

Volume 1, Pages 196

Exhibits: 1 - 14

COMMONWEALTH OF MASSACHUSETTS

Suffolk County

Superior Court

GREGORY FORD, et al.

Plaintiffs

-
Civil Action

vs.

Docket No. 02-04551-T1

BERNARD CARDINAL LAW, et al.

Defendants

DEPOSITION OF EDWIN CASSEM

Tuesday, May 20, 2003, 10:00 a.m.

Greenberg Traurig

One International Place

Boston, Massachusetts

-----Reporter: Kathleen L. Good, CSR, RPR-----

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for the Mass General Hospital

Also Present: Elizabeth Rossman
Katie Enscoe

Thomas F. Maffei, Attorney

PROCEEDINGS

1
2 MR. MacLEISH: Everybody ready? For the
3 people who represent parties here, same
4 stipulations as we've had in the past. All
5 objections except as to form and motions to
6 strike reserved until the time of trial.

7 Dr. Cassem, you have 30 days to read and
8 sign the deposition. If you would like to take
9 the opportunity to do that, you may.

10 And is that something you're interested
11 in, Frank?

12 MR. REARDON: Yes.

13 MR. MacLEISH: 30 days to read and sign,
14 waive the notary.

15 EDWIN CASSEM, sworn

16 EXAMINATION

17 BY MR. MacLEISH:

18 Q. Dr. Cassem, my name is Eric MacLeish and I
19 represent the plaintiffs, Gregory Ford, Paula
20 Ford and Rodney Ford, as well as Paul Busa. And
21 your deposition is being taken in those cases.
22 First of all, I'd like to thank you for coming
23 in here today and making yourself available.
24 I just want to go over a few ground

1 rules in depositions. The first is that if at
2 any time you want to take a break, I want you to
3 tell me that and we'll accommodate that.

4 If at any time you want to go back over
5 any portion of your testimony and revisit it,
6 change it or modify it in any way, you just tell
7 me and I'll be happy to accommodate that as
8 well.

9 There's also a tendency that's very
10 common, and maybe it won't be one that you'll
11 do, but you might not wait until the end of the
12 question before answering. It's important that
13 you try to do that so our court reporter can get
14 everything down accurately.

15 Do you understand those instructions?

16 A. I do.

17 Q. Could you please state your name for the record.

18 A. My name is Ned Cassem, sir.

19 Q. You're a physician; is that correct?

20 A. Yes, sir.

21 Q. And are you also -- maybe it's my confusion --
22 is your first name also Edwin or is that just my
23 mistake?

24 A. You're correct, sir.

1 Do you know that?
2 A. I do not know that.
3 Q. But you remember generally being consulted by
4 the Archdiocese of Boston in 1994 concerning a
5 priest who was alleged to have fathered two
6 children.
7 Do you see that?
8 A. We're talking about that? Yes, I do see that.
9 Q. Yes, we are.
10 You'll see in Paragraph 4, I would like
11 to read it to you.
12 "From reading this material, could you
13 give me a sense of what your thoughts are about
14 his potential for serving in ministry."
15 Do you see that?
16 A. Yes.
17 Q. What type of criteria would you consider,
18 Dr. Cassem, in making a recommendation as to
19 whether or not it was appropriate for a
20 particular priest to serve in ministry?
21 A. What his offenses were.
22 Q. Okay. Anything else?
23 A. The factors about treatability.
24 Q. Anything else?

1 Q. I think you mentioned that earlier. Would
2 sometimes you give your opinions about
3 particular priests over the telephone?
4 A. Yes.
5 Q. We also don't have in the documents that you
6 produced any written report concerning Father
7 Foley, what your recommendations were.
8 Does that lead you to believe that you
9 might have given them orally to Father
10 McCormack?
11 A. Yes, sir.
12 Q. So you see the notes down at the bottom could
13 well reflect your oral report to Father
14 McCormack.
15 Do you see that?
16 - MS. QUILL: Objection.
17 A. That's my presumption.
18 Q. That's your presumption?
19 A. Yes, sir.
20 Q. It's your belief that you would have told -- you
21 see A?
22 A. Yes, sir.
23 Q. Again, you're familiar with Father McCormack and
24 his handwriting; is that correct?

1 A. I think, in general, that would summarize it.
2 Q. When you were providing this advice about return
3 of priests to ministry, were you acting as a
4 psychiatrist? As an advisor? In what capacity
5 were you acting?
6 MR. REARDON: Objection.
7 A. It's all psychiatric. They're asking me
8 psychiatric opinions about people who are ill or
9 have some sort of trouble.
10 Q. And so this was a psychiatric opinion that you
11 were asked to render in the case of Father Foley
12 about his potential for serving in ministry?
13 MR. REARDON: Objection.
14 A. I don't remember this is a memo addressed to me.
15 Q. Right.
16 A. And it says Father McCormack's sense was that if
17 he could just manage certain things in a healthy
18 way, he could serve in ministry. But the things
19 written in his handwriting are all -- they all
20 look to me like they're evidence against that.
21 Q. Yes. And do you know whether Father McCormack
22 would speak with you from time to time on the
23 telephone about particular priests?
24 A. Yes.

1 A. Yes, sir.
2 Q. You recognize the handwritten portion of Exhibit
3 D to Exhibit 1 to be Father McCormack's
4 handwriting; is that correct?
5 A. Yes, sir.
6 Q. And you see A, could be Point A, but it says:
7 "A -- no basis to put him back into
8 ministry."
9 A. With an exclamation point.
10 Q. Does that help to refresh your recollection as
11 to what your recommendations were concerning
12 this particular priest, James Foley?
13 A. I have no record of what my recommendations were
14 except this one that's in front of me, and I
15 would assume that that's what it was.
16 Q. Okay. So if Father Foley were to have been
17 returned to ministry and serving at a parish in
18 Salem, Massachusetts, associate pastor, that
19 would have been contrary to your
20 recommendations; is that correct?
21 MR. TODD: Objection.
22 A. I would assume so.
23 Q. Okay.
24 A. I would also wonder did I know that Dr. Sanders

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Exhibits: 15-44 and 1A

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Wednesday, May 21, 2003, 10:10 a.m.

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for the Mass. General Hospital

Also Present: Elizabeth Rossman

1 PROCEEDINGS
2 (Marked, Exhibit No. 15, Handwritten
3 Document.)

4 (Marked, Exhibit No. 16, Typewritten
5 Document.)
6 (Marked, Exhibit No. 17, Letter,
7 3/19/88.)

8 EXAMINATION

9 BY MR. MacLEISH:

10 Q. Good morning, Dr. Cassem. And thank you again
11 for making your time available for us today.

12 A. Good morning, sir.

13 Q. Is there anything you would like to modify or
14 change from your first day of testimony?

15 A. I did want to correct the name of the Cardinal's
16 commission. To call it a blue ribbon commission
17 is a, perhaps, cunning cover-up of the real
18 nature of it. It was called the Cardinal's
19 Commission for the Protection of Children.

20 Q. And we're going to be going through this later,
21 but I saw a letter that was written by a number
22 of signatories of March 10 of this year,
23 complaining -- well, letter to Bishop Lennon
24 that expressed concern about the implementation

1 of the commission's recommendations.

2 A. That's correct.

3 Q. And you were signatory to that letter; is that
4 correct?

5 A. I was, yes, sir.

6 Q. Have you received any response to that letter?

7 A. No, sir.

8 Q. There was, I believe, some meeting that took
9 place in May of this year concerning some of the
10 concerns that were expressed?

11 A. There was a meeting that took place, and after
12 that meeting, another version of an alleged
13 revision to be in accord with our
14 recommendations was published, but was also very
15 unsatisfactory, and another letter from us
16 followed.

17 Q. Another letter followed. And that was in May?

18 A. In May.

19 Q. I don't know whether I have that other letter
20 but -- we'll cover that later on in the
21 deposition.

22 Let's return, if we could, to Father
23 Shanley.

24 Showing you Exhibit No. 15, which is a

1 Q. Were you provided with this information about
2 Father Foley in connection with the assessment
3 that you did in 1994 concerning this priest for
4 Father McCormack?
5 MR. AUSROTAS: Objection.
6 A. Not that I recall.
7 Q. You were provided with the information that he
8 had fathered two children?
9 A. Yes, sir.
10 Q. But you were not provided with the information
11 that he was present while the woman he had two
12 children with overdosed, started to faint, he
13 clothed, left, came back, called 911, she died,
14 a sister knows. You weren't provided with that
15 information, were you?
16 MR. AUSROTAS: Objection.
17 MR. ROGERS: Objection.
18 A. Not that I remember.
19 Q. Is that the type of information that would have
20 stood out to you?
21 MR. AUSROTAS: Objection.
22 A. I'd have to say that I can't -- that the issues
23 that Father McCormack covers are so concrete and
24 rather comprehensive, so I can't -- he may have

1 told me about this.
2 Q. Okay. All right. See the second page of
3 Exhibit No. 29, it says:
4 "Criminal activity? Overdosed, later
5 called."
6 A. Yes.
7 Q. Do you know whether you were provided with any
8 information about Father Foley possibly being
9 involved in criminal activity?
10 MR. ROGERS: Objection.
11 A. No, sir.
12 Q. You believe you were not provided --
13 A. I believe I was not, about criminal activity,
14 no.
15 Q. Were you provided with any information about
16 prior --
17 MR. MacLEISH: Let's go to the next
18 exhibit.
19 (Marked, Exhibit No. 30, Handwritten
20 Document, 1/23/94.)
21 Q. Have you had the opportunity to look at Exhibit
22 30?
23 A. Yes, sir.
24 Q. Do you recognize these as the notes of Father

1 McCormack? Is that correct?
2 A. Yes, sir.
3 Q. January 23, 1994?
4 A. Yes, sir.
5 Q. And you'll see, on the first page, about halfway
6 down, you'll see:
7 "Needham. Two children born, one
8 purposefully, two not planned. Sister of woman
9 knows his ties to children so thinks she knew he
10 was involved. Woman, quote, seduced him. She
11 had a lobotomy. Has never seen children since
12 time of her death. Sister threatened that if he
13 bothered the family, she would reopen the case
14 about the cause for death and who called 911."
15 Do you see that?
16 A. Yes, sir.
17 Q. Were you informed that this woman that Father
18 Foley was involved with had had a lobotomy?
19 MR. AUSROTAS: Objection.
20 MR. ROGERS: Objection.
21 A. No, sir.
22 Q. If you had been so informed, would that have
23 even strengthened your opinions, Doctor, about
24 his not returning to ministry?

1 MR. AUSROTAS: Objection.
2 A. Yes, sir.
3 Q. Why is that?
4 MR. AUSROTAS: Same.
5 A. Unless she was one of -- the specification of a
6 lobotomy in 1993 could mean that she, first of
7 all, was severely mentally ill to begin with;
8 secondly, could have been relieved to some
9 degree because it was done by stereotactic
10 surgery at that time.
11 But I would think the vulnerability
12 after surgery seldom diminishes.
13 Q. So you were not told that this -- you were not
14 told, to the best of your recollection, that
15 this married woman with whom he had fathered two
16 children had at one point in her life had a
17 lobotomy; is that correct?
18 A. Correct, sir.
19 MR. AUSROTAS: Objection.
20 Q. You were not told by Father McCormack that at
21 some point in her life, this woman had mental
22 illness; is that correct?
23 MR. AUSROTAS: Objection.
24 MR. ROGERS: Objection.

1 A. Not to my recollection, sir.
2 Q. And you would agree with me that someone who had
3 had a lobotomy or who was mentally ill would be
4 more likely to be vulnerable to someone such as
5 Father Foley?
6 MR. RAVITZ: Objection.
7 A. Definitely.
8 Q. It would have strengthened your recommendation
9 about not reassigning Father Foley to active
10 ministry if you had had that information; is
11 that correct?
12 MR. ROGERS: Objection.
13 A. Correct.
14 Q. Is it fair to state, given -- if you turn back
15 to Tab D of Exhibit No. 1 -- that you left your
16 assessment with Father Foley believing that this
17 man would never be back in ministry? Is that
18 correct? Even without the information that I
19 just supplied you?
20 A. That's correct.
21 Q. And in fact, it says:
22 "Cardinal Law thinks that this man
23 should not be in pastoral ministry due to
24 potential scandal. His remark is that this man

1 should spend his life in a monastery doing
2 penance."
3 Is that correct?
4 A. That is correct.
5 Q. And that was an assumption that you made in
6 1994, what was going to happen to Father Foley;
7 is that correct?
8 A. That's correct.
9 MR. AUSROTAS: Objection.
10 (Marked, Exhibit No. 31, Letter,
11 4/16/96.)
12 Q. All right. Have you had the opportunity to look
13 at Exhibit 31, Doctor?
14 A. Yes, sir.
15 Q. You'll see that less than two years after --
16 MR. ROGERS: Can we see a copy of it?
17 Thank you.
18 Q. You'll see, Doctor, that less than two years
19 following your consultation concerning Father
20 Foley, Father Foley is assigned by Cardinal Law
21 as parochial vicar at St. Joseph's Parish in
22 Salem.
23 Do you see that?
24 A. Yes, sir.

1 Q. You see prior to that, Father Foley had been
2 assigned as temporary parochial vicar at St.
3 James Parish in Stoughton.
4 Do you see that?
5 A. Yes, sir.
6 Q. And the assignments of Father Foley to Stoughton
7 and then to St. Joseph's Parish where he was
8 ultimately promoted to associate pastor until
9 December of 2002, would those appointments have
10 been consistent with your recommendations,
11 Doctor?
12 A. No, sir.
13 MR. AUSROTAS: Objection.
14 MR. ROGERS: Objection.
15 Q. Why not?
16 MR. ROGERS: Objection.
17 MR. AUSROTAS: Same.
18 A. They fly in the face of the evidence that he
19 should have such an assignment.
20 MR. ROGERS: I missed that. Could I
21 have the answer read back.
22 (Answer read.)
23 A. And I complimented Cardinal Law on his judgment
24 yesterday, I certainly should withdraw that.

1 Q. Okay. When did you compliment Cardinal Law on
2 his judgment?
3 A. In the testimony yesterday.
4 Q. You now wish to withdraw; is that correct?
5 A. That's correct.
6 Q. Why is that, Doctor?
7 A. Yesterday, he said he shouldn't be in pastoral
8 ministry, he ought to be in a monastery doing
9 penance. I thought that was exactly on the
10 mark.
11 Q. Right.
12 A. And here he sends a letter giving him his second
13 assignment.
14 Q. Less than two years later?
15 MR. AUSROTAS: Objection.
16 A. That's correct.
17 Q. And if you had known the other facts that are
18 reflected in Exhibits 28 and 29 about this woman
19 having had a lobotomy and that Father Foley was
20 present at the time that she died, would that
21 have only caused your feelings about Cardinal
22 Law's judgment that you testified about
23 yesterday, and now wish to withdraw, to be even,
24 I'm not going to say -- I withdraw the question.