

## **Priests say dismissal lacked due process**

### **Military chaplains lose posts when archbishop revokes endorsement**

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Two military chaplains who are critical of church leaders for tolerating clergy sex abuse lost their "ecclesiastical endorsement," apparently without recourse to any form of due process, and consequently lost their jobs in the military.

The endorsements for Air Force Col. Thomas P. Doyle, a Dominican, and Navy Capt. Eugene Gomulka, a monsignor, were withdrawn during the past year by Archbishop Edwin F. O'Brien of the Archdiocese for the Military Services. Endorsement by a religious institution is the method by which the Department of Defense accepts a chaplain for duty.

Both priests said they did not receive a hearing. No avenues of due process were opened to pursue the archbishop's complaints against them, they told NCR, nor were they provided with the opportunity to explain or defend themselves.

Both Doyle and Gomulka, outside their duties as military chaplains, have been critical of the U.S. bishops' handling of clerical sexual abuse matters.

For nearly 20 years, Doyle has publicly defended the rights of clerical sexual abuse victims and criticized the U.S. bishops' cover-up of sexual abuse. Gomulka, in an Aug. 27, 2001, article in America magazine, "Home Alone in the Priesthood," discussed sexual abuse by military chaplains and the loneliness celibacy creates.

O'Brien did not cite their activities around the sex abuse crisis as reason for dismissal.

Doyle was told Sept. 17, 2003, that his endorsement was being withdrawn because of a memorandum he had sent as a canon lawyer to two other chaplains. The memorandum gave an opinion on canon law as it applied to an instruction by O'Brien to all chaplains regarding the provision of daily Mass and a reserved space for the Blessed Sacrament.

Gomulka was told by O'Brien last March 26 that his endorsement was being withdrawn because "it has come to my attention via reliable sources that you intend to retire from the Navy chaplaincy soon and thereafter attempt to enter into marriage. I am so sufficiently certain of this information that I must revoke immediately your endorsement."

Gomulka told NCR he had neither made a firm decision to retire from the Navy nor to enter into marriage. O'Brien, he said, offered no sources for his information, and no proof that retirement or marriage was Gomulka's intent.

NCR asked the Archdiocese for the Military Services, through a letter to O'Brien and an e-mail to the vicar general, Msgr. Aloysius Callaghan, to explain due process in the archdiocese. There was no response. A second approach was likewise ignored.

What constitutes due process in such matters?

Fr. Nicholas Rachford, pastor of St. Nicholas Church in the Parma, Ohio, Byzantine Eparchy, has frequently been called in as an expert on cases involving clerical due process. He holds a doctorate in canon law from the Pontifical Oriental Institute.

Rachford said the Code of Canon Law lists specific offenses by an erring priest -- such as disobedience or disrespect toward the bishop -- for which there are defined remedies. In such cases, he said, an investigator is appointed and given a reasonable time to assess the evidence against the individual priest.

In the event of a trial, everything is turned over to the "promoter of justice." Every diocese has one, he said, ad hoc or permanent, and even a priest from outside the diocese can serve, "to ensure fairness in the difficulties that surround a brother priest acting as prosecuting attorney."

The investigator provides the facts; the promoter of justice brings the case to the bishop, "roughly akin to a prosecutor bringing a case to the grand jury." He continued, if the bishop says there is insufficient evidence, the case does not proceed.

"The trial proceeds much in the manner of secular trials," said Rachford. "There is no jury, though sometimes the law requires three or five judges to hear a case" if the seriousness of the case moves the bishop or judicial vicar to appoint a judicial tribunal.

The priest can have a canonist represent him or a secular attorney.

Rachford then explained the case from the other side.

Fr. A wants to address what he believes is a genuine grievance: that his bishop has failed to understand the situation or acted arbitrarily or without following the guidelines. If the bishop, twice requested by the aggrieved priest, declines to reverse his action, the priest may appeal to Rome.

The relevant congregation, the Congregation for Bishops or the Congregation for the Clergy, will write to the bishop for his side of the matter and later inform him whether they have upheld or reversed his decree, Rachford said.

Msgr. George Dobes, a canon lawyer, was asked by NCR to explain the interface between Catholic law and military regulations when the military bishop disciplines a chaplain or revokes his endorsement. Dobes, who has a doctorate in canon law from the Catholic University of America, worked for the Archdiocese for the Military Services from 1998 to 2002. Previously, he was a Navy chaplain for 28 years.

He said that if the Archdiocese for the Military Services "withdraws that endorsement, the military accepts it has been withdrawn. As far as the Department of Defense or military service is concerned, it is then a private matter between the chaplain and his institution."

Dobes said the military chaplain removed from office has the same means of recourse as any other Catholic person similarly removed.

"When an order priest is involved," said Dobes, "the bishop must inform and consult with the provincial superior of that priest." Doyle's Dominican superior was not contacted by the Archdiocese for the Military Service's head, O'Brien, before he withdrew Doyle's ecclesiastical endorsement.

At issue in Doyle's case was a memorandum Doyle wrote as a canon lawyer to two other chaplains regarding a letter from O'Brien to all military and VA chaplains on "basic expectations for pastoral care of Catholic personnel."

O'Brien listed as essential elements of Catholic chaplain ministry: daily Mass when a chaplain-priest is available, Mass on Sundays and Holy Days, confession at a regularly announced time, supervision of religious instruction material for children, and a Blessed Sacrament chapel.

Doyle's memorandum states in essence that in the canonical sense a military chapel is not a parish, that a Catholic chaplain cannot be a pastor because there is no parish, that Catholic priests are not obligated under the canons to celebrate daily Mass, and that a space for devotion to the Blessed Sacrament, though the devotion is central to Catholic spirituality, cannot be mandated by the archbishop on military bases. That is because military chapels are not under the authority of the Catholics bishops but the Department of Defense and the military service.

Doyle added that "since most bases are located near civilian communities, those members who have a special devotion to the Eucharist" may fulfill it at local parishes. Doyle recommended that Department of Defense and Air Force instructions "concerning religious accommodation be obtained."

A member of the chapel staff at Ramstein Air Force Base, Germany, where Doyle was serving, sent a copy of Doyle's memorandum to O'Brien. The archbishop wrote to Doyle Sept. 17 that he viewed the memorandum as "a basic contradiction of my expectations ... as a result I am informing the Air Force Chief of Chaplain Service that I am withdrawing your endorsement to serve as a priest chaplain, effective immediately."

In February this year, Doyle filed a petition to the Congregation for Consecrated Life requesting "recourse from the administrative decree" issued by O'Brien.

Gomulka's said that in May 2001, he complained to his Navy Chaplain Corps superiors about "discrimination and reprisals" suffered by two female junior grade chaplains at Navy Region Hawaii. In response, said Gomulka, the regional commander accused him of interference in Navy business and threatening to expose Equal Opportunity violations to the media.

In August 2001 one female chaplain submitted a complaint to the inspector general of the Pacific Fleet documenting reprisals against Gomulka for his Equal Opportunity guidelines support.

Later that month, Gomulka's article on sexual abuse and harassment in the Navy chaplain corps appeared in America (Aug. 27, 2001).

Gomulka made several points, including:

That he was "discouraged by the disproportionate number of Catholic chaplains who were committing offenses." Catholic chaplains, he wrote, were 20 percent of the total, but were charged with 50 percent of the serious offenses.

That chaplains who lived alone were more likely to err sexually than those with spouses.

That the continuing decline in the number of priests meant more would be living alone.

In the two years that followed the Gomulka article, The Associated Press twice provided extensive reporting on incidents of sexual abuse in the military chaplaincies.

Gomulka said that in September 2001 he submitted a written complaint to the inspector general regarding the reprisals against him for attempting to assist two junior grade chaplains facing harassment and other reprisals. He also expressed his disappointment to Bishop John Kaising, auxiliary of the Archdiocese for the Military Services, that the archdiocese did not wish to comment on reprisals against him for coming to the defense of the junior chaplains.

Twelve months of letters ensued until a November 2002 meeting with O'Brien and Kaising.

O'Brien recommended that Gomulka seek psychological consultation, the Navy chaplain said. Gomulka, after first agreeing, subsequently asked O'Brien to state his reasons for the recommendation in writing. That letter was not forthcoming.

His own bishop, Bishop Joseph V. Adamec of Altoona-Johnstown, Pa., asked Gomulka if he wished to return to the diocese, having experienced "some difficult times in the military." Gomulka said he replied he did not.

In February 2004, he wrote to Adamec (in an apparent allusion to points raised in the America article), that O'Brien's "failure to exercise moral leadership on the part of brother priests" and O'Brien's nonsupport of Gomulka in the reprisals matter "are moving me to consider taking a leave of absence from the priesthood."

The following month O'Brien withdrew Gomulka's ecclesiastical endorsement to serve as a military chaplain. It was withdrawn on the basis, O'Brien wrote March 26, 2004, that "reliable sources" stated "that you intend to retire from the Navy chaplaincy soon and thereafter attempt to enter into marriage."

On March 31, Gomulka wrote to O'Brien stating he had requested only a leave of absence, that O'Brien had received false information about his intentions, and "that I have no plans to marry at this time." He asked that his revoked endorsement be restored.

On May 19, one of the female chaplains Gomulka had originally defended received a letter from the inspector general's office. It concluded that under the Military Whistleblower Protection Act, under which she'd filed her complaint, "you did receive a downgraded fitness report in reprisal for your protected communication. We also found you were not relieved for cause."

Both Gomulka and Doyle have a record of outstanding commendations from their military superiors.

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