FILED
20-0127
2/27/2020 4:18 PM
tex-41223489
SUPREME COURT OF TEXAS
BLAKE A. HAWTHORNE, CLERK

No. 20-0127

In the Supreme Court of Texas

IN RE DIOCESE OF LUBBOCK,

RELATOR.

On Petition for Writ of Mandamus from the 237th Judicial District Court, Lubbock County Courthouse, the Honorable Les Hatch, Cause No. 2019-534,677, and the Seventh District Court of Appeals of Texas at Amarillo,

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Brief of *Amicus Curiae* Texas Catholic Conference of Bishops in Support of Granting Writ of Mandamus and Reversal

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Oral Argument Requested

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COMES NOW the Texas Catholic Conference of Bishops ("the TCCB") and files this Amicus Curiae Brief.

INCORPORATION OF PARTS OF RELATOR'S BRIEF

The TCCB incorporate by reference Relator Diocese of Lubbock's (the "Diocese" of "Diocese of Lubbock") Writ of Mandamus' statement of the case, statement of jurisdiction, issues presented, statement of facts and Appendix.

IDENTITY AND INTEREST OF THE *AMICUS CURIAE*

The TCCB is an unincorporated association consisting of the bishops of fifteen Catholic Dioceses in Texas and the Ordinariate of the Chair of St. Peter. CR:55, at ¶ 6. The TCCB provides a means by which the various bishops of Texas (the "Bishops") act in furtherance of their religious authority to teach and govern their respective archdioceses and dioceses in order to speak with one voice on issues that face the Catholic Church in Texas. CR:55, at ¶ 6.

The Bishops made the decision on September 30, 2018 to release the names of clergy credibly accused of sexually abusing a minor. CR:55, at ¶ 7. This decision was made in accordance with each Bishops' governance authority, made according to their understanding of, and reliance upon, the law of the Catholic Church (known as "Canon Law"), and the Bishops' determination that they needed—consistent with the new universal norms on the reporting of sexual abuse set forth by Pope Francis—to speak transparently with members

of the Catholic faithful in Texas and restore trust in their respective archdiocese and diocese. *See* CR:55, at ¶ 8; CR:57, at ¶ 15. Every Texas bishop therefore possesses a strong interest in this case's specific outcome.

DISCLOSURE OF THE SOURCE OF ANY FEE PAID OR TO BE PAID FOR PREPARING BRIEF

The TCCB is paying all fees and costs related to the filing of this brief. Bishop Robert Coerver S.T.L, M.S. The Diocese of Lubbock, is assessed annual operating dues by the TCCB, along with the other 14 dioceses/archdioceses in Texas.

STATEMENT REGARDING ORAL ARGUMENT

The TCCB prays the Court to set this case for oral argument, to emphasize and clarify the written arguments in the briefs and to respond to questions from the Court. Tex. R. App. P. 39.2. This appeal is not frivolous, the dispositive issues are subject to differing trial court decisions, and the decisional process would be aided by oral argument. Tex. R. App. P. 39.1.

SUMMARY OF ARGUMENT

The underlying Lubbock County 237th Judicial District Court (the "District Court") and the 7th Court of Appeals ("Court of Appeals"), have rendered rulings allowing a Texas Court and a jury to second guess the decisions of a Texas Bishop and his Diocese in relationship to a purely ecclesiastical governance

issue affecting the Diocese of Lubbock. By allowing outsiders (in this case a district court and a jury) to review and delve into the Diocese of Lubbock's investigatory process, Bishop Coerver's decision pursuant to Catholic Canon Law that Deacon Guerrero was credibly accused of sexual abuse of a minor, and the manner of the Diocese of Lubbock publicizing that fact to its members, the District Court and Court of Appeals are impermissibly allowing judicial interference with the freedom of religion clauses of the United States Constitution.[1] If allowed to stand, the District Court and Court of Appeals' decisions will harm Texas religious leaders' governance authority over their clergy and chill the method of how church governance decisions regarding clergy are communicated to their respective members.

[1] See U.S. Const. amend. I. the Establishment and Free Exercise Clauses apply to the states by incorporation through the Fourteenth Amendment.

ARGUMENT

The principal brief of the Diocese of Lubbock has explained well the chilling effect on First Amendment activity if the defamation claim against the Diocese of Lubbock are allowed to move forward. The TCCB would add that the chilling effect of such a ruling would extend far beyond the Diocese of Lubbock and the present facts—it would chill internal church governance, religious speech and exercise, distorting the internal workings of all religious organizations; and it would threaten a new wave of lawsuit by clergy members against their leaders for religious governance decisions they disagree with that are published to the church in a manner courts subjectively determine are not contained within the four walls of the church.

In this case, a Catholic bishop utilizing an internal church process to investigate a claim of sexual impropriety against a minor *made the decision*, applying Catholic Canon Law, that the Deacon Guerrero has been credibly accused of abusing a minor. The Diocese of Lubbock then publicized that fact to members of the Diocese of Lubbock using its website. The Diocese of Lubbock also issued a press release regarding the list, but did so in relationship to broader reforms consistent with Catholic teaching and calls for transparency and open communications with lay Catholics. Local print and television news media then reported, in their own way, on the disclosure to the greater Lubbock

community. Deacon Guerrero, who is a suspended clergy member in the Diocese of Lubbock, disagrees with the decision that he be included on the list of clergy credibly accused of abusing a minor, with how Catholic Canon Law defines a minor, and how the determination was publicized to the Church ("Publication"). In fact, Deacon Guerrero improperly reframes what the Publication as "a list of alleged child molesters." CR-8. This is incorrect, the list only discloses *Diocese of Lubbock clergy members who have been credibly accused of sexually abusing a minor*, as that term is understood under Roman Catholic Canon Law. Regardless, Deacon Guerrero has now sued the Diocese of Lubbock for defamation because he believes he has been labeled a "child molester." As a result, Deacon Guerrero now seeks to punish the Diocese of Lubbock for its disclosure to the local Catholic church regarding an ecclesiastical decision that Deacon Guerrero disagrees with. The Diocese of Lubbock was within its right to publicize that fact to the Diocese of Lubbock using whatever means it determined was in the best interest of the church. To second guess that decision, and how the decision was made, is a direct attack on Bishop Coerver's episcopal governance by and through the Diocese of Lubbock. Viewed solely in light of the facts of this case, the Court should grant the Diocese of Lubbock's Writ of Mandamus so that the Court can protect Bishop Coerver's governance of the Diocese of Lubbock and permit, without

fear of court examination and punishment, the Diocese of Lubbock's good act in publicizing *the fact* that according to Roman Catholic Canon Law, Deacon Guerrero has been credibly accused of sexually abusing a minor.

But the stakes here are even higher than one clergy member's disagreement with Bishop Coerver's determination and the claims by Deacon Guerrero against the diocese. They go to the very heart of the church-state relationship in the State of Texas. Can a Catholic bishop make an ecclesial determination impacting Catholic clergy and freely interact with his clergy and church according to Catholic religious beliefs, or will the government and private litigants (in this case an allegedly aggrieved clergy member) be empowered to rummage through the church's internal affairs in an effort to discover and alleged tort? To ask the question is to answer it.

The reason why the answer is so obvious is rooted in deep-seated constitutional principles of church autonomy. The Texas Supreme Court and the Supreme Court of the United States have held that "the autonomy of a church in managing its affairs . . . has long been afforded broad constitutional protection." *Westbrook*, 231 S.W.3d at 397 (discussing *Watson v. Jones*, 80 U.S. (13 Wall.) 679, 733 (1872)). Indeed, the "the concept of church autonomy," *id.* at 395, is not simply in the First Amendment—it is a "rule of action . . . , founded in a broad and sound view of the relations of church and state under *our system*

of laws, ..." *Watson*, 80 U.S. at 727 (emphasis added).[2] The "concept of church autonomy" explains why Deacon Guerrero's claims must fail under the First Amendment. *See infra* pp. 5-17. As such, the District Court's taking of jurisdiction over the case was in error. The Court of Appeals similarly fails to grasp the fundamental gravemen of this case. If jurisdiction is allowed to fix, a disgruntled clergy member will be granted discovery power to rummage into the inner working of his church, and a Texas judge or jury will be reviewing and approving or disagreeing with the Diocese of Lubbock's investigation, Roman Catholic Canon Law's definition of a "minor," Bishop Coerver's decision that Deacon Guerrero was credibly accused of sexually abusing a minor and the Diocese of Lubbock's decision to publish that fact to Catholics in its jurisdictional territory. This court should stand up for religious liberty and the "concept of church autonomy" explicated by Texas and federal courts and grant the Diocese of Lubbock's Writ of Mandamus and after further briefing and argument, reverse the District Court and Court of Appeals ruling and remand the case back to District Court for dismissal of Deacon Guerrero's claims against the Diocese of Lubbock.

[2] While not all cases discussing the various doctrines encompassed by "church autonomy" use that phrase, the Texas Supreme Court used it to describe them all. *See Westbrook*, 231 S.W.3d at 395-96.

I. Church autonomy principles should be protected by granting the Diocese of Lubbock's Writ of Mandamus.

A. Church autonomy principles are embedded in both Texas and federal law.

Both Texas and federal law provide that the First Amendment's church autonomy principles apply to "many types of disputes." *Patton v. Jones*, 212 S.W.3d 541, 548 (Tex. App.–Austin 2006, pet. denied); *see also Watson*, 80 U.S. at 727 (church autonomy principles underlie "our system of laws"). These principles bar civil courts from entertaining *any* claim that requires an analysis of "theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required." *Watson*, 80 U.S. at 733; *see also Westbrook*, 231 S.W.3d at 397-98.

Tort law accounts for these principles too. *See* Victor Schwartz & Christopher Appel, *The Church Autonomy Doctrine: Where Tort Law Should Step Aside*, 80 U. Cin. L. Rev. 431, 454 (2012) ("Put simply, the law recognizes that compensating an injured party, preventing discrimination, deferring to local land use bodies, making creditors whole, and so forth are not the only legal values worth preserving."). For this reason, courts in Texas—and around the country—consistently shape tort-law duties around their effect on church

autonomy.[3] Defamation claims are no exception—even when the communication at issue occurs with individuals who are non-church members that "voluntarily become part of [the church's] internal dialogue." *Bryce v. Episcopal Church in Diocese of Colorado*, 289 F.3d 648, 658 (10th Cir. 2002) ("The church autonomy doctrine" protects "the First Amendment rights . . . to discuss church doctrine and policy freely."). This protection extends to "ecclesiastical discussions with members *and non-members*." *Id.* (emphasis added); *see also Westbrook*, 231 S.W.3d at 396 ("defamation claim" was "abandoned;" it "would have required the court to delve into the religious question of whether Westbrook's statement about the biblical impropriety of Penley's behavior was true or false"). Unsurprisingly then, the 319th District Court in Nueces County recently dismissed, on jurisdictional grounds, substantially similar tort claims to Guerrero's against the Diocese of Corpus Christi. *See* No. 13-19-00413-CV & No. 13-19-00412-CV, *Fr. John Ferminilli and Msgr. Michael Heras, Appellants, v. Bishop Michael Mulvey and The Diocese of*

[3] *See, e.g.*, *Westbrook*, 321 S.W.2d at 391-98 (professional negligence claim rejected because, even if "we presume the counseling at issue was purely secular in nature[,] we cannot ignore Westbrook's role as Penley's pastor."); *Tilton v. Marshall*, 925 S.W.2d 672, 679 (Tex. 1996) (no fraud claim exists against a pastor where promises are based "on statement of religious doctrine or belief" but only cognizable when "promises to perform particular acts"); *In re Pleasant Glade Assembly of God*, 991 S.W.2d 85, 89 (Tex. App.–Fort Worth 1998) (holding it "is not a justiciable controversy" to decide whether a church was "negligent[] or intentionally misapplied church doctrine" in casting out demons).

Corpus Christi, 13th Court of Appeals- Corpus Christi-Edinburgh (On Mandamus appeal regarding the 8/5/2019 order dismissing the plaintiff's claims in *Msgr. Michael Heras v. The Diocese of Corpus Christi, et al.*, Cause No. 2019DCV-1062-G (319th Dist. Ct., Nueces County) and *Fr. John Feminelli v. The Diocese of Corpus Christi, et al.*, Cause No. 2019DCV-1063-G (319th Dist. Ct., Nueces County)).

In Texas, courts undertake this "broader analysis" of whether *any* church autonomy concept applies by "consider[ing] the substance and nature of the plaintiff's claims." *Patton*, 212 S.W.3d at 547-48. Importantly, this analysis does *not* turn on whether the plaintiff's claims ask the court to "resolve a theological question." *Westbrook*, 231 S.W.3d at 397. The analysis applies even when conduct the plaintiff alleges taken by the church is "purely nondoctrinal." *Combs v. Cent. Tex. Annual Conference of United Methodist Church*, 173 F.3d 343, 350 (5th Cir. 1999). Rather, civil courts must refrain from adjudicating plaintiff's claims if the court "would unconstitutionally impede the church's authority to manage its own affairs." *Westbrook*, 231 S.W.3d at 397; *see also Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 107-08 (1952) ("regulat[ing] church administration, the operation of churches, [or] the appointment of clergy . . . prohibits the free exercise of religion");[4] *Hosanna-Tabor,* 565 U.S. at 205-06

[4] The Supreme Court extended *Kedroff* to judicial actions in *Kreshik v. St. Nicholas Cathedral*, 363 U.S. 190 (1960).

(Alito and Kagan, JJ., concurring) ("grave problems for religious autonomy" if "a civil court—and perhaps a jury—would be required to make a judgment about church doctrine"). In such cases, there is no balancing of interests to determine whether a case may proceed. "[T]he First Amendment has struck the balance for us." *Id.* at 196 (unanimous opinion).

B. Church autonomy principles reflect religion's unique role in American life.

"[S]pecial solicitude to the rights of religious organizations" follows from American law's understanding of religious liberty. *See Hosanna-Tabor*, 565 U.S. at 189; *see also id.* at 182-88 (discussing the history of church autonomy considering the First Amendment's original public meaning). This unique status is rooted in the "prevailing understandings" of the founding generation, which appreciated "the difference between religious faith and other forms of human judgment." Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 Harv. L. Rev. 1409, 1496 (1990).

Unlike any other form of human judgment, religious exercise is, as James Madison (the First Amendment's author) explained in his 1785 *Memorial and Remonstrance Against Religious Assessments*, the manifestation of "dut[ies]" owed "to the Universal Sovereign" that exist separate and apart from "Civil Society" (meaning civil government). *See* James Madison, *Memorial and*

Remonstrance Against Religious Assessments 53 (Aspen 2011); *see also* Carl H. Esbeck, *The Establishment Clause as a Structural Restraint on Government Power*, 84 Iowa L. Rev. 1, 55 (1998) (religious institutions "preexisted the state, are transnational, and would continue to exist if the state were suddenly dissolved or destroyed."). "Solicitude for a church's ability to" determine "that certain activities are in furtherance of [its] religious mission" therefore "reflects the idea that furtherance of the autonomy of religious organizations often furthers individual religious freedom as well." *Corp. of Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos*, 483 U.S. 327, 342 (1987) (Brennan, J., concurring).

"From colonial times," as American cultural observers from Alexis De Tocqueville onward recognize, the social space ensured by this solicitude allows religious organizations to provide "not only for the spiritual needs of their congregants and communities," but "their social welfare as well." *E.g.*, Ram Cnaan, *Our Hidden Safety Net: Social & Community Work by Urban American Religious Congregations*, 17 Brookings Rev. 50, 50-53 (1999); *see also* Alexis De Tocqueville, Democracy in America, 296-97, 310, 444-45, 543-44 (J.P. Mayer ed., George Lawrence trans., 2006) (by orienting man to transcendent truths "beyond worldly goods," religion makes man less likely to define society around either materialism or utopianism); W. Cole Durham, Jr. & Alexander Dushku,

Traditionalism, Secularism, and the Transformational Dimension of Religious Institutions, 1993 BYU L. Rev. 421, 426 (1993) (discussing the "space and sensitive protection" religious organizations "need" to fulfill their religious obligations—and "the generative and regenerative contribution to social life that they (and in many respect, they alone) can make"). In short, as Justices Alito and Kagan put it, "the autonomy of religious groups, both here in the United States and abroad, has often served as a shield against oppressive civil laws. To safeguard this crucial autonomy, . . . the Religion Clauses protect a private sphere within which religious bodies are free to govern themselves in accordance with their own beliefs." *Hosanna-Tabor*, 565 U.S. at 199 (Alito and Kagan, JJ., concurring).

C. The claims here are barred by church autonomy principles.

Deacon Guerrero's defamation claim requires a civil court, whether by the Court or the jury, to review and approve or disapprove by way of jury verdict and judgment, the process Bishop Coerver and Diocese of Lubbock used in reviewing claims, whether Bishop Coerver correctly determined—in light of the Roman Catholic Canon Law- whether the Diocese of Lubbock's own internal policy, and a decision to speak transparently with faithful Catholics in the area— that Deacon Guerrero has been credibly accused of sexually abusing a "minor." Assessing that decision thus requires "the civil courts . . . to inquire

into . . . doctrinal theology" and "the written laws" of the Catholic faith regarding who a minor is under Canon Law, as well as "the usages and customs" of a church's authority to change policies on abuse claims, and a bishop's authority to speak with his flock about those changes. *See Watson*, 80 U.S. at 733. As *Watson* and the foregoing principles confirm, *see supra* pp. 3-11, all such inquires by civil courts are prohibited. In this case Deacon Guerrero is asking a Court to second guess the Catholic understanding of the term "minor." If the Court of Appeals decision is allowed to stand, in the cases to come clergy plaintiffs will be free to question, through the courts, other terms used by the Catholic Church's teachings that have different meaning than secular society in the context of church disciplinary and other governance matters. For instance, Jesus has preached that "everyone who looks at a woman with lust has already committed adultery with her in his heart," Gospel of Mark 5:28; *See* http://usccb.org/bible/matthew/5. A scenario can be easily envisioned where a religious denomination disciplines a clergy member for "adultery" under the biblical definition, even though physical sexual relations never occurred between the clergy member and another. If such a disciplinary decision was published on the denomination's website, one can expect the clergy member to sue the religious denomination for defamation using the Court of Appeals decision in this case as an exception to the ecclesiastical abstention doctrine.

Such a risk will dissuade religious entities from making disciplinary decisions where Church terms differ from that of society. This is but one example of many that Courts will soon face in light of this case.

Deacon Guerrero Ignored His Remedy Within the Catholic Church. As the *Charter for Protection of Children and Young People* evidences at length, the United States Conference of Catholic Bishops possesses a Vatican-recognized process for handling sexual abuse claims. *See* CR:56, at ¶ 10 (Charter received recognition by Holy See on December 2, 2002). Article 5 provides that

> [a] priest or deacon who is accused of sexual abuse of a minor is to be accorded the presumption of innocence during the investigation of the allegation and all appropriate steps are to be taken to protect his reputation. He is to be encouraged to retain the assistance of civil and canonical counsel. *If the allegation is deemed not substantiated, every step possible is to be taken to restore his good name, should it have been harmed.*
>
> *In fulfilling this article, dioceses/eparchies are to follow the requirements of the universal law of the Church and of the Essential Norms approved for the United States.*

United States Conference of Catholic Bishops, *Charter for Protection of Children and Young People*, Article 5, 10-11, (June, 2018) https://perma.cc/D9FN-JU9J (emphasis added). If Guerrero were truly interested in challenging the Publication, the underlying investigation, and Bishop Coerver's decision to put his name on the list of clergy credibly accused of sexually abusing g a minor, Article 5 of the Charter gives Guerrero every right to "restore his good name"

via the Catholic Church's centuries-old Canon Law procedures. Yet at no point does Deacon Guerrero allege that he did so. Instead, Deacon Guerrero brought a civil action seeking money damages. Circumventing the internal church process by filing a lawsuit is not a tactic the First Amendment permits. *See Hosanna-Tabor*, 565 U.S. at 194-95, 205 (Lutheran commissioned minister disciplined for evading Lutheran church courts).

II. Allowing lawsuits against religious organizations for telling their members about those credibly accused of sexually abusing minors will chill transparency and religious liberty.

The archbishops and bishops of the TCCB are deeply concerned that affirming the District Court's and Court of Appeal's rulings here "would clearly have a 'chilling effect' on churches[,]" "depriv[ing] [them] of their right to construe and administer church laws," and effectively "compel[ling] the Church to abandon part of its religious teachings." *Westbrook*, 231 S.W.3d at 400 (internal quotation marks and citations omitted). There are several reasons why.

First, imposing civil liability for revealing those credibly accused of sexual abuse will put more people in danger of abuse. As Pope Francis recently exhorted Catholic Bishops around the world, new, "universally adopted" reporting procedures that expand transparency must be "adopted to prevent and combat these crimes that betray the trust of the faithful." Pope Francis,

Apostolic Letter Issued Motu Proprio, *Vos estis lux mundi*, (May 7, 2019), https://perma.cc/FHY8-SG6J. Other religious denominations, too, have considered enhanced transparency regarding the "handling of sexual abuse" critical to the prevention of further abuse. *Cf.* Phillip Bethancourt, *A guide to understanding the Credentials Committee proposal*, Ethics and Religious Liberty Commission of the Southern Baptist Convention, May 30, 2019, https://perma.cc/9HF6-L3TX. If religious organizations must fear that a civil court will second-guess their determinations of credible sexual abuse allegations, those organizations may shy away from sharing any allegations with their flocks at all. Important information about known abusers will therefore be kept concealed from those who could use it to avoid abuse.

In fact, such a result would run directly counter to recently enacted Texas law. The Texas Legislature enacted legislation that provides civil immunity to charitable organizations acting in good faith when acting to disclose, to an individual's current or prospective employer, information that the charitable organization reasonably believed to be true regarding an allegation that an individual who was employed by, volunteering for, or an independent contractor of, the charitable organization (or its associated organizations) committed various sexual offenses—including sexually abusing a minor. *See* Tex. Civ. Prac. & Rem. Code §84.0066(A) (effective Sept. 1, 2019).

Second, imposing civil liability for revealing those credibly accused of sexual abuse would harm the reputation of churches in the eyes of the community as being unfit environments—especially for children or other vulnerable members of society. Efforts to make amends and regain the trust of a religious community, as the Diocese of Lubbock sought to do by releasing this list, cannot be punished without chilling the effort altogether.

Third and fourth, imposing civil liability in this case would *both* chill the speech of religious organizations *and* disrupt their internal governance. The Establishment Clause in particular was designed to prevent "the power of the state" from "narrow[ing] the acceptable range of clerical opinion within the Church." Michael W. McConnell, *Establishment and Disestablishment at the Founding*, *Part I*: *Establishment of Religion*, 44 Wm. & Mary L. Rev. 2105, 2133 (2003). Such opinions include "what they stand for and how big a tent they should erect" in engaging with the secular world. *Id.*

Here, denying a Writ of Mandamus and allowing the District Court's and Court of Appeals' rulings to stand would authorize civil courts to determine the "correct" opinion a religious organization should have about its internal laws (*i.e.*, whether its understanding of a minor is "reasonable" in the eyes of others, the "correct" purposes for speaking with their faithful followers, and the

"correct" courses of action it can take when making internal policy changes). Such a threat harms all religions—not only the Catholic Church.

Judaism, for example, is a numerically smaller religion in America without a central authority defining "true" Judaism or resolving such disputes. Different groups within Judaism (Sephardi, Ashkenazi, and Yemeni, for example) thus maintain different traditions—on all sorts of issues and practices impacting the secular world (from how to eat, how to work, how to groom, how to wear clothes, or how to celebrate holidays). If church autonomy principles were no barrier to a civil court effectively deciding, through the imposition of civil liability, the "proper" understanding of Judaism to a given circumstance considering other public policy considerations, then civil courts would be free to "compel" some Jews "to abandon part of [their] religious teachings." *Westbrook*, 231 S.W.3d at 400 (internal quotation marks and citations omitted). The First Amendment renders that result untenable. *See, e.g.*, *Paul v. Watchtower Bible and Tract Soc. of New York, Inc.*, 819 F.2d 875, 881 (9th Cir. 1987) ("Were we to permit recovery" in tort, "'the pressure . . . to forego that practice [would be] unmistakable'") (quoting *Thomas v. Review Board*, 450 U.S. 707, 717 (1981)) (alteration in *Paul*).

Fifth and finally, for the same reason, civil courts cannot impose punitive damages on the Diocese of Lubbock without violating church autonomy

principles. Nevertheless, Deacon Guerrero requests "exemplary" damages here—specifically asking that "[a] jury of Lubbock county" "punish[]" the Diocese of Lubbock for including him on the list of clergy credibly accused of sexually abusing a minor. *See* Plaintiff's Original Petition, CR: 7 at ¶44. This decision, as detailed above, was made because of the Catholic Church's Canon Law understanding of a "minor," and internal policy changes regarding the need to disclose sexual abuse allegations to lay Catholics. Even if "churches and religious bodies" may not possess "a categorical exemption from liability for punitive damages," "imposing punitive damages on a church to force it to abandon teaching" its tenets "is simply too great" an intrusion "upon the forbidden field of religious freedom." *Lundman v. McKown*, 530 N.W.2d 807, 816 (Minn. Ct. App. 1995), *cert. denied sub. nom. Lundman v. First Church of Christ, Scientist*, 516 U.S. 1092 (1996) (reversing award of $9 million in punitive damages against a church based on a minor's death from the denial of medical care for juvenile diabetes).

CONCLUSION & PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the principles of church autonomy underlie both Texas and federal law. Guerrero's claims directly contradict those principles. Accordingly, this Court should Grant the Diocese of Lubbock's Writ of Mandamus and after briefing and argument of counsel, the District

Court's and Court of Appeals rulings should be reversed and remanded with instructions to dismiss Deacon Guerrero's lawsuit against the Diocese of Lubbock.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that the word count according to the computer program used to prepare this document (Word 2013) is 4461 words. The word count includes all headings, footnotes, and quotations. The word count does not include the caption, identity of parties and counsel, table of contents, index of authorities, statement of the case, statement of the issues presented, signature, proof of services, certification, or certificate of compliance. The text of the document is at least 14-point font except for the footnotes, which are in 12-point font.

/s/ Steven C. Levatino
Steven C. Levatino

CERTIFICATION

Pursuant to Texas Rule of Appellate Procedure 52.3(j), I hereby certify that I have reviewed the amicus curiae and conclude that every factual statement in it is supported by competent evidence included in the appendix or record.

/s/ Steven C. Levatino
Steven C. Levatino

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing *amicus curiae* brief was this 27th day of February, 2020, served electronically through eFile.TXCourts.gov on all known counsel of record, listed below:

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The Seventh District Court of Appeals of Texas at Amarillo, 501 S. Fillmore, Suite 2-A Amarillo, Texas 79101	*VIA CERTIFIED MAIL*

/s/Steven C. Levatino
Steven C. Levatino

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