

Lawyer for Ex-Priest Questions Repressed Memory Science

By Kerri Roche
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BOSTON —

The decision to grant a new trial for a defrocked priest convicted of repeatedly raping a young boy is in the hands of a judge who was asked yesterday to reconsider the "junk science" central to the trial.

Robert F. Shaw, the attorney for former Newton priest Paul Shanley, asked Superior Court Judge Stephen Neel to re-examine the validity of repressed memory syndrome. Neel presided over Shanley's original trial.

Shanley, 77, is serving 12 to 15 years in Old Colony Correctional Center, following his 2005 conviction in Middlesex Superior Court on two counts of rape of a child and two counts of indecent assault and battery upon a child.

The former priest once hailed for his ability to reach out to troubled youth entered the packed courtroom yesterday shackled at the ankles and wrists, wearing a white shirt and light-colored jeans.

"In this calm after the storm, so to speak, we've had an opportunity to look at what happened in this case," Shaw said. "We do not believe justice was had in this case."

After listening to two hours of argument, Neel took under advisement Shanley's request for a new trial.

Throughout the trial, the bulk of the prosecution's case relied upon one man's memories of the alleged trauma that occurred in St. Jean's Catholic Church in Nonantum, according to court documents.

The victim, who was a 27-year-old firefighter when he testified, said he began recalling suppressed memories after hearing about the Boston Archdiocese sex abuse scandals in the media and listening to his former friends' accounts of being raped by Shanley.

According to the victim's trial testimony, the abuse began in the 1980s when he was 6 years old and continued until he was 12. He said Shanley would pull him from his classes to rape and fondle him in various places around the church, including the pews and the confessional.

The prosecution relied upon the testimony of Dr. Dan Brown and Dr. James Chu, both described as experts in the field of psychology, specifically as to how one mentally handles and remembers traumatic incidents.

But, said Shaw, their knowledge with which they based their testimony upon, is highly suspect.

Throughout most of yesterday's hearing, Shaw hammered away at Brown and Chu's methodology for gathering information and making their findings. Shaw argued that the scientific communities in which Brown said his theories of memory suppression were widely accepted include people involved with parapsychology and controversial practices, such as the study of apparitions, paranormal activities and "rebirthing" procedures.

Shaw also cited two separate cases in different states in which a guilty verdict was reversed and Brown's affidavit of expert opinion was struck from the record after his authority on memory suppression was called into question.

Shaw said the testimony from both men had profound impact on Shanley's case and should be able to stand up to scrutiny. He said the case was heavily covered by the media, which can be another factor influencing the accuracy of one's memories.

"It matters because the commonwealth's entire case ... was something called repressed memories," said Shaw. With Chu and Brown's testimony, "that's how the jury (made) sense of it."

Assistant District Attorney Loretta Lillios said Shanley's original attorney, Frank Mondano, called expert witness Dr. Elizabeth Loftus to present the questionable side of memory suppression, which includes suggestive or false recollections of events.

"All of those things, which are the essence of the matters presented to you by the defense, were (previously presented to the jury)," said Lillios.

Even after hearing the defense's version, the jury decided Shanley was

guilty, said Lillios.

Shaw also argued that a court officer stepped outside his role after the second day of the victim's cross-examination.

The victim, questioned by Mondano for two days, asked Neel to be excused the following day.

After the jury and victim left the courtroom, Neel announced the trial would continue the next day. He asked a court officer to see to it that the victim was aware he was asked to return, although he was not required, said Shaw. Had the victim not returned to complete his cross examination, a mistrial likely would have been declared.

After approaching the victim in a stairwell and informing him of the judge's decision, the court officer encouraged him to return and to "suck it up" for one more day, Shaw said.

"He influenced the victim to come back. He wanted to speak to this witness privately for purposes of influencing this witness to return," said Shaw.

Despite the court officer's actions, Judge Neel said yesterday the victim's return to the following day essentially aided the defense since they were able to finish their cross-examination.

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