

Fr. U

590. *Fr. U* was ordained in May 2000. His file contains a complaint of sexual abuse, which was submitted to the Diocesan Corporation in 2012. In 2013, Bishop Malone designated *Fr. U* as an unassignable priest. Instead of applying the *Charter* and the *Essential Norms*, the Diocesan Corporation failed to sufficiently conduct a timely investigation into allegations that *Fr. U* had committed sexual abuse; failed to seek or, alternatively, reasonably document the DRB's assessment of sexual abuse allegations against *Fr. U*; and failed to refer *Fr. U* to the CDF. Further, the Diocesan Corporation engaged in other misconduct by (a) providing benefits and other compensation to *Fr. U* even though his laicization would have relieved the Diocesan Corporation of its duty to financially support him and (b) failing to reasonably monitor *Fr. U*, exposing itself and minors to unnecessary risks.

Defendants' Violations of Sexual Abuse Policies and Secular Fiduciary Duties

591. Between *Fr. U*'s ordination and the time his faculties were revoked in 2013, *Fr. U*

served in parish ministry. In 2006 *Fr. U* was referred to mental health treatment for anger issues. In July 2008, *Fr. U*'s pastor sent an evaluation of *Fr. U* to the Priests' Personnel Board and Bishop Kmiec; the evaluation described *Fr. U*'s negative performance and personality issues. *Fr. U* was removed from the parish in September 2008 and later re-assigned to another parish.

592. On or about April 19, 2012, *Fr. U*'s pastor asked *Fr. U* to leave the parish. Three days later, on or about April 22, 2012, *Fr. U* began receiving mental health treatment.

593. In about June 2012, *Fr. U* attended a youth retreat in Georgia.

594. In October 2012, in a meeting with Bishop Malone, *Fr. U* agreed to submit to a mental health evaluation at Southdown.

595. In about December 2012, *Fr. U* applied to become a member of a religious order. On December 6, 2012, approximately three weeks after the Diocesan Corporation had received his latest assessment from Southdown, *Fr. U* notified the Diocesan Corporation that the religious order had requested a letter of good standing as well as Bishop Malone's recommendation. Later the same day, Malone asked Vice Chancellor LiPuma to draft an e-mail to the religious order, which "indicat[es] that there are some concerns, but that [*Fr. U*] is in good standing and [may] . . . enter[] into discernment with the [religious order]." In his request to LiPuma, Malone stated that "[he did] not want to indicate those concerns in an email." On December 8, 2012, the religious order advised *Fr. U* that it would not proceed with his application.

596. Notes in *Fr. U*'s file state that diocesan attorneys reported on him to the DRB in December 2012. The notes also indicate that "[the DRB] noted that there were no legal issues and suggested the possibility of an evaluation, treatment and counseling." *Fr. U*'s file does not contain the report to the DRB, any documentation by the DRB memorializing its conclusion that there were "no legal issues," or information showing why diocesan attorneys had reported *Fr. U*

to the DRB in the first instance.

597. On or about February 8, 2013, a friend of Complainant 1 wrote to Bishop Malone to alert Malone that a young adult intended to spend the night at *Fr. U*'s rectory while visiting the Buffalo area. In the letter, the Complainant's friend explained that she was advising Malone of the visit because *Fr. U* had allegedly sexually abused Complainant 1 during the Complainant's own stay at the rectory. The Complainant's friend claimed that these allegations had been raised in the fall of 2012 and that many in the Diocesan Corporation and the State of Georgia were aware of the allegations. A week later, Malone responded, observing that he agreed that the upcoming visit by the young adult would be imprudent. Malone also represented that he had prohibited *Fr. U* from accepting the visit from the young adult.

598. On or about February 21, 2013, Complainant 1's friend again wrote to Bishop Malone to criticize his handling of *Fr. U*. In the letter, the friend explained that she had forged a friendship with *Fr. U* at a youth retreat in Georgia. She further stated that in July 2012, she had concluded that the allegations by Complainant 1 against *Fr. U* were true and reported *Fr. U* to the youth retreat. Additionally, the letter alleged that: (a) Malone and *Fr. U*'s last parish were "covering up" the sexual abuse of the Complainant; (b) *Fr. U* had been removed from all of his previous parishes; (c) before *Fr. U* sexually abused the Complainant, on several occasions, *Fr. U* had attempted to spend the night at a hotel with the Complainant; and (d) *Fr. U*'s intense anger, psychological disorders, and sexual abuse of the Complainant demonstrated that *Fr. U* is dangerous.

599. On March 6, 2013, a diocesan attorney interviewed the Complainant's friend. In the interview, the friend stated that another person had told her that in May 2012, when the Complainant was twenty years old, the Complainant and *Fr. U* got drunk and *Fr. U* attempted to

rape the Complainant.

600. On March 22, 2013, a diocesan attorney interviewed the Complainant. The Complainant alleged that: (a) he and *Fr. U* had known each other since the Complainant attended grammar school; (b) *Fr. U* had served as the Complainant's spiritual director when the Complainant was a young adult; and (c) in May 2012, at *Fr. U*'s rectory, when the Complainant was twenty-one years old, *Fr. U* and the Complainant got drunk and the Complainant decided to spend the night at the rectory. The Complainant further alleged that *Fr. U* entered the Complainant's guest bed, brushed up against the Complainant, and offered to perform sexual acts on the Complainant.

601. On May 1, 2013, Bishop Malone met with *Fr. U* to discuss "the events of the past six years, and most especially the events that have occurred in May 2012 and thereafter regarding boundary issues." On May 22, 2013, Malone issued a written decree that: (a) revoked *Fr. U*'s faculties and (b) prohibited *Fr. U* from publicly celebrating Mass, administering the sacraments, dressing in clerical attire, or publicly presenting himself as a priest. Malone stated in his decree that, "having been convinced of the veracity of the accounts given to me by well-intentioned individuals, I, in consultation with others, have determined that you are unassignable as a priest of the Diocese of Buffalo."

602. In September 2013, *Fr. U*'s canon law adviser wrote to Bishop Malone to deny allegations made against *Fr. U* and argue that Malone's permanent suspension by decree violated Church law. Eight months later, in May 2014, Malone responded:

I have determined that Fr. [*U*] is unassignable for ministry in the Diocese of Buffalo. . . .

Fr. [*U*] has had a significant history of difficulties in ministry involving two keys issues: anger management and, more recently, respect for boundaries, including sexual boundaries. . . .

[H]e was involved in a sexual boundary violation and was prevented from a potential second indiscretion because of our proactive response to information we had received. My decision was based on a wide variety of input from various sources, including counseling reports and *advice* from the [DRB] . . .

. . . He also is no longer welcome to minister at [a youth retreat] in [Georgia]—where he had been involved in several young peoples’ retreats—because of the above mentioned boundary violation. (emphasis added).

Fr. U’s file does not contain the DRB’s “advice.”

603. Over a year later, on or about March 24, 2015, *Fr. U* advised Bishop Malone that: (a) a religious organization had invited him to live and work with it and (b) another diocese, aware of his suspension, would accept an application from him. In May 2015, the religious organization asked Malone if *Fr. U* could involve himself with the organization and whether Malone would attest to *Fr. U*’s character. In June, Malone replied that “[he could not] in good conscience recommend [*Fr. U*] for ministry in [an out-of-state] Diocese or elsewhere.”

604. On or about July 24, 2015, *Fr. U*’s canon law adviser asserted that Bishop Malone had permanently suspended *Fr. U*, an impermissible penalty; the adviser requested Church due process for *Fr. U*. The adviser also noted that the Diocese had requested that *Fr. U* seek voluntary laicization; *Fr. U*’s file does not contain this request.

605. In response to the adviser’s July 24 letter, on September 10, 2015, Bishop Malone issued a written decree opening an internal investigation. The decree recounts that Malone received a complaint over two years ago, in February 2013, alleging that *Fr. U* had sexually abused a minor through grooming. In a written decree dated September 11, 2015, Malone: (a) revoked *Fr. U*’s suspension and (b) replaced it with a penal precept “in order to preclude any further scandal arising from the allegations of sexual misconduct with a minor through the process of ‘grooming’ . . . and in order to provide adequately for the safety of children and other minors.” The precept prohibited *Fr. U* from publicly ministering; publicly presenting himself as

a priest; and associating with minors without the supervision of an adult.

606. In response to Bishop Malone's decrees, in November 2015, *Fr. U's* canon law adviser requested a canonical trial and objected to Malone's position that the allegations against *Fr. U* involved a minor. In written decrees dated December 17, 2015, Malone reaffirmed his decision to open an internal investigation under the *Essential Norms*. The decrees also explained the nature of the Complainant and *Fr. U's* relationship:

As a result of the relationship, it has been recommended by others, including our [DRB], that this case likely involved the process of "grooming," which explains my reasons for considering this to be a grave and reserved delict moving forward, even though the individual in question was over the age of eighteen.

Fr. U's file does not include the DRB's recommendation.

607. By written decree dated December 17, 2015, Bishop Malone appointed an investigator to conduct the internal investigation. The decree required that, within ninety days, the investigator prepare a written and oral report for the DRB and that the report and the DRB's recommendation be sent to Malone; *Fr. U's* file does not contain the report. Like the decrees to *Fr. U* above, the decree appointing the investigator outlined Malone's basis to assert that the complaint included allegations against a minor:

Having received the recommendation of the [DRB] that information at least seems to be true that Reverend [*U*] engaged in sexual abuse with [the Complainant] who was a young adult and twenty years of age at the time of the incident, I along with others on our [DRB] and the complainant . . . have considered the actions of Fr. [*U*] to constitute the abuse of a minor by means of a process of "grooming," which appears to have taken place over the course of five to ten years.

608. In May 2017, *Fr. U* changed his address to a residence in South Carolina.

609. Among other things, the absence of documentation in *Fr. U's* file indicating that the Diocesan Corporation regularly supervised him shows that the Diocesan Corporation failed to reasonably monitor him.

610. In March 2018, the Diocesan Corporation did not include *Fr. U* on a public list of “diocesan priests who were removed from ministry, were retired, or left ministry after allegations of sexual abuse of a minor.”

611. In a June 2018 letter to Bishop Malone, *Fr. U* noted that he had participated in his nephew’s funeral and asked permission to baptize his niece. An unsigned response within *Fr. U*’s file suggests that Malone rejected this request. Auxiliary Bishop Grosz, who was generally responsible for monitoring unassignable priests, testified that he did not know who had the responsibility to monitor *Fr. U* or ensure that *Fr. U* did not engage in public ministry.

612. In November 2018, the Diocesan Corporation did not identify *Fr. U* on a supplemental, public list of priests with substantiated claims of sexual abuse of a minor. Yet four months later, in March 2019, the Diocesan Corporation advised the Attorney General that it had begun the process of referring *Fr. U* to the CDF. No referral documents were provided to the Attorney General. Despite this representation, the Diocesan Corporation omitted *Fr. U* from its 2019 public disclosures of priests who Bishop Malone intended to refer to the CDF.

613. The Diocesan Corporation repeatedly violated the *Charter* and the *Essential Norms* by failing to sufficiently conduct a timely investigation into allegations that *Fr. U* had committed sexual abuse; failing to seek or, alternatively, reasonably document the DRB’s assessment of sexual abuse allegations against *Fr. U*; and failing to refer *Fr. U* to the CDF. The Diocesan Corporation also failed to reasonably monitor *Fr. U*. The Diocesan Corporation’s actions concealed *Fr. U*’s conduct from the public and placed its beneficiaries at risk.