

Nfld. & Labrador

Mount Cashel victims clear another legal hurdle



Supreme Court rejects bid by Episcopal Corp. to hold separate trial to determine liability

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The infamous Mount Cashel orphanage in St. John's was run by the Irish Christian Brothers. (Andrew Vaughan/Canadian Press)

Lawyer Geoff Budden is hopeful that a civil suit by victims of abuse at the notorious Mount Cashel orphanage against the Roman Catholic Episcopal Corp. of St. John's can proceed to trial this fall.

This follows a recent ruling by the Supreme Court of Newfoundland and Labrador.

- [Mount Cashel abuse settlement sets stage for more suits](#)

"I think this is an important step, that gets us closer, hopefully, to a resolution of these claims after all of these years," Budden told CBC News.

The plaintiffs say they were victims of physical and/or sexual abuse at the former orphanage between the 1940s and mid-60s.

The Episcopal Corp. had applied to hold a separate trial — referred to in legal terms as bifurcation — to determine whether it was liable for the abuse at the orphanage, with the question of damages to be determined later.

'Embarrassing and unjust'

The corporation applied for a separate proceeding because it argues it is not responsible for the abuse, since the orphanage was run by the Irish Christian Brothers. [A related organization, the Christian Brothers Institute, declared bankruptcy in 2011 and is not a defendant in this case.]

The Supreme Court rejected the application, saying that both issues are "inextricably intertwined."

The court also ruled that having the roughly 20 witnesses testify at two separate trials would be "embarrassing and unjust."

The case involves six victims that were selected to be representative of the range of claims being made.

The complainants are now in their 60s, 70s and 80s, and the court suggested their case "might never be fully adjudicated" if their testimony is not heard soon.

In fact, one of the complainants has died.

"The Episcopal Corp., if its action had been successful, it would have, we believe, delayed matters and led to a much longer process for everybody involved," Budden said.

'Vicarious liability'

Allegations of abuse at the orphanage erupted in a scandal in 1989, and Mount Cashel closed the following year. At the time, the allegations of abuse focused on the 1970s, including a 1975 Royal Newfoundland Constabulary investigation that was shut down by Newfoundland and Labrador's justice department.

Later, allegations surfaced of abuse by Christian Brothers who worked at the orphanage in earlier decades.

The Mount Cashel building was later demolished and the site is now home to a Sobeys grocery store.

There have been previous settlements with victims, but lawyers like Budden say the amounts were not enough to compensate the victims for what they endured.

Justice James Adams said the claim against the Episcopal Corp. is "based primarily in vicarious liability," but ruled that separating the issues of liability and damages would likely lead to multiple trials and become a burden on the court system.

For its part, the Episcopal Corp. has denied liability, any knowledge of how the plaintiffs came to be in Mount Cashel, and the specifics of any allegations in the statement of claim.

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