

DATE

FEB 15 1992

## 819 Extension granted in suit against church, priests

By GEORGE MAZURAK  
of the Tribune's staff

JEFFERSON CITY — A Cole County judge decided to allow additional time for legal briefs to be filed before considering a motion to dismiss a damages lawsuit alleging sexual abuse by a Catholic priest.

David Clohessy, 34, of St. Louis contends he was sexually abused from 1967 through 1971 by a priest who was at a parish in Moberly at the time.

Defendants in the lawsuit are the Rev. John Whiteley of Columbia, a Missouri diocese based in Jefferson City, Bishop Michael McAuliffe and St. Pius X Church in Moberly.

Attorneys for Clohessy filed the suit in August in Cole County Circuit Court.

The lawsuit is based on a 1990 Missouri statute that allows victims of childhood sexual abuse to seek damages resulting from the abuse.

The statute specifies, however, that any damages action must be filed within five years of the victim's 18th birthday or within three years of the date the victim discovers that his injury was caused by child sexual abuse.

Clohessy said when he filed the suit that he did not realize until three years ago how deeply he had been damaged by his alleged sexual contact with Whiteley.

But attorneys for the defendants have charged that the Missouri statute should not apply in the Clohessy action because the law went into effect years after the last date of the alleged sexual contact.

Defense attorneys assert that the statute is an ex post facto law, prohibited under the U.S. Constitution, because it is intended to apply to childhood sexual abuse that occurred before the law took effect in 1990.

Yesterday, circuit judge Byron Kinder allowed parties 10 days to file supporting briefs on the motion to dismiss.

If Kinder should rule against the motion to dismiss, however, attorneys for the defendants likely will ask either the Missouri Court of Appeals or the Missouri Supreme Court to decide whether the lawsuit was filed in the proper jurisdiction.

"This is a first-time case," Kinder said after the hearing. "There's no case law on this. It's a pure, concrete, legal question."