NATIONAL CATHOLIC REPORTER
Published on *National Catholic Reporter* (http://ncronline.org)

Kansas City diocese ordered to hand over documents in sexual misconduct case

| Jun. 28, 2012

Kansas City-St. Joseph, Mo., Bishop Robert W. Finn concelebrates Mass March 12 with other bishops during "ad limina" visits to the Vatican. (CNS photo /Paul Haring)

KANSAS CITY, Mo. -- The first Catholic bishop criminally charged in the decades-long clergy sex abuse crisis will have to grant prosecutors access to a range of files regarding his diocese's response to previous accusations of clergy abuse, a county judge ordered Thursday.

According to the decision, Bishop Robert Finn and his Kansas City-St. Joseph, Mo., diocese will have to turn over notes and other documents from a diocesan investigation into their handling of the case of diocesan priest Fr. Shawn Ratigan, who was arrested last year for possession of child pornography.

They will also have to grant prosecutors access to diocesan files regarding its handling of five other priests who had previously been accused of abuse.

Both Finn and the diocese face trial this September in Jackson County, Mo., over separate criminal misdemeanor charges of failure to report suspected child abuse concerning their actions in the Ratigan case.

News of the latest order from County Judge John Torrence comes almost a week after the first conviction of a diocesan administrator on a charge of child endangerment for his role in reassigning clergy accused of abuse in his archdiocese.

That conviction came Friday in the case of Msgr. William Lynn, who served as the Secretary for Clergy in the Philadelphia archdiocese from 1992 to 2004.

In his ruling in the Kansas City case Thursday, Torrence ordered the diocese to grant access to the transcripts of people interviewed for a report funded by the diocese on its handling of the Ratigan case.

That report, conducted by former U.S. attorney Todd Graves, found that in the diocese's handling of the case, "individuals in positions of authority reacted to events in ways that could have jeopardized the safety of children

in diocesan parishes, school, and families."

At a hearing on the matter June 15, lawyers representing the diocese and Finn said granting access to the transcripts of the report would be a violation of the attorney-client privilege of those interviewed during its composition.

In his decision, Torrence wrote that attorney-client privilege could not be extended in this instance because the diocese at the time explicitly said the report "*would be issued to the public.*" (Emphases original)

"The attorney-client privilege does not apply to communications *intended* to be disclosed to third parties or those which are in fact disclosed," Torrence wrote. "This Court therefore finds that the statements made by witnesses to agents and principals of the Graves firm during the creation of the Graves report are not subject to any privilege."

Also granted to prosecutors by Torrence's order Thursday is access to diocesan files regarding five other priests previously accused of abuse in the diocese. Torrence wrote that those files could provide "relevant and material" information "regarding the policies and procedures that were followed regarding these alleged instances of misconduct."

Citing the sensitive nature of the material present in those documents, however, the judge ordered limited access to the files and said they could not be photocopied.

Torrence also granted prosecutors' request to amend the initial charges filed against Finn and the diocese to encompass an additional misdemeanor charge of failing to report suspected child abuse against both.

Jack Smith, the interim director of communications for the Kansas City-St. Joseph, Mo., diocese, said that "counsel will be studying these rulings today and will continue to prepare for the trial accordingly."

The ongoing legal preparations for the September trial previously led to an acknowledgement from the diocese that there might be a conflict of interest between the diocese and Finn in the case, as they are charged separately and may need to pursue separate defense options.

Saying he wished to alleviate those concerns, Finn appointed a local diocesan pastor in May to a special role in the diocese as "Episcopal Vicar with Special Mandate." In that role, an announcement said, Fr. Patrick Rush is to be responsible for the ultimate decision-making regarding the diocese's legal options in the Ratigan case.

That appointment, the announcement said, will "avoid even the appearance of conflict concerning the juridical affairs of the diocese."

The trial for Finn and the diocese is scheduled to begin Sept. 24.

[Joshua J. McElwee is an *NCR* staff writer. His email address is **jmcelwee@ncronline.org**.]

Related coverage from *NCR*:

- **Prosecutors outline evidence in case against KC priest** **[1]**, July 10
- **Kansas City diocese ordered to hand over documents in sexual misconduct case** **[2]**, June 28
- **Latest hearing in case against Kansas City diocese, Bishop Finn** **[3]**, June 15
- **KC bishop delegates away diocesan legal authority** [4], May 26
- **Judge orders Kansas City bishop to stand trial in abuse case** **[5]**, April 5
- **September trial date set for KC bishop, diocese** **[6]**, Jan. 26

- **KC bishop begins prosecutor-mandated parish meetings** [7], Jan. 9, 2012
- **To avoid indictment, bishop agrees to county oversight** [8], Nov. 15
- **KC bishop charged with failure to report child abuse** [9], Oct. 14
- **Report: KC diocese 'jeopardized safety of children'** [10], Sept. 1
- **Diocese warned of priest's aberrant behavior one year before arrest** [11], May 26
- **Bishop admits failure in priest's child pornography case** [12], May 23, 2011

Source URL (retrieved on *07/14/2014 - 08:04*): http://ncronline.org/news/accountability/kansas-city-diocese-ordered-hand-over-documents-sexual-misconduct-case?splash=

Links:
[1] http://ncronline.org/node/31232
[2] http://ncronline.org/node/31064
[3] http://ncronline.org/node/30869
[4] http://ncronline.org/node/30530
[5] http://ncronline.org/node/29677
[6] http://ncronline.org/node/28628/
[7] http://ncronline.org/node/28387/
[8] http://ncronline.org/node/27605
[9] http://ncronline.org/node/27100
[10] http://ncronline.org/node/26433/
[11] http://ncronline.org/node/24888/
[12] http://ncronline.org/node/24797/