

DECLARATION OF
THOMAS PATRICK DOYLE, O.P., J.C.D.
in the case of
JOAQUIN AQUILA-MENDEZ
vs
CARDINAL ROGER MAHONY ET AL

I, Thomas P. Doyle, O.P., J.C.D., declare that:

I am over the age of 18. I have personal knowledge of the facts stated herein and would testify thereto if called to do so.

1. I am a Catholic priest, ordained in May 1970. I have graduate degrees in philosophy, theology, political science, church administration and Canon Law. I have a Pontifical Doctorate in Canon Law, awarded in May 1978. Graduate studies have been pursued at Aquinas Institute of Philosophy and Theology, University of Wisconsin, Catholic University of America, St. Paul University (Ottawa, Canada), University of Ottawa and the Gregorian University, Rome. I have also pursued graduate studies in addictions at the University of Oklahoma and the Naval School of Health Sciences, San Diego. I am a Certified Drug and Alcohol Counselor. I recently left the US Air Force after 18 years as an officer and chaplain.

2. Since ordination to the priesthood in 1970 I have served as a parish priest (1971-73), advocate and later judge on the Metropolitan tribunal of the Archdiocese of Chicago (1974-1981), part-time tribunal judge for the Dioceses of Scranton, PA and Lafayette, IN. I served as Secretary-Canonist at the Vatican Embassy, Washington, D.C. from 1981-1986. I was a canonical consultant and tribunal judge for the Archdiocese for the Military Services, 1986-1990. I have also served as a guest lecturer in Canon Law at Catholic Theological Union, Chicago, Catholic University of America and the Tribunal Institute of Mundelein Seminary, Chicago. I have served as a member of the Board of Governors of the Canon Law Society

of America (1978-1980). From 1983-85 and 1988-1990 I was a consultant to the Canonical Affairs Committee of the National Conference of Catholic Bishops. In 1990 I entered active duty of the U.S. Air Force and have been assigned to Grissom AFB, Indiana (1990-93), Hurlburt Field, Florida (1993-95), Lajes Field, Azores (1995-97), Tinker AFB, Oklahoma (1997-2001), Ramstein AB, Germany (2001-2003) and Seymour Johnson AFB, North Carolina (2003-2004). I have also been deployed to Operation Joint Forge, Operation Southern Watch and Operation Iraqi Freedom.

3. Since 1984 I have been directly involved with the issue of Catholic clergy sexual abuse of children, minors and adults. I have worked with victims, their families and abusers as both a canonical consultant and pastoral minister. I have worked with Dioceses and Religious Orders giving presentations and lectures and developing policies and procedures. I have been an expert witness and/or consultant in civil and criminal cases involving clergy sexual abuse in cases involving clerics from Catholic dioceses and religious communities throughout the United States. I have also served as a consultant in cases from Canada, the United Kingdom, Ireland, Australia, New Zealand and Israel. I have testified at trials in the United States, Canada and Ireland. I have appeared before an independent investigative body in Ireland. I have been a consultant to and an expert witness before grand juries in the United States. I have also been asked to testify before the State Legislatures of Pennsylvania, Ohio, Colorado and Maryland on matters related to child abuse, clergy reporting statutes and statutes of limitations. I have published several articles and one book on the subject of clergy sexual abuse.
4. The purpose of this affidavit is to discuss two areas of concern: a) the jurisdiction and authority that a diocesan ordinary has over incardinated priests and priests resident in his diocese who are not incardinated and, b) the 1922 and 1962 Vatican procedural decrees concerning the processing of various kinds of clergy sexual abuse allegations and cases.

5. Jurisdiction Issues. Every priest must be incardinated or officially assigned to either a diocese, archdiocese or a religious institute. The official moment of incardination is at the ordination to the diaconate for diocesan priests and at the time of final profession of religious vows for clerics who belong to religious orders. A priest or deacon may also be officially incardinated to a diocese by reason of a decree of the bishop of the diocese or by a decree of the Holy See. Once a priest is incardinated to his diocese he remains incardinated until he is officially detached or excardinated by his bishop. He can also be incardinated into a new diocese if he in fact lives in that diocese for a period of five years with the required permissions of his own bishop and the bishop of the host diocese and if neither bishop objects to his incardination into the new diocese. He must request such automatic incardination. At the time of his ordination a cleric pronounces a promise of obedience to his bishop of incardination and to his successors. This promise is also mentioned in the Code of Canon Law (can. 273).

6. Priests often travel to other dioceses and take up non-permanent residence there for reasons of study, research or to perform some form of pastoral work in that diocese. Some priests also move to other dioceses for retirement. There are a variety of reasons. What is important is that it is not only possible but quite common for priests who are incardinated in one diocese to reside in a stable manner (as opposed to staying for a few days or being on vacation) in another diocese in the same country or in another country. There are many reasons for this but what is of relevance is that the priest needs the permission of his own bishop of incardination to live in another diocese. He also needs the permission of the bishop of the host diocese to perform any form of ministry. This is generally known as having "faculties."

7. When a priest resides in another diocese for any reason he remains under the primary authority of his own bishop of the diocese to which he is incardinated. He is under the authority of the bishop of the diocese where he is actually staying (the host) for all pastoral

or ministerial activities. His own bishop can also control the priests ministerial activities even though he is in another diocese. For example, a proper bishop could suspend a priest even if the priest lives outside the diocese. The host bishop is also responsible for monitoring the overall deportment or behavior of the priest and is responsible for taking action if the priest commits a crime (either civil law or canon law delict).

8. The priest's proper bishop, that is, the bishop of the diocese to which he is incardinated, retains primary authority over the priest. He can order the priest to return at any time. He is also responsible for the priest's behavior or deportment while he is away just as is the bishop of the host diocese. In fact, the proper bishop has more direct authority in that his authority over the priest extends to wherever the priest is regardless of whether it is in his diocese or not. For example, if the host bishop receives a complaint about a priest and fails to act and if the proper bishop receives the same complaint, he can take direct action. The proper bishop is also expected to support any rulings the host bishop may issue about the priest's behavior.
9. When an incardinated priest is living in another diocese it is totally incorrect to state or assume that his proper bishop lacks authority over him or responsibility for him. The bishop's authority and responsibility is extensive and is not based on the geographic location of the priest. The proper bishop retains both authority and responsibility for as long as the priest is incardinated in his diocese no matter where the priest is located and no matter what ministry or work he is performing.
10. The Vatican Decrees on Clergy Sex crimes. The Vatican Congregation for the Holy Office, now known as the Congregation for the Doctrine of the Faith, issued two documents in the course of the 20th century that provided procedural norms for processing allegations of four kinds of sexual crimes perpetrated by clerics. The first of these was issued by the Congregation on June 18, 1922 and was titled *De modo procedendi in causis sollicitationis*.

The second document was issued on March 16, 1962 and was titled *Instructio de modo procedendi in causis crimen sollicitationis*. Each document was issued under the authority of the reigning pope (Pope Pius XI and Pope John XXIII). Each document was officially issued in secret and it was ordered that each be retained in secret with no commentary or publication allowed.

11. These two documents were addressed to the archbishops and bishops who were the residential ordinaries or heads of every diocese and archdiocese in the world. They were also address to every Cardinal in the Church including those who were not in charge of archdioceses.
12. The 1962 document and the 1922 document differ only in that the latter explicitly includes clerics who are members of religious orders under its norms.
13. The norms of each document stipulate that all officials who are part of the judicial procedures whereby accused clerics are prosecuted maintain absolute secrecy under pain of automatic excommunication should they disclose information about the case. The same degree of secrecy but without the automatic excommunication applied to all witnesses including the accusing parties. The obligation of secrecy began as soon as the process was initiated by reason of official decree.
14. Although each document is primarily directed at the crime of solicitation for sex in the act of sacramental confession by priests, a special title of each document, known as Title V, specifically extended the procedures of each document to three other types of clergy sex crimes: homosexual acts, sexual abuse of minors and bestiality. After the public revelation of the 1962 document some observers and commentators gave the opinion that this document was concerned only with solicitation for sex during confession. This is not true. Certain competent authorities have agreed that there is no doubt that the document extended to the

other three types of sexual crimes.

15. It has also been alleged that the 1962 document ceased to be in force when the revised Code of Canon Law was published in 1983. This too is totally incorrect. The document that succeeded the 1962 document was issued by the Vatican in 2001. The text of this decree explicitly states that the 1962 document had been in force until 2001.

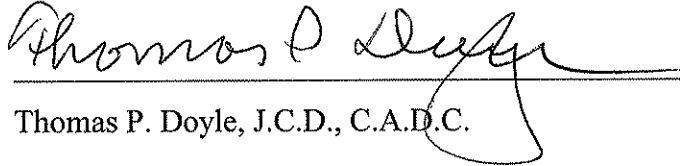
16. The secrecy attached to each document is not unusual. The pope is the supreme legislator for the world-wide church. He can promulgate or publish legislation as he sees fit. Although these documents were issued in secret and remained in secret for many years, a copy of each was sent to every bishop in the world with the expectation that the bishops would acquaint themselves with the document and then see that it was retained. Each document remained the primary source of procedural law for the processing of clergy sex crimes for the period the document remained in force. Both have been used in the processing of clergy sex abuse accusations by diocesan tribunals in the United States. Each document is indicative of the Catholic Church's official policy of deep secrecy surrounding cases of sexual abuse by priests. This secrecy has been evident in the manner with which reports of clergy sexual abuse have been traditionally handled and especially by evidence to it which has been disclosed in many civil and criminal trial and related proceedings which have taken place in secular courts in the United States, Canada and Ireland between 1985 and the present.

17. The two documents issued by the Vatican in 1922 and 1962 are among the many examples of official documentation issued by various offices of the Catholic Church which demonstrate that the papacy, the Vatican officials and the bishops throughout the world were aware of the fact that sexual abuse of children, minors and vulnerable adults was indeed a reality throughout the Catholic Church. The general public and the Catholic laity were not generally aware of sexual abuse by clerics because it was handled in a clandestine and highly restrictive manner by the hierarchy and kept secret from the laity and the general public.

Nevertheless the Church's own official documentation clearly establishes the conclusion that the hierarchy have been aware of clergy sexual abuse for many decades and certainly well before the public revelations that began in 1984 in the United States.

18. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 12th day of September, 2007 in Newport Beach, California.



Thomas P. Doyle, J.C.D., C.A.D.C.