

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GORDON J. MACRAE,
Plaintiff

vs.

No. CIV 93 - 1504 JB

JAMES F. MCLAUGHLIN,
and
THE KEENE POLICE DEPARTMENT,
and
THE CITY OF KEENE, NH,
Defendants

SECOND AMENDED COMPLAINT TO RECOVER
DAMAGES FOR PERSONAL INJURY

Plaintiff, PRO SE, states on his own knowledge or based upon information and belief as follows:

1. Plaintiff is a citizen and resident of the State of New Mexico residing in the Village of Jemez Springs, New Mexico.
2. Defendant #1, JAMES F. McLAUGHLIN, is a citizen and resident of the State of New Hampshire and is a police officer in the City of Keene, New Hampshire.
3. Defendant #2, the KEENE POLICE DEPARTMENT, is a civil service agency responsible for the supervision and monitoring of Defendant #1, James F. McLaughlin, and is located in the City of

Keene, New Hampshire.

4. Defendant #3, the CITY OF KEENE, NH, is the employer of Defendant #1, James F. McLaughlin, and is responsible for his employment and for the establishment of policy to prevent the negligence of Defendant James F. McLaughlin.

5. At all times relative to this complaint Defendant #1, James F. McLaughlin, was a resident of the State of New Hampshire and a police officer in the Keene Police Department in the City of Keene, New Hampshire.

6. The amount in controversy exceeds \$50,000.00 exclusive of costs and interest.

7. Complete diversity of citizenship exists between Plaintiff and Defendants. This court has jurisdiction over the subject matter of the complaint pursuant to 28 U.S.C. ' 1332.

8. On or about July, 1988, Defendant James F. McLaughlin began a conspiracy against Plaintiff by selectively labeling Plaintiff a "suspect" then systematically searching for a crime. Defendant James F. McLaughlin, by his own admission in police reports, began an intensive investigation against Plaintiff on no other authority than his own suspicions, and with no known crime having been committed and no prior crime having been charged against Plaintiff.

9. Between July and November, 1988, Defendant James F. McLaughlin questioned twenty-six youth in the Keene area and their parents attempting to persuade them to accuse Plaintiff of the crime of sexual abuse. Many of these individuals were badgered by Defendant James F. McLaughlin who, they stated, would not accept

their assertions that Plaintiff was not sexually involved with them.

10. On October 5, 1988, and again on October 31, 1988 and again on November 14, 1988, Plaintiff, who was well known in the community, was contacted by individuals who expressed their concerns about Defendant James F. McLaughlin's approach to them and their children which, they feared, was creating an atmosphere of suspicion about Plaintiff and spreading this suspicion throughout the community. These same individuals, and others, can, and will, attest to this.

11. From the very beginning of his investigation, Defendant James F. McLaughlin took the unusual step of securing the assistance of a Keene Sentinel newspaper reporter, Paul Montgomery, to collaborate in his investigation as a "private citizen" by covertly obtaining information about Plaintiff from Plaintiff's friends and others in the community all for the ultimate purpose of attempting to embarrass the Catholic Church and convince Plaintiff to accept a guilty plea with the threat of massive and intimidating exposure of Plaintiff, Plaintiff's family and friends, the Roman Catholic Diocese of Manchester and Plaintiff's employers in the local Keene, New Hampshire media.

12. On November 14, 1988, Defendant James F. McLaughlin entered into a meeting with Plaintiff which was tape recorded by Defendant James F. McLaughlin and said tape was filed by Defendant James F. McLaughlin's supervisor under the title KPD-C-31. Defendant James F. McLaughlin proceeded to make numerous false public claims in subsequent police reports about the content of this meeting and attributed statements to Plaintiff which were never made. Defendant James F. McLaughlin then became unable to

produce said tape recording after claiming that this tape recording, and all other tape recordings referred to by Defendant James F. McLaughlin in police reports to which he ascribes statements and admissions to the Plaintiff which were never made, have become lost without explanation.

13. In the interview of November 14, 1988, Defendant James F. McLaughlin informed Plaintiff that he had one goal: to assist Plaintiff in avoiding media coverage which would be destructive of Plaintiff, many persons in the community, the alcohol and drug abuse prevention agency managed by Plaintiff, and many of Plaintiff's friends. Defendant James F. McLaughlin did not inform Plaintiff at the time that he had already engaged the covert assistance of media personnel as "private citizens".

14. The seventy-two page police report of the investigation created by Defendant James F. McLaughlin, which resulted in Plaintiff's agreeing to a plea of guilty to a misdemeanor in the tape recorded meeting described hereinabove, was filled with vast amounts of innuendo, false statements by Defendant McLaughlin, and highly selective and negligent investigation which intentionally ignored or overlooked any and all information which may have pointed to innocence on the part of Plaintiff.

15. The police report created by Defendant James F. McLaughlin and described hereinabove contained false statements by Defendant James F. McLaughlin that Plaintiff was sexually involved with three named individuals. One of these individuals, a minor at the time, when questioned by Defendant James F. McLaughlin, correctly stated that he and the Plaintiff had never even met. Another of these individuals, an adult, correctly stated that he and the Plaintiff have never had a sexual involvement. The third individual, a minor at the time, was never questioned by defendant

McLaughlin nor were members of his family ever questioned.

16. Defendant James F. McLaughlin referred to the source or sources of most of the innuendo and false allegation about Plaintiff only as "a subject" in police reports and failed to identify the individual(s) who were making these false statements about Plaintiff.

17. Defendant James F. McLaughlin developed enormous amounts of damaging, libelous and untrue innuendo about Plaintiff and subsequently reported it to others as fact. Defendant James F. McLaughlin stated, in police reports, that "The Catholic Church back in 1983 had moved the suspect from a Florida church to Berlen(sic) New Hampshire. The reason was that the suspect was involved sexually with two boys. One of these two was murdered and his body mutilated. The case is supposed to be still unsolved."

18. This contrived information was given by Defendant James F. McLaughlin to others he involved in his investigation of Plaintiff, including Plaintiff's employers, members of the local community, parents of adolescents, a newspaper reporter, and employees of the New Hampshire Division for Children and Youth Services, one of whom was the mother of the individuals now bringing false allegations and civil actions against Plaintiff, the Roman Catholic Diocese of Manchester and other priests with Defendant McLaughlin's assistance.

19. After sending a teletype message to police departments in Florida, Defendant James F. McLaughlin learned that Plaintiff was not in any way involved in the heinous crime in Florida described hereinabove, that Plaintiff was never a priest in Florida, was never sent to New Hampshire by the Catholic church in

Florida, that Plaintiff was a seminary student in Maryland until his ordination in New Hampshire on June 5, 1982, and that Plaintiff, in fact, has never even been to Florida. Defendant James F. McLaughlin then declined to inform others, whom he included in his investigation, of this new information about Plaintiff and continued to allow them to believe that Defendant McLaughlin's statements about Plaintiff had substance.

20. In the interview of November 14, 1988, described in paragraph twelve hereinabove, Defendant McLaughlin continued to accuse Plaintiff of involvement in the unsolved crime in Florida even after receiving information to the contrary.

21. In the same meeting of November 14, 1988, when Plaintiff requested an opportunity to confer with legal counsel, Defendant McLaughlin admonished Plaintiff that obtaining legal counsel "would only muddy the waters since we seem to be coming to some agreement here." When Plaintiff informed Defendant James F. McLaughlin that Plaintiff had legal counsel who was out of town at the time, Defendant James F. McLaughlin threatened Plaintiff with a grand jury indictment unless Plaintiff cooperated in a guilty plea to a misdemeanor without legal counsel.

22. On November 16, 1988, in a telephone conversation initiated by Plaintiff in which Plaintiff again stated his desire to consult with legal counsel Defendant James F. McLaughlin again admonished Plaintiff that Defendant McLaughlin had to convince the prosecutor for the City of Keene to accept a plea bargain, and only with reluctance did the prosecution accept the terms of the guilty plea, and "getting a lawyer now will undo everything and send this back to Superior Court."

23. On November 17, 1988 Plaintiff entered a plea of

guilty, without benefit of legal advise or counsel, to a misdemeanor charge of endangering a minor; specifically Plaintiff acknowledged entering into an inappropriate and solicitous conversation with this minor who approached Plaintiff requesting a sum of money. Plaintiff has now learned that this minor, now an adult, and Defendant James F. McLaughlin had many previous conversations about Plaintiff and Defendant James F. McLaughlin's suspicions about Plaintiff.

24. Plaintiff has also learned that this same minor, now an adult, had entered into similar behaviors with at least two other individuals prior to the conversation to which Plaintiff pleaded guilty, and had a relationship with Defendant James F. McLaughlin in that this minor was an employee of Defendant James F. McLaughlin in a family business.

25. On June 22, 1989, Defendant James F. McLaughlin conspired to further accuse and prosecute Plaintiff writing a fraudulent letter to Plaintiff, through the United States Mail, pretending to be another person, a minor named Jon Plankey, urging Plaintiff, unsuccessfully, to secretly correspond with this minor in an attempt to entice Plaintiff to commit a crime, i.e., violation of probation, with which Defendant James F. McLaughlin could then further prosecute Plaintiff.

26. On August 2, 1989, Defendant James F. McLaughlin entered into a telephone conversation with Plaintiff, which he claimed was tape recorded. This claim is referenced in police report file number 89-12196. Defendant James F. McLaughlin proceeded to make numerous false public claims in subsequent police reports about the content of this telephone conversation and attributed statements to Plaintiff which were never made. Defendant James F. McLaughlin then became unable to produce said

tape recording after claiming that this tape has also become mysteriously lost.

27. On August 22, 1989 Defendant James F. McLaughlin played the above mentioned tape recording for Jon Plankey, the Keene minor referred to hereinabove who made false allegations about Plaintiff. Defendant James F. McLaughlin then subsequently reported in police reports that he produced a transcript of this tape. Defendant James F. McLaughlin has since claimed that neither the tape nor the transcript can be produced as both have become lost without explanation, as have all other tape recordings referred to by Defendant James F. McLaughlin in police reports as containing statements and admissions he has publicly and falsely attributed to Plaintiff.

28. On September 19, 1989, Defendant James F. McLaughlin telephoned members of Plaintiff's family and falsely accused Plaintiff of creating child pornography, specifically accusing Plaintiff of creating lewd photographs of Jon Plankey with no evidence of same. Defendant James F. McLaughlin was invited by Plaintiff's family to search Plaintiff's property but Defendant James F. McLaughlin failed to do so.

29. Also on September 19, 1989, Plaintiff, who was approximately 2,500 miles away from his property, invited Defendant James F. McLaughlin to search Plaintiff's property to corroborate or refute Defendant James F. McLaughlin's investigation. This was one of the conversations referred to hereinabove which Defendant James F. McLaughlin claimed to have tape recorded, then claimed to have played the tape for others. This is one of the tape recordings now claimed by Defendant James F. McLaughlin to be lost without explanation.

30. Defendant James McLaughlin, in violation of Federal law and laws of the State of New Mexico and the State of New Hampshire, illegally tape recorded telephone conversations between Plaintiff and Defendant McLaughlin on August 2, 1988 and September 19, 1988, and possibly other dates, while Plaintiff was a patient in a New Mexico treatment facility, and without authorization as required by law. Defendant McLaughlin then played these tape recordings for other individuals.

31. Defendant James F. McLaughlin, after bringing false allegations about Plaintiff being in possession of child pornography, and after being asked by Plaintiff, in the telephone conversation referred to hereinabove, to search his possessions, refused to conduct any such search of Plaintiff's possessions to refute or corroborate Defendant James F. McLaughlin's claims that Plaintiff created and/or possessed pornographic photographs of the Jon Plankey referred to hereinabove. At the same time, Defendant James F. McLaughlin informed Plaintiff that these false allegations would become the basis of a lawsuit against the Catholic Church. Defendant James F. McLaughlin's threat of facilitating a lawsuit against the Catholic Church is contained in one of the missing tape recordings referred to hereinabove.

32. In April, 1991, Jon Plankey and his family brought suit against Plaintiff and the Roman Catholic Diocese of Manchester falsely alleging, with the assistance of Defendant James F. McLaughlin, that Plaintiff created pornographic photographs of Jon Plankey. Evidence of the alleged photographs was neither found nor looked for by Defendant James F. McLaughlin who had an obligation to the community to conduct a fair and thorough investigation. Plaintiff has learned that Jon Plankey, now an adult, has brought the same allegations against another individual who has been tried and convicted of the charges.

33. On September 25, 1992, Defendant Mclaughlin, pretending to be another person, Jonathan Grover, placed fraudulent telephone calls to Plaintiff's family stating that he was a friend of Plaintiff while he requested and obtained information about Plaintiff.

34. In September and October, 1992, Defendant James F. McLaughlin abused his position of authority and further conspired to falsely accuse Plaintiff by writing a series of letters to Plaintiff through the United States Mail pretending to be another person, Jonathan Grover, and attempting, unsuccessfully, to engage Plaintiff in conversation about fictitious allegations of sexual abuse of the person whose name Mr. McLaughlin signed to the letters. While pretending to be Jonathan Grover, Defendant James F. McLaughlin wrote, "The sex between us has been very special to me." Plaintiff returned this correspondence with a statement that Plaintiff knew this was not Jonathan Grover who was writing because Mr. Grover would know that the incidents alleged in the letters were fabrications and never took place. Defendant Mclaughlin, however, continued to fabricate these allegations and send fraudulent letters, sent to Plaintiff through the United States Mail, while pretending to be Jonathan Grover and while attempting, unsuccessfully, to entice Plaintiff into conversations about these fabrications.

35. In these same falsified letters, while pretending to be Jonathan Grover, Defendant James F. McLaughlin also attempted, unsuccessfully, to engage Plaintiff in a discussion of allegations brought by Jonathan Grover and Defendant James F. McLaughlin against another New Hampshire priest, Stephen Scruton, who was repeatedly accused by Defendant James F. McLaughlin in the same police reports.

36. Defendants James F. McLaughlin, the Keene Police Department, and the City of Keene, have engaged in this conspiracy to accuse Plaintiff while at the same time investigating an inordinate number of Roman Catholic clergy throughout the State of New Hampshire, many of whom were even outside of his own jurisdiction.

37. In April, 1993, Defendant James F. McLaughlin made numerous telephone calls to Plaintiff in an effort to engage Plaintiff in conversation about these false allegations of sexual abuse by members of the Grover family. Many of these telephone calls were made to Plaintiff's home and place of employment and some were traced to the offices of a New Hampshire law firm, Upton, Sanders & Smith, demonstrating Defendant James F. McLaughlin's collusion with others in an attempt to entrap Plaintiff, unsuccessfully, in a discussion of untrue allegations of sexual acts which did not take place and which were brought by members of the Grover family. The law firm of Upton Sanders & Smith in Concord, New Hampshire has been charged by Plaintiff with conspiracy, libel and slander in a separate cause of action for damages.

38. Defendant James F. McLaughlin, in concert with attorneys and members of the Grover family, brought additional false allegations of sexual abuse against Plaintiff only after sending a letter on September 30, 1992 to an individual making false allegations against Plaintiff revealing that collaboration with yet another attorney indicated that this individual may not be able to sue the Catholic Church if he brings allegations of sexual abuse due to the statute of limitations.

39. Defendant James F. McLaughlin, conspiring with

attorneys and other individuals, has now publicly, maliciously and recklessly slandered Plaintiff through multiple false allegations of sexual abuse including allegations of fondling, oral intercourse, anal sex, and forcible assault.

40. Defendants James F. McLaughlin, the Keene Police Department, and the City of Keene, conspiring with others, have now publicly, maliciously and recklessly slandered Plaintiff through multiple false allegations of sexual abuse against yet another individual, Lawrence Carnavale, who was invited by Defendant Mclaughlin to bring false charges against Plaintiff to fortify the allegations brought by members of the Grover family even though Defendant James F. McLaughlin knew that Lawrence Carnevale has a history of mental illness and has repeatedly brought unfounded complaints against Plaintiff over an eleven year period.

41. Defendant James F. McLaughlin, the Keene Police Department, and the City of Keene, have contributed to publicly, maliciously and recklessly slandering Plaintiff by bringing these charges while stating that those who brought these false allegations had previously made these allegations about Plaintiff to other specific individuals named in Defendant James F. McLaughlin's reports when, in fact, an adequate investigation of these claims, by interviewing these named individuals, would have demonstrated that those who brought the allegations are lying.

42. Defendants James F. McLaughlin, the Keene Police Department, and the City of Keene, have contributed to publicly, maliciously and recklessly slandering Plaintiff by stating that Plaintiff repeatedly sexually assaulted members of the Grover family in the Summer of 1983 in Plaintiff's living quarters in the St. Bernard Rectory when, in fact, an adequate investigation of

these claims, by interviewing the persons who lived and/or worked there at the time, would have demonstrated that these individuals are lying.

43. Defendant James F. McLaughlin subsequently coached members of the Grover family into changing their statements after Plaintiff testified under oath on December 3, 1993, that he lived in an area of the rectory other than that originally claimed in police reports. Defendant McLaughlin then produced new police reports with new statements of the Grover brothers changing the place where these allegations are alleged to have occurred.

44. Defendants James F. McLaughlin, the Keene Police Department, and the City of Keene, have contributed to publicly, maliciously and recklessly slandering Plaintiff by making false allegations of sexual abuse while claiming that many of these false incidents of sexual assault took place in Plaintiff's office in the context of counseling when, in fact, an adequate investigation of these claims, by interviewing the individuals who lived and/or worked there at the time, would have demonstrated that these individuals are lying.

45. Defendant James F. McLaughlin has contributed to publicly, maliciously and recklessly slandering Plaintiff by making false claims that Plaintiff had in his possession a video camera, a 35mm camera and unmarked video tapes containing child pornography. Plaintiff can, and will, produce ample evidence from numerous individuals that he never owned or possessed a video camera or a 35mm camera. Plaintiff can, and will, also produce ample evidence from individuals who were aware of, and reviewed, the several unmarked video tapes in Plaintiff's apartment and knew precisely the contents of said tapes. All of the persons described hereinabove were available to Defendant James F.

McLaughlin yet he failed to carry out his duties by interviewing them or any persons who could have demonstrated Plaintiff's innocence.

46. Defendants James F. McLaughlin, the Keene Police Department and the City of Keene, have demonstrated negligence and reckless prosecution of Plaintiff by creating police reports bringing false allegations that Plaintiff brought David Grover, while a minor, for overnight visits to St. Bernard Rectory in Keene for the purpose of sexually assaulting this minor. These allegations were reported by Defendant James F. McLaughlin to assist in the bringing of a civil cause of action against Plaintiff and the Roman Catholic Bishop of Manchester, Inc., and Defendant James F. McLaughlin allowed these allegations to be made, reported in police reports, and used for the criminal prosecution of Plaintiff, without making any attempt to examine or ascertain the veracity of the allegations by questioning even one of the sixteen individuals who lived and/or worked at St. Bernard Rectory in Keene between 1978 and 1983.

47. Defendants James F. McLaughlin, the Keene Police Department, and the City of Keene, have demonstrated negligence and reckless prosecution of Plaintiff by creating police reports bringing false allegations that Plaintiff arranged the prostitution of David Grover, while a minor, to priests at St. John the Evangelist rectory in Hudson between 1979 and 1983. These allegations were reported by Defendant McLaughlin to assist in the bringing of a civil cause of action against Plaintiff and the Roman Catholic Bishop of Manchester, Inc., and Defendant McLaughlin allowed these allegations to be made, reported in police reports, and used for the civil prosecution of Plaintiff, without making any attempt to examine or ascertain the veracity of the allegations by questioning even one of the more than seventeen

individuals who lived and/or worked at the Hudson rectory between 1979 and 1983.

48. Defendants James F. McLaughlin, the Keene Police Department, and the City of Keene, have demonstrated negligence and reckless prosecution of Plaintiff by creating police reports and bringing false allegations that Plaintiff brought Jonathan Grover, while a minor, to church rectories in Groveton, Nashua and Merrimack for the purpose of sexually assaulting this minor. Defendant James F. McLaughlin allowed these allegations to be made, reported in police reports, and used for the criminal prosecution of Plaintiff, without making any attempt to examine the veracity of the allegations by questioning even one of the more than seventy individuals who lived and/or worked at these church rectories in the relevant period of time.

49. Defendants James F. McLaughlin, the Keene Police Department, and the City of Keene, have demonstrated negligence and reckless prosecution of Plaintiff by creating police reports bringing false allegations that Plaintiff brought Jonathan Grover, while a minor, on overnight visits to a church rectory in Hampton for the purpose of sexually assaulting this minor. Defendant James F. McLaughlin allowed these allegations to be made, reported in police reports, and used for the criminal prosecution of Plaintiff, without making any attempt to examine or ascertain the veracity of these allegations by questioning even one of the ten individuals who lived and/or worked in this rectory at the time.

50. Defendants James F. McLaughlin, the Keene Police Department and the City of Keene, have demonstrated negligence and reckless prosecution of Plaintiff by creating police reports bringing false allegations that Plaintiff "continued to solicit Jonathan Grover into committing acts of prostitution with

(Plaintiff) acting as his pimp....these solicitations occurred between 1985 and 1987".

51. Defendants James F. McLaughlin, the Keene Police Department, and the City of Keene, have demonstrated negligence and reckless prosecution of Plaintiff in that not one of the more than one hundred potentially factual witnesses described hereinabove has been questioned by police prior to the bringing of public charges which the defendants knew would destroy Plaintiff's life. Plaintiff has been burdened with the responsibility of conducting the investigation which should have been conducted by the public officials to whom this role is entrusted, and in whom the public places its trust with the belief that this role will be carried out adequately and without prejudice.

52. Defendant James F. McLaughlin further conspired against Plaintiff by bringing false allegations of sexual abuse with the cooperation of members of the Grover family and their attorneys, while at the same time, providing each of the Grover brothers accusing Plaintiff, and their attorneys, with elements of each others' fabricated stories in order to ascertain that the fabricated stories would not contradict each other.

53. Defendant James F. McLaughlin further conspired against Plaintiff by coaching members of the Grover family and their attorneys in answering Interrogatories propounded by Plaintiff which are, by law, to be answered truthfully and under oath.

54. Defendants James F. McLaughlin, the Keene Police Department and the City of Keene, have demonstrated negligence and reckless prosecution of Plaintiff by intentionally omitting exculpatory evidence from police reports in that in February, 1994, Defendant McLaughlin, while interviewing an individual,

failed to inform this individual that Thomas Grover identified him as the subject of pornographic video tapes alleged by Thomas Grover to have been created by Plaintiff and in Plaintiff's possession. Defendant McLaughlin failed to make any effort to corroborate or refute Thomas Grover's claims. This individual asserted that the claims of Thomas Grover are false, however Defendant McLaughlin intentionally omitted this, and other exculpatory information, from his reports.

55. Defendants James F. McLaughlin, the Keene Police Department and the City of Keene, have demonstrated negligence and reckless prosecution of Plaintiff by intentionally omitting other exculpatory evidence from police reports in that in February, 1994, Defendant McLaughlin, while interviewing an individual failed to inform this individual that Jonathan Grover identified him as having spent the night with Plaintiff at St. Bernard Rectory on numerous occasions, and failed to make any effort to corroborate or refute Jonathan Grover's claims. This individual asserted that Jonathan Grover's claims are false, however Defendant McLaughlin intentionally omitted this, and other exculpatory information, from his reports.

56. Defendant James F. McLaughlin also provided these individuals with information about prior investigations against other priests in other places in order that elements of the Grover brothers' fabricated stories may coincide with allegations brought against other New Hampshire Catholic priests.

57. Defendant James F. McLaughlin conspired with attorneys and members of the Grover family, and negligently investigated their claims, in that when Defendant James F. McLaughlin was presented with accusations of alleged behaviors by Plaintiff at times when Plaintiff was not present in New Hampshire, or in the

places claimed by the Grover brothers, Defendant James F. McLaughlin presented the Grovers and their attorneys with copies of Plaintiff's resume so that they may correct the approximate dates of their allegations to coincide with Plaintiff's actual physical presence in the places claimed.

58. In the course of bringing these false allegations of sexual abuse Defendant James F. McLaughlin sent the allegations directly to newspaper reporters in the city of Plaintiff's current home and employment for the specific purpose of destroying Plaintiff's life, and for the purpose taking advantage of a corrupt opportunity of causing harm to Plaintiff's employer, who, he knew, had recently been the subject of massive media publicity over the treatment of another priest, James Porter, whose case had become notorious throughout the country.

59. In the course of bringing these false allegations of sexual abuse without adequate investigation Defendant James F. McLaughlin has engaged in the suspicious practice of referring those who have made these false charges to specific attorneys who have previously and successfully brought a cause of action against the Roman Catholic Diocese of Manchester, Inc.

60. Defendant James F. McLaughlin has continued to seek other false claims against Plaintiff, has counseled individuals to lie and distort Plaintiff's behavior, has coached individuals with leading questions and information about Plaintiff to enhance and exaggerate their false claims to make the Roman Catholic Diocese of Manchester appear more liable for these false claims, and has continued to distort and compromise the judicial process by continuing to seek out other individuals who would be willing to bring false and/or extremely exaggerated claims against Plaintiff.

61. Defendant James McLaughlin, and other officials of the City of Keene, New Hampshire, in violation of Federal law, and laws of the State of New Mexico and the State of New Hampshire, misappropriated, and illegally distributed protected and privileged psychiatric and other medical records from treatment in the State of New Mexico to the news media and to other persons not legally authorized by Plaintiff to be the recipient of privileged medical information.

62. Defendant James McLaughlin, and other officials of the City of Keene, New Hampshire, in violation of Federal law and laws of the State of New Mexico and the State of New Hampshire, misquoted privileged psychiatric and medical files, and attributed false diagnoses, prognoses and other statements about Plaintiff to medical professionals who never made those statements.

63. Defendant James McLaughlin, sanctioned by his supervisors in the Keene Police Department and the City of Keene, tampered with the testimony of potential witnesses against him in that in March, 1994, months after this Complaint for Damages was filed, called potential witnesses against him by telephone and attempted to convince them to change their statements in regard to Plaintiff. Specifically, Defendant McLaughlin lied to a woman listed by Plaintiff as an alibi witness by falsely quoting another alibi witness, a Catholic priest, and stating "Father Boucher says this (alibi defense) is a pack of lies".

64. As recently as April, 1994, Defendant McLaughlin, sanctioned by his supervisors in the Keene Police Department and the City of Keene, and while fully knowing that he is a defendant in the above captioned action, has been identified by others in the Keene Police Department as conducting a continued investigation of Plaintiff and Plaintiff's potential witnesses

against him.

65. In so publicly, maliciously and recklessly bringing false charges of sexual abuse Defendant James F. McLaughlin has caused Plaintiff extreme suffering and public humiliation as the subject of massive media publicity throughout the State of New Hampshire, in various other parts of New England, in the State of New Mexico, Plaintiff's home, and in other parts of the United States.

66. In so publicly, maliciously and recklessly bringing false charges of sexual abuse, Defendant James F. McLaughlin has in fact caused Plaintiff, a self-employed consultant, to suffer immediate loss of employment and irreparable loss of future employment potential.

67. In so publicly, maliciously and recklessly fabricating false charges of sexual abuse Defendant James F. McLaughlin did in fact cause Plaintiff to suffer, and to continue to suffer, extreme emotional anguish and did in fact intentionally inflict serious emotional distress on Plaintiff and Plaintiff's family.

68. In so publicly, maliciously and recklessly fabricating false charges of sexual abuse Defendant James F. McLaughlin has in fact caused Plaintiff, who was diagnosed with epilepsy in 1989, to suffer, and to continue to suffer, extreme physical, mental and psychological stress which has severely medically complicated Plaintiff's condition resulting in extensive hospitalization, medical bills, further loss of employment income and further resultant psychological distress requiring ongoing treatment and resultant expenses.

69. In so publicly, maliciously and recklessly fabricating

false allegations of sexual abuse Defendant James F. McLaughlin has in fact caused Plaintiff to suffer immeasurable loss of personal and professional reputation and has caused serious and irreparable harm to current and potentially future personal and professional relationships.

70. In so publicly, maliciously, and recklessly fabricating false allegations of sexual abuse Defendant James F. McLaughlin, has in fact conspired with others to criminally and maliciously prosecute Plaintiff for the purpose of assisting in civil causes of action against the Roman Catholic Bishop of Manchester, Inc., and to contribute to potentially further malicious investigation of Plaintiff for allegations of acts which Plaintiff did not commit.

71. In so publicly, maliciously and recklessly fabricating false allegations of sexual abuse Defendant James F. McLaughlin, in concert with others, has in fact caused Plaintiff to undergo current and continuing financial distress in liability for medical expenses and fees for legal services to defend himself against allegations of acts which Plaintiff did not commit.

72. In so publicly, maliciously and recklessly fabricating false allegations of sexual abuse Defendant James F. McLaughlin, in concert with others, has caused immeasurable harm to Plaintiff in that these false allegations led to Plaintiff's arrest, incarceration and criminal prosecution for acts which Plaintiff did not commit.

73. Defendant James F. McLaughlin, and his supervisors in the Keene Police Department and the City of Keene, knew, or should have known, that these fabricated allegations of sexual abuse, brought without adequate investigation, would result in massive

media publicity slandering Plaintiff throughout the State of New Hampshire, other parts of New England, the State of New Mexico, and throughout the United States.

74. Defendant James F. McLaughlin, and his supervisors in the Keene Police Department and the City of Keene, conspired to send these false allegations directly to New Mexico newspapers resulting in the loss of Plaintiff's employment, peace of mind, and liberty in an attempt to embarrass Plaintiff's principal former employer, a church institution working diligently to correct issues of victimization in the Catholic church.

75. In so publicly, maliciously and recklessly fabricating false allegations of sexual abuse Defendant James F. McLaughlin has conspired with others to use these false and negligently investigated allegations of sexual abuse against Plaintiff to maliciously and recklessly create scandal for the Roman Catholic Church and its members for the apparent purpose of facilitating lawsuits against the Roman Catholic Church.

76. In so publicly, maliciously and recklessly fabricating false allegations of sexual abuse Defendant James F. McLaughlin has conspired with others to use Plaintiff, and to use the current milieu, in which the Roman Catholic Church is responsibly seeking to address the legitimate needs of real victims of past sexual abuse, especially following vast publicity of past and present cases in the New England area, as a backdrop for bringing false claims of sexual abuse in order to more easily, and without scrutiny, attack the Roman Catholic Church under false pretense by assisting in the feigning of victimization which did not take place.

77. At all times relevant to the actions of Defendant James

F. Mclaughlin described hereinabove, Defendant James F. McLaughlin was acting within the scope of his employment as a police officer representing the Keene Police Department and the City of Keene, New Hampshire, and at all times Defendant James F. Mclaughlin acted under the supervision of the Keene Police department and the City of Keene, New Hampshire.

78. As a direct and proximate result of these Defendants' actions, Plaintiff has suffered extreme anxiety, emotional distress, public humiliation, loss of employment and employment potential, libel, slander, and medical complications resulting in three months of hospitalization and ongoing medical treatment.

79. Plaintiff's Civil Rights have been violated in that Plaintiff, as a direct and proximate result of the Defendants' actions, has been denied his personal liberty and right to live unencumbered by such false claims.

COUNT I

80. The allegations contained in paragraphs 1-79 above are hereby incorporated by reference.

81. Defendant, JAMES F. McLAUGHLIN, in concert with attorneys and his supervisors in THE KEENE POLICE DEPARTMENT, did engage in a conspiracy to falsely accuse GORDON MACRAE of committing sexual acts in an effort to facilitate the extortion of money from MR. MACRAE and the ROMAN CATHOLIC CHURCH OF THE DIOCESE OF MANCHESTER.

COUNT II

82. The allegations contained in paragraphs 1-81 above are hereby incorporated by reference.

83. Defendant, JAMES F. McLAUGHLIN, did, without justifiable cause, slander and libel the good name of GORDON MACRAE by falsely and maliciously accusing him of committing those acts alleged and described hereinabove.

COUNT III

84. The allegations contained in paragraphs 1-83 above are hereby incorporated by reference.

85. Defendants, JAMES F. McLAUGHLIN, the KEENE POLICE DEPARTMENT, and THE CITY OF KEENE, NH, did without justifiable cause, participate in the malicious prosecution of GORDON MACRAE and have abused the civil process by falsely bringing charges of sexual abuse and by assisting in the bringing of civil causes of action for allegations of acts which they know to have been negligently investigated and which are completely false.

COUNT IV

86. The allegations contained in paragraphs 1-85 above are hereby incorporated by reference.

87. Defendants, JAMES F. McLAUGHLIN, the KEENE POLICE DEPARTMENT, and the CITY OF KEENE, NH, did without justifiable cause, engage in the intentional infliction of emotional distress on GORDON MACRAE by their malicious and false accusations of sexual abuse which they have leveled against GORDON MACRAE, and by Defendant Mclaughlin's negligent and highly selective

investigation of these charges. These false accusations have resulted in extreme psychological damage to Plaintiff both presently and in the future.

COUNT V

88. The allegations contained in paragraphs 1-87 above are hereby incorporated by reference.

89. Defendants, JAMES F. McLAUGHLIN, the KEENE POLICE DEPARTMENT, and the CITY OF KEENE, NH, did, without justifiable cause, engage in negligence in performing those duties entrusted to them by virtue of their office and/or public trust, in that they carried out a negligent investigation prior to accusing Gordon MacRae of child sexual abuse. Defendant JAMES F. McLAUGHLIN, with the knowledge and approval of his supervisors, brought charges which he knew to be highly injurious to Gordon MacRae and other victims of this negligence, and yet he was permitted to bring these public charges, and even work to have them made known in the media in Plaintiff's home state and several other states, with no investigation having been conducted, no factual witnesses having been questioned, other than those bringing the false allegations, and no evidence to support these charges.

COUNT VI

90. The allegations contained in paragraphs 1-89 above are hereby incorporated by reference.

91. Defendants, the KEENE POLICE DEPARTMENT, and the CITY OF KEENE, NH, are guilty of negligent supervision in that they had an obligation to properly train and supervise JAMES F. McLAUGHLIN,

and the other police officers of the City of Keene. The failure to properly supervise the actions of Defendant James F. McLaughlin has caused immense harm to Plaintiff, Plaintiff's family and employers, and has caused harm to the community which places its trust in these institutions believing that the work of law enforcement is properly carried out.

COUNT VII

92. The allegations contained in paragraphs 1-91 above are hereby incorporated by reference.

93. Defendants, the KEENE POLICE DEPARTMENT, and the CITY OF KEENE, NH, had an obligation to properly train and review the work of Defendant JAMES F. McLAUGHLIN, and the other police officers of the City of Keene, and to assure the proper maintenance of files and records such as tape recordings created in police investigations, and to properly see to it that such records and recordings could not become lost without explanation. The negligence by failing to properly conduct an investigation, and maintain secure records has caused immense harm to Plaintiff, and Plaintiff's ability to carry out a fair, unbiased and unprejudiced defense, and constitutes negligence on the part of all defendants.

COUNT VIII

94. The allegations contained in paragraphs 1-93 above are hereby incorporated by reference.

95. Defendant JAMES F. McLAUGHLIN, in violation of Federal law and laws of the State of New Mexico and the State of New

Hampshire, while Plaintiff was in the State of New Mexico and Defendant James McLaughlin was in the State of New Hampshire, illegally tape recorded telephone conversations between Plaintiff and Defendant McLaughlin without authority and Plaintiff's knowledge or approval and having no authorization as required by law.

COUNT IX

96. The allegations contained in paragraphs 1-95 above are hereby incorporated by reference.

97. Defendant JAMES F. McLAUGHLIN, and other officials of the CITY OF KEENE, in violation of Federal law and laws of the State of New Mexico misappropriated, and illegally distributed protected and privileged psychiatric and other medical records from the treatment of Plaintiff in the State of New Mexico.

COUNT X

98. The allegations contained in paragraphs 1-97 above are hereby incorporated by reference.

99. Defendant JAMES F. McLAUGHLIN, and other officials of the CITY OF KEENE, in violation of Federal law and laws of the State of New Mexico, misquoted privileged psychiatric and medical files, and attributed false diagnoses, prognoses and other statements about Plaintiff to New Mexico medical and psychiatric professionals who never made such statements.

COUNT XI

100. The allegations contained in paragraphs 1-99 above are

hereby incorporated by reference.

101. Defendants, the KEENE POLICE DEPARTMENT, and the CITY OF KEENE, NH have neglected to perform their duty in failing to prevent JAMES F. McLAUGHLIN, and other police officers and officials of the City of Keene from the misappropriation and misuse of privileged psychiatric records. The failure to properly supervise the actions of Defendant James F. McLaughlin and permitting him and other Keene officials to misrepresent and distribute privileged information from psychiatric files has caused immense harm to Plaintiff.

COUNT XII

102. The allegations contained in paragraphs 1-101 above are hereby incorporated by reference.

103. Defendants, the KEENE POLICE DEPARTMENT, and the CITY OF KEENE, NH are negligent in their duty to supervise JAMES F. McLAUGHLIN in that he was permitted, in violation of the law, and with full knowledge of his supervisors in the Keene Police Department, to illegally tape record privileged telephone communications of Plaintiff while in the State of New Mexico.

COUNT XIII

104. The allegations contained in paragraphs 1-103 above are hereby incorporated by reference.

105. Defendant JAMES F. McLAUGHLIN, sanctioned by his supervisors in the KEENE POLICE DEPARTMENT and other officials of the CITY OF KEENE, and in violation of law, have intentionally and willfully withheld exculpatory evidence, and omitted exculpatory

evidence from official reports about Plaintiff.

WHEREFORE, Plaintiff prays for judgment against the Defendant as follows:

1. For compensatory damages in an amount to be ascertained at trial;
2. For costs incurred in this and all other litigation resulting from defendant's claims;
3. For prejudgment interest;
4. For whatever additional relief the Court may deem just and proper.

Plaintiff requests trial by jury.

Respectfully submitted,

GORDON J. MACRAE
Plaintiff, Pro Se
P.O. Box 10
Jemez Springs, New Mexico 87025-0010
TEL: (505) 842-1987
FAX: (505) 829-3706

May 9, 1994

CERTIFICATION OF SERVICE

I hereby certify that a copy of the within SECOND AMENDED COMPLAINT TO RECOVER DAMAGES FOR PERSONAL INJURY has been mailed, postage prepaid, to Emily A. Franke, Esq., and Alfred L. Green, Esq., BUTT, THORNTON & BAEHR, attorneys for defendants James F. McLaughlin, the Keene Police Department and the City of Keene, New Hampshire this ninth day of May, 1994.

Gordon J. MacRae, Plaintiff PRO SE
Post Office Box 10
Jemez Springs, NM 87025-0010

5/9/94

Priest's Lawsuit Upheld

By Bruce Daniels

JOURNAL STAFF WRITER

Chief U.S. District Judge Juan Burciaga has denied a Keene, N.H., detective's motion to dismiss a lawsuit brought against him by the Rev. Gordon MacRae, a former Servants of the Paraclete admissions director accused of sexually abusing several New Hampshire youths.

MacRae, who is facing criminal charges and civil lawsuits in New Hampshire, last December and January

turned around and sued his accusers, their attorneys, the city and police department of Keene and Keene Detective James F. McLaughlin for slander, libel, malicious and reckless prosecution and numerous other counts in five civil rights suits.

Burciaga on July 14 denied a motion to dismiss MacRae's suit against McLaughlin, the city of Keene and its police department for "lack of personal jurisdiction."

MacRae, who is representing himself in the federal civil-rights suits, is one of

the first accused priests in the nation to countersue his accusers.

MacRae had argued that McLaughlin, with the permission of city and police officials, had libeled and slandered him by making false accusations and by sending alleged libelous statements to "a New Mexican newspaper."

The defendants said their contacts with MacRae were so limited that the suit filed here should be dismissed.

But Burciaga ruled that MacRae's allegations, if true, do show a "cause of action" in New Mexico.

"Defendants directed their alleged libelous statements at the Plaintiff, knowing that the harm would be felt by

the Plaintiff in New Mexico," Burciaga wrote in his order. "Defendants also had additional contacts with New Mexico by the sending of letters to New Mexico, telephoning the Plaintiff (MacRae) in New Mexico, and the use of the police department of Rio Rancho, New Mexico, to arrest and incarcerate the Plaintiff."

MacRae was arrested at his Rio Rancho home in May 1993 and accused of sexually assaulting three New Hampshire boys under 14 when he was a priest in New Hampshire in the 1980s.

MacRae has denied all charges against him, has contended his accusers' attorneys are trying to make money at the expense of the Roman Catholic Church.

Judge refuses to dismiss ex-N.H. priest's lawsuit

■ Priest accused of sex abuse is suing his accusers, their attorneys, and the city and police department of Keene.

ALBUQUERQUE (AP) — A federal judge in New Mexico has denied a New Hampshire police detective's motion to dismiss a lawsuit brought against him by a priest accused of sexually abusing several New Hampshire youths.

The Rev. Gordon MacRae, who lives in Rio Rancho, N.M., is facing criminal charges and civil lawsuits in New Hampshire.

Last December and January he sued his accusers, their attorneys, the city and police department of Keene, N.H., and Keene police detective James F. McLaughlin, in federal court in Albuquerque. The lawsuit alleges libel, slander, malicious and reckless prosecution and other counts.

Chief U.S. District Judge Juan Burciaga on July 14 denied a motion to dismiss MacRae's lawsuit against McLaughlin, the city of Keene and its police department for "lack of personal jurisdiction."

MacRae, who is representing himself in the civil rights lawsuits, is among the first accused priests in the nation to countersue his accusers.

MacRae argued that McLaughlin, with the permission of city and police officials, had libeled and slandered him by making false accusations.

The defendants said their contacts with MacRae were so limited that the lawsuit filed in Albuquerque should be dismissed.

But Burciaga ruled that MacRae's allegations, if true, show a "cause of action" in New Mexico.

"Defendants directed their alleged libelous statements at the Plaintiff, knowing that the harm would be felt by the Plaintiff in New Mexico," Burciaga wrote in his order. "Defendants also had additional contacts with New Mexico by the sending of letters to New Mexico, telephoning the Plaintiff in New Mexico, and the use of the police department of Rio Rancho, New Mexico, to arrest and incarcerate the Plaintiff."

MacRae was arrested at his Rio Rancho home in May 1993 and accused of sexually assaulting three New Hampshire boys under age 14 when he was a priest there in the 1980s. A fourth accuser came forward and new criminal charges were brought two weeks later.

MacRae said Wednesday that two of the lawsuits he filed in federal court in Albuquerque have been transferred at his request to U.S. District Court in Concord, N.H. A decision is pending on his motion to transfer the remaining two lawsuits against his accusers and their lawyers to New Hampshire.

Associated Press Report
Nashua Telegraph
22 Jul 1994