

ORIGINAL

STATE OF ILLINOIS)
COUNTY OF COOK) SS:

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - LAW DIVISION

JOHN DOE 116,)
Plaintiff,)
vs.) No. 07 L 8781
THE CHICAGO PROVINCE OF)
THE SOCIETY OF JESUS a/k/a)
THE JESUITS and FATHER)
DONALD J. McGUIRE, S.J.,)
Defendants.)

The discovery deposition of FATHER RICHARD H. MCGURN, taken in the above-entitled cause, before Shelly S. Rubas, a notary public of Cook County, Illinois, on the 24th day of June, 2009, at 70 West Madison Street, Chicago, Illinois, pursuant to notice at 10:04 a.m.

Reported by: Shelly S. Rubas, CSR
License No.: 084-004298

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1 Society of Jesus at this time?
 2 A. I think it was because in reading the
 3 file, I discovered there were guidelines for him.
 4 Q. Is that the first time that you were made
 5 aware of restrictions and guidelines being issued
 6 to Don McGuire?
 7 A. As far as I can remember, yes.
 8 Q. Was that the first time to your knowledge
 9 that the provincial knew that there was guidelines
 10 and restrictions on Don McGuire?
 11 A. I don't know.
 12 Q. Essentially, can you estimate how many
 13 documents -- how thick was Don McGuire's
 14 confidential file when you had reviewed it in and
 15 around January of 2000?
 16 A. An inch or two. I don't know. It's hard
 17 to remember.
 18 Q. It's okay. I'm just, again, on a
 19 fact-finding mission, whatever you can remember.
 20 Do you remember seeing documents in
 21 Don McGuire's confidential file that dated back to
 22 his Loyola Academy days in the 1960s?
 23 A. I somehow came to know that Don was fired
 24 from Loyola Academy in 1970. That was probably

1 A. It was about ten pages probably.
 2 Q. Did you read that psychological
 3 evaluation?
 4 A. Yes.
 5 Q. And after reading that psychological
 6 evaluation, did you come to any conclusions?
 7 A. I simply saw that Don had -- that the
 8 psychological evaluation recommended that he have
 9 residential treatment, and I think Fran Daly's
 10 notes indicated that he had subsequently had that
 11 for a period of about six months.
 12 Q. After reading the psychological evaluation
 13 of Don McGuire, did you come to any conclusion that
 14 he had been diagnosed with a sexual behavioral
 15 disorder?
 16 A. It stated that, yes.
 17 Q. Does the word frotteurism ring a bell?
 18 A. Yes.
 19 Q. Did you have an understanding prior to
 20 this psychological evaluation as to what
 21 frotteurism was?
 22 A. No, it's the first time I heard the term.
 23 Q. You previously testified that you had at
 24 least a BA in psychology, correct?

1 from a document in there or a note.
 2 Q. Did you have an understanding that he was
 3 fired from Loyola because of sexual misconduct with
 4 one of the students there?
 5 A. I didn't know the circumstances.
 6 Q. Did you have any kind of an understanding,
 7 whether an intuition or whether you were informed
 8 by a document in the confidential file, that it was
 9 due to sexual misconduct with a minor?
 10 A. None of that came to light until the trial
 11 in Wisconsin which was after my tenure in office
 12 was concluded.
 13 Q. If I can have you look at the file,
 14 sorry, the document, Exhibit No. 1. Towards the
 15 end right before the statement, a brief history, it
 16 says you enclosed Bob Wild's guidelines, Fran
 17 Daly's revised guidelines and Fran's history of Don
 18 and something psych and evaluation of Don?
 19 A. Yes.
 20 Q. Did you see a psychological evaluation of
 21 Don McGuire in the confidential file at this time?
 22 A. Yes.
 23 Q. How big was it? Was it many pages, was it
 24 a treatise, was it a memo? What was it?

1 A. Correct.
 2 Q. Did you ever learn about frotteurism in
 3 any of your psychological studies?
 4 A. Not that I recall.
 5 Q. What is your understanding of frotteurism
 6 today?
 7 A. It's a person that derives some pleasure
 8 from touching another person which may be genital
 9 or not and that person derives some degree of
 10 erotic satisfaction.
 11 Q. So it's associated with a sexual desire or
 12 satisfaction, correct?
 13 A. Yes.
 14 Q. Was there any indication in the
 15 psychological evaluation that Don McGuire had
 16 resolved any of these psychological issues?
 17 A. I don't remember.
 18 Q. Was there any indication in this
 19 psychological evaluation that Don McGuire had
 20 -- was in need of weekly therapy?
 21 A. The conclusion of the evaluation
 22 recommended residential treatment for him.
 23 Q. And residential treatment, do you have an
 24 understanding as to what that meant?

1 conversation to be?
2 A. Yes.
3 Q. And what was your reaction to this?
4 A. I thought if Don was really trying to do
5 that, that was crazy.
6 Q. And did you dismiss this information that
7 you received or did you follow up on it?
8 A. I didn't follow up on it until the autumn.
9 Q. Until when?
10 A. The autumn, September or early October.
11 Q. And why was that?
12 A. I don't -- well, let me see.
13 It had to do with the fact that -- first
14 of all, I as I said, I thought this was crazy.
15 Jesuits aren't going to be having children live
16 with them. My only concern was is Don trying to
17 take on some kind of legal obligation without the
18 provincial's permission.
19 Q. So essentially, you just thought the idea
20 was crazy?
21 A. Yeah.
22 Q. And it literally sounded really bizarre to
23 you.
24 Is that fair to say?

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1 see if this were true?
2 A. No.
3 Q. Did you discount any of this information
4 simply because it was from Father Fessio?
5 A. No.
6 Q. Do you know Joe Fessio?
7 A. Not personally.
8 Q. Other than in dealing with the issues that
9 surround Father McGuire, have you ever had any
10 dealings with Father Fessio?
11 A. Not personally.
12 Q. You mention here that Father Fessio was
13 also involved in the complaint back in '93,
14 correct?
15 A. Yes.
16 Q. Did you remember that off the top of your
17 head or did you have to go back into the
18 confidential file to remember that issue?
19 A. I don't remember specifically.
20 Q. Did you contact Father Fessio at all
21 regarding this?
22 A. No.
23 Q. Again, is that simply because you believed
24 that this was just so bizarre, it couldn't be true?

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1 A. Yeah. Off the wall, yes.
2 Q. Did you investigate this further at any
3 time?
4 A. I talked with Don in October about it.
5 Q. Any particular reason why you waited until
6 the fall?
7 A. I don't remember.
8 Q. Did you -- if this were true, would you
9 regard this as a serious situation?
10 A. For a Jesuit to make a decision like this,
11 take on a legal obligation without his provincial's
12 permission, yes.
13 Q. Did you understand this to be a legal
14 obligation?
15 A. He uses the phrase legal guardian.
16 Q. And your understanding of that was that he
17 would be undertaking a legal obligation, correct?
18 A. Yes.
19 Q. Did you also have an understanding that if
20 this were true, he might be obliging the Jesuits to
21 undertake that legal obligation since he was a
22 society member?
23 A. Well, that's why I thought it was crazy.
24 Q. Did you contact in any way to

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1 I'm just wondering if that was your understanding.
2 If not, that's fine.
3 A. At the time, I think so.
4 Q. You subsequently followed up in the fall?
5 A. Yes.
6 Q. And you followed up with Don McGuire?
7 A. Yes.
8 Q. And what was Don McGuire's reaction?
9 A. I asked Don if this were so, I don't think
10 I mentioned Father Fessio's name, and he said he
11 was not legal guardian and that the
12 were,
13 Q. Okay. And --
14 A. I asked him if he could produce any
15 document to that effect and he said he would.
16 Q. And, in fact, he did ultimately produce a
17 document, didn't he?
18 A. Yes.
19 Q. Signed by allegedly mother,
20 correct?
21 A. Yes.
22 Q. And that document was signed in August of
23 2000, correct?
24 A. Yes.

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37 (Pages 145 to 148)

1 Q. So that postdated the initial time that
2 you were contacted about this issue?
3 A. Yes.
4 Q. At any time after you received the note
5 from _____ mother that the _____ were the
6 legal guardians and knowing full well that the date
7 of the letter was after the initial contact, did
8 you ever get back to Father McGuire and ask him,
9 okay, were you ever a legal guardian of _____ ?
10 A. No, I never asked him that.
11 Q. Did that thought occur to you?
12 A. I don't think it did, no.
13 Q. Were you satisfied with the letter that
14 _____ had sent to you?
15 A. Yes.
16 Q. Did you have an understanding that that
17 note was specifically executed for your benefit?
18 A. Yes. I asked Don to send it to me.
19 Q. Right. But you have no idea whether or
20 not Don had called up _____ and said, all right,
21 we've got to change this and you got to give this
22 to the _____ ? You don't know anything about
23 that?
24 A. No.

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1 Q. Knowing what you knew about Father McGuire
2 in December of 2000 after reviewing his
3 confidential file and all the complaints and so
4 forth that you were privy to, did this give you
5 concern?
6 A. Once it was established that the
7 _____ were his legal guardian, we had no further concern
8 about _____
9 Q. Did you have any concern that maybe Don
10 McGuire might be hanging around him too much and
11 doing the same kinds of things to him that he was
12 accused of doing back in '93, '94, '95 -- sorry
13 -- '91, '93, and '95?
14 A. No, we never thought of it in terms of
15 sexual abuse.
16 MR. HUEBSCH: Let's take a break now for
17 ten minutes and stretch our legs.
18 MR. MCGUIRE: All right.
19 (Whereupon, recess taken.)
20 MR. MCGUIRE: Back on the record.
21 BY MR. MCGUIRE:
22 Q. If I can, in the last memo, Exhibit No. 5
23 I believe it was, the June 1st, 2000, memo, it
24 obviously talks about _____ ; living with

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1 Q. At any time were you aware that Don
2 McGuire had put down _____ as part of a health
3 insurance program?
4 A. No.
5 Q. Do you have any awareness or understanding
6 that, in fact, he did represent himself on these
7 insurance documents as being _____ legal
8 guardian?
9 A. No.
10 Q. Do you have any awareness that at the
11 St. Lawrence Seminary in Wisconsin, that
12 applications were filled out on behalf of _____
13 indicating that Don McGuire really was his legal
14 guardian?
15 A. No, we didn't know that.
16 Q. Did you ask Don McGuire at this time who
17 was _____ ?
18 A. At this time?
19 Q. Yes.
20 A. I think Don volunteered that _____ was
21 his godson. That's all I know.
22 Q. Did you inquire into _____ age at all
23 at that time? I know it indicates 14 here, but...
24 A. No, I didn't.

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1 Don McGuire?
2 A. Yes.
3 Q. Did that concern you?
4 A. If it were true, it would.
5 Q. And at the point in time that you received
6 this information, again, did you dismiss it
7 thinking it's just too bizarre to be true?
8 A. Sure.
9 Q. But given what you know of Don McGuire, if
10 that were, in fact, true, that would raise real
11 issues, real concerns for you?
12 A. Yes.
13 Q. Did you ever ask Don McGuire whether or
14 not _____ was going to live with him?
15 A. No.
16 MR. MCGUIRE: Off the record.
17 (Whereupon, a discussion was had
18 off the record.)
19 BY MR. MCGUIRE:
20 Q. Again, did you ever follow up with
21 McGuire's superior, local superior as to whether or
22 not maybe _____ might be living with him?
23 A. I talked about it in December with his
24 local superior, Michael Perko, who complained that

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1 BY MR. PEARLMAN:
2 Q. You had a -- by the autumn of 2000, you
3 had a history of dealings with McGuire, correct?
4 A. Two previous -- well, one previous
5 conversation.
6 Q. And you had reviewed his entire file now a
7 few times --
8 A. Yes.
9 Q. -- periodically when you would need to?
10 A. Yes.
11 Q. And by that time, without going all back
12 over it, you had firmly established in your mind
13 that he had sexual issues?
14 A. Yes.
15 Q. And in your mind, you had established that
16 he was difficult to deal with?
17 A. That was my feeling, yes.
18 Q. Dishonest?
19 A. I don't know that I would say that. I
20 just found him difficult to deal with and it was
21 hard for me to believe that he couldn't remember
22 the guidelines had been given to him in 1995.
23 Q. So at least on one occasion, he had lied
24 to you?

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1 A. He simply said he couldn't remember having
2 received them. I thought that was bologna, but I
3 didn't know whether he was lying or not.
4 Q. Instead of characterizing it as honest or
5 dishonest, by this time, you had formed an opinion
6 regarding his credibility?
7 A. That particular incident made me wonder
8 about him, yes.
9 Q. And when was going to be traveling
10 with him to India, that in and of itself was a
11 breach of his restrictions, correct?
12 A. If he was indeed under 21.
13 Q. And what did you do to find that out?
14 A. I asked Don if he was and he didn't give
15 me a clear answer.
16 Q. And what did you do, then, to follow up on
17 that?
18 A. Nothing.
19 Q. Why not?
20 A. Didn't -- I don't know. I think I was
21 simply preoccupied by the other things we were
22 dealing with.
23 Q. And at that time, at the time you were
24 talking to McGuire about traveling with at

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1 that time, you had known, you knew at that time
2 that there were going to be new restrictions that
3 were going to change the age from 21 to 30,
4 correct?
5 A. No, no. That was prior to that.
6 Q. When was McGuire leaving for India as far
7 as you recall with .
8 A. Well, when I talked to him, it was early
9 October, so I assume probably by mid October, he
10 must have been gone.
11 Q. Okay. Did it occur to you -- regardless
12 of whether was 20 or 19 or 22, regardless of
13 his age, did it occur to you that it was a bad idea
14 for McGuire to be traveling with him in light of
15 his history?
16 A. I told Don that the provincial might not
17 want him to do that.
18 Q. After you first heard about in
19 June of 2000, I believe you said you had a
20 discussion with McGuire about him, correct?
21 A. Yes.
22 Q. And that conversation really focused more
23 on the legalities of the relationship, correct?
24 A. Yes, yes.

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1 Q. Who was his legal guardian, who was paying
2 for him?
3 A. That's right.
4 Q. Did you ask him whether he was spending
5 time with ?
6 A. I don't think I did.
7 Q. And if he was, that would clearly be a
8 violation of his restrictions?
9 A. Yes.
10 Q. Why didn't you ask him about that?
11 A. Once he told me that the were his
12 guardians, we had no further concern about that.
13 Q. You didn't have a concern if McGuire was
14 spending time with regardless of who his
15 guardian was?
16 A. We felt that would have been their
17 responsibility.
18 Q. That's not my question.
19 My question is didn't you have a concern
20 of whether McGuire was spending time with this
21 14-year-old boy?
22 A. We had no particular reason to think that
23 he was. As far as we knew, he was in Wisconsin.
24 MR. TOOMEY: That's all right.

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1 with Don McGuire?
2 A. That's right.
3 Q. Any particular reason why the provincial
4 wasn't here to lend force and effect to these
5 directives?
6 A. No. I think at this point, it was simply
7 a question of presenting them to Don.
8 Q. What was his reaction to these directives?
9 A. He was initially defensive, but he signed
10 them and I was genuinely surprised that he did.
11 Q. Did you inform the later that he had
12 been forced to sign new directives restricting his
13 conduct?
14 A. I sent the a letter saying that we had
15 concluded the matter, but I didn't give them any
16 specifics about how we did that.
17 Q. At this point in time, did you feel
18 personally that you owed the a greater amount of
19 information, so they could protect themselves and
20 their son relative to his comment?
21 A. As I recall, that letter I sent to him was
22 Mr. Toomey's advice.
23 Q. Did you have a hand in drafting these
24 directives?

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1 A. Well, after a certain point, nobody could
2 -- no man could keep track of more than what we've
3 got here.
4 Q. You said that you revealed these
5 directives to Father Perko?
6 A. Yes.
7 Q. And what was his response?
8 A. I don't remember hearing a response from
9 him.
10 Q. He didn't -- did he ask you how he is
11 supposed to implement this?
12 A. I don't recall us talking about it.
13 Q. Did you give him any guidance as to how he
14 might be able to implement these directives for
15 Don McGuire?
16 A. I think I simply mailed them to him.
17 Q. Did you have a discussion with Father
18 Perko about these directives and how they impact
19 McGuire's life?
20 A. I don't remember.
21 Q. Did Don McGuire's signing of these
22 directives, was that satisfaction enough for you?
23 A. In the sense that I was -- that I was
24 generally doubtful ahead of time whether he would.

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1 A. Yes.
2 Q. And did you draft every single one of
3 them?
4 A. I think so, yes. Of course, the
5 provincial had to sign off on them.
6 Q. Right. Did you have a template when
7 putting these directives together?
8 A. A template?
9 Q. Yeah. Did someone say this is what I want
10 or --
11 A. This is what should go into a set of
12 directives, no.
13 Q. Did you make these directives up yourself?
14 A. Uh-huh.
15 MR. HUEBSCH: You have to answer yes or no.
16 THE WITNESS: Yes. I'm sorry.
17 BY MR. McGUIRE:
18 Q. And, again, prior to you becoming socius
19 and delegate for misconduct, you didn't receive any
20 formal training on how to deal with the issues that
21 you were going to be dealing with, correct?
22 A. That's correct.
23 Q. And how did you come up with six
24 directives as opposed to nine or three?

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1 Q. So you were surprised and genuinely
2 appreciative that he signed them?
3 A. Yes.
4 Q. You thought it was going to be a struggle?
5 A. Yes.
6 Q. Other than talking to Father Perko, how
7 did you expect to enforce these directives?
8 A. I don't think there were any other means.
9 Q. At this time, did anybody talk about
10 reining Don McGuire in such a way as to, you know,
11 move him out of Canisius House and bring him over
12 to the provincial -- to Clark Street?
13 A. In the provincial's meeting in the
14 previous November, November 10th, Baumann said at
15 least the three options he was thinking of is what
16 do I do, do I tighten his guidelines, do I remove
17 him from his ministry, do I dismiss him and
18 initiate his dismissal from the society.
19 Q. Now, I'm curious. I understand the reason
20 to have directives. What I don't understand is why
21 he was not presented with a statement that he had
22 to sign indicating that he was no longer traveling
23 presently with anyone other than the age of 30, he's got
24 no one living with him, things of this nature, to

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66 (Pages 261 to 264)

1 back up and give full force and effect to the other
2 directives you gave him?
3 A. Right. That never occurred to us to do.
4 Q. Did you believe these new directives were
5 going to have any effect on him?
6 A. I could only hope they would. I was
7 somewhat skeptical.
8 Q. Did you inform the provincial that you
9 were skeptical about the new directives?
10 A. I think so even as they were being
11 created.
12 Q. Do you remember his response to that?
13 A. No.
14 MR. McGUIRE: We'll move on to Exhibit 22 Bates
15 stamped No. 1592 to 1593.
16 (Whereupon, McGum Deposition
17 Exhibit No. 22 was marked for
18 identification.)
19 BY MR. McGUIRE:
20 Q. Do you recognize this document?
21 A. I do not recognize the top line or the
22 date of 2007. Other than that, let me see, I do
23 recognize it.
24 Q. Is that a letter that you had drafted

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1 A. I can't remember what the provincial's
2 reaction to it was. He simply didn't want to make
3 use of it.
4 Q. I'll draw your attention to the second
5 page, third paragraph from the bottom beginning
6 with Don.
7 A. Okay.
8 Q. Quote, Don, your unwillingness to abide by
9 the guidelines imposed by your major superior
10 cannot continue, end quote.
11 A. Right.
12 Q. Did the provincial believe that this
13 statement was too strong?
14 A. I don't remember him talking about that
15 particular statement. He just didn't want to use
16 the letter, period.
17 Q. Did he tell you that he wanted to be more
18 pastoral?
19 A. I don't remember us discussing it.
20 Q. Given that the provincial seems to have
21 rejected this particular letter and given the fact
22 that you had heavy skepticism relative to the new
23 directives that were issued to Don McGuire, did you
24 do anything other than what's being done as

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1 previously?
2 A. Yes.
3 Q. What is the purpose of this letter?
4 A. This was my suggestion for the provincial
5 to give to Don either prior to our meeting in
6 December or when giving him the directives in
7 February.
8 Q. So this was your suggestion to the
9 provincial of how he should handle Don McGuire?
10 A. Yes.
11 Q. Do you know approximately when this was
12 written?
13 A. December. I think it was December 13th I
14 wrote it.
15 Q. So this was immediately before the
16 December 15th meeting?
17 A. That's right.
18 Q. In and around the same time that you
19 created the summary?
20 A. That's right.
21 Q. To your knowledge, was this letter ever
22 issued to Don McGuire?
23 A. No.
24 Q. Why is that?

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1 reflected here in this record to protect or
2 from Don McGuire?
3 A. No.
4 Q. You mentioned before that you had
5 skepticism that McGuire wouldn't follow the
6 directives.
7 Other than just stating you were
8 skeptical, did you do anything to ensure that your
9 skepticism didn't become true from your end?
10 A. At the time, we really did not have the
11 means to do that.
12 Q. You didn't have the means to monitor him?
13 A. I don't think we did, no.
14 Q. Did you make an assessment as to why you
15 didn't have the means? I mean, did you review any
16 documents? Did you review the Jesuit's resources
17 to then determine that you didn't have the means to
18 monitor him?
19 A. I wouldn't have known how to do it to tell
20 you the truth.
21 Q. And, again, bringing him to Clark Street
22 at this time was not an option?
23 A. Father Baumann didn't decide on that until
24 later in 2002.

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67 (Pages 265 to 268)