

DUGGAN/ELLIS

**IN THE SUPREME COURT OF
NEW SOUTH WALES
SYDNEY REGISTRY
COMMON LAW DIVISION**

FILE NO: 20308 of 2004

AFFIDAVIT

**Deponent: John Usher
Sworn: 19 July 2005**

Filed for the First and Second Defendant

JOHN ANDREW ELLIS
Plaintiff

**HIS EMINENCE CARDINAL GEORGE
PELL, ARCHBISHOP OF SYDNEY**
First Defendant

**THE TRUSTEES OF THE ROMAN
CATHOLIC CHURCH FOR THE
ARCHDIOCESE OF SYDNEY**
Second Defendant

REVEREND AIDAN DUGGAN OSB
Third Defendant

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On 19 July 2005, I, **JOHN USHER**, of 133 Liverpool Street, Sydney in the State of New South Wales, Roman Catholic Priest, say on oath:

1 I am a Catholic Priest. I was ordained Priest for the Archdiocese of Sydney (**Archdiocese**) in 1972. I have been a priest at Mt. Pritchard, Balgowlah, Golden Grove, Dundas Valley, Blacktown, Rozelle and Mortlake. From 1983 to 2004 I was the Director of Centacare Catholic Community Services.

2 On 25 May 2005, I was appointed Chancellor for the Archdiocese by the Archbishop of Sydney, George Cardinal Pell. Also on that date, I assumed responsibility for the conduct of this matter on behalf of the First and Second Defendants.

3 To the best of my knowledge and belief, neither the First nor the Second Defendant personally hold any documents in relation to the Plaintiff or the Third Defendant.

4 However, the First Defendant is, in his capacity as the head of the Archdiocese, able to access documents and records held by the Archdiocese. Accordingly, all records and documents referred to in, or which are annexed to, this affidavit were in the possession of the Archdiocese, or came into its possession as a result of enquiries made by it.




5 I have read the Plaintiff's Statement of Claim filed in these proceedings and received at the Archdiocese's Sydney offices on 1 September 2004 (**Statement of Claim**).

6 I understand from the Statement of Claim that the Plaintiff alleges that he was sexually abused by the Third Defendant between 1975 and 1986. I also understand from the Statement of Claim that the Plaintiff asserts that the alleged abuse occurred in private and that there were no witnesses to it.

Parish of Christ the King at Bass Hill – 1975 to 1979

7 For the purposes of swearing this affidavit, I made enquiries of the Archdiocesan files in order to ascertain who were the priest/s resident at the Parish of Christ the King at Bass Hill (**Parish**) between the years 1975 and 1979.

8 As a result of my enquiries, I understand that the following priests held appointments at the Parish:

- (a) 1970 – 1978: Father John Carl Farrar; and
- (b) 1978 – 1985: Father John Dougherty.

9 As a result of my enquiries, I also understand that the following assistant priests held appointments at the Parish:

- (a) 1974: Father J O'Neill; and
- (b) 1974 – 79: Father A Duggan

10 The Archdiocese does not appear to hold any records or documents concerning the Plaintiff's alleged engagement as an alter server in the Parish of Bass Hill between 1974 and 1979.

11 The Archdiocesan records also show that Father Farrar died on 24 September 1998 aged 76 years.

The Archdiocese of Sydney 1975 – 1986

12 The following persons are the persons within the Archdiocese with canonical/spiritual authority in relation to the Third Defendant in respect of the period 1975 to 1986:

- (a) His Eminence Sir James Darcy Cardinal Freeman;
- (b) His Eminence, Edward Bede Cardinal Clancy;
- (c) His Grace, Archbishop James Patrick Carroll;



- (d) His Lordship, Bishop Thomas William Muldoon;
- (e) His Lordship, Bishop Edward Francis Kelly MSC;
- (f) His Lordship, Bishop Patrick Laurence Murphy;
- (g) His Lordship, Bishop Bede Vincent Heather;
- (h) His Lordship, Bishop John Edward Heaps; and
- (i) His Lordship, Bishop Geoffrey James Robinson.

13 I have reviewed the Archdiocesan records in respect of the period 1975 to 1986, and have adduced the following information:

- (a) His Eminence Sir James Darcy Cardinal Freeman, the Archbishop between 1971 and 1983, died on 16 March 1991;
- (b) His Eminence, Edward Bede Cardinal Clancy; the Archbishop between 1983 and 2001, has now retired;
- (c) His Grace, Archbishop James Patrick Carroll, was ordained Auxiliary Bishop of Sydney from 1954 and from 1965 to 1984 Auxiliary Archbishop of Sydney, died on 14 January 1995;
- (d) His Lordship, Bishop Thomas William Muldoon, Auxiliary Bishop between 1960 and 1982, died on 13 January 1986;
- (e) His Lordship, Bishop Edward Francis Kelly MSC, Auxiliary Bishop between 1969 and 1975, died on 2 September 1994;
- (f) His Lordship, Bishop Patrick Laurence Murphy, Auxiliary Bishop between 1977 and 1986, has now retired;
- (g) His Lordship, Bishop Bede Vincent Heather, Auxiliary Bishop between 1979 and 1986, has now retired;
- (h) His Lordship, Bishop John Edward Heaps, Auxiliary Bishop between 1981 and 1992, died on 21 June 2004; and
- (i) His Lordship, Bishop Geoffrey James Robinson, Auxiliary Bishop and Vicar General between 1984 and 2004, has now retired.



The Third Defendant

- 14 The Archdiocese holds personal files in relation to all Catholic priests incardinated in the Archdiocese. Personal files contain, among other things, documents relating to appointments, commendations, complaints or allegations in respect of each Priest.
- 15 I have reviewed the Third Defendant's personal file. From that file, I understand that:
- (a) the Third Defendant was born on 24 January 1920, and was therefore aged between 55 and 66 years during the period of alleged abuse; and
 - (b) the Third Defendant was ordained on 8 December 1959 by His Eminence Sir Norman Thomas Cardinal Gilroy.
- 16 I also understand that in about 1954, the Third Defendant moved to Fort Augustus Abbey in Scotland (**Abbey**), where he spent 20 years teaching and ministering at the Abbey school. To the best of my knowledge and belief:
- (a) the Abbey school closed in 1999 and was canonically suppressed in 2001;
 - (b) the Abbey ceased to operate in 1998 due to declining numbers of monks;
 - (c) the Abbot during the time of the Third Defendant's attendance at the Abbey was Right Reverend Dom Mark Dilworth OSB who died on 28 February 1974 at the age of 79; and
 - (d) another former Abbot of Fort Augustus Abbey, Abbot Nicholas Holman, who also knew the Third Defendant, died on 13 August 2001.

Correspondence with the Plaintiff

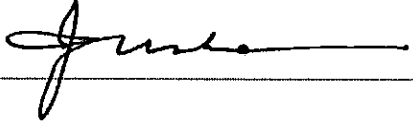
- 17 Annexed hereto and marked "JU1", is a copy of a letter sent to the Plaintiff by John Davoren of the Archdiocese's Professional Standards Office dated 15 July 2002. This letter refers to the health of the Third Defendant at the Little Sisters of the Poor Nursing Home, and states:


"The advice I have now received from Sister Rosemarie, Director of Nursing at the Nursing Home section of the Little Sisters at Randwick is that Fr Duggan's mental state has deteriorated seriously. His memory is variable, he cannot make a mature decision and has no capacity to understand the full implications of a decision."



SWORN at Sydney
Before me:

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BRAD WOODHOUSE
SOLICITOR

Father John Usher
Deponent