

# Sherman's v. church of the divine light essay



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Thesis statement: This case of the Shermans v. Church of the Divine Light. According the case, the Shermans claim that their minor child has been the victim of illegal detention and intentional infliction of emotional distress and among other torts. They seek to be compensated for all the damages that such detention have brought to their minor child as well as the medical and other expenses they incurred in getting him away from the church and "bringing him" from their intentional "brainwashing" of their minor child. I. Will Rob Jr.

technically, his parents will sue the church on his behalf) be able to get this case to trial? What are the defenses that the church may raise in defense to Rob Jr. ' s causes of action? a)Yes, when the parents, Mr. and Mrs. Robert Sherman, Sr. , hereinafter called the Parents, decide to sue the church on behalf of Rob Jr. , there is a high likely hood that they could get the case to trial. For the fact that, their child was a minor and not capable of consent and was wrongfully detained by the church.

Based on these facts, I think the suit has a good chance of succeeding. )Some of the defenses, the church may raise in defense to Rob Jr. s cause of action could include: Consent: Consent can be either expressed or implied. Express consent exists when verbal or written contractual agreement occurs. In the case, Rob Jr.

did not sign any document that he is aware of what is going to happen, but the fact that he was a member and knew exactly what to be expecting; in a way he implied consent to the Church. Contributory negligence is defense to a claim based on negligence, an action in tort. It applies to cases where a

plaintiff has, through his own negligence, contributed to the harm he suffered. Yes, Rob Jr. suffered intentional infliction of emotional distress, but he had 6 months to get out and go to his parents especially when, he was exchanging mails to and from his parents. It could be argued that, although he was living there under the pretext of false imprisonment, he could have run or ask for help.

II. Will Rob Sr. and Bunny be able to succeed in their causes of action? What are the defenses that the church may raise in defense to the parents' causes of action? 1) Yes, Rob Sr. and Bunny Sherman will be able to succeed in their cause of action, against the church, according to facts of the case, the Church committed some intentional torts against the Shermans which are acts that are reasonably foreseeable to cause harm to an individual, which in our case is their minor child Rob Jr. The following are the torts the Shermans will use to succeed in their cause of action against the Church. They are namely, false imprisonment, intentional infliction of emotional distress, fraud and undue influence. ). False imprisonment- this is the complete restraint upon a person's liberty of movement without legal justification.

Actual physical contact is not necessary; a show of authority or a threat of force is sufficient. This could be implied in the case of the Shermans because, although the organizer of the youth retreat, Mr. Tom Marsden, did not physically use force to detain Rob Jr. , but allegedly made numerous excuses to keep Rob there, and since it did not work, and reached its pinnacle, Mr. Marsden told Rob, " If you leave, you will be thrown into the eternal fires of Hell.

That statement Mr. Tom Marsden said, made Rob Jr. stayed in the church. A person falsely imprisoned may sue the offender for damages. b) Intentional of emotional distress infliction - The term " emotional distress" means mental distress, mental suffering or mental anguish. It includes all highly unpleasant mental reactions, such as fright, nervousness, grief, anxiety, worry, mortification, shock, humiliation and indignity, as well as physical pain.

California has long recognized the right to recover damages for the intentional and unreasonable infliction of mental or emotional distress which results in foreseeable physical injury to plaintiff. California courts have also acknowledged the right to recover damages for emotional distress alone, without consequent physical injuries, in cases involving extreme and outrageous intentional invasions of one's mental and emotional tranquility. (State Rubbish etc. Assn. v.

Siliznoff (1952) 38 Cal. 2d 330, 336-337) Rob Jr. subsequently suffered some sort of emotional distress, when he was detained and abruptly cut off from his parents love and affection when he had to live with his supposed " new family". c) Fraud- Intentional deception resulting in injury to another person or an intentional misrepresentation, concealment, a false promise or a negligent misrepresentation. The following abstract from the case " The next day Tom had Rob Jr. wrote a letter to his parents telling them that he was planning to stay with the Church, as they were his " new" family. Rob Jr. was also told to demand money from his parents to cover his expenses. This clearly states the intent of fraud from Mr. Tom Marsden to the Shermans. d)

Undue Influence- This involves one person taking advantage of a position of power over another person.

Taking any fraudulent or unfair advantage of another's weakness in mind, distress, or necessity. The relationship between Rob Jr. and the Mr. Tom Marsden is a Priest/member of parish, Whereas, Mr. Tom Marsden to advantage of Rob Jr. ecause he was member and also because he was minor and used his position to influence the situation 2)Comparative negligence is a partial legal defense that reduces the amount of damages that a plaintiff can recover in a negligence-based claim based upon the degree to which the plaintiff's own negligence contributed to cause the injury. When the defense is asserted, the fact-finder, usually a jury, must decide the degree to which the plaintiff's negligence versus the combined negligence of all other relevant actors contributed to cause the plaintiff's damages. It is a modification of the doctrine of contributory negligence which disallows any recovery by a plaintiff whose negligence contributed, even minimally, to causing the damages.

This would be a good defense because why did it take the Parents of Rob Jr. 6 months to get him back from the church? As a parent myself, if my son is been detained by a church with out my consent is not going to take me 6 months to get him back, is going to be immediate. III.

Which causes of action are the strongest? Which are the weakest? )All cause of action the parents are suing for against the church are really strong, which includes Undue influence, fraud, Intentional infliction of emotional distress, and false imprisonment. There are evidences to support those claims and the

could win, on the other hand brainwashing seems to me to be the weakest because he was not brainwashed for that long as compared to others that take years, I am sure the church did not deprive him of food, sleep, bondage and torture and the recovery time too was minimal. )Brainwashing systematic effort to destroy an individual's former loyalties and beliefs and to substitute loyalty to a new ideology or power.

It has been used by religious cults as well as by radical political groups. It was apparent that the Church of Divine Light brainwashed Rob Jr. by isolating him from his parents and to thinking the church was his " family".