

JOHN DOE,
Plaintiff

VS.

THOMAS M. GOERNER,
Defendant

: IN THE COURT OF COMMON PLEAS
: OF BERKS COUNTY, PENNSYLVANIA

:
: CIVIL ACTION - LAW

:
: No. 13-1483

OPINION, JEFFREY K. SPRECHER, J.

AUGUST 10, 2017

Defendant seeks summary judgment against plaintiff.

FACTS

Plaintiff, John A. Doe, filed a complaint against defendant, Thomas M. Goerner, in which he alleges defendant sexually abused him, beginning at the age of fifteen. The allegations of the complaint are as follows: Plaintiff was introduced to defendant in 1976 at a Boy Scout's event. Plaintiff was twelve years old at that time, and defendant presented himself as a close friend of the priest who had been assigned to plaintiff's church. Before his retirement, defendant owned and operated a meat market in Wyomissing, PA. In 1979, plaintiff began working for defendant as a stock clerk. Defendant began providing pornography to plaintiff.

At the meat market, defendant took plaintiff to secluded areas of the business to discuss masturbation and fellatio between males. Defendant also groped plaintiff's buttocks, wrestled plaintiff to pull down his pants, and attempted to masturbate. Defendant also relayed to plaintiff detailed accounts of the sexual acts he wanted to perform on male customers under the age of eighteen. At least once after the business closed and the doors were locked, defendant instructed plaintiff and another minor male employee to allow him to perform oral sex on both boys. Several times defendant

instructed another older minor to engage in sexual activity with plaintiff. On one occasion defendant directed plaintiff to sell marijuana for him. Defendant also requested plaintiff to smoke marijuana before he came to work. Additionally, defendant provided alcohol to plaintiff.

Defendant instructed plaintiff not to discuss any of these activities with defendant's wife or anyone else. He disclosed to plaintiff that he had a handgun and hidden money to escape from authorities if his actions were revealed. Plaintiff believed defendant would harm him if he notified anyone about defendant's heinous actions.

Defendant filed the instant motion for summary judgment. Defendant contends that pursuant to 42 Pa. C.S.A. § 5533(b)(2)(i), an alleged childhood victim of sexual abuse has twelve years after reaching the age of eighteen to commence a proceeding for a cause of action that accrues before the child reaches eighteen years of age. Plaintiff was born on August 26, 1964; thus he was older than thirty when he filed this case and has therefore exceeded the statute of limitations.

DISCUSSION

It is axiomatic for this court to state that plaintiff's allegations portray a horrible series of events that are not only tortious and deserving of civil relief but also criminal and meriting punishment. On the other hand, it goes without saying that it would be tortuous for defendant to be forced to endure these horrific allegations against him if plaintiff perjured himself by filing lies.

If the allegations in plaintiff's complaint are true, defendant's actions are indefensible, reprehensible, and criminal. Defendant was a sexual predator of adolescent boys. Defendant robbed plaintiff of his innocence and trust in authorities.

The long-term effects of child sexual abuse on victims are wide-ranging and include anxiety-related, self-destructive behaviors, such as alcoholism or drug abuse, anxiety attacks, and insomnia.¹ Many perpetrators of sexual abuse are in a position of trust or responsible for the child's care, such as a family member, teacher, clergy member, or coach. Men and boys who have been sexually assaulted or abused may also face some additional challenges because of social attitudes and stereotypes about men and masculinity. Sadly, there is no set timeline for dealing with and recovering from sexual abuse.²

In the case *sub judice*, the complaint alleges that defendant was plaintiff's employer, a position of full authority, when he plied plaintiff with alcohol and drugs to lower plaintiff's resistance and ability to object to defendant's egregious conduct. He traumatized plaintiff so much that plaintiff was unable to confront defendant with his actions until only recently. Although plaintiff is to be commended for now achieving the emotional and psychological strength needed to do so, he should not be punished again by the law taking away his legal relief in court.

Childhood is a challenging event for almost everyone. Much research has been devoted to how vulnerable a fifteen-year-old can be to adults in leadership positions that teach, discipline, command, and, most importantly, pay the youth as an employee for following directions. Children are taught repeatedly to respect, trust, and obey adults.

Statutes of limitation are judicious resolutions of disputes. When cases are filed so late that the law deems it difficult to prosecute or impossible to defend, the case

¹ "Effects of Child Sexual Abuse on Victims," *Victims of Crime*, accessed July 26, 2017, <http://victimsofcrime.org/media/reporting-on-child-sexual-abuse/effects-of-csa-on-the-vict...>

² "Adult Survivors of Child Sexual Abuse," *RAINN*, accessed July 26, 2017, <https://www.rainn.org/articles/adult-survivors-child-sexual-abuse>.

cannot be prosecuted. Logistically, this makes sense because parties and witnesses forget events that occurred months or years before. Often the defense has abandoned its preparation when no action is promptly brought. Citizens also have the right to move on with their lives and not have actionable events hanging over their heads that cause them to worry if and when legal relief against them will be demanded.

However, the facts in this case are different. It is highly unlikely that anyone in an intimate relationship, especially, non-consensual, will ever forget the other party or the events that occurred even decades afterwards. Nor does one usually need to find witnesses who saw or heard these private acts to establish or disprove his or her claims.

Unfortunately, this court will not be able to judge the credibility of the witnesses. As unfair as it is, this court is bound by the law concerning the statute of limitations on sexual assaults of children. However, judgment will be entered without prejudice for plaintiff to file another action if the statute of limitations is changed on sexual assaults of minors.

In accordance with the foregoing Opinion, this court enters the attached Order.



JEFFREY K. SPRECHER, J.

NOTICE IS HEREBY GIVEN OF THE ENTRY OF THIS ORDER OR DECREE PURSUANT TO RULE P.C.P. 236 YOU ARE NOTIFIED THAT THIS ORDER/DOCUMENT HAS BEEN FILED IN THE PROTHONOTARY'S OFFICE OF BERKS COUNTY AND THIS IS AN EXTRACT FROM THE RECORD OF SAID COURT CERTIFIED THIS

15 DAY OF Aug 20 17

Jonathan K. Del Collo, Acting Prothonotary
 Deputy