VERMONT SUPERIOR COURT
Windsor Unit
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CIVIL DIVISION
Case No. 21-CV-00855

Michael Veitch
Plaintiff

v.

Benedictine Foundation of the State of Vermont, Inc.,
d/b/a Weston Priory, and Jesuits USA East Province,
f/k/a Jesuits New England Province
Defendants

Decision on Defendant's Motion to Dismiss

Plaintiff Michael Veitch alleges that he was sexually abused at the Weston Priory in 1970 by a Jesuit priest named James Talbot. At issue is a motion to dismiss for lack of personal jurisdiction filed by defendant Jesuits USA East Province. An evidentiary hearing on the motion was held on June 4, 2024. See *Veitch v. Benedictine Foundation of the State of Vermont*, No. 21-CV-00855, Entry Regarding Motion (Vt. Super. Ct. Jan. 17, 2024) (Corbett, J.) (setting motion for a hearing under the procedures identified by, e.g., *Godino v. Cleanthes*, 163 Vt. 237, 239 (1995) and *Roman Catholic Diocese of Burlington, Inc v. Paton Insulators, Inc*., 146 Vt. 294, 296 (1985)). The following facts were established by a preponderance of the evidence presented at the hearing. *Godino*, 163 Vt. at 239; 5B Wright & Miller, Federal Practice and Procedure: Civil 3d § 1351.

Plaintiff was born in Bellows Falls, Vermont. His family was devout, and in 1966, when plaintiff was eleven years old, his older brother became a monk at the Weston Priory. Plaintiff and his family thereafter visited the priory often, and plaintiff spent his time there as an apprentice, helping with chores such as gardening, haying the fields, and maintaining agricultural vehicles.

During the summer of 1970, after his father passed away, plaintiff spent several weeks at the priory without his mother present. A small number of visiting priests were also at the priory that summer, as the priory was undergoing something of a transition from its rustic roots to a more-organized retreat center. One of the visiting priests was named James Talbot. Plaintiff recalls that the priest wore a religious robe, attended religious services at the priory, and otherwise appeared to be observing a vow of silence. Notwithstanding that apparent vow, the priest introduced himself to plaintiff one evening, and thereafter conversed with plaintiff at various opportunities and invited plaintiff to join him on walks around the priory grounds. During these walks, the priest introduced various topics of conversation, and encouraged plaintiff to confide in him about his life, his interest in music, his desire to become a priest, and the recent death of his father. Plaintiff referred to the priest as "father," and felt honored and spiritually uplifted by the priest's apparent interest in him. After a

surprise rainstorm one evening, however, the priest suggested that the two find shelter in his cabin, where he proposed to teach plaintiff about wrestling. Acts of sexual abuse then followed.

In 2021, plaintiff filed this civil action for childhood sexual abuse, naming as defendants the priory and the Jesuit organization of whom the priest was a member. As was explained at the motion hearing, the Jesuit organization was founded by St. Ignatius of Loyola in 1540, and the religious order's American activities have been divided into geographical entities referred to as "provinces," which are typically incorporated. In 1921, Vermont was included within the geographic province known as the "New England Province." In 2014, the New England Province merged with the New York Province to form the "USA Northeast Province," and in 2020, the USA Northeast Province merged with the Maryland Province to form the "USA East Province," which stretches from Maine to South Carolina.

Despite the inclusion of Vermont within the geographical borders of the various provinces, the Jesuit order has never maintained a particular presence within the State of Vermont. The Jesuit order is not affiliated with the Weston Priory (the priory is operated by the Benedictine Foundation), and the Jesuit order neither owns any property within the state nor operates any religious or educational institutions within the state. As best as can be reconstructed from available records, only three Jesuits have ever been assigned to perform religious services within Vermont: a chaplain who served at the Vermont Medical Center from 2012 to 2020, a priest who performed various functions between 1992 and 2006, and a brother who performed various functions between 2004 and 2006. It does not appear that the Jesuits have otherwise maintained any offices or bank accounts within the state. It is probable that, at various times, advertising messages for various Jesuit educational institutions have reached Vermonters through print and internet-based publications, and it is probable that, at various times, solicitations for financial contributions have been made to Vermonters. However, the evidence did not establish these activities to be occurring on any kind of continuous or systematic basis.

At issue is whether this court may exercise personal jurisdiction over the Jesuit USA East Province. From a historical perspective, state courts traditionally had no power to exercise jurisdiction over defendants who were not citizens of the state and who were not otherwise present within the state. *Pennoyer v. Neff*, 95 U.S. 714, 720 (1878); *Price v. Hickok*, 39 Vt. 292, 296 (1866). Following the industrial-era advent of interstate travel and a nationwide economy, however, state legislatures began enacting long-arm statutes that permitted the service of process upon and the exercise of personal jurisdiction over various categories of nonresident defendants. A period of time then followed in which courts tentatively reviewed the scope and reach of these statutes, approving some while expressing various constitutional concerns regarding others, e.g., *International Harvester Co. v. Kentucky*, 234 U.S. 579, 587 (1914); *Kane v. New Jersey*, 242 U.S. 160, 167–68 (1916); *Philadelphia & Reading Railway Co. v. McKibbin*, 243 U.S. 264, 268–69 (1917); *People's Tobacco Co. v. American Tobacco Co*., 246 U.S. 79, 87–88 (1918); *Hess v. Pawloski*, 274 U.S. 352, 356–57 (1927); *Wuchter v. Pizzutti*, 276 U.S. 13, 18–19 (1928).

Eventually, a rule coalesced that permitted state courts to exercise jurisdiction over nonresident defendants to the extent that the nonresident defendants had certain "minimum contacts" with the forum state "such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice." *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). Since then, the term "minimum contacts" has been understood to include (1) connections with the forum state that are so pervasive that the nonresident defendant has essentially become "at home" in the forum state, e.g.,

Daimler AG v. Bauman, 571 U.S. 117, 133–39 (2014); *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 925–29 (2011); *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414–16 (1984); *Perkins v. Benguet Consol. Mining Co.*, 342 U.S. 437, 447–48 (1952), and (2) activities that are purposefully directed by a nonresident defendant towards the forum state, at least where the litigation arises out of that purposeful activity, e.g., *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 471–78 (1985); *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291–94 (1980); *Hanson v. Denckla*, 357 U.S. 235, 250–55 (1958); *McGee v. International Life Ins. Co.*, 355 U.S. 220, 223–24 (1957). Because these rules derive from the federal constitution, and because these rules operate as a federal limitation upon the power of state courts, Vermont courts are obliged to follow them. *Fox v. Fox*, 2014 VT 100, ¶ 9, 197 Vt. 466; *Northern Aircraft, Inc. v. Reed*, 154 Vt. 36, 40–41 (1990); *Chittenden Trust Co. v. Bianchi*, 148 Vt. 140, 141 (1987); *O'Brien v. Comstock Foods, Inc.*, 123 Vt. 461, 463–64 (1963); *Smyth v. Twin State Improvement Corp.*, 116 Vt. 569, 572–73 (1951).

A state court has "general jurisdiction" to hear "any and all claims" against a defendant who is domiciled or incorporated within a state, as well as claims against defendants whose activities within the state are so continuous and systematic as to render the nonresident defendant essentially "at home" within the state. *Daimler AG*, 571 U.S. at 139; *Goodyear*, 564 U.S. at 926–29. The idea under this theory is that a nonresident defendant's contacts with the state may sometimes be so akin to residency or incorporation within the state that the nonresident defendant essentially lives here or is headquartered here, and it is therefore fair for the defendant to be sued in the courts of this state for any reason at all. *Daimler AG*, 571 U.S. at 139; *Goodyear*, 564 U.S. at 926–29. It is a theory with only limited applications, and the test is rarely met. Even if a large national company maintains multiple regional offices and multiple business connections within a state, the large national company still is typically viewed as being "at home" only in the state of its principal place of business and its place of incorporation. *Daimler AG*, 571 U.S. at 137–39.

Here, the evidence established that the USA East Province maintains its principal place of business in New York City and is incorporated in Delaware. And although the state of Vermont is included within the geographical boundaries of the province, neither the province nor any of its forebears have maintained sufficient business contacts with this state to make it fair for the USA East Province to be sued here for any and all purposes. At most, there have been some advertising and some solicitation activities that have occurred here over time, as well as intermittent efforts at the provision of religious services. Although these activities are evidence of some connections between the USA East Province and this state, they are not enough to support general jurisdiction here, at least according to the federal precedents that this court is obliged to follow, e.g., *Daimler AG*, 571 U.S. at 139; *Goodyear*, 564 U.S. at 923; *In re Roman Catholic Diocese of Albany, New York*, 745 F.3d 30, 38–40 (2d Cir. 2014).

A state court has "specific jurisdiction" to hear claims arising out of activity that a defendant has purposefully directed towards the forum state. *Dall v. Kaylor*, 163 Vt. 274, 275–76 (1995); *Northern Aircraft*, 154 Vt. at 41–42; *Carothers v. Vogeler*, 148 Vt. 316, 318–19 (1987); *O'Brien*, 123 Vt. at 464–65. A state court may exert jurisdiction, for example, over an out-of-state defendant who makes some purposeful effort to sell their product here, or otherwise avails itself of the benefits of doing business in this state, as long as the litigation relates to that purposeful effort, e.g., *Dall*, 163 Vt. at 275–76; *Northern Aircraft*, 154 Vt. at 41–42; *Chittenden Trust Co.*, 148 Vt. at 141; *Huey v. Bates*, 135 Vt. 160, 164–65 (1977). In the context of claims of childhood sexual abuse, "specific jurisdiction"

over an out-of-state religious order has been held to exist when there is some evidence that the religious order specifically sent the abusive priest to the forum state for some religious purpose and either knew or should have known of the likelihood that sexual abuse would occur as a result, e.g., *Doe v. Roman Catholic Diocese of Greensburg*, 581 F.Supp.3d 176, 192 (D.D.C. 2022); *Thompson v. Roman Catholic Archbishop of Washington*, 735 F.Supp.2d 121, 129 (D. Del. 2010); *DeLonga v. Diocese of Sioux Falls*, 329 F.Supp.2d 1092, 1099 (D.S.D. 2004).

Here, a preponderance of the evidence established that (1) Jesuit priests are required to take annual retreats for the purpose of reflection, meditation, and renewing their own spiritual relationships, (2) Jesuit priests remain essentially "on duty" while they are on retreat, in the sense that they maintain the ability to administer the sacraments, provide spiritual counsel, and celebrate mass, and (3) Jesuit priests who are on retreat remain under the supervision of the province even if they travel beyond its geographic boundaries. A preponderance of the evidence further established the possibility that a province might direct a particular priest to take their retreat in a particular location.

In this particular case, however, the evidence did not support the conclusion that the religious order sent the abusive priest to Vermont for a sanctioned retreat. It does appear that the priest dressed in religious clothing, maintained the appearance of a vow of silence, and otherwise allowed others to believe that he was "on retreat," but the evidence of his purpose at the priory derived from the ways in which he presented himself, rather than from any representations attributable to defendant. See *New England Educational Training Service, Inc. v. Silver Street Partnership*, 148 Vt. 99, 105–06 (1987) (explaining that an agent's apparent authority derives from the representations of the principal, rather than the representations of the agent). Likewise, although the court sustained various hearsay objections regarding the perceptions of other declarants to the effect that the priest was "on retreat," those perceptions appeared to derive either from the assumptions of the declarants or from the representations of the priest, rather than from any communications attributable to defendant. As such, even if admitted, those statements would not have established jurisdiction. And while the evidence from the province administration itself was incomplete in certain respects, there was no evidence to show that the province knew where the priest had gone, nor any evidence that permitted more than speculation as to the province's awareness of the priest's whereabouts during the summer of 1970. It appeared to the court more likely that the priest was on vacation, that he came to this state on his own, and that he allowed others at the priory to believe that he was "on retreat" because it suited his purposes to do so. Existing federal law does not allow this state court to exercise jurisdiction over the out-of-state religious order on these facts, e.g., *Doe v. Archdiocese of Philadelphia*, 2020 WL 3410917 at *4 (D.N.J. June 22, 2020); *Dispensa v. National Conference of Catholic Bishops*, 2020 WL 2573013 at *7–*9 (D.N.H. May 21, 2020); *McManemy v. Roman Catholic Church of the Diocese of Worcester*, 2 F.Supp.3d 1188, 1200 (D.N.M. 2013); *Elliott v. Marist Bros. of the Schools, Inc*., 675 F.Supp.2d 454, 459 (D. Del. 2009). Likewise, although other cases have found personal jurisdiction to exist in circumstances where a religious order knew or should have known of the likelihood that sexual abuse of children would occur in a forum state as a result of the priest's travels, e.g., *Thompson*, 735 F.Supp.2d at 129; *DeLonga*, 329 F.Supp.2d at 1099, such actual or constructive knowledge was not established by the evidence presented here, e.g., *Edwardo v. Roman Catholic Bishop of Providence*, 66 F.4th 69, 74–76 (2d Cir. 2023); *Elliott*, 675 F.Supp.2d at 459; *Graham v. McGrath*, 363 F.Supp.2d 1030, 1034 (S.D. Ill. 2005).

In reaching these conclusions, the court wishes to emphasize that both judges found plaintiff credible, and that both judges appreciated the opportunity to hear personally from plaintiff, as well as from the other witnesses. The court furthermore understands that much of the information relevant to the necessary determinations was not within plaintiff's personal knowledge, and existed only in the recesses of the religious order's files and history. The recent temporal expansions of the statutes of limitation to permit older claims of childhood sexual abuse are sensitive to emerging understandings of the persistent nature of trauma, but they also create tension with other jurisdictional and evidentiary rules. Here, existing law places upon plaintiffs the burden of producing evidence sufficient to support the exercise of personal jurisdiction. 5B Wright & Miller, *supra*, at § 1351. Because such evidence was not adduced here after an opportunity for discovery, defendant Jesuit USA East Province's motion to dismiss for lack of personal jurisdiction is granted.

Electronically signed on Monday, August 26, 2024 pursuant to V.R.E.F. 9(d).

H. Dickson Corbett
Superior Court Judge

David Singer
Assistant Judge

Vermont Superior Court
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