

DECLARATION OF
THOMAS PATRICK DOYLE, O.P., J.C.D.

In the case of

Biteman et al. v. The Archdiocese of Seattle (Patrick O'Donnell)

Thomas P. Doyle, O.P., J.C.D., being duly sworn, deposes and states the following:

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. In 2004 I 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

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the National Conference of Catholic Bishops. In 1990 I entered active duty of the U.S. Air Force and left active duty in 2004. I 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. My curriculum vitae is attached to this report. I also wish to include as part of my report the report I submitted in a previous case in which Patrick O'Donnell had been the perpetrator, namely, John Doe, James Doe and Joseph Doe vs. Catholic Archbishop of Seattle, Catholic Bishop of Spokane and Patrick O'Donnell.

5. Records and deposition testimony I have reviewed establish that Patrick O'Donnell was ordained a priest of the Diocese of Spokane by Bishop Bernard Topel in June 1971. Within two

weeks of his ordination, Bishop Topel had been made aware that O'Donnell was a pedophile. (Testimony of Rita Flynn). In the early to mid-1970s, O'Donnell received therapy in Spokane for his pedophilia of which Bishop Topel had some awareness. O'Donnell testified that his problem with sexual attraction to young boys emerged while still in seminary at St. Thomas Seminary in Kenmore, Washington in the late 1960's when O'Donnell sexual abused boys at the seminary. O'Donnell disclosed his abuse of the boys to his spiritual advisor, Fr. Richard Basso, an ordained priest of the Seattle Archdiocese who was then teaching at the seminary. In response, the seminary arranged for O'Donnell to receive sexual deviancy therapy from its staff psychologists in Seattle.¹

¹ Rita Flynn's deposition indicates that Bishop Skylstad knew about Patrick O'Donnell from 1975 onwards. It also indicates that Bishop Topel was aware that O'Donnell was a pedophile from two weeks after he had ordained him. The bishop admitted this to Mrs. Flynn when she complained to him in person about the fact that O'Donnell had been welcomed back to the diocese after his doctoral studies with no word to the diocese as to why he had been away. Among other things Mrs. Flynn testified:

a. She told then Father Skylstad in 1975 about O'Donnell's behavior with boys involved in a sports team. He reported back that he had talked to "Fr. Pat" and that the occurrence would not be repeated. (Flynn depo. P. 18, 19)

b. About a month later she spoke with Skylstad about further reports of inappropriate behavior by Fr. O'Donnell with minor boys. He assured her he would discuss the matter more thoroughly with Fr. O'Donnell. (Ibid., p. 23).

c. In late 1976 she reported to Fr. Skylstad by phone that a friend of her son's, named Pete, had been seduced and raped by Fr. O'Donnell on a boat. She arranged at that same time for Pete to speak directly with Skylstad (Ibid., 26-28).

d. In 1976 also Skylstad told her that the counseling O'Donnell had received while at Assumption parish had not been successful and that he was being sent to the coast for therapy (Ibid., 31-32).

e. In 1978 she complained to Bishop Topel after O'Donnell had returned to Spokane. This was when the bishop said to her "I didn't even know Pat was a pedophile until 2 weeks after I had ordained him." (Ibid., p. 38).

f. At the end of this same interview she reported that Bishop Topel told her that they must pray that O'Donnell be cured of his sickness (Ibid., p. 39).

g. After Skylstad had been made bishop of Yakima and Welsh the bishop of Spokane, she reported that Skylstad urged her to call Welsh and tell him everything she knew about O'Donnell. She did so and was told by Welsh that he didn't need her information as he knew it all already (Ibid., p. 43).

6. The testimony of multiple victims of O'Donnell in Spokane demonstrates that O'Donnell continued to offend against children in every parish in which he served in Spokane between the time of his ordination and 1976. (Testimony DS – St. Peter's parish; MN, JN, JS, SB and TB at St. Mary's parish; MC, RH, DE MM and PB at Assumption parish. O'Donnell's molestation of PB in the summer of 1976 was a watershed event. PB disclosed the abuse incidents to John Donnelly; O'Donnell's supervising pastor at Assumption parish and to then Vicar General, later bishop, William Skylstad. Donnelly was so alarmed he had concerns about O'Donnell's personal safety should PB disclose the abuse to his father, a Spokane police officer. Donnelly directed O'Donnell to "get out of town" to allow Bishop Topel time to assess the situation and determine a course of action. (O'Donnell: 191:21) O'Donnell immediately moved out of the Assumption rectory to a friend's lake cabin in Idaho. Over the next two weeks in a series of meetings O'Donnell and Bishop Topel huddled at the bishop's chancery office to discuss what should be done about O'Donnell's pedophilia.

7. Bishop Topel was aware that another priest in the diocese, Father David Bruxer, had recently returned from a two-year stay in Seattle where he had obtained a graduate degree in Social Work at the University of Washington while residing at and serving as a parish priest at St. Paul's parish in Seattle. It appears that Bishop Topel had personally coordinated Father Bruxer's living and work arrangements at St. Paul's parish with the Seattle Archdiocese two years earlier. Near the day he left for Seattle, O'Donnell came to Bruxer's parish in Spokane to say good-bye as a friend. O'Donnell told Bruxer he was going to Seattle because it involved something with a child and that he would be entering a structured sexual deviancy treatment program. O'Donnell never mentioned to Bruxer that he would be residing at St. Paul's parish. O'Donnell said nothing

h. She discovered after all of the above reports that O'Donnell was assigned to work at Morning Star Boys Ranch. She called United Way and then the police. The police called the chancery and she was called by a lay chancery official and instructed to call the chancery first on such matters which she told them she would not do. (Ibid., p. 50-53). (put sub paragraphs in a footnote)

to Bruxer about pursuing a doctorate in psychology at the University of Washington.

8. The plaintiffs in this case were sexually abused by O'Donnell while he was in residence and functioning as an assistant at St. Paul's parish in Seattle. It is their contention that Archbishop Hunthausen was aware of the fact that O'Donnell had been sent to Seattle primarily to receive therapy for his sexual problems. Prior to arriving in Seattle in 1976 O'Donnell had been identified by Bishop Topel as a sexual abuser.

9. Priests are commonly sent from one diocese to another for a variety of reasons including study and medical care. Based on my extensive experience in Church administration on several levels as well as my professional training as a Canon Lawyer I can say that it is not only required by internal Church regulations but is also the consistent practice of bishops and archbishops for there to be communication between bishops when a priest is to reside in a diocese other than his own for a period of time. If a priest is sent from one diocese to another for reasons such as addictions treatment or medical care for psycho-sexual problems it is improbable that the sending bishop would not reveal the true issues to the receiving bishop. The sending bishop would also request and obtain the host bishop's permission for the priest to reside in Church owned housing (a rectory) and function in any ministerial role such as assistant pastor. The evidence that this obligatory practice was followed by Bishop Topel is found in the documentation pertaining to Fr. David Bruxer's assignment to St. Paul's Parish while he pursued graduate studies in Seattle. Bishop Topel wrote to Archbishop Connelly on September 11, 1973 and requested permission for residence while at the same time assuring him that Bruxer was a priest in good standing. On September 25, 1973 Archbishop Connelly wrote a memo to Fr. Ryan, his chancellor, directing him to inform Bruxer that he would be assigned to the parish (cf. ARCH27474). This example was not an exception to common practice nor was it unique to Topel in his interaction with Connelly. This is an example of the application of the required procedure and the common practice found among bishops and archbishops in regard to temporary transfers.

10. When diocesan priests move from one diocese to another on a temporary basis the sending diocese usually relies on the priest to secure his own living arrangements. Consequently it is not unusual that O'Donnell would seek out housing. Even if he secured housing in a rectory the archbishop of Seattle would have to approve any temporary residence for any reason. In this particular case Archbishop Hunthausen granted O'Donnell the faculties of the diocese.

11. O'Donnell was not only in residence in the parish but he was also functioning as a part-time associate pastor. As such he fell directly under the supervisory authority of the pastor on the immediate level and under the supervisory authority of Archbishop Hunthausen on the overall level. Only the archbishop could extend an official approval for him to remain and work in the parish.

12. Although it has been common for bishops to transfer sexually abuse priests and other problem priests from assignment to assignment within a diocese without informing receiving pastors about the true reasons, this is not the case when such priests are sent from one diocese to another and it is especially so if the sending diocese is a suffragan or subordinate diocese to the archdiocese where the problematic priest is sent. In this case we have documentary proof that Bishop Topel and Archbishop Hunthausen had a very close personal friendship. Both men had to have known the potential for scandal and damage that was present in a priest who sexually abused young boys. It is my opinion, based on my education, training, experience and familiarity with the practices of bishops and dioceses that it is not only highly improbable that the bishop of Spokane or his subordinates failed to inform the archbishop of Seattle or his subordinates about the exact nature of the reason why Patrick O'Donnell was sent to Seattle, but next to impossible. In spite of the denials contained in the depositions of several witnesses, I believe that the bishop of Spokane informed the archbishop of Seattle about the exact nature of these reasons. The documentation clarifies that Bishop Topel knew that O'Donnell had been credibly accused of sexual abuse of a minor.

13. Fr. Stephen Dublinski was Vicar General of the Spokane diocese in 2002 and Fr. John Steiner was Vicar General of the Seattle archdiocese in 2002. The office of Vicar General is the second highest office in the government of a diocese or archdiocese. As such when these men made decisions or took actions in their official capacity they did so in the name of and generally with the knowledge of the bishop.

A. Aug. 27, 2002: “[Msgr. John] Steiner, the former Vicar General of the Spokane Diocese, said St. Paul’s and the Seattle Archdiocese were fully informed of O’Donnell’s history and why he had been sent to Seattle.” (Seattle Times).

B. Aug. 12, 2004: Msgr. Steiner was deposed and was asked if his statement, quoted above, was correct. After sifting through the interjections of the attorneys it appears that Msgr. Steiner confirmed what he had said in 2002. “My assumption was that there was some communication between Bishop Topel and Archbishop Hunthausen relative to why O’Donnell was in Seattle. It’s an assumption (Steiner deposition, p. 25.)

C. Aug. 29, 2002: Spokesman Bill Gallant of the Seattle archdiocese said “The Archdiocese of Seattle has no records of O’Donnell serving at St. Paul’s.....From our understanding of O’Donnell he wasn’t assigned to the Seattle archdiocese.” (Spokane Spokesman Review).

D. October 7th 1976. On this date Archbishop Hunthausen issued an official document which said “To our brother in Christ, Patrick O’Donnell, of the Diocese of Spokane, named as associate pastor in the parish of St. Paul, Seattle.” (ODL 000051)

E. Sept. 15, 2002: Stephen Dublinski, Vicar general of Spokane “...said Topel sent several letters to then-Seattle Archbishop Raymond Hunthausen, ‘requesting a conversation about O’Donnell.’ There is no record of a response but diocese officials feel Hunthausen knew of O’Donnell’s history.”

F. June 11, 2004: Deposition of Msgr. Dublinski: “I have no idea what was transposed between the two bishops and I have never seen any documentation that gives any evidence that anybody does.” (Depo., p. 105)

G. Oct. 5, 1976: Memo from Fr. Espen of the Archdiocese of Seattle to Msgr.

Doogan, chancellor which says in part, "*Fr. Patrick O'Donnell...will be in residence at St. Paul's Parish. He called and asked for faculties. I told him that we should have something from Bishop Topel.*"

14. Archbishop Hunthausen was the archbishop of Seattle when O'Donnell was sent there in 1976 and remained archbishop for the duration of O'Donnell's stay. The archbishop does not remember having any conversations with Spokane authorities, especially Bishop Topel, prior to O'Donnell residence in Seattle (Depo, p. 68). He does not recall ever discussing O'Donnell either before or after he arrived in Seattle and admits that he did not even ask O'Donnell why he was in Seattle (Depo. 69, 77, 68).

15. Archbishop Hunthausen admitted in his deposition that no formal supervision was required of O'Donnell. Furthermore he said that one would simply accept O'Donnell as a responsible individual and presume that he would do the right thing (Depo. P. 49). This information is misleading. While it was probably true that no structured supervision was exercised over O'Donnell, this is not to say that such supervision was not only provided for in Church practices, but was required for associate pastors. Even prior to his admission into the diocese and his assignment as a resident/associate pastor at the parish, Archbishop Hunthausen was required by church practice and regulation to satisfy himself that O'Donnell was morally and spiritually fit to be an associate. It appears that no such background check of fitness evaluation was ever formally conducted.

16. Archbishop Hunthausen, in his deposition, states that he does not recall any conversations with Bishop Topel about Patrick O'Donnell. It may well be that he does not recall these conversations. He was 82 years old when the deposition was take in 2004 and the conversations in question would have taken place in 1976. Whether or not he recalls these discussions does not mean that they did not take place. I would like to recall here the information we have which shows that Archbishop Hunthausen and Bishop Topel were very close friends. Bishop Topel was

one of the three bishops who consecrated Hunthausen. They had a close friendship and also a close level of collaboration as bishops. Hunthausen became the metropolitan archbishop of Seattle and Bishop Topel remained a suffragan bishop and as such was a subordinate to him. Although Hunthausen did not have direct supervisory authority over Topel he did have a significant degree of moral authority in light of his position. It is not realistic to assume that Bishop Topel would *not* have shared O'Donnell's situation with Archbishop Hunthausen when he sent him to Seattle. This is not the way things are done between bishops.

18. A crucial aspect in presuming that without a doubt Topel informed Hunthausen of O'Donnell's sexual problems is the official relationship that existed between the two bishops. Archbishop Hunthausen was, as has been stated, the Archbishop of Seattle and the Metropolitan archbishop of the ecclesiastical province which included Spokane. Although he did not have ordinary supervisory authority over Bishop Topel he did have specific powers of oversight which made him more than a mere figurehead. The Code of Canon Law specifies that the Metropolitan has the authority "*to see that faith and ecclesiastical discipline are carefully observed and to notify the Roman Pontiff if there be any abuses*" (Canon 436, par. 1, part 1). An essential aspect of ecclesiastical discipline is assuring that any priest who goes from one diocese to another for whatever reason is morally and spiritually fit to minister. A priest who has been accused of sexually abusing a minor is not spiritually and morally fit. Moreover to knowingly permit such a priest to reside in another diocese without informing the receiving bishop constitutes not only a potential for serious embarrassment and moral harm but a challenge to the receiving bishop's authority. In this case the circumstances are even graver because the transfer was between a suffragan or subordinate diocese to the Metropolitan archdiocese. For Bishop Topel to intentionally withhold such vital information would have constituted a serious and insulting challenge to Archbishop Hunthausen's authority and office but a canonical violation as well. The contention that Bishop Topel simply "forgot" to add the detail of O'Donnell's sexual offense is preposterous.

19. I have reviewed the detailed documentation of several hundred clergy sexual abuse cases from Catholic dioceses and archdioceses throughout the United States. My experience reaches back over twenty years. Prior to my experience in this area I had worked in archdiocesan administration in the Archdiocese of Chicago and also served at the Vatican Embassy in Washington, D.C. Many of these cases involved transfers of an accused priest from one diocese to another (arch) diocese. In every such case, with only one exception known to me, the sending bishop disclosed to the receiving bishop the true reasons for the transfer. There are two other elements of this practice that I have seen to be part of the bishops' consistent practice. The first element is that a "cover story" was usually agreed upon which served as a camouflage for the true reason. In this case the cover story was that O'Donnell was pursuing graduate studies in Seattle which was completely plausible to all. In my experience the most common "cover story" used by bishops when sending sexually abusive priests to other assignments has been "studies" of some sort. This story was especially plausible to the people of St. Paul's parish because of the precedent with Fr. Bruxer two years earlier. The other common element has been the intentional failure of either bishop but especially the receiving bishop to disclose to the pastor or superior of the parish or other residence where the priest would be living as to the actual reasons for his residence there.

19. The primary purpose Topel sent O'Donnell to Seattle was for therapy. He had sexually abused minors and his bishop believed he needed therapy, ostensibly for a sexual disorder. O'Donnell also decided to pursue graduate studies in psychology. Archbishop Hunthausen admitted that he knew of these study plans (Hunthausen depo, p. 109) but he claims he has no recollection of any information that O'Donnell was a sexual abuser. Again, it is simply unrealistic to assume that Bishop Topel did not share with Archbishop Hunthausen the information about the sexual abuse.

20. Archbishop Hunthausen's rendition of the transfer and his contention that he was unaware of the sexual abuse is undercut by facts evident from the documentation. The archbishop claimed

that the only reason he knew of for O'Donnell's presence in Seattle was to pursue doctoral studies. Yet internal archdiocesan communications present a different picture:

A. Minutes of the Seattle personnel board meeting, September 27, 1976 contain the following: *"Short discussion regarding Fr. Pat O'Donnell from Spokane as to status of residence at St. Paul Seattle. It was decided that this matter should be taken up between Archbishop Hunthausen and Bishop Topel of Spokane."* This passage is significant for two reasons: First, it confirms that the issue of O'Donnell's transfer was discussed between the two prelates. Second, the minutes from 1973 of the Seattle Archdiocese Priest Personnel Board (PPB) regarding the acceptance of Father David Bruxer's residency in Seattle while pursuing graduate work at the University of Washington, contrasts sharply with the 1976 PPB meeting minutes regarding O'Donnell's request for acceptance for residency in the Seattle Archdiocese. The PPB minutes regarding O'Donnell give the appearance of an abridged discussion regarding O'Donnell's circumstances and reasons for his being in Seattle. In Bruxer's case, the PPB minutes reveal that an open discussion occurred regarding why Bruxer was coming to Seattle, and, further, clearly reflect that in his case the PPB was able to make an affirmative recommendation to the Archbishop regarding Bruxer's request for acceptance of residency.² By contrast, the PPB minutes regarding O'Donnell reflect that the PPB discussion was not open about what O'Donnell was doing in Seattle. Further, and most importantly, the minutes reflect that the PPB was unable to reach a decision regarding what should be done with O'Donnell and concluded that direct communications between the bishops was required. The dramatic differences in the minutes of the two meetings regarding two priests requesting residency for the same supposed purposes – to further their education, leads to the inference that the PPB had actual knowledge about O'Donnell's problems as well.

B. Bishop Topel and Chancellor Skylstad learned that O'Donnell planned to enroll in

² The September 1973 Minutes of the Seattle Archdiocese Priest Personnel Board (PPB) contains the following entry regarding Father Bruxer:

"Correspondence from Fr. Dave Bruxer of the Spokane Diocese. Fr. Bruxer will be studying at the University of Washington School of Social Work this coming year and wrote requesting residency in a Seattle parish during his stay here. J. Perri reported that he had spoken to Msgr. J. Doogan regarding possibilities for Dave and the Mrgr. had suggested he go to Holy Rosary, Seattle. This most certainly would be in agreement with Fr Van Gogh as he is hoping to get more help. The Board

doctoral studies *after* he had entered into therapy for sexual deviancy (cf Skylstad deposition, 90-91). Chancellor Skylstad had been involved in the day-to-day discussions about the sexual Vol. 2, 70-72). It is unclear how Hunthausen could have known about the proposed doctoral program if that plan was not known by Topel until some time later. Also, it is simply not possible to assume that Chancellor Skylstad did not include Bishop Topel in the discussions about the plans for therapy for O'Donnell

C. An internal memo dated Oct. 5, 1976 between Doogan, and Espen says that O'Donnell would be at St. Paul's for "several month." This is strange because a doctoral program takes much longer than several months (cf. ODL 00005)

D. The afore-mentioned memo also said that before faculties were granted to O'Donnell "*we should have something from Bishop Topel.*" There is no evidence of what this "something" was nor is there any letter of good standing from Topel in the files yet Archbishop Hunthausen granted O'Donnell full faculties on October 7, 1976.

E. Dublinski and Steiner both made public statements to the press that communications had taken place between Bishop Topel and Archbishop Hunthausen yet later each man retreated from these statements in depositions. This turn of events is highly suspect because of the positions they held in the diocese. It is improbable that they would make inaccurate statements to the press about such an important matter.

21. Patrick O'Donnell's sexual problems were known to a number of members of the clerical community of the State of Washington even before he was ordained. The extensive list is documented and makes it impossible to assume that there was any secrecy about his problems among the various administrative officials of both Spokane and Seattle. All of the documentation points directly to the conclusion that Bishop Topel had communicated the real reason for O'Donnell's transfer to Archbishop

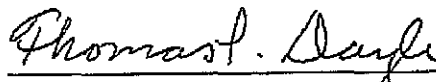
accepted this recommendation, and Fr. Parri will speak to the Archbishop about the matter."

Hunthausen and that Hunthausen, in spite of the knowledge that O'Donnell was a very serious threat to the moral and spiritual welfare of children, assigned him to a parish and gave him faculties to minister as a parish assistant.

February 11, 2009

Vienna, VA

I Declare under Penalty of Perjury under the laws of the State of Washington that the foregoing is a true and correct statement of my professional opinions and the bases of those opinions in this matter.



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