

0001

1 COMMONWEALTH OF MASSACHUSETTS
2 SUFFOLK, ss SUPERIOR COURT DEPARTMENT
(Consolidated CA No. 02-1296)
3
4 JAMES M. HOGAN, et al.,
Plaintiffs,
5
vs.
6
THE ROMAN CATHOLIC
7 ARCHBISHOP OF BOSTON,
a Corporation Sole, et al.,
8 Defendants.

9 GREGORY FORD, et al.,
Plaintiff,
10
vs. 02-04551-T1
11 (Originally
BERNARD CARDINAL LAW, et al., entered in
12 Defendants. Middlesex County as
CA No. 02-0626)
13 -----
14 PAUL W. BUSA,
Plaintiff,
15 vs. 02-04628-T1
(Originally
16 BERNARD CARDINAL LAW, et al., entered in
Defendants. Middlesex County as
17 CA No. 02-822)

18 ANTHONY DRISCOLL,
Plaintiff,
19
vs. 02-04565-T1
20 (Originally
BERNARD CARDINAL LAW, et al., entered in
21 Defendants. Middlesex County as
CA No. 02-1737)
22 -----
23 VIDEOTAPED DEPOSITION OF BISHOP ROBERT J. BANKS
VOLUME 1
24 November 7, 2002

10068

1 (Recess.)

2 THE VIDEOGRAPHER: The time is 11:29.

3 We're on the record.

4 Q Okay. Now, Bishop Banks, in the course of
5 dealing with what you've described as this very
6 serious problem involving priests having sexual
7 misconduct with minors, did you ever make a
8 determination as to the number of victims that
9 these priests might have had?

10 A No, I didn't.

11 Q But you knew that in some cases, there was more
12 than one victim; is that correct?

13 A Yes.

14 Q And you knew that these priests who had had
15 credible allegations of sexual misconduct
16 involving minors against them, that many of them
17 had served in different parishes; is that
18 correct?

19 A It might be correct. I'd have to see the
20 records.

21 Q Let's take a look at Father Birmingham, for
22 example. You knew that Father Birmingham had
23 served in various parishes since his ordination
24 in 1960, correct?

00178

1 on, quote, unquote, to somebody who was mentally

2 ill; is that correct?

3 A I don't know what you mean by --

4 MR. PERRY: Objection.

5 A -- "coming on."

6 Q That's what it says.

7 A So long as -- there was no suggestion to me that

8 in the conversation with Mr. T. that he was

9 complaining that Father Shanley was -- made an

10 approach to him.

11 Q It says right here, "T. thought he was coming on

12 to him."

13 Do you see that in the first paragraph? Do

14 you see that?

15 A I see that, but he did not say to me, he did not

16 allege to me -- because I would have put it

17 down -- that Father Shanley was propositioning

18 him or trying to molest him.

19 Q Do you have a recollection of this incident

20 separate and apart from what is contained in

21 Exhibit No. 9?

22 A No, I don't.

23 Q Now, you would agree with me, even accepting what

24 you just said, that this is a serious allegation

00179

1 about a priest of the Archdiocese; is that

2 correct?

3 A This is a serious allegation about a

4 conversation.

5 Q Yes. But serious conduct though, serious

6 conduct? If it were true, it would be serious;

7 is that correct?

8 A Not -- serious conversation.

9 Q Well, you would agree with me that it would be

10 improper for a priest of the Archdiocese in 1988

11 to be going into a mental hospital and talking to

12 a patient about sado-masochism and, in the words

13 of the mental patient, coming on to him. That

14 would be inappropriate?

15 A It would be inappropriate and improper to carry

16 on a conversation like that.

17 Q And it would raise concerns to you, would it not,

18 as to whether or not Father Shanley was

19 appropriately assigned as pastor to a family

20 parish in Newton, Massachusetts, if this were

21 true, correct?

22 A It would raise concerns, yes.

23 Q Concerns that, for example, might trigger either

24 a review of Father Shanley's records or an

00180

1 assessment; is that correct?

2 A Yes.

3 Q Or eventually, removal of Father Shanley from his

4 pastorate at St. Jean's?

5 A Not on the basis of this conversation, no.

6 Q Well, you would find it acceptable, if it were

7 determined to be true, for Paul Shanley to be

8 working as pastor at St. Jean's while going to

9 mental hospitals and having conversations about

10 sado-masochism with patients and coming on to

11 patients? It would be acceptable to you for him

12 to remain as pastor if this allegation were true?

13 MR. PERRY: Objection.

14 A You had a long question there --

15 Q Sure. Let me break it up.

16 A -- in which you mixed a lot of things. Some I'd

17 agree to and some I wouldn't.

18 Q Well, Mr. T. alleges that Shanley, Father

19 Shanley, made a reference to sado-masochism, then

20 began to zero in on the subject, describing very

21 graphically and in much detail a particular

22 incident. Okay?

23 A Yes.

24 Q Do you read that?

00181

1 A Yes.

2 Q And it goes on to say that the patient thought he
3 was trying to get him to accept the idea and the
4 patient thought he was coming on to him.

5 Do you see that?

6 A Yes.

7 Q Okay. If in fact all this were true, okay, is it
8 or is it not the case that Father Shanley would
9 have been removed from working as pastor at this
10 family parish in Newton, Massachusetts?

11 A Not necessarily.

12 MR. PERRY: Objection.

13 Q Can you envision any set of circumstances under
14 which it would be appropriate for a priest to go
15 into a mental hospital and talk to a vulnerable
16 patient about sado-masochism, graphically
17 describing sado-masochism and then coming on to
18 the patient?

19 MR. PERRY: Objection.

20 MR. ROGERS: I object to the form of
21 the question.

22 MR. MacLEISH: Go ahead.

23 A It's improper to do that.

24 Q But that would not necessarily lead to his

0182

1 removal as pastor?

2 A Not necessarily.

3 Q Okay. All right.

4 And you'll note here, Bishop Banks, that
5 there was a nurse that Mr. T. claims he mentioned
6 this incident to on the floor and he also
7 mentioned it to the floor coordinator.

8 Do you see that?

9 A Uh-huh.

10 Q Do you see it?

11 A Yes.

12 Q Did you take any action to speak with any of
13 these individuals at the hospital as to what
14 Mr. T. had reported to them?

15 A No, I did not.

16 Q Okay. Did you think it was important that
17 this -- that these allegations be thoroughly
18 investigated?

19 A I thought that if these -- that the best way to
20 investigate them would be for Mr. T. to bring
21 them to the attention of the hospital
22 authorities, who could carry on their particular
23 investigation.

24 Q But Mr. T. was talking to you because Father

00183

1 Shanley was working as a priest of the

2 Archdiocese; is that correct?

3 A And I wrote back to him that if he was

4 dissatisfied with my conclusion, that he should

5 speak to the hospital authorities.

6 Q Well, the hospital authorities have authority

7 over the hospital. They don't have authority

8 over the Church, correct?

9 A Yes.

10 Q Mr. T. felt it was important that someone at the

11 Archdiocese know that this priest of the

12 Archdiocese had said these things to him.

13 MR. ROGERS: Objection to the form of

14 the question. Foundation.

15 MR. PERRY: Objection.

16 Q He came in to see you?

17 A Yes.

18 Q He came in to see you?

19 A Right.

20 Q Bishop McCormack felt it was serious enough that

21 it was referred to you personally?

22 A Right.

23 Q Is it a fair conclusion that Bishop McCormack

24 wanted you to know about this because you state:

00184

1 "Finally, he told Father Keenan, who
2 referred him to Father McCormack, who referred
3 him to me."

4 That's what you wrote?

5 A Yes. Right.

6 Q So Father McCormack felt this was serious enough
7 that it required the attention of the person who
8 was, in effect, his supervisor?

9 MR. PERRY: Objection.

10 MR. ROGERS: Objection to the question.

11 I think there's no foundation for that
12 conclusion.

13 MR. MacLEISH: Okay. Go ahead.

14 A I don't know why he referred it to me. He
15 referred it to me.

16 Q And so this -- Mr. T. came in to see you because
17 he, Father Shanley, he reported that this
18 incident had occurred, correct?

19 A Reported it to who?

20 Q He reported to you. You spoke with Mr. T.
21 directly about this incident?

22 A Yes, yes.

23 Q The allegations were serious; is that correct?

24 A Yes. They're not on the level of saying that

00185

1 Father Shanley came in and tried to have sex with

2 him. It's not on the same level at all.

3 Q I understand. I understand he did not allege

4 that Father Shanley -- well, I'm not going to say

5 whether that's true or not. But I understand

6 that there's no physical touching described here.

7 I understand that, Bishop.

8 A Right.

9 Q But at the same time, you would not want someone

10 working in a -- as pastor in a church who was

11 going into mental hospitals coming on to people

12 who were mentally ill and talking graphically

13 about sado-masochistic incidents, would you?

14 MR. ROGERS: Objection to the form and

15 no foundation for the question.

16 MR. PERRY: Objection.

17 MR. MacLEISH: Go ahead.

18 A Just looking at this, presumably the reason that

19 Mr. T. wanted to see a priest is that it had

20 something to do with sexuality.

21 Q How do you know that, Bishop Banks?

22 A Well, I'm, you know, deducing this from what I

23 see here.

24 Q You're guessing?

00195

1 Father Shanley should become irate and question
2 why the matter should be brought up at all? Did
3 that strike you as an unusual reaction?

4 A It's going to be difficult for me to reconstruct
5 what happened 15 years ago, whenever it was.

6 Q Right.

7 A Let me say that it's not unusual for a priest to
8 get irate any time he's criticized or that a
9 complaint is presented to him. It's not unusual.

10 Q But he questioned why the matter should be
11 brought up at all.

12 A Well, that happens very often when you criticize
13 or you bring a complaint to a priest. They just
14 wonder why do they bother going to the bishop.

15 Q Then it says, "After he calmed down."

16 Do you see that, in the next sentence?

17 A Yes.

18 Q "He indicated that he remembered the person and
19 the incident, but did not remember anything in
20 the conversation, especially on the subject that
21 T. mentioned."

22 Do you see that?

23 A Yes.

24 Q So he didn't deny T.'s allegations. He said he

00196

1 did not remember anything in the conversation,
2 especially on the subject that T. mentioned,
3 correct?

4 A Right.

5 Q He could have said: I deny that this ever
6 happened. That's not what he said, though, was
7 it, Bishop? He said he didn't remember?

8 A According to my notes here, yes.

9 Q And you kept accurate notes; is that correct?

10 A Well, I like to think I did, but they're not full
11 notes of any conversation.

12 Q But there's a difference between Father Shanley
13 indicating -- he states he remembered the person
14 and the incident, but he did not remember
15 anything in the conversation, especially on the
16 subject that T. mentioned. So he did not deny
17 it.

18 A Evidently, according to the report, he did not
19 deny it.

20 Q Then it goes on to say:

21 "Father Shanley was wondering if it was
22 Larry Kessler trying to get even with him."

23 Do you know who Larry Kessler is?

24 A Larry Kessler, at that time, was very active in

00197

1 the AIDS --

2 Q AIDS Action Committee?

3 A AIDS Action Committee.

4 Q Did you know Larry Kessler?

5 A I had met him.

6 Q He was, in fact, one of leaders in the community

7 here in Boston in 1988 --

8 A Right.

9 Q -- trying to get help for people who suffered

10 from AIDS; is that correct?

11 A Yes.

12 Q In fact, Catholic Charities worked directly with

13 the AIDS Action Committee; is that not correct?

14 A That I don't know.

15 Q Well, you knew Larry Kessler to be a reputable

16 person, did you not?

17 A Yes, uh-huh.

18 Q So what did you think when Father Shanley

19 wondered if this person that you acknowledge was

20 a respectable member in the community was trying

21 to get even with him? What was that all about?

22 A It's a possibility.

23 Q Why would this respectable member of the

24 community, the head of the AIDS Action Committee,

00198

1 want to get even with Father Paul Shanley?

2 MR. PERRY: Objection.

3 MR. ROGERS: I object to that.

4 A I can only guess at that and I won't try to

5 guess.

6 Q Did you ask the question why? Did you ask the

7 question why Father Paul Shanley believed that

8 Larry Kessler, who you just said, respectable

9 member of the community, was trying to get even

10 with him?

11 A Father Shanley at the time also was a respectable

12 member of the community.

13 Q Well, that's not my question, Bishop Banks.

14 A Well --

15 Q You knew Larry Kessler?

16 A I had met him. But it is possible for people in

17 leadership positions to get angry with one

18 another and it has nothing to do with anything

19 that's disreputable.

20 Q Was there any relationship between Mr. T. and

21 Larry Kessler that came to your attention

22 throughout this inquiry?

23 A No.

24 Q So was the suggestion here, was that Larry

00199

1 Kessler put Mr. T. up to this?

2 A No. I don't know.

3 Q Did it strike you as a little unusual when Father

4 Shanley said that he was wondering if it was

5 Larry Kessler trying to get even with him? Did

6 that strike you as an unusual type of comment?

7 A Not really. I didn't give too much thought to

8 it, frankly.

9 Q You gave enough thought to it to write it --

10 A That's correct.

11 Q -- down in a memorandum?

12 A Right.

13 Q It didn't strike you as unusual?

14 A I didn't try to puzzle it out.

15 Q Then it goes on to state:

16 "On March 19, 1988, I telephoned T. and told

17 him that Father S. had denied the allegation and

18 there was really nothing I could do."

19 Do you see that?

20 A Right.

21 Q You just established several minutes ago that

22 Father Shanley did not deny the allegation. We

23 went over that, correct?

24 A Right.

00200

1 Q But you told Mr. T. that Father Shanley had
2 denied the allegation, right?

3 A Right.

4 Q And in doing that, you were not being truthful
5 with Mr. T.?

6 MR. PERRY: Objection.

7 MR. ROGERS: Objection to the form of
8 the question.

9 A Really.

10 Q You were not being truthful with Mr. T.?

11 MR. ROGERS: Objection.

12 MR. PERRY: Objection.

13 A First of all, we're talking about a note. I'm
14 trying to put down things very briefly. And
15 basically, it is a case that Father Shanley did
16 not agree with the allegation made by Mr. T.

17 Q I asked you several minutes ago and you said --

18 A And if you're going to argue about the word
19 "denied" in my note, I think that's really going
20 too far. I really think that's going too far.

21 Q I appreciate your comments but I --

22 A Then to suggest that I'm lying by putting it
23 down, I really think is going too far.

24 Q Okay. Bishop Banks --

00243

1 -- when you wrote this letter in 1990?

2 A He must have said something satisfactory or we

3 would have removed him from his position.

4 Q You would have sent him for an assessment?

5 A No. We would have removed him from his position.

6 Q You would have removed him from his position if

7 that statement -- I thought you said earlier that

8 you assumed what was said was true by

9 Mrs. Higgs, that Father Shanley had in fact made

10 those statements?

11 A Yes.

12 Q Didn't you testify to that earlier?

13 A Yes.

14 Q So if in fact he had said those things, are you

15 now testifying that he would have been removed as

16 pastor?

17 A No.

18 MR. PERRY: Objection.

19 A No. I'm saying that if we thought that -- I

20 don't even know what I'm saying right now, you've

21 got me so confused. But we would not remove the

22 person on the basis of what he said.

23 Q No matter what he said?

24 A Well, if he continued to think it and was going

00244

1 to continue to promulgate it in his preaching and

2 talking, we would have removed him.

3 Q But the point is in --

4 A We don't remove a priest because he said

5 something on one occasion.

6 Q No matter how deviant it is?

7 A No matter how deviant it is.

8 Q No matter how abhorrent it is?

9 A No matter how abhorrent it is.

10 Q If he says it on one occasion, he get a free ride

11 on it?

12 A He does not get a free ride. He has to come in

13 and confess in some sense that he didn't mean it,

14 that he misspoke himself, that he realizes he's

15 totally wrong and takes it back and then will

16 never say it again.

17 Q And you don't know whether Father Shanley came in

18 and said any of those things, do you, Bishop?

19 A No, I don't.

20 Q And you didn't know in 1990 that he had come in

21 and said any of those things, did you?

22 A No, I don't.

23 Q All right.

24 A However, we did not remove him, therefore, he