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Prosecutors seek to prove archdiocesan conspiracy

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Fr. James Brennan (AFP/Stan Honda)

With the jury seated and one less defendant, the first case against a church official accused of covering up child sex abuse has moved into the courtroom, as a national audience turns its attention to the scandal in the Philadelphia archdiocese.

The trial for Msgr. William J. Lynn and Fr. James J. Brennan began March 26.

?This is a huge event for the entire church in the United States and really the world,? said Marci Hamilton, the Paul R. Verkuil Chair in Public Law at the Cardozo School of Law at New York?s Yeshiva University.

Lynn, 61, is the former secretary of clergy for the Philadelphia archdiocese, working under Cardinal Anthony Bevilacqua from 1992 to 2004. He faces charges of felony child endangerment and conspiracy. The archdiocese has not been charged, but is listed by the prosecution as an unindicted co-conspirator.

Brennan is accused of raping a 14-year-old boy during a 1996 sleepover at Brennan?s apartment. Both he and Lynn have pleaded not guilty.

A third defendant, defrocked priest Edward Avery, pleaded guilty March 22 -- four days before the trial began -- to charges of conspiracy and sexual assault of a 10-year-old St. Jerome Parish altar boy during the 1998-99 school year. Avery received a sentence of two-and-a-half to five years in prison.

The unexpected turn led the defense lawyers for Lynn and Brennan to seek a delay in the trial and a new jury, arguing Avery?s guilty plea tainted the jury. Common Pleas Court Judge M. Teresa Sarmina denied the request, but two jurors were dismissed. The panel now includes 12 jurors and six alternates.

Hamilton said Avery?s plea confirms the existence of a conspiracy and also ?forces the trial to focus so much more closely on the cover-up.?

The prosecution has appeared to follow that path, in their opening statement portraying Lynn?s priorities as protecting priests and the church, rather than possible victims. His defense countered in their statement,

describing him as an official doing what he could to address abuse claims, but lacking the ultimate authority to take the necessary action himself.

?Their defense so far appears to be that [Lynn] was told to do what he did,? Hamilton said. ?But that is no defense in a criminal conspiracy if he is taking the action to put children at risk.?

Prosecutors have used the trial?s early going to build the foundation for an ongoing conspiracy in the archdiocese and Lynn?s role in it. A pretrial ruling allowed them to present how the archdiocese handled 22 past cases of alleged abuse. This includes witnesses ranging from detectives to past accusers to even priests, as well as a copious amount of once-secret archdiocesan records.

One such document was a 1994 note from Bevilacqua that ordered the shredding of a memo Lynn had prepared that year listing 35 suspected sexually abusive priests. A copy of the memo was found in a secret church vault in 2006 and turned over for trial earlier this year.

Presented to the jury on the second day of the trial, the document, which included Avery among the alleged, could become a pivotal piece of evidence for both sides. The defense sees it as confirming the argument that Lynn was trying to assess the problem but was not the one making crucial decisions -- his superiors were. Others see it differently.

?What it shows is that [Lynn] was so deeply involved in the ongoing conspiracy to cover up, that even when they had a list of [35] priests, he did not take meaningful action to protect children,? Hamilton said.

?And he was in charge of putting that list together, so really no one had better information than he did about who the abusers were.?

The trial is expected to last several months.

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