

**IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE**

SEAN WATSON, a single man,)	1 CA-CV 01-0500
)	
Plaintiff-Appellant,)	DEPARTMENT E
)	
v.)	O P I N I O N
)	
THE ROMAN CATHOLIC CHURCH OF THE DIOCESE)		(Redesignated by
OF PHOENIX, INC., an Arizona)		Order filed 2-13-03)
corporation; ST. THERESA'S CHURCH, an)		
entity of unknown legal organization;)		
THOMAS O'BRIEN, Bishop of the Diocese of)		
Phoenix; GEORGE BREDEMANN; and JOHN)		
McMAHON,)	
)	
Defendants-Appellees.)	
)	

Appeal from the Superior Court in Maricopa County

Cause No. CV 97-017953

The Honorable Paul A. Katz, Judge

AFFIRMED

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George V. Bredemann, Appellee	Buckeye
<i>In Propria Persona</i>	

P A T T E R S O N, Judge

¶1 Sean Watson appeals from the judgment of the Maricopa County Superior Court finding that his claim against appellees was barred by the statute of limitations. Because we find no trial court error, we affirm.

FACTS AND RELEVANT PROCEEDINGS

¶2 Watson filed suit against appellees alleging they were liable for damages he suffered as a result of being sexually molested as a twelve-year-old boy by appellee George Bredemann. Bredemann was then a Catholic priest acting within the Phoenix Diocese of the Roman Catholic Church, also an appellee. Bredemann is presently in the custody of the Arizona Department of Corrections for charges unrelated to his conduct with Watson. Appellees Thomas O'Brien and John McMahon were, respectively, Bishop and Monsignor within the Phoenix Diocese. McMahon served as senior pastor of St. Theresa's Parish where Bredemann was assigned.

¶3 For purposes of the proceeding from which this appeal is taken, it was uncontested that the molestation did occur as described by Watson. After hearing the evidence, the trial judge was convinced, "unequivocally," that Bredemann did molest or attempt to molest Watson.

¶4 At the time of filing suit, September 26, 1997, Watson was twenty-five years old. Because the molestation occurred during his minority, the two-year statute of limitations on Watson's claim began to run when Watson turned eighteen years old and expired on

his twentieth birthday.¹ Watson contended he had suffered involuntary repression of his memory of the molestation and that he had filed his case within two years of the time he spontaneously recovered the memory.²

¶5 By stipulation, the issue of whether the statute of limitations barred Watson's claim was bifurcated and presented at a bench trial.³ The trial court entered its findings and ruled that the statute of limitations had not been tolled and ordered the case dismissed with prejudice as time barred. Judgment in favor of appellees was entered April 12, 2001. Watson's motions for new trial were denied by order entered August 17, 2001, and this timely appeal followed. We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") section 12-2101(B), (F)(1) (1994).

¹Ariz. Rev. Stat. § 12-542(1) (1992) (two-year statute of limitations for actions for personal injury); A.R.S. § 12-502 (Supp. 2002) (statute of limitations is tolled during minority).

²Repressed memory is the popularized legal term for the psychiatric condition known as dissociative amnesia. Dissociative amnesia has three general criteria: (A) "an inability to recall important personal information, usually of a traumatic or stressful nature, that is too extensive to be explained by normal forgetfulness"; (B) "not due to the direct physiological effects of a substance or a neurological or other general medical condition"; and (C) "[t]he symptoms must cause clinically significant distress or impairment in social, occupational, or other important areas of functioning." American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV) 478 (4th ed. 1994).

³Watson also contended that he had been incompetent during the period of limitations. The trial court found against him on that claim, and Watson has not raised the issue on appeal.

BACKGROUND

¶6 Bredemann served in St. Theresa's Parish and was in charge of activities involving young people, among whom was Watson. Watson described Bredemann, a Catholic priest, as a "fun" influence, if not necessarily a good one. At the meetings, Watson sometimes had a chance to stand around and talk to "Father George," where he discussed Bredemann's relationship with and ability to talk to God. Watson testified that Bredemann would have been "cool" to any kid.

¶7 When Watson was twelve years old, Bredemann invited him to visit a place in the desert near Wickenburg, Arizona, that Bredemann owned and where he took children on unsupervised trips. This property was known as "the Castle," a witticism referring to its lack of structures or amenities. Bredemann took youngsters there ostensibly to help him improve the property so that handicapped children could use it for recreation. Watson's parents were happy to have him accompany Bredemann to the Castle, especially because their daughter would benefit from the improvements. Watson recalls visiting the Castle with Bredemann on three or four occasions in the spring and summer of 1984, together with at least one other boy in each instance. Watson also remembers that he and Bredemann talked once about sexuality, something to do with masturbation. Watson did not claim to have repressed this conversation.

¶8 Bredemann liked to walk around in the nude at the Castle and go skinny dipping, and Watson reported this to his parents at the time. Watson's parents discussed Bredemann's behavior and concluded that he was just a rugged outdoorsman and that his nudity was harmless. According to his parents, Watson did not appear upset by Bredemann's conduct but instead defended it by saying, "that's George; he's kind of a rough cut individual. He's a fun-loving guy and outdoorsy guy [sic] and that's just the way he is." At the time of trial, Watson testified he did not remember telling his parents about Bredemann's nudity.

¶9 On Watson's last apparent visit to the Castle and the occasion of the molestation, he was accompanied by a friend. Bredemann took Watson and his friend to a pond and induced them to take their clothes off to go swimming. Under the pretext of finding out whether Watson was circumcised, Bredemann persuaded Watson to take down his shorts. Bredemann then began "playing" with Watson's penis. When Watson realized the touching had started to feel good and he became a little aroused, he felt uncomfortable about those feelings and pulled up his shorts and swam away. The episode lasted no more than a minute or two. Watson testified he became concerned about his arousal at being fondled by another male, something that carried a lot of embarrassment.

¶10 That evening, Bredemann and Watson both put their sleeping bags into a shed that served as temporary sleeping

quarters. Bredemann stripped and went to bed naked. Watson fell asleep in his own sleeping bag, dressed in a tee shirt and shorts.

He testified:

A. The next thing that I recall was waking up with my sleeping bag unzipped and pulled aside. My shorts were down to my ankles, my shirt was pulled up and George Bredemann was over me in that doggie style position, I guess, with one hand on the ground, one hand fondling me.

Q. Fondling you in what respect?

A. In a masturbatory way on my penis, I guess.

Q. Was he also touching your scrotum?

A. Yeah, he was. Yeah. And he was up above me, you know, looking at me. I'm sure shocked that I don't know what his plans were or what. But he just--he had an erection himself and I, when I woke up, had an erection. And it became just uncomfortable silence. And he just told me just go back to sleep, it was a dream. And I was--I slowly put my clothes back on and zipped my bag back up and he did the same.

He didn't put his clothes back on. He went back in his sleeping bag and laid there and realized at that point [sic], without really understanding, that my butt hurt and just I had--I don't know--in fear. I didn't know what had been done. I didn't know. I didn't understand or comprehend. This was, you know --he was a priest. He was--I didn't understand.

¶11 Watson did not recall anything more about that trip to the Castle and did not report Bredemann's touching to anyone.

Watson's friend saw no indication that Watson was shocked or disturbed by Bredemann's nudity and recalled that Watson appeared to be having a good time.

Watson's Life Subsequent to the Molestation

¶12 In December 1988, when Watson was nearly seventeen years old, Bredemann was arrested for sexually molesting two other boys. Concerned for their son, his parents asked Watson whether anything had happened to him at the Castle or with Bredemann that was of a sexual nature. Watson said no and, according to his father, his reaction was "very, very swift" and "very, very much a denial and anger, not wanting to discuss it." Watson's mother noted that Watson seemed upset about what Bredemann had done, and reacted with a sense of betrayal and anger. Watson's parents did not feel they could say another word about it.

¶13 Because Watson continued to seem very upset and angry at the church over Bredemann's conduct, Watson's parents arranged for Watson to meet with Monsignor McMahon to get some insight into the Bredemann case and help them deal with their son. McMahon told them that the charges against Bredemann were as yet unproven, and they needed to wait and see how the situation turned out. McMahon said he did not believe Bredemann was capable of doing the things of which he was accused. McMahon also asked Watson if there was anything he would like to tell them. Watson's father recalled that Watson became "more and more closed" during that part of the

discussion. Watson had been reluctant to go to the meeting, and his reaction afterwards was that it had been a "waste of time." Watson testified at trial that he did not remember the meeting.

¶14 In May 1990, when Watson was eighteen years old, his parents learned of a lawsuit that had been filed against the Diocese by friends whose son had been molested by Bredemann. Their concerns re-arose and they again questioned Watson about whether Bredemann had ever molested him. He again emphatically denied it. Watson testified at trial he did not remember the lawsuit or his parents questioning him.

¶15 While the lawsuit was pending, a paralegal from the law firm representing the Diocese interviewed approximately thirty of St. Theresa's parishioners who had been in contact with Bredemann. Watson was interviewed in June 1994; he was then twenty-two years old. Watson recalled that Bredemann had walked around nude at the Castle and that Watson thought he had stopped going to the Castle because the nudity had made him uncomfortable. He specifically recalled that Bredemann had made a comment about Watson's penis. He also denied that Bredemann had ever made advances toward him, but he alluded to other incidents which made him uncomfortable but that he could not remember specifically. He said he believed Bredemann was "doing something odd." Watson's parents recalled that he seemed "very, very closed [and] very, very angry" when they broached the subject of Bredemann and the Castle after

the phone call from the paralegal. Watson testified at trial that he did not recall this interview.

Watson's Alleged Memory Recovery

¶16 Watson's account of his alleged memory recovery varied somewhat in his trial testimony and pretrial interrogatory and deposition. He did not recover the Bredemann molestation memory as a result of therapy, however, as he had never sought psychological or psychiatric care until shortly before suit was filed. He testified at trial that he had recovered the memory of the molestation on October 4, 1995, the day he heard the verdict announced in the O. J. Simpson murder trial while at the Acme Bar and Grill in Tempe. A friend named Delmar Jenson worked there and Watson was watching the Simpson news coverage on television in the bar, and becoming increasingly upset and sickened:

[I] went back to some of those days when my mom used to bring me to church. I didn't want to go. I started sweating, shaking and a deep feeling of guilt, remorse, all that had come over me. At that point in time I recalled what had happened on the trips up to "The Castle" about the molestation. . . . I walked back to the kitchen and told Del I needed to talk to him. . . . I just remember telling Del I'd been molested by a priest.

Watson said he could not remember any more of what he had said to Jenson on that occasion. He also testified that he was at that time using as much crystal methamphetamine as he could afford and that he spent the next year and a half in the worst spell of drug

use he had ever been in, binging on pills and intravenous drugs, and nearly killing himself with an overdose.⁴

¶17 In a pretrial interrogatory answer, Watson stated that he and Jenson had been together discussing the Simpson verdict and "how the bad guy got off" and he remembered "a weird sense that [Watson] had been grievously wronged in [his] life and that the bad guy had somehow gotten away." He "just blurted out" the fact that he had been sexually molested by Bredemann, but he and Jenson "did not discuss the matter in any detail."

¶18 In a pre-trial deposition, Watson testified he and Jenson were standing together in the kitchen of the Acme Bar when the memory breakthrough came. In response to a comment about the Simpson trial, Watson had said words to the effect of, "I was molested by a priest." In his deposition, he denied having used the word "fucked" to describe the molestation.

¶19 Jenson testified, however, that he could not be certain the conversation with Watson about the molestation took place a week before or a week after the Simpson verdict was rendered and

⁴The trial court noted that much of Watson's testimony, and that of his family members, concerned Watson's long history of heavy substance abuse, which began in high school, and his unsettled lifestyle, which began after his attempt at college. The trial court found that Watson's "use of drugs was more related to the peer group with which he associated than to the trauma he suffered with Bredemann." The trial court believed that, even if his drug use had been "a means of coping with the trauma and the conflict that it created with his Catholic beliefs and upbringing, it was not a manifestation of his repressed memory."

that they did not discuss the Simpson verdict at all. He said Watson had used the terms "fucked by a priest" and "raped by a priest" in that conversation and had told him about the circumstances of the molestation in some detail over the next forty-five minutes. Jenson also testified Watson did not tell him at that time he had just remembered the molestation, or that he had forgotten about it, and Jenson assumed Watson was telling him about it to get it off his chest.

¶20 Watson also testified how he had brought up the Bredemann molestation on at least one occasion with a group of his friends; that is, "a house full of people doing the same drugs" who would "hang out and talk." His friends were "coming down" on him because of his excessive drug use, and he became angry, so he said, "Hey, have you ever been fucked by a priest?" He admitted that he said this in order to rationalize his drug abuse. He could not pinpoint the time frame for this event.

¶21 Watson did not reveal Bredemann's molestation to his family until nearly two years after the purported recovery of his memory and the account of the recovery also varies. He was at the family home to retrieve his belongings and leave home. This decision came a few days after a disturbing and emotional late-night encounter between Watson, who had been "partying," and his father.

¶22 When Watson returned for his possessions, his sister was home and questioned him persistently about leaving. Watson finally revealed the Bredemann molestation by telling his sister that he had just recently remembered the incident a few months ago, not specifically twenty months ago, but he did not mention the Simpson verdict.

¶23 While they were talking, Watson's mother returned home and wanted to know why both of them were so upset. Watson's sister urged him to tell his mother what had happened, and he did. Watson told his mother he had remembered the molestation "a while back" or "a few months ago" with friends while under the influence of drugs or alcohol. He and his group of friends were doing "disgusting guy things" where they would shout out gross things such as, "Have you ever had sex with this and that?" Watson had blurted out something about having a priest molest or rape him. His mother had understood Watson to say that Jenson was with him in the group, but Watson did not say he was alone with Jenson, that he was at Jenson's place of work, that he was having a serious conversation with Jenson, that the conversation had taken place twenty months earlier, or that he was watching news of the Simpson verdict.⁵

¶24 His mother then urged him to confide in his father, which he did. Watson's father's best recollection of what he was told by

⁵Jenson denied that he had been at any "gross out" party with Watson.

Watson was that Watson was with a group of friends discussing the Simpson trial when the memory came back. Watson's father recalled Watson's mother explaining to him that night, after she had talked to Watson, that Watson had been at a party with "wild behavior" and that Watson had made the revelation during this party that he had been raped by a priest. From later conversations with Watson, his father remembered learning about Jenson, a group of friends, and a wild party. Watson told his parents that he had not revealed the molestation to them before because he was afraid it would hurt their faith.

¶25 Watson consulted with counsel shortly after telling his family, and this action was filed September 26, 1997.

STANDARD OF REVIEW

¶26 Watson presents three issues for review,⁶ all of which challenge aspects of the trial court's factual findings. This court is bound by the trial court's findings of fact unless they are clearly contrary to the evidence. *Polk v. Koerner*, 111 Ariz. 493, 494, 533 P.2d 660, 661 (1975). If the judgment can be supported by the evidence, we must affirm it. *Id.* We "examine the record only to determine whether substantial evidence exists to support the trial court's action. Substantial evidence is evidence which would permit a reasonable person to reach the trial court's

⁶Watson's statement of issues lists four, but the argument portion of his brief has evidently combined two of them.

result." *In re Estate of Pouser*, 193 Ariz. 574, 579, ¶ 13, 975 P.2d 704, 709 (1999) (citation omitted); accord *SAL Leasing, Inc. v. State ex rel. Napolitano*, 198 Ariz. 434, 438, ¶ 13, 10 P.3d 1221, 1225 (App. 2000). In addition to express findings made by the trial court, we imply "any additional finding that is necessary to sustain the judgment, if reasonably supported by the evidence, and not in conflict with the express findings." *Coronado Co., Inc. v. Jacome's Dep't Store*, 129 Ariz. 137, 139, 629 P.2d 553, 555 (App. 1981). In matters involving the trial court's legal conclusions, our review is *de novo*. *SAL Leasing, Inc.*, 198 Ariz. at 438-39, ¶ 13, 10 P.3d at 1225-26.

Alleged Error Relative to Finding of Cognitive Avoidance

¶27 The essence of Watson's argument on this issue is that the trial court erred by finding that Watson's "cognitive avoidance" of the Bredemann molestation did not toll the statute of limitations. According to Watson, cognitive avoidance is equivalent to dissociative amnesia for purposes of tolling under Arizona law because both are forms of memory loss. Watson puts the argument as follows:

The trial court . . . found that [Watson's] *memory loss* was conscious and deliberate: he wanted to put it out of his mind. This is known as cognitive avoidance. The trial court erroneously held that [Watson's] *memory loss* did not toll the statute of limitations because it did not result from involuntary repression of memory. (Emphasis added.)

Watson also argues the trial court adopted Illinois law to hold, contrary to Arizona law, that loss of memory due to cognitive avoidance is not sufficient to toll the statute of limitations.

¶28 In support of his argument, Watson cites various portions of the trial court's findings to establish that the trial court never expressly found that Watson was able to remember the events with Bredemann. Thus, he reasons, the trial court found that Watson experienced actual memory loss and that a memory loss, whatever the reason, tolls the statute of limitations.

¶29 Watson's argument is based upon an incorrect premise; namely, that the trial court found Watson suffered a loss of memory. To the contrary, the trial court's findings repeatedly deny this:

This Court believes that [Watson's] memory of the events in question was never repressed [As of the time Watson turned] 18 on January 16, 1990, this Court believes that the memories of the events with Bredemann were subject to his recall or reminiscence

. . . .

. . . . This Court cannot, in good faith, based upon the facts and evidence in this case find that . . . [Watson's] memory was repressed

While the trial court did not say *in haec verba* that Watson could at all times have remembered the events, the only rational implication from these findings is that the trial court did not

believe Watson suffered any *loss* of memory or was ever *unable* to remember what had happened to him.

¶130 The trial court believed, rather, that Watson “willfully placed these events out of his mind either because they were not important to him, or the benefits of remaining silent outweighed the turmoil that disclosure would cause within his family and church,” or because of “embarrassment.” The trial court noted that Watson’s escalating drug use, which included intravenous drugs, caused his focus on the events of his childhood to fade for a period of years. The trial court ultimately concluded that Watson had deliberately chosen to disclose the molestation by Bredemann to his family at a point when “he perceived that he was going to be permanently excommunicated from [his] family” and that his decision to disclose was an attempt “to regain favor with his family and to make a break away from” his destructive lifestyle.

¶131 The *sine qua non* of dissociative amnesia is the *inability* to remember, the *involuntary* loss of memory. *Doe v. Roe*, 191 Ariz. 313, 319, ¶ 19, 955 P.2d 951, 957 (1998) (memory repression, also known as dissociative amnesia, “is the involuntary blocking of memory so that the memory remains stored but inaccessible to the conscious mind”). In its ruling the trial court noted that a conscious effort to avoid thinking about an event is called “cognitive avoidance” and correctly distinguished cognitive avoidance from dissociative amnesia, which is *unconscious* and

involuntary. Watson's expert psychologist, Dr. Daniel Brown, defined cognitive avoidance as "a *continuous* memory" that the subject does not talk about because he or she is uncomfortable. (Emphasis added.) Dr. Brown acknowledged that choosing not to think about an event is not an unconscious psychological process but a deliberate thought process. Appellees' expert psychologist, Dr. Charles Brainerd, described cognitive avoidance as "the antithesis" of dissociative amnesia. After hearing all of the testimony and evidence, expert and lay, the trial court concluded that Watson's memories were not inaccessible, or lost, and either were or could have been retrieved within the period of limitations.

¶32 Contrary to Watson's contention, the trial court did not adopt or apply any rule concerning cognitive avoidance that is contrary to Arizona law from the Illinois case cited in its ruling, *Clay v. Kuhl*, 696 N.E.2d 1245 (Ill. App. Ct. 1998). *Clay* merely illustrates the significance of being *unable* to remember, an involuntary loss of memory, which may toll the statute of limitations, as opposed to an ambiguous allegation that plaintiff "had no memory of the molestation" until shortly before she filed the action. *Id.* at 1251 (quoting plaintiff's complaint). The *Clay* court ordered the plaintiff to file an amended pleading setting forth the reason why she "had no memory" so that the trial court might determine whether her reasons for lack of memory met the standards of legal and scientific sufficiency for tolling the

statute of limitations due to repressed memory of abuse. *Id.* at 1251-52.

¶133 Watson argues that, as a matter of policy, a pedophile such as Bredemann should not be rewarded by the protection of the statute of limitations when he did something so outrageous that Watson did not want to remember it. Fundamental policy behind statutes of limitation does not, however, equate a plaintiff who deliberately avoids a memory to a plaintiff who is in a "blamelessly uninformed" state. *Doe*, 191 Ariz. at 322, 330 ¶¶ 29, 55, 955 P.2d at 960, 968 (statutes of limitations protect against stale claims where plaintiffs have slept on their rights). Our supreme court has determined that tolling the statute of limitations is an appropriate policy for those whose memories are "inaccessible" but, *a fortiori*, not for those who can remember. *Id.* at 324, ¶ 37, 955 P.2d at 962. Having found, as a matter of fact, that Watson was in the latter category, the trial court was legally compelled to find that the statute had not been tolled.

Weight of the Evidence Relative to Dissociative Amnesia

¶134 Watson argues that the trial court's rejection of Watson's claim of dissociative amnesia is against the "clear weight of the evidence" and must be overturned. The specific finding attacked by Watson is that Bredemann's sexual contact with Watson was minimal.

¶35 The trial court cited to the non-violent and short-lived nature of the sexual contact between Watson and Bredemann as one factor in reaching its ultimate conclusion that Watson did not suffer from repressed memory:

[Watson] was approximately 12 years old when the recalled event took place. The event, while sexual was non-violent and short lived. While [Watson] clearly felt embarrassment or even humiliation, he was not the victim of a violent or repetitive trauma. His embarrassment, coupled with the fact that he had not suffered any violent or significant sexual abuse or physical injury, and had been raised in an observant Catholic family where priests were god-like, would cause him, as a young teenager to want to cognitively avoid recollection of this sad and unexpected event.

¶36 Watson argues that the trial court's assessment of the contact with Bredemann was the "crux" of the finding that Watson did not suffer from dissociative amnesia and was not justified by the record. He attempts to persuade us the weight of the evidence showed that Bredemann committed anal rape upon Watson and thus the event was "per se" violent.⁷

⁷Although Watson's brief does not discuss the result to be reached if this particular finding were invalidated, we conclude he must be contending that, without this finding, we would necessarily have to overturn the trial court's decision and rule that Watson did suffer from dissociative amnesia, thereby finding that Watson's claim is not barred by limitations. If this is his position, he cites no authority to support it and we find it to be without merit. The finding of a non-violent sexual contact was only one of several factors cited by the trial court in support of its ultimate decision that Watson was always able to remember the event. Were we to conclude that this particular finding is clearly erroneous, we would nevertheless be required to affirm the judgment if the
(continued...)

¶37 Our duty on review is not, however, to reweigh the evidence or redetermine the preponderance of evidence. See *Estate of Pouser*, 193 Ariz. at 579, ¶ 13, 975 P.2d at 709. We are bound by this finding unless it is clearly erroneous, giving “due regard . . . to the opportunity of the trial court to judge the credibility of witnesses.” Ariz. R. Civ. P. 52(a). We defer to the trial court’s determination of the weight to give conflicting evidence. *Gutierrez v. Gutierrez*, 193 Ariz. 343, 347-48, ¶ 13, 972 P.2d 676, 680-81 (App. 1998).

¶38 As evidence of anal penetration, Watson cites his recollection that, after Bredemann abruptly returned to his own sleeping bag, Watson remembered an aching in his anus. Watson also notes that he later described the event to others as being “raped” or “fucked” by a priest. He argues that these circumstances demonstrate that anal penetration must have occurred but that he continues to repress that part of his memory.

¶39 The evidence supporting the trial court’s finding of non-violent contact includes Watson’s own testimony. Watson specifically denied any memory of anal contact or penetration by

⁷(...continued)
remainder of the evidence as a whole supported the result reached by the trial court. See *Polk*, 111 Ariz. at 494, 533 P.2d at 661. Watson does not present argument or authority to demonstrate that the trial court’s decision could not stand without the challenged finding, and we need not reach the issue because we find sufficient evidence to uphold the trial court’s finding.

Bredemann's penis and reported no residual physical evidence of such an act. As appellees point out, if Bredemann had attempted penetration, something Watson testified he had never experienced before, it is likely that Watson would have been awakened and that there would have been some residual physical evidence of the act.

¶40 Watson's expert psychologist, Dr. Brown, interviewed and tested Watson extensively but offered no opinion that Watson's memory of the contact with Bredemann remained partially repressed. As the trial court noted, Watson had not recovered any such memory, despite months of therapy and years (over five) since recollecting the events. Dr. Brown agreed that there was no evidence of threats, pain, violence, or penetration--apart from Watson's remembered pain--and he testified that the trauma of Watson's encounter with Bredemann "wasn't that severe."

¶41 The weight to be afforded to the evidence was for the trial court. We are unable to say that the trial court's finding of minimal, non-violent contact between Watson and Bredemann was not a reasonable conclusion from the evidence, and we must therefore uphold it.

Evidence of Dissociation and Betrayal Trauma

¶42 Watson argues that the trial court failed to consider a predictor of repressed memory described as "dissociation and betrayal trauma" and contends that the trial court rejected "uncontradicted and compelling evidence" that Watson fit this

profile for repressed memory. As Watson sees it, the trial court's finding that he did not suffer from dissociative amnesia was based on either a misunderstanding of the evidence or a decision not to accept the opinion of Watson's expert. Watson argues that, because the trial court accepted for purposes of its analysis that the phenomenon of dissociative amnesia exists, it was obliged to accept the testimony of Watson's expert that Watson suffered from that condition.

¶43 To begin with, this argument is a *non sequitur*. Accepting that some individuals have experienced dissociative amnesia does not lead inevitably to the conclusion that a particular victim, Watson in this case, experienced it. Watson does not allege trial court error in excluding evidence on this issue but instead argues that, because only Dr. Brown had assessed Watson clinically and Dr. Brown believed Watson suffered from dissociative amnesia, "the Court's decision to ignore [this evidence] was clearly erroneous."

¶44 Watson is asking, in essence, for us to hold that the trial court was required as a matter of law to accept Watson's expert's testimony, but that is something we are not free to do. See, e.g., *State v. Neal*, 143 Ariz. 93, 97, 692 P.2d 272, 276 (1984) (the credibility of and weight to be given expert medical testimony are issues of fact for jury). A trier of fact may accept or reject expert testimony and give it the weight, if any, deemed

appropriate. *State v. Bishop*, 162 Ariz. 103, 107, 781 P.2d 581, 585 (1989). A trial judge "may rely on particular views of one or more experts even though he or she may disagree with the expert's ultimate conclusion." *Id.*; see also *State v. Cano*, 103 Ariz. 37, 41-42, 436 P.2d 586, 590-91 (1968) (expert testimony regarding sanity is merely evidence for the trier of fact to consider and weigh). "The trial judge may rely on some testimony from one expert and other testimony from another expert and draw his [or her] own conclusions." *Bishop*, 162 Ariz. at 107, 781 P.2d at 585. Even a lack of controverting evidence does not prevent the trial judge from giving an expert's opinion any weight deemed proper, or no weight. *Crystal Bottled Waters v. Indus. Comm'n of Ariz.*, 174 Ariz. 184, 185-86, 847 P.2d 1131, 1132-33 (App. 1993) (expert evidence of suitability and availability of employment for claimant is not conclusive).

¶45 Moreover, Dr. Brown's testimony was not as unequivocal as Watson characterizes it. Dr. Brown acknowledged studies showing that the best predictors for developing amnesia for incidents of abuse were (1) young age of onset, (2) multiple incidents of abuse, and (3) severity of abuse, and he acknowledged that Watson did not fit this profile. Dr. Brown also acknowledged that only 15% to 20% of victims have full amnesia after childhood sexual abuse and that, in general, the majority of people retain their memories for

traumatic events. Thus, the statistical likelihood that Watson had experienced dissociative amnesia was not high.

¶46 Dr. Brown offered his opinion that, because of inconsistencies in studies of dissociative amnesia, the more recent approach in the field was to look to other factors and that a "dissociative coping style" and a "betrayal trauma" were now considered to be better predictors of persons who will be affected. Dr. Brown opined that Watson has a dissociative coping style and that molestation by a priest was the sort of trauma from betrayal by a trusted person that leads to dissociative amnesia.⁸

¶47 Dr. Brown also testified, however, that Watson was only in the low/moderate range for a dissociative coping style, not high, and he characterized Watson's test results as showing only "some modest evidence" of it. Moreover, Dr. Brown acknowledged that other researchers had historically viewed betrayal trauma as purely theoretical. Dr. Brown himself described it as a theory supported by "some evidence . . . just emerging." Dr. Brown's description of the effect of a betrayal trauma on memory suggested

⁸Watson's arguments are internally inconsistent. On one hand he argues for evidence of a violent anal rape as causing the dissociative amnesia and, on the other, he argues to support Dr. Brown's opinion that dissociative coping style and betrayal trauma were more reasonable predictors for Watson's dissociative memory than the trauma of the molestation because the molestation trauma "wasn't that severe." Dr. Brown agreed that the molestations all happened within a twenty-four hour period, involving nudity and "two incidents of brief touching of [Watson's] penis."

that it was more akin to cognitive avoidance than to involuntary dissociative amnesia. Dr. Brown testified that a child sexually abused by a priest faces a "dilemma" because: "[I]f he tells, [it] destroys the parents' special relationship with the church. If he didn't tell, then he has to put it out of his mind and may completely forget it." Dr. Brown agreed that choosing to put an event out of mind is entirely different from the involuntary suppression of an experience that is too traumatic to hold in conscious thought.

¶48 Dr. Brown also conceded that the most widely endorsed explanation for later recovery of the memory of abuse was exposure to situations that remind the victim of the abuse. Yet, he acknowledged that Watson had been asked point-blank whether Bredemann had abused him on at least three occasions without "triggering" his recall.

¶49 Other evidence called Dr. Brown's opinion into question. Appellees' expert, Dr. Brainerd, did not believe that Watson suffered from dissociative amnesia. Among other things, Dr. Brainerd pointed to Watson's ability to recall, both contemporaneously and on various subsequent occasions, the circumstances of his trips to the Castle with Bredemann, including events of a sexualized nature. Watson told his parents at the time about Bredemann's nudity and skinny dipping and told an interviewing paralegal about it several years later, as well as

Bredemann's comment about Watson's penis. In Dr. Brainerd's opinion, the ability to recall these sexualized details was inconsistent with dissociative amnesia.

¶150 Dr. Brainerd explained that Watson could have forgotten some of the events at the Castle yet had them available for recall if reminded, a process known as reminiscence. Reminiscence is, however, just an aspect of ordinary forgetting and "not close to being the same thing" as dissociative amnesia with recovered memory. Dr. Brainerd agreed that ordinary forgetting is not dissociative amnesia. Dr. Brainerd was unaware of any studies to confirm the betrayal trauma hypothesis and pointed out one that clearly refuted it.

¶151 Watson emphasizes Dr. Brown's "irrebuttable" testimony that it was "very unlikely" Watson was "malingering about his memory performance." Watson correctly notes, however, that Dr. Brown could not properly testify as to whether Watson was telling the truth. *State v. Lindsay*, 149 Ariz. 472, 475, 720 P.2d 73, 76 (1986) (expert may not give an opinion as to credibility or truthfulness of another witness). Dr. Brown admitted that he had to assume Watson was telling him the truth and could not say whether Watson's statements were accurate as that determination was for the trier of fact.

¶152 Dr. Brown's clinical testing of Watson found him to have a mixed personality disorder and narcissistic, histrionic traits.

Dr. Brown described Watson as self-absorbed and attention seeking, and one who could exaggerate his emotional expression. This basic personality structure was independent of any abuse Watson had suffered from Bredemann. In addition, Dr. Brown's testing revealed evidence that Watson had a previously undiagnosed "type two bipolar condition" and that this condition would provide an explanation for some of the "mood effects" observed by his family as he was growing up.

¶53 Watson contends that *Doe* and *Logerquist v. McVey*, 196 Ariz. 470, 1 P.3d 113 (2000), hold that clinical evidence of dissociative amnesia for sex abuse "should be given great weight" by the trial court. To the contrary, both cases counsel caution, even skepticism, about such claims. *Doe*, 191 Ariz. at 320-21, ¶ 23, 955 P.2d at 958-59; *Logerquist*, 196 Ariz. at 490-91, ¶ 63-64, 1 P.3d at 133-34. In any event, it was for the trial court to assess the credibility and weight of the expert testimony, and we have been shown no basis for disturbing the trial court's assessment.

CONCLUSION

¶54 While we wholeheartedly concur with the trial court's description of Bredemann's conduct as "outrageous," and of the incident as one which was "sad and unexpected," we can find no error in the trial court's decision that the statute of limitations

bars Watson's claim. Accordingly, the judgment of the superior court is affirmed.

CECIL B. PATTERSON, JR., Judge

CONCURRING:

ANN A. SCOTT TIMMER, Presiding Judge

G. MURRAY SNOW, Judge