

Alleged rape victim of Catholic school janitor deposed on deathbed

Attorneys for Albany man obtained emergency court order to secure his testimony

ALBANY — Attorneys for a terminally ill man who said he was repeatedly raped as a young boy by a Catholic school janitor obtained an emergency court order Wednesday allowing them to take his sworn testimony for a future lawsuit they hope to file against the Roman Catholic Diocese of Albany.

Stephen J. Erickson, 55, is dying from skin cancer and not expected to survive beyond the end of the week, according to his attorney, Jeff Herman, whose [law firm specializes in sexual abuse litigation](#) and has offices in New York City and Boca Raton, Fla.

The deposition would be crucial in any lawsuit that may be filed posthumously on behalf of Erickson, or his estate, if New York passes the Child Victims Act, which would extend the state's statute of limitations for victims of rape and sexual abuse. Erickson had previously been married and has at least one child.

The legislation, as it has been proposed, would provide a one-year window for victims to file lawsuits or claims for alleged sexual abuse that took place years earlier and outside the reach of the state's current statute of limitations.

Supporters of the legislation said they expect it to pass in 2019, when Democrats take control of the state Senate. The Child Victims Act had for years been blocked by Republican senators who cited, among other reasons, concerns that the one-year window for claims could bankrupt Catholic organizations. Opponents have also noted that the legislation would not apply to public institutions.

Erickson and Jack Cesare, 55, told the Times Union they were raped and sexually abused by the janitor, Eugene Hubert Jr., when they were 12 and 13 years old and attending the former St. Teresa of Avila school on New Scotland Avenue in the 1970s.

Hubert died in 1997 at age 54. His last known residence was in Warrensburg, Warr X

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Eugene Hubert, undated photo.

In January 2012, Erickson provided the Times Union a detailed account of the abuse that he suffered as a young boy while attending the school. He requested anonymity at the time, but his attorney on Wednesday said that Erickson, who had been an electrician, no longer wanted to shield his identity.

Three months after **the Times Union reported the accounts** of Erickson and Cesare, who had filed a complaint with the Albany Roman Catholic Diocese, the diocese said an internal review board determined that the abuse of Cesare likely happened. It's unclear whether the internal review examined whether there were other victims.

"The Albany Diocese Sexual Misconduct Review Board has determined there are reasonable grounds to believe an allegation of sexual abuse against a deceased former

janitor at St. Teresa of Avila School in Albany," the diocese said in a statement at t



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Cesare, who lives in South Florida, has been an outspoken critic of the Albany diocese's handling of sexual abuse complaints; he rejected a payment it had offered him of around \$60,000. Cesare has been a tireless advocate of the Child Victims Act, and for years has doggedly called on the governor and state lawmakers to pass the legislation.

St. Teresa of Avila, founded in 1920, and a parish affiliated with it, were closed by the Albany diocese in 2009 and merged with a neighboring school and parish.

Property records show Hubert had ties to a camp near Paradox Lake, northeast of Warrensburg, where Erickson said he and other boys were raped by the janitor when he brought them there on camping trips. Erickson said the camping trips may have been sanctioned by school officials, because he recalled needing to obtain a parental permission slip to go away with Hubert.

Michael Flynn of Watervliet, who was classmates at St. Teresa's with Cesare and Erickson, had been one of several victims who came forward in 2008 with allegations against Gary Mercure, a longtime priest in the Albany diocese who was assigned to St. Teresa's parish from 1978 to 1982.

During that time, Flynn said, Mercure had exposed himself while Flynn was an altar boy at the parish. Flynn, in 2012, also recalled an encounter with Hubert at St. Teresa of Avila when he said Hubert was "stroking himself" in front of Flynn after emerging from a school shower. Flynn said he quickly left.

Cesare said Hubert approached him on a playground one afternoon in 1977 and asked him to come to the custodian's office after school to discuss a camping trip.

Cesare said Hubert raped him in his office near the gymnasium as two of Cesare's classmates — one of them Erickson — stood outside the school waiting for their friend.

Erickson **told the Times Union six years ago** that he had suspected what was happening to Cesare that day because he'd already been raped multiple times

by Hubert.

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said anything to anybody.

Erickson said Hubert gave him a fishing pole and also supplied beer and cigars for him and other boys who went to his camp. He recalled that Hubert, who drove a yellow Volkswagen, would pick up other boys in Colonie for their trips to the rustic camp near Paradox Lake in southern Essex County.

Erickson said Hubert allegedly raped him at the school and on a fishing trip to the Mohawk River. He said that in addition to sexually abusing him and other boys at the camp near Paradox Lake, Hubert also abused him at a private residence in Delmar where the janitor lived at the time.

"I remember a room out there, like a bedroom off a porch. I went there a couple times," Erickson said. "I never saw anybody there."

Public records indicate that Hubert may have lived in the 400-block of Kenwood Avenue in Delmar during the early 1980s.

Although Mercure and Hubert both worked at St. Teresa's during the late 1970s, there is no known connection between their cases.

Mercure was convicted of three counts of forcible rape in Massachusetts in 2011. He was sentenced to 20 to 25 years in prison for raping two altar boys from the Albany diocese during trips to Massachusetts in the 1980s, where the statute of limitations allowed his prosecution.

David Bentley, a former priest who church officials said lived at St. Teresa of Avila parish from 1977 to 1982, also was removed from ministry by the diocese for sexual abuse allegations involving minors. He was not prosecuted on criminal charges. Church officials said the allegations did not involved students at St. Teresa's parish or school.

Mary DeTurris Poust, a spokeswoman for the diocese, said Bishop Edward B.



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Michael Costello, an attorney for the diocese, was expected to attend the hospital deposition of Erickson. The emergency court order enabling the deposition was signed Wednesday by acting state Supreme Court Justice Gerald W. Connolly.

"We are taking this deposition to preserve my client's testimony so that when the New York Child Victims Act is passed, he will have a voice," Herman said.

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