

## UPDATE ON THE KEY PLAYERS INVOLVED IN MSGR. LYNN'S CASE

On January 13 of this year, Judge Gwendolyn Bright in Philadelphia's Common Pleas Court heard arguments in a motion by attorney Thomas Bergstrom to dismiss a retrial of Msgr. William Lynn. She will rule on the motion on March 1. If she refuses to dismiss the case, Msgr. Lynn's retrial will begin on May 30.

A review of the status of the principles in this case will serve to bring things up to date.

### **1. Daniel Gallagher ("Billy Doe"):**

On January 30, 2009, "Billy Doe" (Daniel Gallagher) told two social workers for the archdiocese of Philadelphia that a priest, Father Charles Engelhardt, had anally raped him about 10 years earlier, when he was an altar boy. That was the beginning of a lurid saga in which Gallagher—sprung from jail in 2010 by Philadelphia prosecutors to be their star witness—expanded his allegations to also include abuse by another priest, Father Edward Avery, and a Catholic school teacher, Bernard Shero.

"Billy Doe" was highlighted in a 2011 hit piece in *Rolling Stone*, "The Catholic Church's Secret Sex-Crime Files"—written by the same reporter who wrote the story about "Jackie", the University of Virginia student supposedly gang-raped that turned out to be a fraud.

As documented by reporter Ralph Cipriano, Gallagher, based on police investigation and a court-ordered psychiatric evaluation, "has as much credibility as Jackie." He was found to be "immature and self-indulgent," "hedonistic," a chronic liar, manipulative of others, and a long-time abuser of drugs and alcohol. He had been arrested some half-dozen times. His stories were inconsistent and contradictory, and police investigators found plenty of hard evidence that disproved some of his allegations and called the others into serious question.

But that didn't stop him from sending all three of his alleged abusers—as well as Msgr. Lynn—to jail. And after he filed a civil suit against the Archdiocese of Philadelphia in 2011, the archdiocese settled with him in August 2015, reportedly for \$5 million.

It later transpired that Gallagher, before he had told the social workers about these three alleged abusers, had told doctors that he had been:

- molested at 6 years old by a friend;

- sexually abused at 6 by a neighbor;
- sexually assaulted at 7 by a teacher;
- molested at 8 or 9 by a friend;
- and sexually abused at 9 by a 14-year-old.

## **2. Father Charles Engelhardt, OSB:**

Gallagher initially claimed that Father Engelhardt had accosted him after a 6:30 a.m. Mass, plied him with sacramental wine, then brutally raped him anally behind locked doors in the church sacristy for five hours. Afterward, he claimed, Engelhardt threatened to kill him if he told anyone.

However, Gallagher told the court-ordered psychiatrist only that he and Engelhardt engaged in mutual masturbation and oral sex. This was the story he stuck with at trial, along with accusing Engelhardt of showing him pornographic pictures. No mention of being anally raped for 5 hours or threatened with being killed if he told anyone.

In January 2013, Engelhardt was convicted of corruption of minors, indecent assault of a person under age 13, and endangering the welfare of a child. He was sentenced to 6-12 years in prison.

On November 15, 2014, Father Engelhardt died—"handcuffed to a hospital bed, kept under armed guard and denied a potentially lifesaving heart operation," according to Cipriano.

He proclaimed his innocence until his death, and afterward his cellmate filed as an intervenor in his appeal case. The cellmate, Paul Eline, stated that the night before he died, Father Engelhardt had told him, "Paul, I do not feel well. Please understand that I am an innocent man, who was wrongly convicted."

His order, the Oblates of St. Francis de Sales, have continued to battle to exonerate him, calling his conviction and imprisonment "a complete injustice."

## **3. Edward Avery:**

Avery is a former priest who had a record of sex abuse. Gallagher again told two very different stories about Avery's alleged abuse of him.

He first told two diocesan social workers that Avery had punched him in the back of the head, knocking him out; that when he awoke he was completely naked and tied up with altar boy sashes. He said Avery then anally raped him, smacked him in the face, and made him suck the blood off of the priest's penis. When it was

over, Gallagher said, Avery threatened to "hang him from his balls and kill him slowly" if he told anyone.

But again, Gallagher told the court-ordered psychiatrist a far different story, saying he and Avery engaged in mutual masturbation and oral sex, and in a subsequent attack the priest made Gallagher perform a striptease. There was no mention of being punched and smacked, tied up, made to suck blood, or being threatened with being hung by his balls.

On March 22, 2012, Avery pled guilty to abusing Gallagher, and was sentenced to 2- 1/2 to 5 years in prison.

However, on January 17, 2013, appearing as a witness at the trial of Engelhardt and Bernard Shero, Avery recanted his guilty plea under oath. Asked "Did you do it?" he said he never touched Gallagher.

Why did he plead guilty? Because if he went to trial and was convicted he faced 20 years in prison—he knew his past record (he had been removed from the priesthood in 2006 for abusing a boy back in the 1970s) could work against him at trial. So he took the plea and the much shorter sentence.

In September of 2012, Avery had not only denied assaulting Gallagher, he said he did not even know him.

#### **4. Bernard Shero:**

Gallagher first told the diocesan social workers that Shero, his homeroom teacher at the time, had asked him to stay after class, offering to drive him home. In the teacher's car, Gallagher claimed, Shero punched him in the face, attempted to strangle him with a seat belt, performed oral sex on him and made Gallagher masturbate him. The teacher then threatened to "make your life a living hell" if Gallagher told anyone.

In court, however, Gallagher's story again changed. He made no mention of being punched, strangled or threatened. Asked about these discrepancies, he claimed he was high on drugs when he spoke to the social workers and didn't remember what he told them. (They testified that he did not appear to be impaired.)

Nevertheless, on June 12, 2013, Shero, then 51 (and who, like Engelhardt, had no prior arrest record), was sentenced to 8-16 years in prison after a jury convicted him of rape of a child, attempted rape, involuntary deviate sexual intercourse with a child, endangering the welfare of a child, corruption of a minor, and indecent assault.

On December 31, 2015, the Pennsylvania Supreme Court denied Shero's appeal—noting as it did so that one of its justices, Justice J. Michael Eaken, "did not participate in the decision of this matter." The court did not say why: Eaken was under suspension for involvement in a "pornagate" scandal. He resigned the following March.

### **5. Monsignor William Lynn:**

In June 2012, Msgr. Lynn went on trial for conspiracy. His alleged crime stemmed from the fact that, as secretary for clergy for the Archdiocese of Philadelphia, he had placed then-Father Avery, who had a prior abuse allegation dating back to the 1970s, in a position of ministry—the position from which, according to Avery's March, 2012 guilty plea, he had abused Gallagher.

The prosecution was ably assisted by trial judge M. Teresa Sarmina who, in order to show a pattern of misconduct, allowed into evidence 21 cases of sexual misconduct dating back to 1948—three years before Lynn was born. She also misinstructed the jury, saying Lynn did not have to act with criminal intent to be convicted of conspiring to endanger the welfare of a child. The next day she reversed herself. A confused jury found Lynn innocent of conspiracy but guilty of endangering the welfare of a child. He was sentenced to 3-6 years in prison.

However, three different times in the years since, Pennsylvania appeals courts have overturned Msgr. Lynn's conviction: in December 2013, December 2015, and August 2016. Yet for the third time, the Philadelphia district attorney insisted on pursuing a new trial—even though Lynn had by then served all but two months of his minimum three year sentence.

That brings us to the January 13, 2017 hearing before Judge Bright on whether to dismiss the case against Msgr. Lynn or force him to stand trial yet again. In the ruling last August, the Pennsylvania Supreme Court was clear that the trial court had "abused its discretion" in letting in evidence unrelated to the case—the 21 cases dating back to 1948. So the entire issue now would seem to hinge on whether then-Father Avery was guilty of abusing Daniel Gallagher. If Avery—as he now claims—was not guilty, Lynn could not be guilty, because if Gallagher was not abused by Avery, then Lynn did not "endanger the welfare" of Gallagher by putting Avery into active ministry.

So the entire case against Lynn now hangs on the credibility of Gallagher—and as Cipriano details, that credibility was most effectively called into question by the January 13 testimony of retired detective Joseph Walsh.

#### **6. Detective Joseph Walsh:**

Walsh was the district attorney's original lead detective in the investigation into Gallagher's allegations. At Msgr. Lynn's 2012 trial, according to Cipriano, he "spent day after day, week after week, reading grim accounts of past cases of sexual abuse by priests into the record, to show a pattern in the Archdiocese of Philadelphia of covering up abuse."

According to Cipriano, in December 2011—nearly a year after a grand jury report was issued based completely on Gallagher's unverified stories—Walsh, at the behest of the DA's office, began to investigate Gallagher's claims. What he discovered, Cipriano reports, was that "every witness statement he took, including the ones from Gallagher's own family members, contradicted Danny Gallagher's wild and crazy stories."

Walsh was so troubled by all of the glaring contradictions in Gallagher's claims that he testified for the defense at the January 13 hearing this year before Judge Bright.

"There were just so many inconsistencies," he told the judge. He explained that he sat down with Gallagher about a month before Msgr. Lynn's first trial to "iron out" the "many discrepancies." Yet, he said, when he confronted Gallagher about the factual discrepancies in his stories, he would just "clam up and put his head down," saying nothing; or he claimed he was high on drugs.

Moreover, Walsh told how the prosecutor, A.D.A. Mariana Sorensen, just blew him off when he attempted to discuss his concerns with her before the 2012 trial. She told Walsh, "I believe him [Gallagher]," and complained to Walsh, "You're killing my case."

All he was doing, Walsh said he replied to Sorensen, was "getting at the truth."

#### **7. A.D.A. Maria Sorensen:**

A.D.A. Patrick Blessington told Judge Bright that Sorensen denied Walsh's claim that she said he was killing her case. Yet Blessington did not call Sorensen

as a witness at the Jan. 13 hearing so she could testify to that herself. As a result, of course, she couldn't be questioned by Msgr. Lynn's attorney, Thomas Bergstrom.

Blessington also succeeded in getting the judge to refuse Bergstrom's repeated attempts to enter the prosecution's own records into evidence, in order to demonstrate the many inconsistencies in Gallagher's stories. This included the D.A.'s own 2011 grand jury report, written by Sorensen—and which contained at least one glaring inconsistency.

Gallagher's mother had told the grand jury she noticed a drastic personality change in her son when he was 14, after he entered high school. But when Sorensen wrote the grand jury report, the mother's testimony had been changed, so that the drastic personality change "coincided with the abuse," allegedly when Gallagher was 10 or 11. But with the grand jury report not admitted, and Sorensen not called as a witness, Bergstrom was unable to ask about it.

#### **8. District Attorney Seth Williams:**

Williams became Philadelphia D.A. in January 2010, succeeding Lynne Abraham, who had begun this witch hunt against the Catholic Church. And Williams immediately made the vendetta against Msgr. Lynn his own. That he allowed the prosecution to go forward, with Gallagher's non-credible testimony and the "evidence" from before Lynn was born, is one thing. More outrageous is that Pennsylvania appeals courts overturned Lynn's conviction three times—and three times Williams insisted on continuing to pursue the discredited case. He "is just hell-bent on trying this case," said Bergstrom.

Now, however—after all his moralizing about this case—Williams is being driven from office by his own scandalous behavior.

Last August, it was revealed that Williams had accumulated more than \$160,000 in unreported gifts from friends, defense attorneys, business owners, campaign donors, and others—including a judge who as a defense attorney had routinely negotiated plea deals with Williams' office! Among the gifts were air fare for vacation trips; thousands of dollars in tickets to sporting events; gift cards; furniture; clothing; an iPad; free home repairs, including a new roof worth \$45,000; and use of a Florida beach house owned by an attorney who represented many defendants charged by Williams' office.

Philadelphia's ethics law requires public officials to report all gifts they receive worth more than \$200. Williams had previously prosecuted five public

officials for accepting unreported gifts totaling \$9,000 between them—far less than his haul of more than \$160,000.

Williams was hauled before the Philadelphia Ethics Board, which in January of this year hit him with the largest fine in its 10 year history: \$62,000. He was also reported to be under investigation by the FBI for a charitable foundation in his name.

Finally, on February 10, Williams announced that he will not seek re-election.

And on Tuesday, March 20, he was indicted by federal authorities for bribery, fraud, and extortion.

Yet even now, his office continues to try to put Msgr. Lynn on trial yet again.