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SNAP loses appeal to block release of internal documents

by Joshua J. McElwee

KANSAS CITY, Mo. -- Following denial Tuesday of an appeal to the Missouri Supreme Court, the Survivors Network of those Abused by Priests will have to decide whether to comply with a local judge's order to grant access to more than 23 years of internal documents to attorneys representing accused priests. {C}

The denial, issued by the court Tuesday afternoon, is the latest in a months-long saga of SNAP, the leading advocacy group for clergy sex abuse victims, to stop access to the documents.

The group had filed a writ of prohibition to the court in late July, alleging that the order, which requires it to hand over a range of eight categories of documents, violates the freedom of speech and the rights of association of SNAP's members and volunteers.

Several groups -- including 24 victims' advocacy and church reform groups and six former and current local, state and federal prosecutors -- filed amicus briefs with the court that supported SNAP's position, saying the order could lead to further victimization and ultimately "intimidate, harass, and silence victims of sexual abuse."

SNAP's executive director, David Clohessy, was not specific about what steps his group would take next.

"We'll continue to do everything possible to protect the privacy and safety of victims, witnesses, whistleblowers, police, prosecutors, journalists and others who seek our help," Clohessy wrote in an email to *NCR* following the denial.

"We're in uncharted waters for us and we're taking it a step at a time," he said.

If SNAP does not comply with the order, it could be found in contempt of court.

Beth Riggert, the communications counsel for the Supreme Court of Missouri, said while the denial hadn't been entered into the court's electronic system yet, it was unlikely the court would give any reason for its ruling.

Typically, the court does not issue a reason for denials of these types of writs, which are normally handed down together in a group about once a month, Riggert said.

The document requests stem from Jackson County, Mo., Circuit Court Judge Ann Mesle's order July 17 to SNAP in a case concerning Kansas City diocesan priest Fr. Michael Tierney, who was 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.

According to the transcript of Clohessy's January deposition, which was first made public 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.

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Following months of hearings and back-and-forth filings from SNAP lawyers and those defending 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, Clohessy was ordered to appear for a second deposition "no later than August 30."

SNAP had not yet granted access to the documents, pending the Missouri Supreme Court's decision.

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

In its writ, SNAP again argued it should not be forced to hand over the documents because it should be afforded protections under the Missouri statutes protecting 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 an amicus briefs filed in the case on SNAP's behalf, six prosecutors argued 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 signing onto that brief included 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.

Mesle, the Kansas City judge who ordered SNAP to grant access to the documents, also issued an order in April allowing the group to redact the names found in the documents of those not involved in the case at hand.

That order also specified that any documents from the group that defense lawyers have access to will be marked confidential and kept in the possession of one of SNAP's lawyers, and that a log of all access to the documents will need to be kept.

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

- **SNAP asks Missouri court to stop order for documents**, July 26
- **SNAP order could 'chill' abuse cases, advocates say**, May 8
- **SNAP ordered to hand over wide range of abuse documents**, April 20
- **SNAP fires back at lawyers requesting documents**, April 17
- **SNAP leader's deposition made public**, March 2
- **Lawyers press for more SNAP documents, testimony**, Feb. 24
- **Court documents reveal motives for deposing SNAP**, Jan. 23
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