

SYNOPSIS OF THE CASE

2020 MT 3, DA 19-0077: ALEXIS NUNEZ and HOLLY McGOWAN, Plaintiffs and Appellees, v. WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC.; CHRISTIAN CONGREGATION OF JEHOVAH’S WITNESSES; and THOMPSON FALLS CONGREGATION OF JEHOVAH’S WITNESSES, Defendants and Appellants. WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC.; CHRISTAIN CONGREGATION OF JEHOVAH’S WITNESSES; and THOMPSON FALLS CONGREGATION OF JEHOVAH’S WITNESSES, Third-Party Plaintiffs and Appellants, v. MAXIMO NAVA REYES and IVY McGOWAN-CASTLEBERRY, Third-Party Defendants.¹

The Montana Supreme Court reversed a \$35 million jury verdict in favor of Alexis Nunez on her claim that the Jehovah’s Witnesses were negligent as a matter of law when they failed to notify authorities of a 2004 child abuse report her uncle Peter McGowan made to a church elder. Peter had disclosed to a Thompson Falls congregation elder that his stepfather, Maximo Reyes, had sexually abused him as a child. Unbeknownst to either Peter or the church, Reyes was at that time sexually abusing Alexis, his step-granddaughter, and his abuse continued for several more years.

Alexis and her aunt Holly McGowan—also a victim of Reyes’s abuse—sued the church in 2016, alleging that the Jehovah’s Witnesses had violated state law by failing to report Reyes’s abuse of Peter. After a Sanders County district court held that the Jehovah’s Witnesses had violated the statute by failing to report Peter’s abuse, a jury in 2018 awarded Alexis \$4 million in actual damages and \$31 million in punitive damages. The jury found that the church did not cause damages to Holly.

Montana state statute expressly exempts clergy from mandatory child abuse reporting when a clergy member learns of the abuse in a communication that church doctrine or established church practices requires be kept confidential. Under the Jehovah’s Witnesses’ established procedures for responding to allegations of serious sin, such as child molestation, they will report child abuse to authorities only if required by state law. As with other disclosures, however, the Jehovah’s Witnesses deal with such communications in a confidential internal process through what is known as a “judicial committee” of elders. This process led to the church’s 2004 disfellowship of Maximo Reyes, the strongest form of scriptural discipline the Jehovah’s Witnesses impose, though he was later reinstated. The elders keep records related to their investigations and judicial committee proceedings under lock and key and do not disclose to the congregation the reasons for a person’s disfellowship.

¹ This synopsis has been prepared for the convenience of the reader. It constitutes no part of the Opinion of the Court and may not be cited as precedent.

The Supreme Court held that the Jehovah's Witnesses' established doctrine and practice required elders to keep Peter McGowan's disclosure confidential, and they were therefore excused from reporting by the state statute. It disagreed with Alexis that the church did not require confidentiality when the information was shared with committees and church representatives in the national organization, as well as with other family members. The Legislature, the Court observed, was careful not to define "confidential communication" so narrowly as to restrict it to a one-on-one confession; the statute accommodates different religious practices. The Court further disagreed with Alexis that an elder's choice to exercise his own conscience and make a report to state authorities meant church doctrine did not require the conversation to be kept confidential. The evidence showed that the Jehovah's Witnesses recognize an elder's decision to violate church doctrine as something he must take up with God—a principle that did not affect the church's requirement of confidentiality.