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Diocese of Wollongong		
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Bishop	Chancellor	DFA
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March 5, 1998

Most Reverend Philip Wilson
 Bishop of Wollongong
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Dear Phil,

This is a very belated response to the materials Sister Delaney sent to me in late January. I have been away from the University for several weeks attending my sister and her family. My sister is dying of cancer, but is a tough woman and just has not been able yet to make the journey to eternal life. I am home for a few days until called back for the funeral when she finally is called by the Lord.

The situation of Fr. Nestor, as described in the papers sent to me, seems to be that you first attempted a pastoral approach with him, and responded to his requests for reasons. As more information became available to you, you moved to apply *Towards Healing* in his case despite his objection that you were not impartial, and then on January 22 you issued a direct order to him, under clerical obedience, to cease functioning as a priest until you give him permission. Your decree also threatened to begin the process of suspension if he failed to comply.

His January 23 letter fails to recognize that your January 22 decree has changed the level of your dealings with him from a pastoral or personal approach, to a canonical one; he seems to think the January 22 decree is a restatement of past facts rather than a new statement, issuing now a direct order to him under obedience.

It is now over a month since the materials came, and I imagine you have proceeded with the investigation assisted by two assessors. So the following comments have to be considered quite tentative, as I realize matters may have moved much farther along than they were at the end of January.

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Your January 22 decree was not a suspension from ministry. It was, however, a limitation on the exercise of his rights as an ordained priest. While it is an exceptional action, subject to strict interpretation in keeping with canon 18, it is based on canon 223, §2 (although it does not cite the canon); that is, one of the motives for the decree is the "common good."

The decree is a penal precept; that is, it orders a course of action and threatens a penalty if that course of action is not followed. But it does not threaten a *latae sententiae* penalty. Rather, it indicates that failure to comply will be considered grounds to initiate the process for suspension. You have already tried "fraternal correction . . . and other ways of pastoral care" called for in canon 1341, and have admonished him in keeping with canon 1339, §1. It would appear that if he does violate the precept, the requirements of canon 1341 have been met and you would be justified to proceed to a procedure to impose the threatened penalty.

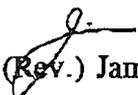
His attempt to argue that your January 22 decree is void because of various errors is itself mistaken. In regard to the procedures of *Towards Healing*, it relates to the *status quo ante* your letters of December 19 and January 21 in which you indicate that because of "significant additional material" you are forced to apply the procedures of *Towards Healing*. In regard to the level of your dealings, it refers to the *status quo ante* the January 22 decree itself; prior to the decree you were not invoking canonical obedience, but the decree itself does invoke canonical obedience.

Your procedure as indicated in these letters has been correct, in keeping with canon law and good pastoral practice. I presume you have continued by following the process in *Towards Healing*. Has that document been communicated to the Apostolic See for its *recognitio*? If so, you will be on solid grounds. If not, an eventual recourse against your action would have to challenge the *Towards Healing* document in order to challenge whatever process you follow in keeping with *Towards Healing*.

My apologies again for the delay in sending you these comments. I will try to be more prompt in responding to any future requests.

In the midst of your many concerns, I would appreciate a brief prayer for my sister Mary.

Sincerely,


(Rev.) James H. Provost