sexual problems as being the "other issues". Attorney McNamara argued that any so-called treatment for pedophilia was a "sham". He presented records and other evidence showing that St. Luke was only capable of treating alcohol and drug abuse, not psychosexual disorders such as pedophilia. He argued that the church was more concerned with keeping Ferguson's behavior secret than it was in treating it.

After Ferguson's release from St. Luke, in July of 1979, he was placed at Laurelton Hall, an all-girls school in Milford, Connecticut. In another letter from St. Luke, during Ferguson's after-care program and written just three weeks prior to the start of the plaintiff's eighth grade, St. Luke personnel wrote to Archbishop Whealon, "Father Ferguson was planning to work in a boys' school which is run by a religious order. This did not materialize, but he was offered a position in his parish as a grade school principal. The former position was one that he has been looking forward to. He appears to have accepted the change, although would have preferred working in the

boys' school." Attorney McNamara capitalized on both of these letters, arguing to the jury that the request by an admitted sexual abuser for an assignment at an all-boys school should have confirmed to the Archdiocese that he was still a serious danger to young boys. As he told the Connecticut Law Tribune, "This would've been an absolute red flag to anyone with half a synapse."

Attorney McNamara presented evidence from the plaintiff's mental health treater, Susan McDuffie, as well as from Dr. David Johnson of the Post Traumatic Stress Institute in New Haven, who conducted an independent evaluation of the plaintiff. Dr. Johnson described the multiple effects of the sexual abuse on the plaintiff and also opined that it caused him to suffer from Major Depressive Disorder and Post Traumatic Stress Disorder. Dr. Johnson testified that the plaintiff had diminished powers of concentration and detachment and estrangement from others due to the abuse, all resulting in a 10% occupational disability. Dr. Johnson testified, "He [Ferguson] was very obviously a well oiled machine. He had obviously done this many times before".

The Archdiocese attempted to present the testimony of one Philip Jenkins, a college professor, who was to testify that the actions of the Archdiocese were appropriate based on what society knew about sexual abuse at the time. In response to the Defendant's argument that little was known about the nature of pedophilia three decades ago, Attorney McNamara argued, "Thirty years ago murder was murder, children were children, and rape was rape. It wasn't that long ago." Judge Dubay ruled that Jenkins would be offering his opinion on, "the reasonableness of the church response" to the abuse by Ferguson, and that was an issue for the jury. He granted the plaintiffs' motion in limine and disallowed the testimony. Jenkins was also prepared to testify that the so called experts believed that in the

1970's and 1980's that the effects of sexual abuse on post-pubescent teens such as the Plaintiff were not serious or long lasting.

The Archdiocese also presented their own psychiatrist, Dr. J. Alexander Bodkin, who examined the plaintiff and did not believe that the plaintiff was harmed by the sexual abuse. In fact, at his deposition taken by Attorney McNamara over a seven-hour period, he testified that Jacob Doe's relationship with Ferguson was "emotionally beneficial". Attorney McNamara then asked if that opinion included the sex and the doctor answered, "Yes". Attorney McNamara took full advantage of this testimony and presented it on cross-examination of Bodkin in front of the jury.

Attorney McNamara argued that not only was the conduct of the Archdiocese negligent, but it was reckless, which is conduct that shows reckless disregard for the rights of others. The jury completed interrogatories, which are various questions addressed to the issues in the trial. The jury found that the Archdiocese's conduct was not only negligent but reckless with regard to its handling of Ferguson's sexual disorder. It found that both the Archdiocese's negligence and recklessness was a proximate cause of the injuries and damages sustained by the Plaintiff.

The jury returned with a verdict of one million dollars. After the trial, Jacob Doe told the Hartford Courant, "This predator was placed in a position where he could harm me and my friend. I'm hoping that other victims can begin their healing process, and the church does the right thing going forward." According to the Courant, some jurors were still trying to compose themselves as they left the courthouse. "We were trying to hard to do what was right by everybody. I don't think I can talk right now," said the forewoman of the jury. "We were working very hard together to be fair...and we are very proud of the job we did." Attorney McNamara told the

Hartford Courant, "It's a great day for my client and for all victims of childhood sexual abuse. The verdict sends one more message that victims no longer have to live in the darkness of the damage that child sexual abuse has caused them." On December 4th, 2012 Judge Dubay granted the plaintiff's motion for punitive damages and costs due to the finding of recklessness against the Archdiocese, rendering a final judgment of \$1,354,541.39.