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SNAP asks Missouri court to stop order for documents

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KANSAS CITY, Mo. -- The leading advocacy group for clergy sex abuse victims has asked the Missouri Supreme Court to quash a local judge's ruling for the group to grant access to more than 23 years of internal documents to attorneys who represent accused priests in the state, saying the order violates the confidentiality of abuse victims.

The request, formally known as a "writ of prohibition," is the latest step by the Survivors Network of those Abused by Priests in a months-long saga over access to the documents.

Twenty-two victims' advocacy and church reform groups and six former and current local, state and federal prosecutors have also asked the court to intervene in the matter, saying the order could lead to further victimization and ultimately "intimidate, harass, and silence victims of sexual abuse."

The requests stem from Jackson County, Mo., Circuit Court Judge Ann Mesle's order July 17 to SNAP in a case concerning a Kansas City priest accused of abuse. The case, in which SNAP is not a party, made headlines in January when it became the first in which one of the group's leaders was ordered to provide testimony.

Following months of hearings and back-and-forth filings from SNAP lawyers and those defending Kansas City-St. Joseph, Mo., diocesan priest Fr. Michael Tierney, Mesle ordered the group to make available 23 years of internal files and correspondence to the priest's lawyers "on or before July 30."

Additionally, pending intervention by the high court, David Clohessy, SNAP's executive director and subject of the January deposition, was ordered to appear for a second deposition "no later than August 30."

A similar appeal in the case by SNAP to Missouri's Western District Court of Appeals was denied July 13.

In one of two amicus briefs filed with the Missouri Supreme Court on SNAP's behalf, 22 organizations -- including Call to Action, the National Center for Victims of Crime, and the National Child Protection Training Center -- say Mesle's order would cause survivors to be "psychologically damaged and further victimized by the disclosure of information they appropriately believed to be confidential."

As SNAP has argued previously, the groups also allege the order violates the freedom of speech and the rights of association of SNAP's members and volunteers.

According to the transcript of Clohessy's January deposition, which was first made public [1] in March, the SNAP leader refused then to answer many of the lawyers' questions, saying repeatedly that SNAP is afforded protections under Missouri statutes that protect the confidentiality of rape crisis centers.

Whether or not SNAP should be considered such a center has been the focus of much attention in the case. In a

brief filed with the Missouri Supreme Court following SNAP's writ, Tierney's lawyers said SNAP could not be considered such a center because it frequently issues press releases identifying victims.

In another amicus brief filed in the case on SNAP's behalf, six separate former and current local, state and federal prosecutors argue SNAP should be considered a rape crisis center under Missouri law because the group has a "similar function" to other rape crisis centers and should "therefore be statutorily construed as a rape crisis center."

The prosecutors signed onto that brief include the sitting prosecutors of the city of St. Louis and Cooper County, Mo., the executive director of the National Child Protection Training Center, Victor Vieth, and former executive U.S. attorney Jeff Jensen.

Among the files requested from SNAP: all correspondence with members of the press that mention either Tierney or the diocese; all documents that refer to priests currently or formerly associated with the diocese; and all correspondence with members of the public "that discusses or relates to repressed memory in conjunction with cases involving" the Kansas City diocese.

Tierney's defense lawyers have argued SNAP could be inappropriately coaching victims it helps regarding issues of repressed memory.

While the alleged abuse in the Kansas City case occurred about 40 years ago, the victim has said his memory regarding the event only returned in recent years, within the timeframe of Missouri's statute of limitations for abuse lawsuits where repressed memory is an issue. According to state law, the statute of limitations on abuse lawsuits involving minors is five years after the victim reaches the age of 18 or three years after the victim recovers repressed memories.

In their brief filed with the Supreme Court, Tierney's lawyers defended Mesle's order, writing, "SNAP could be routinely advising plaintiff and others to claim repressed memory to evade the statute of limitations."

In that brief, Tierney's lawyers also mention an April 25 order Mesle approved that would redact the names found in the documents of those not involved in the case, saying that order provides "sufficient" protection for victims.

SNAP lawyers did not oppose that order, which specifies that any documents from the group that defense lawyers gain access to will be marked confidential and kept in the possession of one of SNAP's lawyers. A log of all access to the documents will be kept.

"The protections put in place by the trial court, such as restricting the names of alleged abuse victims other than those who have placed their identity at issue by filing suit, provides sufficient protection," reads the brief from Tierney's lawyers, filed Wednesday.

However, in their amicus brief, the 22 organizations supporting SNAP say the redaction of names in the files "does not remove the harm or make it less of a violation of the privacy and rights of individuals to communicate and associate with SNAP, or for the organization to obtain and keep information."

Beyond Tierney's lawyers, attorneys representing priests accused in other abuse cases might also be granted access to SNAP's documents as they filed "cross-notice" for Clohessy's deposition, indicating they believe either his testimony or the documents provided could have evidence pertaining to their cases.

Lawyers defending priests in at least six other abuse lawsuits have filed such notice. According to the protective order, those lawyers could be granted access to the SNAP documents if the judges in their cases allow that

access.

In their amicus brief in the case, the six prosecutors conclude that request for SNAP's documents is meant to "intimidate, harass, and silence victims of sexual abuse and their advocates."

"These discovery requests are contrary to public policy, statute, and the constitutional rights of victims," they continue. "As prosecutors, we urge this court to reverse Judge Mesle's ruling, and protect the public health, individual safety, and constitutional rights of crime victims so that all of us, together, may continue to promote justice."

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Editor's Note: For more *NCR* coverage of SNAP's orders, see:

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- **SNAP ordered to hand over wide range of abuse documents** **[3]**, April 20
- **SNAP fires back at lawyers requesting documents** **[4]**, April 17
- **SNAP leader's deposition made public** **[5]**, March 2
- **Lawyers press for more SNAP documents, testimony** **[6]**, Feb. 24
- **Court documents reveal motives for deposing SNAP** **[7]**, Jan. 23
- **SNAP, Catholic League leaders talk abuse scandal on radio show** **[8]**, Jan. 6
- **SNAP receives second subpoena request for documents** [9], Jan. 5
- **SNAP leader: Testimony was 'fishing expedition'** [10], Jan. 3
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