

RESPONSE OF REV. JOHN P. FITZGERALD
TO THE REPORT OF THE INVESTIGATING GRAND JURY
PURSUANT TO 42 PA. C.S. § 4552(e)

Counsel of Record for Rev. John P. Fitzgerald:

Thomas E. Fitzgerald, ESQ
1040 Fifth Ave.
Pittsburgh PA 15219

412 338 9988

PA ID 43580

**RESPONSE OF REV. JOHN P. FITZGERALD
TO THE REPORT OF THE INVESTIGATING GRAND JURY
PURSUANT TO 42 PA. C.S. § 4552(e)**

This is the Response of Rev. John P. Fitzgerald pursuant to Order and Notice of Court in accordance with 42 Pa. C.S.A.4552(e) which ordered a response to the Report of the 40th Statewide Investigating Grand Jury.

Initially, it is the position of Father Fitzgerald that the Order of Court and the Grand Jury Statute is unconstitutional.

Title 42 Pa C.S. Section 4552 of the grand jury statute which permits a grand jury to issue a report critical of the conduct of an individual, accusing him or her of incompetence or wrongdoing without recommending criminal charges, is a violation of Article I, Section 1 of the Pennsylvania Constitution, as it permits the issuance of a final judicial order damaging a person's reputation without the due process of law required by Article I, Section 11, of the Pennsylvania Constitution.

Article I, Section 1, of the Pennsylvania Constitutions provides, "All men are created equally free and independent, and have certain inherent and indefensible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness."

Article 1, Section 11 of the Pennsylvania Constitution provides, "All courts shall be open and every man for an injury done him in his land, good, person or reputation shall have

remedy by due course of law, and right and justice administered without sale, denial or delay. ...”

This procedure is totally lacking in the due process of law required for the protection of a person's reputation as required by the Pennsylvania Constitution. There is no opportunity to present evidence, no opportunity to cross examine a witness, no required notice. The proceedings of the grand jury are secret, and are not available to the party so named, even if the person is given the chance to reply. This report becomes a formal court document for full public examination.

The allegations of misconduct against Rev. John P. Fitzgerald contained in the 40th Statewide Investigating Grand Jury Report No. 1 are false. The allegations contained in the Summary referring To. Rev. Fitzgerald are the product of a fabrication made by a convicted thief, a convicted violator of the Controlled Substances Act, a person who “punched his father in the head and body, kicked his mother in the midsection and choked his sister” when they tried to stop him from driving after snorting heroin” according to a police report filed based on the statements of his father, mother and sister.

It is clear from reading the Summary that the alleged accuser did not appear before the Grand Jury. If he had appeared making these allegations contained in the Grand Jury Summary he would have perjured himself.

For example, the Grand Jury Summary states that the events occurred in 1996 including allegations of misconduct at the Pittsburgh International Airport Chapel. The airport chapel did not open until 1998. The walls of the chapel are transparent glass completely visible to office spaces which are adjacent and the food court from above.

The allegations made against Rev. Fitzgerald contained in the Grand Jury Summary were solely compiled from subpoenaed notes of William Walterschied, a bishop of the Pittsburgh Diocese. Walterschied met the alleged accuser on July 30, 2014. At the time Walterschied met the accuser there was an outstanding Allegheny County Bench warrant for the accuser.

Walterschied had met the alleged accuser at the request and instigation of Rev. Patrick Geinzer. Geinzer represents himself as an expert on child abuse by Catholic priests.

Prior to the request the accuser had "borrowed", "stolen" or extorted thousands of dollars from the brother of Patrick Geinzer, John Geinzer, who is also named as an offender in the Grand Jury Report.

Walterschied heard the allegations which included that the accused was sexually assaulted in an airplane, in a car, and at the Pittsburgh International Airport chapel. He claimed that he performed oral sex on Rev. Fitzgerald "maybe a half dozen times".

Walterschied then interviewed Father Fitzgerald on July 31, 2014. Father Fitzgerald

categorically denied all of the allegations telling Walterschied that it was physically impossible to do what the accuser claimed.

Walterschied and Zubik then removed Father Fitzgerald from his position as Pastor at Our Lady of Peace in Conway, PA. He was forbidden to return to Our Lady of Peace and his possessions, computers and personal belongings were seized by the Diocese. They conducted no further investigation to either confirm or deny the allegations. They asked for no physical evidence, sought any corroborating witnesses nor visited the scenes where the allegations of abuse were said to have occurred. They did not interview the pastor of the Church where the some of the allegations were said to occur.

Father Fitzgerald was given an admonition to not speak of the matter to anyone or defend himself in any civil proceeding or to respond in any way to the allegations made against him. It further prevented him from pursuing legal actions against the accuser and others.

In August, 2014, Walterschied and Zubik then referred the matter to the Allegheny County District Attorney and the Lawrence County District Attorney. After four years neither office has filed any charges.

On August 3, 2014, Walterschied appeared at Our Lady Queen of Peace parish and at Sunday Mass defamed Rev. Fitzgerald from the pulpit leaving all parishioners with the

inescapable conclusion that he was a child abuser.

Then Bishop Zubik, Waltersheid and Rev. Lawrence DiNardo, through the Diocese of Pittsburgh, authorized payments to the accuser and his family in amount of at least \$40,000.00. Rev. Fitzgerald did not know, consent, or in anyway approve such a payment. He had absolutely no knowledge of the payments until he read it in the Grand Jury Summary that such a payment was made. Any such payment, in his view, was tantamount to legal extortion. Since the \$40,000 payment was made to the accuser he has been arrested at least four times for drug related offenses.

On December 12, 2014, the Diocese of Pittsburgh held a Diocesan Review Board under the direction of Lawrence DiNardo, the vicar general of the Diocese of Pittsburgh, and was prosecuted by Thomas Kunz, a lawyer priest. The review board consisted of lawyers from the law firm of Zimmer Kunz (the father of Thomas Kunz is the former managing partner) and a lawyers who sit on managing Boards of property owned by the Diocese of Pittsburgh. At no time prior to the hearing did DiNardo or Kunz provide a written statement of the exact allegations against Father Fitzgerald including the dates and places where the allegations of abuse were said to have occurred.

The Diocesan Review Board heard testimony from the mother and sister of the accuser. The accuser, who was then well over thirty years old at this time, did not

attend or testify. The Review Board never saw or heard from the accuser directly. Thomas Kunz, advised the Board of the allegations made by the accuser based on his understanding of the allegations made to William Walterschied. (It should be noted that Kunz testified in an another proceeding that he never personally spoke with the accuser at any time. It also should be noted that Watershed never testified before the Review board.) The Diocesan Review Board was not advised by Kunz that the accuser had been asked when he was in a drug rehabilitation center whether he had ever been sexually abused as a minor. The accuser had denied he had ever been. At the time he was asked that question he was thirty years old.

At the Diocesan Review Board hearing Rev. Fitzgerald denied all of the allegations in emphatic terms.

It is admitted that the findings of review board as summarized by the Grand Jury Report were the findings made. It is denied that the Diocese Pittsburgh does not know the status of the proceedings against Fitzgerald. At all times material to the Grand Jury proceedings the Diocese of Pittsburgh, Kunz, DiNardo, Walterschied, and Zubik have been aware that further proceedings were held. and that the allegations were found to be not proven.

Rev. Fitzgerald immediately appealed the findings of the Diocese of Pittsburgh to the Congregation for the Doctrine of Faith who conducted further proceedings. The

Congregation heard sworn testimony from the mother and father of the accused, Patrick Geinzer, Thomas Kunz and others recommended by Kunz on behalf of the accuser. The accuser, himself, refused to be sworn but was interviewed. In his interview he dramatically changed his allegations made in his July 30, 2014, interview with William Watershed but did maintain he was assaulted in Rev. Fitzgerald's airplane and at the Pittsburgh International Airport chapel.

Father Fitzgerald again testified unequivocally that on no occasion did he have any inappropriate conduct with the accuser. He presented expert testimony from aviation experts familiar with the aircraft that the accuser said that it occurred. They testified that it would have been physically impossible to do what the accuser alleged without crashing the aircraft.

On March 2, 2017, the Judges of the Tribunal for the Congregation for the Doctrine of Faith informed both the Diocese of Pittsburgh and Rev. Fitzgerald that the accusations made by the accuser and the Diocese of Pittsburgh had not been proven.

The Diocese of Pittsburgh has known since March of 2017 that the allegations against Rev. Fitzgerald had not been proven yet did not include those findings to the Statewide Grand Jury although they were under subpoena to do so.

In summary it the position of Rev. Fitzgerald that this procedure is totally lacking in the

due process of law required for the protection of a person's reputation as required by the Pennsylvania Constitution. There is no opportunity to present evidence, no opportunity to cross examine a witness, no required notice. The proceedings of the grand jury are secret, and are not available to the party so named, even if the person is given the chance to reply. This report becomes a formal court document for full public examination.