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FILED

JUN 14 2011

Signature of Connie Mizzer
CONNIE MIZZER
CLERK OF THE SUPERIOR COURT
DEPUTY
J. CEDILLO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MONTEREY

FILED BY FACSIMILE

11 JOHN RJ DOE, an individual,
12)
13) Plaintiff,

14 v.

15 THE ROMAN CATHOLIC BISHOP OF)
16 MONTEREY, CALIFORNIA, a California)
17 corporation sole; MADONNA DEL SASSO)
18 PARISH, a business entity of form unknown;)
19 FATHER EDWARD FITZ-HENRY, an)
20 individual; and DOES 1 through 100, inclusive,)
21)
22) Defendants.

Case No.: M110724
Judge: Honorable Thomas W. Wills
Dept.: 16

**PLAINTIFF'S JOINT SUR-
OPPOSITION TO DEFENDANTS
DIOCESE OF MONTEREY'S,
MADONNA DEL SASSO PARISH'S
AND FATHER EDWARD FITZ-
HENRY'S MOTION FOR
PROTECTIVE ORDERS;
DECLARATION OF VINCE W.
FINALDI.**

Date: June 17, 2011
Time: 9:00 a.m.
Dept.: 16

Case Filed: February 15, 2011
Trial Date None

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

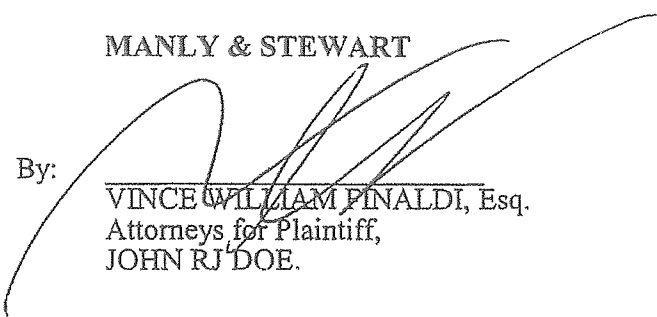
PLEASE TAKE NOTICE that Plaintiff JOHN RJ DOE ("Plaintiff") hereby requests
leave of Court to submit the following Sur-Opposition to Defendants DIOCESE OF
MONTEREY'S, MADONNA DEL SASSO PARISH'S and FATHER FITZ-HENRY'S Motions
for Protective Orders protecting the entirety of documents and information in this matter from
public disclosure, based on additional information gathered during the Deposition of Defendant

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1 FATHER EDWARD FITZ-HENRY ("Fitz-Henry), which occurred on May 27, 2011, after
2 plaintiff filed his substantive opposition to said motions.

3 Dated: June 13, 2011

MANLY & STEWART

By: 

VINCE WILLIAM PINALDI, Esq.
Attorneys for Plaintiff,
JOHN RJ DOE.

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. Additional Information

3 A. DEPOSITION OF FATHER EDWARD FITZ-HENRY

4 Father Edward Fitz-Henry ("Fitz-Henry") was deposed on May 27, 2011. (Deposition of
5 Edward Fitz-Henry (DFH)¹, attached as Exhibit "A" to the Declaration of Vince Finaldi ("DVF"),
6 1:1-25).

7 1. Testimony Regarding Allegations of Sexual Abuse of a Minor Prior to
8 Plaintiff's Abuse

9 Father Fitz-Henry admitted the Doe family² were members of the Cathedral Parish where
10 Fitz-Henry was a priest in the early 1990's. (DFH, 72: 1-5). The Does had a fourteen year old son
11 (herein "Minor Doe") who the Does complained to the Diocese of Monterey that Fitz-Henry had
12 begun to show "too much affection or too much friendship, inappropriately." (DFH, 80:20-21,
13 203:12). Fitz-Henry admits to having touched Minor Doe's buttocks during a game a flag football,
14 and also admits to having sat watching TV while Minor Doe sat next to him, in the "crook" of his
15 arm, leaning on his shoulder. (DFH, 148-149, 90:2-10). Additional allegations made by the Does
16 included claims that Fitz-Henry straddled Minor Doe, and in doing so, placed his crotch in the
17 young boy's face. (DFH, 205).

18 It serves to note that Fitz-Henry did not deny the allegation that he had straddled Minor
19 Doe, but, instead, claims that "as far as he knows" he has never straddled any young boy. (DVH,
20 204: 3-22). He simply does not recall. (Id.). The parents of Minor Doe were informed of this
21 behavior and reported it to the Diocese who responded by sending Fitz-Henry to New Mexico to
22 receive treatment at the Servants of the Paracletes: a facility designed for the treatment of sexual
23 afflictions. (DFH, 76:15-21, 80-82: 4, New York Times Article: Paracletes, attached as Exhibit
24 "C" to the DVF).

25 In 2007, when the Doe family learned that Fitz-Henry had returned to work at a parish with

26 _____
27 ¹ The Deposition of Edward Fitz-Henry refers to the rough copy and does not refer to the final
28 version of the deposition transcript, as that version was not available at the time of filing.

² The "Doe Family" is a pseudonym to protect their identities herein

1 a school (Madonna Del Sasso), the Does sent a letter to Bishop Garcia demanding that Fitz-Henry
2 be moved, at which time he was sent to San Juan Bautista Mission. (DFH, 230: 3-22).

3 2. Testimony Probative of Time Spent at Paraclete Treatment Facility in New
4 Mexico

5 Father Fitz-Henry admitted to having attended a treatment facility in New Mexico run by
6 the Paracletes, following allegations that he had an inappropriate sexual relationship with the Doe
7 minor in the early 1990's. (DFH, 76:15-21, 80-82: 4). Fitz-Henry was asked to attend this
8 treatment center in order to receive counseling. (DFH, 76:18-22). While at this treatment facility,
9 located in Jemez Springs New Mexico, Fitz-Henry testifies that he underwent psychotherapy
10 (DFH, 139: 13-16), and he did hear the topic of pedophilia raised and discussed by patients. (DFH,
11 163: 23-164:12). The first visit to Jemez Springs lasted only five days and served to provide the
12 treatment facility with enough information to make a recommendation for treatment. (DFH 158-
13 160). Following his return to his Parish, Fitz-Henry was told, by the Diocese, he had to go back for
14 further treatment. (DFH, 161:22-162:1). That treatment lasted for three and a half months. (DFH,
15 76: 12-18). One year after the completion of his treatment program, Fitz-Henry returned to New
16 Mexico for a follow up consultation which lasted five days. (DFH, 171: 4-12).

17 Upon returning to the Diocese of Monterey, no announcement was ever made to the
18 community that Fr. Fitz-Henry had attended counseling in response to child abuse allegations.
19 (DFH, 189: 5-18). In fact, no explanation was ever given as to why Fitz-Henry had left the Parish
20 for that period of time. (Id.) Following treatment, Bishop Garcia moved Fitz-Henry to the San Juan
21 Bautista Parish. (DFH, 198:12-24) At that time, Bishop Garcia *knew* that Fitz-Henry had been
22 accused of having an inappropriate sexual relationship with a minor and had received treatment as
23 the result. (Id.). Later, Bishop Ryan moved Fitz-Henry from San Juan Bautista to the Madonna Del
24 Sasso Parish with full knowledge of the sexual allegations lodged against Fitz-Henry and the
25 subsequent treatment. (Id.) The Diocese also never informed the San Benito Sheriff's Department
26 of Fitz-Henry's history of inappropriate sexual behavior when Fitz-Henry became a chaplain with
27 the police. (DFH, 222: 3-11).

28 Additionally, while at the treatment center, Fitz-Henry befriended Daniel Calabrese just

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1 months before Calabrese was arrested, charged and found guilty of performing oral sex on a
2 sixteen year old boy in a New York Rectory. 2011. (DFH, 166: 4-21, New York Times Article,
3 attached as Exhibit "B" to the DVE). Fitz-Henry also befriend Sarah Brennan, a therapist working
4 with the Paracletes in New Mexico. (DFH, 168:23 - 169:4).

5 **3. Testimony Regarding Fitz-Henry's Time as Priest**

6 While acting as a priest at San Juan Bautista, Fitz-Henry, who confirmed his
7 homosexuality, had multiple members of the San Benito Sheriff's Department and Fire
8 Department living with him in the rectory. (DFH, 75: 1-5, 118:22-119:6, 125). In fact, one
9 firefighter who stayed with Fitz-Henry had a son who also stayed with him at the rectory over
10 night. (DFH, 121:17-21). Nevertheless, Fitz-Henry claims to have never been aware of a policy
11 that forbade non-clergy children, or for that matter adults, from staying in the rectory, and instead
12 insists that the Diocese had no such policy. (DFH, 121:17-122: 7). During his time at the Diocese,
13 Fitz-Henry befriended many members of law enforcement, who eventually encouraged Fitz-Henry
14 to become the police chaplain. (DFH, 219: 15-23).

15 Fitz-Henry testified that he has rough housed with children, and has taken part in summer
16 camps as a priest. (DFH, 126:10-127:4, 207:1-3). At no point, however, has the Diocese ever
17 placed any restrictions upon Fitz-Henry in order to keep him from interacting with children. (DFH,
18 197:11-18).

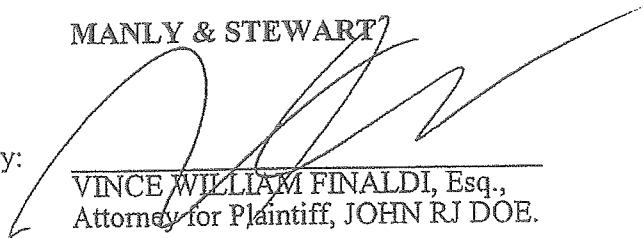
19 **III. CONCLUSION**

20 For these additional reasons, Defendant Diocese of Monterey's, Madonna Del Sasso
21 Parish's and Father Fitz-Henry's Motion must be denied.

22
23
24 Dated: June 13, 2011

MANLY & STEWART

25
26 By:


VINCE WILLIAM FINALDI, Esq.,
Attorney for Plaintiff, JOHN RJ DOE.

ROUGH - fitz-henry

1 A. No.

2 Q. Now, you have had a number of -- of friends
3 that you have made that are parishioners; correct?

4 A. Yes.

5 Q. And since you were ordained, tell me who some
6 of the families you were close to.

7 A. Since I ordained?

8 Q. Yeah.

9 MR. DE VRIES: That's pretty broad.

10 BY MR. MANLY:

11 Q. People you visited and they treated you like
12 family, that you were close to. Not just an afternoon
13 visit or a Sunday visit. People -- places you hung out
14 and people you hung out that you were close to.

15 MR. DE VRIES: During the entire course of his
16 ministry?

17 MR. MANLY: Right.

18 MR. DE VRIES: Wow. I don't know how you
19 answer that.

20 MR. MANLY: Is that an objection?

21 THE WITNESS: I mean to be honest with you, I
22 couldn't -- you go from parish to parish. Basically you
23 leave behind the people that were in that parish and go
24 to the next parish. So there would be very few that I
25 think I would keep in contact with.

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0 *****ROUGH DRAFT*****

1 BY R. MANLY:

2 Q. Were you close to the ^{DOE} family?

3 A. He when I was at the parish, yes.

4 Q. What parish was that at?

ROUGH - fitz-henry

5 A. That was at the cathedral parish.

6 Q. Okay. And why did you leave that parish?

7 A. I was assigned to Carmel.

8 Q. What time of year was that?

9 A. I don't know. I don't recall the actual date.

10 Q. Is there any other reason you left that parish?

11 A. I had -- I had contacted the bishop regarding a

12 -- a person, a woman, who was being very -- acting very

13 strange towards me, and requested the bishop to move me.

14 Q. What was the name of the woman?

15 A. I don't recall her name.

16 Q. What do you mean by acting very strange?

17 A. Well, she wanted me to leave the priesthood and

18 get married to her -- and marry her, and --

19 Q. So she proposed to you.

20 A. She proposed that I leave the priesthood and

21 that she would divorce her husband and that we would get

22 together.

23 Q. How many times has that happened to you?

24 A. That one time.

25 Q. Okay. Pretty unusual; right?

73

0 *****ROUGH DRAFT*****

1 A. Very unusual.

2 Q. But you can't remember her name.

3 A. I don't recall her name, no.

4 Q. So -- so you have a woman who wanted you to

5 leave the priesthood. How old was this lady?

6 A. At the time she was probably in her thirties.

7 Q. A woman in her thirties. Was she attractive?

8 A. Yes.

ROUGH - fitz-henry

13 Q. Okay. So this lady was married to a naval
14 officer, and you had dinner with her one time and she
15 asked you to marry her?

16 A. I had dinner at her home with her husband one
17 time.

18 Q. And she asked you to marry her.

19 A. Yes.

20 Q. Okay. Father, do you have a -- I could care
21 less what the answer is, but do you consider yourself to
22 have a sexual orientation, homosexual or heterosexual?

23 A. I am a celibate priest, so I don't -- that's --
24 that would be -- whether it was a man or a woman that
25 proposed, I would have said no.

75

0 *****ROUGH DRAFT*****

1 Q. Okay. Well, that -- I'm just asking
2 personally, do you have an orientation?

3 A. Yes.

4 Q. What is it?

5 A. Homosexual.

6 Q. So your -- but obviously you have taken a vow
7 of celibacy, so any sexual activity would be
8 inappropriate for a priest; correct?

9 A. Correct.

10 Q. Okay. Have you ever had -- or have you ever
11 been disciplined for -- by the diocese in any way, shape
12 or form for any type of sexual activity with adults?

13 A. No.

14 Q. Has -- have you ever been talked to about it?

15 A. No.

16 Q. Have you ever had a sexual relationship with

ROUGH - fitz-henry
17 another person since you have been a priest?

18 A. No.

19 Q. So you have been completely celibate?

20 A. Yes.

21 Q. So the ^{DOE} family, did that have anything to
22 do -- did the ^{DOE} family have anything to do with you
23 leaving the parish, the cathedral parish?

24 A. No.

25 Q. Were you gone for a period of time from the

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0 *****ROUGH DRAFT*****

1 cathedral parish?

2 A. No.

3 Q. Okay. Have you ever been gone for a period of
4 time -- any significant period of time from the ministry
5 since you were ordained? Let me -- let me ask it this
6 way. Have you ever been gone from the diocese to
7 somewhere else for any significant period of time since
8 you have been ordained?

9 A. How -- what does significant time mean?

10 Q. A month or more.

11 A. Yes.

12 Q. And how long were you gone for the longest
13 period of time?

14 A. Approximately three and a half months.

15 Q. And where were you?

16 A. I was in New Mexico.

17 Q. Okay. What were you doing there?

18 A. I was getting counseling.

19 Q. For what?

20 A. Based upon the complaint by the ^{DOE FAMILY} I was

ROUGH - fitz-henry
21 asked to go to New Mexico.

22 Q. What complaint?

23 A. Well, I didn't get the details, but I was
24 spoken to about it -- the diocese attorney at that time.

25 Q. Mr. Ham?

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0 *****ROUGH DRAFT*****

1 A. Correct. Al Ham.

2 Q. And?

3 A. And he said that I had been assigned to be the
4 new pastor of the church in Carmel valley, which is
5 where the ^{DOES} [REDACTED] resided, and they did not want me to be
6 the pastor there. So the -- they said that they would
7 prefer that I didn't be the pastor there.

8 Q. Okay. Well, weren't you at one point very
9 close to the ^{DOE} [REDACTED] family?

10 A. I wouldn't say very close, but I was -- I knew
11 them.

12 Q. Did you go to their house?

13 A. Yes.

14 Q. Did you hang out with them?

15 A. I had -- yes.

16 Q. Okay.

17 A. On a few occasions.

18 Q. Did you go to family -- did you go to holidays
19 there?

20 A. No.

21 Q. Okay. How many times were you at the ^{DOE} [REDACTED]
22 home?

23 A. Probably about three times.

24 Q. Three times.

25 A. Uh-huh. ROUGH - fitz-henry

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0 *****ROUGH DRAFT*****

1 Q. Okay. That's it?

2 A. Yes.

3 Q. Okay. And this is while you were at the
4 cathedral parish?

5 A. Yes.

6 Q. Okay. And how many children do they have?

7 A. I don't know.

8 Q. Did you know any of the children?

9 A. Yes.

10 Q. Which children did you know?

11 A. I knew [REDACTED] and [REDACTED] ^{GT DOE}

12 Q. Okay. ^{DOE MINOR} Were they nice kids?

13 A. Yes.

14 Q. Okay. Nice family?

15 A. Yes.

16 Q. Honest?

17 A. As far as I know.

18 Q. Did they like you?

19 A. Yes.

20 Q. So can you think of any reason they would make
21 up a story that -- a negative story about you?

22 A. They were --

23 MR. DE VRIES: Let me just object. It calls
24 for speculation.

25 THE WITNESS: Okay.

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0 *****ROUGH DRAFT*****

1 MR. DE VRIES: You can answer if you know.
Page 69

ROUGH - fitz-henry

2 THE WITNESS: I don't know.

3 BY MR. MANLY:

4 Q. Can you think of any reason that they would
5 have animus toward you in any way, shape or form?

6 MR. GASPARI: Lacks foundation.

7 THE WITNESS: I don't know.

8 BY MR. MANLY:

9 Q. Do you know of anything you said or did that
10 would upset them to the point where they wouldn't want
11 you to be the pastor?

12 A. I think they were -- there were -- they -- they
13 thought that I had shown too much affection or interest
14 or friendship towards their son.

15 Q. Which son?

16 A. ^{DOE MINOR} [REDACTED]

17 Q. Now, did they ever express that to you?

18 A. No.

19 Q. Have you ever talked with Mr. or Mrs. ^{DOE} [REDACTED]
20 about your interactions with their son ^{DOE MINOR} [REDACTED]?

21 A. No.

22 Q. Have you ever been to any mental health
23 facility for an evaluation regarding sexual misconduct?

24 A. No.

25 Q. Have you ever been evaluated for alleged sexual

80

D *****ROUGH DRAFT*****

1 misconduct?

2 A. My understanding -- I -- I don't know how to
3 answer that.

4 MR. DE VRIES: If you don't know, then say you
5 don't know.

ROUGH - fitz-henry

6 THE WITNESS: I don't know.

7 BY MR. MANLY:

8 Q. So you don't know, as you sit here today,
9 whether you've ever been sent by the diocese of Monterey
10 for an evaluation of alleged sexual misconduct, Father?

11 A. My understanding is the diocese sent me for
12 evaluation.

13 MR. MANLY: Can I have that answer read back,
14 please.

15 (Record read.)

16 BY MR. MANLY:

17 Q. For what?

18 A. I believe that it would be boundary issues.

19 Q. What's a boundary issue?

20 A. Perhaps showing too much affection or too much
21 friendship, inappropriately.

22 MR. MANLY: Can I have that answer read back,
23 please. Sorry.

24 (Record read.)

25 BY MR. MANLY:

81

0 *****ROUGH DRAFT*****

1 Q. What does that mean?

2 A. Again, this is based on what I believe is the
3 -- the family's attitude was that -- that I was too
4 friendly to the child, to their son.

5 Q. Were you too friendly?

6 A. No, I didn't think so.

7 Q. So you -- do you think you did anything wrong
8 with ^{DOE MINOR} [REDACTED]?

9 A. Looking back, I would say that there was a -- I
Page 71

ROUGH - fitz-henry

10 didn't think I did anything sexually -- did nothing
11 sexually wrong with him or nothing immorally wrong with
12 him, but I think I -- perhaps because I gave -- I did
13 spend too much time perhaps with him.

14 Q. Did you spend the night there?

15 A. No.

16 Q. Did you take him camping?

17 A. No.

18 Q. Did you take him on trips in your car?

19 A. We went one time to mass in the naval -- in the
20 Presidio in Monterey.

21 Q. Okay. So you were alone with him in the car?

22 A. I believe -- yes, one time.

23 Q. Is that appropriate?

24 A. I don't think it's inappropriate.

25 Q. Was there any rule against that?

82

0 *****ROUGH DRAFT*****

1 A. Not that I knew of.

2 Q. Had you ever taken other young people in your
3 car?

4 A. No.

5 Q. So the only time you were ever alone with him
6 was in your car; is that right?

7 MR. DE VRIES: Well, let me object. I think
8 that misstates his testimony.

9 You can answer it if you can.

10 THE WITNESS: As far as I can recall, the only
11 time we were alone was when he came with me to do a mass
12 at the chapel in the Presidio.

13 BY MR. MANLY:

14 Q. Okay. How did that happen? How did it come
15 that he came alone with you to do a mass at the
16 Presidio?

17 A. ^{DOE MIND} [REDACTED] was an altar server at the school, and I
18 -- that's the way -- only way I can assume is that he --
19 because he was an altar server with the school, that he
20 was available to go to do the mass at the chapel.

21 Q. Was this during the week?

22 A. I believe so, yeah.

23 Q. Okay. So you took him out of class and took
24 him to do a mass at the Presidio.

25 A. Correct.

83

0 *****ROUGH DRAFT*****

1 Q. And what grade was he in, about?

2 A. Eighth.

3 Q. Did you have -- did you have his parents'
4 permission to take him out of school?

5 A. I don't recall.

6 Q. Wouldn't that be important?

7 A. My understanding is that -- that the -- the
8 school knew, everybody knew that that's where we were
9 going, to say the mass.

10 Q. Did his parents know?

11 A. I don't know. I don't know.

12 Q. How many other boys have you pulled out of
13 school to go to a mass?

14 A. None.

15 Q. How about girls?

16 A. None.

17 Q. Did altar -- were there altar girls at Madonna

ROUGH - fitz-henry

10 fair. Sorry.

11 BY MR. MANLY:

12 Q. Was -- do you, Father -- have you ever had a
13 time when you had a child's leg next to yours sitting
14 next to you on the couch?

15 MR. DE VRIES: Objection. Misstates his
16 testimony. Assumes facts not in evidence.

17 MR. MANLY: I didn't say he did. I said was
18 there ever a time that happened.

19 THE WITNESS: I'm sorry, I -- I don't recall.

20 BY MR. MANLY:

21 Q. Okay. Did you have your arm around ^{DOE MINOZ} [REDACTED]?

22 A. I had my arm on the back of the chair -- on the
23 couch, I mean.

24 Q. Was it around ^{DOE MINOZ} [REDACTED] Father?

25 A. It was behind -- he was in front of me -- I

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0 *****ROUGH DRAFT*****

1 mean in front of my arm.

2 Q. Okay. So you had your arm -- was his head like
3 in the crook of your -- next to the crook of your elbow?

4 A. I don't recall that. No, he was lower.

5 Q. Okay. Okay. And where was your other hand?

6 A. On the arm of the chair.

7 Q. Okay. Was he leaning --

8 A. On the couch.

9 Q. Was he leaning on your shoulder?

10 A. He may have been, yeah.

11 Q. Okay.

12 MR. DE VRIES: Don't guess or speculate now.

13 If you have a clear recollection of something --

0
1 it might -- it indicates there might be sexual activity?
2 A. I don't recall that.
3 Q. Okay. Has anybody ever told you it's
4 inappropriate to have an adult who is not a priest spend
5 the night in the rectory?
6 A. I don't recall that, either.
7 Q. Okay. Have you ever learned from any source
8 that it's not appropriate to have a man or a woman who
9 is not a priest or an employee of the diocese living at
10 the rectory?
11 A. No.
12 Q. No?
13 A. (Shakes head.)
14 Q. You -- is there any prohibition as far as you
15 know in the diocese of Monterey preventing adults from
16 living with priests in the rectory.
17 MR. GASPARI: Lacks foundation.
18 THE WITNESS: NOT that I know.
19 BY MR. MANLY:
20 Q. What is that?
21 A. Not that I know of.
22 Q. And in fact, you did, didn't you? You had men
23 living with you in the rectory; correct?
24 A. I had police officers.
25 Q. You had police officers?

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0
1 A. Uh-huh.
2 Q. How many?
3 A. Well, not at same time, of course. Probably

ROUGH - fitz-henry

8 A. Oh. He had access to the kitchen, kitchen and
9 sitting room.

10 Q. Okay. Did he ever go to your room?

11 A. No.

12 Q. He never knocked on your door?

13 A. No. My room is up a separate --

14 Q. Okay. Did he ever go upstairs?

15 A. No.

16 Q. So there would be nobody else that would have
17 seen him upstairs?

18 A. In my room?

19 Q. Yeah.

20 A. No.

21 Q. So why did you have somebody living at -- at
22 the rectory?

23 A. He was going -- had gone through a divorce, and
24 he asked for -- if he could live there while he was
25 trying to get his financial house in order.

121

0 *****ROUGH DRAFT*****

1 Q. What kind of car did he drive?

2 A. He drove a Mercedes.

3 Q. What kind?

4 A. Black.

5 Q. Do you remember, was it an S class, an E class?

6 A. Oh, I don't know what the class was.

7 Q. Was it the big one or the small one?

8 A. Four-door sedan.

9 Q. Okay. What year? Do you know?

10 A. No.

11 Q. Okay. And did he have children?

ROUGH - fitz-henry

- 12 A. Yes.
- 13 Q. How many?
- 14 A. Three.
- 15 Q. Okay. Did you ever meet his wife?
- 16 A. No.
- 17 Q. Did the children come to the rectory?
- 18 A. The son did.
- 19 Q. Did the son spend the night?
- 20 A. I think he spent the night with his father,
- 21 yes.
- 22 Q. When was that?
- 23 A. I think it was sometime -- March, maybe, or
- 24 April of 2010.
- 25 Q. Did the diocese have any kind of policy that

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0 *****ROUGH DRAFT*****

- 1 would have prevented -- that essentially said that
- 2 shouldn't happen?
- 3 MR. GASPARI: Lacks foundation.
- 4 MR. DE VRIES: Join.
- 5 BY MR. MANLY:
- 6 Q. That you know of.
- 7 A. No.
- 8 Q. Okay. What was his wife's name? If you know.
- 9 A. I don't know her name.
- 10 Q. Have you talked to Mr. ^{UM DOE} [REDACTED] recently?
- 11 A. I -- yes.
- 12 Q. When did you talk to him?
- 13 A. Well, I was texting, actually. I texted him.
- 14 Q. When?
- 15 A. Yesterday. Or today. Maybe this morning.

ROUGH - fitz-henry
24 A. Excuse me. There was one other officer,
25 deputy.

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0 *****ROUGH DRAFT*****

1 Q. Who is that?

2 A. Adam Lobdel.

3 Q. And where is he a deputy?

4 A. San Benito.

5 Q. And how do you know Deputy Lobdel?

6 A. Through the chaplaincy at sheriff's department.

7 Q. And why was he living with you?

8 A. He was staying there for the time that he was
9 working, and then commuting to Sacramento where his
10 family lived. So he -- he only spent -- spent like --
11 to save him on the commute back and forward.

12 Q. So how many days a week? Three or four? Five?

13 A. It would have been -- I think they do three --
14 they're on three days or they're off -- and then the
15 following week I think three or four days, something
16 like that.

17 Q. Okay. Who else?

18 A. That would be it.

19 Q. I'm sorry. So during the 2007 to 2011 period,
20 you had Deputy Lobdel living with you and Mr. -- Mr.
21 CM DOE living with you. CM DOE?

22 A. Right.

23 Q. Anybody else?

24 A. No.

25 Q. Anybody else visit you and spend the night?

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0 *****ROUGH DRAFT*****
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ROUGH - fitz-henry

- 1 A. My family visited.
2 Q. Besides your family.
3 A. Not that I can recall.
4 Q. Okay. Have you ever worked at a summer camp as
5 a priest?
6 A. Yes.
7 Q. Which camp?
8 A. No, I'm sorry. Not as a priest. As a
9 seminarian.
10 Q. So you have never -- have you ever been to a
11 summer camp when you were a priest?
12 A. At Madonna Del Sasso they had -- yeah, they had
13 a summer camp up at St. Francis's, I think, in Aptos.
14 Q. So did you go there?
15 A. I went to say mass.
16 Q. Were there any complaints from parents of
17 children at the camp about your conduct with their kids?
18 A. No.
19 Q. You sure?
20 A. That I know of, no.
21 Q. So how long -- how much time were -- did you
22 spend at that camp?
23 A. I went up for the -- probably for the
24 afternoon.
25 Q. Did you play games with the kids?

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0 *****ROUGH DRAFT*****

- 1 A. No. I went to say mass and had lunch and then
2 left.
3 Q. Did anybody go with you?
4 A. No.

ROUGH - fitz-henry

17 A. Just for -- for his assignment, my new
18 assignment.
19 Q. And Bishop Ryan knew you -- knew you had been
20 to --
21 A. Yes.
22 Q. -- the Paracletes?
23 A. I'm sorry.
24 Q. That's okay. I sounded like I was done.
25 sorry. My fault.

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0 *****ROUGH DRAFT*****
1 Okay. And did he know why you had gone there?
2 A. Yes. I -- uh-huh.
3 Q. Okay. Did you have any rules that you were
4 supposed to follow when you got back in terms of conduct
5 -- contact with kids?
6 A. No.
7 Q. So nobody told you at any point from the
8 Paracletes or the diocese when you returned to the
9 diocese you couldn't have contact with kids.
10 A. Correct.
11 Q. Okay. What were you being treated for at the
12 Paracletes?
13 A. To be honest with you, it was a psychotherapy,
14 psychodrama, meeting with psychologists, just to discuss
15 who I was and -- you know, getting in touch with who I
16 was as a person.
17 Q. Okay. So did you receive any type of diagnosis
18 there?
19 A. Not that I know of.
20 Q. Okay. Did you ever see written reports that

22 A. Oh. I don't recall what -- what he
23 specifically asked.

24 Q. Okay. You don't -- when did Mr. Klein
25 interview you?

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0 *****ROUGH DRAFT*****

1 A. January, I think, or February.

2 Q. Okay. And you don't remember whether he asked
3 you if it was sexual or not?

4 A. Not specifically that way, no.

5 Q. Okay. Well, did he ask you if you touched --
6 you touched his private -- ^{DOE MINOR} [REDACTED]'s private parts?

7 A. I'm not sure if he asked me or if I related to
8 the -- my -- my -- my side of the story, as it were, my
9 experience of it.

10 Q. Okay. Is it possible that ^{DOE MINOR} [REDACTED] misinterpreted
11 something you did, Father?

12 MR. DE VRIES: Objection. Calls for
13 speculation. Incomplete hypothetical. Assumes facts
14 not in evidence and lacks foundation.

15 You can answer if you know what ^{DOE MINOR} [REDACTED] thought.

16 THE WITNESS: Based upon -- I don't think ^{DOE MINOR} [REDACTED]
17 did at the time, but I think his mother may have.

18 BY MR. MANLY:

19 Q. May have what?

20 A. In answer to your question, assumed that I --
21 what was the question?

22 Q. Well, let me ask a different question Father.
23 Did you either intentionally or unintentionally ever
24 touch ^{DOE MINOR} [REDACTED]'s private parts?

25 A. We were playing tag, I think -- or, yeah -- and
Page 130

0 *****ROUGH DRAFT*****

1 -- outdoors in the backyard, and I -- or not tag, flag
2 football, I think it was. And he -- he -- I grabbed for
3 the flag and I hit him on the -- on the back side.

4 Q. Okay. So you touched his bottom?

5 A. Yes.

6 Q. Did you ever touch his private parts?

7 A. No.

8 Q. Accidentally or otherwise?

9 MR. DE VRIES: Can we just have -- I have got
10 little kids, too. I know what you mean when you say
11 that.

12 MR. MANLY: Sure.

13 MR. DE VRIES: But can we have a definition of
14 private parts?

15 MR. MANLY: Sure, sure.

16 BY MR. MANLY:

17 Q. Did you ever touch his penis or his testicles
18 either intentionally or unintentionally?

19 A. No.

20 Q. Did you grope or grab his butt?

21 A. No.

22 Q. Okay. So basically, all that happened with the
23 ^{DOES} in terms of you touching him is you were playing
24 a grab flag football, you just grabbed his flag and
25 happened to touch his butt.

0 *****ROUGH DRAFT*****

1 A. Correct.

0 *****ROUGH DRAFT*****
1 and then leave and then come back?
2 A. Yes.
3 Q. Okay. When you were there the first time, was
4 this in 1990 something?
5 A. Yes, the same time.
6 Q. Okay. So 1992?
7 A. No. 1990, I believe. Oh, 1992, yes.
8 Q. Okay. Have you been there more than once?
9 A. Before that?
10 Q. At any time.
11 A. Yes.
12 Q. Okay. How many times have you been there,
13 Father?
14 A. Three times.
15 Q. Okay. When is the last time you were there?
16 A. That year.
17 Q. In '92?
18 A. I believe it was 1992.
19 Q. Okay.
20 A. Or one year later.
21 Q. Okay. In 2007, did Bishop Garcia send -- send
22 you to see a psychologist or a psychiatrist?
23 A. No.
24 Q. Okay. Did Bishop Garcia have a copy of the
25 report from the Servants when he met with you in 2007

0 *****ROUGH DRAFT*****
1 with Ms. Mayer?
2 MR. GASPARI: Lacks foundation.
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ROUGH - fitz-henry

3 THE WITNESS: I don't know what he had.

4 BY MR. MANLY:

5 Q. Okay. Yeah, one -- okay. So you went the
6 first time, and how long did you stay at -- at that
7 time?

8 A. Five days.

9 Q. Okay. And what happened during that five-day
10 period?

11 A. I met with different people.

12 Q. Okay. And what did they talk to you about?

13 MR. DE VRIES: Objection. It's private.
14 Don't answer.

15 MR. MANLY: Well, it's private? That's the
16 objection, privacy?

17 MR. DE VRIES: Right.

18 MR. MANLY: Okay.

19 MR. DE VRIES: And it's inadmissible based upon
20 privacy. It's a therapist-patient communication.

21 MR. MANLY: Actually, it's not, because the
22 diocese was given copies of it. So there is no -- it's
23 given to a third party. The diocese has copies of it.
24 He gave the diocese permission.

25 MR. DE VRIES: I --

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0 *****ROUGH DRAFT*****

1 MR. MANLY: I don't agree with you, but --

2 MR. DE VRIES: Okay.

3 MR. MANLY: -- you have been a gentleman and I
4 hope you think I have, too. And I -- you know, I mean
5 this is a very uncomfortable thing and I think we've all
6 handled it very well and I appreciate that. So I'm not
Page 139

ROUGH - fitz-henry

7 trying to go sideways on you.

8 MR. DE VRIES: Okay.

9 MR. MANLY: And as Paul will tell you, this is
10 not the first time we've had to discuss this issue with
11 the judge.

12 MR. DE VRIES: I'll bet.

13 BY MR. MANLY:

14 Q. Okay. So -- all right. So you went the first
15 time. Did they give -- without telling me what it is,
16 did they give you a diagnosis?

17 MR. DE VRIES: Again, that's "Yes" or "No."

18 THE WITNESS: No.

19 BY MR. MANLY:

20 Q. Okay. Was there anybody with you when you went
21 the first time?

22 A. No.

23 Q. Okay. Was there any recommendation for
24 treatment when you went the first time?

25 MR. DE VRIES: That's "Yes" or "No." Don't say

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0 *****ROUGH DRAFT*****

1 what the recommendation was if there was one.

2 THE WITNESS: Yes.

3 BY MR. MANLY:

4 Q. Okay. And who was that recommendation made to?

5 A. I don't know.

6 Q. Did -- was there a communication between the
7 Paracletes and the diocese?

8 MR. GASPARI: Lacks foundation.

9 THE WITNESS: I don't know.

10 BY MR. MANLY:

ROUGH - fitz-henry

11 Q. Okay. Well, who asked you to go there? Bishop
12 Ryan?

13 A. It might have been Father Fatooh.

14 Q. Okay. So -- and was he the acting bishop at
15 the time?

16 A. I don't -- I don't know.

17 Q. Okay.

18 A. No, Bishop Ryan was here.

19 Q. Okay. So -- but Fatooh asked you to go, and he
20 was the vicar general?

21 A. Correct.

22 Q. So he spoke for the bishop, essentially?

23 A. Yes.

24 Q. Okay. So obviously you have a vow of
25 obedience; right?

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0 *****ROUGH DRAFT*****

1 A. Correct.

2 Q. And was the recommendation, whatever it was,
3 communicated to the diocese?

4 A. I don't know.

5 MR. GASPARI: Lacks foundation.

6 BY MR. MANLY:

7 Q. Well, how is it that you went back? Did
8 somebody tell you you had to go back?

9 A. Yes.

10 Q. Who told you that?

11 A. I believe Father Fatooh.

12 Q. Okay. So obviously he got a -- received
13 something from the Paracletes because he knew about it;
14 correct?

ROUGH - fitz-henry

15 MR. DE VRIES: Lacks foundation.

16 MR. GASPARI: Lacks foundation.

17 MR. DE VRIES: Objection. Calls for
18 speculation.

19 BY MR. MANLY:

20 Q. You can answer.

21 A. I don't know.

22 Q. Okay. Well, did you have a meeting with Father
23 Fatooh?

24 A. I believe so, yes.

25 Q. And did he tell you had to go back?

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0 *****ROUGH DRAFT*****

1 A. Yes.

2 Q. Did he tell you why you had to go back?

3 A. No.

4 Q. Okay. Had he had some communication with the
5 Paracletes?

6 A. I don't know.

7 MR. GASPARI: Lacks foundation.

8 BY MR. MANLY:

9 Q. Okay. All right. So you went back; correct?

10 A. Yes.

11 Q. And where did you stay when you went back,
12 Father?

13 A. I stayed at Jemez Springs.

14 Q. Okay. And were there other priests there?

15 A. Yes.

16 Q. And is Jemez Springs run by an order of
17 priests?

18 A. The Paracletes.

23 Q. Okay. Did you ever hear the topic of
24 pedophilia discussed there?

25 MR. DE VRIES: well, would you --

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0 *****ROUGH DRAFT*****

1 THE WITNESS: Not with me.

2 BY MR. MANLY:

3 Q. Okay. Did you ever hear it discussed with
4 anybody else?

5 A. Did I discuss it?

6 Q. No. Did you hear it discussed by any of the
7 other staff members or -- any of the staff members or
8 patients?

9 A. Yes.

10 Q. Okay. In what context?

11 A. That it was a treatment for that particular
12 psychological issue.

13 Q. Okay. Did you know Father Volkmer?

14 A. No.

15 Q. Father --

16 A. The first name?

17 Q. Andrew. Father Andy?

18 A. Yes, I know him. I know of him, I should say.

19 Q. Okay. Was he there when you were there?

20 A. I believe so. If it's the one I'm thinking of.

21 Q. Okay. Do you have any -- do you know of any
22 reason Father Andy would lie about it?

23 A. He doesn't know me. I don't know.

24 Q. Did you have group therapy with Father Andy?

25 A. There was group therapy. I don't know if he

ROUGH - fitz-henry

3 Time is 2:43 P.M.

4 BY MR. MANLY:

5 Q. Okay. Father, have you ever met a priest named
6 Daniel Calabrese?

7 A. Yes.

8 Q. And are you friends with Father Calabrese?

9 A. No.

10 Q. Where did you meet Father Calabrese?

11 A. In Jemez.

12 Q. Do you know where he is now?

13 A. No.

14 Q. Were you friendly with him there?

15 A. Yes.

16 Q. Okay. And why was he there?

17 A. I don't know.

18 Q. Do you know he's in prison for pedophilia?

19 A. No.

20 Q. When is the last time you heard from him?

21 A. 1992.

22 Q. Okay. Did you have a security system at -- a
23 video surveillance system at the mission?

24 A. Yes.

25 Q. And did that system feed into your computer?

0 *****ROUGH DRAFT*****

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1 A. No.

2 Q. Where did it feed?

3 A. It is one -- it feeds into the gift shop --

4 Q. Okay.

5 A. -- permanently, and then it called up on the
6 office computer.

ROUGH - fitz-henry

11 Q. Okay. And what diocese was he ordained in?

12 A. Yakima.

13 Q. Okay. How is it that he came from Yakima to

14 the diocese of Monterey? If you know.

15 A. My understanding is that his parents are

16 elderly, and that he wished to be closer to them.

17 Q. Okay. And when is the first time you met

18 Father Millish?

19 A. I think it would be -- have been 2008 or -- or

20 2009, one or the other.

21 Q. Okay. Okay. So the -- in the summer -- well,

22 actually, let me ask you another question.

23 Did you ever meet a therapist named Sarah

24 Brennan?

25 A. The name is familiar, but I don't remember the

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0 *****ROUGH DRAFT*****

1 circumstances.

2 Q. Okay. Have you ever met a therapist by that

3 name at the Paracletes?

4 A. Oh. I believe she was on staff.

5 Q. Okay. And what did she do there?

6 MR. GASPARI: Lacks foundation.

7 BY MR. MANLY:

8 Q. If you know.

9 A. I can't remember.

10 Q. Okay. Do you have a therapist currently?

11 A. No.

12 Q. Okay. Have you ever had a therapist in the

13 Monterey area?

14 A. Yes.

ROUGH - fitz-henry

- 19 A. Jemez?
20 Q. Yes. Thank you.
21 A. No.
22 Q. Okay. Have you ever taken Deprovera?
23 A. No.
24 Q. Now, we have talked about the first time you
25 went to the Paracletes and Jemez Springs, then you went

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- 0 *****ROUGH DRAFT*****
1 for the second time for treatment, and then you went
2 back a third time; is that correct?
3 A. Yes.
4 Q. And when did you go the third time?
5 A. A year later.
6 Q. Okay. And how long did you stay?
7 A. For five days, I think.
8 Q. Okay. And why did you go back a year later?
9 A. It was a follow-up.
10 Q. For what?
11 A. For the time that we spent -- spent the --
12 there.
13 Q. Well, what were they checking on?
14 MR. DE VRIES: Objection.
15 Don't answer.
16 It's inadmissible therapist-patient
17 communications.
18 BY MR. MANLY:
19 Q. Okay. Who did you see when you went there --
20 when you went back? Dr. Lechner, or Father Lechner?
21 A. Yes.
22 Q. Okay. When you stayed there when you were

ROUGH - fitz-henry

1 Q. How many kids, roughly?

2 A. 300. Maybe 3- 400.

3 Q. K through 8?

4 A. K through 8.

5 Q. Okay. Was there ever an announcement made to
6 the parish while you were there that you know of that
7 you had been to the Paracletes or had been previously
8 accused of misconduct?

9 A. No.

10 Q. Okay. Were you ever concerned after you got
11 back from the Paracletes that the diocese was going to
12 make an announcement that you had been to the
13 Paracletes?

14 A. No.

15 Q. Were you ever concerned that the diocese was
16 going to make an announcement that you had been accused
17 of misconduct?

18 A. No.

19 Q. Okay. Do you -- do you personally have an
20 objection to us seeing your -- your records from the
21 Paracletes?

22 MR. DE VRIES: Does he personally have an
23 objection?

24 MR. MANLY: Yeah.

25 MR. DE VRIES: Well, how would that be

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0 *****ROUGH DRAFT*****

1 different than my objection?

2 MR. MANLY: Well, you're his attorney. He can
3 waive that objection if he wants to.

4 MR. DE VRIES: Oh, man. He's not waiving his
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ROUGH - fitz-henry

1 A. Yes.

2 Q. And how often was your custom and practice to
3 do that?

4 A. Very --

5 MR. GASPARI: Assumes facts not in evidence.

6 THE WITNESS: Very rarely.

7 BY MR. MANLY:

8 Q. Okay. Did you ever play with the kids in the
9 playground at Madonna Del Sasso?

10 A. No.

11 Q. Okay. Did anybody tell you from the diocese at
12 any time you weren't -- that you weren't to have
13 unsupervised conduct -- contact with kids?

14 A. No.

15 Q. You never had a restriction of any sort at any
16 time placed upon you that you weren't to have
17 unsupervised contact with kids?

18 A. No.

19 Q. Okay. All right. Let's take a short break.

20 THE VIDEOGRAPHER: Okay. I'll go ahead and
21 change the tape.

22 This marks the end of media number 2 in the
23 deposition of Father Edward Fitz-Henry. We're going off
24 the record. The time is 3:17 P.M.

25 (Recess.)

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0 *****ROUGH DRAFT*****

1 THE VIDEOGRAPHER: We are back on the record at
2 9 -- sorry -- at 3:28 P.M. And this marks the beginning
3 of media number 3 in the deposition of Father Edward
4 Fitz-Henry.

ROUGH - fitz-henry
5 Please proceed.
6 BY MR. MANLY:
7 Q. Okay, Father. Was Father Millish advised by
8 the bishop of the ^{DOE FAMILY} [REDACTED] allegation?

9 MR. GASPARI: Lacks foundation.

10 THE WITNESS: I don't know.

11 BY MR. MANLY:

12 Q. Okay. The bishop knew about the ^{DOE FAMILY} [REDACTED]
13 allegation before you went to San Juan Bautista;
14 correct?

15 MR. GASPARI: Lacks foundation. Which bishop?

16 MR. MANLY: Garcia.

17 THE WITNESS: Yes.

18 BY MR. MANLY:

19 Q. Okay. And Ryan knew about the -- Bishop Ryan
20 knew about the Garcia -- excuse me. Bishop Ryan knew
21 about the ^{DOE FAMILY} [REDACTED] allegation when he -- when he assigned
22 you to Madonna Del Sasso; is that correct?

23 MR. GASPARI: Lacks foundation.

24 THE WITNESS: Yes.

25 BY MR. MANLY:

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0 *****ROUGH DRAFT*****
1 Q. Okay. Have you ever talked about the ^{DOE FAMILY} [REDACTED]
2 allegation with Bishop Ryan?

3 A. Since?

4 Q. When you got back from the Paracletes, did you
5 discuss it with him?

6 A. I'm sure we must have.

7 Q. Okay. Did -- did you have a good relationship
8 with Bishop Shubsda?

ROUGH - fitz-henry

21 other information?

22 A. Say that again.

23 Q. Has anybody presented you with any such other
24 information?

25 A. I think, if I remember correctly, there was a

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0 *****ROUGH DRAFT*****

1 meeting between myself, my attorney, criminal attorney,
2 when they told me that the result of the review board,
3 and they said that -- that they believed that they were
4 going to judge it a sexual -- sexual misconduct.

5 And I said "what? what did I do?"

6 And they said that I -- I straddled him or --

7 ^{DOE MINOR} That was -- that was it.

8 Q. Did you straddle him?

9 A. I don't recall that. He -- he says that I did
10 that. I don't recall that.

11 Q. Okay. Wait a minute. How old was ^{DOE MINOR}?

12 A. About 15, 14 or 15.

13 Q. About the same age as ^{JOHN RJ DOE} was -- was
14 when he says you abused him; right?

15 A. I don't know what age he was.

16 Q. Okay. Well, let me represent to you ^{JOHN RJ DOE}

17 ^{JOHN RJ DOE} says he was 14 or 15 when he -- if ^{JOHN RJ DOE}
18 testifies he was 14 or 15, that's about the same age as
19 the ^{DOE MINOR} boy; right?

20 A. Correct.

21 Q. Okay. So the ^{DOE MINOR} boy apparently says you
22 straddled him?

23 A. This is what he is saying now.

24 Q. Okay.

25 A. Or then. ROUGH - fitz-henry

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0 *****ROUGH DRAFT*****

1 Q. Okay.

2 A. I mean then in -- in February.

3 Q. And I just asked you if you straddled him, and
4 you said you didn't remember doing that; right?

5 A. That is what -- exactly.

6 Q. Okay. You don't remember doing that?

7 A. No.

8 Q. Does that mean you didn't do it or you don't
9 remember?

10 A. I did not -- as far as I know, I did not do
11 that.

12 Q. Okay. Well, "as far as I know" sounds to me
13 like a qualifier. Is there any doubt in your -- did --
14 do you recall whether or not as a --

15 A. No.

16 Q. You don't remember if you did or not?

17 A. No.

18 Q. How many other times have you straddled boys?

19 A. None.

20 Q. Okay. Have you ever straddled a child in your
21 life?

22 A. Not that I know of.

23 Q. Okay. So when he said "straddled," what do you
24 understand that to mean?

25 MR. DE VRIES: Well -- when this -- objection.

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0 *****ROUGH DRAFT*****

1 Lacks foundation. Assumes facts not in evidence. When
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ROUGH - fitz-henry

2 said --

3 MR. MANLY: Let me rephrase it, Counsel.

4 BY MR. MANLY:

5 Q. When they said ^{DE MIRROR} [REDACTED] said you straddled
6 him --

7 A. Well, I don't -- I'm not saying that.

8 MR. DE VRIES: Let him ask a question.

9 THE WITNESS: I'm sorry. Yes.

10 BY MR. MANLY:

11 Q. Did somebody tell you that there was an
12 allegation of straddling?

13 A. That's my word. I can't remember exactly what
14 they said.

15 Q. What did you -- when you say straddle, what do
16 you mean, Father?

17 A. I think he -- kneeling on the shoulders.

18 Q. The -- kneeling on the shoulders.

19 A. Right.

20 Q. What do you mean?

21 A. Well, that was my question, too. I didn't
22 understand. And they said, well, he was lying on the
23 ground and I was kneeling on his -- on his shoulders.

24 Q. With your crotch in his face?

25 A. That was the implication.

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0 *****ROUGH DRAFT*****

1 Q. Okay. Did you do that?

2 A. No, I did not.

3 Q. Do -- okay. You don't remember doing that or
4 you didn't do it?

5 A. No, I did not do that.

ROUGH - fitz-henry

6 Q. Okay. In or around 1990 or '92, what type of
7 underwear did you wear, boxers or briefs?

8 A. I think I wore -- is there a third version?

9 MR. DE VRIES: What's that?

10 THE WITNESS: white Jockeys or something.

11 BY MR. MANLY:

12 Q. Okay. Did you always wear underwear?

13 A. Yes.

14 Q. Okay. Was the allegation you had pants on when
15 you did this?

16 A. Yes.

17 Q. Did anybody else see it?

18 A. No.

19 Q. Can you think of any reason that you would have
20 needed to straddle ^{DOE MINOR} [REDACTED]?

21 A. No.

22 Q. Is there somehow -- can you think of an
23 incident that happened that ^{DOE MINOR} [REDACTED] misinterpreted?

24 A. Unless we were roughhousing, I don't -- I don't
25 understand.

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0 *****ROUGH DRAFT*****

1 Q. How -- and did you roughhouse with kids?

2 A. I didn't. I remember -- I remember maybe once
3 or twice.

4 Q. Father, in the course of your training after
5 the 2002 -- well, let me -- strike that.

6 Did you receive some training about sexual
7 abuse after 2002?

8 A. Yes.

9 Q. Did they -- did anybody ever tell you that
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ROUGH - fitz-henry
22 A. Dan Enriquez.
23 Q. Okay. How many teams have you done ride-alongs
24 with Officer Enriquez?
25 A. Once.

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0 *****ROUGH DRAFT*****
1 Q. Okay. Did you give a homily about it?
2 A. I gave a homily about the experience, yes.
3 Q. Okay. Did you see a dead lady on that run?
4 A. I did.
5 Q. Okay.
6 A. And I talked about how wonderful it was to be
7 there to give her the last rites.
8 Q. Oh, okay.
9 Did you ride along with anyone else of the
10 Salinas -- I'm sorry. Did you do any ride-alongs at
11 Salinas PD?
12 A. No.
13 Q. Did you know the chaplain there?
14 A. No.
15 Q. Okay. How did you become a police chaplain?
16 A. I -- San Benito -- San Benito County, I got to
17 know some of the deputies, and they asked, and I agreed.
18 Q. Okay. How did you get to know the deputies?
19 From living with you?
20 A. I'm trying to remember if it was one living
21 with me or it was just -- they would come through town
22 and they were -- there was one assigned to San Juan
23 Bautista.
24 Q. Okay. Who is Louis Fetherolf?
25 A. He's the chief of police of Salinas.

ROUGH - fitz-henry

3 Q. So you still keep in touch with the family?
4 A. No. It was coincidence. She was at an event
5 that I was at.
6 Q. What's that event?
7 A. It was a house -- it wasn't a house warming, it
8 was -- they were selling the house and they were moving.
9 Q. It was a moving party?
10 A. Yeah, kind of like that, people would gather.
11 Q. Whose party was that?
12 A. His name is Chavez.
13 Q. Is he a cop?
14 A. No. He's a firefighter from San Jose.
15 Q. Is he married?
16 A. Yes.
17 Q. And where is his house?
18 A. Hollister.
19 Q. Okay. Do you have a lot of friends in law
20 enforcement?
21 A. Yes.
22 Q. Okay. When you applied for the chaplain
23 position, did they have to clear you with the diocese?
24 A. Yes, I'm sure they did.
25 Q. And where -- who was the bishop when you became

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0 *****ROUGH DRAFT*****

1 a chaplain?

2 A. Bishop Ryan.

3 Q. Did Bishop Ryan tell the police about the

DOE FAMILY

4 --

5 MR. GASPARI: Lacks foundation.

6 THE WITNESS: No.

ROUGH - fitz-henry

7 BY MR. MANLY:

8 Q. Did anyone advise them that you had been sent
9 to treatment for some kind of allegations against a
10 child?

11 A. I don't know.

12 MR. GASPARI: Lacks foundation.

13 BY MR. MANLY:

14 Q. Do you think if Bishop Ryan had told them, that
15 you would have been allowed to minister as a chaplain?

16 MR. GASPARI: Calls for speculation.

17 MR. DE VRIES: Yes.

18 BY MR. MANLY:

19 Q. You can answer.

20 A. I don't know.

21 Q. You don't -- do you think the police would have
22 let you minister as a chaplain if -- let me just finish
23 the question. Did you think the police, Father, would
24 have let you minister as a chaplain if they knew you had
25 been sent to treatment for --

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0 *****ROUGH DRAFT*****

1 MR. GASPARI: Incomplete hypothetical.

2 MR. DE VRIES: Join.

3 BY MR. MANLY:

4 Q. Okay. You can answer.

5 A. I don't know.

6 Q. You don't know?

7 A. No.

8 Q. Do you -- do you have an inkling or a
9 suspicion? You okay?

10 A. Yep.

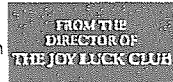
ROUGH - fitz-henry

7 A. Yes.
8 Q. Did he speak to her on the telephone?
9 A. I don't know.
10 MR. GASPARI: Lacks foundation.
11 BY MR. MANLY:
12 Q. Do you know if he or anybody else at the
13 diocese spoke to her?
14 A. Subsequent to the letter?
15 Q. Yeah.
16 A. I don't know.
17 Q. Did he show you the letter?
18 A. No.
19 Q. Did the bishop do anything else to placate Mrs.
20 ^{DOE} [REDACTED] other than move you out of Madonna Del Sasso? If
21 you know.
22 A. I don't know.
23 Q. Was there a settlement with the ^{DOES} [REDACTED] that you
24 know of?
25 A. I don't know.

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0 *****ROUGH DRAFT*****
1 Q. A financial settlement.
2 A. I don't know.
3 Q. Has the diocese ever settled, that you know of,
4 any case of sexual abuse against you?
5 A. No.
6 MR. GASPARI: Assumes facts not in evidence.
7 BY MR. MANLY:
8 Q. Has the diocese, to your knowledge, ever paid a
9 monetary settlement to settle any claim of sexual abuse
10 against you?

The New York Times
nytimes.com



July 10, 2005

The Vatican Removes 6 Priests in New York Accused or Convicted of Sexual Abuse
By **DAMIEN CAVE**

The Vatican has expelled six New York priests either accused or convicted of sexual abuse, including one man who was convicted of sodomizing a teenager in an upstate church rectory.

Joseph G. Zwillling, a spokesman for the Archdiocese of New York, said Saturday in a phone interview that all six men had lost their pensions and could no longer perform church sacraments. "They are no longer priests, period," he said. "They are reduced to the lay state." Defrocking is the harshest penalty the Roman Catholic Church can impose on a priest.

The six priests, who were first identified in Catholic New York, a monthly magazine published by the archdiocese, served in parishes throughout the state. Their punishment was reported yesterday in Newsday and The New York Post.

Daniel Calabrese was a priest in Staten Island and upstate New York. He pleaded guilty in 1992 to performing oral sex on a 16-year-old boy in a Poughkeepsie, N.Y., rectory, after giving the teenager vodka. He served 90 days in a Dutchess County jail.

Patrick Quigley, who pleaded guilty in the early 1990's to soliciting adolescent boys for sex in Rockland County, was a priest in Manhattan, Staten Island and Rockland County.

The four other ex-priests - Ralph LaBelle, Francis Stinner, Kenneth Jesselli and David Carson - had been assigned to churches in the Bronx and Westchester, Orange, Sullivan and Putnam Counties.

A seventh man accused of sexual abuse, the Rev. Alfred Gallant, was permitted to keep his pension and title as a priest under a provision allowing "those of advanced age or infirmity to live a life of prayer and penance," Mr. Zwillling said. "That means they cannot function as priests, serving Mass or performing the sacraments."

Mr. Zwillling declined to provide details of the allegations against Father Gallant, Mr. LaBelle, Mr. Stinner, Mr. Jesselli and Mr. Carson.

He said the seven men were among the 30 New York area priests accused of sexual abuse whose cases were turned over to the Vatican in 2002 by Cardinal Edward M. Egan, the archbishop of New York. At the time the church was struggling with molesting cases across the country.

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April 3, 2009

Early Alarm for Church on Abusers in the Clergy

By LAURIE GOODSTEIN

The founder of a Roman Catholic religious order that ran retreat centers for troubled priests warned American bishops in forceful letters dating back to 1952 that pedophiles should be removed from the priesthood because they could not be cured.

The Rev. Gerald M. C. Fitzgerald, founder of the order, Servants of the Paraclete, delivered the same advice in person to Vatican officials in Rome in 1962 and to Pope Paul VI a year later, according to the letters, which were unsealed by a judge in the course of litigation against the church.

The documents contradict the most consistent defense given by bishops about the sexual abuse scandal: that they were unaware until recently that offenders could not be rehabilitated and returned to the ministry.

Father Fitzgerald, who died in 1969, even made a \$5,000 down payment on a Caribbean island where he planned to build an isolated retreat to sequester priests who were sexual predators. His letters show he was driven by a desire to save the church from scandal, and to save laypeople from being victimized. He wrote to dozens of bishops, saying that he had learned through experience that most of the abusers were unrepentant, manipulative and dangerous. He called them "vipers."

"We are amazed," Father Fitzgerald wrote to a bishop in 1957, "to find how often a man who would be behind bars if he were not a priest is entrusted with the cura animarum," meaning, the care of souls.

His collected letters and his story were reported this week by The National Catholic Reporter, an independent weekly. Father Fitzgerald's papers were unsealed by a judge in New Mexico in 2007 and are now becoming public in litigation, although some letters were public before now, said Helen Zukin, a lawyer with Kiesel, Boucher & Larson, a firm in Los Angeles. The letters were authenticated in depositions with Father Fitzgerald's successors.

The scandals, which began in the 1980's and reached a peak in 2002, revealed that for decades bishops had taken priests with histories of sexual abuse and reassigned them to parishes and schools where they abused new victims.

It was not until 2002 that the American bishops, meeting in Dallas, wrote a charter requiring bishops to remove from ministry priests with credible accusations against them.

Asked why Father Fitzgerald's advice went largely unheeded for 50 years, Bishop Blase J. Cupich of Rapid City, S.D., chairman of the United States Bishops Committee for the Protection of Children and Young People, said in a telephone interview that in the first case, cases of sexually abusive priests were considered to be rare.

Second, Bishop Cupich said of Father Fitzgerald, "His views, by and large, were considered bizarre with regard to not treating people medically, but only spiritually, and also segregating a whole population with sexual problems on a deserted island."

And finally, he said, "There was mounting evidence in the world of psychology that indicated that when medical treatment is given, these people can, in fact, go back to ministry." This is a view, he said, that the bishops came to regret.

A Vatican spokesman, the Rev. Federico Lombardi, said he could not comment because he did not have enough information.

Responding to Bishop Cupich's comment about Father Fitzgerald, Ms. Zukin, who represents abuse victims, said: "If the bishops thought he was such a bizarre crackpot, they would have shut him down. In fact, they referred their priests to him and sent him financial contributions."

She also said the psychiatrists who worked at the Servants of the Paraclete's centers said in legal depositions that they had rarely recommended returning sexually abusive priests to ministry, and only if the priests were under strict supervision in settings where they were not working with children.

From the 1940's through the 1960's, bishops and superiors of religious orders sent their problem priests to Father Fitzgerald to be healed. He founded the Servants of the Paraclete in 1947 ("paraclete" means "Holy Spirit"), and set up a retreat house in Jemez Springs, N.M.

He took in priests who were struggling with alcoholism, drug abuse or pedophilia, or who had broken their vows of celibacy, whether with men or women. He called them "guests." His prescription was prayer and spiritual devotion to the sacraments, which experts say was the church's prevailing approach at that time.

At one point, he resolved not to accept pedophiles at his center, saying in a letter to the archbishop of New Mexico in 1957, "These men, Your Excellency, are devils, and the wrath of God is upon them, and if I were a bishop I would tremble when I failed to report them to Rome for involuntary layization."

Laicization — or removing a priest from the priesthood — was what Father Fitzgerald recommended for many abusive priests to bishops and Pope Paul VI.

But that step was rarely taken, said the Rev. Thomas Doyle, a whistle-blower who often serves as an expert witness in cases against the church, "because the priesthood was considered to be so sacred that taking it away from a man was something you simply did not do."

The Paracletes did not return calls for an interview.

After Father Fitzgerald died, his order grew and established retreat centers around the country and overseas, which became regular way stations for priests with sexual disorders.

His successors added psychiatry and medical treatment to the prayer regimen. They sent priests back into ministry, at the request of bishops. The Paracletes later became the target of lawsuits, and had to close most of their centers.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the county of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 4220 Von Karman Avenue, Suite 200, Newport Beach, CA 92660.

On June 14, 2011, I served the foregoing document described as **PLAINTIFF'S JOINT SUR-OPPOSITION TO DEFENDANTS DIOCESE OF MONTEREY'S, MADONNA DEL SASSO PARISH'S AND FATHER EDWARD FITZ-HENRY'S MOTION FOR PROTECTIVE ORDERS; DECLARATION OF VINCE W. FINALDI** on the parties in this action.

by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

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BY U.S. MAIL

I deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

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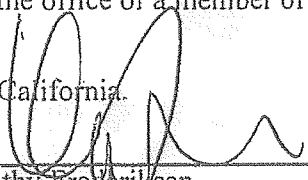
BY FAX TRANSMISSION

By transmitting a true copy thereof by facsimile transmission from facsimile number (949) 252-9991 to the interested parties to said action at the facsimile numbers shown on the above service list.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 14, 2011, at Newport Beach, California.



Kathy Frederiksen