

Consilium 64

Translation by Alice Browne

Concerning the third section of book eight, About the enclosure of nuns.

Sister Anna Gertruda Laetitia, professed in religion in the convent of St. Clare in Rome, in the tertiary order of St. Francis, asked to be released from enclosure, for two reasons: first, on the grounds that the profession of her vows was null and void, because she had made it out of fear and reverence for her father, which she offered to prove conclusively. Secondly, because she was afflicted with such constant and serious illnesses that she needed to care for herself outside the convent to recover her health; she said that she had medical authority that there was no other way to recover her health. The first issue does not concern us: I was consulted about the second issue, and my opinion is as follows.

1. Papal indulgence concerning the release of nuns from enclosure does not consider the health of individuals.
2. The contrary of this.
3. A change of air is the most effective remedy for long-lasting diseases.
4. The conditions required for an illness to be grounds for dismissing a nun from enclosure – and no. 9.
5. Everyone is permitted by natural law to protect their own life.
6. Everyone is expected to avoid those things which endanger their life.
7. People who help those who are ill for a long time do not avoid adverse effects on their own health, because of the troubles they undergo.
8. If an illness is not contagious, it is not a just cause for dismissing a nun from enclosure.
9. [see no. 4]
10. Epilepsy is sometimes induced by vapor.
11. An illness which is the reason for a nun being dismissed from enclosure must be probably curable.
12. Natural weaknesses cannot be corrected.

I have insisted on this again and again elsewhere in my medico-legal questions, under the heading *De clausura monialium*: the papal indulgence concerning a nun's release from enclosure does not cover the health of any individual nun, but only concerns the health of the whole community. So if it happens that a nun is to be released from enclosure because of some very serious illness, she needs a special pontifical brief; she cannot rely on the universal conclusion and leave enclosure on that basis. For this reason, the usual and correct opinion is that she needs a permission of this kind from the Pope himself: see [Giovanni Girolamo] Campanili, *Diversorium juris canonici*, rubric 12, chapter 13, n. 13; also [Giovanni Battista] Ventriglia, *Annotations [i.e Praxis rerum notabilium præsertim fori ecclesiastici ... annotantur]*, annotation 5, section 2, n.19. So, as far as I am concerned, this point has been decided, and for the reasons adduced in the passage cited, Sister Anna Gertruda must ask for a license from the Pope to take care of herself outside the cloister and return to health.

But we must see whether this nun has a just and legitimate reason to ask for and receive a license of this kind from the Pope. In order to decide the question correctly, the first thing to do is to disclose the state of the nun's health. It has been established that she has been subject to poor health from birth, and, most importantly, she has suffered from constant distillations from the head, which caused lameness and contraction of the lower back and left hip when they descended to those parts of the body.

When she reached puberty, she suffered constantly as time went on from a deficiency of menstrual flow, which made her fall into a thousand preternatural states and very serious symptoms. She was constantly troubled by epileptic attacks, discharges of blood from the mouth, tremblings of the heart (which raised her left ribs), as well as constant fevers, and stomach troubles, pain, and other symptoms. All these problems either began or became much worse once she donned the nun's habit and made her profession. Then, agitated by powerful mental passions, and greatly troubled by her aversion to religious life, she was often in danger of death; but she could collect herself in a moment from her violent symptoms, in such a way that you would have said there was nothing wrong with her. Because of this, there were nuns who said that she was mostly pretending, or was troubled by an evil spirit. However, we will determine that all these things should be attributed to their natural causes.

Therefore, since she suffered constantly from so many severe afflictions, she asked to be released from enclosure; either she should be allowed this on the basis of the universal indulgence granted to nuns by the Popes, whenever they cannot be cared for within the cloister, or she should be able to ask for a license from the current Pope, if she could not make use of the universal indulgence. Some canonists, who I have cited at book 8 of these Quaest[iones], tit.3 quaest. 2 are of the opinion that the papal permission granted to nuns is not only concerned with the health of the whole community, but also extends to the health of an individual nun, when she is suffering from a disease which doctors judge can only be treated outside the cloister, even if it is not infectious. The disease and ill-health afflicting Sister Anna Gertruda appears to be of this kind.

It is clear that it could not be treated within the cloister, from the progress of the disease and the passage of so many years, and from the fact that so many powerful remedies had been applied in vain to no effect, when nothing whatever was accomplished by their use.

On the other hand, it is clear that it could be treated by a change of air, and dismissal from the cloister, because we have no more effective treatment in medicine than a change of air, and none better adapted to treating long-lasting, difficult, and stubborn illnesses, as I have said elsewhere in the passage cited above. This is the general opinion of doctors, who almost unanimously recommend a change of air as the only, unparalleled, and certain treatment for this type of disease. So it was not unreasonable for the two learned doctors to give the opinion to this effect, which the nun has offered to show openly and produce for the court.

Therefore it seems Sister Anna Gertruda has just cause to leave the cloister, because the diseases from which she suffers are severe and intractable, as is clear from experience; and it would seem they cannot be treated within the cloister, so they undoubtedly endanger the patient's life. This is the most important condition required by the learned, in order for a request to leave the cloister to be considered legitimate. See Navarrus, Comm. 4 de reg[ularibus] 49,¹ and Sebastian Soto, in the treatise De infirm. ob quas monial. Proposition 3, where we can see clear arguments for this position.

¹ Martin de Azpilcueta, [a.k.a Doctor Navarrus] De regularibus commentaria quatuor.

The most powerful argument is that natural law allows everyone to do their best to protect their own life; otherwise, if someone neglected to do this, they would sin against the duty of charity to oneself. Because of this duty, just as it is not lawful to cause oneself significant injury, even less so to kill oneself, every person is obliged to do their best to avoid whatever clearly endangers their life. A disease of this kind is life-threatening: the nun will certainly die, unless she cares for herself and attends to her health outside the cloister. Within the cloister, she cannot recover her health, however much she tries to recover it with numerous powerful remedies. Therefore, as has been demonstrated, she must seek out better and more certain remedies, and the best of these is a change of air.

We can add that although the illnesses with which Sister Anna Gertruda is constantly afflicted are not contagious, so that there is no need to separate her from the other, healthy nuns and dismiss her from the cloister for fear of contagion, nonetheless she cannot be kept in the cloister without some fear of infection and great detriment to the other nuns. Although the nuns who are continually busy with her care have nothing to fear from contagion, they still can fear for their own health, because of the constant and time-consuming labor spent in caring for her. It is not news, but confirmed by daily experience, that people who care for the sick, when the disease is significant and long-lasting, even if it is not contagious, can easily slip into some serious illness themselves, because of the constant hard work and numerous inconveniences they endure in this task.

So it is clear enough that this nun should be allowed dismissal from enclosure, for the benefit of the whole community of nuns, not just on her own account; it is not just her own health that is at stake, but that of all the others. Therefore the dismissal can rightly be requested under the papal indulgence made for the health of the whole community. So Sister Anna Gertruda can be dismissed from enclosure for two reasons, both of which are just and legitimate: first, so she can preserve her own life, second, so as to release the other nuns from the fear of contracting some significant illness.

But in reality, if everything is given right and proper consideration, Sister Anna Gertruda does not have just cause for dismissal from enclosure on these grounds. First, it is clear that the illnesses she suffers from are not contagious in any way, and she cannot be dismissed on the grounds of fear that the other nuns may contract illnesses of this kind, or be infected by them in any way. The argument is null with respect to the general health of the

whole convent, and so this case cannot be included among cases where the Popes release nuns from the cloister so they will not infect others. Not only is this nun's illness not one of the ones listed as grounds for a dismissal of this kind – it is not plague or leprosy or any other contagious disease – it is so far from being contagious that none of the nuns who have looked after her for so many years, feeding her, giving her medicines, and constantly tending to her bodily needs, have ever been attacked by a similar or related disease. So it unnecessary to add anything more under this head. Therefore even if we grant that her illness is of such a kind, that the air of the convent is damaging enough to it for her to be able to recover her health through a change of air: this would still not be a sufficient cause to release her from enclosure. See [Joannes Baptista] Ventriglia, in Pract. Annot. number 5, section 2, number 37, and the reasons adduced there.²

Secondly, if we take the other issue, just considering her own health, and grant that she can legitimately ask to leave the cloister in order to attend to her own health and survival: yet the diseases from which she suffers are not of a kind that can justify her request, since they lack any of the conditions needed to provide a legitimate reason for leaving the cloister. First, such illnesses must show an obvious danger to life, as then the duty to preserve one's own life acts as an exemption from the obligation and vow of perpetual enclosure. Second, they must be of a kind that can probably be cured outside the cloister, otherwise the permission to leave the cloister would be futile, if the purpose for which it was granted cannot be achieved. Third, they must be of a kind which, according to medical opinion, can only be cured outside the cloister; otherwise, if there are other treatments available which could be applied within the cloister, those should be used, and the license for leaving the cloister should not be granted.

As for the first condition, the answer is obvious. In spite of the severity of the symptoms with which this nun is tormented, it is clear she is in absolutely no immediate danger, for two reasons. First, bodily states of this kind do not belong to major organs and are not specific to them; they all derive from the uterus, and we know from everyday experience that women can be so badly affected by the uterus that they can look as if they are dead, and occasionally be taken for dead: we know that this has happened more than once. Those who wish to can find numerous cases of this kind

² Probably referring to Ventriglia's annotations to his *Praxis notabilium rerum*.

described by several authors. Schenck [Johannes Schenck von Grafenburg] gives numerous examples in his *Observationes*, book 4, under the rubric *De uter[i] suffocat[i]one*. In Giovanni Boccaccio's *Decameron*, [day] 10, [tale] 4, there is a similar, and truthful, story. The second reason is that because these symptoms are evoked by vapors, or some gaseous matter, they are more easily dispelled than if they were derived from some humoral matter. We should not be surprised that so many symptoms, and such serious ones, can be caused by vapor, breath, or some gaseous material, because of the following fact, which we have on the authority of Hippocrates, *Liber de flatibus*, number 11, and following; Aristotle, *De somno et vigilia*, chapter 4, supported by Cardinal,³ commenting on Hippocrates, *Aphorisms*, book 2, aphorism 45, and other learned doctors: epilepsy, the most serious of all symptoms and diseases, is often evoked by vapor, air⁴, some breeze, or other gaseous matter. Experience confirms this: for epileptics relapse into their illness just from the smell of certain things. This is the reason why whenever we want to test whether a man is epileptic, or has been cured from the epilepsy he used to suffer from, we expose him to the smell of things of this kind. We find this everywhere in the practical physicians; for a recent example, see Sennert, book 1 of the *Practicae [medicinae] libri*, part 2, chapter 31, question 3. So, because the cause triggering the diseases which trouble Sister Anna Gertruda is a vaporous matter which is easily dispersed, it cannot be a legitimate cause for granting her a license to leave the cloister. Even though she suffers many recurrences of her illness, they are easily brought to an end, as the nun's own experience shows; she also reports that from moment to moment she recovers from her previous symptoms to a point where she is obviously completely delivered from them, so that you would not even dream that she suffered from any illness; this is stated in the relation itself.

The second condition was that the disease should be probably curable outside the cloister: for if this is not established, it would not be right to release a nun from enclosure, if the reason for her release did not apply: once the cause of a privilege does not apply, the privilege does not apply: see Tiraquellus's [André Tiraqueau], treatise on *cess. Caus. [De causis cessantibus]*, part 1, no. 103. Therefore, if the infirmity was not curable, the cause, i.e. that it could be treated and healed, which moves the Canons to

³ Cardinal[i?] may be a misprint for [Girolamo] Cardano, who did comment on Hippocrates's *Aphorisms*.

⁴ The text reads *statu* here, which I take to be a misprint for *flatu*.

grant this privilege of leaving the cloister, would not apply. Therefore it is necessary that a disease on account of which a nun asks to be treated outside the cloister must be at least probably curable. But in our case, since the contrary is clear, the cause is invalid and illegitimate. The diseases and symptoms with which this nun is afflicted cannot be cured outside the cloister, not only because they have become habitual and connatural, but because they are truly from nature, since she has been subject to these diseases and symptoms almost from her birth, and everything has only been made worse by the diminished purgation of her menses, and their occasional complete suppression. Even children know that natural weaknesses cannot be amended.

This is not contradicted by the assurance of the doctors that she is suffering from illnesses of a kind that can never be cured within the cloister, but certainly can be outside the cloister, for reasons they state, because these doctors do not have a true and accurate notion of the history of the diseases she suffers from. She withheld the fact that she had suffered from the same diseases almost from birth, and only told them that she had fallen ill with these diseases from the hardships of the cloister. As a result, these doctors allowed themselves to yield to the sick woman's entreaties and believe this story, which I refused to credit, since I knew the true facts much better than these doctors.

It is also clear from the above that the diseases from which Sister Anna Gertruda suffers do not fulfill the third condition, which was that the diseases in question must be curable only by releasing the sick woman from the cloister, and not by other means, for diseases resulting from nature cannot be cured by other means and not by release from the cloister either. Even if we grant that they are not incurable by nature, it is neither certain nor probable that they could be cured by the sick woman's departure from the cloister. The reason is that all her diseases of this kind depend on her uterus, which never fulfills its function rightly, in the way that nature demands: it does not purify itself and the body as a whole from the dregs of the blood, which constantly accumulate in the body. This does not just result from a flaw in the blood, but from a flaw and bad positioning of the uterus itself, especially from the turning-in of the left hip-bone, which presses and confines the uterus and other internal organs. These flaws cannot be improved by a change of air and departure from the cloister; they need a restoration of the uterus to its natural place, and removal of the impediment

resulting from the turning-in of the hip-bone. No change of air can contribute anything to this restoration and removal.

From the above it is also easy to deal with the difficulties, which have been adduced in favor of Sister Anna Gertruda, to prove the case that she should be allowed to leave the cloister. As for the question of the nullity of her profession, which she adduced at the same time as the above, the canon lawyers will decide on the right opinion.