

NEWS RELEASE

NC COURT OF APPEALS FAILS TO RULE ON CONSTITUTIONALITY OF OUR LEGISLATURE'S UNANIMOUS REVIVAL OF TIME-BARRED CLAIMS AGAINST PEDOPHILES AND THEIR ENABLERS

Wilmington, NC, May 3, 2022 – The NC Court of Appeals issued two opinions¹ today that avoid addressing whether the unanimously passed 2019 SAFE Child Act's "revival" provisions -- allowing adults to bring previously time-barred suits for sexual assaults committed against them as children -- are constitutional. Instead of protecting pedophiles and their enablers by declaring the Act unconstitutional, the Court issued a narrow ruling indicating that the SAFE Child Act (also known as S.B. 199) applies only to time-barred cases that were never previously litigated. The Court's opinions state:

Based on the plain language of the Revival Provision, **S.B. 199 revives only civil actions for child sexual abuse otherwise time-barred and does not revive civil actions for child sexual abuse barred by disposition of a previous action.** Without specific language from the Legislature to the contrary, this Court must observe the principles of the doctrine of *res judicata* as they apply to this case. . . .

Plaintiff's claims, had they not been dismissed with prejudice in 2014, would have fallen within the Revival Provision of S.B. 199. However, having been summarily dismissed, the final order of Mecklenburg County Superior Court precludes their revival in the absence of some other procedural tool...**While such an outcome may not have been the intent of the Legislature in drafting the Revival Provision, this Court is bound by the plain language of S.B. 199.**

(Emphasis added)

These opinions have NO IMPACT on Plaintiffs John Does 1-14's claims against the New Hanover County Board of Education for the admitted sexual assaults committed by Michael Kelly nor Jane Does 1-3's claims against the New Hanover County Board of Education regarding Peter Frank's conduct because these cases were not previously litigated.

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¹ The opinions are *John Doe v. Roman Catholic Diocese of Charlotte*, 2022-NCCOA-288, File No. 2022-NCCOA-288, May 3, 2022 and *John Doe 1K v. Roman Catholic Diocese of Charlotte*, 2022-NCCOA-288, File No. 2022-NCCOA-288, May 3, 2022, available at: <https://www.nccourts.gov/documents/appellate-court-opinions/court-of-appeals-published-opinions-filed-may-3-2022>.