

Diocese of Wollongong

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CONFIDENTIAL

PW/lt/8155

31 March 1999

His Eminence Darío Castrillón Hoyos
Prefect
Congregation for the Clergy
00120 VATICAN CITY

Your Eminence

When I took possession of this diocese, Fr John Nestor had been arrested and charged with the sexual assault of a minor. Subsequently the case went to civil trial and he was convicted at first instance. Subsequently that judgement was set aside at second instance.

All of this occurred in a diocese that had been gravely disturbed by cases of sexual assault carried out by clergy and religious. Added to this were serious problems concerning the inadequacy of the response of ecclesiastical authority that had become a source of division and scandal in the community. Indeed it became part of highly publicised government proceedings investigating police corruption and paedophile activity in our country. Much of the attention centred on the civil and ecclesiastical life of our city, Wollongong. This produced a very sensitive and complicated context for this case.

My initial request was for Fr Nestor to be assessed by the appointees of the Professional Standards Resource Group established by the bishops in this state. I also requested that he refrain from celebrating public liturgical celebrations until the matter was resolved. The investigation by Church authorities was to evaluate the many allegations, and much innuendo, which had surfaced in our community. It was not restricted to the matters involved in the criminal trial. My request for him to refrain from public celebration of the liturgy was based on the need to preserve harmony and order in the diocese. Fr Nestor agreed to both.

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The assessment began in January 1998 under the auspices of the *Towards Healing* document and procedures authorised by the Australian Catholic Bishops' Conference. I also decreed that the investigation would constitute a preliminary canonical investigation according to c.1717 of the 1983 Code of Canon Law (p.19). Since that assessment began this case has divided into two issues.

The first is the matter of Fr Nestor's behaviour and suitability for ministry. The assessment and information given to me raised serious doubts about this matter. As I indicated in my decree of 7 August 1998 (pp.57-60), these doubts arise from several sources, including comments from his own canonical advisor (p.41). Therefore, as a pathway to his return to ministry, I have urged him to resolve my doubts by undergoing a comprehensive appraisal. The canonical status is that no penal law provisions have been invoked against Fr Nestor. Indeed I have always regarded penal law as a last resort and held back from commencing a penal process, even though the evidence provides a basis for it, because I have hoped to persuade Fr Nestor to do this assessment for his good and the good of the Church. This process of persuasion only came to an end when he took recourse against me at the Congregation.

The second issue is that of his public celebration of liturgy. On 18 January 1998 Fr Nestor ignored my request, and his agreement, to refrain from public liturgical action. This caused concern and scandal in the diocese. I directed him to refrain from such celebrations by decree on 22 January 1998 (pp.24-25). This decree was based on c.273. This was reinforced by a decree of mine on the same subject on 7 August 1998 based on cc.381,1; 835,1 (p.61). Fr Nestor subsequently disobeyed those instructions and heard confessions and celebrated Mass in another parish in the diocese. This caused consternation, confusion and disturbed the peace of our community. I wrote to him on 11 September 1998 seeking assurances from him that he would obey my instructions (p.87). Fr Nestor has never replied to my letter. During this time Fr Nestor has been receiving his salary, all benefits and a living allowance from the diocese. I have written to him asking if he needed help. My desire was to avoid a penal process. He was given the opportunity to participate in the assessment process and declined. However, he later claimed that he only "acquiesced" to a suggestion, made by the assessors, that an interview was unnecessary.

Given my responsibility to supervise priestly ministry in the diocese, I made a legitimate request to Fr Nestor. It was at this point that he made recourse to the Congregation and through this action brought proceedings to a halt.

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Archbishop Ternyak advised me, in a letter of 15 July 1998, of the procedures to be followed in a case like this (p.54). I have tried to conform my actions to the canons and was in the position of decreeing the end of the investigative phase of the process when Fr Nestor took recourse. I had always hoped, and still do hope, that he would respond to my requests and not make a penal process necessary.

Fr Nestor informed me in a letter dated 4 October 1998 that he had lodged recourse with the Congregation of the Clergy to set aside my decree of 23 August 1998. There is no decree of that date concerning Fr Nestor. The last decrees I issued about him were on 7 August 1998.

I thank the Congregation and its officers for considering my opinions.

Yours sincerely

Most Rev P Wilson DD JCL
BISHOP OF WOLLONGONG

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