



January 31, 2023

To: The Members of the Provincial Tribunal

From: Bishop Stewart Ruch, III and Chancellor Charles L. Philbrick

REQUEST FOR DECLARATIONS

NOW COMES Bishop Stewart Ruch, III and Chancellor Charles L. Philbrick, Upper Midwest Diocese, and submit their claims to the Provincial Tribunal for the issuance of certain declarations pursuant to Title IV, Canon 5, Section 4.1 of the Canons of the Anglican Church of North America, to resolve certain disputes arising from the Constitution and the Canons of the Province.

INTRODUCTION

On January 5, 2023, Archbishop Foley Beach informed Bishop Ruch that he is in possession of a presentment against Bishop Ruch, which is signed by three bishops of the Church. Bishop Ruch asked the Archbishop who his accusers were and asked to be provided with the presentment. The Archbishop would not disclose to Bishop Ruch the identity of the accusers and would not provide Bishop Ruch with a copy of the presentment.

On January 12, 2023, Bishop Ken Ross approached Bishop Ruch and informed him that he is one of Bishop Ruch's accusers. Bishop Ross further informed Bishop Ruch that Bishop Ross did not necessarily believe that Bishop Ruch was guilty of any crime warranting discipline, but that he was encouraged by provincial leaders to sign the presentment in order to "keep the process going."

These facts, along with other facts alleged herein, raise substantial questions as to the validity of the presentment against Bishop Ruch and the circumstances by which it was obtained. Accordingly, the Provincial Tribunal has jurisdiction to resolve material questions and disputes as to the validity of the presentment in the first instance because these disputes arise from the Constitution and Canons.

JURISDICTIONAL STATEMENT

Article XI of the Constitution provides: The jurisdiction of the Provincial Tribunal shall be to determine matters in dispute arising from the Constitution and Canons of the Province and such other matters as may be authorized by canon. Likewise, Canons state that the Provincial Tribunal shall serve: ... (2) as a court of original jurisdiction: (a) to hear and decide matters in dispute arising from the Constitution and Canons of the Province. Canon IV.5.4.1.

The disputes concerning an unseen presentment against Bishop Ruch, which arise from the Constitution and Canons, are: (1) whether the presentment satisfies the requirements of Canon IV.4.1; (2) whether the "investigative process," and in particular the involvement of the Provincial



Investigative Team ("PIT"), leading to the presentment against Bishop Ruch was conducted in a manner that is inconsistent with fundamental norms of fairness and due process, rendering the presentment invalid; and (3) whether provincial representatives must personally serve Bishop Ruch with a copy of the presentment upon its execution and submission to the Archbishop.

ANALYSIS

Count I: The Requirements of Canon IV.4.1 Have Not Been Met.

The requirements for a valid presentment are:

Section 1 - Concerning Requirements for Presentment

A Bishop may be charged under Canon IV.2 by three Bishops of this Church with jurisdiction, Such charges shall be in writing, signed and sworn to by all the accusers and shall be presented to the Archbishop, the Archbishop's delegate, or the College of Bishops. The grounds of accusation must be set forth with reasonable certainty of time, place and circumstance. The charges shall be referred to the Board of Inquiry.

Canon IV.4.1. There are two essential requirements.

First, it must be "signed and sworn to by" three Bishops of the Church. "Signed and sworn to" means that the accusers are attesting under oath to the truth of the matters contained in their presentment. If an accuser signs and swears to charges that he does not believe to be true, that person commits perjury.

Second, the grounds of accusations must be set forth with reasonable certainty of time, place and circumstance. Because no one has seen the presentment, it is not known if the second requirement is met. The first requirement, however, is clearly not met.

During the recent meeting of the College of Bishops, Bishop Ken Ross informed Bishop Ruch that he was one of Bishop Ruch's accusers. Bishop Ross further informed Bishop Ruch that Bishop Ross did not believe that Bishop Ruch was necessarily guilty of or should be disciplined in light of the information contained in the presentment. Rather, provincial representatives, including, we believe, Chancellor Ward and Bishop Alan Hawkins, led Bishop Ross to believe that Bishop Ross was not attesting to the truth of the contents of the presentment by signing the presentment as an accuser. Rather, the provincial representatives advised Bishop Ross that the purpose of the presentment was to allow "the process to continue." Bishop Ross also indicated that to accommodate his and another signing bishop's concerns, an amendment to the presentment was prepared concerning their reluctance or inability to attest to the truth of the content of the presentment.

In light of these facts and the representation of Bishop Ross, the presentment does not meet the requirements of Canon IV.4.1 that three bishops swear under oath as to the truth of the accusations, and therefore, the presentment is invalid.



WHEREFORE, we pray for a declaration from this Provincial Tribunal that the presentment against Bishop Ruch is invalid and must not be submitted to a Board of Inquiry.

Count II: The Extra-Canonical “Investigative” Process Violated Canon IV.5.7.

Over the past 19 months, Bishop Ruch has undergone an extra-canonical "investigative process" orchestrated by a group of provincial representatives who refer to themselves as the “Morning Team.” Specifically, this Morning Team created an extra-canonical body called the Provincial Investigative Team (“PIT”). The Morning Team then oversaw law firm lead investigations seemingly designed to culminate in a presentment against Bishop Ruch.

The investigations were conducted in a manner that was inconsistent with fundamental norms of fairness and due process, rendering the presentment invalid. Canon IV.5.7 requires that the Provincial Tribunal, the Court for Trial of a Bishop, the Court of Extraordinary Jurisdiction, and the Trial Courts of the several Dioceses establish their own procedures, and that those procedures “shall be consistent with principles of fairness, due process and natural justice and shall require expeditious handling consistent with those principles.”

Further, “No new rule of procedure shall be made while a matter is pending that would be affected by that rule.” *Id.* The PIT is a non-canonical entity. Its procedures, rules, and documentation--both those it considered and those it produced--were opaque, arbitrary and created while the investigative process was ongoing. It is, *de facto*, a new procedural body or “rule” that was created while the underlying matter was pending, and which has had a material impact on the adjudication of that matter, in violation of Canon IV.5.7.

We have reason to believe that both the review conducted by the PIT and the results of that review were unfairly mediated to obtain a desired outcome, to wit, a presentment against Bishop Ruch. There is no provision in the Canons that envisions a presentment being obtained through “accusations” that are four or five layers removed from any person with personal knowledge of the underlying events: unknown accuser(s) who are interviewed by investigator(s), whose findings are mediated by Provincial representatives (the Morning Team), who submit records of unknown content or origin to the PIT, whose conclusions, if any, are mediated by Provincial representatives (the Morning Team) for the purpose of soliciting signatory Bishops, who have no personal knowledge of the accusations or relationship with the accusers. Such a procedure is not only non-canonical, but anathema to fundamental fairness and credibility.

WHEREFORE, we pray for a declaration from this Provincial Tribunal that the “investigative process,” including but not limited to the PIT, was non-canonical, contravened basic principles of fairness, and denied Bishop Ruch the process that was due, rendering the presentment invalid.

Count III: Bishop Ruch Has Not Seen The Presentment Against Him.

As of the submission of this claim, Bishop Ruch has not seen the presentment.



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On January 5, 2023, the Archbishop informed Bishop Ruch that the Archbishop had received a presentment against Bishop Ruch. During that same conversation, Bishop Ruch asked the Archbishop to disclose the identity of the accusers and provide Bishop Ruch with the presentment. The Archbishop refused. The Archbishop stated that Bishop Ruch would receive the presentment after that weekend, which concluded January 8, 2023.

On January 7, 2023, Chancellor Philbrick delivered a letter to the Archbishop demanding that the Bishop and his diocese be provided a copy of the presentment. (January 9, 2023 Letter, attached) The Archbishop never acknowledged the Chancellor's letter nor produced a copy of the presentment.

On January 14, the Archbishop instructed Bishop Ruch to submit his Canon IV.4.2 demand for an investigation of rumors, reports, or allegations affecting his personal or official character by January 31, 2023, and that Bishop Ruch would not be provided the presentment until after submission of his Canon IV.4.2 demand. The demand for an investigation of rumors is inextricably intertwined with the matters in the presentment and the unfair process by which it was obtained.

In cases involving the presentment of a Presbyter or Deacon, the person against whom an accusation was made has a procedural right to be personally served with the Articles of Presentment within a reasonable time. Canon IV.3.3.2. Bishops in the Anglican Church of North America are due at least as much procedural due process as Presbyters and Deacons. The withholding of the presentment from Bishop Ruch, after being promised by the Archbishop that he would receive it, is contrary to due process and substantial justice.

WHEREFORE, we request that the Provincial Tribunal enjoin the Provincial Chancellor personally to serve Bishop Ruch with the Articles of Presentment, along with any addenda. If the Articles of Presentment in their current form were amended in any fashion subsequent to January 5, 2023 ("original"), we request that the Provincial Tribunal enjoin the Provincial Chancellor to produce all versions of the Articles of Presentment, original and amended.

Respectfully submitted,

Charles L. Philbrick

The Rt. Rev. Stewart Ruch, III
Bishop, Diocese of the Upper Midwest

Charles L. Philbrick
Chancellor, Diocese of the Upper Midwest

Enclosure

cc: The Rt. Rev. Julian Dobbs



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January 7, 2023

Your Grace:

Greetings in the name of our Lord and Savior, Jesus.

I am the Chancellor of the Anglican Diocese of the Upper Midwest. My bishop, the Rt. Rev. Stewart Ruch III, has informed me that three senior bishops of the Anglican Church of North America have authorized a presentment against him. I write in regard to this presentment, as well as the associated request for an investigation pursuant to Canon IV.4.2.

First, please provide me with the presentment along with all accompanying documents, affidavits and exhibits as soon as possible.

Second, please advise whether there will be anyone representing the accusers.

Third, I would like to have a meeting with you as soon as possible after the College of Bishops meetings next week to determine the method and manner of selecting the Board of Inquiry that will hear these matters, as well as scheduling the hearing and the process for submission of argument and evidence. I am sure you will agree that the transparency of selection process of the Board of Inquiry and the integrity of the procedures by which it will operate are vital to the wellbeing of our Diocese and the Province.

In regards to the transparency and integrity, it is vital that no individuals involved in the recent investigations and deliberations of the Provincial Investigative Team or the Morning Team (Bishop Alan Hawkins, Bishop John Guernsey, Chancellor Scott Ward, Vice Chancellor Jeff Garrity, Canon Andrew Gross, and Rachel Theabeaux) have any involvement in the selection of the Board of Inquiry or communications with the Board of Inquiry once it is seated. These particular individuals have a direct and immediate conflict of interest, because they are the subject of the Canon IV.4.2 demand for investigation in relation to this matter previously served upon the Province by several members of the College of Bishops. Any involvement by a member of the Morning Team concerning the Board of Inquiry selection or process would be highly inappropriate. Again, the transparency and integrity of this process is in everyone's best interest.

Fourth, I understand from Bishop Ruch that the senior bishops determined that Bishop Ruch should not be inhibited. To protect their decision not to inhibit Bishop Ruch, strict confidentiality should be maintained as to the existence and content of the presentment, including any hearings that may be conducted and the decisions of the Board of Inquiry. In my view, the College may discuss these matters internally, but a public disclosure of the presentment and its contents would be prejudicial and harmful. Most notably, the decision not to inhibit Bishop Ruch would be seriously undermined by public disclosure. Also, I am sure you must appreciate how Bishop Ruch's ministry, including his ongoing efforts to comply with your Pastoral Directive, would be compromised by public disclosure of the presentment.



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Fifth and finally, we are encouraged that proceeding to a Board of Inquiry will bring these matters under the discipline and structure of the Canons. Our goal, as I am sure yours as well, is a transparent, fair, balanced, and impartial process, free from manipulation or undue influence by any individual harboring personal or political agendas.

We look forward to working with you and bringing about the justice and righteousness that our Lord demands of us.

Respectfully submitted,

Charles L. Philbrick

Charles L. Philbrick
Chancellor of the Diocese of the Upper Midwest

cc: The Rt. Rev. Stewart Ruch III
Scott Ward, Esq.