

Fr Peter A Comensoli

From: "Fr Peter A Comensoli" <chancellor@chancery.woll.catholic.org.au>
To: REDACTED
Sent: Monday, 23 July 2001 9:20 PM
Subject: Appeal to Apostolic Signatura by the Diocese of Wollongong
Dear Martha,

Firstly, I wish to introduce myself. My name is Fr Peter A Comensoli. It was I who was speaking to you this morning. I am the Chancellor of the Diocese of Wollongong, in the state of New South Wales, Australia. I am writing to you at this stage to make the first contact with you concerning our appeal to the Apostolic Signatura, to give you some initial information about the case, and to ask for your advise on the question of the suspension of the decision which is the subject of our appeal.

In 1996, Fr John Nestor, a priest of the Diocese of Wollongong, was accused of committing sexual assault against a minor. Criminal charges were laid against him. He was found guilty in a court of law, but was subsequently acquitted on appeal.

In 1998, the then Bishop of Wollongong, Most Rev Philip Wilson, issued a decree against Fr Nestor. The decree stated that Fr Nestor was to undertake a particular psychological assessment before a pastoral appointment would be given to him. The decree was issued following a period of investigation concerning further accusations made against Fr Nestor that he had behaved in a sexually inappropriate manner with children under his pastoral care. The decree was the culmination of a process established in the Church in Australia to deal with allegation of child sexual assault by clergy. These procedures, entitled 'Towards Healing', were established by the Australian Catholic Bishops' Conference in 1996.

Fr Nestor took recourse to the decree of Bishop Wilson with the Congregation for Clergy. On 21 December 2000, the Congregation upheld Fr Nestor's recourse and instructed the Diocese to restore him immediately to the full exercise of his priestly ministry in the Diocese of Wollongong. On 12 January, 2001, and in accordance with c.1734, Bishop Wilson asked the Congregation to reconsider its decision. The Congregation did not do this. In the meantime, Bishop Wilson was transferred to the Archdiocese of Adelaide and Fr Bryan Jones was appointed Diocesan Administrator of Wollongong.

On 22 February 2001, Fr Jones appealed to the Supreme Tribunal of the Apostolic Signatura to set aside the decree of the Congregation for the Clergy.

On 28 June 2001 (Prot. N. 32108/01 CA), the Apostolic Signatura wrote to Fr Jones. The Apostolic Signatura informed Fr Jones that:

1. the Diocese would need to give its mandate to a Procurator-Advocate
2. Make a deposit of L.3,000,000
3. submit a request for the suspension of the decision of the Congregation for Clergy.

It is at this point that I spoke with you today on the telephone.

Concerning 1 & 2 above, tomorrow the Diocese will send our mandate for you to be our Procurator-Advocate. Thank you for your verbal acceptance of our case, and I look forward to receiving your written acceptance in due course. We will also send to the Apostolic Signatura the deposit of L.3,000,000. I understand that once these procedures are properly in place, we will be able to communicate with you concerning the argument of our case and the information you require. I am aware that the summer vacation time means that this need not begin until some time in September.

I also wish to acknowledge that your fee to act as our Procurator-Advocate is L.2,000,000. We are happy to make this payment in the manner most convenient to you. If you prefer to receive the fee in another currency, please let us know.

Of most concern for us at the moment is the question of the request for an interim suspension (cf. can.1734, #2). We wish to send our request for suspension tomorrow (24 July) before the new Bishop of Wollongong, Most Rev Peter Ingham, takes up his office the following day. Bishop-elect Ingham concurs with this approach. It is important for us that our letter giving reasons for seeking the suspension is appropriately worded. Therefore, I would appreciate if you would read the following draft letter, and give us your comments by return email.

DRAFT LETTER TO THE APOSTOLIC SIGNATURA**<<Salutations>>**,**REV JOHN NESTOR AND THE DIOCESE OF WOLLONGONG (Prot. N. 32108/01 CA)****Thank you for your letter of 28 June 2001, which I received on 17 July.****In your letter you informed me that ours is not a case in which the law gives a recourse an automatic suspensive effect. Your then requested that I submit to the Apostolic Signatura:**

- a) an authentic copy of our request for suspension of the decision of the Congregation for Clergy (Prot. N. 20001201 dated 21 December 2000)**
- b) an explanation of the grave reasons (cf. can.1736, #2) for which the suspension is requested.**

Enclosed with this letter is the authentic copy of our request, which we had faxed on 22 February 2001.**Following are the reasons for which we are seeking this suspension.**

- 1. Much pastoral harm has already been suffered by the faithful within the Diocese of Wollongong because of the public notoriety of the case involving Fr Nestor. The potential for further and deeper scandal is very real if Fr Nestor were to be allowed to exercise a pastoral appointment before the allegations made against him have been fully addressed.**
- 2. Fr Nestor has been un-cooperative in seeking to resolve the issue over an extended period of time, and this un-cooperativeness continues to the present.**
- 3. There would be the real possibility of damaging national repercussions for both the Church itself, and for Church-State relations if Fr Nestor were allowed to resume active ministry before the case has been fully pursued. Please note that Most Rev Francis Carroll, President of the Australian Catholic Bishops' Conference, has supported our case and note the national implications of it in a letter to you dated 1 march 2001.**
- 4. Furthermore, in launching 'Towards Healing' in 1996, the then President of the Australian catholic Bishops' conference, His Eminence, Cardinal Edward Clancy, pledged to the people of Australia that the Catholic Church in Australia would commit itself to following the procedures set out in this document. These are the procedures that were followed by the Diocese of Wollongong in the case of Fr Nestor. To allow Fr Nestor to receive a pastoral appointment before the appeal is heard would, in practice, have the effect of setting aside the Cardinal's pledge.**
- 5. Fr Nestor is actively seeking as appointment in another Diocese in the USA that would enable him to by-pass both Australian civil law as well as the procedures put in place by the Church in this country to protect the Catholic faithful.**

For these grave reasons the Diocese of Wollongong seeks to have the decree of the Congregation for Clergy suspended by its superior authority, the Supreme Tribunal of the Apostolic Signatura until such time as a judgment on our case is made.**<<Salutations>>****Thank you, Martha, for reading this rather lengthy email, and I look forward to receiving your reply and comments on our proposed letter (Please note that Australia is 8 hours ahead of Italy - i.e. 12.00 in Italy is 20.00 in Australia).****With every Blessing,**

**Fr Peter A Comensoli
Chancellor
Diocese of Wollongong**

**PO Box 1239
Wollongong SCMC NSW 2521
AUSTRALIA
Tel: + 61 2 4224 7965
Fax: + 61 2 4224 7977
Email: chancellor@chancery.woll.catholic.org.au**