

From: John F. Davoren

Sent: Monday, 31 March 2003 8:43 AM

To: mail@makdap.com.au

Subject: Attention Richard d'Apice re Ellis and Duggan

Dear Richard,

Regarding the matter of Ellis and Duggan, I enclose the most recent e-mails to me from Mr Ellis [bottom of page] and my replies.

At this stage I do not see that anything is likely to be gained by my entering into an argument [and argument it would be] on the central issue that as there is no corroboration of Ellis' case it can only proceed if Fr Duggan were to admit to the substance of his complaint - that is to sexual assault of a teenaged boy. If Fr Duggan does not make such an admission, the complaint cannot be established on the balance of probabilities and the matter can go no further. This office would certainly advise the Archbishop against any "pastoral response" to Ellis unless the case against Duggan is established - especially if, as it appears Ellis is thinking of a not insignificant level of financial compensation.

The report from the hospital on Duggan's mental capacity would certainly call into question his capacity to plead, and consequently on my advice the Archbishop's letter to Ellis stated that the matter could go no further.

However, since his mother in a recent visit to Duggan thought that he was functioning socially quite well Ellis challenges the dementia assessment and wants Duggan to be interviewed by assessors. He apparently thinks that the assessors can decide if Duggan is fit to plead, and receive any admissions that he makes. Ellis is demanding that the Towards Healing process "get back on track", not understanding that the process has been stopped.

John Davoren

31 March To John Ellis from John Davoren:

I can only repeat what has been indicated to you previously, that the process can go no further if Fr Duggan is not able to be interviewed, and on the nursing home's advice he is in effect "not fit to plead". What would be required for it to be established that he is fit to plead has been referred back to the Archdiocese's solicitors and this office can take no action in the meantime. John Davoren

28 March From John Ellis to John Davoren:

Thank you for your response, and for the steps you have taken to progress this matter with the Archbishop's office.

I trust that you will not take what I have to say next as being "difficult", but rather as an attempt to clearly communicate my wishes, with a view to achieving the objectives of the Towards Healing process.

In that context, I cannot agree with the statement that "the matter of Fr Duggan's capacity to respond to the charges is central to the case, and that is the issue that must be addressed first"

I have raised some fairly fundamental issues of process and communication in my e-mail of 21 March, and do not feel that an adequate response has been made to those matters. In fact, to call a spade a spade, there has been no response.

I refer in particular to my first two requests - relating to the identification of a Contact Person and the appointment of assessors. These matters, it appears, must be the first priority to get the process "back on track". If no assessors have been appointed, who is going to consider and decide upon "the matter of Fr Duggan's capacity to respond to my complaint"?

I agree that FR Duggan's capacity to respond is an important issue in moving towards a resolution of the complaint. What I do not necessarily accept is that it is a "central" issue, in the sense of being something that dictates the outcome or progress of the process. I also find it unhelpful that your language has shifted to a language of "charges" and "case", rather than language more appropriate to a compassionate healing process. For the avoidance of doubt, I also do not accept that this is what must be done "first" in the context of the whole process from here (although it is obviously a matter which will need to be a high priority for the assessors once appointed). In this context, contemporaneously with appointing assessors, you should continue your dialogue with the Church authority in terms of removing any barriers from the Church authority to the assessors speaking with Fr Duggan, or even ascertaining whether they are (practically) able to do so.

I look forward to your advice as to who my Contact Person is, who have been appointed as the 2 assessors, and the other matters raised in my e-mail of last week.

Best regards John Ellis

From: John F. Davoren

Sent: Friday, 28 March 2003 2:56 PM

To: Archdiocese >>>>>mcasey@ado.syd.catholic.org.au; DCudmore@ado.syd.catholic.org.au

Subject: FW: Progress on your complaint

Forwarded for your information. I do not intend answering this e-mail today. Obviously Ellis does not appreciate or does not want to appreciate that the case cannot proceed without Duggan's making admissions, and that as far as the Archdiocese and this office is concerned there is nowhere for this "case" to go. His comments about Towards Healing are, I suggest, disingenuous; it would seem that the only logical reason for pursuing his fairly aggressive line is to establish a case for compensation. An appointment of an assessor without clarifying Duggan's ability to plead is both unjust and likely to render null and void any conclusions that might be drawn from such an assessment; it is not the role of assessors to assess the mental fitness of the accused.

John Davoren

-----Original Message-----

From: Ellis, John [mailto:John.Ellis@BakerNet.com]

Sent: Friday, 28 March 2003 1:39 PM

To: John F. Davoren

Subject: RE: Progress on your complaint

John

Thank you for your response, and for the steps you have taken to progress this matter with the Archbishop's office.

I trust that you will not take what I have to say next as being "difficult", but rather as an attempt to clearly communicate my wishes, with a view to achieving the objectives of the Towards Healing process.

In that context, I cannot agree with the statement that "the matter of Fr Duggan's capacity to respond to the charges is central to the case, and that is the issue that must be addressed first"

I have raised some fairly fundamental issues of process and communication in my e-mail of 21 March, and do not feel that an adequate response has been made to those matters. In fact, to call a spade a spade, there has been no response.

I refer in particular to my first two requests - relating to the identification of a Contact Person and the appointment of assessors. These matters, it appears, must be the first priority to get the process "back on track". If no assessors have been appointed, who is going to consider and decide upon "the matter of Fr Duggan's capacity to respond to my complaint"?

I agree that FR Duggan's capacity to respond is an important issue in moving towards a resolution of the complaint. What I do not necessarily accept is that it is a "central" issue, in the sense of being something that dictates the outcome or progress of the process. I also find it unhelpful that your language has shifted to a language of "charges" and "case", rather than language more appropriate to a compassionate healing process. For the avoidance of doubt, I also do not accept that this is what must be done "first" in the context of the whole process from here (although it is obviously a matter which will need to be a high priority for the assessors once appointed). In this context, contemporaneously with appointing assessors, you should continue your dialogue with the Church authority in terms of removing any barriers from the Church authority to the assessors speaking with Fr Duggan, or even ascertaining whether they are (practically) able to do so.

I look forward to your advice as to who my Contact Person is, who have been appointed as the 2 assessors, and the other matters raised in my e-mail of last week.

Best regards John Ellis

-----Original Message-----

From: John F. Davoren [mailto:john.davoren@cathprofstandards.com]

Sent: Friday, 28 March, 2003 12:09 PM

To: Ellis, John

Subject: Progress on your complaint

Dear John,

I was able to discuss your recent e-mails with the Archbishop's office yesterday. The Archbishop, himself is overseas at the moment.

Obviously the matter of Fr Duggan's capacity to respond to the charges is central to the case, and that is the issue that must be addressed first.

Your request for a copy of the advice given by the Archdiocesan lawyers on this issue was noted, and the Archdiocese will now pursue the matter directly and refer your request, and the matter generally back to its lawyers for their advice.

John Davoren