

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

D.T.,

Appellant,

v.

CATHOLIC DIOCESE OF KANSAS CITY-ST. JOSEPH, et al.,

Respondents.

DOCKET NUMBER WD76025

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: November 12, 2013

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Peggy Stevens McGraw, Judge

JUDGES

Division Two: Pfeiffer, P.J., and Ellis and Howard, JJ.

CONCURRING.

ATTORNEYS

Rebecca M. Randles, Sarah A. Brown, and Dan Curry
Kansas City, MO

Attorneys for Appellant,

Jonathan R. Haden, Mara H. Cohara, and Chad E. Blomberg
Kansas City, MO

Attorneys for Respondents.



**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

D.T.,)
)
Appellant,)
v.) **OPINION FILED:**
) **November 12, 2013**
CATHOLIC DIOCESE OF KANSAS)
CITY-ST. JOSEPH, et al.,)
)
Respondents.)

WD76025

Jackson County

Before Division Two Judges: Mark D. Pfeiffer, Presiding Judge, and Joseph M. Ellis and Victor C. Howard, Judges

D.T. appeals the judgment of the Circuit Court of Jackson County, Missouri (“trial court”), dismissing his cause of action against Respondents the Catholic Diocese of Kansas City-St. Joseph and Bishop Robert W. Finn (collectively, “the Diocese”). On appeal, D.T. challenges the dismissal of three negligence-based counts and one count of intentional failure to supervise clergy against the Diocese.

AFFIRMED.

Division TWO holds:

The opinion of the Missouri Supreme Court in *Gibson v. Brewer*, 952 S.W.2d 239, 245 (Mo. banc 1997), expressly prohibits Missouri courts from deciding negligence-based claims against religious organizations resulting from allegations of sexual misconduct by the religious organizations’ clergy. *Gibson* stated that a judicial determination of how a reasonable religious organization should have conducted itself using a negligence standard would necessarily involve interpretations of religious doctrine, policy and administration, resulting in excessive entanglement between church and state and having the effect of inhibiting religion in violation of the First Amendment. Therefore, the trial court correctly dismissed the negligence-based claims.

Although *Gibson* allowed victims of alleged sexual abuse to pursue claims of intentional failure to supervise clergy against religious organizations, it limited such claims to those satisfying the requirements of section 317 of the RESTATEMENT (SECOND) OF TORTS (1965), which requires that the tortious conduct by the clergy member occur upon the premises in possession of the religious organization. Because the tortious conduct or sexual abuse by the clergy member in this case allegedly occurred in the priest's mother's private residence and a hotel room, neither of which could be found to have been possessed by the Diocese, there is no basis for the Diocese's liability, under *Gibson*, for intentional failure to supervise clergy. This claim was also properly dismissed by the trial court.

Opinion by: Mark D. Pfeiffer, Presiding Judge

November 12, 2013

* * * * *

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.