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Strickland's removal was against canon law

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The Holy See Press Office's *Summary of Bulletin* on November 11 contained this announcement under the heading "Resignations and Appointments": "The Holy Father has removed Bishop Joseph E. Strickland from the pastoral care of the diocese of Tyler, United States of America, and has appointed Bishop Joe Vásquez of Austin as apostolic administrator of the same diocese, rendering it *sede vacante*." The placement of this

announcement under this incorrect heading - the removal of a bishop is not a resignation - is noteworthy.

The same incorrect heading was used in the March 9, 2022 announcement of the removal of Bishop Daniel Fernandez Torres from the pastoral care of the Diocese of Arecibo, Puerto Rico. The Press Office is obviously not accustomed to categorizing announcements concerning the removal of a bishop, which is a rare, but not unknown, act. Privation from office is provided for in the *Code of Canon Law*. It is the result of a judicial process, or of an administrative procedure initiated to examine and render judgment upon a well-founded suspicion that a canonical crime was committed by a particular bishop. In the cases of both Bishop Strickland and Bishop Fernandez Torres neither of these two possible canonical proceedings was used by the Holy See.

Canon 416 states that the "episcopal see becomes vacant… by deprivation notified to the bishop." Canon 196 states that "[d]eprivation of office, that is, as a punishment for an offence, may be effected only in accordance with the law. Deprivation takes effect in accordance with the provisions of the canons concerning penal law." The commentary in the *Code of Canon Law Annotated, 4th Edition* states that "[d]eprivation is the loss of an ecclesiastical office as a penalty for an offence; it is judicially or administratively imposed on the completion of a penal process or a penal administrative procedure (cf. c. 1336, 4, 1). Therefore, privation is a special type of removal; its efficacy and limits are subject to penal law."

There was no judicial penal process or administrative procedure in the cases of Bishops Fernandez Torres and Strickland. An apostolic visitation, which was done in both cases, does not qualify as either a judicial process or an administrative procedure. Thus, their removal was by means of an act of the pope apart from existing canonical procedures. Canon 331 states that the pope "by virtue of his office… has full, immediate and universal ordinary power in the Church, and he can always exercise this power." The pope is free to dispense himself from the binding provisions of merely ecclesiastical laws (canon 11) if he so chooses. Canon 12 states that "[u]niversal laws are binding everywhere on all those for whom they were enacted."

The pope is bound to observe the law of the Church unless for a "just and reasonable cause" (canon 90) he decides to dispense himself "in a particular case" from its provisions (canon 85). He is to issue a decree. If he dispenses himself either from the obligation to issue a written decree as required by canons 48 and 51, or from the obligation "as far as possible… to consult those whose rights could be harmed" (canon 50), that act of dispensation itself should be done by a written decree. The decree

"should express, at least in summary form, the reasons for the decision" (canon 51). If he dispenses himself from expressing the reasons for his dispensation, that also should be by means of a written decree. None of this happened in the case of these two deposed bishops.

An earlier case of the removal of a diocesan bishop by Pope Francis was that of the late Bishop Rogelio Ricardo Livieres Plano of Ciudad del Este, Paraguay. A Holy See Press Office *Note* in the daily *Bulletin* (Italian) of September 25, 2014 called this deprivation of office an "*avvicendamento*" which is translated as a rotation or succession or change. The 2014 *Note* stated that the removal was an "arduous decision of the Holy See, determined by serious pastoral reasons [that] is called for by the greater good of the unity of the Church in Ciudad del Este and the communion of the bishops in Paraguay." In this case, a judgement was made that Bishop Livieres Plano was guilty of offending the unity of his diocese and the communion of the bishops of Paraguay. No specific incidents of these alleged offenses are cited in the *Note*.

Why is the failure to follow canonical provisions a matter of concern? St. John Paul II, in the Apostolic Constitution promulgating the 1983 *Code of Canon Law, Sacrae disciplinae leges,* described the nature and importance of the *Code* as follows: "[T]he Code rather looks towards the achievement of order in the ecclesial society, such that while attributing a primacy to love, grace and the charisms, it facilitates at the same time an orderly development in the life of the ecclesial society and of the individual persons who belong to it." He further stated that "because it is based on the juridical and legislative heritage of revelation and tradition, the Code must be regarded as the essential instrument for the preservation of right order, both in individual and social life and in the Church's zeal." The emphasis is upon right order in the Church. A promulgated set of laws establishes the conditions for equitable and just relations among the faithful who all share a common obligation to cooperate with one another in obeying clearly spelled out rules of conduct that promote and safeguard the nature and mission of the Church.

St. John Paul went on to state that "a Code of Canon Law is absolutely necessary for the Church… it needs rules, so that its hierarchical and organic structure may be visible… that the mutual relationships of Christ's faithful are reconciled in justice based on charity, with the rights of each safeguarded and defined…" He also noted that "canonical laws by their very nature demand observance. For this reason, the greatest care has been taken that during the long preparation of the Code there should be an accurate expression of the norms and that they should depend upon a sound

juridical, canonical and theological foundation."

Bishop Strickland has related that he was told by the Apostolic Nuncio, Cardinal Christophe Pierre, in Washington on November 9 that he was being asked to resign for various reasons, including that he lacked fraternity with his fellow American bishops, that he failed to implement *Traditionis Custodes*, and that there were problems with his social media presence and his criticisms of the Synod on Synodality. Strickland said that the nuncio did not mention any administrative problems in his diocese. Strickland declined to resign. None of these reasons for his removal, communicated to him in a private conversation, was stated in a papal decree of removal. In fact, no papal decree has been published.

From what we can judge from the evidence so far available in the public realm, Bishop Strickland was accused not of canonical crimes, but rather of public disagreements, at times in offensive terms, with various statements and decisions of Pope Francis, and of acting differently from his fellow American bishops. No canonical crimes were alleged, and no judicial process or administrative procedure was commenced. Consequently, the due process rights of the bishop to be given the opportunity to know and to answer any formal charges brought against him in a process regulated by law was not respected. He was not given access to the evidence that had been gathered to support the claim of wrongdoing, and thus had no opportunity for rebuttal or for the submission of further evidence in his favor.

The setting aside of the canonical procedural guarantees found in the *Code* to protect the right of a bishop to a fair process when his hierarchical superior, the pope, suspects wrongdoing goes against natural justice and ignores the teaching and the spirit of both the Second Vatican Council and the 1983 *Code*.

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