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By **Matt Rocheleau**

GLOBE CORRESPONDENT DECEMBER 12, 2014

Citing a new Massachusetts law extending the statute of limitations in child sex abuse cases, a judge ruled that a former Billerica man can proceed with a lawsuit against Harvard University that alleges he was repeatedly raped and molested by a swimming coach at the campus over four decades ago.

The lawsuit filed in June 2012 by Stephen Embry had been dismissed by a judge last November because it was filed about 15 months after the state's statute of limitations on such cases had expired.

However, Embry's lawyer, Carmen L. Durso, appealed that ruling, and in June lawmakers passed new legislation extending the statute of limitations in such cases. The law applied retroactively.

A judge this week ruled in favor of the appeal, overturning the dismissal of Embry's case and allowing his suit against Harvard to proceed.

"Harvard's motion to dismiss was originally granted solely on the basis of a statute of limitations which no longer applies to similar causes of action," Middlesex Superior Court Judge Bruce R. Henry said in his nine-page decision Monday, which Durso provided a copy of to the Globe on Friday.

“When someone is abused as a child and they get to the point in their life where they want to and are able to do something about it, they should be able to,” Durso said.

Embry, 57, alleges in his lawsuit that in 1969, when he was barely 12, he was abused by the swimming coach, Benn Merritt, who is now dead. The rape and molestation continued repeatedly for three years and occurred more than 100 times and usually at the Harvard pool, according to the suit.

Merritt, the suit alleges, also sexually assaulted at least two other boys, took nude photographs of Embry, and possessed nude photos of other boys.

The suit contends Harvard misled Embry on the statute of limitations on abuse claims. It also alleges the university failed to disclose a previous claim of abuse made against the coach in 1996. The allegations against Harvard in that matter were ultimately dismissed, while the case against Merritt was settled.

Merritt killed himself a few months after the legal action was filed in 1996.

On Friday, Harvard officials said that the acts Merritt is accused of committing “can only be described as despicable.”

“But there is no basis to suggest that the university had any knowledge of these events when they allegedly occurred more than three decades ago,” said a statement from university spokesman Jeff Neal.

Harvard has also previously denied that it misled Embry about the statute of limitations or that the school prevented him from taking legal action.

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