

## STIPULATION OF TESTIMONY

Robert W. Finn, and the State of Missouri, hereby stipulate that the following evidence would be adduced through witnesses who would be called to testify at trial:

1. The Catholic Diocese of Kansas City – St. Joseph (hereafter Diocese) is a benevolent corporation organized under the laws of the State of Missouri. At all times relevant to this case it was a corporation in good standing with the State of Missouri. The headquarters for the Diocese has been located in Kansas City, Jackson County, Missouri at all times relevant to this case.

2. Robert Finn is a priest of the Roman Catholic Church. In 2005, he became the Bishop of the Diocese and as such is the head priest and the head of the Diocese. Finn is the ultimate authority at the Diocese and all employees of the Diocese report to him. Finn is a mandated reporter.

3. Finn acknowledges that both the "Code of Ethical Standards for Priests, Pastoral Administrators, Deacons and Diocesan Officers" and the Diocesan "Policy regarding Sexual Misconduct" require that all church leaders follow proper reporting requirements of suspected abuse of children under Missouri law as well as reporting to the Vicar General and to the appropriate Diocesan office responsible for the ministry of the alleged abuser.

4. Robert Murphy is a priest of the Roman Catholic Church and an employee of the Diocese. In 2005, Robert Murphy was appointed by Finn to the position of Vicar General and given the title of Monsignor. Murphy is a mandated reporter.

5. On February 21, 2007, Finn drafted "Blessed Are the Pure in Heart – A Pastoral Letter on the Dignity of the Human Person and the Dangers of Pornography."

6. On August 21, 2008, Finn signed a Settlement Agreement and Memorandum of Understanding. The Settlement Agreement and Memorandum of Understanding includes Non-Monetary Commitments, including "the Diocese will continue to follow mandatory state reporting requirements in Virtus guidelines in reporting the suspected sexual abuse of minors to law enforcement to child protection authorities."

7. On May 19, 2010, Julie Hess, Principal of St. Patrick's School, drafted a memo to be presented to Murphy outlining concerns expressed by parents and staff of St. Patrick's School regarding "boundary issues" between Ratigan and children. Hess notified Murphy of her concerns because "[p]arents, staff members, and parishioners are discussing his actions and whether or not he may be a child molester. They have researched pedophilia on the Internet and brought in sample articles with examples of how Father Shawn's actions fit the profile of a child predator." Hess

believed that Ratigan's behavior was nothing more than boundary violations at that point.

8. The concerns were grouped into three categories: inappropriate physical contact, general inappropriate behavior and general concerns.

a. Hess refers to several instances of physical contact between Ratigan and children which violate the "Circle of Grace" boundaries which children are taught.

b. Hess discussed with Ratigan the teacher's safety training and teaching physical boundaries, including "Circle of Grace" to children, but Ratigan interrupted saying "little children need to be touched and hugged, and even though "they" advised against it, he felt it was the right thing for kids. He said he would never hurt a child and all he wants to do is help them get to heaven."

c. Hess cited other examples of concerns: attempts to "friend" an eighth grade student on Facebook, posting photographs of children on Facebook, taking hundreds of photographs of the children, an inappropriate peer to peer type relationship with a 5<sup>th</sup> grade girl, age inappropriate conversations with children. The inside of his home appeared very "kid-friendly" (stuffed animals, and hand towels shaped to look like doll clothes), the discovery of a pair of girl's panties inside a planter in his backyard.

9. On May 19, 2010, Murphy met with Hess, was made aware of the boundary concerns.

10. Murphy informed Finn that Hess had concerns regarding boundaries. Finn testified that in May, 2010, Murphy spoke with him about Hess' concerns. Finn indicated that he perceived them as "boundary issues."

11. Finn testified that he followed up on the issue with Ratigan in approximately June, 2010. During that conversation he told Ratigan "[w]e have to take this seriously."

12. On October 27, 2010, Murphy wrote a letter to be included in Ratigan's personnel file titled 'Re: The Attached "Concerns" regarding Fr. Shawn Ratigan.' The letter acknowledged receipt of the Hess memo and that the contents of the memo were discussed by Murphy with Ratigan.

13. On December 16, 2010, Ken Kes, a computer technician contracted by St. Patrick's Parish, examined a laptop owned by Ratigan due to his complaints of sluggish performance. Kes observed alarming pictures of children on this laptop, including a close up photograph of a little girl's naked vagina. He took the computer back to St. Patrick's Parish and showed the photograph to the Deacon of St.

Patrick's Parish, Michael Lewis. Lewis described Kes as being so upset that his hands were shaking to the point he couldn't open the laptop.

14. On December 16, 2010, after being shown the photograph of the little girl's naked vagina, Lewis called Murphy and then immediately took the laptop to the Chancery in Kansas City, Jackson County, Missouri.

15. Upon arrival at the Chancery Lewis turned the laptop over to Murphy and an IT person, later identified as Julie Creech.

16. Prior to receiving the laptop or viewing any photographs Murphy contacted Rick Smith, a Captain with the Kansas City Police Department (KCPD) as well as a member of the Diocese Independent Review Board. Murphy inquired if a single photograph of a naked child in a non-sexual pose constituted child pornography. After consulting another KCPD officer, Sgt. Hicks, Capt. Smith informed Murphy that a single photo as described was not likely considered child pornography.

17. On December 16, 2010, Sgt. Hicks of the Kansas City Police Department recalls telling Smith that in order to determine the appropriateness of a picture, a number of factors should be considered, including the nature of the image, information about the person taking the picture, and whether there are other photographs involved, but none of this information was communicated to the Diocese. Hicks does not recall telling Capt. Smith that a single image of a naked child would not be investigated or prosecuted as child pornography, but rather indicated the totality of circumstances would dictate how to respond to the image.

18. Julie Creech, the Director of Information Technology for the Diocese, examined the laptop on December 16 and 17, 2010. During her examination she found hundreds of photographs characterized as up-skirt photographs or photographs focused on little girls' crotches. Many of the photographs appear to be taken while little girls were crawling on playground equipment, under tables or in one case while a little girl was asleep with her hand and pajama bottoms appearing staged in a sexually suggestive manner. Many of the photographs were close ups of only the child's crotch/panties, with no visible facial features.

19. On December 16, 2010, Creech observed eight photographs focusing on a little girl's vaginal area with the panties being moved further aside in each photograph, with the final photograph depicting a naked vagina. Also discovered in this location was a photograph of a child's bare bottom and a photograph of a little girl. Creech made the assumption that the vaginal photographs and the photograph of the bottom were of the same girl.

20. Creech notified Murphy of what she found, specifically telling him of a photograph of the "clitoral region" of a little girl. Creech advised Murphy to call the police.

21. At Murphy's request she printed off hard copies of the most concerning photographs, as well as a variety of photographs illustrating the type of situations photographed, such as children at play. The hard copies of the photographs, a written report describing the nature of the photographs, and a flash drive containing a copy of what was found were all provided to Murphy on December 17, 2010.

22. The Creech report noted that only four or five of the hundreds of photographs appeared to be downloaded, the rest appeared to have been taken with a personal camera.

23. On December 17, 2010, Ratigan attempted suicide. On that same day, Murphy told Finn of the attempted suicide and the photographs found on Ratigan's computer.

24. Finn recalled being told that Ratigan left messages to his family saying "I am sorry for the harm caused to the children or you."

25. Murphy recalled describing the nature and content of the photographs to Finn. Finn recalled being told by Murphy there were a couple of similar images where the face was not visible. It was an infant female maybe 2 - 4 years old, naked, with the focus on the genitalia.

26. No later than December 20, 2010, the laptop, flash drive with the saved images, Creech's written report and hard copies of the photographs were turned over to Jon Haden, an attorney, who represents the Diocese.

27. Haden indicated he did not view any of the images on the flash drive or the computer, but read the report and viewed hard copies of the photographs.

28. Haden informed the Diocese that it was his legal opinion the images were not child pornography.

29. No further examination of the computer or its contents was conducted by Haden. The laptop, flash drive, report and hard copies of the photographs were then stored at Haden's law office.

30. No effort was made by any employee or agent of the Diocese to determine the identity of the children depicted in the hundreds of photographs.

31. Finn was provided Haden's opinion by Murphy. Finn also understood from Murphy that Smith had been shown the photographs and indicated they were not child pornography.

32. Rebecca Summers, Director of Communication for the Diocese, spoke with Murphy and Haden. Summers told Murphy to call the police.

33. Upon receipt of the Creech Memorandum, Murphy did not re-contact Smith to inform him of the nature and scope of the images discovered on Ratigan's laptop. Murphy did not contact Smith again regarding this issue until May 11, 2011.

34. While Ratigan was in the hospital Murphy asked if he had any sexual contact with children or any images of children involved in sexual acts on the computer. Ratigan said no. Murphy advised Bishop Finn of his conversation with Ratigan.

35. In December, 2010 members of the executive staff (Finn, Summers, Moss, and Msgr. Brad Offutt, Diocesan Chancellor) were under the impression that Murphy had actually shown the Ratigan computer images to Smith.

36. On December 29, 2010, Finn sent an email to Rick Fitzgibbons, a psychiatrist in Pennsylvania, to arrange evaluation of Ratigan. Fitzgibbons was specifically chosen by Finn. That email provided basic biographical information regarding Ratigan including age, ordination date, and family contact information. The email was signed "+Bishop Finn."

37. On January 4, 2011, Finn received an email from Fitzgibbons indicating he recommended "Fr. R" for an evaluation next Monday or Tuesday. Fitzgibbons is hopeful he can address Ratigan's "severe loneliness that has caused this problem." The email is acknowledged by Finn in a reply email on the same date. The email is signed "+Bishop Finn."

38. On January 10, 2011, a copy of the Hess report is faxed to Fitzgibbons. The fax cover sheet indicates the fax is from Bishop Finn. The comment section reads "CONFIDENTIAL This is the file on incidents involving Fr. Shawn Ratigan last year. Thanks, +Bishop Finn."

39. On January 10, 2011, at 4:23 p.m., Finn receives an email from Fitzgibbons. The email references accusations made by the school principal stating, "[t]hen, in our preliminary opinion, the school principal may have orchestrated false accusations against him." Fitzgibbons went on to say he has seen a number of other younger priests across the country mistreated in a similar fashion by members of other parishes and schools.

40. Finn testified the report he received from Fitzgibbons said Ratigan was not a risk to children. Ratigan thereafter received treatment via phone conferences with Fitzgibbons or his associates.

41. Following his return from Pennsylvania, Ratigan was assigned to live at the Vincentian House in Independence, Missouri and to say daily mass for the Franciscan Sisters. The Sisters also run the Franciscan Prayer Center which is used by many Catholic Schools for retreats. Ratigan was allowed to say mass for the youth or student groups at the Franciscan Prayer Center, though he was not to participate in individual or group sessions.

42. On January 18, 2011, Summers sent an email to Murphy that Ratigan was communicating with children on his Facebook page. Murphy replied to the email on the same day indicating he had left a message instructing Ratigan to stop his Facebook usage.

43. On January 19, 2011, Finn sent an email to Fitzgibbons. Finn indicates that he has been informed that Ratigan has been using his Facebook page to communicate with young people. Finn also indicates that Murphy attempted to reach Ratigan and ask him to refrain from these social media. The email is signed "+Bishop Finn."

44. On February 7, 2011, Finn signed and dated as received a letter from Ratigan. The letter was placed in Ratigan's personnel file. The letter is addressed "Dear Bishop Finn." The first sentence of the letter is "I am going to give you a brief summary of how I got to where I am with my addiction to pornography and than (sic) go into the restrictions I will have on my ministry."

45. On February 9, 2011, Finn sent an email to Ratigan. The subject of the email is "Draft Restrictions Fr. SR." There is an attachment titled "Ratigan Shawn agreement.doc." The email is signed "+Bishop Finn." The attachment is a letter to Ratigan dated February 10, 2011. The letter indicates Ratigan will be assigned as chaplain to the Franciscan Sisters of the Holy Eucharist in Independence and spells out seven restrictions that will be placed on Ratigan.

46. Finn placed seven restrictions on Ratigan as set out in a letter dated February 10, 2011. The letter includes the signatures of Finn and Ratigan. The signatures are dated February 10, 2011. The restrictions included:

1. Fr. Ratigan will continue to work with a counselor to support his determination to faithfully live chastity (sic).
2. Fr. Ratigan will establish and keep contact with a spiritual director.
3. Fr. Ratigan will not do any priestly ministry beyond the Franciscan Sisters in Independence without a written agreement from the Bishop or his designate.
4. Fr. Ratigan will be allowed to participate in priest gatherings, and to concelebrate at these.
5. Fr. Ratigan will avoid all contact with children. On a preliminary "trial" basis, Fr. Ratigan may celebrate Holy Mass for youth or student groups at Franciscan Prayer Center in Independence, if requested, but he will not participate in individual or group sessions with minors.
6. Fr. Ratigan will not use any computer until or unless there is a valid

provision for oversight, e.g. Covenant Eyes, etc.

7. Fr. Ratigan will use a camera only in limited circumstances. No photos of children should be taken.

47. The restrictions placed on Ratigan by Finn were not distributed to the Catholic community at-large. Because Finn trusted Ratigan to comply with the restrictions, no provisions were put in place to monitor compliance with the restrictions.

48. On March 28, 2011, Murphy was informed in an email from Lewis that Ratigan had been in active communication with St. Patrick's parish families. Specifically, he had attended the Snake Saturday parade, and attended a birthday party for a 6<sup>th</sup> grade girl. Additionally Murphy was informed that Ratigan was telling parish families that the reason he had to leave St. Patrick's was because the school principal was "out to get him." These concerns were forwarded to Finn on March 31, 2011.

49. On March 31, 2011, Finn forwarded the email referenced above to Fitzgibbons with his own comments. In his comments to Fitzgibbons, Finn states "[a]lso I am quite concerned about him attending the six grade girls' party (see below). I think this is clearly an area of vulnerability for Fr. S. I will have to tell him he must not attend these children's gatherings, even if there are parents present. I had been very clear about this with him already." The email is signed "+Bishop Finn."

50. On April 8, 2011, Msgr. Bradley Offutt, the Chancellor of the Diocese, sent an email to Finn regarding Ratigan. Offutt expressed concern that "Father Ratigan's attendance at a young girl's party and alleged participation on Facebook sites...is an alarming occurrence." Offutt suggested "plainly something needs to be done to limit diocesan liability and protect children." Offutt further stated that "his recent behavior relative to children and on the computer are a flag of the reddest color."

51. Finn responded by email to Offutt on the same day. Finn indicated in his email response that Ratigan had been told to have "zero contact with kids." Fitzgibbons was also notified of Ratigan's behavior.

52. In early May, 2011, Finn was also notified by Murphy that one of the priests living at the Vincentian House was concerned that Ratigan had been using the guest computer at the residence. Finn told Murphy that if the priests were concerned they should have the computer examined.

53. No further action was taken regarding any violations of the restrictions.

54. On May 11, 2011, Murphy reported the existence of the hundreds of photographs on Ratigan's computer to Smith of the Kansas City Police Department.

55. Murphy acknowledged to Smith that he was aware that the hundreds of photographs of little girls were originally discovered back in December, 2010 but failed to notify Smith of this fact at the time.

56. Smith immediately asked for the laptop to be taken into custody, but was informed Jon Haden had custody of computer.

57. On May 12, 2011, Smith arranged for the evidence to be turned over to the police. The evidence did not include Ratigan's laptop since the Diocese had returned it to the Ratigan family months earlier. The family subsequently destroyed the laptop due to concerns it contained adult pornographic images.

58. On May 13, 2011, KCPD received a CD from Jon Haden which contained the images found on Ratigan's laptop.

59. On May 16, 2011, Det. McGuire of the Kansas City Police Department was able to identify one of Ratigan's victims from the CD received from Haden.

60. On May 18, 2011, Ratigan was arrested for possession of child pornography charges in Clay County, Missouri.

61. Murphy testified the reason he reported this incident to police was, "I was expecting that some of the professionals involved here would give us some direction with regard to Father Ratigan, and it wasn't happening. I didn't hear anything from the law firm about going over the computer, which I had asked. The report from the psychiatrist that Bishop Finn sent Father Ratigan to, I had misgivings about this doctor, and I had real misgivings about his diagnosis. And I thought what if Father Ratigan is a pedophile? What if these pictures are more than downloads? . . . . There was the piece that he was breaking the restrictions that Bishop Finn had put on him when he was living out at the Vincentian House. I began to think what if these are not pictures and these are children that he is preying on, which just horrified me. And the fact that we weren't getting any action. I thought this is just moving along with no direction, and I thought I have got to do something."

62. Murphy stated that Finn was out of town when he reported to the police and was "upset" upon learning of his actions. "It seemed he was angry." When asked if he was concerned that he might be angering his boss Murphy stated, "Yes. I told my sister, I think I made a decision that will not make the Bishop happy." Murphy further testified that defendant Finn told him he should have followed their attorney's advice.

63. Finn said he may have talked loudly because he had a loud voice. But he remembered Murphy looking crushed and did not think it was heated. Finn said he understood Murphy had shown the images to Smith in December 2010.



64. On or about May 20, 2011, at an executive staff meeting attended by Finn, Murphy, Vice-Chancellor Paula Moss, Summers, and Offutt, Murphy revealed that he had not, in fact, shown any images to Smith.

65. Creech contacted Finn after Ratigan's arrest to find out what had happened to cause Murphy to contact the police. Creech testified that Finn "was a little frustrated that he had called at this point. And I [Creech] asked why, and he [Finn] said because the priest wouldn't get the help he needs if he were in prison. And he [Finn] did explain that they had provided psychiatric help for this priest and sent him somewhere for some help."

66. Finn testified during the Grand Jury investigation that the issue of a mandated report to Children's Division never came up in any conversation.

67. Following the arrest of Ratigan, Finn met with priests of the Diocese. When asked why Ratigan was not removed earlier, Finn replied that he "wanted to save Fr. Ratigan's priesthood" and was told that Ratigan's problem was only pornography."

68. Finn testified that "in this instance our system got kind of locked up."

69. Neither Murphy, Finn, nor any other mandatory reporter affiliated with the Diocese, contacted or reported concerns to the Children's Division about the events in this document.