

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JOHN COLIN COLLETTE,)
)
Plaintiff,)
)
v.)
)
THE ARCHDIOCESE OF CHICAGO,)
And)
HOLY FAMILY CATHOLIC PARISH,)
)
Defendants.)

Case No. 1:16-cv-2912

Judge Charles P. Kocoras

**PLAINTIFF’S RESPONSE TO DEFENDANTS’ L.R. 56.1 UNDISPUTED STATEMENT
OF MATERIAL FACTS**

Plaintiff John Colin Collette, by and through his attorneys, pursuant to Local Rule 56.1, sets forth the following Response to Defendant’s Undisputed Statement of Material Facts in support of his Response to Defendants’ Motion for Summary Judgment.

PARTIES, JURISDICTION & VENUE

1. Plaintiff, John Colin Collette ("Plaintiff"), is a citizen of Illinois with his place of residence in Chicago, Illinois. [Dkt. 1, Compl., ¶7].

ANSWER: Admit.

2. Defendant Archdiocese is a Roman Catholic religious organization located in Chicago, Illinois. [Dkt. 18, Answer, ¶6].

ANSWER: Admit.

3. Defendant Parish is a Roman Catholic parish and church operating out of the Archdiocese, and located in Inverness, Illinois. [Dkt. 18, Answer, ¶5].

ANSWER: Admit.

4. Jurisdiction is appropriate pursuant to 28 U.S.C. §1331 because the Plaintiff has asserted a claim under Title VII of the Civil Rights Act, 42 U.S.C. §2000, *et seq.* The Court has supplemental jurisdiction over Plaintiff's state law and local ordinance claims pursuant to 28 U.S.C. §1367. [Dkt. 1, Compl., ¶2].

ANSWER: Admit.

5. Venue is appropriate pursuant to 28 U.S.C. § 1391(b) as a substantial part of the events giving rise to the claim occurred in this district. [Dkt. 1, Compl., ¶3].

ANSWER: Admit.

FACTUAL BACKGROUND

Plaintiff's Employment Overview

6. Plaintiff began his employment with the Parish in 1997 as its Director of Worship. [Rosemary Geisler Affidavit, attached as *Exhibit A*, ¶4; Dkt. 1, Compl., ¶¶8-9].

ANSWER: Admit.

7. In or about 1999, Plaintiff added the title Director of Music. [*Exhibit A*, ¶4; Dkt. 1, Compl., ¶9].

ANSWER: Admit.

8. Thereafter, Plaintiff concurrently held those two titles for the duration of his employment until his termination on July 27, 2014. [Dkt. 1, Compl., ¶9].

ANSWER: Admit.

Plaintiff's Education and Experience

9. At the time Plaintiff applied for employment with the Parish, he had a Diploma in Church Music from St. Francis Xavier University, a Masters of Divinity from Catholic Theological Union ("CTU"), and was both a candidate for a Master of Arts in Word and Worship and training to be a Liturgical Consultant at CTU. [*Exhibit A*, ¶5, Ex. 2 thereto].

ANSWER: Admit.

10. As part of his coursework at CTU, Plaintiff took courses in, among other things, "Old Testament Introduction," "New Testament Introduction," "Introduction to Theology," "Language of Prayer," "Psalms," "Introduction to Pastoral Care and Counseling," "Introduction to Liturgical Preaching," "Theology of Church and Ministry," "Ministry Practicum II: Worship," "Spiritual Direction," "Bible Study/Liturgical Preaching," "Music in Ritual," "Jeremiah and Prophetic Prayer," "Legal Aspects of the Sacraments," "Paul: Philippians, Philemon, Thessalonians," "Theology of Preaching and Presiding," "Liturgical Foundations of Spirituality," "Theology of the Eucharist," "Liturgical Catechesis," and "Worship and Pastoral Care." [*Exhibit A(2)*].

ANSWER: Admit.

11. He also had previously been the Director of Music at St. James Catholic Parish from 1992-1997, where he "formulate[d] the direction and overall liturgical program for approximately 25 parish musicians and members of church choirs," "[taught] the basic elements of liturgy and participation in the selection and adaptation of appropriate liturgical elements," "assist[ed] in the overall coordination of all liturgical celebrations," and was a "member of the parish liturgy and spiritual life commissions." [*Exhibit A(2)*].

ANSWER: Admit.

12. During his employment, Plaintiff also continued to participate in education and formational coursework at CTU, taking classes towards earning a Doctor of Ministry degree. [*Exhibit A*, ¶6].

ANSWER: Admit.

13. The Parish paid \$5,400 to CTU for some of Plaintiff's coursework between 2011 and 2014. [*Exhibit A*, ¶7, Ex. 3 thereto].

ANSWER: Admit.

Plaintiff's Job Responsibilities

14. At the time of his termination in July 2014, Plaintiff was the central non-ordained member of the Parish's ministerial staff including holding duties primarily relating to the music and liturgies at Parish worship services. [Affidavit of Father Terry Keehan, attached as *Exhibit B*, ¶4].

ANSWER: Deny. Plaintiff was one of several directors with the Parish's staff, holding a role equal to those of seven (7) or eight (8) other directors at the Parish. [Exhibit 1, Affidavit of John Colin Collette, attached hereto; see also Exhibit 11, HFP0230].

15. Plaintiff, in collaboration with Father Terry Keehan, the Parish's pastor, led and oversaw meetings of the Liturgy Prep ministry, which prepared the liturgies for the upcoming season, including reading and reflecting upon the Gospel. [*Exhibit B*, ¶5, Ex. 1 thereto].

ANSWER: Deny. The process of the Liturgy Prep ministry was collaborative, and no one person led those meetings and that process. [Exhibit 1, affidavit of John Colin Collette. See also *Exhibits*

2-3, 12-13, witness affidavits from Jill Piccolino, Sue Brach, Denise Logan, and Lisa Mersereau, attached hereto; Exhibit 5, Deposition of Fr. Terence Keehan, 10:5-8].

16. Plaintiff, in collaboration with Father Keehan, would also coordinate the weekly liturgical plan. [*Exhibit B*, ¶6].

ANSWER: Deny. The process of the Liturgy Prep ministry was collaborative, and no one person led those meetings and that process. [Exhibits 1 -3, 12-13].

17. Plaintiff would also design, arrange and play and/or lead the music at Parish worship ceremonies. [*Exhibit B*, ¶7].

ANSWER: Deny. Plaintiff worked with the Music Selection Committee, and played an equal role with other committee members. He did not design the music at Parish ceremonies [Exhibit 1, Affidavit of John Colin Collette]. Admit Plaintiff did play music at ceremonies and arrange music, as well as lead music together with numerous volunteers.

18. Plaintiff also played music at Parish funerals and weddings, including requiring that he have final approval over all music selected at weddings. [*Exhibit B*, ¶8].

ANSWER: Admit that Plaintiff played music at Parish funerals and weddings. Deny that Plaintiff ever had final approval over music selected at any weddings. [Exhibit 1, Affidavit of John Colin Collette].

19. In 2014, Plaintiff and Parish Manager Rosemary Geisler created an updated job description for Plaintiff's concurrent titles of "Worship and Music Director," which memorialized the existing duties he had been and was performing. [*Exhibit A*, ¶8, Ex. 4 thereto].

ANSWER: Admit.

20. Those duties included:

- "Promot[ing], embrac[ing], and execut[ing] all responsibilities and interactions with the parish mission"
- "Creat[ing] and implement[ing] weekly and seasonal liturgical experience[s] from sight and sound to prayerful moments"
- "Foster[ing] the development of ensemble groups, youth choir, children's choir, and youth and/or adult instrumental groups"
- "Work[ing] collaboratively as a member of the Pastoral Leadership Team to develop, support and implement the Pastor's Vision and the Vision and Mission of the Parish"
- "Identify[ing] and recruit[ing] potential liturgical ministers and volunteer workers"
- "Design[ing] and arrang[ing] the music program for Sundays and Feast Days" in collaboration with other leaders within the Parish
- "Developing tools necessary in a timely fashion to implement the theme and provide a liturgical plan to all involved to facilitate the maximum experience for the assembly"
- "Develop[ing] annual liturgical theme[s] as well as seasonal themes" in collaboration with other leaders within the Parish
- "Design[ing] and implement[ing] the Worship environment for Sundays and Feast Days."

[*Exhibit A(4)*].

ANSWER: Deny. The language in the quoted parts of the Job Description is not an accurate representation of the Job Description. The Job Description described by Defendants was finalized less than two weeks before Plaintiff's termination. The omitted portions are in bold below. It stated that Plaintiff was to:

- "Promote, embrace and execute all responsibilities and interactions with the

parish mission as the foundation.”

- **“In collaboration with the music selection committee, music manager, Pastor and liturgical ministering teams,** design and arrange the music program for Sundays and Feast Days.
- **In collaboration with the Pastor, Pastoral Leadership Team, and liturgical ministering communities** develop annual liturgical theme as well as seasonal themes.”

[Exhibit 8, Job Description, HFP0034].

21. As the Director of Worship, Plaintiff also oversaw over twenty (20) of the Parish's ministries. [*Exhibit A(1)*].

ANSWER: Admit that Plaintiff oversaw “ministries” at Holy Family. Deny that this rendered Plaintiff a “minister,” as the term ministry was used loosely at Holy Family and the so-called “ministries” that Plaintiff oversaw were not spiritual in nature, such as the Sewing Ministry, which handmade pillowcases and baptismal bibs; and the Hospitality Ministry, which set out cookies and coffee after Masses [Exhibit 1, Affidavit of John Colin Collette].

22. Throughout Plaintiff's employment, the Parish held Plaintiff out as a minister, with a role distinct from other members of the Parish staff, including by identifying Plaintiff in Parish bulletins as the Director of Worship under the "Pastoral Staff" section directly beneath the Parish pastor (at the time Father Pat Brennan). [*Exhibit A*, ¶9, Ex. 5 thereto].

ANSWER: Admit that Plaintiff was identified in the Parish bulletins as Director of Worship under the “Pastoral Staff” section directly beneath the pastor. Deny the remaining allegations in

Paragraph 22. Defendants did not hold Plaintiff out as a “minister” in a legal sense, but in a spiritual sense. At Holy Family Catholic Parish, the term minister was used liberally. There exist dozens, if not hundreds of staff and parishioners referred to as “ministers” at Holy Family, each who hold that title despite the fact that the title does not hold any legal significance. [Exhibit 7, Holy Family Church Bulletins, attached hereto].

23. Later, under the pastoral leadership of Father Keehan, the bulletin format changed but Plaintiff continued to play a prominent role, including having his own page in the bulletin. [Exhibit A, ¶10, Ex. 6 thereto].

ANSWER: Admit that Plaintiff had his own page in the bulletin. Deny that this gave Plaintiff a “prominent role” as each of the seven (7) to eight (8) other Holy Family directors had his or her own page in the weekly bulletin [Exhibit 1, Affidavit of John Colin Collette; Exhibit 7, Church Bulletins].

24. Plaintiff also held himself out as a minister of the Parish to other Parish staff and to the Archdiocese, including acknowledging the ministerial nature of his position during the years of his employment through the goals and objectives he set for himself. [Exhibit A, ¶11, Ex. 7 thereto].

ANSWER: Deny. Plaintiff did not hold himself out as a minister. At Holy Family Catholic Parish, the term minister was used liberally. There exist dozens, if not hundreds of staff and parishioners referred to as “ministers” at Holy Family, each who hold that title despite the fact that the title does not hold any legal significance. [Exhibit 7, Holy Family Church Bulletins].

25. From 2011-2014, Plaintiff also gave nearly twenty lectures to Parish members relating to adult faith formation, including on the topics of "Sacrament of Baptism," "Holy Triduum / Paschal Mystery," and "The Beauty of Worship and Liturgy," the last of which was repeatedly advertised in the Parish bulletin. [*Exhibit A*, ¶12, Ex. 8 thereto].

ANSWER: Admit that Plaintiff gave lectures. Deny that he did so as a minister in the Church, but rather as a lay person community member within the church. Many lectures, including those that were advertised at the same time as Plaintiff's lectures, were given by other lay people, community members, and even Rabbis, who were not ministers in Holy Family or doing ministerial work. [Exhibit 1, Affidavit of John Colin Collette; Exhibit 19, Advertisements for Lectures from the Holy Family weekly bulletin].

26. During that same period, Plaintiff also recorded nearly 40 video lectures, which were posted to the Parish's YouTube channel, in which he was interpreting and teaching scriptures in the name of the Parish. [*Exhibit A*, ¶13; Videos submitted directly to Court].

ANSWER: Deny. Plaintiff did not record these videos "in the name of the Parish." Plaintiff recorded these videos "Reflections on Readings" in his own name, as did dozens of parishioners and congregants of Holy Family who volunteered to participate in this program, aimed at engaging laity at Holy Family. [Exhibit 1, Affidavit of John Colin Collette; Exhibit 5, Keehan Deposition, 46:1-21].

Plaintiff's Visa Application

27. When the Parish sought to hire Plaintiff, he was not legally authorized to work in the United States. Accordingly, the Archdiocese applied for a religious worker visa for Plaintiff so that he could be employed at the Parish as a Director of Worship. [*Exhibit A*, ¶14, Ex. 9 thereto].

ANSWER: Admit.

28. As part of the petition, the Archdiocese held Plaintiff out to the United States government as a key ministerial employee of the Parish, including performing religious functions. [*Exhibit A*(9)].

ANSWER: Deny. The Archdiocese, through its attorney, held Plaintiff out as a “Religious Professional” on Plaintiff’s 1360 Petition to the U.S. Department of Justice Immigration and Naturalization Service, specifically declining to select “minister” as the category under which the Archdiocese sought to Petition for a Visa [Exhibit 4, Form I-360].

29. The U.S. Immigration and Naturalization Service approved the petition and granted Plaintiff a religious worker visa status for his employment at the Parish. [*Exhibit A*, ¶15, Ex. 10 thereto].

ANSWER: Admit.

30. Plaintiff’s path from R-1 temporary religious worker to lawful permanent residency was possible because of the Archdiocese’s sponsorship of his immigration petitions as a ministerial employee of the Parish. In 2001, Father Brennan asked the Archdiocese to apply for lawful permanent residency on Plaintiff’s behalf, and in support thereof Father Brennan noted the important ministerial role that Plaintiff served in the Parish. [*Exhibit A*, ¶16, Ex. 11 thereto].

ANSWER: Deny that Plaintiff held a ministerial role at the Parish. The Archdiocese, through its attorney, held Plaintiff out as a “Religious Professional” on Plaintiff’s 1360 Petition to the U.S. Department of Justice Immigration and Naturalization Service, specifically declining to select “minister” as the category under which the Archdiocese sought to Petition for a Visa [Exhibit 4, Form I-360]. Admit the remaining allegations in Paragraph 30.

31. The Archdiocese also agreed to sponsor Plaintiff’s application for permanent residency and based that immigration petition on the ministerial nature of Plaintiff’s job at the Parish, requesting Special Immigrant Religious worker status, which required that the Archdiocese establish that Plaintiff was either an "ordained minister," a "member of a religious order," or a "religious professional." [Exhibit A, ¶17, Ex. 12 thereto].

ANSWER: Deny. The Archdiocese applied for Plaintiff’s permanent residency as a “religious professional” and not as a minister [Exhibit 4, Form I-360].

32. In 2003, the U.S. Immigration and Naturalization Service recognized and approved Plaintiff as a religious professional and granted him Special Immigrant Religious Worker status. [Exhibit A, ¶18, Ex. 13 thereto].

ANSWER: Admit.

Lay Ecclesial Ministry Program

33. In 2010, Plaintiff also applied for the Archdiocese's Lay Ecclesial Ministry program to begin the process of studying for ministry as a Pastoral Associate. In order to be eligible for this

program, an applicant must have completed at least two years of ministerial work at an Archdiocese parish. [*Exhibit A*, ¶19, Ex. 14 thereto].

ANSWER: Deny. The Archdiocese's Lay Ecclesial Ministry Program did not require program applicants to have completed any ministerial work. In order to obtain a Pastoral Associate Certification and Call to Ministry, a candidate was required to complete the Archdiocese's Lay Ecclesial Ministry Program and obtain "two years experience [sic] as a salaried parish pastoral minister, e.g. minister of care pastoral associate or coordinator of ministries." Plaintiff did not complete the Lay Ecclesial Ministry Program and did not obtain a Pastoral Associate Certification and was never formally Called to Ministry by the Archdiocese of Chicago [*Exhibit 1*, Affidavit of John Colin Collette; *Exhibit 18*, HFP0172].

34. Plaintiff's application acknowledged the significant ministerial nature of his work at the Parish:

"For fourteen years now I have been living my Baptismal Promises as the Director of Worship for the people of Holy Family Catholic Community. Over the years they have called me to not only prepare and lead various aspects of our Liturgical life, they have also invited me into their Spiritual lives and a retreat director and leader of prayer. I have spent time at their bed sides as they moved from this live [sic] into the loving embrace of Jesus Christ and the eternal life promised to them. ... They have asked me to break open God's word in moment of preaching and teaching. ... In essence I have served them as a pastoral associate for many years now... .

...

My life in ministry has been exciting, challenging and truly varied. Ministry has called me to leave my home land, to journey to a strange and scary place, the inner city of Chicago, and now to live the 'mega church' experience, and at each stop along the way I have learned something new about myself and my understanding of ministry.

...

It was an amazing feeling the first time I sat at the pipe organ to play for a Sunday worship

service... .

...

Now my time at Holy Family I feel has helped me mature and grow as a minister.

[*Exhibit A(14)*, see HFP00177-180].

ANSWER: Admit that Plaintiff's application stated the aforementioned text. Deny that the application reflected the "significant ministerial nature" of Plaintiff's work at Holy Family.

Plaintiff used the term "minister" to describe the value of "evangelization" that Holy Family's staff and congregation sought to further, wherein Holy Family encouraged laity to discuss their religious knowledge and faith with others to further the goals of the church [Exhibit 1, Affidavit of John Colin Collette; Exhibit 16, Holy Family Web Site].

35. In support of his application, Father Keehan wrote that Plaintiff "consistently shares his knowledge of scripture, liturgy, and church very generously with our community and beyond." [Exhibit A(14), see HFP00182].

ANSWER: Admit that Fr. Keehan wrote that recommendation. Deny that Plaintiff shared "his knowledge of scripture, liturgy, and church" in his employment capacity at Holy Family, but in his capacity as a lay person within the Holy Family community, as Holy Family's mission of lay empowerment encouraged Plaintiff to do [Exhibit 1, Affidavit of John Colin Collette; Exhibit 16, Holy Family Web Site].

36. Jill Piccolino, Plaintiff's assistant, wrote in support of Plaintiff's application that Plaintiff was "very gifted in many areas of sharing liturgy, faith, music, art and environment," that "his passion for the Gospel and having people to fully understand all facets of the Word of God is

evident due to his sharing with conviction and authority," and that he had been "called to carry forward the mission of the Church." [*Exhibit A(14)*, see HFP00184].

ANSWER: Admit.

Plaintiff's Termination

37. On or about July 23, 2014, and following Plaintiff's public engagement to his partner (now husband), Cardinal Francis George sent correspondence to Father Keehan instructing him to "resolve" that week the situation involving Plaintiff's employment in light of him publicly entering into a "non-sacramental marriage." [*Exhibit B*, ¶9, Ex. 3 thereto].

ANSWER: Admit.

38. On July 27, 2014, after Plaintiff refused to resign, he was terminated. [Dkt. 1, Compl., ¶18].

ANSWER: Admit.

39. On July 29, 2014, Father Keehan sent correspondence to Parish staff members announcing Plaintiff's termination, including stating that as "ministers of the Church, staff are expected to and agree to publicly uphold the teachings of the church." [*Exhibit B*, ¶10, Ex. 4 thereto].

ANSWER: Admit.

40. Thereafter, Father Keehan published a statement in the Parish's weekly bulletin explaining that Plaintiff's termination was the result of him "publicly endors[ing] a position in conflict with church teachings," and, again stating that as "ministers of the church, staff are

expected to and agree to publicly uphold the teachings of the church." [*Exhibit B*, ¶11, Ex. 5 thereto].

ANSWER: Admit.

41. On August 6, 2014, Cardinal George responded to correspondence he received regarding Plaintiff's termination by stating that Plaintiff's "decision to enter into a civil marriage or public union that cannot be recognized as sacramental by the Church makes it impossible for him to continue as a public minister of the Church," as the issue was a question of the "integrity of the ministries of the Church." [*Exhibit B*, ¶12, Ex. 6 thereto].

ANSWER: Admit.

42. On October 22, 2014, Cardinal George also published a statement in the Parish's weekly bulletin stating that Plaintiff was terminated because as a "minister" he participated "in a form of union that cannot be recognized as a sacrament by the Church," that "[p]ersonal lifestyle enters into the consideration of suitability for ministry," and that "ministers in an official position represent to the world the Church's understanding of marriage. At issue here is the integrity of the Church's public ministries." [*Exhibit B*, ¶13, Ex. 7 thereto].

ANSWER: Admit.

Plaintiff's Tax Returns

43. On his 2014 tax returns, Plaintiff paid self-employment tax, holding himself out as a minister. A copy of his 2014 tax return (with redactions) is attached as *Exhibit C*.

ANSWER: Deny. Plaintiff did not hold himself out as a minister on his tax returns. Plaintiff paid self-employment tax on his income from his floral business, Surroundings by Colin, which was a

sole proprietorship in 2014 and therefore required Plaintiff to pay self-employment taxes. Plaintiff did not hold himself out as a minister on his tax returns in 2014 or any other year [Exhibit 1, Affidavit of John Colin Collette].

Respectfully submitted,

LAVELLE LAW LTD.

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