No. 20-0127
In the Supreme Court of Texas

IN RE DIOCESE OF LUBBOCK,

RELATOR.

On Petition for Review from Cause Nos. 07-19-00280-CV & 07-19-00307-CV
in the Seventh Court of Appeals, Amarillo, Texas

Brief of *Amicus Curiae* CHILD USA

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TABLE OF CONTENTS

INDEX OF AUTHORITIES

Cases

Statutes

Other Authorities

INTEREST OF AMICUS CURIAE

CHILD USA is the leading national nonprofit think tank working to end child abuse and neglect in the United States. CHILD USA pairs the best social science research with the most sophisticated legal analysis to determine the most effective public policies to end child abuse and neglect. CHILD USA produces the evidence-based solutions and information needed by courts, policymakers, organizations, the media, and society as a whole to increase child protection and the common good.[1]

[1] No fee was or will be paid for the preparation of this brief. Tex. R. App. P. 11(c).

INTRODUCTION

Through a press release and outreach to the media, the Diocese of Lubbock sought to draw public attention to its efforts to atone for the child sexual abuse scandal that has rocked the Catholic Church. Those efforts included publicizing a list of clergy credibly accused of sexually abusing a "minor." Among the names the Diocese placed on the list was Respondent Jesus Guerrero's. He was included, however, not because he had been accused of sexually abusing a child, but because he had been accused of abusing an adult woman (which he denies). But any ordinary member of the public would have understood the Diocese to be accusing Mr. Guerrero of exploiting a child, so he sued for defamation.

In response to this straightforward defamation claim, the Diocese has invoked a series of religious motivations as defenses. It claims that its public announcements resulted from compliance with a religious directive set forth in its *Charter for the Protection of Children and Young People*; that it subjectively intended to refer to the Catholic definition of "minor," which includes adults incapable of reason; and that it intended its message to reach "lay Catholics" in the church. Pet. at 10, 16, 18-19.

But these religious justifications, however true, do not preclude Mr. Guerrero's claim. The First Amendment offers no protection for defamatory statements, even when religiously motivated, if those statements are published to the general public and a person of ordinary intelligence would not understand them to carry religious meaning. The Diocese's argument, at its core, asks this Court to disregard this rule.

And as support, the Diocese invokes a vague but expansive notion of "religious autonomy" that would smuggle in immunity for religiously motivated conduct that the U.S. Supreme Court has consistently explained the First Amendment does not provide.

Amicus submits this brief to explain the consequences that the Diocese's position would have for victims of abuse. The freedom to defame that the Diocese asks this Court to confer on religious actors would provide abusers with a powerful tool to silence victims, who often fear not only for themselves, but also for the reputations of their families when considering whether to come forward. And the Diocese's theory of religious autonomy would have even broader consequences, as it would enable abusers to exploit religious freedom to escape liability not just for silencing their victims but for the abuse in the first instance as well.

Amicus strongly condemns the conduct of which Mr. Guerrero has been accused. But the wrong that he allegedly committed does not justify a departure from well-established First Amendment principles and the harm to future victims that would follow.

ARGUMENT

I. Immunity for the Diocese Has No Basis in the First Amendment and Would Enable Abusers to Suppress Reporting

A. The First Amendment does not protect the Diocese's statements

The First Amendment provides robust protection against defamation liability for religious actors. A religious speaker is generally immune from liability if he publishes a statement about a religious leader or fellow parishioner to others in the religious community or if the allegedly defamatory statement, no matter where published, is understood by a person of ordinary intelligence as having a religious meaning. Only if both of those elements are absent can liability attach.

The first of these principles—that internal publication is privileged—recognizes that, to function, a religious institution needs some breathing space to discuss the qualifications of its leadership and members without fear of liability. Indeed, to foster such open discussion among those with a common interest, tort law independently provides a qualified privilege for false statements made in good faith by not just members of religious groups but also those of other organizations. Restatement (Second) of Torts § 596 cmt. e (recognizing a common interest privilege for "religious, fraternal, charitable or other non-profit associations . . . concerning the qualifications of the officers and members and their participation in the activities of the society"). The First Amendment, some courts have held, goes even further. In view of the special place of religious liberty under the Constitution, these courts have

extended this qualified privilege to a virtually absolute privilege—such that even knowledge of falsity would not create liability—for statements made within a religious institution and concerning its internal affairs or discipline. *See, e.g.*, *In re Godwin*, 293 S.W.3d 742, 749 (Tex. App. 2009). *But see Banks v. St. Matthew Baptist Church*, 406 S.C. 156, 161 (2013).[2]

The second principle—that a term that also has a religious meaning cannot form the basis of a defamation claim—reflects that, in the United States, "[t]he law knows no heresy, and is committed to the support of no dogma, the establishment of no sect." *Watson v. Jones*, 80 U.S. 679, 728 (1871). A preliminary step in any defamation claim is ascertaining what the speaker communicated, but if doing so necessitates deciding the meaning of a religious term—for example, when a court must first determine what "Jewish burial customs" are to understand if an assertion was false, *see, e.g.*, *Mammon v. SCI Funeral Servs. of Fla. Inc.*, 193 So. 3d 980, 986 (Fla. Dist. Ct. App. 2016)—a court will dismiss under the First Amendment to avoid opining on "the truth or verity of [a person's] religious doctrines or beliefs." *United States v. Ballard*, 322 U.S. 78, 86 (1944). This avoids the strife created when the government places its "official stamp of approval" on one view of a religious matter. *Engel v. Vitale*, 370 U.S. 421, 429 (1962).

[2] Even those courts that have suggested the privilege should be near absolute have balked at extending immunity to knowingly false accusations of child sexual abuse. *See In re Godwin*, 293 S.W.3d at 749; *Pfeil v. St. Matthews Evangelical Lutheran Church of Unaltered Augsburg Confession of Worthington*, 877 N.W.2d 528, 540 (Minn. 2016).

This case implicates neither principle. The Diocese's communications were not confined to the church community. And complete freedom when communicating with the general public has never been recognized as—and logically is not—necessary for religious institutions to manage their internal membership and leadership. Rather, as Mr. Guerrero observes, numerous courts have held religious actors liable for defamatory statements published to the general public. *See* Respondents Br. 4, 11.

The Diocese's assertion to the contrary—that no case "lets the breadth of a statement's publication . . . chill the application of church laws," Pet. 17-18—is misleading. The cases the Diocese cites involved statements reaching members of the public because those people voluntarily attended church services or meetings. *See In re Godwin*, 293 S.W.3d at 746; *Bryce v. Episcopal Church in Diocese of Colorado*, 289 F.3d 648, 658 (10th Cir. 2002).[3] There is a vast difference between these cases' refusal to allow members of the public to remove the First Amendment's protections by inserting themselves into religious meetings—functionally, a heckler's veto—and the Diocese's assertion that its right to manage "*internal* affairs" extends to its conduct shaping *public* opinion.

This case likewise does not implicate the second principle, that is, defamation claims cannot be based on terms that also have religious meaning. To be sure, the

[3] The other cases the Diocese cites reflect its assertion that courts may not "sit in judgment of religious doctrine." Pet. 17. That is correct, but only as a consequence of the second principle discussed above.

First Amendment precludes Texas courts from deciding what "minor" means under Catholic doctrine. Mr. Guerrero's claim, however, does not present that issue. He asserts that, as a factual matter, "a person of ordinary intelligence," *Turner v. KTRK Television, Inc.*, 38 S.W.3d 103, 114 (Tex. 2000)," would have understood abuse of a "minor," in the media context in which the Diocese used the phrase and alongside references to "children," to mean abuse of a "child." Resolving that factual question "entail[s] no [impermissible] inquiry into religious doctrine." *Jones v. Wolf*, 443 U.S. 595, 603 (1979). And so long as Mr. Guerrero can prove that ordinary understanding at trial, what "minor" means under Catholic doctrine will never be at issue.[4]

Indeed, the Diocese's defense on this score is not that that the ordinary listener *would* have understood "minor" to carry religious meaning and review is therefore barred. The Diocese never mentions the "person of ordinary intelligence" standard at all. Rather the thrust of the Diocese's argument is that the standard should be replaced with one that allows the speaker's subjective intent to govern. *See* Pet. 13-14 (arguing that this Court should consider the "context" of the Diocese's "broader policy" reflected in the *Charter*). There is no basis under the First Amendment or defamation law for that leap.

[4] Of course, if he fails, the claim is precluded. For this reason, amicus Jewish Coalition for Religious Liberty's concern that rejecting immunity here would allow courts to, for example, opine on what "kosher" means under Jewish law is misplaced. In the Coalition's examples, a person of ordinary intelligence would understand "kosher" to carry religious meaning, precluding court review.

Finally, that the Diocese may have had a religious motive does not change the result. Although Mr. Guerrero disputes that the Diocese actually sought to comply with the Charter or discipline him, *see* Resp.'s Br. 9, its intentions are irrelevant. Over a century of U.S. Supreme Court case law establishes that a religious motive does not immunize misconduct under generally applicable laws. *See Reynolds v. United States*, 98 U.S. 145, 166-67 (1878).

That settled law also reveals that the Diocese misunderstands the rule that "courts generally do not permit tort claims arising from internal processes by which religious organizations discipline their members." Pet. 16 (quoting *Hubbard v. J Message Grp. Corp.*, 325 F. Supp. 3d 1198, 1215 (D.N.M. 2018)).[5] Although courts will not interpret the doctrine and procedures governing religious disciplinary proceedings, *see, e.g.*, *Serbian E. Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 708 (1976), that does not prevent courts from imposing liability for harmful conduct that results from whatever discipline that religious authorities determine doctrine requires. Were it otherwise, religious actors could beat, steal from, or—as the Diocese claims here—defame without consequence so long as they assert a religious disciplinary motive. That is not the law. *See, e.g.*, *Ondrisek v. Hoffman*, 698 F.3d 1020, 1024-25 (8th Cir. 2012) (rejecting claim that severe beatings constituted religiously motivated discipline that presented

[5] The examples of immunity from defamation for church discipline provided in *Hubbard* concerned internal publications.

"only ecclesiastical questions"); *Tomic v. Catholic Diocese of Peoria*, 442 F.3d 1036, 1040 (7th Cir. 2006) ("A church could not subject its clergy to corporal punishment.").

B. The Diocese's position would empower abusers to silence victims

As amici Members of the Texas Legislature observe, "abuse is hard to stop if it is never reported." Legislators' Br. 7. But although amici and the Diocese focus on reporting by leaders in the church hierarchy, they overlook that those leaders rarely learn of abuse until victims come forward. And victims already face significant barriers to disclosure, from feelings of shame to fear of retaliation to wanting to spare one's family distress.[6] It is well known that abusers exploit these vulnerabilities to obtain silence.[7]

The freewheeling authority to defame that the Diocese seeks will exacerbate this problem. If abusers can defame without consequence, they will no doubt exploit that power to conceal their misconduct. The abuser could threaten to spread lies—about a victim or the victim's family members—to prevent disclosure. Or the abuser could defame the victim after disclosure to discredit him.[8] Whatever power an abuser

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[6] *See, e.g.*, Micaela Crisma, et al., *Adolescents who experienced sexual abuse: fears, needs and impediments to disclosure*, Child Abuse & Neglect 28 (2004) 1035-1048, at 1044.

[7] *See, e.g.*, Marci A. Hamilton, *The Time Has Come for A Restatement of Child Sex Abuse*, 79 Brook. L. Rev. 397, 400 (2014) ("Abusers commonly threaten the child to maintain the silence."); Jay Tokasz and Dan Herbeck, *Rev. Biernat: Bishop Grosz used blackmail to silence my report of sex abuse*, The Buffalo News (Sep. 8, 2019), https://perma.cc/HW3X-S7DF; *Deacon candidate accuses Minnesota bishop of blackmail*, Dayton Daily News (May 10, 2017), https://perma.cc/5E8Z-DSBC.

[8] *See, e.g.*, *In re Christian A.*, No. F045534, 2005 WL 698986, at *4 (Cal. Ct. App. Mar. 28, 2005) ("Christian's mother attempted to defame the [rape] victim by claiming the victim had several abortions."); Cheryl A. Whitney, *Non-Stranger, Non-Consensual Sexual Assaults: Changing Legislation to*

may already have to defame someone within a religious community, extending that immunity to communications with the general public—with the capability of destroying not just the victim's spiritual life, but also the victim's or his family's school, social, and work lives, too—will severely obstruct a victim's ability to report and move on from the traumatic experience.

This authority to defame, moreover, would be extraordinarily broad. Critically, the Diocese's position is *not* that it should be able to mount a defense of truth based on the Catholic meaning of "minor." Rather, it is that Mr. Guerrero's claim should be dismissed at the starting gate because the Diocese was communicating to followers about a clergy member's conduct. Importantly, the Diocese's reasoning—it needs immunity to manage its "internal" affairs—extends to communications about parishioners as well.[9] The result would be that religious institutions could defame any parishioner or minister about *any* conduct—regardless of any semblance of truth—so long as the message reached other parishioners in addition to the general public.

The Diocese's alternative justification—that "minor" also has a religious meaning—is equally wide-ranging and also would require dismissal at the pleadings stage irrespective of truth. "Minor," of course, is not the only such term. "Adulterer," as the Diocese and its amici explain, is also understood to mean a person

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Ensure That Acts Are Criminally Punished, 27 Rutgers L.J. 417, 445 n.113 (1996) (discussing abusers' practice of defaming victims in court filings, where litigation privilege provides immunity).

[9] Indeed, the case law on internal publication draws no distinction between clergy and parishioners, and the Diocese offers none.

who remarries after divorce, *see* GAW:30-31, or "looks at a woman with lust," Catholic Conference Br. 10. "Debt" is understood to refer not just to monetary obligations but to spiritual ones, too.[10]

That each of these terms can be deployed disparagingly is enough to show the danger of the Diocese's position. But in light of the diversity of religions in this country and that courts cannot question the veracity of an individual's interpretation of religious doctrine, *see Holt v. Hobbs*, 135 S. Ct. 853, 862 (2015) ("idiosyncratic" interpretations receive the same protection as those "shared by all of the members of a religious sect"), there is truly no end to the number of terms that could be said to also have a religious meaning.

Finally, victims of child abuse are not the only ones vulnerable to this power to defame. It could just as well be employed, for example, to suppress reports of financial improprieties or to retaliate against those who want to leave a religious group.

II. No "Religious Autonomy" Doctrine Protects the Diocese's Conduct

A. The Diocese's theory is inconsistent with the Framers' intent

Unable to prevail within the confines of existing law, the Diocese couches its argument in a theory of "religious autonomy." This is hardly novel. Defendants in tort actions and religious institutions facing criminal investigations have long pushed a

[10] Catholic Dictionary, "Debt," *available at* https://perma.cc/6QC2-8B6N.

maximalist theory of "autonomy" to avoid liability and responsibility for a range of harms. *See infra* at 15.

But the degree of "autonomy"—or, more accurately, immunity—that the Diocese posits would, if adopted, allow wrongdoers who claim a religious motive to circumvent judicial oversight of their harmful conduct and, in effect, the rule of law. *See* MARCI A. HAMILTON, GOD VS. THE GAVEL: THE PERILS OF EXTREME RELIGIOUS LIBERTY 45 (2014). The U.S. Supreme Court has consistently rejected such an expansive rule as inconsistent with our country's system of "ordered liberty." *See, e.g.*, *Wisconsin v. Yoder*, 406 U.S. 205, 215-16 (1972) ("[T]he very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests."); *Reynolds*, 98 U.S. at 166-67 ("Can a man excuse his practices to the contrary because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself."); *City of Boerne v. Flores*, 521 U.S. 507, 539 (1997) (Stevens, J., concurring); Marci A. Hamilton, *The Waterloo for the So-Called Church Autonomy Theory: Widespread Clergy Abuse and Institutional Cover-Up,* 29 CARDOZO L. REV. 232, 233 (2007). And although this Court has used the phrase "church autonomy doctrine," it made clear that it was applying the Free Exercise Clause, *see Westbrook v. Penley*, 231 S.W.3d 389, 397 n.6 (Tex. 2007), and did not adopt an independent, atextual source of immunity for religiously motivated tortfeasors such as the Diocese now presents.

Of course, the U.S. Supreme Court and this Court have jealously guarded the freedom to *believe* at the heart of the First Amendment's religion clauses. Case law recognizes a right to be free from judicial oversight in claims involving intra-institutional questions about religious beliefs and the related issues of leadership and doctrinal manner of worship. But this right results from an application of the First Amendment, as the case law makes clear, and—it bears repeating—operates only to bars courts from determining the beliefs or leadership of a religious body. *See, e.g.*, *Milivojevich*, 426 U.S. at 709.

The U.S. Supreme Court's most recent decision on liability for religiously motivated conduct, *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171 (2012), illustrates that it is the First Amendment, not a broader autonomy doctrine, that controls. In recognizing a "ministerial exception" to anti-discrimination employment liability, the Court relied upon the First Amendment's incorporation of the Framers' disdain for governmental appointment of ministers and the control over religious belief that such power entails. *Id.* at 183-84. Thus, the Court grounded its holding in the Free Exercise and Establishment Clauses, not in an autonomy doctrine emanating from their penumbra, as the Diocese urges. *See id.* at 188-89 ("By imposing an unwanted minister, the state infringes the Free Exercise Clause, which protects a religious group's right to shape its own faith and mission through its appointments. According the state the power to determine which individuals will minister to the faithful also violates the Establishment Clause.").

Indeed, the Framers by no means intended the First Amendment to provide an unrestricted license to engage in harmful conduct under the auspices of religious freedom. *See Reynolds*, 98 U.S. at 163 (discussing Madison's and Jefferson's view that "it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order"). Rather, it was expected that religious institutions would conduct themselves in a manner consistent with the safety, peace, and order of the public. *See Cantwell v. Connecticut*, 310 U.S. 296, 304 (1940) (The Free Exercise Clause "embraces two concepts—freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be."); Marci A. Hamilton, *Religious Institutions, the No-Harm Doctrine, and the Public Good*, 2004 BYU L. REV. 1099, 1194-95 (2004). In *Hosanna-Tabor* itself, the Court made clear its reasoning was limited to lawsuits between ministers and the faith involving employment discrimination. Even other disputes with clergy were not barred from the courts. *Hosanna-Tabo*r, 565 U.S. at 196 ("We express no view on whether the exception bars other types of suits, including actions by employees alleging breach of contract or tortious conduct by their religious employers.").

Put simply, the U.S. Supreme Court's First Amendment case law seeks "ordered liberty" and reflects an orientation toward the common good and what may be termed the no-harm rule: harm to third parties is the outer limit on the free exercise of religion. *Id.* at 1194-95. It is this principle that underlies and justifies our

criminal and tort laws that prohibit third-party harm. *Id.*; *see also Estate of Thornton v. Caldor, Inc.*, 472 U.S. 703, 709 (1985) (noting that religious accommodations must take account of third-party interests). At its core, it is a principle that recognizes the potential for great harm to the public good at the hands of those with abject power. *See Waterloo for the So-Called Church Autonomy Theory*, *supra*, at 233.

B. The Diocese's theory of religious autonomy would lead to untenable results, especially for child victims

The Diocese seeks to minimize its conduct in this case as an incidental consequence of its efforts to remedy past abuse of children, but it ignores that the expansive theory of religious autonomy it urges this Court to adopt would inevitably have negative repercussions for children who suffer similar harms in the future. It bears emphasis that the Diocese contends that its communication with the *general public through mass media* constitutes "manage[ment of] its *internal* affairs" and, according to the Diocese, therefore deserves immunity. Pet. 15 (emphasis added). Any difference there is between this and the many-times-rejected argument that a religious motivation confers immunity is illusory.

The potential for abuse of—and the harm to the vulnerable from—a doctrine immunizing religious institutions based on such self-proclaimed "internal affairs" would essentially be limitless. *Cf. Employment Div. v. Smith*, 494 U.S. 872, 888 (1990) (explaining that granting immunity based on religious belief would result in "constitutionally required religious exemptions from civic obligations of almost every

conceivable kind"). It is common enough under the far narrower current state of the law for people to seek to exploit the religious freedom our Constitution guarantees in an attempt to escape liability for harms against children. *See, e.g., Prince v. Massachusetts*, 321 U.S. 158, 170-71 (1944) (upholding child labor laws against free exercise challenge); *Jacobson v. Massachusetts*, 197 U.S. 11, 29 (1905) (vaccination laws may be enforced notwithstanding "religious conviction" of objectors); *Listecki v. Official Comm. of Unsecured Creditors*, 780 F.3d 731, 743 (7th Cir. 2015) (church raised religious liberty defense to application of bankruptcy law in dispute over funds available to sex abuse victims); *United States v. Amer*, 110 F.3d 873 (2nd Cir. 1997) (First Amendment defense to child kidnapping charge); *Bear Valley Church of Christ v. DeBose*, 928 P.2d 1315, 1323 (Colo. 1996) (minister argued First Amendment allowed him to engage in "inappropriate touching" of child); *George v. Int'l Soc. for Krishna Consciousness of California*, 4 Cal. Rptr. 2d 473, 498 (Ct. App. 1992) (religious institution raised First Amendment defense to tort claim based on concealment of daughter from her mother); *cf. also State v. Bent*, 328 P.3d 677, 685 (N.M. Ct. App. Aug. 26, 2013) (defendant raised RFRA as defense to charge of sexual contact with a minor); *Perez v. Paragon Contractors, Corp.*, 2014 WL 4628572, at *1 (D. Utah Sept. 11, 2014) (FLDS member invoked religious liberty to avoid testifying about child labor claims). *See also*

Kristine Phillips, *She used Indiana's religious freedom law as a defense for beating her son, then got probation*, Washington Post (Oct. 30, 2016).[11]

Similar defenses to harmful conduct to minors would, under the Diocese's proposed framework, grow not only in number but also in success. The result would be that vulnerable children would be unprotected simply because the harm arises from religious conduct. Child victims increasingly would have no forum to seek a remedy for the wrongs committed by religious actors; the deterrent effect of tort and criminal law would be muted; and consequently, wrongdoers would continue to feel empowered to exploit children. "[I]t is precisely this concept of autonomy that led religious institutions to believe that they had a right to handle repeated crimes in private and place their public image above the interests of vulnerable children" in the clergy sex abuse cases. *See* GOD VS. THE GAVEL, *supra*, at 38-80. Fortunately, the U.S. Supreme Court has never held that they did.

III. Defamation Liability Will Ensure Accurate Reporting to the Public About Serious Potential Public Harm

The Diocese's and its amici's claim that an absence of immunity—which no other institution working to root out the universal problem of sexual abuse possesses—will chill the Diocese from reporting sexual abuse is overstated and ignores the damage of inaccurate public reporting.

[11] Available at https://www.washingtonpost.com/news/acts-of-faith/wp/2016/10/30/she-used-indianas-religious-freedom-law-as-a-defense-for-beating-her-son-then-got-probation/.

As amici Members of the Texas Legislature explain, Texas law *requires* the Diocese to report abuse to civil authorities. *See* Tex. Fam. Code § 261.101(c). Failure to do so is a crime. *Id.* § 261.109(b). Further, Texas law provides immunity for reports to civil authorities made in "good faith." *Id.* § 261.106(a). Accordingly, the only "chill" on such reporting is for bad faith allegations.

Likewise, the Diocese has ample means to communicate to its followers about the misconduct of clergy or parishioners without fearing liability. It can make announcements at services, send mailers to parishioners, or create a parishioners-only section of its website. In any of these scenarios, the Diocese would be able to take advantage of the "common interest" privilege under tort law for all reports made in "good faith." *See supra* at 3. So the only possible exposure to liability would, again, be for bad-faith communications; and, as explained, some courts have held that the First Amendment would protect the Diocese even from that. *Id.* Even if the Diocese wanted to take advantage of mass media to communicate to its flock, it need only make clear from context that it is alleging a violation of church doctrine so that a person of ordinary intelligence would understand its assertions carry a separate (and not necessarily defamatory) religious meaning.

As for the Diocese's communications with the general public, whatever chill defamation liability creates serves a salutary purpose. It, of course, incentivizes the Diocese not to falsely tarnish a person's good reputation as a means of cleaning up its own. But it also ensures that the public receives an accurate picture of how the

Diocese (or any other religious institution) is combatting child sexual abuse. When a religious institution falsely includes an individual in a list of abusers of children, it inflates the number of wrongdoers it claims to have rooted out and misleads the public about what it has done to remedy past wrongs. This can give the public a false sense of security, soften public pressure for reform or investigation, and pave the path for more abuse in the future. Even if the record is eventually corrected, false allegations of abuse of children belittle the experience of real victims and give ammunition to abusers to discredit the next actual victim brave enough to come forward.

By the same token, failing to explain that the use of the term "minor" includes those vulnerable due to health or mental conditions shrouds from public attention clergy abuse of people with those conditions. This, too, instills in the public an incomplete picture of abuse and leaves people vulnerable.

CONCLUSION

The Court should deny the petition.

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 9.4, I certify that this Brief contains 4,495 words, excluding the case caption, table of contents, index of authorities, identity of amicus curiae, and certificates. The text of the document is at least 14-point font except for the footnotes, which are in 12-point font.

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CERTIFICATE OF SERVICE

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