

Fr. V

614. *Fr. V* was ordained in 1971.⁴⁴ As early as 2004, the Diocesan Corporation was on

⁴⁴ Unless otherwise noted, the allegations against *Fr. V* are generally based on documents that were obtained from public sources or produced from diocesan files for Attorney General review. The allegations against *Fr. V* have not

notice of a substantial likelihood that *Fr. V* had sexually abused a vulnerable adult. In 2011, the Diocesan Corporation received a complaint alleging that *Fr. V* had groomed a minor. 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. V* and failed to refer *Fr. V* to the CDF. Further, the Diocesan Corporation engaged in other improper conduct by (a) disregarding the risk of sexual abuse and preparing false records when it approved *Fr. V*'s out-of-state ministry; (b) making false statements to its beneficiaries about why *Fr. V* left his ministry; (c) providing benefits and other compensation to *Fr. V* even though his laicization would have relieved the Diocesan Corporation of its duty to financially support him; and (d) failing to reasonably monitor *Fr. V*, exposing itself and minors to unnecessary risks.

Defendants' Violations of Sexual Abuse Policies and Secular Fiduciary Duties

615. *Fr. V* served in a variety of assignments, including in parishes and educational institutions. He was appointed pastor in 1991 and held this position until 2008.

616. In about the spring of 2004, Complainant 1, a seminarian, notified diocesan officials, including Diocesan Administrator Cunningham, that *Fr. V* had sexually abused him in about late 2003, when the Complainant was an adult. *Fr. V*'s file contains a three-sentence March 2004 memo from Cunningham to the file:

I met with [sic] today with Father [V] to discuss with him certain concerns that had been brought to my attention within the past few days. The concerns centered around what might be perceived to be harassment and also a violation of appropriate boundaries.

Father [V] understood the seriousness of this concern and is currently receiving counseling assistance to address these issues.

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.

This memo failed to sufficiently document Complainant 1's allegations.

617. *Fr. V's* file contains an April 2004 memo regarding a meeting between Complainant 1, Vice Chancellor LiPuma, and another diocesan official. The memo records that the Diocesan Corporation assured Complainant 1 that *Fr. V* was receiving counseling, noting that “[Complainant 1] wants to make sure that what happened to him will not happen to anyone else.” The Diocesan Corporation also assured Complainant 1 that “[it] would not assign another seminarian to Father [V]” and that “[*Fr. V* would] be told to stop any further contact with [Complainant 1].”

618. In April 2004, Diocesan Administrator Cunningham prepared a four-sentence memo regarding another meeting he had with *Fr. V* related to Complainant 1's allegations. The memo notes they “discussed again [*Fr. V's*] present situation and the steps that he has taken to address the legitimate concerns that had been raised.” Cunningham directed *Fr. V* to have no contact with Complainant 1.

619. On May 18, 2004, Diocesan Administrator Cunningham was appointed bishop of the Ogdensburg Diocese. The next day, Complainant 1 addressed a letter to the “Diocesan Administrator” and Vice Chancellor LiPuma, requesting “a written report about . . . [how his] case was evaluated by Bishop Cunningham that it was not consider [sic] as ‘sexual harassment.’” *Fr. V's* file contains no response to this letter.

620. On May 24, 2004, Auxiliary Bishop Grosz was elected Diocesan Administrator. Four days later, Complainant 1 met with Grosz and two other diocesan officials to discuss, in part, Complainant 1's allegations. Grosz's handwritten notes from the meeting state, in part: “Allegation: attempted sexual abuse on part of [*Fr. V*].”

621. In June 2004, *Fr. V's* diocesan counselor described Complainant 1 as the “victim”

and recognized that “Father [V] did some things that were very wrong; and these behaviors should not be minimized.”

622. During his testimony to the Attorney General, Auxiliary Bishop Grosz stated that he did not know whether the Diocesan Corporation had investigated Complainant 1’s allegations and admitted that he had not investigated Complainant 1’s allegations. Grosz also testified that he did not know what Complainant 1 had reported to Vicar General Cunningham: “All [Complainant 1] said to me was Father [V] came in and tried to get into bed with him period, that’s all [Complainant 1] told me. What [Complainant 1] had told Monsignor Cunningham, that was under Monsignor Cunningham.” Grosz further maintained in his testimony that he had never discussed Complainant 1’s case with Cunningham.

623. Auxiliary Bishop Grosz also testified that he had directed *Fr. V* to counseling “[b]ecause of the inappropriate action on his part of going into this room.” When asked why he had referred *Fr. V* to counseling without an investigation into the allegations, Grosz testified that he “felt that was the most prudent thing to do and to act on it taking [Complainant 1] at his word.”

624. Although Bishop Malone and Auxiliary Bishop Grosz never investigated Complainant 1’s allegations, in his testimony to the Attorney General, Malone acknowledged that he was informed that Grosz had allegedly threatened Complainant 1, a seminarian, with rejection from the priesthood if Complainant 1 continued to make allegations against *Fr. V*. Malone testified that he did not know of any diocesan investigation into Grosz’s alleged threats.

625. Despite the complaints against *Fr. V*, Bishop Kmiec issued letters of good standing for *Fr. V*, so that *Fr. V* could minister on cruise ships between 2005 and 2007. During this period, *Fr. V* remained in ministry in the Diocese.

626. In June 2007, Bishop Kmiec issued a letter of good standing for *Fr. V* to allow him to participate in an out-of-state conference or event, which may have involved minors. The letter states, in part, that: (a) “[w]e have never received any information that would cause us to restrict [*Fr. V*’s] ministry in any way”; (b) “[t]o the best of my knowledge, there have never been any reports of improprieties on his part”; and (c) “there is nothing to our knowledge in [*Fr. V*’s] background that would restrict any ministry with minors.” Kmiec sent a similar letter to an out-of-state diocese in 2010.

627. Bishop Kmiec issued letters of good standing for *Fr. V*, so he could minister on cruise ships between 2007 and 2013.

628. In July 2010, Bishop Kmiec appointed *Fr. V* pastor.

629. In November 2011, a school official from *Fr. V*’s parish complained to Auxiliary Bishop Grosz that *Fr. V*: (a) had sent inappropriate online messages to Complainant 2, a minor; (b) had ignored her warning about the inappropriateness of these messages; (c) appeared depressed and was apparently drinking alcohol; and (d) may have mental health issues, noting his “[breaking] down and cr[ying] on the pulpit.” On December 6, 2011, *Fr. V* met with Bishop Kmiec, Grosz, and Vicar General Slubecky. In that meeting, Kmiec removed *Fr. V* from ministry and directed him to undergo a mental health assessment at Southdown for several reasons, including his “imprudent action” with Complainant 2, alcoholism, and depression. In a memo memorializing the meeting, Grosz described the purpose of the assessment as an evaluation to assist *Fr. V* in understanding his issues and “to get information to Bishop Kmiec relative to future ministry for Father [V].”

630. On or about December 6, 2011, Auxiliary Bishop Grosz and *Fr. V* prepared the following public announcement regarding *Fr. V*’s removal from ministry: “In consultation with

Bishop Kmiec, Father [V] will be taking a medical leave. Father [V] requests your prayers for his good health and assures you of his prayers as well.” Kmiec approved this announcement. The Diocesan Corporation declined to provide details to the public about the departure, asserting privacy protections.

631. Internal diocesan records of a priest’s status reflect that *Fr. V* went on medical leave on December 7, 2011. On or about January 2, 2012, *Fr. V* was sent to Southdown. On or about January 4, 2012, *Fr. V* discharged himself from Southdown before Southdown could complete its mental health assessment of *Fr. V*. Bishop Kmiec met with *Fr. V* in February 2012. In that meeting, *Fr. V* refused to resign his pastorate or complete the Southdown assessment. Kmiec maintained that unless *Fr. V* completed a mental health evaluation, he would not receive another assignment.

632. In about March 2012, *Fr. V* retained a canon law adviser to represent him before the Diocese with respect to his clerical status. The adviser wrote to Bishop Kmiec to request information regarding *Fr. V*’s case and status. The adviser maintained that false allegations had been leveled against *Fr. V*. In response, Kmiec advised that he decided that *Fr. V* had not violated the *Charter*: “[T]he matter being investigated has not been determined to be a violation of the Charter The alleged behaviors and correspondence that are being investigated in this case require a pastoral response” Kmiec indicated his desire for *Fr. V* to seek counseling because “[i]t was evident . . . that Fr. [V] has emotional issues and needs help in dealing with boundary issues.” Kmiec also conceded that although he had not issued any written decrees, he and *Fr. V* had agreed on *Fr. V*’s removal from ministry until the resolution of this matter.

633. In April 2012, the school official, who had submitted the complaint on behalf of Complainant 2, e-mailed the Diocesan Corporation to express her dismay at the Diocesan

Corporation's response: "[*Fr. V*] is a predator and a groomer of young children. Something needs to be done." Two days later, Bishop Kmiec informed *Fr. V* that "the only way that he could possibly be reassigned to another parish" is if he resigned his pastorate and completed a mental health evaluation. *Fr. V* agreed to the evaluation but not the resignation. So Kmiec decided that if *Fr. V* did not resign after the evaluation, he would begin the canonical process of removing *Fr. V* from his pastorate. However, shortly thereafter, in May 2012, Kmiec resigned, and Bishop Malone was named as his replacement.

634. In July 2012, *Fr. V* wrote to Bishop Malone. *Fr. V* explained that for the last four months, he had been residing at the St. John Vianney Center, a mental health facility. He requested permission to attend Malone's installation and discuss his stay at the St. John Vianney Center with Malone.

635. In an August 2012 e-mail from *Fr. V* to the Diocesan Corporation, *Fr. V* discussed his stay at the St. John Vianney Center and his future at the Diocese, noting that "[he was] really looking forward to being returned to ministry and [his] good name and reputation restored."

636. At some time before September 18, 2012, the school official wrote Bishop Malone. She identified herself and summarized the allegations against *Fr. V*. She ended her letter with pointed comments: "If a teacher would have been grooming children and had inappropriate relations with a minor, they [sic] would have been fired and lost their [sic] license to teach. Why is it this man is not only still the pastor . . . , but also still wearing a collar?" After the receipt of this letter, Malone requested *Fr. V*'s resignation as pastor and, by letter dated September 20, 2012, Malone accepted the resignation.

637. In October 2012, *Fr. V* sent Bishop Malone a letter stating that the Priests'

Personnel Board, the school official, and a teacher who had reported *Fr. V* to Child Protective Services were all untrustworthy. The letter claims that a member of the Board and the school official betrayed him. In conclusion, the letter asserts that *Fr. V* had not yet been vindicated.

638. In November 2012, Bishop Malone appointed *Fr. V* as a chaplain in a nursing home.

639. In December 2012, the St. John Vianney Center indicated that *Fr. V* had not followed its recommendations since his discharge in August. *Fr. V*'s file does not evidence any resolution of this concern, showing that the Diocesan Corporation failed to reasonably monitor him.

640. In February 2013, Bishop Malone issued a letter of good standing for *Fr. V* so that *Fr. V* could minister on cruise ships in 2013 and 2014.

641. In March 2013, the school official advised Bishop Malone that *Fr. V* had heard confessions at a youth conference. The school official questioned whether *Fr. V* should have attended given “[his] background of stalking and grooming young people.” In his response to the official, Malone, describing *Fr. V*'s grooming as “certain allegations,” wrote that *Fr. V*'s conduct had not violated the *Charter*. Malone also stated that the matter had been presented to the DRB and that, after consultation with the DRB, he had assigned *Fr. V* to a “lower profile position.” *Fr. V*'s file does not contain the presentation to the DRB. Moreover, Malone testified that the Diocesan Corporation had not approved *Fr. V*'s attendance at the conference and that the Diocesan Corporation had only learned of *Fr. V*'s attendance after-the-fact. Malone also testified that if *Fr. V* had requested permission to attend the conference, he would have rejected the request because of *Fr. V*'s “contact” with Complainant 2. *Fr. V*'s participation in the youth conference shows that the Diocesan Corporation failed to reasonably monitor him.

642. On or about October 7, 2013, Bishop Malone sent a letter to the Archdiocese of Santa Fe in New Mexico. The letter advised that, within a few days, *Fr. V* would be officiating a memorial Mass in the archdiocese. The letter disclosed that “Fr. [V] does enjoy the faculties of the Diocese of Buffalo, however, because of a boundary issue with a minor—not judged to be a violation of the Dallas Charter, he underwent counseling and therapy.” Malone testified that “[he] thought it was important to be open with the archbishop . . . that a priest with that history was coming there.”

643. In about October 2013, *Fr. V* was serving in a Buffalo health care facility managed by a religious order. On or about October 14, 2013, the religious order notified Bishop Malone and Auxiliary Bishop Grosz about allegations that *Fr. V* had (a) inappropriately touched and made inappropriate statements to a nineteen-year-old employee and (b) inappropriately touched a twenty-five-year-old member of the religious order. When asked if the Diocesan Corporation investigated these two complaints, Malone testified that Grosz had “looked into this”; Grosz testified that he did not know whether the Diocesan Corporation had investigated these complaints.

644. In addition to his work at the health care facility, in about October 2013, *Fr. V* was also serving in a hospital. On or about October 15, 2013, the Diocese Corporation’s Director of the Hospital Apostolate relayed a complaint to the Diocesan Corporation from *Fr. V*’s hospital. According to the complaint, a thirty-year-old patient in the emergency room asserted that *Fr. V*, while smelling like alcohol, had inappropriately touched him. On October 23, 2013, the Director called Auxiliary Bishop Grosz to report on the allegations made against *Fr. V*, and Grosz documented their conversation in a memo. Grosz’s memo does not state whether *Fr. V* admitted or denied the alleged misconduct. The memo notes the Director’s view

that the patient suffered from a neurological disorder, which could have impaired his ability to properly interpret his encounter with *Fr. V*. Yet the Director stated that *Fr. V* required additional training before continuing at the hospital. Having received no further complaint from the patient, Grosz recorded that the “matter is considered settled.”

645. Bishop Malone testified that he did not know whether the Diocesan Corporation had investigated the hospital complaint. Auxiliary Bishop Grosz testified that he did not investigate the complaint.

646. On October 24, 2013, Bishop Malone asked Auxiliary Bishop Grosz to direct the religious order to terminate *Fr. V* from its health care facility. Grosz communicated this direction to a supervisor at the religious order, who responded that

it is important to “nip this in the bud,” in light of the fact that the young employee, as well as his mother, are both aware of the inappropriate behavior of Father [V] and would not want word of that behavior or that complaint to be passed among the employees.

On October 25, 2013, the religious order advised Malone that it had terminated *Fr. V* because of his “inappropriate conduct with employees.”

647. On or about November 1, 2013, Bishop Malone met with *Fr. V*, who agreed to seek mental health treatment at the St. John Vianney Center. Two days later, *Fr. V* e-mailed Malone: “I am done. Just get rid of me. Destroy me. I tried my best. I will not subject myself to that torture and abuse again.” Malone marked the e-mail as urgent, forwarded it to a diocesan counselor, and asked the counselor to contact *Fr. V* as soon as possible, noting that “[*Fr. V*’s] response shows the depth and gravity of [*Fr. V*’s] issues.” On November 3, 2013, Malone advised his senior staff that if *Fr. V* refused to seek treatment at the St. John Vianney Center, he would designate *Fr. V* as an “unassignable priest[.]”

648. On November 15, 2013, *Fr. V* wrote a letter to Bishop Malone, explaining that his

decision to refuse to return to a mental health facility was based, in part, on his physical health. *Fr. V* then defended his touching of the member of the religious order at the health care facility. Finally, the letter alleges that the Diocese violated *Fr. V*'s due process and canonical rights and that he was considering publishing a book regarding his experiences with the Diocese. On November 21, 2013, *Fr. V* apologized to Malone for the November 15 letter and offered to follow any request from the Diocese that would restore him to ministry. In response, Malone proposed that they meet to discuss after December. In the interim, Malone restricted *Fr. V*'s ministry through a verbal order: "While I will not issue a decree, I would ask you to honor the 'gentleman's agreement' we talked about when last we met, and refrain from public celebrations of the liturgy . . . and from wearing clerical attire."

649. In March 2014, Bishop Malone wrote to *Fr. V* to ask that they meet to discuss next steps. In that letter, Malone expressed that "[his] intention was and is to help you resume active ministry" but that "[t]here are . . . some serious issues that continue to be of concern."

650. On May 1, 2014 at 2:17 a.m., *Fr. V* e-mailed Bishop Malone:

I cannot live like this any longer. . . .

This is one of my countless sleepless nights. Hundreds. One of my childhood friends died of cancer today and is being buried this weekend. . . . We grew up together and I am prohibited from being part of his funeral. This is so unjust, criminal, and it is sinful. . . .

. . .

I know it means nothing to you. As my priest friends say to me, "he has no heart."

Malone forwarded the e-mail to his senior staff, adding: "I am exasperated. What do we do?"

651. In August 2014, *Fr. V* sought the intervention of Pope Francis. In a letter to the Pope, *Fr. V* claimed that he had served as a priest for over forty-years without incident until he

was removed from ministry for ending a text message to a minor (Complainant 2) with “love you.” *Fr. V* maintained that he had been sending these messages as encouragement because of the child’s issues at home. *Fr. V* continued that the Diocese had re-assigned him to ministry after he had spent four months receiving mental health treatment. Referring to only one of the allegations stemming from his conduct at the health care facility, *Fr. V* explained that that assignment had now been terminated because he hugged a person.

652. In March 2015, *Fr. V* reported to Bishop Malone that he had been regularly meeting with a therapist and that his canon law adviser had maintained that only active ministry would clear *Fr. V*’s reputation.

653. In a May 2015 letter, Bishop Malone approved *Fr. V*’s request to serve as a sacramental minister and to engage in ministry on an as-needed basis. In his testimony to the Attorney General, Malone justified this decision by asserting that he lacked the canonical grounds to restrict *Fr. V* from ministry.

654. In September 2015, Bishop Malone issued a letter of good standing for *Fr. V* to Cardinal Donald Wuerl of the Archdiocese of Washington, D.C. This letter allowed *Fr. V* to celebrate Mass in the District of Columbia and attend a Joint Session of Congress. There was no mention of *Fr. V*’s history in the letter, which attested that: (a) “[*Fr. V*] is a person of good moral character and reputation”; (b) “I know nothing which would in any way limit or disqualify him from this ministry”; and (c) “I am unaware of anything in his background which would render him unsuitable to work with minor children.” In testimony to the Attorney General, Malone admitted that those statements were inaccurate. In October 2015, Malone issued a similar letter of good standing for *Fr. V* so that he could minister on cruise ships in 2016; the letter did not mention *Fr. V*’s history.

655. In November 2015, the CDF sent Bishop Malone a copy of *Fr. V*'s August 2014 letter to the Pope and requested a summary of the case. In December 2015, Malone responded to the CDF by reporting that: (a) after an investigation, including a review by the DRB, *Fr. V* was removed as pastor because he had groomed a minor; (b) *Fr. V* had discharged himself from a mental health facility before completing an assessment to “address[] his obvious issues of ‘grooming,’ ‘boundaries,’ heavy drinking, and depression”; (c) *Fr. V* was dismissed from his position at a health care facility after two complaints of inappropriate touching; (d) a hospital had terminated *Fr. V* because of allegations of inappropriate behavior; and (e) “[a] seminarian noted that Father [V] seemed to ‘groom’ him to get his affection [and o]ne night the seminarian recounted an incident where Father [V] came to his room, came into his bed, and began to touch his genitalia.” Malone also advised the CDF that he had restored *Fr. V*'s faculties because *Fr. V* had submitted to counseling. Malone testified that as of the date of this response, he agreed with the DRB that grooming did not constitute sexual abuse under the *Charter*.⁴⁵

656. Anonymous handwritten notes in *Fr. V*'s file state: “[Bishop Malone’s December 2015] response to CDF [and] summary of case certainly indicate[] a longstanding pattern that is scandalous and could lead to sexual abuse of adult or minor if not removed from ministry.” In his testimony to the Attorney General, Auxiliary Bishop Grosz agreed with the conclusion in these notes.

657. In 2016 and 2017 Bishop Malone issued letters of good standing for *Fr. V* so that *Fr. V* could minister on cruise ships in 2017 and 2018. In support of these letters, Malone attested that: (a) “[*Fr. V*] is a person of good moral character and reputation”; (b) “I know nothing which would in any way limit or disqualify him from this ministry”; (c) “I am unaware

⁴⁵ At the same time, the little available evidence about the DRB’s assessments shows that the DRB concluded that another priest’s grooming of a minor did constitute sexual abuse. See *supra* ¶¶ 605-07.

of anything in his background which would render him unsuitable to work with minor children”; and (d) “I am unaware of any physical or mental health issues which would affect his ability to carry out the full ministry onboard.” Malone admitted in his testimony to the Attorney General that these assertions were inaccurate.

658. On March 20, 2018, the Diocesan Corporation did not identify *Fr. V* 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.” On March 26, 2018, Complainant 3 filed a complaint with the Diocesan Corporation, alleging that, in about 1973, when he was in the eighth grade and on an overnight school trip, *Fr. V* got into his bed and touched his genitalia.

659. In April 2018, Bishop Malone issued a written decree opening the Diocesan Corporation’s internal investigation into Complainant 3’s allegations. Malone also issued a written decree that placed *Fr. V* on administrative leave and barred him from, among other things, contacting minors or engaging in public ministry. The decree also prohibited *Fr. V* from wearing clerical attire until the Diocesan Corporation completed its investigation and the DRB issued its recommendations.

660. In May 2018, *Fr. V* served as a priest on a cruise. During the cruise a passenger on the ship googled *Fr. V* and learned of his suspension. As a result, the cruise notified the Diocesan Corporation that it was removing *Fr. V* from the ship.

661. On June 27, 2018, the Diocesan Corporation or its agents recorded three actions concerning *Fr. V*. First, a diocesan investigator issued a written report that found Complainant 3’s allegations to be credible. Second, according to a memo by Auxiliary Bishop Grosz to the file, the DRB met and “Bishop Malone . . . accepted the decision that there is semblance of truth relative to the allegation against Father [V]”; *Fr. V*’s file lacks a record of this meeting prepared

by the DRB. Third, Malone issued a written decree documenting the completion of the Diocesan Corporation's internal investigation and referring the investigator's report and the matter to the CDF.

662. In November 2018, the Diocesan Corporation added *Fr. V* to its list of priests with "substantiated claims of sexual abuse of a minor."

663. In about September 2019, in a disclosure on its website, the Diocesan Corporation indicated that it would refer *Fr. V* to the CDF, confirming that—despite the June 2018 decree referring *Fr. V* to the CDF—Bishop Malone had not done so as of September 2019.

664. The Diocesan Corporation repeatedly violated the *Charter* and the *Essential Norms* by failing to seek or, alternatively, reasonably document the DRB's assessments of sexual abuse allegations against *Fr. V* and failing to refer *Fr. V* to the CDF. Instead, it failed to sufficiently document the allegations made by Complainant 1 against *Fr. V*; made false or misleading statements to its beneficiaries; prepared false or misleading business records; failed to reasonably monitor *Fr. V*; and disregarded the risk that *Fr. V* could sexually abuse minors or adults. The Diocesan Corporation's actions concealed *Fr. V*'s conduct from the public and placed its beneficiaries at risk.