

Same-Sex Marriage & Catholic Schools

Michael Sean Winters | Jan. 24, 2014 | Distinctly Catholic

The controversy over [the decision to terminate the employment of Vice Principal Mark Zmuda](#) [1] from his job at Eastside Catholic High School raises important and challenging issues for Church leaders, issues that are not likely to go away anytime soon. Whether Zmuda was fired or felt sufficient pressure to resign may have contractual significance, but is hardly the key issue. No, the key issue is this: The statement from the school said Zmuda is leaving "for violating his signed agreement to abide by Catholic Church teachings" and that "the public behaviors of our faculty and staff must at all times be consistent with the values and teachings of the Catholic Church." That is a pretty high standard and, if it were met by all the staff at Eastside Catholic, there would likely be a shorter line at the confessionals on Saturday afternoons.

I had not jumped into the debate, but feel prompted to by my friend and sometimes sparring partner Rick Garnett, who has [a typically thoughtful post up on this issue at Mirror of Justice](#) [2].

As a matter of law, Garnett is undoubtedly correct that there is no real debate: Eastside Catholic has the right to terminate any school employees it wishes. Teachers are certainly within the compass of the ministerial exemption from anti-discrimination laws, and even other staff members could seriously disrupt a parochial school's mission if they wished in ways that would extend the ministerial exemption to them as well. The Church is free to fire and hire free from government interference, which does not mean it is smart to do so, only that it is undoubtedly within its legal rights to do so.

It is also the case, however, that unless every single staff member at Eastside Catholic is a saint, someone other than Mr. Zmuda is not abiding by Catholic Church teachings and is still on the payroll. It is also likely that the administration at the school knew Mr. Zmuda was gay, and did not fire him, but took this step only when he married his same-sex partner in a civil ceremony. So long as Zmuda's private life was private, they did not take any steps against him but, after all, the whole point of civil marriage is to give public significance, and legal protection, to a relationship that might otherwise be considered private, yes?

Here is the rub for me. It is true that marriage is a public act. It entails official government recognition. You can look it up on a government register. But, most people do not spend their time sorting through government records to see who is, and is not, married. If Mr. Zmuda began bringing his husband to the school and introducing him as his husband, I do not see that as any different from a straight woman bringing in her live-in boyfriend or a straight man bringing in his mistress, and introducing them as such. In all three cases, I think the school would be within its moral as well as its legal rights to fire them. The offense, however, is not that they violated Church teaching, but that their announcement of their violation can be considered an effort to undermine Church teaching.

Let us take another analogy. A little more than a half hour from my home in Connecticut, there are two huge casinos. It is not uncommon to run into a member of the clergy there. Now, I do not begrudge any priest his day off. And, games of chance are not necessarily sinful, although they are definitely in the concupiscent category, *fomes peccati*, tinder for sin. Me? Given my highly addictive personality, I have never wagered a dime at either casino, but I go there because Jasper White's Summer Shack restaurant has some of the best steamers and fried

clams in the area. But, back to the clergy. The casino is a private enterprise. (We could even quibble there because the casinos in question are both owned by sovereign nations.) But, a casino is a highly public environment. A priest is more likely to be seen playing the slots at a casino than anyone who was not looking for it would have unearthed the fact that Mr. Zmuda got married at City Hall. Which is the greater scandal? Personally, I am not scandalized by either circumstance. I am, however, scandalized by those who cheat on their taxes. Tax forms are legal documents, just like marriage certificates. Anyone want to guess how many employees at Eastside Catholic High cheat on their taxes?

There is a further point that needs to be made. There are a variety of reasons people contract civil marriage. As the proponents of same-sex marriage frequently point out, marriage brings with it a host of legal protections for their relationships. What the Church considers sinful is homosexual activity, by which we do not mean Will going shopping at Barney's with Grace. Who knows what goes on in Mr. Zmuda's bedroom? Whatever it is, it is certainly more private than gambling at a casino. I am myself celibate and intend to remain such for the rest of my days. Yet, I can imagine a scenario in which I would contract a civil marriage with a friend, and it would not matter to me whether that friend was male or female, if, for instance, I had a long-term, debilitating illness and would want someone I trust to be able to act on my behalf during bad times. There is nothing sinful in that even in the eyes of the Church, is there?

I do not envy Archbishop Sartain of Seattle. I do not know the archbishop well but he strikes me as a very kind and compassionate pastor. As noted above, I anticipate many more bishops will be facing these situations so they should all start thinking about them carefully. Certainly, it is not hard to imagine that some activist might try and get hired at a Catholic school simply to provoke a legal fight over this issue, and I fancy Archbishop Sartain has that possibility in mind too. And, while my preference would be for each case to be handled on a case-by-case basis, employees have a right to know the rules of the road and the rules are difficult to formulate when they must cover circumstances that could be widely different.

Wouldn't it be nice if the Church and the gay community could hit a reset button? Alas, we are all creatures in history. And, before anyone gets all huffy about the Church, I would point out, as I have before, that gay rights activists have not exactly covered themselves in glory the past decade or so. As [gay activist Peter Staley](#) [3] and I have both argued, the abandonment of the fight against HIV/AIDS by affluent, mostly white, gay organizations like the Human Rights Campaign, even while the HIV rate among African-Americans in Washington is similar to the rate in sub-Saharan Africa, is a shameful thing. And, listening to gay activists get all huffy about the Winter Olympics in Russia, without ever a word for political prisoners, or the dead in Chechnya, or other victims of Putin's wrath, well, it is a bit rich.

For its part, the Church has to stop seeing same sex marriage as some civilizational struggle. If some percentage of the small percentage of people who are gay in America wish to get married, that is less of a threat to what the Church means by marriage than the fact that so few Catholics get married in the Church anymore, or the fact that so many Catholics end up divorced, or that the "hook up" culture is as pronounced on Catholic college campuses as it is at secular college campuses. If we as Catholics believe civilizational flourishing requires marriage to flourish, there are bigger fish to fry than Mr. Zmuda and his husband.

Alas, no reset buttons in sight and I fear that both sides are more interested in digging in than reaching out. Blessings up the gay rights leader who stands up for the constitutional right of a Catholic school to fire whom they wish. Blessings upon the Catholic prelate who admits that civil marriage for same-sex partners is not the threat it has been painted as. And, blessings upon everyone who helps to restore a greater appreciation for the idea that one's private life is best kept private, that the personal is not necessarily the political, and that it is possible, at the same time, to both cling to the Church's teachings and be generous and merciful with those who cannot or will not share them in their entirety. Isn't that what Pope Francis has been trying to remind us these past few months?

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