

IN THE
INDIANA COURT OF APPEALS

CASE NO. ~~24A-CP-02208~~ 24A-PL-2439

JAMES DE OREO,)
)
 Appellant,) Appeal from the Boone Circuit Court
)
 v.) Trial Court Case No.: 06C01-2403-PL-386
)
 THEODORE DUDZINSKI and) The Honorable Lori N. Schein
 THE ROMAN CATHOLIC DIOCESE)
 OF LAFAYETTE-IN-INDIANA, INC.,)
)
 Appellees.)

APPELLANT'S BRIEF

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Statement of Issues

Whether the First Amendment to the US Constitution, by either the Church Autonomy Doctrine or the Ministerial Exception, precludes an employee of a Church from pursuing recovery for damages caused by the Church's issuance of a press release to the general public repeating allegations of criminal sexual misconduct that the Church knew to be false at the time of publication?

Statement of the Case

Appellant, James DeOreo, filed his Complaint in the Boone Circuit Court on March 8, 2024, stating claims for Defamation by the Roman Catholic Diocese of Lafayette-in-Indiana, Inc. ("Diocese") and fraud by Fr. Theodore Dudzinski ("Dudzinski") concerning a statement issued by the Diocese and published to several newspaper and media outlets in Central Indiana that DeOreo had been suspended from his position as a priest due to allegations of inappropriate conduct with a minor.

The Diocese and Dudzinski filed their motion to dismiss pursuant to T.R. 12(b)(6) and also asserting Anti-SLAPP claims pursuant to I.C. 34-7-7. Evidence in addition to the Complaint was designated in support of the Anti-SLAPP claim. DeOreo responded and also designated evidence in opposition to the Anti-SLAPP claim. Argument of Counsel was heard by the Boone Circuit Court on August 9, 2024.

On September 12, 2024 the trial court granted the “Motion to Dismiss pursuant to Ind. Trial Rule 12(b)(6),” focusing only on the Defamation claim¹ and noting that the “First Amendment prevents this Court from scrutinizing the possible interpretations of defendants’ statements.” *Order*, App.Vol.2, pp, 8-9. DeOreo elected not to amend the Complaint and filed his Notice of Appeal on September 13, 2024. *DeCola v. Steinhilber*, 207 N.E.3d 440, 447 (Ind.App. 2023).

Statement of Facts

DeOreo, is a Catholic priest employed by the Diocese. Complaint, ¶¶ 1-2, App.Vol.2, p.10. In January, 2021, the Diocese received an allegation against DeOreo that he caused a minor to suffer an eating disorder. *Id.* ¶5. The Diocese investigated the first allegation against DeOreo and found it unsubstantiated and concluded that no abuse had occurred. *Id.* ¶¶6-11. Despite its finding, the Diocese agreed to provide therapy for the accuser but allowed Diocesan employee Dudzinski, who bore significant ill-will against

¹ By the *Order*, the trial court appears to conclude that the Fraud claim is contingent or reliant upon the Defamation claim and, because the trial court concludes it is forbidden from considering the Defamation claim, the Fraud claim is similarly dismissed. DeOreo appeals the dismissal of the Fraud claim and disagrees that the Fraud claim is either contingent or reliant upon the Defamation claim, but asserts it is instead an independent claim supported by allegations of fact in the Complaint. DeOreo appeals the trial court’s dismissal of the Fraud claim as a result of the dismissal of the Defamation claim and, in demonstrating the error in dismissing the Defamation claim, similarly demonstrates the error in dismissing the Fraud claim. To the extent the *Order* is intended to state that the Fraud claim is also and independently “barred by the First Amendment’s church autonomy doctrine and ministerial exception,” DeOreo appeals that decision as entirely unsupported by Indiana law.

DeOreo, to participate in those therapy sessions where he encouraged the accuser to make new false allegations of a sexual nature against DeOreo during therapy sessions. *Id.*, ¶¶12-17. In October, 2021, the accuser made new allegations against DeOreo of criminal sexual misconduct with a minor. *Id.* ¶19. The Diocese investigated the second allegations against DeOreo in October, 2021, found them unsubstantiated and not credible, and has performed no additional investigatory actions since October, 2021. *Id.*, ¶¶22-28, 54. Subsequent to its investigation, and despite the findings thereof, the Diocese issued, but did not publish, a November Decree, stating that it was investigating the second allegation against DeOreo and limited his ministry until that investigation was complete. *Id.* ¶¶31-35. On March 11, 2022, the Diocese suspended DeOreo because of perceived violations of the November Decree, not because of any evidence or finding of sexual misconduct. *Id.* ¶¶41-43. On March 13, 2022, the Diocese issued the “March Statement” to members of the Diocese and publicly to news agencies and others. *Id.* ¶44. The March Statement intentionally and falsely intimated that DeOreo was suspended because of the allegations of sexual misconduct with a minor, and the Diocese knew the March Statement to be inaccurate as published. *Id.* ¶¶46-47. The March Statement further falsely suggests that Diocesan procedures, including those under Canon Law and the Diocesan Code of Conduct had been followed and were ongoing, but those statements were

false and intentionally or knowingly created the impression in the public that criminal charges had been filed or that an independent investigation had substantially established DeOreo's culpability for criminal sexual misconduct. *Id.* ¶¶49-52.

As a result of the publication of the March Statement, several news agencies published news articles claiming that DeOreo had been suspended for inappropriate conduct with a minor and sexual abuse, and that DeOreo "may have other victims" that "might take decades to come forward." *Id.* ¶53.

DeOreo suffered damage as a result of the Diocese's *per se* defamation in maliciously and falsely imputing sexual and criminal misconduct in his priestly office by the March Statement. *Id.* ¶¶57-61.

Summary of Argument

Neither the First Amendment generally, nor the incorporated and adopted autonomy doctrine nor ministerial exception, preclude our courts from considering a claim of defamation made by a priest against his church employer regarding a statement published by the church which the church knew to both be false and to imply criminal sexual misconduct by the priest, which the church also knew to be false.

The First Amendment does not immunize churches from all claims and disputes. Instead, when, as here, the Diocese elects to step into the public square and issue a press release that it knew to be false and defamatory, it is

subject to the same secular consequences as any other actor under our laws. DeOreo's complaint alleges an unequivocal claim of defamation based upon the March Statement, published by the Diocese, which not only repeated an accusation of criminal sexual misconduct against DeOreo which the Diocese knew to be false, but also implied that the Diocese had investigated and found the accusation to be credible, which was also false.

The trial court's reliance on *Snyder* and *Brazauskas* is also misplaced because DeOreo does not request an evaluation of his employment, a reconsideration of termination or suspension, or his fitness as a minister for the Diocese. Instead, his claims are expressly limited to the public press release issued by the Diocese in the March Statement and the damage caused to his public reputation as a result of the accusations repeated in that statement, which the Diocese knew to be false at the time of publication.

DeOreo's claims, albeit between a priest and a Catholic Diocese, do not require the Court to engage in the impermissible scrutiny of doctrinal or church polity issues. DeOreo does not ask the Court to evaluate his standing as a minister or to second guess any theological statements by the Diocese. Instead, he alleges that the Diocese knowingly published a statement to the general public with defamatory imputation which caused DeOreo damages. The defamatory imputation, being an accusation of criminal sexual

misconduct with a minor, is a secular question for which our courts are particularly suited to address.

Accordingly, dismissal is inappropriate under T.R. 12(b)(6) and pursuant to T.R. 8 and should be reversed and this matter should be remanded to the trial court for a trial on the merits.

Argument

I. Standard of Review

“The standard of review on appeal of a trial court's grant of a motion to dismiss for the failure to state a claim is *de novo* and requires no deference to the trial court's decision. The grant or denial of a motion to dismiss turns only on the legal sufficiency of the claim and does not require determinations of fact.” *Bellows v. Bd. of Comm'rs of Cnty. of Elkhart*, 926 N.E.2d 96, 110 (Ind. Ct. App. 2010). “A motion to dismiss under Rule 12(B)(6) tests the legal sufficiency of a complaint: that is, whether the allegations in the complaint establish any set of circumstances under which a plaintiff would be entitled to relief. Thus, while we do not test the sufficiency of the facts alleged with regards to their adequacy to provide recovery, we do test their sufficiency with regards to whether or not they have stated some factual scenario in which a legally actionable injury has occurred. A court should accept as true the facts alleged in the complaint, and should not only consider the pleadings in the light most favorable to the plaintiff, but also draw every reasonable

inference in favor of the non-moving party.” *Trail v. Boys & Girls Clubs of Nw. Indiana*, 845 N.E.2d 130, 134 (Ind. 2006)(internal citations omitted).

“Indiana Trial Rule 8(A), this state's notice pleading provision, requires only “a short and plain statement of the claim showing that the pleader is entitled to relief.” Although the plaintiff need not set out in precise detail the facts upon which the claim is based, she must still plead the operative facts necessary to set forth an actionable claim. Under notice pleading, we review the granting of a motion to dismiss for failure to state a claim under a stringent standard and affirm the trial court's grant of the motion only when it is apparent that the facts alleged in the challenged pleading are incapable of supporting relief under any set of circumstances.” *Trail*, 845 N.E.2d at 135.

II. The First Amendment does not prohibit our Courts from opening their doors to religious organizations.

As Indiana courts have recognized, “the First Amendment to the United States Constitution, applicable to the states through the Fourteenth Amendment, requires civil courts to refrain from interfering in matters of church discipline, faith, practice, and religious law.” *Stewart v. McCray*, 135 N.E.3d 1012, 1027 (Ind.App. 2019)(citations omitted). Generally known as “the autonomy doctrine,” the rule given to our courts is that “civil courts are precluded from resolving disputes involving churches if resolution of the disputes cannot be made without extensive inquiry into religious law and

polity.” *Id.* Our courts have also recognized a particular subset of that doctrine, known as the “ministerial exception.” As described by the US Supreme Court, “[r]equiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, intrudes upon a more than a mere employment decision. Such action interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs.” *Stewart* at 1028 (citing *Hosanna-Tabor Evangelical Lutheran Church & Sch. V. EEOC*, 565 U.S. 171 (2012)).

While the autonomy doctrine and ministerial exception require our courts to give religious organizations a wide berth, the “First Amendment does not provide an absolute freedom to act with regard to religious beliefs,” and “does not prohibit courts from opening their doors to religious organizations.” *Konkle v. Henson*, 672 N.E.2d 450, 455-56 (Ind.App. 1996)(citing to *Cantwell v. Connecticut*, 310 U.S.296 (1940); and, *Presbyterian Church v. Mary Elizabeth Blue Hull Memorial*, 393 U.S. 440 (1969). “Instead, that freedom can be regulated for the protection of society. The protection of society requires that religious organizations be held accountable for injuries they cause to third persons.” *Konkle* at 456. “To hold otherwise would be to extend the protections beyond that included within the First Amendment and cloak churches with an absolute and exclusive immunity for their actions.” *Id.*

A “court can apply neutral principles of law to churches without violating the First Amendment. The First Amendment only prohibits the court from determining underlying questions of religious doctrine and practice.” *Stewart*, 135 N.E.3d at 1026. “[W]hen purely secular conduct is at issue, courts can apply secular standards and hold churches responsible for the effects of their conduct on third parties.” *Brazauskas v. Fort Wayne-S. Bend Diocese, Inc.*, 714 N.E.2d 253, 262 (Ind. Ct. App. 1999)

Accordingly, the inquiry for the Court, at the motion to dismiss stage, is whether DeOreo's Complaint presents a purely religious dispute that requires “extensive inquiry into religious law and polity,” or, if it instead presents a secular dispute involving damages caused by a religious institution as a result of secular actions.

III. DeOreo presents a secular dispute, without religious entanglement

DeOreo concedes that there are numerous aspects of his relationship with the Diocese that would not be subject to review by our courts. Had he requested that the court review a decision by the Diocese that DeOreo violated the Sixth Commandment, that request would have been contrary to the autonomy doctrine and likely outside the court's subject jurisdiction as a result. If DeOreo asked the court to enjoin his suspension from active ministry and permit him to continue his vocation as a priest, the ministerial exception would have precluded the court from wading into those waters. But

the fact that *some* aspects of his relationship with the Diocese are exempt from judicial review does not render *all* aspects out of reach. Indeed, as this Court noted, to remove *every* dispute involving a church from the purview of judicial oversight would “cloak churches with an absolute and exclusive immunity for their actions” far beyond that contemplated by the First Amendment.

DeOreo's Complaint is narrowly tailored to submit only those portions of the dispute with the Diocese which are suitable for judicial review. While the Diocese has claimed that DeOreo may have violated the sixth commandment of the decalogue and has suspended him from active ministry, and while DeOreo vehemently disagrees with each of those decisions and actions, he nonetheless recognizes that those are not suitable for consideration by tribunals operating under Indiana's or the United States Constitution. Instead, they are best left to the practices and procedures set up behind the church walls to handle those disputes of “religious law and polity.” This is set forth expressly in the Complaint:

DeOreo does not request that this Court direct or invade the province of the Diocese to adjudicate its own internal norms and regulations, including Canon Law. DeOreo does not seek this Court's intervention in internal matters of punishment or his relation with the Diocese as a priest, pursuant to the protections and separation of the First Amendment.

Complaint, ¶62, App.Vol.2, p.25.

What DeOreo has submitted for consideration by our Courts are those secular actions by the Diocese which knowingly and intentionally overran the church walls and resulted in secular damage to DeOreo's reputation – publication of the March Statement as a public press release. The Diocese elected to publish the March Statement not merely among DeOreo's supervisors, church officials, or even within the church congregation; actions which might be considered “a communication or coordination among church officials or members” and potentially within church autonomy under *Payne-Elliott v. Roman Catholic Archdiocese of Indianapolis, Inc.* 193 N.E.3d 1009, 1014 (Ind. 2022). Instead, the March Statement was published to the public writ-large, distributed to newspapers and media outlets, and spread as wide as the Diocese could reach – *beyond the church walls*. The publication of the March Statement was an intentionally *secular* act which caused *secular* damage and is best reviewed under *secular* standards applied by our courts. This is set forth in our state constitution: “No law shall be passed, restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever: *but for the abuse of that right, every person shall be responsible.*” Ind. Const. art. I, § 9, emphasis added. The church and its ministers are not immunized from the laws of this State merely because they cloak their abusive speech in religious terms.

A similar situation was considered by the Iowa Supreme Court in *Kliebenstein v. Iowa Conference of United Methodist Church*, 663 N.W.2d 404 (2003). In that case a letter using the phrase “spirit of Satan” to describe the plaintiff was signed by church officials and mailed to fellow church members and others in the community. Initially, the trial court determined that the phrase was a purely ecclesiastical term and that the First Amendment prevented a court from adjudicating the impact of this statement in the context of a civil defamation suit. On appeal, however, the Iowa Supreme Court first noted that the fact that the letter about the plaintiff was published outside the congregation “weaken[ed] th[e] ecclesiastical shield.” *Id.* at 407. Then, relying on dictionary definitions, the court determined that the phrase “spirit of Satan” has meaning in a secular context and that the defamation claim should not have been dismissed on First Amendment grounds. *Id.*

Indiana’s constitution provides an even more direct statement to this situation than the general prohibition against abusive speech in §9: an affirmative right to Indiana Citizens to defend their reputation: “All courts shall be open; and every person, for injury done to him in his person, property, *or reputation*, shall have remedy by due course of law.” Ind. Const. art. I, § 12, emphasis added. Thus, in effectively immunizing the Church from claims regarding secular and public statements alleging criminal behavior,

the trial court's dismissal also operates to extinguish DeOreo's right of recourse to our Courts to defend his reputation which has been slandered in the public square.

In the present matter, although the March Statement was issued by a religious organization, it was widely published, with an intended audience of the general public, not merely church members. As this court noted in *Brasauskas*, "the communication must be viewed in context and given its plain and natural meaning, according to the idea it is calculated to convey to whom it is addressed. 714 N.E.2d at 262. In light of the audience, the message, particularly the false accusation of "inappropriate conduct with a minor" had an intended, secular, and defamatory imputation which can be determined without wading into questions of religious doctrine and practice.

Similar to the conclusion in *Konkle*, "review of [the] claims does not require any inquiry into religious doctrine or practice. [The Diocese's] actions were not religiously motivated... The court is simply applying secular standards to secular conduct which is permissible under First Amendment Standards." *Id.* at 456. Applying those secular standards, particularly under the umbrella of our State Constitution, dismissal of these claims acts to immunize the Diocese from public, secular defamatory speech, and abrogates DeOreo's guaranteed right to defend his reputation against such abuses. As a result, the dismissal of the Complaint was error and should be reversed.

IV. A determination of defamation does not require the Court to determine any religious questions.

As set forth in the Complaint, the March Statement published by the Diocese is false and defamatory for several, secular reasons – each of which must be taken as true and considered in the light most favorable to survival of DeOreo's claims at this stage of the proceedings. *Trail*, 845 N.E.2d at 134.

- Despite two prior investigations that determined the accusations against DeOreo were not credible and were not substantiated, the Diocese issued the March statement which “intentionally intimates that DeOreo was suspended because the Diocese received allegations of inappropriate conduct with a minor and further intimates such inappropriate conduct was sexually abusive.” *Complaint*, ¶46, App. Vol. 2, p.20;
- DeOreo was suspended because the Diocese believed that he had violated the earlier November Decree – an act of insubordination – not because the Diocese either received or believed the accusations of sexual misconduct or abuse. By the March Statement, contrary to the actual reasons for his suspension, the Diocese knowingly or intentionally claimed that DeOreo was suspended for either the accusation or conclusion of sexual misconduct with a minor. *Id.*, ¶47, p. 20;

- The March Statement claims that certain protocols and procedures under Catholic Canon Law had been followed when they had not, thus intentionally creating the false impression that a quasi-judicial investigation had occurred and that DeOreo had been found culpable for sexual misconduct or abuse. *Id.*, ¶49-50, pp. 21-22;
- Certain Catholic Church policies were adopted and published by the Church to recapture public trust following the sex abuse scandals. By publishing DeOreo's name and ordination date in the March Statement, the Diocese intentionally created a false impression pursuant to these published policies that either criminal charges were pending against DeOreo or that an independent investigation had established culpability. *Id.*, ¶53, pp. 22-23;

The falsity of the March Statement in each of the above ways does not require a determination of underlying questions of religious doctrine or practice:

- Whether the Diocese elected to publish the March Statement and to repeat the accusations of inappropriate conduct with a minor when its own investigation determined that those accusations were not credible and not substantiated is a question of fact, not of religious doctrine. DeOreo does not ask the Court to evaluate the investigation performed by the Diocese or the Canon Law precepts

that grants the Bishop ecclesial authority to perform the investigation. Instead, the Court is asked whether the Diocese, knowing that its own investigation revealed the accusation to be false, defamed DeOreo when it nonetheless repeated that accusation “without belief or grounds for belief in its truth.” *Kelley v. Tanoos*, 865 N.E.2d 593, 601 (Ind. 2007). Thus, this statement could be defamatory without any question of religious doctrine or practice.

- Whether DeOreo was suspended because of insubordination and not because of the unsubstantiated allegations the Diocese received five months earlier is a question of fact, not of religious doctrine. DeOreo has not asked the Court to consider whether he *should* have been suspended, nor even if he had actually violated the November Decree or was insubordinate (although he believes he had not and was not) – instead, the question presented is whether the March Statement truthfully recounts the reason *why* he was suspended.
- With regard to Canon Law or Church policies, the Court is not asked to evaluate these policies or to assign fault because the Diocese failed to follow these internal procedures. Instead, these policies and procedures, which are similarly published and publicly available, dictate that a clergyman's name is publicized only when criminal behavior is confirmed. It is alleged and must be taken as

true, that the Diocese knowingly failed to follow these procedures. The Diocesan decision to nevertheless knowingly and falsely associate these procedures in the March Statement suggested, by reference, “that either criminal charges had been filed or that an independent investigation had substantially established culpability, when the Diocese knew neither of these to be true or even likely.” *Complaint*, ¶52, App. Vol. 2 p. 23. A communication that imputes criminal conduct is defamation *per se*. *Tanoos*, 865 N.E.2d at 596. As in *Kliebenstein*, even though the March Statement included these religious policies, the Statement was published to the general public and the defamatory imputation can be understood even from a purely secular context. Thus, the March Statement, in its reliance upon religious texts to create the implication of *secular* criminal activity, is defamatory without entangling the Court in the underlying religious texts.

It is undisputed that there are religious aspects to the relationship between DeOreo and the Diocese. It is even undisputed that there are aspects of the general dispute between the two that have overt reference and reliance on religious doctrine and practice, not the least of which is DeOreo's continued vocation as a priest. But the existence of religious aspects or questions does not override the maxim that the First Amendment does not

prohibit courts from opening their doors to religious organizations.

Presbyterian Church, 393 U.S. at 449. And, DeOreo does not ask for the Court to ignore or sidestep the protections of the First Amendment, the autonomy doctrine, or ministerial exception.

Instead, DeOreo's claims are based solely upon the damage to his reputation wrought by the false, published March Statement regarding the reasons for his suspension, the intimation that the Diocese believed the new allegations of sexual abuse and that DeOreo had been suspended for physical contact and misconduct with a minor, and the incorrect and false reference to Canon Law in that statement which, as a common source of information for many Catholics, furthered the false imputation created by the March Statement and known by the Diocese to be false.

Complaint, ¶63, App.Vol.2, p. 25.

In so limiting his claim, DeOreo has also limited the need for the Court to “scrutinize the possible interpretations of the defendants’ statements” – a ‘forbidden’ role of the Court as explained in *Indiana Area Found. of United Methodist Church, Inc. v. Snyder*, 953 N.E.2d 1174, 1180 (Ind. Ct. App. 2011). That matter, referenced by the trial court in dismissing this matter, involved an employment dispute between a minister and his employer church. In citing to the case, however, the trial court fails to note that the *Snyder* court did not seek to forbid *all* scrutiny of statements made by religious organizations – only those regarding “reasons for terminating a pastoral employee in ostensibly ecclesiastical terms.” *Id.* Indeed, the *Snyder*

court repeated the important boundaries on First Amendment privileges extended to churches:

The First Amendment does not immunize every legal claim against a religious institution and its members. The analysis in each case is fact-sensitive and claim specific, requiring an assessment of every issue raised in terms of doctrinal and administrative intrusion and entanglement.'

953 N.E.2d at 1178. DeOreo does not ask this court to scrutinize the reasons given by the Diocese for compliance with underlying religious doctrine or assert that the theology of the March Statement is flawed, or overrule his suspension as priest or evaluate his employment relationship with the Diocese in any way. Instead, he alleges that the March Statement is merely a malicious lie. And DeOreo alleges that the March Statement was not a statement of reasons for his termination, couched in ostensibly ecclesiastical terms, but instead a retaliatory press release to the general public that was intended to be understood in purely secular terms as an indictment of DeOreo's reputation and character.

It is not that DeOreo objects to the reasons given for his suspension, it is that the reasons set forth in the March Statement are both false (in conflict with the actual reason given by his employer) and damaging (an untrue imputation of criminal behavior).

It is not that DeOreo posits a different interpretation of the Sixth Commandment and disagrees with the Bishops' interpretation of that

religious text, it is that the Diocese knew and confirmed by its own investigation that the accusations were false, and, despite this knowledge, elected to repeat those false accusations not only to the congregation, but also to publish them to news outlets across the State.

It is not that DeOreo disagrees with the outcome of an internal church tribunal and seeks appeal to our secular courts, but instead that his employer has admitted that it has at least 'paused' that investigation, has "not been able to substantiate the allegations" (App.Vol.2, p.90) has failed to follow any published protocols or procedures, and yet published a statement that imputes a nearly complete investigation resulting in a finding of criminal conduct.

Unlike the questions before this Court in *Snyder* or *Brazuaskas*, DeOreo does not object to his employer publishing their opinion that he is a bad minister. Instead, DeOreo's complaint is that his employer, the Diocese of Lafayette-in-Indiana knowingly published a false accusation that he was a child molester. The First Amendment does not and should not immunize the Diocese from the damage caused to DeOreo's reputation by that false, malicious, and defamatory statement.

Conclusion

Reviewed *de novo*, accepting as true the facts alleged in the complaint, considering the pleadings in the light most favorable to DeOreo, and drawing

every reasonable inference in favor of DeOreo, it is clear that the Complaint states a cognizable claim for defamation against the Diocese. Based on those allegations and inferences, the Complaint asserts (1) a communication with defamatory imputation; (2) malice; (3) publication; and (4) damages. *Tanoos*, 865 N.E.2d at 597.

That claim does not require the Court to delve into religious doctrine or become entangled in church polity. It requires only a determination of the knowledge of the Diocesan officials and the falsity of the March Statement issued as a press release to news agencies. The Court is asked to “simply apply[] secular standards to secular conduct which is permissible under First Amendment standards.” *Konkle* at 456.

As a properly framed, secular allegation of defamation, the trial court erred in dismissing this matter and holding that the First Amendment precludes consideration of this claim. DeOreo requests that this Court reverse the order of dismissal and remand the matter to the trial court for a trial on the merits.

Word Count Certificate

I verify that this brief contains no more than 14,000 words.

/s/Michael L. Einterz, Jr.

Certificate of Service

I certify that the foregoing Appellant's Brief was filed this 27th Day of September, 2024 and served upon the following via the IEFS in accordance with Appellate Rule 24:

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