



Anglican Church in North America

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March 29, 2023

Re: In re: the Rt. Rev. Stewart Ruch, III

Dear Bishop Dobbs:

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

I have received your email sent March 28, 2023 with the attached unsigned “Scheduling Order” dated March 26, 2023. Your email attributes issuance of the Scheduling Order to the receipt of our *Special Appearance to Present Motion to Dismiss for Lack of Jurisdiction and Motion to Disqualify*. But the text of the Scheduling Order does not engage with, address, or even acknowledge the threshold issues raised therein that must be resolved at the outset. The Archbishop and the Provincial Officers respectfully submit the following:

- (1) The Tribunal should vacate its purported “Stay Order” immediately. The “Stay Order” was issued in violation of the Tribunal’s own Rules of Court, in violation of the ACNA Canons, in violation of due process, natural justice and fairness, and without proper jurisdiction. The “Stay Order” is not in fact a “stay” of the Tribunal’s own proceedings but rather a purported temporary restraining order (“TRO”) issued to another canonical officer and body. The “Stay Order” was issued without any factual showing by the Petitioner nor any argument or authority to satisfy the heavy burden that a movant seeking a TRO or preliminary injunction must carry. Rather than preserve the status quo, the “Stay Order” purports to reverse the status quo. It is void ab initio, without legal effect, and should immediately be formally vacated before any further proceedings.
- (2) As explained more fully in the *Motion to Disqualify*, the natural justice, due process, and fairness required under the Scriptures and ACNA Canon IV:5:7 (among other things) require the recusal of four members of the Provincial Tribunal for multiple reasons. Under the most relevant standards of judicial ethics, those members should have recused on their own initiative upon receipt of Bishop Ruch’s original *Request for Declarations*. Such recusals should be completed before the Tribunal takes *any* actions and do not require further briefing by Petitioner Ruch (or anyone else) before such members should carry out their ethical duties. If the four members of the Tribunal do not voluntarily recuse, all members of the Tribunal should be presented with full disclosure of all possible grounds for recusal and should vote on the public record on the recusal of each such member. The Tribunal’s integrity and credibility are at grave risk.
- (3) As explained more fully in the *Motion to Disqualify*, the natural justice, due process, and fairness required under the Scriptures and ACNA Canon IV:5:7 (among other things) require that all members of the Tribunal immediately disclose any and all ex parte communications with any of the putative parties named in this proceeding and any of their representatives or

advisors regarding any of the issues in controversy, including (without limitation) any of the issues identified in the Presentment, the possibility of bringing proceedings before the Tribunal, revisions or corrections to the original January 31, 2023 *Request for Declarations* filed by Mr. Philbrick and leading to the February 15, 2023 *Amended Petition for Declarations*.

- (4) As explained more fully in the *Motion to Disqualify*, there should be no further proceedings or actions by the Tribunal until *after*: (a) all ex parte communications involving any members of the Tribunal have been fully disclosed to all putative parties to these proceedings and (b) the four members of the Tribunal identified in the *Motion to Disqualify* – and any other members of the Tribunal whose impartiality could reasonably be questioned or whose recusal is otherwise appropriate under the standards set forth in 28 U.S.C. §455(b) – have properly recused themselves from this proceeding in all respects. We respectfully suggest that a helpful approach to begin thinking about the issues of recusal under §455(a) is to consider whether, if all of the ex parte communications that have occurred and all additional grounds for recusal (including but not limited to those set forth in Section III.5 of the *Motion to Disqualify*) were to be disclosed to the public, could the impartiality of such member reasonably be questioned?
- (5) We will present oral argument on the *Motion to Dismiss* and the *Motion to Disqualify* pursuant and subject to our *Special Appearance*, but object to and dispute all assertions of jurisdiction by the Tribunal, including (but not limited to) the Tribunal’s issuance of a Scheduling Order for discovery and trial in this proceeding. A responsible court first addresses its jurisdiction – and its impartiality – as threshold issue at the outset of any proceeding and before scheduling further events.
- (6) As explained more fully in the *Motion to Dismiss*, service in accordance with Rule 3 has not been effected on the Archbishop. Further, neither the Tribunal nor the Petitioner have served on, or even provided a copy to, the Archbishop of Petitioner Ruch’s original January 31, 2023 *Request for Declarations* and February 2, 2023 *Supplement*. It is now two months since those documents were submitted to the Tribunal. The Tribunal’s Rules of Court and the principles of due process and natural justice require full disclosure of all submissions before the Tribunal when it took action. Such disclosure must be made to all those to whom the Tribunal purports to issue its “Stay Order” (or any other ruling). To date, that has never been done.

The Tribunal’s actions contravene the Scriptures and foundational principles of natural justice, due process, and fairness. Members of the Tribunal have put the Tribunal’s integrity and credibility at grave risk. We implore you to correct these actions as a threshold matter of first importance.

Respectfully in Christ,

/s/ Scott J. Ward
Scott J. Ward, Esq.
Chancellor
Anglican Church in North America

/s/ Jeffrey A. Garrety
Jeffrey A. Garrety, Esq.
Vice Chancellor
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