

# Mount Cashel civil appeal to be heard in March

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The former Mount Cashel orphanage in St. John's. — SaltWire Network

Win or lose, some of his brothers will never know the difference.

They have Alzheimer's and so for them the wait is over, the answers left hanging in the wind.

But for John Doe, the waiting goes on, marked by another major milestone — the appeal on the Mount Cashel civil case will be heard in the Newfoundland and Labrador Court of Appeal March 21-22.

"I'm just waiting, that's all," he said. "They'll never have closure. And that's very, very sad."

In March 2018, the group of now elderly men who were abused as boys in the Mount Cashel Orphanage lost their civil fight in Newfoundland and Labrador Supreme Court to have the Roman

Catholic Church held responsible for what happened to them several decades ago at the infamous boys' orphanage.

In a decision released almost a year and a half after the civil trial clewed up and nearly two years since it began, Justice Alphonsus Faour said the church can't be held legally responsible for the illegal abusive actions of certain members of the lay order Christian Brothers, which the church maintained was independent.

**“They'll never have closure. And that's very, very sad.” — John Doe**

A second argument was unsuccessful on whether any Catholic officials — having heard of the abuse — failed a duty of care to the boys.

It has been accepted the four test-case John Does — representative of 60 or more abused residents of the orphanage during the era of the 1940s to early 1960s — did suffer physical and sexual abuse at the St. John's orphanage, which was demolished in 1992.

Geoff Budden of Budden and Associates launched the case in 1999. He said he has brought on Eugene Meehan at the Ottawa law firm of Supreme Advocacy, which specializes in appellate law, to help fight the appeal.

“What is at stake is so great,” Budden said Wednesday of tapping a law firm with expertise in the appellate specialization.

Toronto lawyer Mark Frederick of Miller Thomson, who represents the Roman Catholic Episcopal Corp. of St. John's, said Wednesday as the appeal is a matter still before the courts, it would be inappropriate to comment at this time.

Budden made a similar comment on the specifics of the case.

One of the John Does, who shared his story as part of a Telegram series on the aftermath of Mount Cashel in 2012, was one of five brothers who were placed in the orphanage after the death of their mother. All five were abused physically and sexually.

A publication ban prevents identifying any of the claimants.

The technology has changed, but John Doe spoke about the upcoming appeal in his TV room Wednesday, the same place where as an adult he first broke down and told his family of the abuse he suffered at Mount Cashel after watching the televised Hughes Inquiry, which launched 30 years ago this year.

All these decades later, he remembers the names of young boys brutally, physically abused — thrown across the room, beaten mercilessly.

His recollection of events the boys didn't understand at the time would snap your heart and leave you unable to fathom how such evil things can happen — that of a small child left in a blood-soaked bed, bleeding from his anus after a visit from a Christian Brother.

Some of the boys went on to do OK in life, to get an education and professional career, as John Doe did while still haunted by Mount Cashel. Other classmates turned to crime, to drugs, their lives coming to dramatic ends. He remembers their names as well.

The man is still shaken by the fact that the decision on the Mount Cashel civil case involving the older men referenced how seven boys disclosed the abuse back then out of potentially hundreds.

**"It was a floating palace of fear. Anything could happen to you at any time for any reason." — Claimant**

Fear, shame and the inability of young minds to process what was happening to them by people in a position of trust were overwhelming reasons why it's surprising as many as seven were brave enough to say anything all those decades ago, Doe said.

"That (confessions by only seven boys) could be a point on which our case fell down, I was more than flabbergasted. ... That really disturbed me. ... (For the court) to say there was only seven, that's saying to all of us, 'They're only orphans anyway,'" he said.

"I could not see that being supported by any point of law. I lost a lot of respect for the court and that's unfortunate."

John Doe never spoke up as a child, and not as an adult until watching that Hughes Inquiry coverage.

"You don't have the maturity at the time to really sit down and say, 'What is this happening to me?' ... It was a floating palace of fear. Anything could happen to you at any time for any reason."

The Mount Cashel sexual abuse scandal is most associated with the abuse of boys of a different era, the 1970s and '80s — the scandal that prompted the 1989-90 Hughes Inquiry. That era was not part of this civil case, and the boys from earlier decades were not part of compensation from the provincial government when it settled a block of cases from the '70s and '80s more than 20 years ago.

The 1940s-to-'60s-era abuse cases were ruled ineligible for action against the provincial government because of a legal decision years ago. There was some compensation through the bankruptcy of the Christian Brothers, who were dropped from the civil action.