Exhibit 18

UNITED STATES DISTRICT COURT
SOURTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

INDIANA CIVIL LIBERTIES UNION, INC., INDIANA CIVIL LIBERTIES UNION FOUNDATION, INC., together d/b/a the American Civil Liberties Union of Indiana; JAMES A. TANFORD; REV. KEVIN ARMSTRONG; PATRICE MUUMBA ABDUALLAH, Plaintiffs, v. MIKE BRAUN, in his official capacity as the Governor of the State of Indiana, Defendant.	No. 1:00-cv-00811-SEB-MKK

Declaration of Monsignor John Paul Kimes

I, John Paul Kimes, pursuant to 28 U.S.C. § 1746, declare the following:

1. I am over the age of 18 and competent to make this declaration.
2. I have personal knowledge of the matters stated in this declaration, and could and would so testify if called as a witness.
3. I am a Catholic priest and the Mark Moritz and Family Memorial Professor of the Practice at Notre Dame Law School in South Bend, Indiana. I also serve as the Raymond of Peñafort Fellow of the de Nicola Center for Ethics and Culture, a Fellow of the Lindsey and Matt Maroun Religious Liberty Clinic at Notre Dame Law School, Visiting Professor at the Pontifical University of Holy Cross in Rome, Italy, a Lecturer at the Faculty of Canon Law St. Pius X in Venice, Italy and an invited professor in the Máster en Especialización y Liderazgo

offered by the Universidad Complutense in Madrid, Spain. A copy of my curriculum vitae ("CV") is attached as **Exhibit A** to the Expert Report of Monsignor John Paul Kimes, which is in turn attached as **Exhibit 1** to this declaration.

4. I was asked to give my expert opinions on the history and significance of different "versions" of the Ten Commandments, as well as an assessment of the monument at issue in this case from a Catholic perspective.

5. My opinions on these topics are set forth in Exhibit 1, which is a true and correct copy of the Expert Report that I prepared for the Defendant in this case. If called as a witness I could and would competently testify as to the facts and opinions set forth in my Report.

6. I am receiving $250 per hour for expert work in this case.

7. My CV, attached as Exhibit A to the Expert Report, includes a list of the publications that I have authored in the last ten years.

8. My Expert Report includes a list of other cases in which, during the previous four years, I have testified as an expert witness at trial or by deposition.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 13, 2026.

John Paul Kimes

Exhibit 1

Expert Report of
Monsignor John Paul Kimes

ICLU v. Braun
United States District Court
Southern District of Indiana

I. Introduction and Qualifications

1. I am a Catholic priest and the Mark Moritz and Family Memorial Professor of the Practice at Notre Dame Law School in South Bend, Indiana. I also serve as the Raymond of Peñafort Fellow of the de Nicola Center for Ethics and Culture, a Fellow of the Lindsey and Matt Maroun Religious Liberty Clinic at Notre Dame Law School, Visiting Professor at the Pontifical University of Holy Cross in Rome, Italy, a Lecturer at the Faculty of Canon Law St. Pius X in Venice, Italy and an invited professor in the Máster en Especialización y Liderazgo offered by the Universidad Complutense in Madrid, Spain. Please see my *curriculum vitae,* attached as **Exhibit A**, for a more comprehensive list of my publications, lectures, and other work.

2. During the previous four years, I have testified as an expert witness at trial or by deposition in the following cases: Re: *Paul Bechard v. Thomas Rosica, et al.* Ottawa, ON Canada; *Anira Patel v. Annopam Mission, Inc*, U.S. District Court for the Eastern District of Pennsylvania; *Jane Doe v. Diocese of Nashville and St. Rose of Lima Catholic Church* (Circuit Court for Davidson County, TN).

3. I am receiving $250 per hour for expert work in this case.

4. I am basing this report on my training and study as a Catholic priest and professor, my consultation of the sources discussed below, and my review of the photographs of the monument at issue in this case appearing at docket number 59-7.

II. Summary of Opinions

5. The notion that there is a meaningful dichotomy between "Protestant" and "Catholic" versions of the Ten Commandments is ahistorical and, at least for the Catholic Church, theologically inaccurate. Variation in ways of presenting and numbering the Commandments dates back centuries before the Protestant Reformation; the relevant divide is not between Catholic and Protestant but between the numbering systems traceable to the Jewish scholar Flavius Josephus (d. 100 CE)

and the Christian theologian Origen of Alexandria (d. 253 CE), on the one hand; and the Christian theologian Augustine of Hippo (d. 430 CE), on the other. Today, there are Catholic and Protestant traditions on both sides of this divide—Latin Catholics and Lutherans typically use the Augustinian numbering; some Eastern Catholics and Reformed Protestants typically use the Josephus/Origen numbering. The substance of the texts do not disagree, merely the numbering.

6. The Catholic Church sees both numberings as legitimate. The numbering system used on the monument at issue in this case is the Josephus/Origen numbering. That numbering is not theologically offensive to Catholics. Any suggestion that there would be confusion among the faithful caused by the presentation of the Commandments found on the monument in question is not an issue, from a Catholic perspective. The Scriptural foundation is unchanged and any person possibly confused by the numbering or presentation need only open his or her Bible to note that the text has not been altered.

7. Nor is it a difficulty for Catholics that the monument at issue in this case includes as part of the Ten Commandments the prohibition on "graven images." The Catholic Church unambiguously teaches that the Ten Commandments include a prohibition on "graven images," which the Church understands to constitute a proscription of idol worship. The idea that the Catholic Church has excised Scripture's prohibition against graven images is false. The monument at issue here is thus not theologically problematic for Catholics simply because it recounts that prohibition; to the contrary, recounting that prohibition is consistent with Catholic teaching.

III. The "Ten Commandments" in Sacred Scripture and early Christianity, before 354 CE

8. The Hebrew texts referred to as *Tanakh* in the Jewish tradition are collectively referred to in Christianity as the "Old Testament." In the *Tanakh*, the

term for covenant is בְּרִית (beerit). When the Hebrew Scriptures were first translated into Greek, in a work referred to as the Septuagint (or LXX),[1] there was no exact Greek correlative term for בְּרִית so the text opted for the term διαθήκη (diatheke), which better corresponds to the notion of a last will (testament).

9. In the Gospel of Luke, composed in Greek, when Jesus hands over the cup of wine during the Last Supper (Lk 22:20), the term used, again, is διαθήκη.[2] It is unsurprising, then, to find the term διαθήκη in the writings of Paul: "who has indeed qualified us as ministers of a new covenant (καινῆς διαθήκης) … ." (2 Corinthians 3:6).

10. Before Jerome's translation of the Greek Scriptures into Latin, the second century theologian Tertullian had already begun to speak of an "old testament" using two different Latin terms: *instrumentum* and *testamentum*. For Tertullian, the term *instrumentum*, a technical term from Roman Law, was preferred, as he treated the collection of writings in the Hebrew canon as authoritative records proving doctrinal arguments. History, obviously, came to prefer the term *testamentum*.

11. The terminology now universally accepted began only in the late second century CE. It was popularized in the writings of some early Christian authors, particularly those of Tertullian, in his lengthiest fully extant work, *Adversus Marcionem*.[3]

12. Marcion, another early writer in the Common Era, held views that are commonly referred to as Gnosticism, staking out a particular claim that the "God" of

[1] For a brief history of the origin of the Septuagint see, https://www.logos.com/grow/the-origin-of-the-lxx/ (last visited, 2 August 2026).

[2] καὶ τὸ ποτήριον ὡσαύτως μετὰ τὸ δειπνῆσαι, λέγων Τοῦτο τὸ ποτήριον ἡ καινὴ διαθήκη ἐν τῷ αἵματί μου, τὸ ὑπὲρ ὑμῶν ἐκχυννόμενον (Nestle Greek New Testament, 1904).

[3] A complete English translation of the five books collectively known as *Adversus Marcionem* by Tertullian is available here: www.documentacatholicaomnia.eu/03d/0160-0220,_Tertullianus,_Adversus_Marcionem_[Schaff],_EN.pdf (last visited, 3 August 2026).

the Hebrew Scriptures (the "creator" or κοσμοκράτορας) was distinct from, and inferior to, the "Christ" of the Christian Scriptures, who was truly divine.[4] It was in response to this gnostic form of dualism that sought to cleave Christianity from its Jewish roots that Tertullian emphasized the connection between creation and salvation.

13. These early distinctions are important because they help explain how the Christian Bible came to be what it is and the often non-linear process of the translation from Hebrew into Greek and finally Latin in the late 4th century CE, before the new process of translation into modern languages began in the 14th century (including, for example, John Wycliffe's translation of the entire *Vulgate* text into English).

14. The passage commonly referred to as the "Ten Commandments" in the Christian tradition is found in two different places in the Scriptures. The first occurrence is in the Book of Exodus 20:1-7; the second, related but not identical, list is found in Deuteronomy 5:6-21. Neither would have been included among Christian teachings had Marcion's argument against including the *Tanakh* among Christian sacred texts carried the day.

Upon arriving to Mount Sinai (Exodus 19:1), Moses went up the mountain (Exodus 19:3 ff.). After three days, God "spoke all these words (הַדְּבָרִים)" (Exodus 20:1). Later in the Book of Exodus, those "words" (devarim) are qualified as הַדְּבָרִים עֲשֶׂרֶת, ten words (Exodus 34:28). It is from here that the most iconic depiction of the "Ten Commandments" comes: "So Moses was there with the **LORD** for forty days and forty nights, without eating any food or drinking any water, and he wrote on the tablets

[4] The vast majority of Christian historians and theologians have viewed Marcion as a dualist, that is, presenting both the creator of the Hebrew Scriptures and the Christ of the Christian scriptures as divine figures, more recently M. David Litwa has challenged this position: M. David Litwa, Did Marcion Call the Creator 'God'?, *The Journal of Theological Studies*, Volume 72, Issue 1, April 2021, Pages 231–246, https://doi.org/10.1093/jts/flab010. However, Litwa's challenge to the historical presentation does not change the fact that Marcion's position created a radical distinction between the creator and the Christ, which was antithetical to authentic Christian doctrine.

the words of the covenant, the ten words. As Moses came down from Mount Sinai with the two tablets of the covenant in his hands, he did not know that the skin of his face had become radiant while he spoke with the **LORD**. When Aaron, then, and the other Israelites saw Moses and noticed how radiant the skin of his face had become, they were afraid to come near him." (Exodus 34:28-30).

15. The expression עֲשֶׂרֶת הַדְּבָרִים is also found in Deuteronomy 4:13 and again in 10:4, which recount, respectively, the first giving of the ten words in Exodus 20 and the second giving in Exodus 34.

16. The Greek translation mentioned above, the Septuagint, renders *devar* more frequently as *logos*, word or statement. Flavius Josephus (d. 100 CE) was a Jewish priest, scholar and historian, whose works on important historical events in the life of the Jewish people remain an important source of information of not only the life of the Jewish community under Roman rule but also Roman military strategies and tactics.[5] Josephus is an important figure in the discussion at hand because his are the earliest extant writings which give a numbering the τοὺς δέκα λόγους. While he does not refer to them as the "ten words", he counts them using ordinal numbers: "the first λόγος … ."

17. Josephus divides the "ten words" this way: "The first commandment teaches us that there is but one God, and that we ought to worship him only. The second commands us not to make the image of any living creature to worship it. The third, that we must not swear by God in a false matter. The fourth, that we must keep the seventh day, by resting from all sorts of work. The fifth, that we must honor our parents. The sixth that we must abstain from murder. The seventh that we must not commit adultery. The eighth, that we must not be guilty of theft. The ninth, that

[5] See, https://www.britannica.com/biography/Flavius-Josephus (last visited, 2 August 2026).

we must not bear false witness. The tenth, that we must not admit of the desire of anything that is another's."[6]

A. Origen of Alexandria

18. The first systematic theologian of the Christian tradition was Origen (d. 253 CE). Over the course of years Origen composed homilies on nearly every book of the Bible, including famous homilies on the Book of Exodus.[7] While a substantial portion of his work has been lost to history, much of what survives, including his Homily VIII on the Book of Exodus is referred to as "On the beginning of the Decalogue", does so because of a Latin translation of the original Greek by Rufinus.

19. Origin's homily on Exodus 20 is fundamental to the issue because it establishes that, already in the 3rd century CE, there was a controversy about the numbering of the commandments:

> The first commandment, therefore, is "You shall not have other gods besides me." And after this follows: "You shall not make for yourself an idol nor any likeness of anything which is in heaven above or in the earth beneath or in the waters under the earth; you shall neither adore nor worship them. For I am the Lord your God, a jealous God who avenges the sins of the fathers on the sons to the third and fourth generation for those who hate me, and shows mercy to thousands for those who love me and who keep my commandments." **Some think that all these words together are one commandment. But if it be thus supposed, the number ten of the commandments will not be completed-and where now will be the truth of the Decalogue?** But if it be divided in that manner in which we also separated it in the preceding reading, the whole number of ten commandments will appear. The first commandment, therefore, is: "You shall not have other gods besides me." The second is: "You shall not make for yourself an idol nor any likeness" etc.[8]

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[6] Josephus, *Antiquities* 3.91 [3.5.5]; in Josephus, *Antiquities: Books 1-3*, trans. H. St. J. Thackeray, Loeb Classical Library (Cambridge, MA: Harvard University Press, 2001).

[7] For a groundbreaking study of the importance of Origen's work on Scripture, see Henri de Lubac's seminal work, *Histoire et Esprit: L'Intelligence de l'Ecriture d'après Origène*, 1950.

[8] The Fathers of the Church: a new translation. Origen, Homilies on Genesis and Exodus, 1982, p. 318 (emphasis added). Available online: https://www.jstor.org/stable/j.ctt32b3pv.29?seq=1 (last visited, 2 August 2026).

20. This means that, already by the middle of the 3rd century CE, there was a dispute about the numbering of what, at the time, were referred to as the Ten Words (Decalogue). For Origen, what was paramount was not the ordering, per se, but the total number: ten. This is due, in large part, to his familiarity with the Hebrew Scriptures and the use of the expression עֲשֶׂרֶת הַדְּבָרִים in the original text.

B. Augustine of Hippo

21. Aurelius Augustine was born in what is today Tagaste, Algeria, in 354 CE. He later studied in Carthage and then taught rhetoric. He converted to Christianity at the age of 33.

22. Augustine takes up the question of a broader understanding of the scope of the Ten Commandments. He intuited that the divine mandates regulated man's relationship to God and man's relationship to his fellow man, by offering distinct commandments for each. To that end, Augustine questioned how they were to be divided:

> Quaeritur, decem praecepta Legis quemadmodum dividenda sint: utrum quatuor sint usque ad praeceptum de sabbato, quae ad ipsum Deum pertinent; sex autem reliqua, quorum primum est, Honora patrem et matrem, quae ad hominem pertinent: an potius illa tria sint, et ista septem. Qui enim dicunt illa quatuor esse, separant quod dictum est, Non erunt tibi dii alii praeter me; ut aliud praeceptum sit, Non facies tibi idolum, etc. ubi figmenta colenda prohibentur. Unum autem volunt esse, Non concupisces uxorem proximi tui, Non concupisces domum proximi tui, et omnia usque in finem. Qui vero illa tria esse dicunt, et ista septem, unum volunt esse, quidquid de uno colendo Deo praecipitur, ne aliquid aliud praeter illum pro Deo colatur: haec autem extrema in duo dividunt; ut aliud sit, Non concupisces uxorem proximi tui, aliud, Non concupisces domum proximi tui. [9]

[9] *Questiones in Heptateuchum*, Book II, q. 71. Available online: https://la.wikisource.org/wiki/Quaestiones_in_Heptateuchum_(ed._Migne) (last visited, 2 August 2026). "It is asked, in what way the Ten Commandments of the Law are to be divided: whether there are four up to the commandment concerning the Sabbath, which pertain to God Himself, and six that remain, of which the first is, "Honor thy father and mother,"[1] which pertain to man; or whether it is more fitting that the former be three, and the latter seven. Indeed those who say the former to be four, separate the commandment, "You have have no other gods before me," that it might be a separate commandment, "You shall not make for yourself an idol,"[2] whereby the worshipping of images is prohibited. However those same wish to combine into one, "You shall not covet your neighbor's wife; you shall not covet your neighbor's house,"[3] and all the rest up to the end. Certainly those who say the

23. For Augustine, the division of the commandments is merely a tool to emphasize the dual scope of the commandments: regulating man's relationship with God, as well as his relationship with his fellow man. The appropriate division (given that he believes they are regulating different kinds of relationships), is the three/seven division. In this calculation, the first two commandments noted by Josephus and Origen are collapsed into one. Augustine is aware of the other counting tradition: Qui enim dicunt illa quatuor esse, separant quod dictum est, Non erunt tibi dii alii praeter me; ut aliud praeceptum sit, Non facies tibi idolum, etc. ubi figmenta colenda prohibentur (For those who say that there are four of them separate what is said, "You shall have no other gods before me," so that there is another commandment, "You shall not make for yourself an idol," etc., where the worship of images is prohibited). For Augustine, and for the entire Latin tradition after him, the dictates to put no other god before God and to not create idols are joined together into one commandment. For Augustine, however, the question is not primarily the division of the commandments, but the total number: "Decem tamen esse praecepta neutri ambigunt, quoniam hoc Scriptura testator" (In neither case is there any doubt that there are Ten Commandments, since Scripture itself testifies to this).[10]

IV. The Ten Commandments in the Qur'an

24. While Origen and Josephus' numbering system continued to be used in the Christian East – by both Orthodox and some Catholics - it was largely forgotten in the Christian West. A version of the Decalogue is included in the *Qur'an* in two places: *Surat al-An'am* (6:151-153) and *Surat al-Isra'* (17:23-39). In the *Surat al-An'am*, the list of "commandments" is introduced as "what your Lord has prohibited for you." It

first group to be three, and the second group seven, wish to combine into one whatever is commanded concerning worshipping God, that nothing before God is worshipped. These on the other hand divide the last one into two, that "You shall not covet your neighbor's house" might be a separate commandment."

[10] Ibid.

then emphasizes monotheism, honoring parents and the prohibition against murder.[11] Elsewhere, in *Surat Ali 'Imran* 3:4-5 the Prophet receives these words: "He has revealed to you ˹O Prophet˺ the Book in truth, confirming what came before it, as He revealed the Torah and the Gospel previously, as a guide for people, and ˹also˺ revealed the Decisive Authority."[12] After speaking about figures from the Hebrew Scriptures and Jesus, the revelation continues with a call to all of the "People of the Book" (the collective Quranic term for Jews and Christians) to agree on elements of the Ten Commandments:

> قُلْ يَـٰٓأَهْلَ ٱلْكِتَـٰبِ تَعَالَوْا۟ إِلَىٰ كَلِمَةٍ سَوَآءٍۭ بَيْنَنَا وَبَيْنَكُمْ أَلَّا نَعْبُدَ إِلَّا ٱللَّهَ وَلَا نُشْرِكَ بِهِۦ شَيْـًٔا وَلَا يَتَّخِذَ بَعْضُنَا بَعْضًا أَرْبَابًا مِّن دُونِ ٱللَّهِ ۚ فَإِن تَوَلَّوْا۟ فَقُولُوا۟ ٱشْهَدُوا۟ بِأَنَّا مُسْلِمُونَ ٦٤
>
> Say, ˹O Prophet,˺ "O People of the Book! Let us come to common terms: that we will worship none but Allah, associate none with Him, nor take one another as lords instead of Allah." But if they turn away, then say, "Bear witness that we have submitted ˹to Allah alone˺." (Surat Ali 'Imran 3:64).

V. Martin Luther and the Reformed Tradition

25. It is well known that Martin Luther, before engaging in his project of reform that ultimately led him out of the Catholic Church, was an Augustine monk. It is understandable, therefore, that his *Small Catechism* (*Der Kleiner Katechismus*), originally published in 1529 CE, begins with an explanation of the Ten Commandments.

26. Designed by Luther to be a training tool for children's religious education, the *Small Catechism* represents a distilled and accessible version of Luther's theological thought. While some contemporary versions contain commentary and are significantly longer, the original version was roughly twenty (20) pages.

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[11] قُلْ تَعَالَوْا۟ أَتْلُ مَا حَرَّمَ رَبُّكُمْ عَلَيْكُمْ ۖ أَلَّا تُشْرِكُوا۟ بِهِۦ شَيْـًٔا ۖ وَبِٱلْوَٰلِدَيْنِ إِحْسَـٰنًا ۖ وَلَا تَقْتُلُوٓا۟ أَوْلَـٰدَكُم مِّنْ إِمْلَـٰقٍ ۖ نَّحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ ۖ وَلَا تَقْرَبُوا۟ ٱلْفَوَٰحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ ۖ وَلَا تَقْتُلُوا۟ ٱلنَّفْسَ ٱلَّتِى حَرَّمَ ٱللَّهُ إِلَّا بِٱلْحَقِّ ۚ ذَٰلِكُمْ وَصَّىٰكُم بِهِۦ لَعَلَّكُمْ تَعْقِلُونَ

[12] نَزَّلَ عَلَيْكَ ٱلْكِتَـٰبَ بِٱلْحَقِّ مُصَدِّقًا لِّمَا بَيْنَ يَدَيْهِ وَأَنزَلَ ٱلتَّوْرَىٰةَ وَٱلْإِنجِيلَ مِن قَبْلُ هُدًى لِّلنَّاسِ وَأَنزَلَ ٱلْفُرْقَانَ ۗ إِنَّ ٱلَّذِينَ كَفَرُوا۟ بِـَٔايَـٰتِ ٱللَّهِ لَهُمْ عَذَابٌ شَدِيدٌ ۗ وَٱللَّهُ عَزِيزٌ ذُو ٱنتِقَامٍ ٤

27. Luther lists the first of the Ten Commandments thusly: "*Du sollst keine anderen Götter haben neben mir*" – You shall have no other gods before men. The second commandment is "*Du sollst den Namen des Herrn, deines Gottes, nicht missbrauchen*" – You shall not take the name of the Lord, your God, in vain. Noticeably absent from Luther's presentation of these first two commandments is the Biblical injunction found in Exodus 20:4: "You shall not make for yourself an idol or a likeness of anything in the heavens above or on the earth below or in the waters beneath the earth." Thus, he follows Augustine's division of the commandments, not the Josephus/Origen calculation, continuing to divide the prohibitions against coveting into the ninth (coveting a neighbor's house) and tenth (coveting a neighbor's wife) commandments.

28. In response to larger theological concerns, it is well known that the Roman Catholic Church convoked the Council of Trent (1545-1563 CE). Subsequent to the closure of the Council, a new catechetical document was drawn up, commonly referred to as the "Roman Catechism."[13] Formally known as the Catechism of the Council of Trent, the work was designed to offer simple instruction to parish priests, in an effort to respond to some of the criticisms that Luther had correctly made about the poor catechetical instruction the faithful had been receiving. In this document, the third section is devoted to an explanation of the Ten Commandments. The introduction cites Augustine on the importance of these divine instructions: "St. Augustine in his writings remarks that the Decalogue is the summary and epitome of all laws: Although the Lord had spoken many things, He gave to Moses only two stone tablets, called 'tables of testimony,' to be placed in the Ark. For if carefully examined and well understood, whatever else is commanded by God will be found to depend on the Ten Commandments which were engraved on those two tables, just as

[13] For a complete, online version of this document, see: www.saintsbooks.net/books/The%20Roman%20Catechism.pdf (last visited, 3 August 2026).

these Ten Commandments, in turn, are reducible to two, the love of God and of our neighbour, on which 'depend the whole law and the prophets.'"[14]

29. Unlike Luther's *Small Catechism*, which understandably includes shortened scriptural texts for a younger audience, the *Roman Catechism* offers the following as the full text of the first commandment: "I am the Lord thy God, who brought thee out of the land of Egypt, out of the house of bondage. Thou shalt not have strange gods before me. Thou shalt not make to thyself a graven thing, nor the likeness of any thing that is in heaven above, or in the earth beneath, nor of those things that are in the waters under the earth. Thou shalt not adore them, nor serve them. I am the Lord thy God, mighty, jealous, visiting the iniquity of the fathers upon the children, to the third and fourth generation of them that hate me, and showing mercy unto thousands of them that love me, and keep my commandments."[15] After a lengthy discussion of each phrase contained in the first commandment, the *Roman Catechism* lists the second commandment: "Thou shalt not take the name of the Lord, thy God, in van."

30. Similarly, it then divides the ninth and the tenth commandment as Luther did in his *Small Catechism*, following the Augustinian numbering. Interestingly, however, the two commandments are explained together. While their similarities are noted, the text offers the following explanation as to why the commandments are considered separately:

> We have united these two Commandments because, since their subject-matter is similar, they may be treated together. However, the pastor may explain them either together or separately, according as he may deem it more effective for his exhortations and admonitions. If, however, he has undertaken the exposition of the Decalogue, he should point out in what these two Commandments are dissimilar; how one covetousness differs from another -- a difference noticed by St. Augustine, in his book of Questions on Exodus. The one covetousness looks only to utility and

[14] Ibid., page 219.

[15] Ibid., page 223.

> interest, the other to unlawful desire and criminal pleasure. He, for instance, who covets a field or house, pursues profit rather than pleasure, while he who covets another man's wife yields to a desire of pleasure, not of profit. [16]

31. Thus, there is no difference in the numbering of the Ten Commandments between Martin Luther, the father of the Protestant Reformation, and the Catholic Church. However, John Calvin took a different approach to the numbering of the Commandments. However, rather than introduce a new or different order, he re-introduced the Josephus/Origen ordering of the Ten Commandments.

32. In his *Institutes of the Christian Religion*,[17] first published in 1536 CE, John Calvin rejects the Augustinian division (three commandments governing man's relationship to God and seven commandments regulating man's relationship to man):

> There is no room for controversy as to the fact, that the Law is divided into ten heads since this is repeatedly sanctioned by divine authority. The question, therefore, is not as to the number of the parts, but the method of dividing them. Those who adopt a division which gives three commandments to the First Table, and throws the remaining seven into the Second Table, expunge the commandment concerning images from the list, or at least conceal it under the first, though there cannot be a doubt that it was distinctly set down by the Lord as a separate commandment; whereas the tenth, which prohibits the coveting of what belongs to our neighbour, they absurdly break down into two. Moreover, it will soon appear, that this method of dividing was unknown in a purer age. Others count four commandments in the First Table as we do, but for the first set down the introductory promise, without adding the precept. But because I must hold, unless I am convinced by clear evidence to the contrary, that the "ten words" mentioned by Moses are Ten Commandments and because I see that number arranged in most admirable order, I must, while I leave them to hold their own opinion, follow what appears to me better established—viz. that what they make to be the first commandment is of the nature of a preface to the whole Law, that thereafter follow four commandments in the First Table, and six in the Second, in the order in which they will here be reviewed. This

[16] Ibid., page 279.

[17] For a complete online version of the *Institutes of the Christian Religion*, see: https://ccel.org/ccel/calvin/institutes/institutes.i.html (last visited, 3 August 2024).

> division Origin adopts without discussion, as if it had been every where received in his day.[18]

33. Calvin lists the first commandment as "I AM THE LORD THY GOD, WHICH BROUGHT THEE OUT OF THE LAND OF EGYPT, OUT OF THE HOUSE OF BONDAGE. THOU SHALT HAVE NO OTHER GODS BEFORE ME"[19] and the second as "THOU SHALT NOT MAKE UNTO THEE ANY GRAVEN IMAGE, OR ANY LIKENESS OFANYTHING THAT IS IN HEAVEN ABOVE, OR THAT IS IN THE EARTH BENEATH, OR THAT IS IN THE WATER UNDER THE EARTH: THOU SHALT NOT BOW DOWN THYSELF TO THEM, NOR SERVE THEM."[20] He then later combines what for Augustine, the entirety of the Latin tradition, Luther and the *Roman Catechism* were commandments nine and ten into the tenth commandment: "THOU SHALT NOT COVET THY NEIGHBOUR'S HOUSE, THOU SHALT NOT COVET THY NEIGHBOUR'S WIFE NOR HIS MAN-SERVANT, NOR HIS MAID-SERVANT, NOR HIS OX NOR HIS ASS, NOR ANYTHING THAT IS THY NEIGHBOUR'S."[21]

34. The controversy regarding division of the Ten Commandments, reignited by Calvin's *Institutes of the Christian Religion*, has been, largely, one-sided. The Catholic Church has, for the most part, refrained from entering into polemics on this issue. In fact, in the 1992 *Catechism of the Catholic Church*, the so-called "controversy" is acknowledged and quickly dismissed:

> 2065 Ever since St. Augustine, the Ten Commandments have occupied a predominant place in the catechesis of baptismal candidates and the faithful. In the fifteenth century, the custom arose of expressing the commandments of the Decalogue in rhymed formulae, easy to memorize and in positive form. They are still in use today. the

[18] Ibid., 8.12

[19] Ibid., 8.13

[20] Ibid., 8.17

[21] Ibid., 8.49

> catechisms of the Church have often expounded Christian morality by following the order of the Ten Commandments.
>
> 2066 The division and numbering of the Commandments have varied in the course of history. The present catechism follows the division of the Commandments established by St. Augustine, which has become traditional in the Catholic Church. It is also that of the Lutheran confessions. The Greek Fathers worked out a slightly different division, which is found in the Orthodox Churches and Reformed communities.
>
> 2067 The Ten Commandments state what is required in the love of God and love of neighbor.[22]

35. It is also helpful to consider the words of a prominent American Reformed biblical scholar of the 19th century, Reverend Talbot W. Chambers, D.D. In a short piece entitled "Divisions of the Decalogue"[23], Chambers identifies three different ways of dividing the commandments: the Talmudic; the Augustinian; and, the Hellenistic. He also notes that there are three different ways of grouping the commandments: three/seven, which he dubs a "conceit of Augustine's, after he had made the first two commandments into one"; four/six, which he notes was "stoutly defended by Calvin, who insists that the first four precepts express the piety we owe to God and the last six the equity due to our neighbor"; and, finally, five/five, which Chambers notes originates, to the best of his knowledge, with Josephus who states that Moses showed the people "two tables with the commandments engraven upon them, five upon each table."

36. Chambers who, again, is of the Reformed tradition and would presumptively be in favor of Calvin's numbering of the commandments concludes, rather, that "We may then safely adopt this distribution of the Ten Words as the

[22] For a complete version of the *Catechism of the Catholic Church*, see: https://www.vatican.va/archive/ENG0015/_INDEX.HTM (last visited, 3 August 2024).

[23] Available online: https://www.journals.uchicago.edu/doi/pdf/10.1086/469818 (last visited, 3 August 2026).

earliest and the best. It agrees with the definitive and rounded character of the series, and if the number ten were adopted, as seems reasonable, both from the completeness of that number and also because it would make it easy to remember by counting the precepts on the fingers, the most natural division of ten is into two equal parts, each embracing a like series of precepts, and each implying the other."[24]

VI. Conclusions

37. While some Protestant thinkers and preachers in the American context have viewed the question of the division of the Ten Commandments as a theological point of difference with the Catholic Church, there has been little authentic controversy about their content, and there are Catholics and Protestants on both sides of the distinction. As demonstrated above, the Catholic Church dedicates no time to the so-called "controversy" and even prominent Reformed voices from the past understood that various traditions of presenting and numbering the Commandments dates back to the earliest days of Christianity, not to the era of the Reformation.

38. Similarly, the presumptive "theological" distinction which holds that the Roman Catholic Church has somehow left out the prohibition against graven images is false. The prohibition exists in Catholic translations of the sacred Scriptures;[25] it was found in the *Catechism of the Council of Trent*,[26] generated in direct response to

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[24] Ibid.

[25] See, Exodus 20:4 in the Revised Standard Version Catholic Edition, available at https://www.biblegateway.com/passage/?search=Exodus%2020%3A4&version=RSVCE; see also the translation found on the website of the United States Catholic Conference of Bishops: https://bible.usccb.org/bible/exodus/20 (last viewed, 3 August 2026). See, also, *Catechism of the Catholic Church*, part III, section 2, chapter 1, article 1: "**THE FIRST COMMANDMENT** I am the LORD your God, who brought you out of the land of Egypt, out of the house of bondage. You shall have no other gods before me. **You shall not make for yourself a graven image, or any likeness of anything that is in heaven above, or that is in the earth beneath, or that is in the water under the earth** (*emphasis added*); you shall not bow down to them or serve them. It is written: "You shall worship the Lord your God and him only shall you serve." Available at https://www.vatican.va/content/catechism/en/part_three/section_two/chapter_one/article_1.index.html (last viewed, 12 August 2026).

[26] Op. cit. page 227: "'Thou shalt not make to thyself a graven thing, nor the likeness of any thing that is in heaven above, or in the earth beneath, nor of those things that are in the waters under the earth: thou shalt not adore them nor serve them.' Some, supposing these words which come next in order to constitute a distinct precept, reduce the ninth and tenth Commandments to one. St. Augustine, on the contrary, considering the last two to be distinct Commandments, makes the words just quoted a part of the first Commandment. His division is much approved in the Church, and hence we willingly adopt

the thought of Luther, Calvin, Zwingli and others; and, again in the contemporary *Catechism of the Catholic Church*,[27] issued in 1992.

39. While it is true that the interpretation of the Decalogue can vary by tradition, ultimately their substance does not. All iterations of the Ten Commandments are taken directly from the same base texts: Exodus 20 and Deuteronomy 5. As demonstrated in the paragraphs of the *Catechism of the Catholic Church* cited above, there is no evidence that the Catholic Church sees any critical distinction in the division or numbering of the commandments.

40. It must also be noted that all depictions of the Ten Commandments, like on the monument in question in this case, necessarily abbreviate some of the scriptural passages. This is for reasons of material space, not for theological accuracy. The first Commandment alone, in English, contains up to 349 characters, or 90 words. Any representation on a monument of the size of the one in question will necessarily require some abbreviation of the text.

41. For these reasons, the "version" of the Ten Commandments appearing on the monument at issue in this case is not offensive to the teaching of the Catholic Church.

42. I reserve the right to amend my opinions as more information becomes available.

Dated 8/14/26

John Paul Kimes

Msgr. John Paul Kimes

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it. Furthermore, a very good reason for this arrangement at once suggests itself. It was fitting that to the first Commandment should be added the rewards or punishments entailed by each one of the Commandments."

[27] See, Part III, § 2, art. 1: Article 1 The First Commandment: "I am the LORD your God, who brought you out of the land of Egypt, out of the house of bondage. You shall have no other gods before me. You shall not make for yourself a graven image, or any likeness of anything that is in heaven above, or that is in the earth beneath, or that is in the water under the earth; you shall not bow down to them or serve them. It is written: 'You shall worship the Lord your God and him only shall you serve.'"

Exhibit A

Rev. John Paul Kimes, J.C.O.D.

PERSONAL INFORMATION

Born June 6, 1973
Ordained to the priesthood July 20, 2000
Ascribed in the Maronite Eparchy of Our Lady of Lebanon of Los Angeles

HIGHER EDUCATION

1996-1999 Pontifical Gregorian University, Rome, Italy S.T.B.,
Theology
Magna Cum Laude

1999-2003 Pontifical Oriental Institute, Rome, Italy
J.C.L., Thesis on Liturgical Law in the CCEO *Summa*
Cum Laude

J.C.O.D. (Ph.D. equivalent) *Praecipuus Mysteriorum Dei Dispensator*: The *munus sanctificandi* of the Eparchial bishop in CCEO canons 197-200
Summa Cum Laude. Published December 10, 2007.

CURRENT POSITION

Professor of the Practice, Notre Dame Law School

PREVIOUS POSITIONS

Official, Congregation for the Doctrine of the Faith – (my role was in the Discipline Section of the Congregation, which was charged with oversight of the prosecution of all cases of sexual abuse of minors throughout the world, along with other specific crimes in the law of the Church)
Adjunct Professor of Canon Law, Pontifical Oriental Institute Lecturer,
Pontifical University Urbaniana
Instructor of Theology, Architecture Program of the University of Notre Dame (Rome Program) Associate Pastor, St. Sharbel Maronite Church
Judge, Tribunal of Second Instance, Eparchy of St. Maron of Brooklyn

SCHOLARSHIPS AND FELLOWSHIPS

Myser Fellowship of the de Nicola Center for Ethics and Culture

DISTINCTIONS, HONORS, AWARDS

Raymond of Peñafort Fellow, de Nicola Center for Ethics and Culture
Fellow, Religious Liberty Initiative (Notre Dame Law School)

REFEREED PUBLICATIONS

St. Pope John XXIII: Christianity is Antithetical to Antisemitism (book chapter), in *Antisemitism and the Law*, Robert Katz, Carolina Academic Press (2025).
Reserved Delicts, in *Clergy Procedural Handbook*, CLSA (2025).

"Reclaiming Pastoral: a brief examination of the Apostolic Constitution, *Pascite gregem Dei*", (*The Jurist*, 77 (2021) :2).

"Recent Pronouncements of the Supreme Apostolic Tribunal of the Congregation for the Doctrine of the Faith: Insights, Developments and Indications for the Future", (Ius Missionale- Quaderno 16, 2021).
"The new *Regolamento* for the College for the Examination of Recourses in Matters of *Delicta Reservata*" (Ius Missionale- Quaderno 16, 2021).
"Penalties for Individual Delicts: cans. 1364-1399", *A New Commentary on the Code of Canon Law*, for publication in 2022.
"Pronouncements of the College for the Examination of Recourses in Matters of *Delicta Reservata*" in Ius Missionale, Anno XIV/2020, pp.157-176.
"Some observations on the Congregation for the Doctrine of the Faith's *Vademecum on certain points of procedure in treating cases of sexual abuse of minors committed by clerics*" in CLSA Proceedings 82, 2020. "Impugning decisions in cases of *delicta reservata*", in *La procedura nei delitti riservati alla Congregazione per la Dottrina della Fede*, Quaderni di Ius Missionale, Urbaniana University Press, 2018
"Eastern Catholic Churches in the USA: Problems of the past, Challenges of the present and Promises for the future" in *Il CCEO- strumento per il futuro delle Chiese orientali cattoliche*, *Kanonika 25*, Edizioni Orientalia Christiana, 2017.
"The Simulated and the Attempted celebration of the Eucharistic Sacrifice: SST art. 3 §1, 2-3°" in *I delitti contro il Sacramento della penitenza riservati alla Congregazione per la Dottrina della Fede*, Quaderni di Ius Missionale, Urbaniana University Press, 2016.
"Crimes against the Sacrament of Penance in the Two Codes" in *I delitti contro il Sacramento della penitenza riservati alla Congregazione per la Dottrina della Fede*, Quaderni di Ius Missionale, Urbaniana University Press, 2016.
"*Anglicanorum coetibus* and *CCEO* canon 35", in *The Jurist*, 76 no. 2, 2016.
"Viewing the USCCB through the lens of CCEO can. 322 and other inter-ecclesial realities in the United States of America," in *Kanonika*, 23, Edizioni Orientalia Christiana, 2015.
"*Simul et cura et solertio*: Guidelines of the Episcopal Conferences for dealing with cases of sexual abuse of minors perpetrated by clerics" in *I delitti riservati alla Congregazione per la Dottrina della Fede: norme, prassi, obiezioni*, Quaderni di Ius Missionale, Urbaniana University Press, 2015.
"*Simul cura et solertio*: *le* Essential Norms *della Conferenza Episcopale Statunitense*" in *I delitti riservati alla Congregazione per la Dottrina della Fede: norme, prassi, obiezioni*, Quaderni di Ius Missionale, Urbaniana University Press, 2015.
"*La riforma legislativa circa i* delicta graviora. Considerazioni generali", in *La riforma legislativa delle* Normae de delictis gravioribus, Quaderni di Ius Missionale, Urbaniana University Press, 2012.

"Building Capacity for a Global Genome Editing Observatory: Institutional Design", Trends in Biotechnology, 36 no.8 (2018) 741-43 (with Krishanu Saha, J. Benjamin Hurlbut, et al.).
"Building Capacity for a Global Genome Editing Observatory: Conceptual Challenges," Trends in Biotechnology, 36 no.7 (2018) 639-41 (with Krishanu Saha, J. Benjamin Hurlbut, et al.).

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"Vulnerable persons as a category in canon law: current and future issues", (pending), *The Jurist*, 2026.

Commentary on canons 1364-1399 *Code of Canon Law*, prepared for the commentary produced by the Canon Law Society of America (publication pending, Paulist Press).

"A history of legislation against child pornography in the Catholic Church", *Ceprome* Conference, Lima, Peru, February 2025. [Publication Pending]

"A.I. generated child pornography and changes to penal law in the Catholic Church", *Ceprome* Conference, Lima, Peru, February 2025. [Publication Pending]

The *delictum gravius* of the Absolution of an Accomplice: classical doctrine and contemporary challenges (publication pending, in Ius Missionale)

The *delictum gravius* of Solicitation in Confession: classical doctrine and new challenges (publication pending, in Ius Missionale)

"Wounds inflicted on Christ's Body": Pope Benedict XVI's approach to victims of child sexual abuse in his *Letter to the Catholics of Ireland*, 19 March 2010 (as part of the acts of the conference, Benedict XVI's Legacy: Unfinished Debates on Faith, Culture and Politics; publication pending with Notre Dame Press and Edizioni Santa Croce)

INVITED LECTURES AND ADDRESSES

Pontifical Marcianum University, Venice, Italy, January 2025: course on matters of *delicta graviora* Pontifical Commission for the Protection of Minors and Vulnerable Persons, working group on the concept of vulnerability, Rome, September 30-October 3, 2024
Promise of Life: Spiritual Traditions and Biotechnological Futures, Global Observatory on Genome Editing, Harvard Kennedy School, September 27, 2024
Pontifical Urbanianum University, May 2024: *Considerations on the more grave crime of absolution of an accomplice*; *Considerations on the more grave crime of solicitation in confession* (publication forthcoming)
Pontifical Marcianum University, Venice, Italy, January 2024: course on matters of *delicta graviora* Conference of Tribunal and Chancery Officials (Provinces of New Orleans and Mobile), conference: Contemporary questions of clerical discipline, November 2023
Canon Law Society of America, Convention October 2023: An update in penal law
Pontifical Urbanianum University, *Vulnerability: current and future challenges in Canon Law*, March 2023. Presentation, Staffs of the Tribunals of the Province of Toronto, the revisions of *Liber* VI, December 2022
Presentation, Clergy of the Diocese of Syracuse, the revisions of *Liber VI*, November 2022 Presentation, Staffs of the Tribunals of the Province of Louisville, the revisions of *Liber* VI, August 2022
Presentation, Clergy of the Diocese of Toledo, the revisions of *Liber VI*, February 2022
Presentation, Clergy of the Diocese of Lafayette-in-Indiana, the revisions of *Liber VI*, November 2021
Canon Law Society of America, pre-convention presentation with Msgr. John Renken, revisions of *Liber VI*, October 2021
Seminar, Canon Law Society of America, *Pascite gregem Dei* and the revisions of *Liber VI*, October 2021
Webinar, Canon Law Society of America, The extrajudicial process, can. 1720 CIC and can. 1486 CCEO. Fall 2020.
Seminar, Canon Law Society of America, October 2020: *Observations on the Congregation for the Doctrine of the Faith's* Vademecum on certain points of procedure in treating cases of sexual abuse of minors perpetrated by clerics.
Canon Law Society of America, Pre-Convention Workshop October 2021: *Pascite gregem Dei* and the modifications introduced to the *Liber VI*
Canon Law Society of America, Convention October 2021: *A duty to justice*: recent changes in penal law
Pontifical Urbanianum University, *Pronouncements of the College for the examination of recourses in matters of* delicta reservata, March, 2020.
Pontifical Urbanianum University, *The new* Regolamento *for the College for the examination of recourses in matters of* delicta reservata, March, 2020.
Pontifical Urbanianum University, *Impungning decisions in cases of* delicta reservata, March 2017.
Pontifical Oriental Institute, *Viewing the USCCB through the lens of CCEO can. 322 and other inter-ecclesial realites in the United States of America*", January, 2015.

DOCTORAL DISSERTATIONS DIRECTED

I delitti riservati alla Congregazione per la Dottrina della Fede: possibili applicazioni del principio di susidiarieta', November 18, 2020. Rev. Samuel Paickattethu at the Pontifical Oriental Institute.
Delicta Graviora contra mores. A Study Based on *Sacramentorum Sanctitatis Tutela* with Particular Reference to the Protection of Children from Sexual Offences Act (POCSO Act), November 29, 2018. Rev. Shijo Chiriyankandath Chakkunny at the Pontifical Oriental Institute
Restorative Justice toward the victim: an approach that perfects medicinal penal sanctions, Jomon Vahappilly Anthony, Pontifical Oriental Institute. (Pending)

PROFESSIONAL MEMBERSHIPS

Canon Law Society of America

OTHER NOTABLE CONTRIBUTIONS

Canonical advisor to the Superior General of the Congregation of Holy Cross
Advisor to the Judicial Vicars of Archdiocese of Houston, Archdiocese of Detroit, Archdiocese of Oklahoma City, Diocese of Beaumont, Diocese of Toledo, Diocese of Lafayette-in-Indiana, Diocese of Orange, Diocese of Lafayette (LA), Diocese of Grand Rapids, Diocese of Kalamazoo, and the Ordinariate of the Chair of St. Peter
Canonical Advisor to the Archdiocese of Newark on issues of clerical discipline
Delegate in Administrative Penal Processes in the Archdiocese of Newark, the Archdiocese of Toronto, Diocese of Boise, Eparchy of Our Lady of Deliverance, Diocese of Peterborough, Diocese of Toledo, Diocese of Pensacola-Tallahassee, Diocese of Fall River and the Ordinariate of the Chair of St. Peter
Canonical Vicar for the Eparchy of Our Lady of Lebanon of Los Angeles
Canonical Procurator-Advocate in over two dozen cases of clerical misconduct
Consultant, Sisters of St. Francis of Perpetual Adoration (Franciscan Health, Inc.)
Consultant, Carmelite Sisters of the Aged and Infirm (Carith Health, Inc)
Consultant, Poor Sisters of Jesus Crucified and the Sorrowful Mother
Consultant, the Fitzgerald Institute for Real Estate (FIRE) (Notre Dame) Board
of Consultants, Centre for Canon Law, Australian Catholic University
President, Historical commission for the cause of canonization of the Servant of God, Joseph Dutton