STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	CIVIL ACTION NO.: 2018-CP-10-03929

John Doe,

Plaintiff,

v.

Bishop of Charleston, a Corporation Sole, and the Bishop of the Diocese of Charleston, in his official capacity,

Defendants.

ORDER GRANTING SUMMARY JUDGMENT AS TO ALL CLAIMS (*ENDS THE ENTIRE CASE*)

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SC Court of Appeals

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Defendants, Bishop of Charleston a Corporation Sole, and the incorrectly named"Bishop of the Diocese of Charleston, in his official capacity" (the "Diocese") moved for summary judgment as to all claims made by the above-captioned Plaintiff pursuant to Rule 56, SCRCP. Plaintiff alleges that he was abused by two teachers in 1970. To toll the statute of limitations for his claims, Plaintiff must establish repressed memory pursuant to the requirements of *Moriarty v. Garden Sanctuary Church of God*.[1] Plaintiff failed to present admissible evidence establishing that there remain genuine issues of material fact for trial regarding the requirements set forth in *Moriarty*. Therefore, the Court finds that the statute of limitations has run on all claims. On that basis, Defendants' Motion for Summary Judgment based upon the Statute of Limitations is **GRANTED**, and all claims against the Diocese are **DISMISSED WITH PREJUDICE**.

[1] *Moriarty v. Garden Sanctuary Church of God*, 341 S.C. 320, 330, 534 S.E.2d 672, 677 (2000).

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FACTUAL SUMMARY

Plaintiff alleges that, in 1970, he was sexually abused by Chris Hartnett and Harold Brooks, who were employed as teachers at Sacred Heart School. Sacred Heart School operated as a ministry of Sacred Heart Parish and of the Roman Catholic Diocese of Charleston. For the 1970 – 1971 school year, Plaintiff's 7th-Grade teacher at Sacred Heart School was Chris Hartnett. Hartnett died many years ago. Harold "Hal" Brooks was another teacher at the school. Brooks testified by affidavit that he only taught at Sacred Heart School for the fall semester, 1970, before resigning to return to his father's business in Winnsboro. Thus, the only evidence before the Circuit Court is that the alleged abuse would have taken place during the fall of 1970.

STANDARD FOR SUMMARY JUDGMENT

In *Kitchen Planners v. LLC v. Friedman,*[2] the South Carolina Supreme Court clarified the standard for summary judgment and specifically rejected the notion that plaintiffs are only required to show a "mere scintilla" of evidence to survive a summary judgment motion. The Court held that: "it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine" and that "the mere existence of a scintilla of evidence in support of the plaintiff's position will be insufficient; there must be evidence on which the jury could reasonably find for the plaintiff." Rather, as Rule 56(c) mandates, the party opposing summary judgment must "do more than simply show that there is some metaphysical doubt as to the material facts' but 'must come forward with 'specific facts showing that there is a *genuine issue for trial.'*"[3]

The Supreme Court made clear, Rule 56 provides that a party may move, with or without supporting affidavits, for summary judgment in his favor as to all or part of a claim.[4] The trial

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[2] *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 892 S.E.2d 297 (S.C. 2023).
[3] *Id.*
[4] Rule 56(a), SCRCP.

court must grant the motion "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."[5] "Under Rule 56(c), the party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact."[6] "With respect to an issue upon which the nonmoving party bears the burden of proof, this initial responsibility 'may be discharged by "showing"--that is, pointing out to the [trial] court--that there is an absence of evidence to support the nonmoving party's case.'"[7] The moving party need not support its motion with affidavits or other similar materials negating the opponent's claim.[8] Once the moving party carries its initial burden, the opposing party must come forward with admissible evidence that shows there is a genuine issue of fact remaining for trial.[9]

1. There is no admissible evidence that would satisfy Plaintiff's burden of proof to show objectively verifiable evidence of abuse as required under *Moriarty v. Garden Sanctuary*.

Plaintiff was born on May 28, 1957. Plaintiff claims he was abused by the two teachers at Sacred Heart School in 1970. Plaintiff turned 18 on May 28, 1975, thus the statute of limitation for his claims lapsed no later than May 28, 1978. This action was not filed until August 8, 2018, more than thirty years after the statute of limitations had run. Plaintiff has provided no basis for this Court to find that the statute of limitations was tolled.

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[5] *Id.* Rule 56(c).
[6] *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991).
[7] *Id.* (alteration in original) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 325, 91 L. Ed. 2d 265, 106 S. Ct. 2548 (1986)).
[8] *Id.* (quoting *Celotex*, 477 U.S. at 323); *see also Richardson v. State-Record Co.*, 330 S.C. 562, 499 S.E.2d 822 (Ct. App. 1998).
[9] *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545.

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Plaintiff claims that the statute of limitations should be tolled in this case under the repressed memory standard of *Moriarty v. Garden Sanctuary*. In *Moriarty v. Garden Sanctuary Church of God*, both the South Carolina Court of Appeals and the South Carolina Supreme Court recognized that the theory of repressed memory syndrome is, and remains, highly controversial among psychiatrists and psychologists. As the Supreme Court noted, there is no consensus among the psychological, medical, or legal communities regarding the validity of the theory of repressed memory.[10] Critically, both Courts likewise acknowledged "the horrific possibility of false accusations" and that corroborating evidence is required because of "the disagreement among the psychological and medical communities about the validity of repressed memory syndrome, the danger a plaintiff's memories could be faked or implanted during therapy, and the desire that a plaintiff not have the ability to control the running of the statute of limitations solely by allegations whose only support is contained within the plaintiff's mind."[11]

Because of these concerns, the South Carolina Supreme Court requires that a plaintiff claiming repressed memory must present <u>both at the summary judgment stage and at trial</u>: (1) objectively verifiable corroborating evidence of the fact of the abuse and (2) expert testimony to establish the both the abuse and the fact of the repressed memories. Plaintiff has failed to meet either requirement.

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[10] *Moriarty v. Garden Sanctuary Church of God*, 341 S.C. 320, 330, 534 S.E.2d 672, 677 (2000).
[11] *Moriarty*, 534 S.E.2d at 680, *citing Roe v. Doe*, 28 F.3d at 408-09 (suggesting that corroborative evidence of abuse and repressed memory should be required) (Hall, J., concurring); *Olsen v. Hooley*, 865 P.2d 1345, 1349-50 (Utah 1993) (requiring corroborating evidence because of concerns about the reliability of memory in general and revived memories in particular, and the difficulty of defending against claims of revived memories of sexual abuse long past); *S.V.*, 933 S.W.2d at 7-15 (discovery rule applies in repressed memory case only when claim is "inherently undiscoverable" and "objectively verifiable" through corroborating evidence; court assumed plaintiff's injury was inherently undiscoverable, but rejected application of discovery rule because she offered no corroborating evidence).

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Plaintiff failed to present any admissible evidence supporting the requirement of objectively verifiable evidence of Plaintiff's being sexually abused. Neither accused teacher was ever convicted of the abuse nor did either teacher ever confess to abusing Plaintiff – in fact, the still-living teacher adamantly denies the alleged abuse, and the deceased teacher taught for 30 years in the Summerville schools without any accusation of any improper sexual conduct with a minor. There are no photographs or witnesses. Plaintiff testified that he reported the abuse to no one. He did not see a doctor or any other health care provider. There is simply a complete absence of objectively verifiable evidence that Plaintiff was abused in 1970 by these two teachers. For that reason alone, Plaintiff has failed to meet the requirements of *Moriarty* and his claims are due to be dismissed as time-barred.

2. Additionally, Plaintiff failed to present the expert evidence required to establish repressed memory syndrome under *Moriarty v. Garden Sanctuary*.

In addition to objectively verifiable evidence of the abuse, *Moriarty* requires that the Plaintiff must present expert testimony to establish the abuse, the fact of the repressed memories, and that those memories were repressed between Plaintiff's 18th birthday – May 28, 1975 until sometime after August 8, 2015 (three years prior to filing the Complaint). Plaintiff presented no admissible expert testimony regarding repressed memory syndrome. There are no neuropsychiatric tests in evidence that confirm that Plaintiff is experiencing repression of childhood memories. There is no admissible expert testimony that Plaintiff's recovered memories of the alleged abuse are accurate. There is no admissible expert testimony establishing when Plaintiff began to repress any memory of the alleged abuse. Finally, there is no admissible evidence of when Plaintiff claims to have recovered memories of the alleged abuse.

Plaintiff has not come forward with admissible evidence that satisfies the heavy burden placed upon him by *Moriarty v. Garden Sanctuary Church of God*. Plaintiff's inability to satisfy

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that burden places him in exactly the position that gave both the South Carolina Supreme Court and Court of Appeals such grave concern – the only evidence of "repressed memory" is self-reported by Plaintiff. Such is precisely what the *Moriarty* Courts cautioned against.

CONCLUSION

There is a complete failure of proof to establish tolling of the statute of limitations under the *Moriarty* decisions. Therefore it is clear that the statute of limitations ran on Plaintiff's claims in at least 1978, more than thirty years ago. For that reason, the Diocese's Motion for Summary Judgment is **GRANTED**. It is hereby **ORDERED** that Plaintiff's claims be **DISMISSED WITH PREJUDICE**.

Plaintiff's failure to establish the requisite proof regarding his claim of repressed memory syndrome to toll the statute of limitations is dispositive of the remaining issues pending before the Court. As such, the Court will not address those issues.

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Hon. Dale Van Slambrook
Circuit Court Judge

Moncks Corner, South Carolina
July ___, 2025

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Charleston Common Pleas

Case Caption: John Doe VS Diocese Of Charleston The , defendant, et al

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And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
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