Congregation for the Doctrine of the Faith

DEFINITIVE SENTENCE
IN THE CASE OF
THE REVEREND MARVIN T. KNIGHTON

CDF [redacted]

On this 13th day of January 2011, in the sixth year of the Pontificate of His Holiness Benedict XVI, in the second year of the archepiscopate of Most Reverend Dennis M. Schnurr, in the Archdiocese of Cincinnati, in the city of Cincinnati, this Appeal Court of Congregation of the Doctrine of the Faith issues a definitive sentence in the appeal made by the Reverend Marvin T. Knighton of the Archdiocese of Milwaukee against the sentence issued in First Instance by a three judge tribunal of that archdiocese on 27 July 2007 that found him not guilty of the allegation of the sexual abuse of a minor by a cleric against Mr. [redacted] and found him guilty of the allegation of the sexual abuse by a cleric against Mr. [redacted] and [redacted]

This case is explicitly subject to the Pontifical Secret (art 25. *Gravior Delicta. Normae Processualis);* this applies to all information, processes and decisions associated with this case (*Secreta continere*, February 4, 1974 [*AAS*, 66 1974, pages 89-92]).

I. SPECIES FACTI

The Rev. Marvin T. Knighton was ordained to the Roman Catholic priesthood for the Archdiocese of Milwaukee, Wisconsin on May 24, 1975. On February 25, 2002, [redacted] accused Father Knighton [hereinafter: *reus*]of sexually abusing him on a number of separate occasions. This information is found in the Sexual Abuse Intake Report taken by Dr. Barbara Reinke, PhD. [Tribunal File, pages 001 & 002]

A second allegation was introduced by Attorney Nick Kostich alleging that the *reus* sexually abused Mr. [redacted] on or about June 25,2002. A third accusation was made by Mr. [redacted] [hereinafter: [redacted] on or about January 17,2003. These allegations were brought to the attention of the then-Archbishop of Milwaukee, the Most Reverend Rembert G. Weakland, OSB.

Following the prescribed preliminary investigation, the Diocesan Review Board and the Archbishop found that none of the allegations involving these victims were either frivolous or false. It was determined that the allegations carried the semblance of truth and were credible, and, in accord with the norm of law, they were then referred to the Congregation of the Doctrine of the Faith (hereinafter: *CDF)* for direction as to the process to be used. The *CDF* directed that a penal judicial trial be conducted in the Tribunal of the Archdiocese of Milwaukee and granted a derogation from prescription.

Exercising his office as Promoter of Justice for the Archdiocese of Milwaukee, on February 4,2005, the Reverend Philip D. Reifenberg, JCL, presented to the Judicial Vicar of the Archdiocese of Milwaukee, the Very Reverend Paul B. R. Hartmann JCL, a libellus charging the Reverend Marvin T. Knighton, a priest incardinated in the Archdiocese of Milwaukee, with offenses against the sixth commandment of the Decalogue involving the sexual abuse of three minors. All of the incidents are alleged to have occurred within the Archdiocese of Milwaukee. In response to the libellus, a collegiate tribunal was constituted on March 21, 2005 by the Most Reverend Timothy Dolan, DD, Archbishop of Milwaukee, consisting of the [redacted] as *prases,* with [redacted] of the Archdiocese of

[redacted], and [redacted], as associate Judges. The Promoter of Justice was the Reverend Philip Reifenberg, JCL; (hereinafter: Promoter1"). The duly-mandated Advocate of the *reus* is Mr. J. Michael Ritty, JCL, PhD, (hereinafter: "Advocate"). A penal trial against Father Knighton was then begun.

It should be noted that at the start of the case, the Advocate raised objections to the role that the [redacted] would play in the case because of his connection to the Archdiocesan officials and structures who were being presumed as those leveling the charges against the *reus*. During the discussion of the three judge panel it was noted - within the norms of Canon Law and the historic manner in which trials are to be handled - a penal trial would normally be staffed by members of the local clergy as judges within the local tribunal. Thus, the use of two outside judges out of the three on the collegiate tribunal is itself exceptional in the eyes of the law. This exception is a contemporary accommodation that is used to react to the unique circumstances of this time in history. Given that there are two out of the three judges who do not have any objections raised against them by the Advocate, nor has the Promoter objected to the empanelled Tribunal, it was felt that equity and fairness could be protected and maintained. Thus, the objections of the Advocate to the role of this associate judge were set aside.

In accord with Canon 1513, §1, the *contestatio litis* in first instance was conducted on July 1,2005, and the doubt was formulated in the following fashion:

1) Is the Reverend Marvin T. KNIGHTON guilty of offending against the sixth commandment of the Decalogue with Mr. [redacted] who had not completed his sixteenth year of age until the time of offense?
2) Is the Reverend Marvin T. KNIGHTON guilty of offending against the sixth commandment of the Decalogue with [redacted] who had not completed his sixteenth year of age at the time of the offense?
3) Is the Reverend Marvin T. KNIGHTON guilty of offending against the sixth commandment of the Decalogue with [redacted] who had not completed his sixteenth year of age at the time of the offense?

Also, by the same decree the *prases* in first instance incorporated into the *acta* the Clergy Personnel File [hereinafter: Clergy File] and the Chancery File [hereinafter Chancery File] of the *reus,* and the transcript of the Civil Trial of the State of Wisconsin versus the Reverend Marvin T. Knighton [hereinafter: Civil Trial]. According to the norm of Canon 1516, by the same decree the *prases* directed that the *reus,* as well as those nominated as witness by the Advocate and the Promoter, be cited for their testimony.

On 27 July 2007 the First Instance Court responded in the NEGATIVE to the question posed as to the guilt of the *reus* relative to Mr. [redacted] and in the AFFIRMATIVE to the questions posed as to the guilt of the *reus* relative to Mr. [redacted] and to Mr. [redacted] As a penalty, it imposed "the perpetual penalty of **permanent removal from all Ecclesiastical Ministry with the admonition that he is to lead a life of prayer and penance"** and furthermore restricted him from being "alone with anyone who is below the age of 18" with the exception of those "with whom he has a legal relationship by virtue of full and legal adoption."

On 4 September 2007 the "Advocate" appealed the decision to the Congregation for the Doctrine of the Faith. On 31 January 2009 Archbishop Luis F LaDaria, SJ, Secretary of the CDF, asked Archbishop Daniel E. Pilarczyk to host the second instance trial. On 24 July 2009, after having received the required dispensations, Archbishop Pilarczyk appointed [redacted] presider; Reverends [redacted], and [redacted] as the associate judges; Sister Victoria Vondenberger, RSM, JCL, Promoter of Justice; and Reverend Joseph R. Binzer, JCL, Notary. Those appointments were confirmed by the former CoAdjutor Archbishop Dennis M. Schnurr on 21 December 2009 when he became Archbishop of Cincinnati.

On 20 January 2010, after making sure that the First Instance File was complete, Sr. Victoria Vondenberger gave the Libellus in Second Instance to the Judges. The libellus mentioned specifically not only the appeal sent by the Advocate to the CDF, but also the appeals of Archbishop Timothy Dolan, the former Ordinary of Milwaukee, and of the Archdiocesan Adminstrator seeking stricter penalties. Archbishop Jerome E. Listecki became the Archbishop of Milwaukee on 4 January 2010.

On 28 January 2010 acting on behalf of the Court, Reverend Christopher R. Armstrong, the Presider, issued a decree accepting the libellus and citing Reverend Martin T. Knighton and his Advocate for the purpose of the *contestatio litis* in Second Instance.

As a result, Mr. Michael Ritty, the Advocate, sent a cover letter dated 3 March 2010 raising an **incidental question** and including both his original appeal and a number of other materials.

The primary contention of the Advocate is that "Father Marvin Knighton did not commit any act of sexual abuse of a minor. The defense has presented and will continue to present those matters which disprove the allegations where possible, which undermine the credibility of the accusers, and which eliminate or preclude criminal action in canon law." Mr. Ritty in his appeal brief goes on for 31 more pages to outline his arguments in eight sections. In short, 1) the outcome of the trial was pre-determined; and 2) only a few persons including the accused are truly credible. Procedurally, 1) Father Knighton's "human dignity and his rights" were disrespected because the judges took four months to issue the decision due to the disability of the *ponens*. 2) The judges limited the number of pages for the Advocate's brief, and then chided him for responding to certain points briefly. 3) A memo dated 4 November 2004 from [redacted], acting as the judicial vicar, to Archbishop Timothy Dolan suggested ways that the Ordinary could get around the recommendation by the promoter of justice that the case against the Accused was weak. This memo was in the original acts viewed by the Advocate, but is missing from the current acts. It is a principal reason for asking that Father [redacted] be replaced as a judge in first instance. The fact that the memo is missing leads one to question the integrity of the acts and the decision to keep the prejudicial judge. The judges ignored the other "reasonable and substantive" explanations for the allegations, and thus could not have arrived at the moral certainty demanded by Pius XII. One key area for an alternative explanation is that are a number of reasons for fallible memories. The Advocate lists a number of reasons why false memories can be created or what did happen can be morphed into something else. However, the Advocate argues that the Court itself was prejudiced against the *reus* because they ignored the morally certain finding of the civil court that he was not guilty. The Advocate argues that the Court considered the *reus* "disobedient and willful" contrary to what [redacted] had testified. Fr. Knighton, for instance, did request permission

prior to adopting his children. He did stand up to authority. Even if his "willfulness"is granted, however, no actual abuse has been proven.

The allegation of [redacted] should be discounted for several reasons. Marv Knighton had not yet been ordained a deacon. The timeline in question is not clear. The place where the incident in question took place is not clear. The other person cited as a victim of abuse [redacted] and has denied the claim. What Marv Knighton was wearing or not wearing is not clear. The only consistent point is the action of the *reus* placing the accuser behind him and guiding his hand to masturbate the *reus*. Then there is question of the admission of the "mistake". The paper trail is not good as to what that word "mistake" meant.

The allegation of [redacted] should be discounted as a misunderstanding of a troubled youth of an incident of horseplay. The civil trial found the accused not guilty and raises a serious issue of his incredibility. Instead, the Court focused on the credibility of the accused and wrongly concluded that he was a liar.

The allegation of [redacted] was rightly rejected by the First Instance Court. However, his presence raises the issue of collusion of the accusers due to SNAP bringing them together.

In short, according to Advocate Ritty , there cannot be moral certainty about the guilt of the accused.

For these reasons, in order to take a fresh look at the proofs, this Second Instance Court at the session for the *contestatio* joined the issues as:

> "Is the accused, the Reverend Marvin T. Knighton, guilty of an offense against one or more minor children as stated in Canon 1395.2 and defined by The Essential Norms for the Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of minors by Priests or Deacons (as approved by the Congregation of Bishops on December 8, 2002) and the norms established in Sacramentorum Sanctitatis tutela (promulgated on November 5, 2001) with the derogations promulgated subsequently and as stated in Canons 2358 and 2359 of the 1917 Code of Canon law?"

"If the allegations are proven, what penalty should be imposed?"

Mr. Michael Ritty objected that the formulation of the doubt to be resolved was too vague. As a result, it was revised on 16 May 2010:

> Having considered the Libellus of the Promoter of Justice in Second Instance, Sister Victoria Vondenberger, RSM, JCL, and the 4 September 20007 appeal of the accused Reverend Marvin T. Knighton via his Advocate, J. Michael Ritty, JCL, PhD, and the 27 August 2007 covering letter of the then Archbishop of Milwaukee, the Most Reverend Timothy M. Dolan, submitting the Acta of the First Instance Trial to the Congregation for the Doctrine of the Faith and the 12 July 2009 votum of the then Apostolic Administrator of the Archdiocese of Milwaukee, Most Reverend William P. Callahan, OFM Conv,, upon being informed of the appointment of this Court **and the request of the Advocate that the decree of 22 April 2010 be amended because too vague**: I, the undersigned Presiding Judge in this Second Instance Court, hereby decree the terms of this present case are as follows:
>
> Are the **affirmative decisions** of the First Instance Court that the accused, the Reverend Marvin T. Knighton, was guilty of an offense against the minors Mr. [redacted] and Mr. [redacted] as specified in current Canon 1395 §2, formerly in the 1917 Pio Benedictine Code Canons 2358 and 2359, and defined in the *The Essential Norms for the Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons* in the United States as approved by the Congregation of Bishops on 8 December 2002 and the norms established in *Sacramentorum Sanctitatis Tutela* as promulgated on 5 November 2001 with the subsequently promulgated derogations **and** the **negative decision** in the offense alleged against the minor Mr. [redacted] as defined above **to be upheld or revised?**
>
> Is the **penalty applied** of permanent removal from All Ecclesiastical Ministry with the admonition that he is to lead a life of prayer and penance **to be upheld or revised?**

Furthermore, this Second Instance Court incorporated into the *acta* all the materials submitted in First Instance as well as those referenced by the Advocate and submitted by him.

II. IN IURE.

This Court adopts as its own the Law Section of the First Instance Court with several additions with the possibility of the penalty being revised should the guilty findings be upheld.

Mindful that this matter was similarly legislated by the 1917 Code of Canon Law in Canons 2358 and 2359, §2, the Court begins with the legislation concerning this delict from the 1983 Code of Canon Law for the Latin Church:

> Can. 1395. § 1. A cleric who lives in concubinage, other than the case mentioned in can. 1394, and a cleric who persists with scandal in another external sin against the sixth commandment of the Decalogue is to be punished by a suspension. If he persists in the delict after a warning, other penalties can gradually be added, including dismissal from the clerical state.
>
> §2. A cleric who in another way has committed an offense against the sixth commandment of the Decalogue, if the delict was committed by force or threats or publicly or with a minor below the age of sixteen years, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.

The grave nature of this delict and of allegations of this delict is further indicated by the derogations granted by the Holy Father on April 25, 1994. In a rescript responding to a petition made by the United States Conference of Catholic Bishops *[hereinafter* USCCB], the Supreme Legislator conformed the norm of Canon 1395, §2 to the norm of Canon 97, §1 so that for an initial period of five years, this delict would involve offenses against the Sixth commandment of the Decalogue with anyone below the age of eighteen years. In the same rescript he modified prescription so that a criminal action would not be extinguished until a longer period of time had passed. This particular legislation was made more explicit and extended to the universal Church by *Sacramentorum Sanctitatis Tutela (Graviora Delicta)* of April 30, 2001.

§ 1. Reservation to the Congregation for the Doctrine of the Faith is also extended to a delict against the Sixth Commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years.

§2. One who has perpetrated the delict mention in § 1 is to be punished according to the gravity of the offense, not excluding dismissal or deposition.

With regard to this delict, in response to a petition made by the USCCB, on December 8, 2002 the Apostolic See gave the *recognitio* for the Norms that upon promulgation became particular law for two years for the Church in the United States of America. Upon expiration of the time period, the Apostolic See gave the *recognitio* to the revised Norms; these were promulgated on May 5, 2006 and became particular law for 'the dioceses, eparchies, clerical religious institutes and societies of the apostolic life of the United States with respect to all priests and deacons in the ecclesiastical ministry of the Church in the United States ... [note # 1]'. In this matter, the particular law for the Church in the United States legislates: For purposes of these Norms, sexual abuse shall include any offense by a cleric against the Sixth Commandment of the Decalogue with a minor as understood in *CIC*, canon 1395, §2 and *CCEO* 1453, §1 *(Sacramentorum Sanctitatis Tutela,* article 4, §1) [Preamble, final paragraph].

When even a single act of sexual abuse of a minor by a priest or deacon is admitted or is established after an appropriate process in accordance with canon law, the offending priest or deacon will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state ... [Norm 8]

.If the case would otherwise be barred by prescription, because sexual abuse of a minor is a grave offense, the bishop/eparch may apply to the Congregation for the Doctrine of the Faith for a derogation from the prescription, while indicating relevant grave reasons ... [Norm 8A]

Mindful of the norm of law with regard to the passage of time as it applies to this delict (Canon 1362), in view of the *recognitio* given to the above-cited legislation, it is noted that a derogation from prescription may be given.

In understanding what constitutes a juridic offence against the Sixth Commandment of the Decalogue, the opinions of Moral Theologians are to be considered. The focus of these manualists is sacramental confession, but they provide analyses of what constitutes the act, the gravity of the act and the significance of intentionality. This enables a clearer understanding of the nature and scope of the delict. This is necessary because allegations of this delict often involve more, or actions other, than just a completed act of sexual intercourse, either heterosexual or homosexual. There are a variety of possible physical contacts as well as a complex psychological dynamic which the delict can entail. As the law simply states the name of the delict, and there is little available dicasterial jurisprudence, these analyses assist the judges in assessing whether or not a delict has been committed, and if so the magnitude of the act.

With regard to determining the possible sexual content and moral gravity of an act which involves solely touching or other physical contact, the Reverend Henry Davis SJ, comments:

> *Si vero protrahantur sine causa et concomitante delectatione vererea sunt gravia peccata* (Moral and Pastoral Theology [London & New York: Sheed and Ward, 1959], vol. II, page 248).

If the act has been protracted and lacks a justification while providing sexual gratification, then it is gravely sinful, and concomitantly a crime. In describing the nature of imperfect, that is non-consummated, same-sex acts, the Rev. Edward Genicot, SJ writes:

> *Imperfecta dicitur quando inter personas eiusdem sexus non datur coitus seu copula (applicatio corporum cum penetratione et effusione seminis) sed concubitus tantum, i. e. application corporum et unius saltem genitalium, sine penetratione sed cum voluptate complecta conaturaliter sequente, ut si fit inter duas feminas, vel etiam inter duos viros it tamen ut effusion seminis extra vas posterum peragatur (Institutiones Theologiae Moralis [Bruxellis: L 'Edition Universelle S.A.*, 1939], vol. 1, page 319)

With regard to physical contact, if it is because of *'tantum officii, aut moris patrii, aut am oris honesti vel benevolentiae augendae causa,* it may not be a violation of the Sixth Commandment of the Decalogue (opcit., page 331). However, if the act

is motivated by sexual pleasure, then it is a violation of the Sixth Commandment of the Decalogue:

> *Hoc actus ponere intendendo delectationem venereum complectam vel incomplectam, semper grave peccatum est, ex intentione luxuria directe voluntaria* ... (opage cit., page 329).

In Moral Theology if the intention which motivates an act is for venereal pleasure, it is grave matter: thus it would be the delict. For such gravity of matter, it is not necessary that there be complete sexual intercourse, either heterosexual or homosexual. Incomplete, that is imperfect, acts which are motivated by a desire for sexual or psychologically venereal pleasure are grave matter and consequently fit within the definitions of the delict. In determining the character and gravity of act, what is intended is of more significance than the completed emission of semen in some particular action.

With regard to physical contact, the Reverend Antonio M Arregui, SJ teaches:

> *Tangere ... sine justa causa morose et cumcommotione venera, mortale est .. .[tangere] etiam supra vestem, generatim mortale est. .. (Summarium Theologiae Moralis ad Codicem luris Canonici accommodatum [Bilbao: Editorial El Mensajero del Corazon de Jesus,* 1952], #268).

Thus even contact over clothing may be grave matter and consequently a delict. This will be articulated clinically by the various *peritii* who are quoted below. In determining the responsibility for, and the gravity of, an act, the classic Moral Theology manual by the authors H. Noldin, SJ and A. Schmitt, SJ underscores the subjective significance of the person who is acting:

> *Delectatio igitur venerea (vel pollutio) in causa volita grave est peccatum, si ipsa causa ex se graviter in turpem commotionem injluit (Summae Theologiae Moralis, vol I De Principiis, De Sexto Praecepio [Romae: Oeniponte,* 1924], #13).

And more specifically with regard to personal responsibility:

> *Si fiunt ex prave et libidinoso affectu, licet ex se parum in libidinem influant ut aspectus mulieris, contrectatio manus etc., semper grave peccatum sunt propter intentionem gravite malam; ideo nihil refert, utrum actus ipsi magis an minus turpes sint. .. Si jiunt ex sola intentione delectationis sensualis*

leve peccatum sunt, nisi inducant proximum periculum commotionis carnalis et consentiendi in delectationem veneream, ut evenire potest, si cum aliquo affectu et mora exerceantur (opagecit., #52

In discussing alternative sexual appetites, the authors comment:

> *Peccata, quae ab Us committuntur, qui hac perversione laborant, sunt pollutiones per tactus provocatae et concubitus sodomitici. Si perversa inclinatio in pueros fertur, paederastia vocatur, ...* (opagecit., #47).

With regard to actual physical contact, even over clothing, they write:

> *Tangere personam eiusdem sexus in partibus inhonestis sine iusta causa grave est, etsi mediate supra vestes tantum fiat, quia multum commovet.: Tangere personam eiusdem sexus in partibus minus honestis exclusa prava intentione, vix erit peccatum, saltem grave ...* (opage cit., #55).

An external violation of the Sixth Commandment of the Decalogue can involve simply physical contact. Therefore, a complete act of sexual intercourse, either heterosexual or homosexual, is not required. If the intention of the contact is for sexual pleasure, then it is a violation of the commandment; if it involves a minor it is also a canonical delict. This is succinctly stated by a *peritus* in the law who describes in a negative fashion what constitutes the delict:

> *Non e necessario che gli atti di lussuria siano consumati, ma bastano anche atti non consumati, quali toccamenti 0 bad libidinosi, contatti di organi sessuali, ecc.* (Antonio Calabrese, Diritto Penale Canonico [Citra del Vaticano: Libreria Editrice Vaticana, 1996], page 354).

This juridic understanding of a violation of the Sixth Commandment of the Decalogue, based on Moral Theology, did not begin with the 1983 Code of Canon Law. Commentators on the 1917 Code of Canon Law commonly held that 'an offense against the sixth commandment' refers generically to 'crimes of lust' (Pio Ciprotti, *De consummatione delictorum attento eorum elementum obiectivo: Caput IV,* Apollinaris 9 [1936], pages 404-414]. Bringing together both the insights of Moral Theology and the juridic norms, the Catechism of the Catholic Church states the following:

The tradition of the Church has understood the sixth commandment as encompassing the whole of human sexuality (n. 2336)

Along with the teaching of moral theologians, to understand this delict, and in accord with the norm of law (e.g., Canon 1574), the researched, validated, and generally accepted insights of psychology and the mental health disciplines are

quite relevant. This is important not just to provide an intellectual framework to comprehend the delict, but also to evaluate the facts, the testimony and all other evidence to determine if the clinical indicators of the delict are present. The opinions of *periti* are needed not just for the juridic theory but also for the evaluation of proofs.

Consistent with the above-quoted canonical opinion, the American Academy of Child and Adolescent Psychiatry has defined sexual abuse of minors in the following manner:

> Sexual abuse of children refers to sexual behavior between a child and an adult or between two children whom one of them is significantly older or uses coercion. The perpetrator [offender] and the victim may be of the same sex or the opposite sex. The sexual behaviors include touching breasts, buttocks, and genitals, whether the victim is dressed or undressed, exhibitionism [indecent exposure], fellatio [oral stimulation of the penis], cunnilingus [oral stimulation of the female vaginal area], and penetration of the vagina or anus with sexual organs or objects. Exposure to pornographic material is also sexually abusive to children ... *(Practice Parameters for the Forensic Evaluation of Children and Adolescents who may have been physically or sexually abused,* 1997)

The literature indicates that there is no definitive indicator of a sexually abused child, but there are symptoms that present frequently in young survivors; these include anxiety/numbing, hypersensitivity, depression, alcohol and/or drug use, problem sexual behaviors, and aggression. Another symptom is an attachment abnormality; the victim cannot give up the attachment to, and involvement with, the perpetrator [Ross Colin, The Trauma Model: A Solution to the Problem of Comorbidity in Psychiatry (Manitou Communications: 2000) page 286]. In defining sexual abuse of a minor, the American Academy of Pediatrics notes the significance of age symmetry in differentiating sexual abuse and sexual play; what may be sexual play for age-symmetrical individuals is abuse for age-asymmetrical individuals:

> The sexual [abuse] activities may include all forms of oral-genital, genital, or anal contact by or to the child, or non touching abuses, such as exhibitionism, voyeurism, or using the child in the production of pornography. Sexual abuse includes a spectrum of activities ranging from rape to physically less intrusive sexual abuse. Sexual abuse can be differentiated from "sexual play" by determining whether there is a developmental asymmetry among the participants and by assessing the coercive nature of the behavior. Thus, when young children at the same developmental stage are looking at or touching each other's genitalia because of mutual

> interest, without coercion or intrusion of the body, this is considered normal (i.e., nonabusive) behavior. However, a 6-year old who tries to coerce a 3-year-old to engage in anal intercourse is displaying abnormal behavior, and the health and child protective systems should be contacted although the incident may not be legally considered an assault. Children: or adolescents who exhibit inappropriate sexual behavior may be reacting to their own victimization. (Committee on Child Abuse and Neglect, Guidelines for the Evaluation of Sexual Abuse of Children)

Echoing the teachings of the moral theology manualists, an Australian National Child Protection Clearinghouse research paper spoke of sexual abuse of a minor as relating to any use for sexual gratification

> Put simply, child sexual abuse is the use of a child for sexual gratification by an adult or significantly older child/adolescent (Tower 1989). It may involve activities ranging from exposing the child to sexually explicit materials or behaviors, taking visual images of the child for pornographic purposes, touching, fondling and/or masturbation of the child, having the child touch, fondle or masturbate the abuser, oral sex performed by the child, or on the child by the abuser, and anal or vaginal penetration of the child. Sexual abuse has been documented as occurring on children of all ages and both sexes, and is committed predominantly by men, who are commonly members of the child's family, family friends or other trusted adults in positions of authority ... Finkelhor (1979) argued against the term sexual assault and sexual abuse because he felt they implied physical violence which, it was contended, was often not the case... Finkelhor favored the term sexual victimization in order to underscore that children become victims of sexual abuse as a result of their age, naivete and relationship with the abusive adult. (Issues in Child Abuse Prevention Number 5 Summer 1995, Update on Child Sexual Abuse, by Adam M. Tomison

Observing the above-quoted reference to 'trusted adults in positions of authority' and flowing from the juridic delineation of the delict, the Court is mindful of the issue of answerability. It is the presumption of the law that the actor (in this circumstance, a cleric) is responsible for his behavior, unless the opposite of this presumption of the law can be proved. This is the presumption in the doctrine and jurisprudence dealing with matrimonial consent (Canon 1101) and it is the presumption in penal trials as the following canon notes:

> Can.1321, §3: When an external violation has occurred, imputability is presumed unless it is otherwise apparent.

The Court then turns to the substantive material upon which a decision about the delicts that have been alleged will be made. Direction for this judicial *munus* is provided again both by doctrine and jurisprudence. The general norm is that proofs of any kind that seem useful for adjudicating the case can be brought forward (c.f., Canon 1527, §1). More specifically, a norm addresses the manner in which the Tribunal of judges uses the proofs:

> Can. 1608 §1. For the pronouncement of any sentence, the judge must have moral certitude about the matter to be decided by the sentence.
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> §2. The judge must derive this certitude from the acts and the proofs.
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> §3. The judge, however, must appraise the proofs according to the judge's own conscience, without prejudice to the prescripts of law concerning the efficacy of certain proofs.
>
> §4. A judge who was not able to arrive at this certitude is to pronounce that the right of the petitioner is not established and is to dismiss the respondent as absolved, unless it concerns a case which has the favor of law, in which case the judge must pronounce for that.

The norm of Canon 1572 is also of significance because so much of the acta is the testimony of witnesses. That Canon legislates how such testimony is to be evaluated:

> Can. 1572: In evaluating testimony, the judge, after having requested testimonial letters if necessary, is to consider the following:
>
> 1° what the condition or reputation of the person is;
>
> 2° whether the testimony derives from personal knowledge, especially from what has been seen or heard personally, or whether from opinion, rumor, or hearsay;
>
> 3 ° whether the witness is reliable and firmly consistent or inconsistent, uncertain, or vacillating;
>
> 4° whether the witness has co-witnesses to the testimony or is supported or not by other elements of proof.

Of significance also is the norm of Canon 1579, §1 which directs the Court to consider not just the conclusions but also the other findings of the case which a *peritus* might identify. This norm, which is evident also in Rotal jurisprudence, pertains whether the *peritus* is appointed by the COUlt or a professional whose work is incorporated into the *acta* from previous efforts with the same party.

Given the antecedent *iter processualis* of these cases in the United States today, the norm of Canon 1536, §2 must also be noted. Because *in tempore difficile* statements may have been made, it is essential that the evidentiary weight assigned to such statements be guided by canonical doctrine:

> Can. 1536: §2. In cases which regard the public good, however, a judicial confession and declarations of the parties which are not confessions can have a probative force which the judge must evaluate together with the other circumstances of the case; the force of full proof cannot be attributed to them, however, unless other elements are present which thoroughly corroborate them.

In a further elaboration of the above-cited canonical norm, the jurisprudence teaches that the truth emerges not from one or other element but from the whole complexus of the case. In a decision dealing with a case of simulation, a Rotal Auditor has noted:

> *Quod autem spectat pondus argumentorum, quibus nisus Iudex requisitam moralem certitudinem sibi comparare valet, recolatur veritatem non esse ex uno alterove elemento eruendam, sed ex toto causae complexu (coram* Rogers, 19/XII/64, #6, as found in *S.R.R.Dec.* 56 [1964], page 956).

The truth comes not from one or another element, but from all the elements taken together. Similarly in a decision dealing with simulation rendered by an earlier Rotal Auditor:

> *Quae etiam veritas resultat aliquando ex multis indiciis et probationibus, quae sumpta seorsim certitudinem vix ingerunt, at unita maxime iuvant (coram* Felici, *17/V/52,* #2, as found in SRRD 44 [1952], page 448).

This jurisprudence on the whole complexus, or constellation of facts if you will, of indices underscores the significance, in the evaluation of proofs, of patterns of behavior. Again, the decisions of the Rota dealing with simulation of consent, both total and partial, illustrate the judicial importance of such patterns of behavior. In a decision resolving a case on the grounds of simulation of consent *contra bonum fidei,* a noted Rotal Auditor wrote:

> *Confessio itaque simulantis non necessario verbis facienda est: sufficit fiat factis, quae verbis sunt aliquando eloquentiora: dummodo tamen facta sint plura, sint certa, sint univoca, id nempe in communi aestimatione demonstrent, noluisse partem contrahentem se vinculo matrimonii obstringere* (coram Felici, *24/IV/56,* #3, as found in SRRD 48 [1956], P 403).

As then Msgr. Felici noted, if the behavior is present, it is not necessary that the proper words be used to respond to the question before the Court; the facts speak louder than the words.

For the finding of this Tribunal, because the presumption of the law is the innocence of the *reus* (2006 Essential Norms, Norm 6), the Reverend Judges must have moral certitude to overcome the presumption of the law and find for his guilt. The Code legislates this requirement in Canon 1608, as quoted above. With regard to moral certitude, it must be remembered that the dynamic of this canonical standard of proof differs from common law. In common law, not only is believability figured into the standard, but also the quantity of evidence; thus, the language is phrased as 'the preponderance of evidence' and 'beyond a reasonable doubt'. In canonical doctrine, while the quantity of evidence is a consideration, the dynamic uses the quality of the evidence more significantly. In the former, quantity can affect the weight of the evidence. In the latter, the search for truth moves toward an act of moral judgment about the quality of what has been brought forth. It is the exclusion of a reasonable doubt that does admit the absolute possibility of the contrary. This is significant in a case in which the evidence is the narrative of the parties, along with the background, circumstances and context that surrounds them. Moral certitude requires a judgment about the quality of what both parties have presented and the context of the situations, which are taken as a whole. As Pius XII stated in his address to the Roman Rota on October 1, 1942:

> Sometimes moral certainty is derived only from an aggregate of indications and proofs which, taken singly, do not provide the foundation for true certitude, but which, when taken together, no longer leave room for any reasonable doubt on the part of a man of sound judgment. This is in no sense a passage from probability to certainty through a simple cumulation of probabilities, which would amount to an illegitimate transit from one species to another essentially different one ... ; it is rather to recognize that the simultaneous presence of all these separate indications and proofs can have a sufficient basis only in the existence of a common origin or foundation from which they spring, that is, in objective truth and reality... Consequently, if in giving the reasons for his decision, the judge states that the proofs which have been adduced, considered separately, cannot be judged sufficient, but that, taken together and embraced in a survey of the whole situation, they provide the necessary elements for arriving at a safe definitive judgment, it must be acknowledged that such reasoning is in general sound and legitimate. (#2)

And of added relevance is the further statement of the Holy Father of the relationship of procedure to the attainment of this moral certitude:

> Hence you see why, in modern, even ecclesiastical, procedure, the first place is given, not to the principle of juridical formalism, but to the maxim of the free weighting of the evidence. (#4)

With regard to the integrity of judicial procedure, the Reverend Judges are distinctly mindful of the right of defense. As the Code specifically legislates:

> Can. 1620 A sentence suffers from the defect of irremediable nullity if: ... 7° the right of defense was denied to one or the other party; ...

To understand what the right of defense correctly entails in a judicial process, the Reverend Judges look to the jurisprudence of the Apostolic Tribunals. In a decision of the Roman Rota, the present Dean writes

> *Quare substantiali iure defensionis is certo spoliatus habetur, qui nec actioni a parte adversa in iudicium deductae contradicere valuit ob agendi ration em ipsius Tribunalis, nee probationes tempore instructionis collectas impugnare, nec pro priam declarationem iudicialem facere, nee argumenta exhibere quoad factum circa quod iudicium versabatur...* (coram Stankiewicz, *22/XII84*, #5, as found in Monitor Ecclesasticus 113 [1988], pages 320-327).

That is, a substantial denial of the right of defense takes place when the adversarial party is not able to offer a contradiction, or when he is not able to oppose the proofs which have been gathered, or when he is not able to present his own side of the story in court, or when he is not able to present arguments about the contested issue in court. This is further enunciated in a decree of the Apostolic Signatura

> *Admitti nequit doctrina Tribunalis circa ius defensionis partis conventae, quod non solum requirit ut conventa audiatur, verum etiam itt iure contradicendi reapse gaudeat* (SA 19989/88 VT, mi. C, n. 4).

Foundationally, the right of defense consists not just in being heard, but in having the opportunity to contradict the evidence. However, the jurisprudence also teaches that this is not merely a formalism. In this, the Rota echoes the teaching of Pius XII that was quoted above. In assessing the integrity of a judicial process, the Rota assesses whether or not the parties know the proofs and have an opportunity to respond to them. Commenting on the difference between observing all the solemnities and the essentials of the judicial process, in a marriage case the then-Dean Pompedda observes

> *Concludendum quapropter est defuisse quidem iudicii sollemnitates sed essentialia processus (actricis petitionem, determinationem obiecti litis, citatione malterius partis, Vinculi Defensioris interventum, facultatem sese defendendi utriusque partis) tecta servata fuisse, atque ideo processus nullitatem nullornodo sustineri*

(coram Pompedda, *17/VI/85*, #16, as found in SRRD 77 [1985], page 291).

In understanding the right of defense, the Reverend Judges look to the opportunity to know and react to the proofs; they look to the essentials of the process. The creative innovation of non-Codal procedural steps will be understood as faux-solemnities urged upon the Court by a zealous Advocate. However, the appropriate efforts of a responsible Advocate are required by the norm of law (Canon 1723).

In these cases, it is also important to remember how Canon 1620 is phrased:

Can. 1620 A sentence suffers from the defect of irremediable nullity if: ...

7° the right of defense was denied to one or the other party; ...

The accused is one party. However, it is the Ordinary who has the responsible to institute a judicial or administrative process when a penalty should be applied (Can. 1341). And in these cases, it is clear that the Apostolic See itself is involved according to ST. The procedure specified in ST requires the votum of the Ordinary. It furthermore requires the Ordinary to inform the Congregation of the Doctrine of the Faith if there has been a change in circumstances. This would likewise apply to the Apostolic Administrator during the time of transition after the death or resignation or transfer of the Ordinary. Therefore, the Ordinary and the Administrator have an obligation to do what is required in the law. The Promoter of Justice is acting on behalf of the Ordinary in lodging the libellus with the proper Court. However, the exercise of that role by the Promoter of Justice does not absolve the Ordinary nor the Administrator from that obligation. Therefore, to exclude the vota of these officials acting on behalf of the common good of the diocese would be in effect also a denial of the right of defense of the diocese.

Finally, the Reverend Judges recall the force of particular legislation in the application of a penalty for this delict. As cited above, Norm 8 of the 2006 USCCB Essential Norms required that if there is moral certitude about the delict having been committed, then 'permanent removal from ecclesiastical ministry, not excluding dismissal from the clerical state' is indicated. The reason for the application of the penalty is for the protection of the common good of the diocese and for the Church as a whole.

In this regard in this case, since the penalty of permanent removal imposed by the Court of First Instance is to be either upheld or revised, there is guidance in the 1995 USCCB document on *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State.*

Once an external violation has been proven, imputability is presumed unless otherwise evident (*nisi aliud appareat*) (c. 1321, §3). This is *a presumptio iuris*. It is, therefore, rebuttable, but only by admissible evidence, not simply by bare denial.

Under the 1917 Code, the accused had to prove with moral certitude that the presumption of *dolus* was not verified in his case (*donec contrariumprobetur* in c. 2200, §2). That level of proof is no longer required in order to rebut the presumption of imputability, But sufficient evidence must be introduced which makes it clear to the judges that the presumption lacks force and that a reasonable doubt exists concerning imputability in this particular case, a doubt which must be resolved for a morally certain finding of guilt. In this regard, the tribunal must be careful not to substitute statistics or hypothetical theories for evidence. It is the actual deliberation and freedom of the accused cleric himself that is at issue, and it is only sufficient evidence about the accused's own imputability that will rebut the presumption.

For instance, some might think that there is an inherent impossibility in dismissing a pedophile from the clerical state since the proof of the accused's psychological illness, manifested by the external violations, is itself proof of his lack of full imputability. This kind of facile and simplistic statement is incorrect. It would render the prescription of canon 1395, §2 meaningless in se, relegating its application to some sort of imaginary cleric who, though free of all psychological illness and disordered desire, chose, with impeccable deliberation and freedom, to abuse a young person sexually. Though assisted by the advice of experts in the field of psychiatry, the tribunal must not permit itself to become a spiritual or psychological counselor. It must remain always and only an interpreter of the law and a judge of proven facts.

The following represent some of the rules and facts that a tribunal might take into account in deciding whether the penalty of dismissal may be imposed. We are assuming here that at least one external act of sexual abuse of a minor has been proven with moral certainty and that the only issue before the tribunal is whether the imputability of the accused and the circumstances warrant dismissal from the clerical state.

1. The presumption of canon 1321, §3 resolves the doubt in the external forum. Without evidence of facts which clearly show that the imputability of the accused was diminished, the tribunal must find in favor of full imputability.

2. The years of seminary formation in theology and spirituality as well as the exercise of the ministry (particularly, the act of judging others in the confessional) support the presumption that the accused understood the immorality of what he was doing.

3. The tribunal's judgments about sin, rationality, and freedom should be grounded in Christian anthropology. The fact that society has, in many ways, lost a sense of serious sin or personal culpability does not mitigate the individual cleric's guilt if he has adopted such a clearly un-Christian attitude.

4. It is unlikely that an accused cleric who has sexually abused a minor is free of all psychological illness. The existence of such an illness and its effect on imputability, however, must appear from the evidence. Thus, if the accused has introduced expert testimony that he suffers from such an illness, the tribunal can admit such testimony and give it appropriate weight. Such an illness, however, should not be automatically equated with lack of personal responsibility for the external violations themselves. Despite the illness, the accused may have been fully aware of the nature and consequences of his actions and have possessed sufficient freedom in a theological sense, to be charged with not merely grave, but full imputability as understood in the penal law. For example, when the accused has repeated evil acts over and over again without self-reform, this should not necessarily be deemed, in some sort of deterministic fashion, to lessen his imputability. In a way, the more a person identifies himself with his repetitious acts the greater the imputability may be of those acts. In short, if the accused claims to have been subject to a compulsion, the judges must evaluate the meaning of compulsions, the exact nature of the one claimed, and the evidence of the degree of its influence on the accused in the commission of the delict.

5. Canons 1324-1326 serve as a guide for the tribunal in weighing all the mitigating and aggravating factors that may have an effect on imputability and the severity of the appropriate penalty. It should also be noted that particular law can determine other exempting, mitigating, or aggravating circumstances, and specific circumstances can be set down in a precept which will exempt, mitigate, or aggravate the penalty threatened in that precept (c, 1327).

6. Two mitigating factors that may occur are the lack of the use of reason caused by drunkenness or some other narcotic agent as well as the commission of an act in the heat of passion (c. 1324, §1, 2°-3°). Of course, if one is aware that drunkenness or narcotic use often leads to such acts and decides to drink or ingest such narcotics anyway, the resulting loss of the use of reason does not diminish full imputability (c. 1325). Similarly, when passion is freely stimulated or fostered by the accused, it cannot be taken into account as a mitigation il imputability (c. 1325).

7. Even if full imputability is shown to have been lessened in the particular case or there are other mitigating circumstances, the tribunal must also take account of aggravating circumstances as described in canon 1326. It may be that the cleric used his position in the Church or his authority or his office to commit the offense (c. 1326, §1, 2°). If a cleric uses his familiarity with parishioners or other youth to create situations in which such acts are committed, or as an authority figure,

exercises undue influence over the victim, the acts become even more heinous and admit of more severe punishment, offsetting the mitigation which might otherwise be applicable.

8. Another common aggravating circumstance may be recidivism. When the accused, because of his own history and self-awareness, foresees what is going to happen and takes none of the precautions to avoid such acts that a reasonably prudent person would take, the resulting acts may warrant a more severe penalty. In other words, prior acts which contribute to the occurrence of foreseeable intentional acts may counteract the mitigation which might result from a lessening of freedom through compulsion. One who is aware of a tendency toward a certain delict has the responsibility to take due precautions — e.g., the persons he associates with, his use of alcoholic beverages, the need for psychiatric therapy, the nature of the ministerial assignment he accepts. To omit such precautions can be grounds for infliction of a more severe penalty.

9. Finally, related to recidivism is the situation where a cleric is charged with several violations of canon 1395, §2. Multiple delicts may demonstrate an ingrained pattern of behavior that convinces the tribunal that the accused is incorrigible and represents a real threat to young persons in the future, A delict may also be aggravated by the fact that it violates more than one provision of the code. For example, the cleric in question may have sexually abused a minor with force or threats or in some public fashion, or may have also solicited the minor in the confessional. In such situations, the justification for dismissal from the clerical state may be extremely strong even though some psychopathology may have diminished the malice or culpability involved in the acts.

10. The accused's imputability is an essential element of any decision to dismiss a cleric from the clerical state. It cannot be looked upon simplistically nor can any legal rules alone settle the matter in some sort of mechanical fashion. The actual facts and circumstances of the accused cleric himself, his history, the context within which the proven acts took place and especially the gravity of the acts must all be taken into account. The tribunal must balance both mitigating and aggravating circumstances to determine whether dismissal is in fact warranted or a lesser penalty suffices in light of the threefold goal of reparation of harm, restoration of justice, and reformation of the cleric.

III. IN FACTO

In this case, there are three persons who made formal accusations of sexual abuse of them as minors against Marvin T. Knighton as a cleric.

In this case, Marvin T. Knighton has consistently stated that these accusations are false. In his appearance before these judges, he categorically denied that he had sexually abused anyone. He did not engage in sexual activity with anyone in violation of his sacred status as a cleric.

In this case, Marvin T. Knighton and his Advocate have consistently questioned the credibility of the accusers and pointed out deficiencies in the process after a certain point. This Court, however, also has to address the issue of the Accused's credibility. It begins with an assessment of his history and outlook on that history.

Marvin T. Knighton, one of the first two African-american priests ordained for the Archdiocese of Milwaukee, has been consistent in his quest to regain his active status as a priest and to address the deficiencies he sees in the activity in the United States to stop the clerical abuse scandal. He considers himself as a victim of a type of prejudice against those who have been accused.

This being a victim of prejudice is something that had its roots for Marvin T. Knighton in his seminary years by those who opposed his being a black becoming a priest. He cites as his friends and chief supporters in those days both Archbishop Cousins and his classmate now Bishop Joseph Perry.

In his Penal Trial testimony, [redacted] said:

> Marv has always talked about his great love for the priesthood and felt that that was his calling and his vocation. Yet at the same time, he wanted to do what he felt he wanted to do. Authority was one big hurdle for Marv, and that has always been a hurdle for Marv (Penal Trial, Witness "K", page 18).

Marvin feeling that he was called to be a priest led him on a journey that began in Detroit where he had been born in 1950. However, because he had not been accepted in the Detroit seminary, he entered St. Lawrence Seminary, Mt. Calvary, Wisconsin, in 1967 for part of that year. This seminary was run by the Capuchins. In 1970, he would return to the seminary as a college student at St. Francis College. He would go into St. Francis Seminary for his theology in 1971 and then be ordained in 1975.

According to his last statement to the Court, that first year of 1967 was not without some problems. According to Marvin, there were some conflicts from the college days. One of those that entered into whether or not he should be ordained is his non-completion of the requirement that one have a college degree. This is referenced by Marvin in a letter to Archbishop Cousins.

In this letter, one can read for oneself how Marvin argues for his point based on his having already sent out the invitations and how he knows at that time that he is perceived as bending the rules and being disobedient. He is doing those things because of his desire to serve and serve where he thinks best.

This point is also brought out in Marvin's letters about his assignments.

But it is also reflected in his field experience that plays out in the first allegation chronologically. As [redacted] would point out:

> We were at the seminary at that time in the theologate. Father lived at Holy Angels, as a seminarian at that time. He did not live on the seminary campus which was required, and somehow he was able to exceed that requirement (Penal Trial, ibid, page 3).

Marvin explains this fact as follows:

> "I was living at the then St. Boniface Rectory with the Capuchins with the 'permission' of the late Msgr. William Schuit who was then rector. I was granted this permission so I could get an understanding of the then Black Community in Milwaukee. I was living with the Capuchins who at the time were ministering to that parish. I was not at Holy Angels until I became a deacon" (MTK, 30 July 2007 e-mail).

Marvin was doing what he wanted to do, but with permission obtained because he had the desire as a black man to understand the "Black Community in Milwaukee" to prepare himself to serve well.

This independence is an important factor in this case in assessing the credibility of the Accused. This Court does not question the sincerity of Marvin Knighton. But the proof taken from a number of witnesses points to the conclusion that Marvin at times sees things as he sees them in a different way than others look at the same facts. A key purpose of law is to keep order. When someone keeps bending or stretching the law, there can be disorder. In this case, the disorder seems to be in the perception of Marvin Knighton about his behavior compared to the perception of others in authoritative positions or as peers or also as subjects of his influence or authority.

This outlook of the Accused is a factor in this case because it could color how he views the reality of the facts as presented by others. It is a case that in the viewpoint of the Accused and his Advocate rests heavily on the credibility of the Accusers as well as on himself as the Accused and on the trustworthiness of the process used in arriving at the conclusions being appealed.

As the Court of First Instance noted, the Advocate is faithful to the viewpoint of the Accused in arguing for alternative explanations of the facts as presented by others. The preponderance of the argumentation of Marvin Knighton and his Advocate is

that the proofs presented by others have alternative explanations leading to positive doubts about their credibility. The argument is that moral certainty does not allow for any positive doubt.

And yet, the law section presents the doctrine of moral certainty as reached more on the quality of the proofs indicating the truth rather than on their quantity. Moral certainty does not exclude the possibility of doubt. It does mean that the one who reaches this moral certainty is assured of the truth of the heart of the matter.

This Court will address each of the accusations and then draw its conclusions.

The first accusation is that of [redacted] And the first issue to be resolved is whether the accusation should be considered if Marvin Knighton had not yet been ordained a deacon.

Rather than dancing around determining the dating depending on the place where the incident occurred, this Court takes the accused at his word and places it in 1973, a least "prior to his being ordained a deacon" in 1974 (Appeal, p. 22; Chancery File, p 344). In that context, the "behavior" of the accused was dismissed as not the "concern" of the Court. The reason given is that Marvin Knighton would not have then been a cleric. This line of reasoning as to the timing of the incident is accepted by the investigators based on the instructions for the penal trial and by the accused.

However, it is very clear that Archbishop Amato meant to be very specific in stating that the investigation be restricted to "only those delicts he is alleged to have committed while in the clerical state" (Appeal, p 15).

This Court notes that Marvin Knighton has admitted becoming acquainted with [redacted] at this time . Marvin would have been 22 or 23. The allegation could have occurred a little later than 1973 but before the accused's ordination to the diaconate on 4 May 1974. But even the accused waffles on the dating since it goes from 1972 to 1974 (Penal Trial, pp. 8, 17). He asserts that there was no more contact with [redacted] after May 1974.

This Court respects the wording of Archbishop Amato, but notes that his intent is to restrict the judicial process precisely to those actions allegedly committed by the accused as a cleric. And in this instance, Marvin Knighton was a cleric because he was tonsured on 17 March 1972. The provision in canon 1313 is specified in §2 as applying to the imposition of penalties and not to one's status in law.

According to the First Instance Decision, Marvin Knighton became a cleric on 7 [sic] March 1972 (p. 16). The decree of Pope Paul VI *Ministeria quaedam* was not issued until 15 August 1972. The effect date that tonsure would no longer be conferred and that joining the clerical state was tied to the diaconate was 1 January 1973. Canon 9 is applicable since the new law effective in January 1973 would have regarded only the future since it did not explicitly "provide for the past." Legally, Marvin Knighton was a cleric at the time of the incident alleged by [redacted]

The proofs from the Archdiocese of Milwaukee's personnel file and the seminary record indicate very clearly that Marvin Knighton was tonsured and thus entered the clerical state on 17 March 1972. Noteworthy in the following record is the specificity of the action performed. There is the Oath of Stability signed by Marvin T. Knighton on 7 March 1972 and by the seminary rector who witnessed his taking this oath in his presence as a "candidate for admission into the Clerical State". Moreover, there is the statement in the register from the Archdiocese that "On Friday, March 17, 1972, the Most Reverend William E. Cousins admitted the following seminarians to the Clerical State in the Immaculate Conception Chapel, St. Francis School of Pastoral Ministry" among whom Marvin T. Knighton is listed.

However, the Court notes that Marvin Knighton has no memory of this event. That seems puzzling since it should have been an important point in his achieving his dream. It would have been a foundation for the kind of at least moral authority he seems to have possessed in the minds of [redacted] aunt and uncle although Marvin states his authority as coming from his being assigned to do youth work by the pastor.

The place where the alleged behavior took place is consistently where the accused was living. The problem is pining down the location of that place.

One argument would make this St. Boniface Rectory. "I was living at the then St. Boniface Rectory with the Capuchins with the 'permission' of the late Msgr. William Schuit who was then rector. I was granted this permission so I could get an understanding of the then Black Community in Milwaukee. I was living with the Capuchins who at the time were ministering to that parish. I was not at Holy Angels until I became a deacon" (MTK, 30 July 2007 e-mail). And yet, in the Penal Trial statement of the accused he states that met [redacted] through his aunt and uncle at Holy Angels Rectory where he worked before and during his diaconate (Penal Trial, p 5). And it there that [redacted] would have stayed overnight in a "guest room" (Ibid, p. 5). And this would have been at the beginning of the accused's time at Holy Angels (Ibid, pp. 6-8). Marvin Knighton is very clear about his doing youth work there at the direction of Fr. Weber (Ibid, p. 13). He also states that there would be a change in the relationship with his ordination to the diaconate as the reasoning why the incident would have taken place prior to that ordination (Ibid, p17).

The occasion for the meeting of [redacted] and Marvin Knighton would have been that this minor was having trouble with his father and that his aunt and uncle wanted some help for him.

The place in [redacted] testimony is an apartment at the YMCA or at Holy Angels. It would be a single room with a queen-size bed. It had a distinctive bed-spread like one knitted by his grandmother. This recollection of the place as an apartment is affirmed by his mother who learned from [redacted] about the allegation three or four years before being reported to the civil authorities.

[redacted] associates the incident with Fr. Knighton's priesthood ordination. But he was not going to church in those days. His relationship with Fr. Knighton happened because of [redacted]. However, once the incident happened, Fr. Knighton cleaned himself up and broke off his association with [redacted]

This association of [redacted] with Marvin through the [redacted] is affirmed by him consistently in his sworn statements.

The problem in establishing an exact place is in part due to what [redacted] describes as Fr. Marv's idea of ministry as needing to live close to the people. It meant his arranging to live outside the seminary where most of his classmates lived, then at Holy Angels, and in another place downtown (p 560). This behavior is affirmed by Marvin in his 13 July 1975 letter to Archbishop Cousins (p. 1577). In his 28 February 2004 interview with [redacted], Marvin states that during the time in question, 1972-1974, he also spent some nights at the St Charles Boys Home. This would fit the kind of place remembered by [redacted]

The Court does note that there is an alternative explanation of the place. It is clear from Father Knighton's statements that he did have his own apartment after ordination to the priesthood. If [redacted] would be correct about the dating in terms of the actual years and if his mother is accurate about the habit of "Father" Knighton taking young people to the "Y" and about the apartment, then there would be no question about the Accused's being a cleric.

The behavior in question from p35 of [redacted] Penal Trial as described by Mr. [redacted] is: "Mr. [redacted] then immediately began a description of himself lying behind Father Knighton guiding Mr. [redacted] hands onto Father Knighton's penis, masturbating Father Knighton. This part of Mr. [redacted]s story seems to be consistent from the beginning" (Appeal, p. 18). The behavior is asserted by Mr. [redacted] two times (Acts, p 383, 400).

Then Mr. [redacted] adds that this action "is quite distinctly different from Mr. [redacted] description of Father Knighton being the assertive, hugging, touching, physically very strong person whom he otherwise describes" (Appeal, p. 18). The accused admits hugging as the kind of physical contact he would have had provided the person was comfortable with it (Penal Trial, pp. 17-18). [redacted] however, also speaks about Fr. Knighton's "kissing" him ([redacted], p. 6, Acts 383).

Although Marvin Knighton denies that anything sexual happened, it is clear that something unsettling seems to have happened. Some remember that he admitted the accusation prior to all the publicity, e.g. Mr. [redacted] where Fr. Marv as "the one he said probably happened, it's so old that the civil courts won't touch it" (Acts p. 469). [redacted] remembers his "rather startling admission" to Fr. "Joe Horniseck and myself (acts 522). There are the arguments about what the "mistake" was. The key point consistently about the mistake was the dating, i.e. in 1973 prior

to his ordination as a deacon (Acts pp. 523-533) Marvin Knighton is unusually consistent with "No comment" in this regard. There is both the admission that "There was inappropriate behavior" and the "No Comment" in his 28 February 2004 interview with [redacted] (p 1830)..

This Second Instance Court is more concerned with what are the facts indicated consistently in the accusation of [redacted] and the facts asserted by the accused Marvin Knighton than with the character of Marvin Knighton as one who could push boundaries at that time in his life. These years were years of experimentation with field education and the beginning of alternative living arrangements. Marvin Knighton had his reasoning for his requests that were acknowledged with the permission of the rector and was doing what he was appointed to do by his pastor Fr. Weber. The focal point is his personal behavior with the accuser. The years in question were years when some things happened because circumstances were looser than they had been or are now. The allegation of the behavior itself is consistent as acknowledged even by the Advocate. The place and the approximate dating is described well by the Accused. These are the primary facts on which the Court must focus.

The secondary details in the memories of both the Accused and the Accuser are admittedly sometimes unclear. Focusing too much on the trees can obscure the fact that one is looking at a distinct forest. The memory arguments made by the Advocate cut both ways in relation to the Accused and the Accuser. One alternative explanation would be that [redacted] is accurate as the dating in which the incident occurred between Marvin's ordination as a deacon and before his ordination as a priest. In this instance, he would have been a cleric also.

The primary point of discrepancy between Marvin Knighton and the official records of the Archdiocese of Milwaukee is that he was in fact tonsured. It may be simply a lapse of memory on the part of the Accused.

The primary point of discrepancy between Marvin Knighton and the witnesses is his denial that he kissed people on the lips and their statements that he did. [redacted] accuses Marvin Knighton of this behavior. And so does [redacted] and others. [redacted] states that Marvin both hugged him and kissed him on the lips when that latter came to visit him when his mother was in the hospital (Civil trial, Acts p. 611). This point of discrepancy will be addressed more later.

The proofs presented for the allegation of [redacted] have come from a number of sources. The persons who gave witness statements were interviewed more than one time for the most part. Despite some minor differences in detail, they are consistent as to the principal facts as to the time main frame, the place as Marvin's residence, and to something of a sexual nature even if it was considered a "mistake" by the Accused at one time in his being question and admitted on another occasion to a co-worker. Even the Advocate notes the consistency about the sexual act of the Accused at issue with the minor. The status of the Accused was that of a cleric.

The Second Accusation is that of [redacted] This accusation is that of behavior that occurred on more than one occasion.

[redacted], the accuser, remembers clearly meeting then Fr. Marvin Knighton through his mother on the street while playing basketball. Fr. Marv was helping his mother who had been [redacted] was in the 7th grade and 12 or 13. He found the first meeting awkward for him since Fr. Marv both hugged him and kissed him "on the lips". This began a period of their spending time together playing basketball at the Cousins Center, swimming, or spending the "night at his house." Then at the Cousins Center, there was [redacted] feeling awkward at being told by Fr. Marv to take off his swimming suit while showering and then to hear comments by Fr. Marv about his penis ([redacted] 6-11). There was one incident when Fr. Marv's hand touched [redacted] penis on the hand off of a towel. What is striking is how [redacted] reacted in that he was a bit frightened, but also did not want to lose this person who was supporting him (pp. 617-619). Then while sleeping over at Fr. Marv's house, Fr. Marv would get into bed with [redacted] which at first he thought was being tucked in. However, Fr. Marv began to kiss him and call him [redacted] and grind on him even though [redacted] would try to resist at first. Fr. Marv was much larger than he. The behavior progressed from the kissing to the humping or grinding. There were at least one incident also of this grinding behavior in the swimming pool. This was the same kind of behavior [redacted] would experience with women. [redacted] asserts that he is heterosexual (BTK, 11-14). [redacted] remembers consistently that he felt Fr. Marv's penis as Fr. Marv grinded or humped on him. This behavior seems to have happened most often with Fr. Marv's clothing on (Acts 624-629).

[redacted] stated very clearly at the civil trial that he felt the behavior was wrong, but was afraid to confront it because he looked up to Fr. Marv as father figure whom he needed (Acts 624-629). [redacted] relates that later [redacted] told him that he had experienced similar behavior (pp. 15-16). And this was also confirmed as similar behavior with [redacted] (p.16). [redacted] also speaks about Fr. Marv pulling down his swimming trunks even in front of his adopted sons (p. 20).

These behaviors including attempts to push the accused away are affirmed by [redacted], [redacted]'s stepmother, as being told her by [redacted] before his [redacted], pp.8-10). [redacted], [redacted]'s father, affirms hearing from [redacted] about the incidents in question. He had even asked Fr. Marv if [redacted] could stay over at his house [redacted], 8-10, Ac262-264). It would not be until [redacted] was 17 and had been in treatment that the accusations came out. There is no reason in the witness's mind to doubt the accusations of his son. This witness is most upset about what he considers Marvin Knighton's explicit lying about not kissing others.

One detail that was significant for the accused's civil lawyer was that [redacted] could not recall that Fr. Marv had ejaculated. One reason would have been the sweating and that he had on clothing.

One detail about which Marv is consistent is that he did not kiss [redacted] on the lips (p. 1007). He will admit to kissing people on the cheek (p. 1044). He denies hugging [redacted] after the first time they met because [redacted] resisted the touch (p. 1004). He denies any sexual type contact (p. 1004).

The time frame for the accusation to have come out was 1993. This is in the report and the recollection of [redacted] (p. 523). The revelation of the behavior was a gradual one. It began a bit with his step-mother, then with his father, and finally with the detective for the Archdiocese and a lawyer suggest by his mother. The more he talked, the more he revealed (pp. 770-771).

The time frame for the behavior would be before [redacted] began high school and through out until the behavior came out first with [redacted]'s step-mother and then with his father. [redacted] met Fr. Marv at the time of his graduation from grade school in June 1987. It is supposed to have begun before [redacted] started high school in September 1987. The incident in the pool would have happened in September or October of his sophomore year, 1988. The behavior declined in his sophomore and junior years as [redacted] could distance himself more from Fr. Marv. Fr. Marv had a notebook with dates that [redacted] stayed over with a number of those dates in 1988.

The place of the behavior would be principally at Fr. Marv's home, i.e. except for the incident at the pool. It is clear from Fr. Marv's notebooks as well as from Mr. [redacted] tha[redacted] began staying over at the father's request in June 1987. Mr. [redacted] helped Fr. Marv remolded his basement into a guest room finished in 1989 after the latter had adopted his two sons in July 1989 (pp. 1019-1023). It is clear that the father's relationship with [redacted] deteriorated after the time of [redacted] It would be a stormy relationship between father and son until after [redacted] received treatment for [redacted]

The time frame for the accusation to have come out was 1993. This is in the report and the recollection of [redacted] (p. 523). This is also affirmed by the Accused. The revelation was a gradual one. It began a bit with his step-mother, the with father, and finally with the detective for the Archdiocese, and a lawyer suggested by his step-mother. The more he talked, the more he revealed (pp. 770-771).

In 1993, the accusations of abuse by Fr. Marv were revealed to his step-mother and then his father. As a result, there was a confrontation between Mr. [redacted] and then Fr. Marv. As a result of this Fr. Marv contacted then Fr. Joseph Perry, who advised him to contact the vicar for priests, and then the diocesan attorney. Since nothing came of the incident at that time, it was dropped.

The accusations themselves are called into question as a [redacted] because [redacted] had been [redacted] that had ended the relationship between Fr. Marv and himself in 1992. This [redacted] is given by the Advocate and the Accused as a reason to [redacted]. There is no proof that this

[redacted] What is consistent is that there were reasons for the behavior not being revealed before. [redacted] notes that he had not confronted the behavior at the time it occurred because it had begun as a result of the [redacted] that he was not sure he would be believed, and that it did not become a major issue for him until he had to look at all his past in his treatment for [redacted] And when it came to light as result of treatment, nothing seems to have happened.

The Advocate and the Accused both noted that the therapist in 1993 should have reported the incident to the civil authorities at the same time the Accused presented the accusation to the archdiocese.

However, in 2002, [redacted] did come forward to begin the process that led ultimately to both his civil and his ecclesiastical trial. His concern was that Fr. Marv could still have many years ahead of him as an active priest. It was the time when allegations of sexual abuse of minors by priests was becoming known. And it was a time as a result of the civil trial that SNAP became involved. It was an occasion for [redacted] and [redacted] to come forward. However, of the two only [redacted] pursued his allegation before the ecclesiastical court.

One point made by Marv's attorney at the civil trial is that anything that might have happened before April 21 or 22 of 1988 would be excluded as prosecutable because of the statute of limitations in Wisconsin. However, that same statute would not apply in an ecclesiastical trial.

The key difference in this second allegation is the clear "He said; He said" nature. [redacted] alleges the behavior; Fr. Marv denies it.

[redacted] has been consistent about what happened with Fr. Marv even though it did not come out all at once initially in 1993. And in one instance in 2002 at the meeting with a number of people including Marvin and [redacted], [redacted] did say that there had be no inappropriate touching. However, since that time, it has been consistent. The key point is that there was kissing and hugging and grinding that [redacted] can only interpret as sexual in nature because of what he has since experienced with women. The story has not changed. Its support in dating is upheld by Fr. Marv's own notebooks and testimony. The reason for [redacted] staying over with Fr. Marv at his house is a matter of record supported by [redacted] father and Fr. Marv.

Marvin Knighton has consistently denied this allegation. The one teacher and then principal of St Pius High School affirms his denial of this allegation as well as his admission of the first. He admits being a hugger and even that he kisses on the cheek. However, he states explicitly that he would not have hugged [redacted] after that first instance when he met [redacted] through [redacted] mother. This assertion by Marvin Knighton is contrary to the experience o[redacted] as seen by both [redacted] father and another person present at the [redacted]. For someone who acknowledges himself as a hugger, his denial seems strange to this Court.

As the civil trial brought out, there are some inconsistencies on dates and exact places in Fr. Marv's house for the incidents involved in the pattern of abusive behavior alleged by [redacted] And yet, the pattern fits the timing. The motivation for [redacted] being in Fr. Marv's home is well established from the sworn statements of [redacted] and Fr. Marv as well as of [redacted] The reason for [redacted]'s hesitation in bringing up the behavior is his respect for Fr. Marv as well as for his mother who occasioned their meeting. One can even conclude that this kind of powerful respect was evident in that one meeting where [redacted] waffled .

The preponderance of the proofs favor the substantial credibility of [redacted]

Another reason for this conclusion is the third allegation itself. [redacted], a classmate of [redacted], alleges the identical kind of abusive behavior in the swimming pool at the Cousins Center. There is also a sleep-over at Fr. Marv's home. The sleep-over is affirmed by Marvin. Again Marvin denies the allegation. A discrepancy between the two is whether or not [redacted] That [redacted] had a [redacted] problem is clear from more than one source. That this was still going on in high school is denied by [redacted] and his mother. That this kind of behavior can still be episodic in time of stress later on is also known to occur. That the abusive behavior occurred is not something that the investigator doubted. How the two could have come up with the same description was a puzzle also to Marvin.

Although it was not presented to the ecclesiastical Court directly by the alleged victim, there is the matter of record in the preliminary canonical investigation that the mother of [redacted] stated that another of her sons also reported to her that Marvin Knighton had abused him. This "hearsay" allegation is referred to by Archbishop Dolan in his correspondence with CDF. Marvin admits that this other son "may have stayed the night with me" (MTK, p. 6). It is the same conversation that is referred to a number of times in that within it the mother had talked to her sister about the cousin [redacted] to find out that he was doing well and had denied any allegation of abuse by the Accused.

There are three allegations which were presented to the Court of First Instance. The Court found two of them proven; the third by [redacted] was not proven through the normal process of being affirmed by witnesses.

These allegations are once again denied by Marvin Knighton. The argument is made over and over by his Advocate that there is a problematic memory on the part of the witnesses and prejudice by the Court and by some officials of the Archdiocese of Milwaukee. And so, this Court has to turn to the pressing question of the credibility of Marvin Knighton.

The statement of [redacted] is one that is used both by the Court of First Instance and by Marvin and his Advocate. The key is to understand both what is said and not said. What is said is that Marvin Knighton from his days in the seminary has a habit of envisioning things in his own way and making them go in that way as far as he

can, sometimes going beyond and outside of what his superiors and peers alike think proper. What is not said is that Marvin Knighton is a bad person or is being directly disobedient in that statement.

As an example of this behavior in the seminary as he approached ordination first as a deacon, then as a priest. Marvin Knighton chose where he wanted to live. And he moved several times. He had permission for these experiments for which he had argued based on his own condition and how he saw himself as serving the Church. Then he argued that he be excused from the ordinary requirements of ordination in terms of a degree and pushed for this based on what he had already done in having his invitations printed. And then he did not fulfill the condition to which he had agreed in getting the required degree. He was envisioning things in his own way and making them go that way as far as he could, sometimes going beyond and outside what his superiors and peers alike thought proper.

Another example is his adoption of three sons. Marvin in his statement to the Court justified his adoption of the first two children as motivated by what another priest had done without objection in Detroit as well as the seeming approval of the Holy Father John Paul II of that behavior. He felt badly about the situation of the two South Korean boys and was moved to adopt them without the explicit permission of his Ordinary. And yet how his Ordinary viewed Marvin's actions is very clear in the interchange of correspondence that is part of the substantive acts. While Fr. Marvin explained his decision to sponsor the original two sons in his letter of 22 September 1988, it was also clear in another letter of 5 September 1989 that he had the intention to adopt then. In another statement of 25 August 2003, Marvin stated that he had adopted three children without the sanction of the previous Archbishop.

This Court was asked to take a look at all the proofs presented. And it has sought to do exactly that. One of those points made by the Advocate over and over is that the civil trial cleared the Accused. And yet, the nature of the proofs allowable in that trial excluded some proofs presented here precisely because of statute of limitations. And so, the Court of First Instance and this Court had more proofs than the civil court.

These proofs are the substantive ones.

There are two other "proofs" noted by the Promoter of Justice in Second Instance that are either procedural or confidential and not subject to publication. Thus, the documents were "withheld". These documents are procedural in that they are the cover letters or "vota" called for in the procedural law in Sacrosanctorum Tutelia at the time a case is initially submitted or should an update be needed. However, their content has been made known to the defense.

The first procedural letter was submitted by the then Archbishop of Milwaukee noting an allegation not formally lodged. This allegation was not pursued because it was not formally presented although it is referred to in the acts of the civil trial as

well as in the current promoter's response to the Advocate's brief. This document in question is not a formal part of the susbstantive acts. However, its content should be known to the Advocate from the Promoter's brief. The second procedural letter was by the then Administrator of the Archdiocese by way of an update to the CDF. It reported the behavior of the Accused as being a concern since he had been pursuing employment that would be questionable because it would in effect put him in what morally could be considered a proximate occasion for committing the same behavior of which he had been accused. It would be contrary to leading a life of prayer and penance. The "penance" part of the penalty is meant to assist the person from getting into the problematic situation. This content should be known to the Advocate and the Accused because they presented their letters to the Administrator and to the Vicar for Priests as well as the letters sent to the Accused. The procedural letters reports this exchange.

The Advocate for the Accused consistently argues for an alternative explanation for almost every act in the case presented by every person except the Accused. He is certainly doing his duty in representing the Accused. And yet, he himself notes how consistent is the presentation of the behavior of the accused in touching at least one of the victims. It is this point that the Court accepts as established.

Moreover, the Accused does not deny at least a playful kind of touching that is described as a "grinding" or "humping" one by the accusers although he would qualify it as "Horseplay." The behavior is noted by one of the accusers as familiar from his own relationship with women. It is the kind of touching that most would conclude was sexual in nature rather than simply playful if it occurred more than once.

This latter is a pattern of behavior that while seemingly acceptable to Marvin Knighton is contrary to the norms used by the professionals in the area of sexual abuse. Moreover, it fits the standards developed by the moral theologians in this regard. Whether the accused was clothed or not is irrelevant.

The Accused denies having done anything of a sexual nature with the Accusers. The Accusers have not alleged a completed act of intercourse or sodomy. Some would limit "sexual acts" to those completed acts. Marvin Knighton is not accused of performing an act with [redacted] in which there was ejaculation. Marvin Knighton is accused of an action in which his penis would have been felt by the Accusers. The first chronological accusation is one of masturbation by another. The second and third are of what is a mounting type behavior from the rear. These actions were perceived by the Accusers as unsettling, but inescapable at the moment. They were done by one in a position of authority. They are understood by the experts as to fulfill the criteria for sexual abuse. They were in these cases performed by one who is a cleric.

The Accused seems not to understand the meaning of what cannot be denied as his own behavior. Or he is again interpreting things in his own way. That the Accused has a tendency to do this with some of his actions has been proven.

The Accused has more than once asserted that the Civil Trial clears his name and that the Arizona licensing system has admitted him to serve in the school system there. And yet, the Civil Court had less proofs than this Court and was hindered by what was a statute of limitations.

This Court has not hindered the Accused and the Advocate from presenting additional proofs nor limited the briefs of the Advocate. It has sought to protect the right of defense.

The Court has sought to listen to both the Promoter and the Advocate as well as the Accused. The Court has gone through the proofs studied by the First Instance Court as well as the new ones presented. The Court recognizes that there are some discrepancies and weaknesses in some of the individual proofs. However, this Court concludes that the constellation of proofs coalesce and point to the fundamental truths underlying them. The overall argumentation in First Instance is sound.

What was alleged at least in the cases of [redacted] and [redacted] had come out before the civil and canonical proceedings. In [redacted] case, they had been revealed to his first wife several years before they were to his mother three or four years before 2002. What came to light in 1993 from [redacted] did not change in 2002.

And, now that the proofs have been reviewed and the fundamental argumentation presented, the Court concludes with moral certainty that the Accused is guilty of having violated the Sixth Commandment as a cleric with Mr. [redacted] a minor. Moreover, this Court concludes with moral certainty that the Accused is guilty of having violated the Sixth Commandment as a cleric with Mr. [redacted], a minor. Thus, this Court upholds the affirmative decisions of the Court of First Instance. Finally, the Court affirms the finding of Negative relative to the allegation as to its having been proven. However, it notes the allegation is not without merit.

And so, the Court turns to the upholding or revision of the penalty imposed by the Court of First Instance. That penalty was a "permanent removal from All Ecclesiastical Ministry with the admonition that Marvin T.Knighton is to lead a life of prayer and penance."

In this case, Marvin T. Knighton has abided by his removal from all ecclesiastical ministry. And he has vigorously objected to the treatment of at least some in the similar condition.

In this case, Marvin T. Knighton has also vigorously defended his actions in adopting three children despite the fact that it is also clear that his actions in his adoption of the first two children was objected to by his Archbishop and the third adoption had

to be known by the Accused as a violation of the policy of his archdiocese. These were decisions made in conscience without clear permission from the appropriate authority.

The purpose of a life of prayer and penance canonically is to keep one away from occasions of sin and to make reparation for any scandal. In this instance, the behavior pattern of Marvin T. Knighton seems to be that of one who can blame others, but not see the consequences of his own actions. What in his eyes could be called "horseplay" may be a hugging or kissing that goes beyond his intention if judged by the norms agreed upon by the experts in the arena of sexual abuse.

While it is true that the decision in the Civil Court led to his being able to regain his status as a teacher in Arizona, the issue for this Ecclesiastical Court is whether or not he can understand or accept the moral norms involved to at least avoid the scandal of an ecclesiastic engaging in the kinds of behavior that others find uncomfortable and unsettling. The proofs presented by those who experienced his behavior first-hand are at odds with his own presentation of himself and his justification for his behavior.

In this instance, there are not only three allegation of violation of the sixth commandment. The one allegation is supported as having happened by his own admission. It may have been a one-time situation. However, the circumstances in which it happened were not avoided subsequent to the event. In fact, Marvin T. Knighton acted in such a way that he would not only have a residence away from a rectory, but his own residence in which the kind of behavior that had occurred once could more easily happen again.

Marvin T. Knighton may very well have gifts that would enable him to work very successfully and well as an educator working with young people. However, the issue before this Court is whether the Catholic Church can sanction this in him as a cleric. It does not seem reasonable to expect him to lead a life of prayer and penance due to old age or disability.

Marvin T. Knighton's chosen lifestyle increases the likelihood of possible future scandal for the Church by his actions. He has a habit of pushing the boundaries seen as protective of the clerical lifestyle beyond what is acceptable.

There has been no reason to suspect that Marvin T. Knighton suffers from any psychological or emotional disease. Although he did not complete the process for his graduation as a condition for his ordination, there is no reason to conclude that he suffers from any disability preventing his being able to know or to understand the appropriate Catholic morality. And so, the Court sees no reason to mitigate his culpability in regard to an external violation of the sixth commandment.

And so, in this case, it seems unlikely that the cleric can be rehabilitated. The justice that is envisioned to protect the common good requires the co-operation of the one

penalized. Thus, this Court judges that the penalty imposed by the Court of First Instance should be revised upward.

For all of these reasons, this Court imposes the penalty of dismissal from the clerical state upon Marvin T. Knighton.

However, this Court also urges the Archdiocese of Milwaukee to provide a means to compensate Marvin T. Knighton in some way for the retirement benefit that would been earned in theory for his actual years of service to the diocese.

DISPOSITIVE

CONGREGATION OF THE DOCTRINE OF THE FAITH

This Court of Appeal of the Congregation of the Doctrine of the Faith upholds the findings of the Court of First Instance of the Archdiocese of Milwaukee in the AFFIRMATIVE as to the proven guilt of Marvin T. Knighton as a cleric of the allegations of the sexual abuse of a minor by a cleric presented by Mr. [redacted] and Mr. [redacted] This Court also uphold the finding of that same Court of First Instance in the NEGATIVE as to the guilt of Marvin T. Knighton of the allegation of the sexual abuse by a cleric of a minor presented by Mr. [redacted]

As a penalty for his violations of the obligations of the clerical state, this Court furthermore dismisses Marvin T. Knighton from the clerical state. He is permanently removed from the exercise of any ecclesiastical ministry except as provided in the Code of Canon Law and any faculties or privileges or compensation that would accompany the clerical state from the date of the execution of this decision unless it be part of the severance agreement reached by the Archdiocese of Milwaukee in view of justice due to his past service to the people of God.

This decision is to be published to Mr. Michael Ritty as Advocate "for his eyes only". It is to be published to the Archbishop of Milwaukee for the purposes of a review by Marvin T. Knighton without his receiving a copy. All are to be reminded of the Pontifical Secret in these matters.

As a decision of the Congregation for the Doctrine of the Faith acting on behalf of the Supreme Pontiff, this Decision is not subject to appeal.

Signed, decreed, witnessed, and published on this 13th day of January 2011 at the Tribunal Office of the Archdiocese of Cincinnati, Ohio, U.S.A.

[redacted]

Reverend [redacted], JCD, STD

Presiding Judge

[redacted]

Reverend [redacted], JCL

Associate Judge

Reverend Joseph R. Binzer, JCL
Notary

[redacted]

Reverend [redacted]

Associate Judge and Ponens

TRIBUNAL - ARCHDIOCESE OF CINCINNATI, OHIO

BE IT KNOWN TO ALL

that this case is explicitly subject to the Pontifical Secret (art 25. *Gravior Delicta. Normae Processualis);* this applies to all information, processes and decisions associated with this case (*Secreta continere*, February 4, 1974 [*AAS*, 66 1974, pages 89-92]).