

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

ANGIE PHILLIPS

PLAINTIFF

VS

CAUSE NO. 251-03-821CIV

ROMAN CATHOLIC DIOCESE OF JACKSON,
MISSISSIPPI, et al.

DEFENDANTS

FINAL JUDGMENT DISMISSING PLAINTIFF'S CLAIMS WITH PREJUDICE

Angie Phillips asserts that two different Catholic priests sexually abused her in 1972 – 73. Her complaint does not state her date of birth but does state she graduated high school in 1977. Assuming she was eighteen years of age in 1977, then she would have been born in or about 1959 and abused at the age of approximately 13-14 years old.

She filed this lawsuit on July 18, 2003, asserting that the Church Defendants¹ and the defendant priests engaged in a conspiracy to conceal sexual misconduct by priests, that the Church Defendants breached fiduciary duties owed to her by failing to disclose sexual misconduct by the priests, that the Church Defendants are vicariously liable under the doctrine of *respondeat superior* for the sexual assaults committed by those priests, and that the Church Defendants fraudulently concealed “the cause of Plaintiff’s injury and their breach of duty.” She further alleges that defendant Catholic Diocese of Jackson was negligent in its hiring, assignment and supervision of the priests, that it intentionally or negligently inflicted emotional distress on her and that it misrepresented to her that the priests were fit to act as a priest. The complaint further asserts claims against the two priests for negligence, civil conspiracy, breach of fiduciary duty, fraud and fraudulent concealment, and intentional infliction of emotional distress.

¹ Defendants the Catholic Diocese of Jackson and the Most Rev. William Russell Houck are referred to herein as the “Church Defendants.”

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The defendants argue that all of her claims are time-barred. Her causes of action accrued at the time of abuse (approximately 30 years ago) and were tolled during her minority. Thus, under Miss. Code Ann. § 15-1-59 and § 15-1-49, she had 6 years after she reached age 21, or until 1986, to file her lawsuit. Since she waited until 2003, 17 years too late, the defendants assert her claims are barred.

Ms. Phillips alleges that the “delayed discovery” doctrine tolls the running of the limitations period, claiming that she (1) did not “psychologically comprehend” that the priests’ acts constituted abuse, (2) that she did not connect the priests’ actions to her emotional problems and (3) that she only recently began to “psychologically comprehend” that the priests’ acts were abusive and the cause of her injuries. Thus, she says her suit was timely filed.

The Court’s review of the record evidence, the various motions, attachments, memoranda and argument of the parties reveals that Ms. Phillips has always known sufficient facts to pursue her claims timely. The complaint describes her allegations of sexual abuse in graphic detail. Taking as true the factual allegations in the complaint and in her psychologist’s affidavit, it is clear that Ms. Phillips knew at the time of the abuse that something wrong was happening to her. She knew enough to know there was something desperately wrong with her situation, whether or not she admits to knowing the acts of abuse were “wrong” in her mind. Ms. Phillips knew what the priests did to her, who they were and that they were associated with the Diocese. She knew enough to timely pursue her claims when she reached age 21.

Once on notice of her claims against the priests, she was on notice to timely pursue all potential causes of action against all potential defendants, including the Church Defendants. Significantly, Ms. Phillips makes no allegation that any act or omission of the Church Defendants misled her into believing that the abuse did not occur, or that the priests did not harm her, or that the priests were not affiliated with the Catholic Diocese of Jackson, or that she was not injured by their

actions. The Church Defendants never concealed from her the battery or the injury nor prevented her from timely filing this action. Had she timely filed, she could have discovered what she now says was concealed and/or evidence of any conspiracy that may have preceded her injuries. Mississippi's "discovery rule" does not apply because Ms. Phillips knew she had been raped and because injuries arising from sexual battery and rape are not latent. As many other courts have recognized, Ms. Phillips real claim here is for damages arising from sexual abuse that occurred thirty years ago – not from any recently discovered conspiracy, fraud or cover-up by the defendants.

Ms. Phillips asks this Court to toll the statute of limitation by adopting a "delayed discovery" doctrine. However, such an exception is for the legislature, and not the courts to adopt. The Mississippi legislature has not adopted a "delayed discovery" exception to the statute of limitations for legally sane persons who claim they could not "fully comprehend" or "psychologically comprehend" their injuries arising from childhood sexual abuse. Numerous other jurisdictions have rejected Ms. Phillips' precise argument because (1) a victim's alleged psychological inability to comprehend that rape/molestation is wrongful is irrelevant under the reasonable person standard that governs application of the discovery rule and (2) it is patently unreasonable for a victim of child sexual abuse to wait 30 years to bring such claims. Even assuming Ms. Phillips did not know enough to be on notice of her claims by age 21, the Court finds that a reasonable person in her situation would have and thus the discovery rule cannot apply to toll the running of the limitations period. There is also no evidence that Ms. Phillips exercised reasonable diligence to discover her claims. Failure to exercise due diligence prevents Ms. Phillips from claiming the benefit of the discovery rule or the fraudulent concealment doctrine.

The only savings provision that might apply to Ms. Phillips' psychological inability to comprehend that she had been harmed is the savings provision of Miss. Code Ann. § 15-1-59 that tolls the running of the limitations period for persons of unsound mind until that disability is

removed. However, even then, the tolling is never to exceed 21 years from accrual of the cause of action. So even if Ms. Phillips were of unsound mind, as alleged in her complaint, her claims would have been barred no later than 1994.

The Court finds, assuming all allegations of the plaintiff were true and viewing all reasonable inferences in that light most favorable to plaintiff, that there are no genuine issues of material fact and all defendants are entitled to judgment as a matter of law. Because the Court has assumed all allegations of the plaintiff were true, her request for further discovery is unnecessary for the Court's determination of whether her claims are barred by the statute of limitations.

Accordingly, Plaintiff's Motion to Stay Proceedings, or in the Alternative, Motion to Continue Defendants' Motion for Summary Judgment is DENIED. The Church Defendants' Motion for Summary Judgment is GRANTED. The Defendant, George Broussard's Motion to Dismiss will be viewed by the Court as a Motion for Summary Judgment and, as such, is GRANTED. All claims against all defendants are dismissed with prejudice.² All parties shall bear their own costs and fees.

SO ORDERED AND ADJUGED this the 15th day of July, 2004.


CIRCUIT JUDGE

² The Court notes also that defendant Estate of Tommy Boyce was never served with process in this matter and so is entitled to dismissal pursuant to Miss. R. Civ. Pro. 4(h) and 12(b)(5). In addition, since Ms. Phillips claims are barred by the statute of limitations, the Estate of Tommy Boyce would be entitled to dismissal with prejudice if it had been properly served.