

State appeals court: Not all private conversations with pastors privileged: Conversation must be private and pastor must be acting as spiritual advisor

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A conversation with a religious leader is not protected from being revealed in court unless it occurred in private and the leader was acting as a spiritual adviser, a New Jersey appeals court has ruled.

A unanimous three-judge panel of the New Jersey Appellate Division ruled on August 20 that a pastor's testimony should be allowed at a trial in which a father is facing charges of sexually molesting his two daughters.

Though the conversation occurred in private, the pastor did not offer to keep it confidential. Nor did he purport to be acting in the role of a spiritual adviser, and he explicitly refused to counsel the man.

"The conversations between defendant and [the pastor] are not protected by the privilege," wrote Judge Lorraine Parker.

Prosecutors, who had sought to have the pastor's testimony included at an upcoming trial, said they were happy with the decision.

"This was a conversation between a defendant and his wife's pastor. There was no spiritual component to the conversation; it was designed to protect the two children," said Nancy Hulett, assistant Middlesex County prosecutor.

In order for a conversation to be shielded by the cleric-penitent protection "the communication has to be made in confidence to the cleric in the cleric's role as a spiritual adviser," she said.

The Middlesex County case centers on a man, identified in court papers by the initials J. G., who allegedly sexually assaulted his daughters from 1996 to 2000.

The girls told their mother about the abuse and she then told her pastor, Glenford Brown. Brown reached out to the man and told him he shouldn't return home. The two men talked and without directly admitting it, the man "acknowledged what he did," according to the decision.

The man asked Brown to counsel him, but the pastor declined and told him to get psychological help. He also declined to baptize him because he felt the man just "wanted cover for his actions." The pastor urged him to go to the police.

At a pretrial hearing the judge said details about the conversations with the pastor could not be included because they were privileged.

The appeals panel disagreed and ordered the case back for further proceedings. - *Religion News Service*