

Fr. E

220. *Fr. E* was ordained in 1972.²⁵ As early as 1984, the Diocesan Corporation was on notice of a substantial likelihood that *Fr. E* had sexually abused minors. In 1989, the Diocesan Corporation placed *Fr. E* on administrative leave, and, by 1993, he had found a secular job, while still retaining his status as a priest. Years later, instead of applying the *Charter* and the *Essential Norms*, the Diocesan Corporation failed to seek or, alternatively, reasonably document the DRB's assessment of sexual abuse allegations against *Fr. E*, and the Diocesan Corporation failed to refer *Fr. E* to the CDF. Further, the Diocesan Corporation engaged in other misconduct by (a) making false or misleading statements to its beneficiaries and (b) failing to reasonably monitor *Fr. E*, exposing itself and minors to unnecessary risks.

Pre-2002 Notice of and Response to Sexual Abuse Allegations

221. After *Fr. E*'s ordination, he served in parishes until the Diocesan Corporation placed him on administrative leave in 1989. During this period, the Diocesan Corporation

²⁵ Unless otherwise noted, the allegations against *Fr. E* are based exclusively on documents that were obtained from public sources or produced from diocesan files for Attorney General review. The allegations against *Fr. E* have not been independently investigated by the Attorney General and are recited only to establish the information provided to, and decisions taken by, the Diocesan Corporation in connection with its response to reports of alleged sexual abuse.

received at least two complaints alleging that *Fr. E* had acted inappropriately or sexually abused a minor.

222. Handwritten notes by Vicar General Trautman, dated April 1984, state:

I met with [Complainant 1 and his parents]. . . . They came to disclose that two of their sons, [Complainant 1], 21 yrs., and [Complainant 2], 16 yrs., had been propositioned by [*Fr. E*]. . . . [A] homosexual relationship did exist for a long period of time between [Complainant 2] and [*Fr. E*]. Older brother rejected advances, but did have initial involvement. . . . [Complainant 2] was 15 year [sic] old when he got involved with [*Fr. E*]; [*Fr. E*] admits charges. [*Fr. E*] says he and [Complainant 2] were involved “several times” and “only once” with older brother. This is admitted by [*Fr. E*].

[*Fr. E*] had boys stay overnight in Rectory [sic] & slept with them. He also used a home video recorder. He kept taking the boys to . . . swim[] (nude) [*Fr. E*] questioned boys under pretext of counselling about their sexual lives etc. Then he told them he would give them a “backrub” since he was an “athletic Director” etc. He aroused them. . . . This statement is factual.

. . . In my meeting with [*Fr. E*] he accused several other priests, giving names.

The notes do not identify the other priests named by *Fr. E*.

223. Other handwritten notes by Vicar General Trautman in *Fr. E*'s file state: “1984—Southdown prescribes medication . . . ‘any future incidents - - - should be interpreted as outright rejection of your support & self-made decision to leave priesthood.’”

224. Less than five months later, in January 1985, Vicar General Trautman prepared a memo documenting additional complaints and Southdown's reaction to *Fr. E*'s behavior:

[A parish priest] reported that a mother who is separated from her husband and a parishioner of his parish contacted him regarding [*Fr. E*] who, in the mother's view, is spending too much time with her teenage son. . . . [*Fr. E*] sees him approximately 3 or 4 times a week. . . .

Other signs of imprudence include: The buying of gifts and taking the individual out to dinner. . . .

These matters were reported to [Southdown and it] summoned the individual

In the meeting at Southdown, the individual admitted to all of the accusations; he

further agreed to turn back all the gifts that he had purchased for the individual, and he would make no more private appointments with young men. [The Southdown] staff [was] upset because this is a direct violation of the covenant/agreement between the individual and Southdown; since again patterns of exclusive friendship were being shown.

225. In mid-1989 the Diocese removed *Fr. E* from ministry and placed him on administrative leave. In August 1989, Auxiliary Bishop Trautman met with *Fr. E* and another priest, who accompanied *Fr. E* to the meeting. Trautman's memo documenting the meeting states that "[*Fr. E*] brought with him [another priest to the meeting], since he was afraid I was going to have a hidden agenda, such as having him sign laicization papers." At the meeting, Trautman reiterated that a final decision had been made and *Fr. E* should "progress toward a new life."

226. Almost four years later, in April 1993, *Fr. E*'s canonical adviser wrote to Bishop Head and Vicar General Cunningham to seek *Fr. E*'s return to ministry. The adviser noted that, since *Fr. E*'s leave, *Fr. E* had worked as a counselor at a mental health facility.

227. In October 1993, *Fr. E* wrote to Bishop Head to request an assignment, claiming that the Diocese lacked any basis to permanently remove him from ministry. He also stated that he was currently serving as the Clinical Program Director at a "psychiatric unit," and he maintained that he would not seek voluntary laicization. Head directed Vicar General Cunningham to prepare a response to *Fr. E*. In his letter response, Head rejected *Fr. E*'s request to re-enter ministry:

You are well aware that repeated instances of inappropriate behavior made it necessary to remove your priestly faculties. . . .

. . . It would be neither prudent nor just for me to concede the diocesan faculties to you and to grant you an assignment. . . .

[*Fr. E*], we have reviewed the information that we have received and of which you are cognizant. Therefore, I again suggest that it would be in your own

best interest and the best interest of the Church to seek laicization

228. *Fr. E* replied to Bishop Head in December 1993. *Fr. E* refused to seek laicization and insisted that he would continue to seek re-entry into ministry, claiming that diocesan files apparently contained “unsubstantiated allegations” against him.

229. In February 1994, *Fr. E* again asked Bishop Head if he could return to ministry. In his response, Head stated that *Fr. E* remained suspended because of *Fr. E*’s “inappropriate sexual behavior over a prolonged period of time and in a variety of assignments.” Head again urged *Fr. E* to seek laicization.

230. In March 1997, Complainant 3’s brother informed the Diocesan Corporation that in about 1982, *Fr. E* may have abused Complainant 3, who was sixteen years old at the time.

231. In December 1998, *Fr. E* followed up with Bishop Mansell regarding his request to have his faculties restored. In a January 1999 letter, Mansell rejected *Fr. E*’s request and recommended again that *Fr. E* seek laicization.

Defendants’ Violations of Sexual Abuse Policies and Secular Fiduciary Duties

232. After the *Charter* was adopted, *Fr. E* remained a priest on administrative leave. The Diocese took no steps to laicize him.

233. In September 2002, a reporter contacted the Diocesan Corporation about an upcoming story on *Fr. E* and an alleged victim’s contention that *Fr. E* had abused him in approximately 1978. The reporter’s questions included: “Where is [*Fr. E*] today?” The Diocesan Corporation’s Director of Communications responded: “We do not know.” Among other things, this admission plus the absence of documentation in *Fr. E*’s file indicating the Diocesan Corporation’s regular supervision of *Fr. E* show that the Diocesan Corporation failed to reasonably monitor him.

234. *Fr. E* died on January 17, 2010, in Rochester, New York. The next day, a local priest called Auxiliary Bishop Grosz to alert him to *Fr. E*'s death. Grosz told the priest "to keep the funeral 'low key' and not make references to the priesthood of [*Fr. E*]." Grosz's summary of this call records that "[Grosz] consulted the special files which indicate why [*Fr. E*] would not be returned to active ministry."

235. In March 2018, the Diocesan Corporation publicly identified *Fr. E* on a list of "diocesan priests who were removed from ministry, were retired, . . . left ministry after allegations of sexual abuse of a minor[, or . . . were] deceased priests with more than one allegation made against them."

236. Shortly after the publication of the list, Complainant 3 filed a complaint with the Diocesan Corporation, alleging that in approximately 1982 or 1983, on two separate occasions, when he was sixteen years old, *Fr. E* gave him alcohol and performed and attempted to perform oral sex on him while he was unconscious. In April 2018, Auxiliary Bishop Grosz contacted Complainant 3 to discuss the allegations. According to Grosz's summary of the call, Grosz said that "the case need[ed] to go through the [DRB]," which would meet in June 2018. *Fr. E*'s file contains no record of the DRB's assessment of Complainant 3's allegations.

237. In November 2018, *The Buffalo News* published a story alleging that in 1984 or 1985, *Fr. E* had sexually abused a minor and jokingly held a gun to the head of the alleged victim in connection with the abuse. *The Buffalo News* also reported that, when sought for comment, the Diocesan Corporation maintained that "[it] could not provide answers at the moment because [*Fr. E*'s] personnel file—along with the files of other priests accused of abuse—ha[d] been handed over to the state Attorney General's office" and that "[a]t some point, when it is returned to [the Diocesan Corporation], time frame unknown, [the Diocesan

Corporation] will be able to respond to [the newspaper's] questions.” The Attorney General never possessed any of the Diocese’s original files, including files concerning *Fr. E*.

238. The Diocesan Corporation repeatedly violated the *Charter* and the *Essential Norms* by failing to seek or, alternatively, reasonably document the DRB’s assessment of sexual abuse allegations against *Fr. E* and by failing to refer *Fr. E* to the CDF. Instead, it made false or misleading statements to its beneficiaries and failed to reasonably monitor *Fr. E*. The Diocesan Corporation’s actions concealed *Fr. E*’s conduct from the public and placed its beneficiaries at risk.