

# TWIN WINS IN HIGH COURT

In the last week of its 2019-2020 term, the U.S. Supreme Court delivered two back-to-back victories for religious liberty; they were both 7-2 decisions. Catholic schools and agencies were the big winners.

The Supreme Court ruled in 2012 that religious schools enjoyed a “ministerial exception” that protected them from lawsuits brought by teachers whom the school said were ministers. Now it has strengthened that decision by holding that lawsuits alleging employment discrimination—teachers at two Catholic schools claimed they were terminated for discriminatory reasons (age and disability)—are without merit.

“The religious education and formation of students is the very reason for the existence of most private religious schools,” wrote Justice Samuel Alito for the majority, “and therefore the selection and supervision of the teachers upon whom the schools rely to do this work lie at the core of their mission.”

The other case involved the right of the Trump administration to carve an exception for those with sincerely held moral or religious objections from complying with the Obamacare mandate that abortion-inducing drugs and contraception must be provided in all healthcare plans. The Trump administration and the Little Sisters of the Poor appealed to the high court to reverse an appeals court decision that denied the exemption.

Justice Clarence Thomas, who authored the court’s ruling, said the Trump administration “had the authority to provide exemptions from the regulatory contraceptive requirements for employees with religious and conscientious objections.”

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# **RIGHTS OF PRIESTS TESTED; BRIEF FILED IN KEY CASE**

The due process rights of priests are in a tenuous state, and this is especially true in Pennsylvania. We have been actively involved in this issue, especially following the grand jury report that was trumpeted by the state's attorney general, Josh Shapiro. What he said and did was disgraceful—a classic case of injustice—which is why we continue to pursue this matter.

On May 27, the Catholic League, represented by the Pittsburgh law firm Jones Day, filed an amicus brief with the Pennsylvania Supreme Court to support the Diocese of Altoona-Johnstown. The case involves alleged abuse to plaintiff Renee Rice that occurred in the 1970s and early 1980s by a now-deceased priest. It stands to be a landmark case.

Ms. Rice did nothing to investigate her claims for almost 40 years. Under clear legal precedent, Ms. Rice's claims have been time barred since 1983. Yet, as an outgrowth of the badly-flawed Pennsylvania grand jury report that targeted Catholic dioceses, the intermediate appellate invented a wholly-new rule to allow the claims to proceed.

The court distorted decades of settled law, stripped away the diocese's legal defenses, and ignored the Pennsylvania Constitution. This type of breathtaking judicial legislation resulted in waves of new case filings across the state by the eager plaintiffs' bar and drove the Harrisburg diocese into bankruptcy.

It is not the business of the courts to hit the reset button regarding the time allowed to file suit. It is the job of the

legislature, and in this case it means the General Assembly. Moreover, as our amicus brief states, the Supreme Court of Pennsylvania “has long recognized that once a claim becomes time-barred, any revival of that claim would violate the Pennsylvania Constitution by stripping the defendant of a vested right to assert the time bar as a defense.”

It is not surprising that this test case involves the due process rights of priests. They have been under attack for years. Unfairly maligned in the courts, and the court of public opinion (often manipulated by a hostile media), priests everywhere are being subjected to criticism that exceeds the bounds of rationality.

We hope the Pennsylvania Supreme Court will follow the overwhelming number of courts around the country who have dismissed claims like these at the very outset. Indeed, it defies law and common sense to allow a plaintiff to seek damages for alleged harm that occurred decades ago, when they have done nothing in the interim. Only the plaintiffs’ lawyers, and the shameless Pennsylvania attorney general, will benefit from bad results like these.

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## **SEXUAL ABUSE DATA NEAR ZERO**

In late June, the United States Conference of Catholic Bishops’ Secretariat of Child and Youth Protection released its audit on clergy sexual abuse that covers the period July 1, 2018 – June 30, 2019.

During this time, there were 37 allegations made by current minors. Eight were substantiated, 7 were unsubstantiated, 6 were unable to be proven, 12 are still being investigated, 3 were referred to religious orders, and 1 was referred to

another diocese.

Of the 49,972 members of the clergy (33,628 priests and 16,344 deacons), .07% (37) had an accusation made against them for abusing a minor. However, since only .016% (8) could be substantiated, that means that 99.98% of priests did not have a substantiated accusation made against them.

In other words, clergy sexual abuse is near 0%.

It is hardly surprising that the media are ignoring this story. The only stories about the Catholic Church that they see fit to print or air are those that put the Church in a negative light. That they wallow in dirt cannot be denied.

Had there been a serious uptick in substantiated allegations, it would have been all over the news. In fact, some writers literally got angry that we reported the good news. This tells us everything: Bad news about the Catholic Church is seen as good news in many quarters, and vice versa.

No institution in society, secular or religious, can match the progress that the Catholic Church has achieved.

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## **CARDINAL DOLAN TARGETED; CRITICS EXPOSED**

Cardinal Timothy Dolan was recently the source of one of the most unprincipled and well-orchestrated attacks against a bishop to surface in many years. The politics that underscored the campaign were palpable.

The trigger for this onslaught was a conference call that 600 Catholic educators had with President Trump on April 24. The

president asked Cardinal Dolan to begin the exchange; the New York archbishop obliged. Days later Dolan appeared on “Fox and Friends” and took the opportunity to praise the president for his outreach to the Catholic community and for what he has done to promote religious liberty.

This is pretty standard stuff. The president of the United States wants to curry favor with religious leaders and religious leaders want to curry favor with the president. They both have something to gain by coming together, at least on some issues.

Conversely, both parties have much to lose if they decide not to play ball. Grownups understand how this works. Indeed, many bishops (including Cardinal Dolan) did not hesitate to praise President Obama, even though they disagreed strongly on some key issues.

It is hardly a secret to acknowledge that there are those in the Catholic community who hate President Trump—many of them are delirious—and that is why they cannot stomach any kind words said about him. They saw a chance to try and intimidate Cardinal Dolan (good luck with that) and so they pounced. Their own politics drove this campaign.

The first salvos came from two reporters for the *National Catholic Reporter*, a publication that is Catholic in name only; it rejects many Church teachings. One columnist said Dolan was “seduced by power and celebrity” and that he, and the other bishops on the conference call, were “masterfully manipulated.” This gay activist then criticized the Church’s teaching on marriage. The other columnist sounded hysterical, warning the bishops to “Stay away from the president.”

Cardinal Dolan is used to this type of criticism. In 2012, he accepted an invitation to speak at the Republican National Convention and was vilified for doing so. He also spoke at the Democratic National Convention that year and was blasted by

left-wing Catholics for simply recognizing the unborn.

President Trump is a lightning rod for criticism, and he does much to inspire it. But like him or not, any fair assessment of his record on religious liberty would conclude that no president has done more. For our bishops not to recognize this would be delinquent.

Cardinal Dolan acted responsibly. His critics did not. Worse, many are part of an agenda-ridden crowd of dissidents (see p. 4).

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## **GULLIBILITY GALORE**

If there were a gullibility record, it was recently broken by the Survivors Network of those Abused by Priests (SNAP).

This Church-hating band of professional victims' advocates—which the Catholic League played a key role in effectively destroying (it limbers on but few pay it any heed)—proved how easy it is to seduce when it bought, hook, line and sinker, a parody about Cardinal Timothy Dolan that appeared in a dissident publication.

The columnist was unhappy that Cardinal Dolan agreed to a conference call with the president. What he said about Dolan was meant in jest.

“The archbishop of New York, Cardinal Timothy Dolan, announced he was resigning as the spiritual leader of the ‘capital of the world’ in order to dedicate all his energies to his new position as co-chairman of the Committee to Re-elect the President. The resignation has yet to be accepted by Pope Francis, but there is little doubt the Supreme Pontiff will

grant Dolan's request to be relieved of his spiritual duties."

The dunces at SNAP thought this was true. Here is what they said.

"New York's top Catholic official is reportedly resigning from his position to help lead the re-election committee for President Donald Trump. We believe that New York Catholics will be better served by just about any other prelate and are glad that this longtime enemy of transparency will no longer lead the Archdiocese of New York."

Those with an IQ in double figures weren't fooled. SNAP was.

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## **CARDINAL PELL IS ACQUITTED; JUSTICE FINALLY DONE**

On April 6, Cardinal George Pell's conviction on five counts of sexual abuse was unanimously overturned by Australia's High Court. He was never guilty of these charges in the first place. The decision by the High Court cannot be challenged.

Pell has suffered greatly and has been the victim of outrageous lies. He has been smeared, spat upon, and forced to endure solitary confinement for crimes he never committed.

This was a sham from the get-go and should never have made its way through the Australian courts.

Pell was charged with abusing two boys in 1996. One of the boys overdosed on drugs but not before telling his mother—on two occasions—that Pell never abused him. The other boy's accusation was undercut by the dead boy's account: they were allegedly abused at the same time and place. There were no

witnesses to an offense that supposedly took place after Mass in the sacristy of a church.

Here is what the High Court said about this matter. "The assumption that a group of choristers, including adults, might have been so preoccupied with making their way to the robing room as to fail to notice the extraordinary sight of the Archbishop of Melbourne dressed 'in his full regalia' advancing through the procession and pinning a 13 year old boy to the wall, is a large one." That is putting it mildly. It is preposterous.

We at the Catholic League have been defending Cardinal Pell for many years. We released to the media the title of 24 news releases we issued in our defense of the beleaguered cardinal. Our first statement, "Cardinal Pell Should Sue For Libel," was issued on March 12, 2013. Please see our website for more information.

This will go down in history as one of the most egregious instances of injustice ever visited upon a high-ranking member of the Catholic clergy. Pell is a decent man who tried hard to combat sexual abuse, yet he became the poster boy of Catholic haters seeking to hang any big named cleric. What they did to him is unspeakable. Some were still bashing him after the High Court ruling.

Bill Donohue summarized the Catholic League's reaction to this story.

"This has been a terrible Lenten period with the coronavirus pandemic, but Lent 2020 will also be remembered by Catholics as one of great joy: Cardinal Pell has finally been exonerated. Those who tried to destroy him—and there were many all over the world—will have to answer one day for what they have done."



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# TLAIB RETREATS

In the last issue of *Catalyst*, we reprinted Bill Donohue's letter to the House Ethics Committee asking that Rep. Rashida Tlaib be formally reprimanded for her obscene assault on the sensibilities of religious Americans. We also listed an email contact for her. She got bombarded with angry emails from Catholics and she immediately started walking it back.

Recall that Tlaib retweeted a post by activist David Hogg saying, "Don't let this administration address COVID-19 like our national gun violence epidemic. F\*\*k a National day of prayer, we need immediate comprehensive action."

Here is how Tlaib handled her imbroglio.

"Let me be clear as someone who has been praying through this all & as someone who attended the National Prayer Breakfast. My retweet was not to be an attack on prayer. It was to bring attention to the need for meaningful action to combat this public health crisis."

Here is how Bill Donohue responded. "Let me be clear, Rep. Tlaib: You are fooling no one. You not only have a record of offending people, your anti-Semitic comments have mobilized friends of mine like Rabbi Aryeh Spero to hold a sit-in at Rep. Nancy Pelosi's congressional office to protest your bigotry (and that of your fellow 'Squad' member, Rep. Ilhan Omar). Your record of hate speech is incontestable."

To say that her retweet "was not an attack on prayer," Donohue said, was "lame." He minced no words. "Your point was to insult us. Mission accomplished."

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# VICTORY FOR PRIESTS' RIGHTS; CASE MERITS REVIEW

On March 2, the Pennsylvania Supreme Court ruled that it will review a Superior Court decision that allowed Renee A. Rice the right to pursue claims against the Diocese of Altoona-Johnstown even though the statute of limitations had long expired.

The Catholic League filed an amicus brief in the case in support of the diocese; the Pittsburgh firm of Jones Day represented us.

The Superior Court held that a grand jury report issued by the state Attorney General in 2016 could trigger the running of statutes of limitation, though it is common practice for the clock to start at the time of an injury.

Rice said she was molested 40 years ago by Fr. Charles Bodziak at St. Leo's Church in Altoona, a charge the priest denies. She further maintains that two bishops tried to cover up his behavior, even though the diocese sent her a letter 10 years before her lawsuit encouraging her to come forward about her alleged abuse. She did nothing until the grand jury report supposedly awakened her.

Attorneys for the Catholic League contend that the Superior Court ruling "effectively enacts window legislation [it allows a look-back provision] from the bench, contrary to decades of precedent."

When our brief was filed in September 2019, we commented on its significance. "We have reached a new level of creative jurisprudence when a court can invoke a jury decision as the

new clock determining when the limitations period starts to run. At issue here is the separation of powers between the legislature and the judiciary, not exactly a small issue.”

If jurors are allowed to widen the time limits for civil claims in clergy sexual abuse cases, it would create havoc. For instance, 15 “copycat” lawsuits were filed after the Superior Court ruling, beckoning other alleged victims to file suit. No wonder plaintiffs called the decision a “game-changer” that will “open the courthouse doors” to decades-old claims.

It is good news that the Pennsylvania Supreme Court has agreed to hear the appeal by the diocese. It also granted leave for the Catholic League to file an amicus brief on behalf of the diocese, which we will do.

Were the Superior Court ruling to hold, the effects would be felt not only by the Catholic Church but by all religious organizations. Indeed, secular institutions such as schools, hospitals, colleges, and all other employers would be at risk for being sued decades after the alleged offense.

We look forward to a complete reversal of the lower court’s decision. That would ensure that the rule of law will be applied equally to priests, dioceses, and religious organizations.

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## KEY CASES TO BE DECIDED

We may not know the outcome until the spring of 2021, but it looms as one of the most important cases pitting gay rights against religious liberty that the U.S. Supreme Court has ever agreed to hear.

Two years ago, a federal district court turned down Catholic Social Services of the Archdiocese of Philadelphia in its bid not to be forced to place children for foster care with parents of the same sex. The city of Philadelphia brooked no religious exemption. Last year, it lost again in the 3rd Circuit Court of Appeals.

Those on the side of the Catholic Church include the Ethics and Religious Liberty Commission of the Southern Baptist Convention and the Jewish Coalition for Religious Liberty. Those on the other side include the Hindu American Foundation, Muslim Advocates, Sikh Coalition, Unitarian Universalist Association, the Evangelical Lutheran Church in America, and the Union for Reform Judaism.

Catholic social service agencies do not recognize homosexual parents as suitable to be foster parents. They believe that children are entitled to a mother and a father, the only two people who can naturally create a family. Children need to be loved by those who provide role models for them based on the two sexes.

Religious liberty cannot exist without extending to religious individuals and institutions the kinds of exemptions they have traditionally been afforded.

This is only one of three religious-liberty cases that the high court will rule on in the spring.

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# **NEW       RULES       ON       RELIGIOUS**

# **LIBERTY; DONOHUE WEIGHS IN**

Public policy reforms governing religious liberty were recently proposed by the Trump administration. Federal rulemaking directives afford the public 30 days to comment on them after they are posted in the Federal Register. Bill Donohue submitted his statement in favor of the rules on January 21, five days after they were announced.

The Trump administration has provided a much-needed corrective to the draconian directives promulgated by the previous administration: the role of religious liberty under President Obama was diminished to such an extent that it all but neutered the free exercise of religion in public policy programs. Trump has reversed this condition, awarding religious liberty the kind of breathing room it deserves, both morally and legally.

If the rules are adopted, they would end the invidious practices of discriminating against religious institutions and associations that were instituted by the Obama administration. Any institution that does not treat religious institutions as the equal of secular institutions will be faced with the prospect of having federal funds terminated.

Religious autonomy is another feature of these reforms. For instance, the state cannot force religious associations to jettison their religious character as a condition of federal aid. Regrettably, this has been done, the effect of which has been to secularize these entities. What is the sense of having a religious institution if it cannot freely exercise its religious prerogatives?

Donohue limited his remarks to the Catholic League's formal statements objecting to the way the Obama administration handled faith-based institutions. On several occasions, we protested rules that stymied the right of Catholic social

service agencies that receive public monies to tailor their employment policies to meet Catholic objectives.

In his statement, Donohue asked, "Why is it considered discrimination for religious social service agencies to insist that their employees follow their doctrinal prerogatives, but it is not considered discrimination when the government tells them to cease and desist? The former is an example of the kinds of religious exercises that are central to the definition and identity of religious institutions; the latter is a discriminatory act that violates the First Amendment."

When it became clear that the Obama administration wanted to take the faith out of faith-based agencies, Donohue declared on June 24, 2011 that they should be shut down. They were doing more harm than good. On August 6, 2015, when it was clear that matters were deteriorating, Donohue reissued his call to close them down.

We hope the new rules pass and we can return to the days when religious institutions are not discriminated against and their autonomy is respected by government agencies. There can be no compromise on this issue.