

**Fr. K**

366. *Fr. K* was ordained in 1974.<sup>33</sup> In 2004, he was arrested for and pled guilty to possession of child pornography. Instead of applying the *Charter* and the *Essential Norms*, the Diocesan Corporation allowed him to retire. The Diocesan Corporation also failed to seek or, alternatively, reasonably document the DRB's assessment of *Fr. K* and failed to refer or timely refer *Fr. K* to the CDF. Further, the Diocesan Corporation engaged in other improper conduct by (a) disregarding the risk of sexual abuse by urging and allowing *Fr. K* to do volunteer work; (b) providing benefits and other compensation to *Fr. K* even though his laicization would have relieved the Diocesan Corporation of its duty to financially support him; and (c) failing to reasonably monitor *Fr. K*, exposing itself and minors to unnecessary risks.

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<sup>33</sup> Unless otherwise noted, the allegations against *Fr. K* are based exclusively on documents that were obtained from public sources or produced from diocesan files for Attorney General review. The allegations against *Fr. K* 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.

Defendants' Violations of Sexual Abuse Policies and Secular Fiduciary Duties

367. *Fr. K* began his parish ministry in October 1974. He served in three different parishes and the diocesan tribunal between 1974 and 2004.

368. On February 26, 2004, while *Fr. K* served as the Administrator of two parishes, the Diocesan Corporation announced his arrest for child pornography and removed him from ministry. The *Associated Press* reported that at *Fr. K*'s rectory, federal agents recovered about 100 pornographic images, including images of “naked children [and] prepubescent children engaging in oral sex with adult males.” That same day, Diocesan Administrator Cunningham suspended *Fr. K* pursuant to the *Essential Norms*. The related Decree of Suspension revoked *Fr. K*'s faculties and prohibited him from publicly saying Mass, administering the sacraments, dressing in clerical garb, or publicly presenting himself as a priest.

369. In March 2004, *Fr. K* retained an attorney to defend him in his criminal case; the Diocesan Corporation agreed to pay his attorneys' fees. At about the same time, *Fr. K* began receiving mental health treatment at the St. Luke Institute.

370. In June 2004, *Fr. K* pled guilty to possessing child pornography.

371. In October 2004, the St. Luke Institute discharged *Fr. K*.

372. In February 2005, Auxiliary Bishop Grosz submitted a letter to the judge in *Fr. K*'s criminal case. Grosz asked the judge to consider a sentence that did not involve jail time. The letter also notes that Grosz knew *Fr. K* for thirty-seven years, since the two attended the seminary together, and that “[*Fr. K* had] served God and the Roman Catholic Church as a fine and upstanding priest.”

373. In March 2005, *Fr. K* was sentenced to thirty-seven months imprisonment and two years of supervised release. The court also ordered that, during *Fr. K*'s supervised release,

he would receive alcohol treatment and be prohibited from drinking alcohol.

374. In June 2006, *Fr. K* wrote to Auxiliary Bishop Grosz from prison to ask about two items. He asked whether the Diocesan Corporation would assist him in locating a residence after his release. And he inquired about his clerical status. In about April 2007, Grosz forwarded *Fr. K*'s questions to Bishop Kmiec, who sent them to diocesan attorneys. The attorneys purportedly prepared recommendations for the DRB but the recommendations are not found in *Fr. K*'s file.

375. In May 2007, Auxiliary Bishop Grosz confirmed to *Fr. K* that, after his release, *Fr. K* would be (a) assisted by the Diocesan Corporation in his search for a residence; (b) classified as an inactive priest on permanent leave but not retired; (c) offered compensation for his living expenses; (d) eligible for benefits, including a pension; and (e) entitled to health and dental insurance as well as a retreat allowance. This letter, contained within *Fr. K*'s file, is unsigned but appears to have been sent to *Fr. K*.

376. On December 14, 2007, Fr. James Croglio, a diocesan counselor, drafted a memo to Vice Chancellor LiPuma. The memo summarizes Croglio's call with the St. Luke Institute:

[A St. Luke official] said that the [CDF] sees child internet pornography and child abuse in the same light. Therefore, the Dallas Charter "kicks in" and options are few.

St. Luke's does have a "halfway house" specifically for priests coming out of prison. . . . [The official] said that guys coming out of prison have been dehumanized and sometimes need a place for healing. It is usually a three month stay. It helps the guys transition . . . sometimes for laicization, sometimes to seek options for other jobs. (This would be my recommendation.)

Another option would be for [*Fr. K*] to continue to live in a "home"; e.g., retirement, nursing, etc. The Diocese would contract a "safety plan" with him in an effort to guide and protect both the Diocese and [*Fr. K*].

[The official] did say that many Dioceses make a "settlement" (financial) with priests who are in [*Fr. K*]'s situation. . . .

377. On or about December 26, 2007, *Fr. K* was released from prison. After his

release, from time to time, he would meet with a support group and, separately, with Auxiliary Bishop Grosz for “accountability meetings.”

378. Internal diocesan documents maintained to record a priest’s status reflect that *Fr. K* retired on January 9, 2008. At the time, the Diocesan Corporation considered *Fr. K*’s retirement benefits as (a) \$1,450 (\$865 as a retirement benefit and \$585 for room and board) and (b) health, dental, and car insurance.

379. In a January 2009 call, *Fr. K* told Auxiliary Bishop Grosz, among other things, that he was a Level 1 Sex Offender and had not gambled since March 2008.

380. In August 2009, Auxiliary Bishop Grosz drafted a memo documenting issues discussed during *Fr. K*’s support-group meeting. Those issues included the potential for *Fr. K*’s work as a volunteer or in a secular position:

Grosz noted that [*Fr. K*] would need to exercise extreme prudence relative to such a position, in light of the fact that his name and his reputation have been part of public records. In any case, [*Fr. K*] indicated in his job application, he would have to indicate that he did prison time for a felony. Bishop Grosz cautioned that perhaps it would be best for [*Fr. K*] to “lay low” in light of the fact that he is still receiving his compensation and benefits from the Diocese. Should he receive some kind of employment, that might jeopardize his compensation from the Diocese. . . .

There was some discussion about serving as a volunteer somewhere. [*Fr. K*] indicated that will still involve a revelation that he is a felon and a level one relative to the level of sex offenders.

381. In March 2010, Auxiliary Bishop Grosz sent *Fr. K* a note regarding *Fr. K*’s report from the St. Luke Institute. The note expresses concern about *Fr. K*’s “high risk areas”:

I would ask you to prayerfully re-read and reflect upon the first paragraph on page 5 of that report relative to the “High Risk Areas of Alcohol, Gambling, and Computer Use”. . . . I pray that the Holy Spirit will continue to give you the strength to address adequately and prudently the high risk areas as mentioned in the report.

Although this note is unsigned, it appears to have been sent to *Fr. K*.

382. On April 7, 2010, Auxiliary Bishop Grosz prepared a memo to document *Fr. K*'s support-group meeting of the same day. At the meeting, the group discussed *Fr. K*'s presence in parishes and some objection by at least one parish. *Fr. K* also expressed a desire to drink alcohol and gamble in moderation because his probation had ended in December 2009.

383. On April 12, 2010, Auxiliary Bishop Grosz memorialized his warning to *Fr. K* about the effects of any conditional drinking or gambling:

. . . Grosz once more expressed . . . his disappointment with the attitude of [*Fr. K*] that [*Fr. K*] feels he can still experiment with alcohol and gambling and find that as appropriate behavior. . . .

Bishop Grosz once more reiterated the precarious condition of [*Fr. K*] relative to his desire to “play games” relative to consumption of alcohol and his ability to gamble. Bishop Grosz noted the precarious situation relative to his relationship with the diocese. Bishop Grosz noted that should [*Fr. K*] continue this inappropriate behavior, there is a possibility of considering him as a candidate for laicization. That would mean that [*Fr. K*] would no longer be part of the Diocese of Buffalo and would be out on his own completely.

384. In May 2010, Auxiliary Bishop Grosz prepared a memo to the file regarding Msgr. Popadick's verbal report of a recent support-group meeting for *Fr. K*. At the meeting, *Fr. K* agreed to refrain from drinking any alcohol and to not maintain a computer in his home. *Fr. K* also expressed a willingness to volunteer, for example, by driving a parishioner to Mass on Sundays. In his verbal report, Popadick told Grosz that *Fr. K* could also volunteer at a mission. And, according to the memo, the mission welcomed *Fr. K*'s service and “[n]o one would need to know that [*Fr. K*] was a priest.”

385. In December 2010, Auxiliary Bishop Grosz memorialized certain items discussed at *Fr. K*'s support group. Those items included opportunities for *Fr. K* to volunteer and socialize with other priests. During the meeting, Grosz informed the group that *Fr. K* could volunteer at a mission, a parish food pantry, or a nonprofit affiliated with the Diocesan Corporation.

386. In June 2011, Auxiliary Bishop Grosz and *Fr. K* discussed the potential for *Fr. K* to volunteer at two nonprofits. *Fr. K*, however, was concerned that a background check would serve as an obstacle to this work.

387. In June 2012, *Fr. K* told Auxiliary Bishop Grosz that he intended to ask his attorney if he could be removed from the sex-offender list. In a memo summarizing this conversation, Grosz acknowledged “[t]hat would mean that [*Fr. K*] could be totally free, for example, to live in a Priest Retirement Home which might be near a school.”

388. In a July 2012 meeting with Auxiliary Bishop Grosz, *Fr. K* advised that his “ministry” consisted of driving retired priests to their doctors and socializing with priests at the Sheehan and O’Hare Residences.

389. In April 2013, Auxiliary Bishop Grosz contacted the USCCB—at Bishop Malone’s instruction—for guidance to assist Malone in determining whether to allow *Fr. K* to participate in a Mass with his seminary classmates for their fortieth-year anniversary of ordination. After Grosz provided a USCCB official with *Fr. K*’s “background,” the official noted that it was “important to be consistent relative to the implementation of the Charter.” Grosz and the official decided that “it would be inopportune to give permission for Father [*K*] to concelebrate Mass with his classmates.”

390. On or about May 2, 2013, Bishop Malone sent a letter to *Fr. K* that addressed two of *Fr. K*’s requests. First, Malone rejected *Fr. K*’s request to reside in the Sheehan Residence, implying that a Buffalo ordinance prohibited this move because the residence is near a Catholic school. Second, Malone explained that he could not permit *Fr. K* to participate in a Mass celebrating his and his classmates’ ordination anniversary because of the *Charter*’s provisions and other counsel received by the Diocesan Corporation.

391. In June 2014, Auxiliary Bishop Grosz met with *Fr. K* for an “accountability meeting.” In Grosz’s summary of the meeting, he documented, among other things, *Fr. K*’s recent gambling to which Grosz did not object:

How do you feel today?

[*Fr. K*] responded with a 9 because he has been going to the casino two times monthly, which is what his support group decided (as Bishop Grosz previously asked [*Fr. K*] to do). [*Fr. K*] also consulted with Fr. Croglia, who noted it would be good for [*Fr. K*] to go to the casino for relaxation and entertainment. Bishop Grosz concurred with the recommendations of Fr. Croglia and [*Fr. K*]’s support group. Bishop Grosz also cautioned [*Fr. K*] to be sure he will not become addicted to gambling.

392. Two years later, Auxiliary Bishop Grosz memorialized another “accountability meeting,” noting that “[a]fter six months, Father [*K*] finally called Bishop Grosz to schedule an appointment for his monthly Chancery accountability meeting which took place [today].” Grosz advised *Fr. K* that “upon reviewing several of the reports from St. Luke Institute . . . nowhere in any of the reports was there any idea of Father returning to drinking alcohol, going to a casino, or having a computer in his home.” *Fr. K* noted that his support group had not met for about six months and “Grosz encouraged Father [*K*] to convene the group as soon as possible and keep on a regular schedule for those meetings [because t]he support group meetings are important for [*Fr. K*] and his recovery.” *Fr. K*’s file lacks any records explaining Grosz’s change in approach to *Fr. K*’s gambling. Among other things, the absence of these records along with evidence which indicates that the Diocesan Corporation did not regularly supervise *Fr. K* for periods of time, show that the Diocesan Corporation failed to reasonably monitor him.

393. In March 2018, the Diocesan Corporation publicly identified *Fr. K* on a list of “diocesan priests who were removed from ministry, were retired, or left ministry after allegations of sexual abuse of a minor.”

394. In about September 2019, seven years after Bishop Malone's installation, the Diocesan Corporation, in a disclosure on its website, indicated that it had referred *Fr. K* to the CDF. Referral documents were not produced to the Attorney General.

395. The Diocesan Corporation repeatedly violated the *Charter* and the *Essential Norms* by failing to seek or, alternatively, reasonably document the DRB's assessment of *Fr. K* and failing to refer or timely refer *Fr. K* to the CDF. Instead, it failed to reasonably monitor *Fr. K*, a registered sex offender, and disregarded the risk that *Fr. K* could sexually abuse a minor. The Diocesan Corporation's actions placed its beneficiaries at risk.