

**IN THE COURT OF COMMON PLEAS
ALLEGHENY COUNTY, PENNSYLVANIA**

IN RE: : SUPREME COURT OF PENNSYLVANIA
: 2 W.D. MISC. DKT. 2016
THE FORTIETH STATEWIDE :
: ALLEGHENY COUNTY COMMON PLEAS
INVESTIGATING GRAND JURY : CP-02-MD-571-2016

**BISHOP KEVIN C. RHOADES' RESPONSE TO EXCERPTS OF THE FORTIETH
STATEWIDE INVESTIGATING GRAND JURY REPORT NUMBER 1**

Kevin C. Rhoades ("Bishop Rhoades"), through his counsel, Eckert Seamans Cherin & Mellott, LLC, pursuant to the Court's Amended Order of May 22, 2018, hereby submits his Response to Excerpts of the Fortieth Statewide Investigating Grand Jury Report Number 1 ("Report").

Initially, Bishop Rhoades offers his heartfelt sympathy and support to all of those victimized by abusive priests. Like so many of his fellow priests, he has worked hard throughout his ministry to expose and punish those who would abuse and to aid and support those harmed by abuse. Sadly, as the Report makes abundantly clear, those collective efforts have fallen short. Bishop Rhoades pledges his ongoing and undying efforts to ensure that abuse does not occur in the future, that abusers are removed immediately from ministry, that victims are provided all necessary care and support and that civil authorities are made fully aware of all allegations of abuse.

Bishop Rhoades is mentioned in the Report in connection with two cases of abuse that occurred long before he was installed as Bishop of the Diocese of Harrisburg. In both cases, after Bishop Rhoades was made aware of allegations of abuse, he reported them to civil authorities and saw to it that the abusers were punished. Given his limited role, it is not surprising that the Report contains scant context about Bishop Rhoades or his involvement in these two cases. With this response, Bishop Rhoades provides that context, in the hope that his actions and intentions are accurately and completely portrayed and understood.

First, Bishop Rhoades was appointed as the Bishop of Harrisburg in December 2004. For the ten years' prior, he had been out of the Diocese, serving as a professor and then the rector of Mount Saint Mary's Seminary in Maryland. Bishop Rhoades began his tenure as Bishop of Harrisburg, therefore, more than two years after the United States Conference of Catholic Bishops adopted the Charter for the Protection of Children and Young People. Thus, prior to his arrival, the Diocese had already developed and implemented a comprehensive set of procedures for addressing allegations of sexual abuse of minors and adopted programs for reconciliation, healing, accountability, and the prevention of future acts of abuse. The Diocese had also already combed through its files and identified all prior allegations of child sexual abuse and ensured that any credibly accused priest had been removed from ministry.

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Second, during his five-year tenure in Harrisburg (Bishop Rhoades served until December 2009, after which he was installed as Bishop for the Diocese of Fort Wayne-South Bend, Indiana), Bishop Rhoades ensured that the Diocese scrupulously followed its policies and procedures designed to address allegations of child sexual abuse; that it took all such allegations seriously; treated victims with care and compassion; investigated all allegations and removed all credibly accused priests from ministry; notified civil authorities of the allegations; and, cooperated fully with law enforcement. The Report does not state or suggest otherwise.

Third, in both cases in which he is mentioned in the Report, Bishop Rhoades moved to discipline the abusers (both of whom had previously been removed from ministry) and notified both church and civil authorities of the allegations.

For example, in the first case, William Presley was a priest from the Diocese of Erie who apparently retired to Lancaster in 2000. Bishop Rhoades did not know Presley, was unaware of his presence in the Diocese of Harrisburg, was unaware of what, if any, priestly duties he may have been practicing in Lancaster and had no idea that he had previously been accused of child sexual abuse. To the best of his recollection, Bishop Rhoades first learned of Presley and abuse allegations against him in early 2006, when the Bishop of Erie asked Bishop Rhoades to draft a "votum" - a written statement - that would be used as part of the disciplinary proceeding against Presley that had been initiated by Erie. Unfamiliar with Presley and/or his activities in the Diocese of Harrisburg, Bishop Rhoades asked his Chancery Staff to research Presley's situation and to prepare the votum. Bishop Rhoades relied on his Chancery Staff and believed that the facts asserted in the votum (all of which occurred before Bishop Rhoades arrived in Harrisburg) were true.

Bishop Rhoades was firm in his belief that Presley had to be removed from the priesthood, which was the most severe form of punishment available. Bishop Rhoades' votum is clear and unequivocal on this point:

[Presley's] lengthy history of sexual misconduct in violation of his promise of clerical celibacy and perpetual continence, his deliberate misrepresentation of the truth to the bishop to whom he promised respect and obedience, and the grisly nature of his many sexual acts even beyond the one known *gravius delictus* committed with a minor, all combine to suggest to me as the ordinary of the place where he now resides, that Bishop Trautman's request is reasonable and necessary. Dismissal from the clerical state may be the only means of removing a sexual predator from the ranks of the priesthood. His age is not necessarily an obstacle to his sexual misconduct, given his history.

As long as Father William F. Presley remains in the clerical state, I harbor fear for the People of God within the Diocese of Harrisburg. I fear that his possession of the clerical state will allow him a means of continuing his pattern of carefully insinuating himself into the lives of others as a prelude to violence and sexual misconduct. Further, I believe that his own contumacy, and his denial of the seriousness of his behavior, may be intransigent until an action as serious as dismissal from the clerical state awakens within him a semblance of repentance.

The Vatican agreed, and on June 6, 2006, Pope Benedict XVI removed Presley from the clerical state. But, having Presley defrocked was not enough. Instead, Bishop Rhoades also made sure that law enforcement was informed of Presley's abuse and his current whereabouts, which was accomplished *via* a letter dated June 23, 2006 to the District Attorney for Lancaster County.

The Report quotes the following portion of a single sentence from the two-page votum: "were this information [about Presley's abuse] to become known, especially in light of his offers of public assistance at Mass in several parishes, great public scandal would arise within this diocese." While this selective quotation is accurate, taken out of context, it could easily be misunderstood. Bishop Rhoades' votum was to be included in a package of information that the Diocese of Erie would submit to a Vatican judicial entity known as the Congregation for the Doctrine of the Faith ("CDF"). According to canon law, one of the key purposes of imposing ecclesiastical penalties is the "repair of scandal." In the votum, Bishop Rhoades supported his recommendation that the most severe penalty be imposed against Presley by noting that his wrongdoing would cause "great public scandal" if and when it became public. While this language, on its face, could be misinterpreted to indicate that Bishop Rhoades wished to protect Presley or to bury the allegations, *Bishop Rhoades' conduct proves otherwise*. He notified the District Attorney of the allegations against Presley, that Presley had been suspended from ministry, and of Presley's current whereabouts. And he stridently advocated for his removal from the clerical state.

The second case, involving Francis Bach, similarly features a situation where Bishop Rhoades, after learning of a new allegation of abuse against Bach, acted immediately to punish the priest and to notify law enforcement. Bach had been removed from ministry by way of penal precept more than ten years before Bishop Rhoades arrived in Harrisburg. While Bishop Rhoades was aware of the reasons for Bach's removal from ministry, his first direct involvement with allegations of abuse against Bach occurred in April 2007, when another Bach victim advised the Diocese that he had been abused on three occasions between 1966 and 1971. Bishop Rhoades immediately opened a formal investigation and directed his staff to meet with the victim, which meeting took place within 72 hours of the allegation. Bishop Rhoades also instructed counsel for the Diocese to notify the Dauphin County District Attorney's Office of the new allegation and of Bach's whereabouts. That notification letter was also sent within 72 hours of the diocese's receipt of the new allegation. Bishop Rhoades subsequently issued a second, more severe, penal precept precluding Bach from acting as a priest, and reported the case to the CDF.

As the Report notes, in his submission to the CDF, Bishop Rhoades did not recommend the initiation of a formal judicial proceeding. Bishop Rhoades' recommendation was based on many factors, including that Bach had been out of ministry for 13 years, he had been living in another state without incident for many years, his abuse occurred decades earlier (the latest reported abuse appears to have been in the mid-1970's), he was over 70 years old, and he was in ill health and had been recently hospitalized with blood clots in his lungs and legs. In addition, by removing Bach from ministry and forcing him to live a life of prayer and penance, the Diocese followed the precepts of the Dallas Charter, which states: "If the penalty of dismissal from the clerical state has not been applied (*e.g.*, for reasons of advanced age or infirmity), the

offender ought to lead a life of prayer and penance. He will not be permitted to celebrate Mass publicly or to administer the sacraments. He is to be instructed not to wear clerical garb, or to present himself publicly as a priest.)”

In addition to bringing the allegations of abuse to the CDF, Bishop Rhoades was careful to make sure that the local District Attorney and the diocese in which Bach lived were informed of the allegations, which notification was accomplished by sending letters to the Dauphin County District Attorney’s Office and to the Bishop of Wilmington, where Bach had moved after being removed from ministry in 1994.

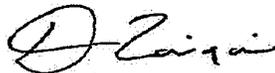
As with the Presley votum, Bishop Rhoades again addressed whether and how the public disclosure of Bach’s misconduct would impact the community, noting that such disclosure would “cause scandal to many, as he is still a priest who is beloved by many in our diocese.” This is the portion of the votum that the Report quotes. Again, as with Presley, the context for Bishop Rhoades’ observation is important. First, there can be no suggestion that Bishop Rhoades intended to keep the allegations secret. In fact, he did the opposite. He disclosed the allegations to the CDF, to the District Attorney and to the Bishop of Wilmington. He also knew that the diocese had notified Bach’s home town’s Chief of Police of prior allegations of abuse. Similarly, it cannot be suggested that Bishop Rhoades intended to “go light” on Bach. To the contrary, Bishop Rhoades issued a Decree of Penal Precept that precluded Bach from acting like a priest, dressing like a priest, referring to himself as a priest, or celebrating any public sacrament. Short of excommunication, this is the most serious penalty a Bishop can impose. The penalty was redundant, moreover, given that Bach was already subject to a similar, if less onerous, penal precept from 1994 and there was no indication that Bach had ever violated that earlier precept.

Finally, the votum itself comprehensively explains the rationale for Bishop Rhoades’ recommendation: that Bach had been living a life of prayer and penance for nearly 13 years, that he had little possibility of contact with children and youth, that the penal precept required that he avoid all contact with children and youth, that he was celibate, that his abuse had occurred more than thirty years earlier, that he was in ill health, that he was living in solitude, and that he was making daily visits to a former neighbor who was confined to a nursing home.

In conclusion, the Report details shocking and heart-wrenching reports of sexual abuse of children and equally appalling indifference to victims. Since his elevation to Bishop in 2004, Bishop Rhoades has committed himself to safeguarding children, to removing abusers and to working to restore the faithful’s confidence in the church and its leadership. He will not stop until no child is abused and no abuser is protected.

Respectfully submitted,

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