

# Mount Cashel victims victorious after a decision by the nation's top court

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The now-demolished Mount Cashel Orphanage in St. John's. — File Photo

Supreme Court of Canada rejects Catholic Church bid for leave to appeal landmark decision that said it was liable for the sexual abuse suffered by orphans at the hands of Christian Brothers in the 1950s and 1960s

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The Supreme Court of Canada has refused to grant the Roman Catholic Episcopal Corp of St. John's leave to appeal a landmark civil decision that held it responsible for sexual abuse suffered by boys at the infamous Christian-Brothers run orphanage during the 1950s and early '60s.

The leave to appeal was dismissed with costs Thursday.

It ends a legal battle the now elderly former residents fought for more than 20 years, led by St. John's lawyer Geoff Budden.

"We won," said Budden moments after hearing of the decision.

"I feel it's a tough day for the archdiocese. I feel joy for the clients. I feel relief that we delivered the results for our clients... And I feel sad for those who didn't live to see this day."

Budden reflected on the long road that he began in 1998, but was resolute this day would finally come — there are no more legal avenues for the church to fight against the victims.

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The Roman Catholic Episcopal Corp. is the legal entity of the Archdiocese of St. John's and had maintained it wasn't to blame as it insisted the Christian Brothers were an independent lay order.

In a prepared statement emailed to the media, Archbishop Peter Hundt said the decision will have to be reviewed and analyzed with legal counsel before providing further comment.

"The Archdiocese of St. John's has immense sympathy for those who suffered abuse at Mount Cashel Orphanage and we ask that all join us in praying for healing for those who suffered as a result of the abuse," the statement said.

Budden's firm, Budden and Associates, represents some 60 abuse survivors involved in the case.

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In this file photo, lawyer Geoff Budden is shown as he prepares for closing arguments at the Mount Cashel civil trial.

The suit was filed in 1999 by four former orphanage residents (representative of the about 60 former residents whose legal prospects are also directly affected by the case) whose names are protected by a publication ban. One of those John Does has since died.

"Isn't that nice. It took a long enough time, eh," said one of the surviving John Does, who is retired from the military.

He said he was afraid the court might ultimately side with the church.

"I was determined to myself I would be damned if I would die before a decision would be made," said the man. "It's a big relief — it's over now."

The man said religion was drilled into them every day and they didn't understand then how to deal with the sexual abuse when it happened, since they saw the Christian Brothers as father figures.

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"It's only recently actually that I was thinking about how screwed up things got because life was life. That was my life. I didn't know," he said.

He said he tried to make the best out of his situation once he left the orphanage.

"I consider myself pretty lucky actually — if I hadn't joined the army," the man said, adding at least the Mount Cashel band fostered his love of music.

In July, the Newfoundland and Labrador Court of Appeal unanimously ruled the Roman Catholic Episcopal Corp. of St. John's is liable for the sexual abuse suffered by orphans at the hands of Christian Brothers at the former Mount Cashel orphanage in St. John's in the 1950s and 1960s.

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In 2018, in the Newfoundland and Labrador Supreme Court, trial judge Alphonsus Faour, ruled the Archdiocese could not be found vicariously liable for the conduct of the Christian Brothers. The Court of Appeal concluded the trial judge made errors of law on that point, and that both the relationship between the Archdiocese and the Brothers was sufficiently close to justify finding the Archdiocese vicariously liable, and that it would have to pay damages to the victims.

he Newfoundland and Supreme Court civil trial — covered almost exclusively by The Telegram — heard among other things, claims of boys at Mount Cashel being beaten as they lined up for meals, having to eat porridge filled with dead grubs, and stealing scraps from vats of swill consisting of patients' leftovers from city hospitals. There was also the recounting of an incident of a boy being dragged by a rope into a frigid swimming pool where the children were forced to bathe with bars of Sunlight soap to save on hot water, of a boy screaming as he was beaten in the shower because he'd been late and was ducking in and out of the cold water, of sexual acts committed at night by a Brother roaming through the young boys' dorm, of a traumatized boy eating a chocolate bar and drinking pop while being sexually assaulted by the canteen operator because he had no idea what else to do.

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Two original gateposts from the former Mount Cashel orphanage property stand at a memorial parkette in St. John's.  
— Telegram file photo/Glen Whiffen

One John Doe was acknowledged to having been beaten about 4,500 times while at Mount Cashel in the 1950s. While he was not sexually abused, his lawyers contended an incident in which the boy was forced to shower while a Christian Brother watched, and then was made to bend down while the Brother beat him in the buttocks was an act of "sexual sadism," though church lawyers disagreed.

Based on information from a financial witness, Budden and Associates pegged the combined impact on the lives of the four John Does at around \$8 million.

The trial also heard conjecture of how early officials knew of child abuse at the orphanage — several decades before it was reported in the media.

A former resident, not part of the case but from the same generation of Mount Cashel boys, was called to testify when he contacted lawyers after reading about the trial in The Telegram. The man said he was sexually stalked at the orphanage by one of the Brothers and told the court that he told priests about incidents in and out of confession.

Among the stacks of documents entered as evidence from both sides was a roster from 1957 submitted by Budden that painted a chilling picture of who was in the day-to-day life of the boys at the

orphanage. Among the 10 Christian Brothers serving at Mount Cashel in February of that year, four were ultimately convicted of crimes against children decades later.

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## The announcement from The Supreme Court of Canada as part of a Thursday news release on Judgment in Leave Applications before the court

*Roman Catholic Episcopal Corporation of St. John's v. John Doe (G.E.B. #25), John Doe (G.E.B. #26), John Doe (G.E.B. #33) and John Doe (G.E.B. #50) (N.L.) (Civil) (By Leave) (39343)*

*The application for leave to appeal from the judgment of the Court of Appeal of Newfoundland and Labrador, Numbers 201801H0028 and 201801H0045, 2020 NLCA 27, dated July 28, 2020, is dismissed with costs.*

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The Mount Cashel sexual abuse scandal is most widely associated with the abuse of boys of a different era — the 1970s and 1980s — the revelation of which prompted the 1989-90 Hughes Inquiry. That era was not part of this civil case, and the boys from earlier decades were not part of compensation from the provincial government when it settled a block of cases from the '70s and '80s more than 20 years ago.

Besides the 60 clients of Budden's firm, the decision could also affect the unresolved cases of about 20 other claimants represented by various other lawyers.

The Christian Brothers were removed from the original lawsuit because they went bankrupt.

Lawyers have said some payments to claimants made from the bankruptcy weren't enough to compensate for the abuse. In 2014, the Christian Brothers apologized to all victims of sexual abuse by members of the order.

Though the archdiocese refused to accept liability, then-Archbishop Martin Currie apologized to the victims during the civil trial.

"You feel the hurt of these young men who were there in trust of the Brothers — men who were there to love and care for them — and they betrayed them. ...There was a breach of faith, a breach of trust, so this caused great pain to them," Currie said from the witness stand.

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1 being least likely, and 10 being most likely

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