

SND

SND 6

Co. Antrim
Limavady

St. Mary's, Limavady

Servant

Nazareth House, Derry
Mother Elizabeth

Servant

Labourer

Servant

Servant

Labourer

Mother Elizabeth.

21st April 1941

16th January 1946

384

Servant

Servant

Land

Servant

Allegation 53: **SND 6****Archives on Record**

Register No. 384
Christian Name: **SND 6**
Date of Birth: **SND 6**
Where Baptised: St Mary's Limavady
Mothers Name: **SND 6**
Occupation of Parent: **SND 6**
Recommended by: Mother Elizabeth, Nazareth House, Derry
Date of Admission: 21 April 1941 Termonbacca
Address: **SND 6**
Left Care: 16 January 1946

Noted in Observation book; **SND 6** born in Limavady on **SND 6** and baptised in St Mary's on the 6 April 1940. His mother being **SND 6** the child was nursed out by a foster mother and was recommended to us by Mother Elizabeth. He came on April 21st 1941

Our Reference: FJC/KC/4493
 Plaintiff's Solicitors: Hilary Carmichael Solicitors
 Plaintiffs Sol Ref: EK/COK

Solicitor: Hilary Carmichael Solicitors
 Ebrington House
 6 Ebrington Terrace
 Waterside
 Londonderry
 BT47 6JS

Allegation:

- Forced to perform acts of oral sex
- Plaintiff was sedated
- Failed to prevent abuse of the Plaintiff
- Failed to undertake any assessment of persons having access to the Plaintiff
- Failed to make Plaintiff aware of mothers existence
- Failing to provide for the care, safety and welfare of the Plaintiff

In the High Court of Justice in Northern Ireland**ORIGINAL**

QUEEN'S BENCH DIVISION

2010 No 017253



SND 6

Plaintiff

-and-

THE SISTERS OF NAZARETH

of Nazareth House, 169-175 Hammersmith Road, Hammersmith,
London W6 8DB

Defendant

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of our other realms and territories Queen, Head of the Commonwealth, Defender of the Faith:

The Sisters of Nazareth

Nazareth House, 169-175 Hammersmith Road, Hammersmith, London
W6 8DB

I do command you, that within ²¹14 days after the service of this Writ on you, inclusive of the day of service, you do cause an appearance to be entered for you in an action at the suit of **SND 6**

WITNESS, Lord Chief Justice, the Right Honourable SIR DECLAN MORGAN
Knight, Lord Chief Justice of Northern Ireland, the 10th day of 110
2010

Note: This Writ may not be served later than 12 calendar months beginning with the above date unless renewed by order of the Court

DIRECTIONS FOR ENTERING APPEARANCE

The Defendant may enter an appearance in person or by a solicitor either (1) by handing in the appropriate forms, duly completed at the Central Office or Chancery Office (as appropriate); Royal Courts of Justice, Chichester Street, Belfast BT1 3JF; or (2) by sending them to that Office by post. The appropriate forms may be obtained at H M Stationery Office, Chichester House, Chichester Street, Belfast BT1 1PS

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEENS BENCH DIVISION

BETWEEN:

SND 6

Plaintiff

And

THE SISTERS OF NAZARETH

Defendant

STATEMENT OF CLAIM

1. The Plaintiff was born on [REDACTED] in Londonderry to an unmarried mother. For the first year of his life he was in the custody of his mother before being placed in Termonbacca, a boy's home run by the Defendants
2. The Plaintiff remained at Termonbacca for some time and during this period his mother became more settled. His mother returned to Termonbacca for him on two occasions. On the second occasion she was told that the Plaintiff had gone to Australia to adoptive parents there. This was untrue as the Plaintiff had been discharged from Termonbacca in July 1947 to an adoptive family in Donegal. The Plaintiff was sexually abused by priests whilst within the care and custody of the Defendants.
3. The Plaintiff's claim is for damages for personal injuries, loss and damage sustained by the Plaintiff by reason of the negligence of the Defendant, its servants and agents, in providing for the care, safety and welfare of the Plaintiff and the abuse of the Plaintiff by the Defendant, its servants and agents, over an extended period when he resided at Termonbacca.

PARTICULARS OF NEGLIGENCE

In all the circumstances the defendant, its servants and agents, acted negligently in their treatment of the plaintiff, in particular the defendant, its servants and agents:

- (i) Practiced serious abuses on the plaintiff including forcing the Plaintiff to perform acts of oral sex.
- (ii) Sedating the Plaintiff.
- (iii) Failed to undertake any or any proper steps to prevent the abuse of the plaintiff.
- (iv) Failed to undertake any or any proper assessment of persons having access to the Plaintiff.
- (v) Continually failing to make the Plaintiff aware of his mother's existence.

- (vi) In all the circumstances failing to provide for the care, safety and welfare of the Plaintiff.
4. Further or alternatively, the Defendant, as a public authority, its servants and agents, have breached the Plaintiff's Article 8 ECHR right to family and private life following incorporation of the ECHR under the Human Rights Act 1998.

PARTICULARS OF BREACH

- (i) Continually failing to make the Plaintiff aware of his mother's existence.

PARTICULARS OF INJURY

The plaintiff suffered physical injury to his pubic area including a two inch scar and damage to his foreskin during the acts of abuse. The plaintiff has suffered substantial psychiatric injuries as a result of the abuse including emotional numbness and lifetime difficulties with intimacy and personal closeness.

AND the plaintiff claims:

- (i) Damages at common law and pursuant to the Human Rights Act 1998.
- (ii) Interest thereon pursuant to section 33A of the Judicature (Northern Ireland Act) 1978.

PETER GIRVAN BL

2010 No. 017253

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION

BETWEEN:

SND 6

PLAINTIFF

-and-

THE SISTERS OF NAZARETH

DEFENDANT

DEFENCE

Served this 28th day of March 2011 by Jones & Company,
Solicitors for the Defendant, 4th Floor, The Pothouse, 1
Hill Street, Belfast, BT1 2LB

1. The Defendant denies that the Plaintiff was at any time a resident of Termonbacca or that he was discharged from Termonbacca in July 1947 to an adopted family in Donegal, Republic of Ireland.
2. The Defendant denies that the Plaintiff was sexually abused by priests while within the care and custody of the Defendant.
3. The Defendant denies that its servants and agents acted negligently in their treatment of the Plaintiff and in particular the Defendant denies that its servants and agents were practice, performed or arbitrated any acts of sexual abuse upon the Plaintiff.
4. The Defendant denies that its servants and agents failed to take any proper steps or assess persons to prevent the abuse of the Plaintiff.
5. The Defendant denies that it or its servants and agents continued or failed to make the Plaintiff aware of his mother's existence.
6. The Defendant denies that it failed in any manner whatsoever to provide proper care, safety and welfare for the Plaintiff.

7. The Defendant denies as a public authority that it breached the Plaintiff's Article 8 ECHR right as to family and private life under the Human Rights Act 1998.
8. The Defendant denies that the Plaintiff has suffered resisting and delays to any or personal injuries, loss or damage either to the extent of the nature or other nature or of the consequences alleged, and further denies each and every allegation of fact within paragraphs 3 and 4 as if the same were herein set forth and each specifically denied.
9. If the Claimant has sustained the alleged or any personal injuries, loss and damage either to the extent of the nature or the consequences alleged, which is denied, as if the same was caused, occasioned or contributed to by reason of the wrongful act, neglect, omission, default or breach of statutory duty of the Defendant or any of its servants or agents.
10. The Plaintiff was caused personal injuries, loss and damage to be proved within three years before the commencement of this action, the Defendant will rely on Article 7 of the Limitation (NI) Order 1989.
11. The Plaintiff's cause of action under paragraph 4 of the Statement of Claim, breach of the Plaintiff's Article 8 ECHR rights did not accrue with the six years before the commencement of this action and the Defendant will rely under Article 6 for the Limitation (NI) Order 1989.
12. Save aforesaid, this Defendant denies each and every allegation of fact contained in the Plaintiff's Statement of Claim as if the same were herein set forth and each specifically denied.

GARETH PURVIS BL.

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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEENS BENCH DIVISION

lalBetween**lal**

SND 6

ralPlaintiff**ral**

and

THE SISTERS OF NAZARETH

ralDefendant**ral**



DIRECTIONS given by THE HONOURABLE MR JUSTICE GILLEN,
on 14 November 2011

WHEREAS this action is in the list this day for review before the Judge,

NOW UPON HEARING Counsel on behalf of the respective parties,

THE COURT DIRECTS that:-

1. the parties shall ensure compliance with the provisions of Order 25 of the Rules of the Court of Judicature on or before 21 December 2011.
2. the plaintiff's solicitor shall ensure compliance with the provisions of Order 34 of the Rules of the Court of Judicature on or before 21 December 2011.
3. all outstanding interlocutories in this matter shall be served in compliance with the time limits prescribed in the Rules of the Court of Judicature (NI) and shall be completed not later than 21 December 2011. For the removal of doubt, reference to "interlocutory proceedings" in this direction shall include references to amendment to the pleadings, preliminary issues, meanings applications, interrogatories, amendments, disclosure, notice for particulars, pleadings in general etc.
4. the parties shall comply with Order 24 of the Rules of the Court of Judicature and complete any outstanding issue of disclosure on or before 31 January 2012. In the event of same not being completed on or before the said date, it shall be the responsibility of the party alleging default to bring the matter before the court forthwith.
5. If any issue of limitation is to be raised at the hearing of this action, the defendant's solicitor shall file an affidavit thereon on or before 27 February 2012. The plaintiff shall serve any response thereto on or before 20 March 2012.
6. the parties shall give consideration to convening a meeting of the legal representatives for the purposes of discussing resolution of this case on or before the week commencing 26 March 2012.

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7. the parties shall file with the Central Office skeleton arguments on the limitation issue on or before 29 March 2012.

8. The plaintiff's solicitors shall compile and supply to the Central Office a properly collated, paginated and indexed booklet of all relevant copy medical notes and records and any medical literature to be relied on by the experts in the case on or before 30 March 2012. The same shall be agreed with the other parties and shall serve as a common booklet for use throughout the trial. All parties shall further undertake to have in court the originals of all such documents. It is the responsibility of solicitors /barristers in this case to sift the documents available and produce a manageable *core* bundle relevant to the issues to be determined. Excessive and unnecessary documentation must be avoided.

9. the parties shall file with the Central Office skeleton arguments on any legal issues likely to arise, seven days prior to the date for trial.

10. this action be listed for hearing before a judge of this court commencing on 16 April 2012 at 1015am for 5 days. The parties shall take steps to confirm in writing to the court and each other the availability of all witnesses for this date within seven days of this order. In the event of any material witness not being so available, the parties shall within 14 days of the date of this order have agreed an alternative date and have informed the Central Office accordingly. The parties shall ensure that all witnesses who are to give oral evidence at the trial of this action shall be present in Court and in a position to enter the witness box at 10:15am on the date set for the trial of this action.

Glenn Hagan
Proper Officer

CLINICAL PSYCHOLOGISTS REPORT

NAME:

SND 6

D.O.B:

[REDACTED]

DATE

9th May 2010

ADDRESS:

[REDACTED]

BY:

Professor Robin Davidson
Consultant Clinical Psychologist
Hon. Lecturer., Faculty of Medicine. (QUB)

This report is based on a psychological examination of **SND 6** held in the offices of Hilary Carmichael, Solicitor on Thursday 1st April 2010. Prior to the examination I had sight of his primary care records from 1996 and background papers.

1.0 REASON FOR REFERRAL

1.1 **SND 6** was referred to me by Hilary Carmichael, Solicitor. I was instructed to provide a brief and relevant psychosocial history and more specifically to comment on any psychological sequelae which may have arisen as a result of earlier developmental trauma.

2.0 PRESENTATION

2.1 **SND 6** presents as a very pleasant, articulate, elderly gentleman who gave me a full account of his personal and family history. On presentation there were no obvious signs of anxiety or depression and no signs of any severe and enduring mental illness. He came over as an earnest and honest individual and there was no indication that his historical narrative was anything other than accurate. His non-verbal communication was consistent with his verbal responses and demeanour throughout my examination. As far as I am aware he maintained his concentration and I think he found it therapeutic to talk at length about some of the early traumatic experiences in his childhood and adolescence.

3.0 PRIMARY CARE RECORDS

3.1 His primary care records indicate that from around 1996 **SND 6** has been in increasingly poor physical health. He developed angina at the age of fifty-five and had a coronary by-pass a year later in 1997. He had stents inserted in his coronary grafts in 2000 and 2001. He has since been on a variety of medications for his coronary disease. He has, despite these interventions, had mild ongoing angina since 2003. There have been no further surgical interventions and the angina is largely controlled by medication and risk factor modification.

3.2 On 09.02.02 he presented with a raised PSA and this led in May 2009 to a diagnosis of prostate cancer with associated diffuse metastatic disease. Multiple bony mets were identified and now **SND 6** being treated with palliative rather than curative intent. According to his primary care records he is aware of the prognosis and is dealing with the existential implications of this in an appropriate and psychologically healthy way.

3.3 There is nothing in his recent primary care record to indicate any ongoing mental health issues.

4.0 PERSONAL AND FAMILY HISTORY

4.1 I will outline only those aspects of **SND 6** history which are relevant to the purpose of this report. He is separated from his wife and lives in Co Donegal. He has four children and six grand-children all of whom are presently living in England.

4.2 His children were born between 1965 and 1971 and there is one girl and three boys. He separated from his wife **SND 6** some thirty years ago.

4.3 The reasons for the separation are interesting and relevant to the issues highlighted in this report. I will deal with them more fully below. He said that "I always found relationships difficult". He went on to say "I wanted to keep away from people". He says as the children grew up he found it difficult to have a one to one relationship with [REDACTED]. He says that "all of this was my fault; I moved out then back again on two occasions". He specified that they didn't have "rows". They had no sexual relationship after the birth of the children and he said "I finally decided I needed to let her go to give her a chance of happiness". He went on to say "I am uncomfortable in the company of adults; I don't like touch or intimacy".

4.4 Associated with this fear of intimacy is also the sense of the discomfort in groups of males. He describes this as an "uneasy feeling" and would say for example if he is with some people in a pub he would always sit close to the door. Clearly this is avoidance behaviour and facilitates escape should it become unduly uncomfortable. **SND 6** said he has had two significant relationships with women since [REDACTED] and both of these were characterised by the same feelings of discomfort and unease. One lasted for two years and the other five years and he said "both were lovely but once again I could not deal with the intimacy".

4.5 **SND 6** was a bus driver in London but moved back to Greencastle in 2003.

5.0 EARLY BACKGROUND

5.1 **SND 6** was born in Derry on [REDACTED] to an unmarried mother. For the first year of his life he was "carried around by his mother before being placed in Termabacka, a boy's home run by nuns.

5.2 He remained here for some time and during this period his mother became more settled. Apparently she returned to Termabacka for him on two occasions. On the second occasion she was told that **SND 6** had gone to Australia to adoptive parents there. This was in effect untrue; he had been discharged from Termabacka in July 1947 to an adoptive family in Donegal. These were the [REDACTED] and as well as **SND 6** they had one biological daughter. He left this family at the age of fifteen to join the Merchant Navy. He was named **SND 6** this time.

5.3 He has fond memories of his nine or so years with the [REDACTED]. He said "they looked after me". He went on to say "I didn't have a problem with close proximity with the [REDACTED] [REDACTED] died some twenty-five years ago.

5.4 **SND 6** changed his name after having been in the Merchant Navy for six years. He lived in London for a time, then moved around and ended up back in London. He tells me that he drove for London Transport until 1986 and after this he drove coaches and lorries until his by-pass operation in 1997. After the separation he lived fairly close to members of his family in London before moving to the council house in Greencastle, Co Donegal in 2003.. He said that he particularly misses his family "since I got cancer".

5.5 While he recalls his childhood in Donegal with the adoptive family he said he has "few memories of the six and a half years in the boys home in Termabacka". He says "I only know about the nightmares when I got out".

6.0 PSYCHOLOGICAL HISTORY

6.1 As well as nightmares, **SND 6** reports flashbacks relating to both physical and sexual abuse. He says "these make me sick, I try not to think about them". The flashbacks always involve priests and nuns and he recalls that in his adult life he has been particularly nervous of toilets. He said "toilets hold a dread for me especially when they are small". He particularly recalls an incident when he was twelve or thirteen in Donegal when he had a clear flashback and an associated panic attack when in a toilet.

6.2 He has persistent flashbacks of a priest asking him for oral sex. He said that "I was under observation for some unknown reason" but he can recall this particular priest approaching him for oral sex on a regular basis. Other memories are triggered by various smells including iodine. He said that "I have a two inch scar in my pubic area". He has no recall of any surgery and no-one has been able to tell him why this incision should have been required. He has since attempted to retrieve his medical notes from that time, but apparently they have been destroyed.

6.3 He has other vague memories of sexual interference involving visiting priests. He says "these are vague, I should remember but I can't". He went on to say "I have something blocking my mind". He said that "I must have been under sedation I can't even remember coming out of the home". **SND 6** narrative is permeated with the idea of uncertainty and the search for answers. He said "I have never got an answer and my records were destroyed". He went on to say "I have been searching all of these years". He said he has, as he puts it "blanked everything out".

6.4 On a physical level he said that he has always had trouble with his foreskin and says "It always bleeds as far back as I can remember".

6.5 In terms of his current mental state, **SND 6** says that he has always been a very nervous individual. Clearly there is a sense of social alienation. He also describes emotional numbness and a lifetimes difficulty dealing with intimacy and personal closeness.

6.6 He says that he has not been treated for any mental illness and went on to say "I have worked and got on with my life". He does say however that he finds it hard to trust people and also that he "wants answers for peace of mind".

7.0 QUESTIONS

7.1 This is a very interesting and salutary story. There are some key questions.

- Are these flashbacks essentially recovered memories?

- Did abuse occur or is this genuinely meant but nonetheless false recall?
- Was surgery carried out leading to a scar during his time in Termabacka?
- Did the nuns at the time prevent his mother taking **SND 6** back by not informing her that he was with a family in Donegal?
- Could sexual abuse in the boys home be aetiologically relevant in terms of **SND 6** **SND 6** adult mental state?

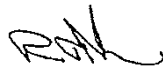
8.0 OPINION

8.1 My impression is that these flashbacks are accurate. False memories are usually more detailed and less hazy. There is usually a compensation agenda although at times false memories can be triggered by psychotherapy and/or counselling aimed at particular adult psychopathology. **SND 6** is not particularly interested in compensation and neither has he had any formal psychotherapy. Furthermore the flashbacks and nightmares have been with him more or less since he left the home. If an individual is actively seeking compensation they will be much more proactive in their recall of events. Throughout **SND 6** **SND 6** narrative he uses words like "hazy", "poor memory", "searching" and "trying to get answers". There are also the conditioned responses of smells and locations which he associates with anxiety and at times panic. This again would indicate a very strong emotional response at the time of an event.

8.2 Accordingly I think that there is enough here to indicate untoward events during the first six and a half years of this man's life. I think the flashbacks and fleeting memories are consistent with this, as are the conditioned responses. Furthermore I think **SND 6** is not seeking compensation, but rather peace of mind. I picked up no sense of anger or revenge aimed at the Catholic Church. Rather I think this man is motivated by a need to understand his past. I think this has been compounded by the fact that he has been diagnosed with a terminal illness which he is being treated palliatively.

8.3 I think his habitual pattern of responding and the dysfunctional adult personality characteristics which I have described have been shaped by early trauma which he has yet to fully comprehend. He quite rightly has attempted to get more details of the medical procedures (which may have caused the pubic scar) and indeed the day to day life in Termabacka. This information has unfortunately, for whatever reason, not been forthcoming.

8.4 I felt personally quite moved by **SND 6** story and I hope that he will find some answers which I am sure would give him some peace of mind.



Professor Robin Davidson
Consultant Clinical Psychologist
Hon Lecturer, Faculty of Medicine (QUB)

9TH May 2010

2010/017753

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION

Between

SND 6

Plaintiff

and

THE SISTERS OF NAZARETH

Nazareth House, 169-175 Hammersmith Road, Hammersmith, London, W6 8DB

Defendant

TAKE NOTICE that the above named Plaintiff hereby discontinues the action.

Dated this 13th day of April 2012

Signed:

Hilary Carmichael
Hilary Carmichael Solicitors
Ebrington House,
6 Ebrington Terrace,
Waterside,
Londonderry
BT47 6JS
EWRING CLK.

TO:

Solicitors for Defendant
Jones & Company
Solicitors
DX 537 NR
BELFAST