

CASE NOTES

This section is read in pari materia with the Juvenile Code, in particular, § 7A-551. State v. Efir, 309 N.C. 802, 309 S.E.2d 228 (1983).

Evidence That Defendant in Sexual Abuse Case Had Gonorrhea. — Unequivocal evidence that a seven-year old girl had been sexually abused would invoke this section and § 7A-551. There-

fore, medical records maintained by a county health department, revealing that the defendant had been treated for gonorrhea, were admissible as evidence with regard to the cause or source of the child's disease. State v. Efir, 309 N.C. 802, 309 S.E.2d 228 (1983).

Stated in Spell v. McDaniel, 591 F. Supp. 1090 (E.D.N.C. 1984).

§ 8-53.2. Communications between clergymen and communicants.

No priest, rabbi, accredited Christian Science practitioner, or a clergyman or ordained minister of an established church shall be competent to testify in any action, suit or proceeding concerning any information which was communicated to him and entrusted to him in his professional capacity, and necessary to enable him to discharge the functions of his office according to the usual course of his practice or discipline, wherein such person so communicating such information about himself or another is seeking spiritual counsel and advice relative to and growing out of the information so imparted, provided, however, that this section shall not apply where communicant in open court waives the privilege conferred. (1959, c. 646; 1963, c. 200; 1967, c. 794.)

Legal Periodicals. — For note, "Privileged Communications — The New North Carolina Priest-Penitent Statute," see 46 N.C.L. Rev. 427 (1968). For comment surveying North Caro-

lina law of relational privilege, see 60 N.C.L. Rev. 630 (1972). For survey of 1983 law of evidence, see 62 N.C.L. Rev. 1290 (1984).

CASE NOTES

Privilege Is Statutory. — Apart from this statute, there is no privilege with reference to communications between a clergyman or other spiritual advisor and his communicants or others who seek his advice and comfort. In re Williams, 269 N.C. 68, 152 S.E.2d 317, cert. denied, 388 U.S. 918, 87 S. Ct. 2137, 18 L. Ed. 2d 1362 (1967), commented on in 45 N.C.L. Rev. 863, 884, 924 (1967).

Minister Related to Defendant. — In a criminal trial, the trial court erred

in allowing the mother of the victim, who was also the defendant's aunt and a minister, to testify with respect to statements made by defendant when she visited defendant while he was in jail, as this witness was acting at least in part in her professional capacity as a minister. State v. Jackson, 77 N.C. App. 332, 336 S.E.2d 437 (1985).

Stated in Spell v. McDaniel, 591 F. Supp. 1090 (E.D.N.C. 1984).

Cited in Spencer v. Spencer, 61 N.C. App. 535, 301 S.E.2d 411 (1983).

1986 State v. Berke

Chapters
8 through 8C

CASE NOTES

This section is read in pari materia with the Juvenile Code, in particular, § 7A-551. State v. Efir, 309 N.C. 802, 309 S.E.2d 228 (1983).

Evidence That Defendant in Sexual Abuse Case Had Gonorrhea. — Unequivocal evidence that a seven-year old girl had been sexually abused would invoke this section and § 7A-551. There-

fore, medical records maintained county health department, reveal that the defendant had been treated for gonorrhea, were admissible as evidence with regard to the cause or source of child's disease. State v. Efir, 309 N.C. 802, 309 S.E.2d 228 (1983).

Stated in Spell v. McDaniel, 61 S. Supp. 1090 (E.D.N.C. 1984).

§ 8-53.2. Communications between clergymen and communicants.

No priest, rabbi, accredited Christian Science practitioner, clergyman or ordained minister of an established church shall be competent to testify in any action, suit or proceeding concerning any information which was communicated to him and entrusted to him in his professional capacity, and necessary to enable him to discharge the functions of his office according to the usual course of his practice or discipline, wherein such person so communicates such information about himself or another is seeking spiritual counsel and advice relative to and growing out of the information imparted, provided, however, that this section shall not apply where communicant in open court waives the privilege conferred (1959, c. 646; 1963, c. 200; 1967, c. 794.)

Legal Periodicals. — For note, "Privileged Communications — The New North Carolina Priest-Penitent Statute," see 46 N.C.L. Rev. 427 (1968). For comment surveying North Caro-

lina law of relational privilege, see 61 N.C.L. Rev. 630 (1972). For survey of 1983 law of evidence, see 62 N.C.L. Rev. 1290 (1984).

CASE NOTES

Privilege Is Statutory. — Apart from this statute, there is no privilege with reference to communications between a clergyman or other spiritual advisor and his communicants or others who seek his advice and comfort. In re Williams, 269 N.C. 68, 152 S.E.2d 317, cert. denied, 388 U.S. 918, 87 S. Ct. 2137, 18 L. Ed. 2d 1362 (1967), commented on in 45 N.C.L. Rev. 863, 884, 924 (1967).

Minister Related to Defendant. — In a criminal trial, the trial court erred

in allowing the mother of the child who was also the defendant's aunt to testify with respect to statements made by defendant when admitted defendant while he was in jail. This witness was acting at least in part in her professional capacity as a minister. State v. Jackson, 77 N.C. App. 336 S.E.2d 437 (1985).

Stated in Spell v. McDaniel, 61 S. Supp. 1090 (E.D.N.C. 1984).

Cited in Spencer v. Spencer, 61 N.C. App. 535, 301 S.E.2d 411 (1983).

At the time, he didn't fit any of these definitions, did he?

*NC General Statutes
book 3 chaps 8-14⁶⁰*