



MISSION OF DIVINE MERCY

Faith, So That God Can Act

April 19, 2025

Fr. John Mary (Foster) MDM
Mission of Divine Mercy
1531 Indian Chief Trail
New Braunfels, Texas 78132

Rev. Warren A. Brown, OMI, JCD
Metropolitan Tribunal
Archdiocese of San Antonio
2718 W. Woodlawn Avenue
San Antonio, Texas 78228

Object: **Protocol # 665/2024 – Motion for Recusal of Investigator-Presiding Judge and Communication of Copy of *Libellus Accusationis* (Criminal Complaint)**

Reverend and dear Father Brown:

I acknowledge receipt of your letter dated April 1, 2025. **I respectfully request that you recuse yourself from the investigation you are conducting** and communicate the *libellus accusationis*.

The reasons supporting this motion are the following.

1. In your letter of April 1, 2025, you communicate that you have accepted an appointment “to **investigate** allegations concerning [my] conduct contrary to the norms of the Sacred Canons”. But according to can. 1717 §1 *CIC*, it is only for the Ordinary or his Delegate to conduct an investigation into allegations of delictual conduct, not a judge. Moreover, can. 1717 §3 explicitly states that **no one who conducts an investigation can exercise the function of judge in any penal process concerning the same object**. But that is exactly what you are doing: conducting both an investigation and exercising the function of judge. These are gross violations of my right of defense and right to due process.
2. Your acceptance of an appointment to conduct an “investigation” as “presiding judge” constitutes genuine *imperitia* (lack of expertise) on your part to conduct a penal investigation and/or penal process in conformity with universal and special law, because **you accepted appointment to conduct, and in fact are conducting, a hybrid process that is forbidden by canon law**. This

lack of required expertise is a separate ground for recusal pursuant to can. 1448 CIC, constituting another gross violation of my right of defense and right to due process.

3. In the same letter, you reference that a “*libellus* of accusation” was prepared by a “Promoter of Justice”, and “accepted” by you in your capacity of “presiding judge”, but **you failed to attach a copy of the libellus of accusation (criminal complaint) to the citation (summons)** that you addressed to me as required by canon 1508 §2 of the *Code of Canon Law*. That canon requires that the libellus petitioning for the prosecution of an accused be attached to the citation. I have a right to examine the libellus of accusation to determine what my response to any citation will be, which I cannot do until I shall have received a copy of the criminal complaint. You have hidden the *libellus* from me. This is another gross violation of my right of defense and due process.
4. In your letter of April 1, 2025, the “presiding judge” writes that the undersigned defendant “*continue[s] to maintain [his] error*” and admonishes him to “*repent*”. By these statements, **you have manifested the unequivocal judgment that the undersigned is already guilty of the allegations that you have notified me of.** But can. 1448 §1 *CIC* requires that a judge who has disqualified himself from adjudicating a cause recuse himself from that cause. You have manifested a *preformed judgment* in my case – *bias* – that this Defendant maintains himself in “error” and must “repent”. Those are judgments that necessarily disqualify you from acting both as an investigator and as a judge in my case, because they belie juridical conclusions in law and fact having already been reached by you, you who were bound to remain *impartial* until submitting your *votum* at the *end*, not the beginning, of this process. This egregious bias on the part of the investigator and judge constitutes another gross violation of my right of defense and right to due process.

I respectfully request that you transmit this act to the competent ecclesiastical authority who is legally empowered by *SST/2021* to issue a decree in the matter of this request for your recusal and disclosure of the criminal complaint, given that the object of this process is (something that you never reference in your communication) reserved to the Dicastery for the Doctrine of the Faith and, thus governed by the law of the same Dicastery.

In the eventuality that a *valid and legitimate penal process* be in fact properly instituted and initiated against me, I elect, pursuant to my legal right enshrined in can. 1513, §2 *CIC*, to communicate my response *coram iudice* (in the presence of the judge) in a formal Session of *Litis Contestatio* (joinder of issues).

Until I will have had an investigator and/or judge duly appointed and/or constituted to conduct investigation and/or penal process in conformity with the law; until I will have received a copy of the *libellus* as is my right; until I will have a *legitimate investigation* and/or *penal process* conducted in my regard; and until I will have an *impartial* investigator and/or judge proceed *without bias*, **I am denied the exercise of my right of defense according to due process.**

Respectfully submitted,



Fr. John Mary Foster MDM

P.S. My correct name of usage is Fr. John Mary Foster, not "Joseph".

cc: His Eminence Christophe Cardinal Pierre
Apostolic Nuncio to the United States

His Excellency John J. Kennedy
Secretary of the Disciplinary Section of the Dicastery for the Doctrine of the Faith