

4 June 2020

TO: Most Rev. Edward Scharfenberger
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Catholic Center
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REPORT OF
SEXUAL ABUSE OF A PRIEST UPON A DIOCESAN SEMINARIAN IN 2003
AND
MALFEASANCE IN HANDLING THE VICTIM'S ABUSE REPORT
BY DIOCESAN OFFICIALS 2004-PRESENT

RE: case of **Rev. Arthur J. Smith** who allegedly sexually assaulted Rev. Ryszard S. Biernat in December, 2003. Details of the assault described and verified by Most Rev. Richard J. Malone in his 2015 letter to Congregation for the Doctrine of the Faith [enclosed].

RE: **Rev. Ryszard S. Biernat's** report to me in 2006 of alleged threats of retaliation by **Most Rev. Edward M. Grosz** preventing Rev. Biernat, a seminarian at Christ the King Seminary at the time, from not only reporting the assault to civil authorities but to any other person.

I personally worked with Ryszard Biernat when he was a seminarian assigned by CKS to Saint Mary of the Angels Church (now Basilica) in Olean between the years 2006 and 2007. Biernat's assignment covered his pastoral year in which I served on his lay formation evaluation team at the parish. In my capacity on this team, I was to provide the seminary feedback which it asked for at the time under our supervisor, Rev. Gregory Faulhaber. I was prevented from providing complete and proper feedback about this seminarian because of **retaliatory threats from Auxiliary Bishop Edward Grosz** which seminarian Biernat reported to me. The bishop's threats, as I understood the seminarian, consisted of dire consequences to him if he breathed a word to anyone of the sexual assault he suffered at the hands of Rev. Arthur Smith in December, 2003 at Smith's South Buffalo rectory. This assault Biernat only revealed to me after a series of lengthy discussions over the course of four months. The auxiliary bishop's threats went hand-in-hand with the seminarian's account of the sexual assault because he was intensely fearful of Bishop Grosz finding out that he spoke to anyone about this bishop-imposed secret, an egregious abuse of power. He also expressed concern for others who could fall prey to his abuser who continued in his position as pastor of St. Thomas Aquinas Church with the laity kept in the dark about his propensity to cross boundaries to satisfy his sexual appetites.

He told me Bishop Grosz not only made threats to him to keep him from reporting the incident or even talking about it to anyone, but callously and gruesomely told the seminarian that he should have locked his bedroom door!

Rev. Biernat reported to me at the time that all of the senior staff who worked at the chancery offices knew of the crime. This list included, as I recall:

- Most Rev. Edward Kmiec, bishop (as of October, 2004 when he was installed as bishop after Bishop Henry Mansell's transfer to Hartford in December, 2003)
- Most Rev. Edward Grosz, auxiliary bishop, (administrator of the diocese May, 2004 following appointment of Rev. Monsignor Robert J. Cunningham as Bishop of Ogdensburg)
- Rev. Monsignor David Slubecky, vicar general in 2005-2018 (deceased)
- Rev. Monsignor Paul Litwin, vice chancellor (chancellor in 2006)
- Rev. Monsignor David LiPuma, secretary to the bishop (vice chancellor in 2006-2013)
- Sister Regina Murphy, SSNM, director of research/ planning and archivist
- Rev. Monsignor Richard Siepka, seminary rector, also knew of the crime.

Among this list of diocesan officials:

- not one person made an effort to report this crime to civil authorities;
- not one person made an effort to report this crime to diocesan attorneys;
- not one person made an effort to report this crime to the Diocesan Review Board.

Rev. Smith was never held accountable by the diocese for this crime or for his immoral behavior. He was not even given any form of punishment much less a decree of penal sanction (as Rev. Biernat is under now) or even a suggestion to go on retreat to "reflect." Life went on as usual for the pastor.

Perhaps most obscenely, to their collective shame, chancery officials made absolutely no effort to remove this offending priest from the midst of an unsuspecting flock left ignorant of his immoral/ criminal appetites, **placing them at risk**. It ultimately took 14 long years to get Smith—discovered assigned in a parish setting—permanently (we hope!) removed from ministry in April, 2018 after a series of sexual harassment/ abuse reports including at least one child victim along with his own minor nephew, Ryan Cooley. Bishop Grosz and Msgrs. LiPuma and Siepka (who is still at CKS serving as Spiritual Formation Director) remain in active service with no accountability whatsoever for their participation in coverup/ threats. It is shocking that Msgr. LiPuma leads the Presbyteral Council. Ironically, that entity oversaw the diocese's "Year of Healing." Recent documents reveal that in 2012 Msgr. LiPuma arranged for Smith's assignment at a nursing home run by the Brothers of Mercy. This followed several reports of Rev. Smith's sexual predatory behavior which Msgr. LiPuma was well aware of. Two of the nursing home employees were subsequently sexually victimized by Rev. Smith.

An official report of this assault, according to seminarian Biernat's report to me at the time, was never written up by anyone in the diocese. The fact of the assault, which Rev. Smith admitted to in an email to seminarian Biernat following the assault, was swept under the rug by everyone in the know at chancery / CKS offices. Because of this negligence on the part of the diocese, seminarian Biernat took the initiative (I believe in early 2004) to write up his own report and send it via certified / registered mail to the chancery. That report, it appears, was never placed in Rev. Smith's file. It was never placed in Rev. Biernat's file. This was confirmed by two witnesses in the chancery in recent years.

Needless to say, the ungodly (I don't know any other adjective to use) response from the seminary and the diocese to the sexual assault of this seminarian only heaped further abuse upon this innocent victim, an immigrant to our country for whom English was a second language. He reported recently that he did not even know if what happened to him was a crime in our country. No one in the diocese bothered to explain to him the nature of the crime, he said.

Other torment the diocese inflicted upon this innocent victim (the effects of which I personally witnessed) included:

- the threat of deportation since his status in the United States depended upon his enrollment at the seminary.
- the threat of never becoming a Roman Catholic priest—a consequence of the threat of expulsion implied by Bishop Grosz who flat-out told seminarian Biernat that if he ever breathed a word of the sexual assault to anyone, "You will never become a priest. Do you understand me?" Rev. Biernat recently told television reporters that this particular threat hurt him the most. I can attest to witnessing this effect. This set of circumstances and quoted threats are exactly what seminarian Biernat reported to me in 2006 along with the additional threat by Bishop Grosz: "You don't know who you're dealing with." Frankly, I took this to mean some sort of bodily harm by some entity.
- the torment of having to explain his unjust and unholy predicament to his mother in Poland. I do not recall if at the time his mother knew about this abuse that occurred around the year her husband, his father, passed away.

I personally helped seminarian Biernat journey through his trauma that the diocese further exacerbated with its abominable negligence towards him on the one hand (I implore you to PLEASE try to find his report and how it was handled) and the coddling and advancement of his abuser on the other which I will detail below.

I wondered at the time how this seminarian could possibly develop at CKS in freedom in response to God's call under these unthinkable circumstances. But, by the grace of a merciful God, he is a priest today because of the care, support, encouragement, affirmation and abundant prayers and sacrifices from the parishioners and pastor at St. Mary's in Olean. Amidst this trauma, we taught him where holiness

truly resides in the Church, and that holiness is fueled by love. I personally led two parish-wide novenas for him. This was encouraged by our pastor at the time, Rev. Gregory Dobson, [REDACTED]

To my knowledge, I was the only lay person at the parish who knew of the sexual abuse and Grosz's retaliatory threats. Under Canon Law 212 it was not only my right but my duty to communicate my concerns to Bishop Kmiec, never mind the seminary rector. But that avenue was cut off by what I perceived as very real potential retaliation which Bishop Grosz placed upon this innocent victim—retaliation which could very well include canonical censure, [REDACTED]

[REDACTED] I could not file a report under circumstances so dire for the seminarian knowing full well that Rev. Smith would be completely shielded by both bishops Kmiec and Grosz from facing legal or canonical consequences, and laity would remain in the dark and at risk.

Following the seminarian's 2006 revelations to me, and unknown to CKS or the diocese, I consulted a highly respected Catholic attorney in 2006 to see if anything could be done to seek justice for the seminarian and get that offending priest removed and/or jailed. He kindly agreed to meet with seminarian Biernat. Unfortunately, without the cooperation of the diocese, the attorney said, "it's basically a case of the young man's word against the pastor's." [REDACTED]

The effect of the sexual assault (**spiritual incest**) perpetrated by Rev. Smith upon that seminarian didn't stop in 2004. Imagine being in the seminarian's (and later priest's) shoes and watching your abuser

- allowed to remain not only a priest but a pastor for seven long years [two different parishes] after the sexual assault;
- honored as "Priest of the Month" by the Vocations arm of the diocese after the sexual assault;
- invited to celebrate Mass to a wider audience on television and participate in radio and newspaper interviews with the pretext of speaking for the Church on important issues. Horrifically, this all contributed to a grossly false impression among innocent laity of Smith's priestly integrity, trustworthiness and holiness. This made him all the more dangerous to the public.

Finally, we can only imagine that what fellow CKS seminarians (the ones who did not quit because of the bishops' handling of this case) learned in 2004-2007—a travesty which affects us to this day.

But our good Lord always comes through. With magnanimous mercy and humility, Rev. Biernat expressed to me just before his ordination in 2009 that he had forgiven everyone involved in his abuse and just wanted to start his priesthood fresh in his new life configured to Jesus Christ. This is a mark of holiness that the entire St. Mary of the Angels' parish community recognized in him so long ago. He never encouraged me to speak out. He knows nothing of this report or the one similar to it which I was finally able to send in late 2018 to the CKS interim rector.

Because, as you have stated, **criminality is not entitled to secrecy**, I followed that report up by mailing a version of it to the entire 300+ members who serve in an advisory capacity on the Bishop's Council of the Laity in January, 2019. Without truth, we cannot possibly heal, I stated in my letter these prestigious Catholics, and I knew the diocese did not relate this particular case to them. My goal was to prick their collective conscience into critically evaluating our diocesan leaders and the information they selectively share with them. Because I had not heard a reply from these fellow laity over the span of several weeks, I decided to submit a similar report to the New York State Attorney General in March, 2019. I later found out from Rev. Biernat through the news media that the BCL simply passed my report on to Bishop Malone for the diocese to make an official response. My husband and I were astounded by this display of gross irresponsibility from fellow laity to a legitimate report of sexual abuse and coverup by diocesan officials still working in prominent roles in the diocese.

Rev. Biernat reported that he was instructed by Bishop Malone to respond to me personally by making false statements to me of such a nature that I would back off my pursuit of justice and truth in this particular case. Rev. Biernat never contacted me.

Respectfully Submitted
4 June 2020

Jennifer L. Kane, OCDS

