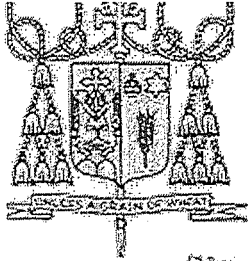


Lorraine Tobin**From:** Bishop Vasa [bpvasa@dioceseofbaker.org]**Sent:** Friday, 2 September 2005 3:29 AM**To:** Bishop Peter Ingham

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Diocese of Wollongong		
- 2 SEP 2005		
Bishop	Coordinator	DFA
Refer PW + BJ		
File	Reply	

September 1, 2005

The Most Reverend Peter W. Ingham
 Catholic Church Office
 P.O. Box 1239
 Wollongong SMC,
 N.S.W. 2521, Australia

Dear Bishop Ingham:

I write to inquire about the present and future disposition of Father John Nestor. I understand that he had been accused of molesting a former altar boy, that he was convicted of the crime and sentenced to 15 months in prison, that the case went to an appeal trial and that he was found 'not guilty'. According to one account, "The court sent him out acquitted, free, declared not a prohibited person, and not an unacceptable risk." Despite this finding of the court there seems to be a very strong conviction on the part of the Diocese of Wollongong that he is, in fact, guilty of the alleged abuse and that he represents an ongoing and unacceptable threat to the safety of children. Such a conclusion implies the presence of a body of substantive evidence that this is the case and from the documents which Father Nestor has presented to me I can certainly see that there is cause for concern. Whether the evidence gathered is sufficient to generate moral certitude of his guilt is, it seems to me, a matter of individual judgment. I know that as a result of my own reading of the documents I can state with clarity that I do not know with certitude that he is guilty and I must further admit that I do not know with certitude that he is innocent. Such an absence of moral certitude on my part does not preclude the possibility of his guilt but precluding the 'possibility' of guilt is beyond the ability of any one of us.

I am concerned about Father Nestor's status. If, as is certainly possible, he is an unacceptable risk to children then you have an obligation to supervise him much more closely. If he is marginal or questionable in terms of his suitability for ministry then, again, the duty to more closely supervise is essential. My reading of the Response from the Congregation for Clergy gives me reason to believe that The Apostolic Signatura will very likely affirm Father Nestor's right to receive a pastoral assignment. I understand that he has been in the United States for almost five years and during that time has engaged in some public ministry, without your permission or even knowledge, in a number of different Dioceses. I certainly understand your grave concern about giving him any kind of permission to work here. In your position I think I would do exactly the same thing. At the same time, I see that an ongoing and distressing attempt to 'resolve' his situation leaves you at risk and him as a veritable 'vagi priest'.

I am, obviously, quite ill informed about all the elements of Father Nestor's case but I think I can help both you and him. Since the civil court has issued its ruling and since the Congregation for Clergy has indicated that he is to be reinstated and since his case is presently under appeal it does not

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appear that he operates, at this point, under any kind of censure or suspension. If this is the case then there is nothing legally or Canonically or even morally to preclude him from serving in a Diocese in the United States under the direct supervision of a Bishop here except the lack of your consent. It seems to me that your lack of consent, understandable because of your own strong conviction that he is a risk to children, may actually increase the very danger which you are so determined to prevent because it literally leaves him unsupervised.

Again, I acknowledge that I am terribly ill informed about all of the nuances of his case and I need to (and will) pursue additional information from you and others but I am tentatively willing to take Father Nestor under my supervision. This would provide a stable place for him to reside and work, it will relieve you of the terrible worry about where he is and what he may be doing and it will allow me to document concerns which may arise which may ultimately help you in the further prosecution of his case. I would insist in advance on your consent and would not allow him to live or work here without your consent. Without that consent, he remains an apparent 'vagi priest' and this, it seems to me, increases rather than diminishes the very danger we all want to prevent.

It may well happen that after receiving additional information from you I too consider him to be too grave a risk to the well being of the faithful to be allowed any kind of ministry and in that case I would work with you to help him see that he cannot serve in public ministry for the good of the Church. I have taken very strong measures in my own Diocese to help assure the safety of all children and I do not take on this liability lightly. Since my concerns, however, extend to all children in every Diocese, I feel a strong obligation to help assure that Father Nestor does not represent an unacceptable roving risk.

These are extremely difficult times for us here in the United States, as I understand they are likewise in Australia, and we are judged most severely by the secular press both for what we do and how we have done it and for what we have failed to do. This makes it fearful and sometimes even impossible to insist upon the 'rights' of a priest accused of despicable actions even when ultimately exonerated in a civil court and supported by the Congregation for the Clergy. I too am extremely reluctant to 'take a chance' on any priest and yet the desire to protect children demands of me that I not leave unsupervised someone who, while enjoying the benefit of a presumption of innocence, has a history which seems to be a cause for concern. It seems in Father Nestor's case that the civil courts found insufficient completely convincing evidence to convict him and yet, rightly, our concerns persist. I would guess that we each have priests serving in our Diocese about whom we have 'fears' or 'concerns' but no moral certitude and with them we can only be vigilant. I would certainly be even more vigilant in regard to Father Nestor. While we may have very real fears or even grave fears that someone 'could' be guilty or 'could' be a risk to children those fears are not at all the same as moral certitude of guilt. It seems to me that we must be very careful that, in our pressing desire to protect children, we do not at the same time inadvertently set aside the demands of justice.

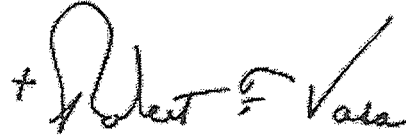
Father Nestor, is staying with me for a few days, without any pastoral duties, while I try to determine if it is feasible or possible to offer him an assignment here. I do have a need for priests but my primary concern, like yours, is the protection of children. At the same time, as a Canon Lawyer, I do recognize the difficulty of Father's situation. Perhaps asking for your 'consent' would force you to violate your own conviction about Father Nestor. In that case I would simply ask, Would you oppose my acting in the following fashion: 1) I review the pertinent data which you send to me regarding Father Nestor; 2) I send Father Nestor to an evaluation process of my choosing to determine his fitness for duty; 3) based on my study of his situation and the recommendation of the evaluators, I choose to permit or forbid him to serve in my Diocese; 4) if after a period of service here I find his work satisfactory and if he so desires the Diocese of Baker would consider permanent incardination; 5) if I find that I too agree that he represents an unacceptable risk to children I would communicate this to him and ask him to voluntarily submit to a life of prayer and penance, without any public ministry, under your supervision.

Your Excellency, I have no desire or intention of undermining in any way the excellent work you are doing in the area of the protection of children. I have no desire to place any child in even a remote risk of harm. At the same time I am open to considering Father John Nestor for a pastoral

assignment should you simply indicate that you would not oppose the schema I have presented.

I pray for a favorable reception of my proposal. Asking every good grace and blessing of God upon you, I am,

Sincerely Yours in Christ Jesus,

A handwritten signature in black ink, starting with a cross symbol and followed by the name 'Robert F. Vasa' in a cursive script.

The Most Reverend Robert F. Vasa
Bishop of Baker

PS: I apologize if this is a duplicate but I attached a Word document in the last attempt and I am not sure it was able to be transmitted. +RFV