

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

PEGGY NICHOLSON,)	No. ED93009
)	
Appellant,)	Appeal from the Circuit Court
)	of the City of St. Louis
v.)	
)	
ROMAN CATHOLIC ARCHDIOCESE)	Honorable David L. Dowd
OF ST. LOUIS, an unincorporated)	
association, and ARCHBISHOP)	
RAYMOND BURKE, of the Archdiocese)	
of St. Louis, MO,)	
)	
Respondents.)	Filed: February 23, 2010

Plaintiff Peggy Nicholson (Appellant) appeals the trial court's dismissal of certain negligence-based claims contained in her action filed against the Roman Catholic Archdiocese of St. Louis (Archdiocese) and Archbishop Raymond Burke (Archbishop). We affirm the trial court's dismissal. The trial court dismissed Appellant's claims of (1) negligence and (2) negligent supervision, retention, and failure to warn. In so dismissing, the trial court relied on Gibson v. Brewer, 952 S.W.2d 239 (Mo. banc 1997) (holding that the First Amendment bars these types of negligence claims against a religious institution).

On appeal, Appellant argues Gibson was wrongly decided and fails to comport with United States Supreme Court precedent.

AFFIRMED

Division Four Holds: Until the Missouri Supreme Court or the United States Supreme Court declares differently, Gibson constitutes controlling law in Missouri, law which this Court is bound to apply. As such, the trial court did not err in relying on Gibson to dismiss Appellant's negligence-based claims as a matter of law.

Opinion by: Kurt S. Odenwald, P.J.
George W. Draper III, J., and Gary M. Gaertner, Jr., Concur

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