

**PROVINCIAL TRIBUNAL
ANGLICAN CHURCH IN NORTH AMERICA**

The Rev. Daniel C. Claire,

Petitioner,

v.

**The Rt. Rev. Steven A. Breedlove,
et al.,**

Respondents.

**PER CURIAM
DECISION & ORDER
GRANTING MOTION TO DISMISS**

PT-2023-2

Petitioner, Rev. Daniel C. Claire, a presbyter in the Diocese of Christ Our Hope, has asked this Tribunal to rule for “[a]n end to all judicial proceedings related to the complaints raised in 2020 and 2021 or claims similar thereto; ... Notice to all parties that Petitioner was found to have committed no canonically actionable misconduct; [and an] Award of attorney fees and costs.”¹ The Respondents are: the Rt. Rev. Steven A. Breedlove, the Rt. Rev. Alan J. Hawkins, the Rt. Rev. R. Quigg Lawrence, Jr., and the Christ Our Hope Diocesan Council. The Respondents have filed a motion to dismiss the Petition for failure to state a claim and lack of original subject matter jurisdiction.

I. FACTS

According to the papers filed by both parties and oral argument on September 6, 2023, there are no judicial proceedings or presentments currently pending against the Petitioner. Apparently, starting in December 2019, complaints were made against the Petitioner by a fellow clergyman in the Diocese, which ultimately resulted in an investigation of Rev. Claire. The investigation’s final report (entitled “Final Report and Godly Admonition” on or about November 22, 2021) from the Respondents found no presentable offense but found some issues with the conduct of the Petitioner.² The apparent end of that investigation (which Respondents’ counsel at oral argument represented was a deficient investigation) was that both Petitioner and Respondents entered into a one-page agreement entitled “Pastoral Process for The Rev. Dan Claire (May 27, 2022)”, which is attached to the Petition as Exhibit 4 and is attached hereto (the “Pastoral Process”). That agreement specified that Rev. Claire undergo sessions of professional licensed counseling, spiritual direction/coaching, a human resources review of Rev. Claire’s parish, and that Rev. Claire issue a public statement “acknowledging complaints and a willingness to work on

¹ Petition at 19.

² Petition, Exhibit 3 at 5.

them.”³ The Pastoral Process described actions already taken by Rev. Claire and the Respondents, suggested additional steps for Rev. Claire, and required he take certain other actions. After review by an outside organization, the Respondents decided to conduct a second investigation of the accusations against Rev. Claire. Rev. Claire alleges that these accusations are substantially the same as the prior accusations and that there is significant overlap between the accusers in the first investigation.

On April 26, 2023, the Petitioner filed his Petition with the Tribunal. On June 9, 2023, the Respondents filed a motion to dismiss the Petition. The Tribunal held a hearing with counsel for the parties on September 6, 2023.

II. REASONING

This case is different from *Ruch v. Archbishop Beach*, PT-2023-1, which is cited by both the Petitioner and the Respondents in support of their respective positions. In *Ruch*, our June 6, 2023 Decision found that Bishop Ruch had raised a matter in dispute arising under the Constitution and Canons because, assuming his alleged facts were true, it appeared that a specific canon was violated when the presentment was not sworn, contrary to canon. Here, the Petitioner has not cited an explicit canon giving rise to his claim.

The Tribunal is cognizant of the great cost to a clergyman having to defend himself against investigations, especially when investigations have gone on for years as in this case. A diocese has the money to pay its investigators and lawyers. The lone clergyman being investigated or charged must come up with the funds from his own pocket to defend against such charges. The effect of prolonged investigations also weighs emotionally and spiritually on the clergy being investigated and the congregation. Lengthy or serial investigations also delay closure for those bringing charges against clergy. These are serious matters and may require action to somehow equalize the disparate burden which investigations and canonical proceedings place on one who is the subject of the investigations and canonical proceedings, and to set some limits on the duration of investigations.

The Petitioner has requested an award of legal fees, but any such things are beyond our authority to direct absent a canon which allows us to utilize such remedies. While courts in the United States and Canada are often by statute permitted to award attorney’s fees in cases, there is no canon in our Province which grants us this authority. As such, we decline to do so.

III. ORDER

The Tribunal members are of different minds with respect to the grounds for dismissing the Petition but are in unanimous agreement that Rev. Claire’s Petition should be dismissed. The

³ See, e.g., Petition at ¶ 32. Previous iterations of this document characterize it as a “Godly Admonition.” There is nothing within the document that purports to foreclose all further investigation. A signed copy of the Pastoral Process has not been produced but the Petitioner and Respondents agree that it was signed by the Petitioner and one or more of the Respondents.

motion of the Respondents to dismiss the Petition is accordingly **GRANTED**, and the Petition of Rev. Claire is hereby **DISMISSED**.

IT IS SO ORDERED.

Dated: November 6, 2023

The Rt. Rev. Julian Dobbs and Ms. Victoria Huyer, concurring in the judgment, delivered by Ms. Victoria Huyer

The Rev. Michael Dearman and the Rev. Dr. Charles Erlandson, concurring in the judgment, delivered by the Rev. Michael Dearman

The Rt. Rev. Clark W.P. Lowenfield, the Rev. Canon Phil Ashe, and Mr. Raymond Dague, having recused themselves, took no part in the decision of this matter.

APPENDIX
PASTORAL PROCESS

Pastoral Process for The Rev. Dan Claire (May 27, 2022)

1. Professional Licensed Counseling

Our pastoral guidance is that Rev. Claire will begin counseling with a licensed, professional counselor by July 1st 2022, and will do so regularly for a period of at least 9 months, including at least 12 sessions.

The diocese will pay 60% of the cost and Rev. Claire and/or the Church of the Resurrection will pay the difference. We ask Rev. Claire and the Church to work out an agreement to cover the 40% beyond what the diocese pays.

2. Spiritual Direction/Coaching

Our pastoral guidance is that Rev. Claire should have twelve spiritual direction/coaching appointments with an experienced director-coach. These appointments would commence by July 1st 2022 and continue for approximately a year.

We suggest Mr. Barney Ford (cbf1945@gmail.com) as an excellent possibility.

We recommend that Rev Claire begin by initiating two or three sessions with Mr. Ford to determine whether or not he would be an effective director/coach for his own spiritual and leadership growth. If, after those sessions, reasons emerge that Mr. Ford is not a good match, then we request that Rev Claire bring suggestions to the table for experienced, wise, proven spiritual directors/coaches further for our approval.

The diocese will pay 60% of the cost and Rev. Claire and/or the Church of the Resurrection will pay the difference. We ask Rev. Claire and the Church to work out an agreement to cover the 40% beyond what the diocese pays.

3. HR Review. The Church of the Resurrection Parish Council has submitted the church's HR policy for the church to Bishops Lawrence and Hawkins. The bishops will review it and may have resultant follow-up recommendations regarding the policy to bring before the Parish Council.

4. Public Statement. Rev Claire has issued a public statement acknowledging complaints and a willingness to work on them. This has been met.

5. Third Party Interpersonal Mediation. Rev Claire has agreed to engaging any complainants with a third-party interpersonal mediation to bring resolution for the complaints.

6. Study Process. The recommendation for a study process has been tabled.

Signed:

Signed:

Double Jeopardy or Res Judicata

The Petitioner claims that the signed document entitled “Pastoral Process for the Reverent Dan Claire”, Appendix A, is a Godly admonition and is similar to a plea agreement and thus, invokes the principle of double jeopardy or collateral estoppel to bar any further investigation. The Respondents alleged in oral argument that the document signed in June 2022 entitled “Pastoral Process for the Rev. Dan Claire” is not a disciplinary action and thus, is not the same as a Godly admonition. The Respondents further allege that since a pastoral process is not a disciplinary action, the process begun under Canon IV.3.3.1 has not been terminated and that the Respondents are entitled to continue to investigate or to reinvestigate the Petitioner on the accusations brought forward in 2020.

Double jeopardy and collateral estoppel find their roots in the legal maxim *nemo debet bis vexari*¹, which also is the root of the related concepts of *res judicata*, *autrefois acquit*² and *autrefois convict*³. Double jeopardy, *autrefois acquit* and *autrefois convict* apply in a criminal law context whereas *res judicata*, and the related concept of estoppel, apply in a non-criminal law context. Generally, the principles coming from *nemo debet bis vexari pro una et eadem causa* including double jeopardy, *res judicata*, *autrefois convict* or *autrefois acquit* prevent double punishment for the same acts, or punishment for acts for which the accused was acquitted, as well as the unwarranted harassment of an accused by multiple prosecutions. *Res judicata* and issue estoppel are based on the principle that “duplicative litigation, potential inconsistent results, undue costs and inconclusive proceedings are to be avoided.”⁴

The ACNA canons are silent on the matter of whether another investigation can be undertaken on accusations that are substantially similar to and made by the same accusers and provide no assistance in this matter.

The Petitioner would have the Tribunal to believe that the issuance of the final report in November 2022 along with the signing of the “Pastoral Process” document triggers the principles of founded in *nemo debet bis vexari*. However, for the sake of argument, assuming that the “Pastoral Process” can be considered a final judgment with respect to the first investigation, there has been no final report or even charge coming out of the investigation that was commenced in January 2023. At the moment, there cannot be any application of the *nemo debet bis vexari* maxim and related concepts such as double jeopardy, *autrefois acquit*, *autrefois convict*, *res judicata*, *issue estoppel*, all of which require, at a minimum, something more than an investigation in order to be triggered. Until there is at least a second final report which details the charge and the finding of the investigation, the Petitioner’s case is premature and is not justiciable. Without a final report of

¹ The notion that a person should not be “vexed” or have to answer for themselves by being tried or punished more than once for any particular accusation brought against them. <https://www.iclr.co.uk/knowledge/glossary/nemo-debet-bis-vexari-pro-una-et-eadem-causa/>

² A person should not be convicted of an offence for which the person was already convicted.

³ A person should not be convicted of an offence for which the person was already acquitted.

⁴ *Danyluk v. Ainsowrth Technologies Inc*, 2001 SCC 44 at para. 18

the canonical investigator, the Tribunal is not in a situation to determine whether *res judicata* or any other like principle would apply, since it is unclear whether the investigation on these similar accusations is once again on the abuse of ecclesiastical authority or if there are other charges being considered. The Tribunal will not attempt to predict the outcome of the investigation. If the results of the alleged second investigation result in different charges from the one undertaken from 2020 to 2022, then *res judicata* could not be invoked. Therefore, the condition precedent for pleading any of these doctrines has not yet been met and as such, this part of the petition is not justiciable or ripe at this point.

We find even though there has been no violation of an explicit canon, the grant of jurisdiction under the Constitution and Canon IV.5.4.1 to this Tribunal is sufficiently large that any violation of the spirit of the canons and the principles behind them falls under the jurisdiction of this Tribunal. Moreover, we believe that *res judicata* and like principles could apply to such violations. To take any other position would be rather concerning. For the Tribunal, as the court of final decision in the Province, to take such a limited view of their authority that it only applies to pure textual explicit canonical violations could open the door for all sorts of inappropriate behaviour of the very kind that this Tribunal was constituted to keep in check.⁵

In the face of the silence of the ACNA canons it is our view, that any time-honoured legal principles that underpin the legal system in the countries in which we reside, also are part of the ACNA Constitution and Canons since they have been drafted in that larger legal context, unless these principles have been specifically excluded. Many of these basic legal principles ultimately come from canon law and were adopted by the common law. Since these time-honoured principles of law find their origins in the biblical values of due process, justice and fairness, these biblical values should be the minimum standard against which any process in a Diocese or in the Province should be measured, even if they are not specifically articulated in any canon. Here we agree with the Dearman and Erlandson decision that the principles of justice, fairness, and due process stand behind Title IV of the ACNA Canons as scripture is the most fundamental source of canon law. Thus, we believe that it is the Tribunal's duty to consider any and all historical common law legal principles founded on the biblical values of due process, justice and fairness, unless these legal principles have been specifically excluded from consideration by the text of the ACNA Constitution and Canons.

Original jurisdiction

The Respondents submit that there are no matters in dispute that trigger the original jurisdiction of this Tribunal. In our opinion, there do indeed seem to be matters in dispute under the ACNA Canons, which could trigger the original jurisdiction of this Tribunal under the Anglican Church in North America Constitution, Article XI, § 1 and Canon IV.5.4.1.2(a). In our opinion, these matters are:

⁵ See this Tribunal's [Tribunal Order and Opinion and Concurring Opinion](#) in Bishop Stewart Ruch, III, Petitioner, v. Archbishop Foley Beach, *et al.*

- (1) At what point does a canonical investigation process that has been undertaken under Canon IV.3.3.1 terminate?
- (2) If an investigation under Canon IV.3.3.1 terminates with the recommendation that no further juridical process should be pursued, and the Ecclesiastical authority accepts that recommendation, can another canonical investigation with respect to the same accusation(s) made by the same accuser(s) be undertaken?
- (3) What is considered a “reasonable time” for a canonical investigation to submit their final report and recommendations under Canon IV.3.3.4?

These issues are precisely the types of “matters in dispute” that the Provincial Tribunal should be involved in adjudicating, at least on appeal.

(1) At what point does a canonical investigation process that has been undertaken under Title IV terminate?

The point at which a canonical investigation terminates under Title IV is an important matter, and one, which in our opinion could trigger the original jurisdiction of this court. It is clear that the Petitioner and Respondents disagree with respect to what actions constitute the termination of the investigation and as such, bear upon any potential analysis of whether the canonical investigator reported findings in a “reasonable time” and on the Petitioner’s claims of double jeopardy. Since the petition was insufficient on its face with respect to the first issue and the second issue is not yet justiciable, then the Tribunal does not have to decide this question in this case.

(2) If an investigation under Canon IV.3.3.1 terminates with the recommendation that no further juridical process should be pursued, and the Ecclesiastical authority accepts that recommendation, can another canonical investigation with respect to the same accusation(s) made by the same accuser(s) be undertaken?

This issue is linked to the Petitioner’s claims of double jeopardy and related concepts. However, as discussed above, the legal maxim *nemo debet bis vexari pro una et eadem causa* which is the root of the Petitioner’s claims, does not apply to investigations. As the canons are silent on this issue, there is no “matter in dispute” that triggers the original jurisdiction of the Tribunal with respect to having a second investigation which is substantially similar to the first, despite any other concerns that such an action by the Diocese triggers.

(3) What is considered a “reasonable time” for a canonical investigation to submit their final report and recommendations under Canon IV.3.3.4?

Canon IV.3.3.4 provides that a canonical investigator must report findings in a reasonable time. While the Petitioner has raised issues about the length of time with respect to the length of time he has been under investigation, the Petitioner has failed to articulate how the canonical investigator failed to report his findings in a timely manner. In this regard, the petition is insufficient on its face. Therefore, it is not possible for the Tribunal to determine what would be “reasonable time” under Canon IV.3.3.4 given the circumstances of this investigation.

Applicable Canons

The Petitioner cites canons that do not bear on the Petitioner's claim. Canons IV.3.3.5 and IV.3.3.6 do not apply as they do not apply to investigations, which is currently the stage that the Petitioner is in; a stage that we will note that he has been in on and off for nearly 4 years.

Ruling to end all judicial proceedings

The Petitioner has asked that the Tribunal "rule against the diocese for [a]n end to all judicial proceedings" against Petitioner. To date there are no judicial proceedings for this Tribunal to rule to end. Thus, in that regard, the petition is premature.

The Rev. Michael Dearman, joined by the Rev. Dr. Charles Erlandson, concurring in the judgment.

The Tribunal is ruling on the Respondents' Motion to Dismiss. In general, we accept the well-pleaded facts of the Petitioner as true. We disregard his legal conclusions. Are the facts the Petitioner has pleaded, taken as true, sufficient to provide a basis for relief? He requests that we halt all further diocesan investigation of his alleged misconduct and end all judicial proceedings against him. The Petitioner would have us find that the second investigation violates ACNA canons and the principles of due process, natural justice, and fundamental fairness under theories of double jeopardy, *res judicata* and collateral estoppel, amongst others. I concur in the judgment of the Tribunal that the Petition should be dismissed. While I believe that the Petitioner states a claim for violations of due process, the Petitioner's claim is in essence an intra-diocesan dispute and is best addressed in the trial court of the Diocese of Christ Our Hope.

The Tribunal is in agreement that there are no *explicit* canons that give rise to a claim here. However, there may be instances in which time-honored legal principles, like due process, are strong enough for us to exert original jurisdiction. Certainly, such time-honored legal principles can be raised in a trial court or on appeal to challenge a presentment or court proceedings. The legal doctrines the Petitioner has relied on—*res judicata*, collateral estoppel, and double jeopardy—are unfortunately round pegs trying to fit into the square hole of the unique disciplinary structures in our Province. While there are contexts in which *res judicata*, collateral estoppel, and double jeopardy would undoubtedly have relevance, they do not fit the unique facts of this case. Nevertheless, two things are clear to me: (i) the subject of an investigation is entitled to due process throughout the investigation, presentment, trial, and appeal and (ii) a bishop ordinary has an interest in conducting investigations and discipline of his clergy without the burden of interference.

The principles of justice, fairness, and due process stand behind Title IV of the ACNA Canons. Scripture is one, and the most fundamental, source of canon law. Justice and due process abound in its pages. For example, “[d]o not admit a charge against an elder except on the evidence of two or three witnesses.”¹ Also, “[a] single witness shall not suffice against a person for any crime or for any wrong in connection with any offense that he has committed. Only on the evidence of two witnesses or of three witnesses shall a charge be established.”² Thus, just because there is no explicit canon that says principles of due process do or do not apply to an investigation does not mean that due process protections do not apply to all of Title IV.³ I would accordingly find Rev. Claire states a claim for a violation of these principles implicit within Title IV.

¹ 1 Tim 5:19.

² Deut 19:15.

³ Due process protections appear in other, specific places in the Canons, but none of those particular instances gives rise to Rev. Claire's claim. Canon IV.3.3.5, which relates to the presentments of presbyters and deacons, states,

If it is determined by the Ecclesiastical authority that a trial should occur, then a presentment shall be prepared and procedures followed according to the norms of ecclesiastical law. Such procedures shall acknowledge the presumption of innocence of the accused and the right to representation by

On the other hand, “[t]he member dioceses ... shall each retain all authority they do not yield to the Province by their own consent. The powers not delegated to the Province by this constitution nor prohibited by this Constitution to these dioceses or jurisdictions, are reserved to these dioceses or jurisdictions respectively.”⁴ Relatedly, “[a] Bishop is an overseer of the flock and as such is called to propagate, to teach, and to uphold and defend the faith and order of the Church willingly and as God wants him to – not greedy for money, but eager to serve; not lording it over those entrusted to his care.”⁵ Likewise, “Bishops are ... are chief missionaries and chief pastors, guardians and teachers of doctrine, and administrators of godly discipline and governance.”⁶ The discipline of clergy in a bishop’s diocese is a “core” bishop function. Subject to Scripture, Title IV and other canonical provisions, and the limits of due process, a bishop ordinary has broad responsibility and authority over the discipline of clergy in his diocese.

With these countervailing principles in mind, here, there is a novel problem that a canonical investigation was conducted in the Diocese of Christ Our Hope and, by its own admission at oral argument, the “first” investigation was defective. The first investigation’s final report (entitled “Final Report and Godly Admonition” on or about November 22, 2021) from the Respondents found no presentable offense but found some issues with the conduct of the Petitioner and resulted in, at one point, an outline of a godly admonition and at another point a “Pastoral Process.”⁷ The Final Report and Godly Admonition indicates that the investigation was ongoing.⁸ The Pastoral Process (dated May 27, 2022) was signed by the parties and does not evidence a settlement of the issues, though the November 22, 2021 Final Report and Godly Admonition hints in that direction. Rather, the Pastoral Process suggests some steps Rev. Claire might take in light of the

counsel, and shall be consistent with principles of fairness, due process and natural justice and shall require expeditious handling consistent with those principles.

This canon is somewhat ambiguous because it is not clear *what* procedures are supposed to be followed and *when* they are to be followed with respect to the presentment. Is it that the preparation of the presentment should follow procedures consistent with “fairness, due process, and natural justice” or is that the procedures of an ecclesiastical trial court should be consistent with those principles? Canon IV.5.7 requires all courts to have procedures that are consistent with the principles of “fairness, due process, and natural justice.” Canon IV.3.3 relates specifically to the investigation, presentment, and trial of presbyters and deacons. IV.3.3.5 does not appear to address investigations because it says, “[i]f it is determined by the Ecclesiastical authority that a trial should occur,” which presumes that an investigation has already occurred.

⁴ ACNA Constitution, Art. VIII.1.

⁵ Canon III.8.1.

⁶ Canon III.8.2

⁷ Petition Exhibit 3 at 2 states, “as we examined the investigative report and studied the relevant disciplinary canons of the Province and the Diocese, it became apparent that, while pastorally serious, the complaints against Rev Claire do not constitute canonically actionable behaviors. In this situation, the appropriate response is the issuing of a Godly Admonition, a pastoral directive which offers, opportunity for deep internal reflection, correction, and long-lasting change.” The November 21, 2021 final report gives Rev. Claire the option to call for an ecclesiastical trial of his behavior, with the godly admonition issued for the duration of the trial. Petition Exhibit 3 at 5.

⁸ Petition Exhibit 3 at 5 (“In keeping with the present status of this investigation, an outline of the boundaries of a Godly Admonition follows this report. If Rev Claire chooses to submit to the Godly Admonition as outlined, he will notify Bishop Steve Breedlove in writing by December 5 2021. Within two weeks after receipt of his acceptance of the Godly Admonition, the specific details will be finalized and communicated.”)

investigation's findings. It lacks imperative language and is largely suggestive or merely descriptive of actions already taken by the Diocese and the Petitioner. The Pastoral Process does not foreclose further action by the Diocese. In any event, a godly admonition can exist in parallel to an ongoing disciplinary proceeding under the ACNA Canons.⁹ In response to a report by a third-party consultancy identifying numerous issues with the Diocese's first investigation, the Diocese devised an investigation plan on January 24, 2023, with the investigation to begin in earnest in May 2023.

I do not view the Tribunal's original jurisdiction over matters in dispute arising under the Constitution and Canons as discretionary, a fact the Tribunal previously noted in dicta in the *Ruch* case.¹⁰ Canon IV.5.4.1 is more than a jurisdictional grant. It does not say that the Tribunal "shall have jurisdiction" over such-and-such a matter, which would imply the ability, but not the requirement, to exercise jurisdiction in those cases. Rather, Canon IV.5.4.1 says, "the Tribunal *shall serve . . . as a court of original jurisdiction. . .*". This much stronger language is the reason this Tribunal believed that we could not, as a matter of pure judicial fiat, take or refuse to take cases that otherwise manifested a matter in dispute under the Constitution and Canons.

Even so, there may be countervailing, canonical reasons for the Tribunal not to hear a case over which it would otherwise have jurisdiction under Canon IV.5.4.1. For example, in the *Ruch* case, Bp. Ruch sought the Tribunal's ruling that the investigation into his alleged misconduct was canonically invalid. Because of the sheer breadth of that claim and the context in which it was made, we took that request to be an attempt to exclude from consideration the evidence gathered, elicited, and reviewed in the course of that investigation. We declined to consider it as a matter of original jurisdiction but instead reserved a decision on that matter for appeal from a trial court judgment. In effect, the Tribunal observed, that claim was not brought within the proper forum.¹¹

As a general rule, I do not believe that the Tribunal can or should interfere with diocesan investigations while they are ongoing, as it raises a host of thorny and largely avoidable issues, but this case presents the very unique situation where you have a second investigation into what are ostensibly the same accusations by the same parties—we must take the Petitioner's assertion as true for the purpose of a motion to dismiss.

If we were to find that one can only raise a due process challenge on appeal, the following could occur: a clergy person could be subject to serial investigations on the same accusations—perhaps until one gets the answer one is looking for—without any ability to challenge them if they

⁹ "A Godly Admonition is a written directive from a Bishop with jurisdiction to a member of the Clergy under his jurisdiction. Such admonition shall not be issued until the Bishop shall have met personally with the member of the Clergy – unless for valid reason under these canons the Bishop shall have delegated such meeting to another Bishop – and the issues have been clearly and fairly discussed. The written admonition shall be specific concerning the matter complained of and the canonical or theological basis for the complaint, and shall provide a reasonable time for the required action to be taken. A Godly Admonition may be used alone or in conjunction with an Inhibition (ACNA IV.9) where appropriate." Canon IV.2; *see also* Diocese of Christ Our Hope Canon IV.2.1 (echoing the provincial Canons).

¹⁰ *See Ruch v. Beach et al.*, PT-2023-1, at 4 (Sept. 5, 2023).

¹¹ *See Ruch v. Beach et al.*, PT-2023-1, at 16 (June 6, 2023).

never end up at trial or the clergyperson does not submit to discipline. Finality is a due process concern; it is the principle behind double jeopardy and *res judicata*, even if those doctrines do not neatly apply here.

In addition, “[c]hurch courts and tribunals are to be available as necessary to resolve disputes.”¹² The Tribunal has taken that general principle seriously and weighed the prospect of whether the Petitioner has stated a claim or whether there are other reasons the Tribunal should dismiss this case. Rev. Claire is not without recourse, and this is not the only ecclesial court that can hear this dispute. Like in the *Ruch* case, there is another forum that is better suited for this dispute and that does not raise any other issues of diocesan jurisdiction and a bishop’s authority. It appears that Rev. Claire is fully within his rights to bring this matter before the ecclesiastical trial court in the Diocese of Christ Our Hope. The Final Report and Godly Admonition states, “Rev. Claire can call for a [sic] ecclesiastical trial of his behavior.”¹³ I believe this remains an option for Rev. Claire that has never been waived or lost according to the facts before us. In relevant part, the Diocese’s Canon IV.5.6 provides its ecclesiastical trial court as an avenue for adjudicating disputes within the Diocese.

The Court shall sit as an arbitral panel and its judgments shall have the legal effect of an arbitral award under federal and applicable state law. The Court may order such interim relief as it may deem fit in any particular case. Judgment upon an arbitration decision may be entered in any court otherwise having jurisdiction. The decisions of the Court shall be subject to review only in accordance with the Constitution and Canons of the Anglican Church in North America and only by the reviewing bodies of the Anglican Church in North America. ... The law that shall govern any dispute brought before the Court shall be the Constitution and Canons of this Diocese and the Constitution and Canons of the Anglican Church in North America. The Court may consider, in its sole discretion, any other law or authorities it determines should be applied to the particular case before it, including the arbitration rules of any other body. This Title IV shall be the sole remedy with regard to any controversy or claim arising out of the Articles of Incorporation and the Constitution and Canons of the Diocese of Christ our Hope. ...

As a fundamentally intra-diocesan dispute, I believe that the Diocese’s trial court provides a more appropriate forum for adjudicating the claims that Rev. Claire has against the Respondents. For that reason, while I find Rev. Claire’s claims about violations of due process colorable, and sufficient to survive a motion to dismiss, I would dismiss his Petition as seeking relief in an improper forum, especially while an investigation is ongoing. At some point investigations must come to an end, and a diocese’s missteps should not be allowed to create a disproportionate burden on the subject of the investigation.

¹² THE PRINCIPLES OF CANON LAW COMMON TO THE CHURCHES OF THE ANGLICAN COMMUNION § 24.3 (Anglican Consultative Council, 2d ed. 2022).

¹³ Petition Exhibit 3 at 5.