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Candace Conti drew worldwide attention

(<http://www.revealnews.org/article/jehovahs-witnesses-use-1st-amendment-to-hide-child-sex-abuse-claims/>) in her fight against the

Jehovah's Witnesses when a jury awarded her \$28 million in damages – the largest verdict for a single victim of child abuse against a religious organization in U.S. history.

The amount was later reduced to \$15.6 million, including \$8.6 million in punitive damages.

Now, three years later, an appeals court has eroded her courtroom victory even further by ruling that the leadership of the Jehovah's Witnesses had no duty to warn congregants that a confessed child molester was one of their own. As a result, judges eliminated the punitive damages in the case. Conti still stands to receive \$2.8 million.

The decision by the California Court of Appeal is the latest ruling in a rash of lawsuits aimed at Jehovah's Witnesses policies directing elders to keep child abuse secret from their congregations and secular authorities.

Conti, who is no longer a Jehovah's Witness, had sued her abuser, her former congregation in Fremont and the Watchtower Bible and Tract Society of New York – the Jehovah's Witnesses' parent corporation – in 2011. She claimed that Watchtower policies allowed a Witness named Jonathan Kendrick to molest her repeatedly when she was 9 and 10 years old.

Kendrick had admitted to North Fremont congregation elders that he had sexually abused his stepdaughter. The elders informed the Watchtower of Kendrick's confession in 1993, but in accordance with Watchtower policy did not notify police or warn the congregation. Soon after, Conti says, Kendrick began abusing her.

In their ruling Monday, the judges said forcing the leadership of Jehovah's Witnesses to warn congregants about child abusers would be too burdensome.

“While it is readily foreseeable that someone who has molested a child may do so again, the burden the duty to warn would create and the adverse social consequences the duty would produce outweigh its imposition,” the judges wrote.

“The burden would be considerable because the precedent could require a church to intervene whenever it has reason to believe that a congregation member is capable of doing harm, and the scope of that duty could not be limited with any precision.

“Since that ‘secrecy policy’ was the only basis for the punitive damages assessed against Watchtower, the punitive damage award must be reversed,” the judges added.

Rick Simons, Conti’s attorney, disagreed with the new ruling in an interview.

“They think in public policy terms that there’s too much risk in broadening the church’s responsibility and liability so that it burdens what churches do,” he said. “We think there’s too much child abuse in these institutions.”

Conti could not immediately be reached for comment.

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The judges also touched on a contentious national debate over religious exceptions to reporting child abuse. California law requires clergy to report suspected child abuse to secular authorities unless they learn of it through a penitential communication, like a confession in the Catholic church. Kendrick’s admission to elders in 1993, they wrote, failed to meet that standard.

“The privilege for penitential communications does not apply unless the communication is made ‘in the presence of no third person so far as the penitent is aware,’ a condition not satisfied at the Kendrick family meeting with the Congregation elders,” the judges wrote.

Dozens of lawsuits in recent years have focused on a series of Watchtower memos dating back to 1989 that direct elders to keep cases of child abuse secret from law enforcement and their congregations.

Watchtower officials have testified under oath that since 1997, the organization has collected detailed information on known child sexual abusers in its congregations.

Last year, a San Diego judge awarded Jose Lopez – a former Jehovah's Witness who was abused by a man in his San Diego congregation when he was 7 years old – \$13.5 million after the Watchtower refused to provide its list of known predators.

In the Conti case, the panel upheld the lower court's ruling that the Watchtower and elders in the North Fremont congregation failed to supervise Kendrick when he preached door to door in the community, a practice Jehovah's Witnesses call field service.

According to Conti, the North Fremont elders would group her with Kendrick for long afternoons of field service. She says he used those opportunities to take her to his house and sexually abuse her.

“While the Congregation may not have been able to police Kendrick's behavior after scheduled field service was over, it could have controlled his access to Conti during the field service,” the judges wrote Monday (<http://www.courts.ca.gov/opinions/documents/A136641.PDF>).

Although Kendrick has confessed to abusing his stepdaughter, and later his stepgranddaughter, he denies abusing Conti.

Watchtower officials told the court they allow child molesters to perform field service, but not alone or with a child. They could not, however, produce a written policy for the court.

“Even if Watchtower had a policy of preventing known child molesters from performing field service alone or with children, there is no evidence that Watchtower did anything to implement that policy in Kendrick’s case,” the court found.

The judges went on to remark on the larger risk of allowing child abusers to preach door to door: “They are also a threat to children in the community when they engage in that activity. The prospect of children opening their doors to proselytizing child molesters is frightening.”

Watchtower officials did not immediately return calls for comment. James McCabe, the attorney representing the North Fremont congregation, declined to comment.

Simons said Conti has not decided yet whether to appeal the court’s decision. She has 30 days to do so.

This story was edited by Fernando Diaz and copy edited by Sheela Kamath.

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