

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLETON COUNTY
Court of Common Pleas

J. C. Nicholson, Circuit Court Judge

RECEIVED
OCT 18 2018
SC Court of Appeals

Appellate Case No.: 2017-001996

Consolidated Case Nos.: 2010-CP-10-5520; 2010-CP-10-7233;
2012-CP-10-5559; 2013-CP-10-3733; 2013-CP-10-4175; 2013-CP-10-4176;
2015-CP-10-5486; 2016-CP-10-1632

John Doe 2 and Jane Doe 4, John Doe 10, Jane Doe 11,
John Doe 193, Father Doe 194, John Doe 194, John Doe 245
and Father Doe 245, and John Doe 297.....Appellants,

v.

The Bishop of Charleston, A Corporation Sole,
Robert Gugliemone, The Bishop of Charleston, in his official capacity,
Rev. Monsignor Martin Laughlin, former Administrator of the
Diocese of Charleston, in his official capacity; Robert J. Baker,
former Bishop of Charleston, in his official capacity;
Lawrence E. Richter, Jr., David K. Haller,
and Richter and Haller, LLC.....Respondents.

**THE DIOCESE RESPONDENTS' MOTION TO STRIKE THE INITIAL BRIEF OF THE LAWYER
RESPONDENTS, OR, IN THE ALTERNATIVE, FOR LEAVE TO SUPPLEMENT**

The Diocese Respondents, by and through their undersigned attorneys, pursuant to Rule 240 SCACR, hereby move to strike the Initial Brief filed by the Lawyer-Respondents. The Lawyer-Respondents mischaracterized the record below and seek to introduce issues that are not pertinent to the issues of this appeal. As such their brief should be stricken in its entirety, for the

wholesale misstatements of the Record and the attempt to introduce irrelevant matters into this appeal.

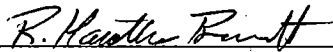
- Throughout their brief, the Lawyer-Respondents argue repeatedly that Appellants voluntarily relinquished their claims of sexual abuse by priests of the Diocese. The Record reflects the opposite – the Diocese filed a motion for summary judgment based upon charitable immunity, which the Trial Court granted. That order was not appealed.
- In several sections of the initial brief, the Lawyer-Respondents seek to introduce irrelevant and impertinent argument regarding the Trial Court’s application of charitable immunity in dismissing the sexual abuse claims against the Diocese. As stated, those orders were not appealed and the Lawyer Respondents improper argument should not be permitted.
- The Lawyer-Respondents’ unsupported commentary regarding the matters settled by the Diocese in the Trial Court is irrelevant and immaterial to this appeal, however but in no way was settlement any sort of acknowledgement of issues with the defense of charitable immunity in effect at the time of the alleged abuse of those plaintiffs.
- The Lawyer-Respondents inappropriately attack the Diocese with references to the document *Crimen sollicitationis*. The Lawyer-Respondents’ argument is entirely improper and incorrect and is prejudicial to the Diocese. The document referred to has *never* been authenticated, is not properly in the Record on Appeal, and has no evidentiary support.
- Furthermore, the interpretation of *Crimen sollicitationis* offered by the Lawyer-Respondents is incorrect. Such opinions are themselves without any proper evidentiary support or expert testimony. That said, a civil court is forbidden from determining issues of ecclesiastical law under the First Amendment to the United States Constitution. Thus all mention of the document is improper.
- The Lawyer-Respondents’ commentary, appearing at various places in their brief, regarding the Diocese’s record-keeping is not supported by anything in the Record. Further, the Lawyer-Respondents again take every opportunity to disparage the Diocese inappropriately and without any evidentiary support in the Record.
- The Lawyer-Respondents’ discussion regarding repressed memory syndrome and John Doe 193 is directly contrary to the Record and to the class action settlement. The parties to the class action intended to settle *all* claims of sexual abuse by any employee or agent of the Diocese.
- There is no evidence in the Record establishing that John Doe 193 actually suffered from repressed memory syndrome as would have been required under

Moriarty v. Garden Sanctuary Church of God. Thus, the Lawyer-Respondents' entire discussion is speculative, unsupported, and prejudicial.

- The only evidence in the Record is that ALL members of the settlement class who were entitled to actual notice of the class action settlement (save for the 4 whom no one could find) received such notice. The Attorney-Respondents commentary about impossibility of notifying unknown class members is immaterial. The only fact that is material to this appeal is that notice by publication was given with the approval of the Class Action Court.

Because of these myriad factual errors and unsupported commentary, the Lawyer-Respondents' Initial Brief should be stricken. In the alternative, the Diocese Respondents should be permitted to supplement their brief to correct the Lawyer-Respondents misstatements and mischaracterizations regarding what the Record actually reflects.

TURNER, PADGET, GRAHAM & LANEY, P.A.

for 
Richard S. Dukes, Jr.
Brian J. Kern
40 Calhoun Street, Suite 200
Post Office Box 22129
Charleston, South Carolina 29413-2129
Telephone: 843-576-2810
843-576-2802
Facsimile: 843-577-1646 (direct fax)
843-577-1644 (direct fax)
Email: rdukes@turnerpadget.com
bkern@turnerpadget.com

ATTORNEYS FOR DIOCESE RESPONDENTS

October 18, 2018

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Lawrence E. Richter, Jr., David K. Haller,
and Richter and Haller, LLC.....Respondents.

PROOF OF SERVICE

I hereby certify that this 18th day of October, 2018, a copy of the Motion to Strike the Initial Brief of the Lawyer Respondents, or in the Alternative, for Leave to Supplement has been served upon other counsel of record by email and by placing same in the United States Mail, postage prepaid, to:

Gregg Meyers
Pierce, Hems, Sloan & Wilson, LLC
The Blake-Grimke House
321 East Bay Street (29401)
Post Office Box 22437
Charleston, SC 29413
greggmeyers@piercesloan.com

Susan Taylor Wall
Henry Wilkins Frampton, IV
Gordon & Rees LLP
170 Meeting Street, Suite 110
Charleston, SC 29401
swall@grsm.com
hframpton@grsm.com

Benjamin C. Bruner
Bruner, Powell, Wall & Mullins, LLC
1735 St. Julian Place, Suite 200 (29204)
Post Office Box 61110
Columbia, SC 29260-1110
bbruner@brunerpowell.com

TURNER, PADGET, GRAHAM & LANEY, P.A.

R. Heath P. H.

for Richard S. Dukes, Jr.

Brian J. Kern

40 Calhoun Street, Suite 200

Post Office Box 22129

Charleston, South Carolina 29413-2129

Telephone: 843-576-2810

843-576-2802

Facsimile: 843-577-1646 (direct fax)

843-577-1644 (direct fax)

Email: rdukes@turnerpadget.com

bkern@turnerpadget.com

ATTORNEYS FOR DIOCESE RESPONDENTS

October 18, 2018

Turner | Padget

REPLY TO:

Richard S. Dukes

E-Mail: RDukes@TurnerPadget.com
Writer's Direct Dial: (843) 576-2810
Writer's Direct Fax: (843) 577-1646

October 18, 2018

Via Hand Delivery

Hon. Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

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Re: John Doe 2, et al. v. The Bishop of Charleston, et al.
Consolidated Case Nos. 2010-CP-105520, 2010-CP-10-7233, 2012-CP-10-5559,
2013-CP-10-3733, 2013-CP-10-4175, 2010-CP-10-4176
Appellate Case No. 2017-001092
Our File No. 8427.252

Dear Ms. Kitchings:

Enclosed are the following materials: (1) the original and seven copies of the Motion to Strike the Initial Brief of the Lawyer Respondents, or in the Alternative, for Leave to Supplement, and (2) the original and one copy of the Proof of Service. Also enclosed is a check for the filing fee. Please file the originals and necessary copies and return the extra stamped copies to our courier. Thank you for your kind assistance.

Sincerely,

TURNER PADGET GRAHAM & LANEY P.A.



for Richard S. Dukes

RSD
Enclosures

Turner | Padget

Hon. Jenny Abbott Kitchings

October 18, 2018

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cc: Gregg Myers, Esq.
James L. Bruner, Esq.
Susan Taylor Wall, Esq.