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Louisiana court challenges confessional secrecy

Thomas Reese | Jul. 8, 2014 NCR Today

The Louisiana Supreme Court has issued a decision that may require a priest to violate the secrecy of the confessional.

The case involves the possible confession of a 12-year-old who allegedly was abused by a church parishioner in 2008. The complaint says she told the priest during three separate confessions of her abuse, which involved inappropriate touching, kissing and saying that he wanted to make love to her.

Her parents are suing the priest who heard the confession, Fr. Jeff Bayhi, and the Baton Rouge diocese because he did not report the abuse, which continued after the confessions. The alleged abuser died of a heart attack in 2009 during a criminal investigation.

According to the *Times-Picayune* [1], the parents of the minor say the priest in the confessional told the 12-year-old to deal with it herself because "too many people would be hurt." The girl reports, "He just said, 'This is your problem. Sweep it under the floor.' "

The parents want the priest to testify whether the confession took place and what was said. The priest and the diocese say [2] he cannot reveal what was said in confession.

A Louisiana appeals court found that the priest was not a mandatory reporter because the discussion took place during confession, which is a confidential communication. The Louisiana Supreme Court, however, ruled that the priest cannot claim confidentiality because the penitent waived her privilege.

If he has the permission of the penitent, can a priest reveal what was said in confession? Although there has been some debate among canonists about this, the preponderant view and the official view of the Holy See is no.

If the church allowed confessors to reveal the contents of a confession with the permission of penitents, the fear is that penitents would be subject to pressure to grant that permission. In a criminal proceeding, any penitent who did not waive his or her privilege would be presumed guilty in the court of law and public opinion.

In addition, the confessional secret is not simply to protect the privacy of the individual penitent. It is also there to preserve reputation of the sacrament as a place where secrecy is preserved at all costs. Revealing confessional secrets, even with the permission of the penitent, could cause scandal and misunderstanding as the story is reported in the media.

The diocese of Baton Rouge argues that breaking the confessional seal is a clear violation of centuries of church law and practice. The penalty for breaking the seal is automatic excommunication.

The diocese argues that the state Supreme Court "has violated the Establishment Clause and the separation of Church and State under the first amendment." It said this violation of religious freedom "will be taken to the highest court in the land by the church in order to protect its free exercise of religion."

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