

**IN THE PROVINCIAL TRIBUNAL
OF THE ANGLICAN CHURCH OF NORTH AMERICA**

Bishop Stewart Ruch, III and)
Chancellor Charles L. Philbrick,)
)
Petitioners,)
)
v.)
)
Archbishop Foley Beach, Bishop Todd)
Hunter, Bishop Kenneth Ross, and)
Bishop Charles Raymond Gillin,)
)
Respondents.)

AMENDED PETITION FOR DECLARATIONS

NOW COME The Rt. Rev. Stewart Ruch, III, Bishop of the Diocese of the Upper Midwest, and Charles L. Philbrick, Chancellor of the Diocese of the Upper Midwest, and hereby submit their Amended Petition for Declarations 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

1. On January 5, 2023, Archbishop Foley Beach informed Bishop Stewart Ruch that the Archbishop was in possession of a presentment against Bishop Ruch, which was signed by three bishops of the Church.

2. Bishop Ruch asked the Archbishop to identify his accusers and provide Bishop Ruch with the presentment. At that time, 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.

3. On January 12, 2023, Bishop Kenneth Ross informed Bishop Ruch 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 unnamed provincial leaders to sign the presentment in order to "keep the process going."

4. On January 31, 2023, Archbishop Beach sent a presentment and an accompanying addendum by email to Bishop Ruch and Chancellor Philbrick.

5. These facts, along with other facts alleged herein, raise substantial questions as to the validity of the presentment and addendum against Bishop Ruch and the circumstances by which they were 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.

6. Petitioners ask that the Provincial Tribunal declare that the presentment signed by Bishops Ross, Gillin and Hunter is invalid because: (1) the presentment is not sworn to as required by Canon IV.4.1; (2) the presentment is incomplete because it makes reference to various records, but does not attach those records; and (3) the presentment was procured by means of a non-canonical process and has been signed by Bishops who lack personal knowledge and were the subject of improper influence to sign the presentment.

JURISDICTIONAL STATEMENT AND PROCEDURAL POSTURE

7. 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."

8. Likewise, the 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.

9. Because the Archbishop indicated his intent to submit the presentment and addendum to a Board of Inquiry (see the Archbishop's January 31, 2023 email, a copy of which is attached), there is a clear dispute arising out of the Constitution and Canons as to the validity of the presentment and the addendum.

10. Petitioners originally submitted their "Request" concerning the presentment to this Tribunal on January 31, 2023. Thereafter, Petitioners filed on February 2, 2023, a "Supplement" to their "Request," which provided the presentment and addendum to the Tribunal.

11. In light of Petitioners' filings, this Tribunal entered an Order on February 4, 2023 staying any further action by the Archbishop with respect to the presentment against Bishop Ruch.

12. Now, Petitioners submit an Amended Petition for Declarations, which combines the averments of Petitioners' previous filings and is revised to comply with the Rules of Procedure of the Provincial Ecclesiastical Trial Courts.

13. The disputes concerning the presentment against Bishop Ruch, which arise from the Constitution and Canons, are: (1) whether the presentment satisfies the requirements of Canon IV.4.1; and (2) whether the "investigative process," and in particular the involvement of a non-canonical body known as the Provincial Investigative Team ("PIT"), leading to the presentment against Bishop Ruch was conducted in a manner that is inconsistent with the Canons, the Provincial

Rules and fundamental norms of fairness and due process, thereby rendering the presentment invalid.¹

THE FACTS

14. On December 22 and 23, 2022, Bishops Ross, Gillin and Hunter signed a presentment against Bishop Ruch alleging violations of Canon IV.3.1 (hereinafter the “Presentment,” a copy of which is attached).

15. On December 24 and 26, Bishops Ross, Gillin and Hunter signed an “addendum” to the Presentment (hereinafter the “Addendum,” a copy of which is attached).

16. On January 31, 2023, Archbishop Foley Beach provided Bishop Ruch and Chancellor Philbrick with the Presentment and Addendum against Bishop Ruch.

17. Bishops Ross, Gillin and Hunter signed, but did not swear to the averments of the Presentment. (Presentment at 1, 8, 9)

18. In the Addendum, Bishops Ross, Gillin and Hunter disavow some or all of the charges contained in the Presentment. (Addendum at 1)

19. Within the Addendum, Bishops Ross, Gillin and Hunter state:

[W]e believe the process of adjudication should continue, even though we think there are some potential problems in the Presentment. We trust that the Board of Inquiry will revise the presentment where needed to be consistent with the ACNA canons, as well as only move forward with sections of the Presentment that meet the standards of reasonable grounds or probable cause for a trial as outlined in Canon IV:4:4 and Canon IV:4:6.

(Addendum at 1)

¹ Bishop Ruch’s and Chancellor Philbrick’s original request for declaration, submitted to the Tribunal on January 31, 2023, contained a third request for declaration. Specifically, Petitioners sought a declaration that the Archbishop “must personally serve Bishop Ruch with a copy of the presentment upon its execution and submission to the Archbishop.” However, with the service of the Presentment on January 31, 2023, that petition is moot and by this amendment, withdrawn.

20. Canon IV.4.1 requires that an accuser “sign and swear to” the charges and mandates an accuser verify under oath the truth of the matters asserted.

21. Bishops Ross, Gillin and Hunter state in the Addendum that they do not believe, or lack personal knowledge of, or a good faith basis for the belief that their charges are true:

In signing this Presentment, we do not presume guilt upon Bishop Ruch. Such a judgement was not asked of us. We simply assert that the canonical process should continue. We believe this is the only way to have trusted, godly outcomes for Bishop Ruch and the various publics and stakeholders to which we owe an answer on these matters.

(Addendum at 1)

22. Bishops Ross, Gillin and Hunter state that they agreed to sign the Presentment based upon the: “Husch Blackwell report and the nine-page Presentment based upon the PIT’s recommendation that was presented to us.”

23. Neither the Husch Blackwell Report nor a “recommendation” of the Provincial Investigative Team are attached to the Presentment.

24. The Petitioners have never seen a “recommendation” from the Provincial Investigative Team.

25. Bishops Ross, Gillin and Hunter admit that their signatures were solicited by someone, whom they do not identify: “Such a judgement was not asked of us.”

26. Bishops Ross, Gillin and Hunter assume for themselves an extra-canonical purpose: “We simply assert that the canonical process should continue.”

27. There has been no canonical process in regard to Bishop Ruch.

28. The Provincial Response Team, the Provincial Investigative Team and the Morning Team are all non-canonical bodies.

29. Bishops Ross, Gillin and Hunter state: “We believe this is the only way to have trusted, godly outcomes for Bishop Ruch and the various publics and stakeholders to which we owe an answer on these matters.”

30. The purpose of Church discipline is repentance and reform, not public relations:

The Church has its own inherent right to discipline the faithful who commit offenses. Penalties are established only insofar as they are essential for repentance, reformation, and ecclesiastical discipline and order.

Canon IV.1.

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

31. Petitioners incorporate by reference the statements contained in paragraphs 1- 30 above, as though fully set forth herein.

32. 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. (Emphasis added)

Canon IV.4.1.

33. Bishop Ross, Gillin and Hunter have signed the Presentment, but they do not swear to the validity of its contents. (Presentment at 1, 8, 9)

34. A presentment must set forth “with reasonable certainty of time, place and circumstance.”

35. The Presentment is incomplete because it does not fully identify the information upon which it is based:

In making these Charges, *the undersigned have considered documentation and other information, some of which was provided by the team appointed by ACNA*

Archbishop Foley Beach to investigate this matter, specifically the Rev. Travis Boline, Ms. Elizabeth Conkle, the Rev. Chris Culpepper, Mr. Alan Runyan, Esq., and the Rev. Deacon Lisa Schwandt (the “Provincial Investigative Team – UMW”) with the assistance of law firms Husch Blackwell and Telios Law and *other provincial representatives*. (Emphasis added)

(Presentment at 1)

36. The Presentment does not delineate the “considered documentation,” the “other information,” or identify the “other provincial representatives” that provided information to Bishops Ross, Gillin and Hunter, and is therefore incomplete.

WHEREFORE, Petitioners pray for a declaration from this Provincial Tribunal that the Presentment and Addendum against Bishop Ruch fail to meet the requirements of Canon IV.4.1 and are, therefore, invalid. Petitioners further pray for an order from this Tribunal dismissing the Presentment and enjoining the Archbishop from submitting the Presentment and Addendum to a Board of Inquiry.

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

37. Petitioners incorporate by reference the statements contained in paragraphs 1- 30 above, as though fully set forth herein.

38. 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.”

39. This so-called Morning Team created an extra-canonical body called the Provincial Investigative Team.

40. The Morning Team oversaw at least two investigations, one conducted by Husch Blackwell and one conducted by Telios Law.

41. The investigations were conducted in a manner that was inconsistent with fundamental norms of fairness and due process, rendering the Presentment invalid.

42. 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.”

43. Further, “[n]o new rule of procedure shall be made while a matter is pending that would be affected by that rule.” *Id.*

44. The Provincial Investigative Team 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.

45. The Provincial Investigative Team 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.

46. 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.

47. In this case, numerous unknown individuals were interviewed by investigator(s), whose findings were mediated by the Morning Team.

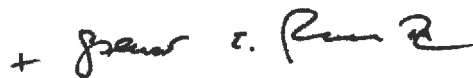
48. The Morning Team then submitted records of unknown content or origin to the Provincial Investigative Team, whose conclusions, if any, were again mediated by the Morning Team, who then solicited various bishops, who had no personal knowledge of the accusations or any relationship with the accusers, to sign the Presentment against Bishop Ruch.

49. The process orchestrated by the Morning Team was not only non-canonical, but anathema to fundamental notions of fairness, due process, and substantial justice.

WHEREFORE, Petitions pray for a declaration from this Provincial Tribunal that the “investigative process,” including, but not limited to the Provincial Investigative Team, was non-canonical, contravened basic principles of fairness, and denied Bishop Ruch the process that was due, rendering the Presentment and Addendum invalid. Petitioners further pray for an order from this Tribunal dismissing the presentment and enjoining the Archbishop from submitting the Presentment and Addendum to a Board of Inquiry.

Dated: February 15, 2023

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stewart Ruch, III". The signature is written in a cursive style with a plus sign to its left.

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

A handwritten signature in black ink, appearing to read "Charles L. Philbrick". The signature is written in a cursive style.

Charles L. Philbrick
Chancellor, Diocese of the Upper Midwest

VERIFICATION

We, the undersigned, verify and swear under oath and penalty of perjury that the statements contained in the forgoing Amended Petition For Declarations are true and correct.

Dated: February 15, 2023

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

Charles L. Philbrick

Charles L. Philbrick
Chancellor, Diocese of the Upper Midwest

PROOF OF SERVICE

I swear under penalty of perjury that I served a true and correct copy of the forgoing Amended Petition for Declaration, with attachments, by certified mail, return receipt requested and by electronic mail on this February 15, 2023 upon:

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By: /s/ Charles L. Philbrick