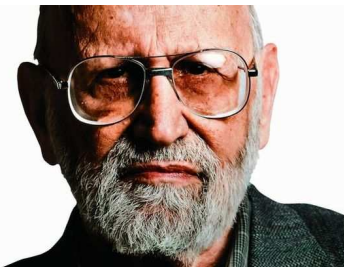


State sues over nonreport of child abuse

Harry Thernal 11:43 a.m. EST February 26, 2016



(Photo: File Photo)

Elders of Jehovah's Witnesses do not have the same privileged communicative advisers in a sacramental confession if the confession does not involve a penitential confession.

The potential landmark "first impression" ruling, reported by Delaware Law Week, was issued by Superior Court Judge Mary Miller Johnston in refusing to throw out a case filed by the Delaware Congregation of the Witnesses.

The state said the elders should have reported a case of child abuse between a member and an elder in the congregation.

The elders met with the juvenile, her mother and an adult member who confirmed the relationship after the boy reported the abuse. The state then excommunicated the juvenile and the adult involved. The state sought civil penalties but the Jehovah's Witnesses sought dismissal of the case under the reporting under the Delaware law of "clergy/penitent privilege."

That law is similar to the attorney/client privilege but the judge ruled that the conversations were not a "sacramental confession" because the congregation members were "seeking spiritual advice and counsel from us as elders in a private setting."

Judge Johnston also held that the privilege exemption itself is, if narrowly interpreted, unconstitutional because the term "sacramental confession" give preference to one religion. She also said it could be read to apply to all religions.

The case will now go through further legal hearings but the General Assembly should consider clarifying the language of the law.

Residential balance

Chancery Court is perhaps the most watched court in the world for its long-established record of hearing and deciding cases. The Delaware Supreme Court shares that reputation for its decisions in appeals.

That's why in recent weeks the Wall Street Journal and other financial newspapers and magazines have written about the case involving the Club, about financial disputes in the Forbes family, and a host of other cases being heard in the corporate capital of Delaware.

The court is about to get its fifth member appointed by Gov. Markell, who has named more new or reappointed judges than any other governor in the state's history.

Joseph R. Slights III, due to be voted on later this month, is a rare appointment that has some controversy attached. Slights is from New Castle County, although the Chancery spot he is filling is now held by John W. Noble, who is from Kent County, and will sit on the bench.

Delaware constitution mandates that each of the courts – Supreme, Chancery, Superior – should not have more than a majority of judges from the same major political party. Slights fits that proportion.

No law, however, now requires a county split, and some legislators say Slight's present practice and residence breaks the General Assembly to approve that geographical balance that now exists in all the courts. Slight, who is a Dover native, has indicated he may move back to Kent County to retain that balance.

Personal pride

On Thursday at Buena Vista I received the greatest honor of my 66-year Delaware journalism career, and I would like to

Gov. Markell presented me with the Delaware Heritage Award along with a wonderful porcelain pitcher made by Peter S. Those receiving the award were Dick Carter, veteran state Senate mainstay and chair of the Delaware Heritage Commission, a former News Journal reporter now on the staff of New Castle County executive Tom Gordon.

The awards were for a "distinguished contribution to the recognition, preservation and celebration of Delaware's heritage." I've joined a pantheon of Delawareans who have received the honor since it was launched in 2003: John Munroe, Skipp Hollingsworth, Jim Soles, Russ McCabe, Carole Hoffecker and Bill Quillen.

Harry Thernal has written a News Journal editorial page column since 1989.

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