



HIGH COURT OF AUSTRALIA

11 February 2026

AA v THE TRUSTEES OF THE ROMAN CATHOLIC CHURCH FOR THE DIOCESE OF
MAITLAND-NEWCASTLE ABN 79469343054
[2026] HCA 2

Today, the High Court by majority allowed an appeal from the Court of Appeal of the Supreme Court of New South Wales. The ultimate issue in the appeal was whether the respondent ("the Diocese") was liable to the appellant ("AA") for harm AA suffered as a result of Fr Pickin, a priest of the Diocese, sexually assaulting AA in 1969, AA then being a child aged 13 years.

AA commenced proceedings in the Supreme Court of New South Wales alleging that he was sexually assaulted by Fr Pickin. The primary judge found that Fr Pickin had sexually assaulted AA multiple times in 1969 in the presbytery, causing AA harm. The primary judge concluded that the Diocese was vicariously liable for the sexual assault committed by Fr Pickin; that the Diocese owed AA a common law duty of care which it breached; and that AA was entitled to damages. The primary judge did not determine the claim that the Diocese breached a non-delegable duty owed to AA.

The Court of Appeal allowed an appeal by the Diocese. AA accepted that the primary judge's holding that the Diocese was vicariously liable for the wrongful acts of Fr Pickin could not stand following this Court's decision in *Bird v DP (a pseudonym)* (2024) 98 ALJR 1349; 419 ALR 552. The Court of Appeal unanimously held that the Diocese did not owe AA the common law duty of care the primary judge had found. Applying *New South Wales v Lepore* (2003) 212 CLR 511, the Court of Appeal also unanimously held that there could be no non-delegable duty owed by the Diocese in respect of an intentional criminal act of one of its priests.

The High Court held, by majority, that the Diocese was liable to AA for breach of a non-delegable duty of care it owed to AA in 1969. The majority held that: (1) a non-delegable common law duty of care requires that the duty-holder has undertaken the care, supervision or control of the person or property of another, or is so placed in relation to that person or their property as to assume a particular responsibility for their or its safety; (2) a non-delegable duty may be breached by the intentional conduct of the duty-holder or their delegate, and to the extent the majority in *Lepore* held that there could be no common law non-delegable duty in respect of harm caused by an intentional criminal act, the decision should be re-opened and overturned; (3) on the facts as found by the primary judge, the Diocese in 1969 owed AA a non-delegable duty; (4) Fr Pickin's sexual assaults of AA meant that the Diocese breached that duty, causing AA the harm as found by the primary judge; and (5) the limitations on personal injury damages imposed by the *Civil Liability Act 2002* (NSW) applied to the determination of the extent of the liability of the Diocese.

This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.