

IN THE DIOCESE OF VIRGINIA
BEFORE THE DISCIPLINARY BOARD
IN THE TITLE IV MATTER OF
THE REVEREND DR. B. CAYCE RAMEY, RESPONDENT

To: The Rev. Dr. B. Cayce Ramey, Respondent
The Rev. Edward O. Miller, Jr. Respondent's Advisor
Jack W. Burtch, Jr. Esquire, Counsel to Respondent
Bradfute W. Davenport, Jr., Esquire, Church Attorney
The Rt. Rev. Susan E. Goff, Complainant

**DECISION ON NOTICE OF APPEAL FROM HEARING PANEL
SANCTIONS ORDER**

INTRODUCTION

Respondent's Counsel on December 13, 2023, filed a Notice of Appeal (hereinafter APPEAL) seeking denial of Church Attorney's Motion for Sanctions (hereinafter MOTION) filed on November 6, 2023, and rescission of the Hearing Panel's Order (hereinafter ORDER) filed December 4, 2023, that granted the MOTION and ordered sanctions. A hearing before the Disciplinary Board (hereinafter BOARD) was held on January 11, 2024, at which Respondent's Counsel and the Church Attorney spoke to the APPEAL, MOTION, and ORDER and answered questions from the BOARD. The BOARD made its determination to issue this Decision on Notice of Appeal after having deliberated fully as to the record that includes the APPEAL, MOTION, ORDER, arguments made at the January 11, 2024, hearing along with:

- Respondent's Counsel's Response to Motion for Sanctions filed November 16, 2023.
- The Church Attorney's Surreply to Respondent's Response to Motion for Sanctions filed November 24, 2023.
- The transcript of the Hearing Panel's November 29, 2023, hearing on the MOTION; and,

- The Church Attorney’s Response to Respondent’s Notice of Appeal filed December 27, 2023.

DISCUSSION

As directed by Canon IV. 13.11(C), the Board for this appeal has made a *de novo* review as to the MOTION and APPEAL without deference to the ORDER.

The MOTION was filed with an Exhibit A that is copies of three emails, respectively dated August 15, 2023, September 23, 2023, and October 31, 2023. The parties have not disputed facts as to Exhibit A. Specifically, the September 23, 2023, email was sent on or about that date by the Respondent to multiple Clergy and Laity and includes the statement that addressees “. . . are under no obligation to speak with [the Church Attorney] or to not speak with him either way.”

As to the subject Exhibit A statement the Church Attorney “submits that Respondent’s conduct [by transmitting the statement] is ‘disruptive, dilatory, or otherwise contrary of the integrity of the proceedings’ within the meaning of Canon IV.13.11, and therefore sanctionable,” (MOTION, para. 7.), and further submits as to the statement that:

With respect to Members of the Clergy, Respondent’s advice that they are under no obligation to speak with the Church Attorney exposes them to Title IV accountability themselves. Canon IV.3.1 (b) specifically says that a Member of the Clergy shall be subject to proceedings under Title IV for “(b) failing without good cause to cooperate with any investigation or proceeding under authority of the Title. (MOTION, para. 4.)

In opposition Respondent’s Counsel argues:

[W]hen a matter has been referred to the Hearing Panel, the Church Attorney represents ‘the party on the one side,’ the other being the Respondent. By clear implication, the Church Attorney’s responsibilities shift to the representation of his client, the Diocese, in a contested matter before the Hearing Panel. Nothing in the Canons compels any potential witness, regardless of order, to speak with the representative of a party in preparation of their case solely on behalf of that party, beyond their clear duty to appear before the Hearing Panel and to testify and respond upon being duly noticed.

The Order of the Hearing Panel wrongly includes “the Church Attorney’s preparations for Panel hearings” as part of the “proceedings” under this Title. Neither party’s preparation of its case on behalf of its client is a “proceeding conducted under authority of this Title.” (Title IV.3.1(b)) Had General Convention concluded that the preparations of party representatives should be included in the definition of “proceedings” under Title IV, it could have written a canon that said exactly that. But “proceedings” is an undefined term. (APPEAL, p. 3)

Regarding whether the Church Attorney’s responsibilities at any time shift, the Canons exclusively identify the role of the Church Attorney as “one or more attorneys selected to represent the Church in proceedings as provided in this Title.” (Canon IV.2) As to this responsibility to represent the Church being exclusive and continuous, the Canons direct that the Church Attorney is “disqualified” from even serving as an Advisor for Complainant(s) (Canon IV.19.10(c)). Complainant(s) are entitled to services of an Advisor (Canon IV.19.10) and attorney representation and the “communications between the . . . Complainant and his or her Advisor or attorney shall be privileged.” (Canon IV.19.10 (e)) The Church Attorney’s sole client is the Church, and that representation is continuous without shifting responsibility.

With respect to Respondent Counsel’s contention that “[n]either party’s preparation of its case on behalf of its client is a ‘proceeding conducted under authority of this Title’ (Title IV.3.1(b))” (APPEAL, p. 3), the Canons set out that: “Proceedings under this Title are neither civil nor criminal but ecclesiastical in nature.” (Canon IV.19.1) No distinction is made between preparations for Hearing Panel hearings and the Hearing Panel hearings; all are “proceedings” under this Title and neither civil nor criminal but are ecclesiastical in nature.

As to the Canon IV.3.1(b) duty of Clergy to “cooperate with any investigation or proceeding under authority of the Title” Canon IV.19.1 directs:

Members of the Clergy have voluntarily sought and accepted positions in the Church and have thereby given their consent to subject themselves to the Discipline of the Church. They may not claim in proceedings under this Title constitutional guarantees otherwise associated with secular court proceedings.

Consequently, Clergy duty to “cooperate with any investigation or proceeding under authority of the Title” as set out in Canon IV.3.1(b) is not limited to only pre-Hearing Panel Investigations or when Clergy have been duly noticed to appear and testify at Hearing Panel hearings but is a continual responsibility to cooperate without interruption. The Canons in fact further direct that Clergy duty to cooperate commences even prior to others informing an Intake Officer as to an alleged disciplinary Offense. Specifically, the Canons direct that Clergy shall “report to the Intake Officer all matters which may constitute an Offense . . . , except for matters disclosed to the Member of Clergy as confessor within the Rite of Reconciliation of a Penitent.” (Canon IV.4 (f))

DECISION

The Board having fully deliberated as to the record orders that when Respondent emailed Clergy and Laity that they “. . . are under no obligation to speak with [the Church Attorney] or to not speak with him either way,” Respondent violated Canon IV.13.11(a) to at least the extent of committing conduct “contrary to the integrity of the proceedings.” Accordingly, the Board denies the APPEAL and grants the MOTION.

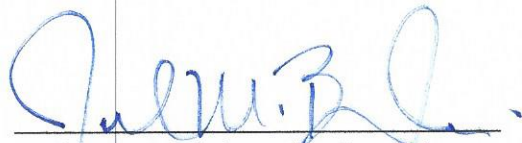
Additionally, the sanctions set out in the ORDER are rescinded, and the following corrective sanctions are ordered:

1. No later than fifteen days from receipt of this Decision on Notice of Appeal by email, the Respondent is to send to all persons to whom he sent the September 23, 2023, email an amended and corrected communication as to Clergy obligations under Title IV to cooperatively communicate with the Church Attorney. A copy of the amended and corrected communication is to be sent to the Church Attorney and to Respondent’s Counsel prior to being sent to all persons to whom the September 23, 2023, email was sent.
2. No later than fifteen days from receipt of this Decision on Notice of Appeal by email, the Respondent is to send to the Church Attorney and to Respondent’s Counsel the names and communications addresses of all Clergy, but not Laity, to whom the September 23, 2023, email was sent.

3. The Respondent is to cease and desist from all communications with anyone that in any way advises, implies, or suggests that they need not speak with the Church Attorney, or need not appear, testify, or respond at any hearing on this matter, unless excused by the Panel.
4. When Respondent's Counsel in compliance with Title IV.13.9 identifies the names of both Clergy and Lay expected witnesses to be called to testify at the Hearing Panel hearing on this matter, all those named as expected witnesses who were sent the September 23, 2023, portion of the MOTION Exhibit A are to be identified as such persons to both the Hearing Panel and the Church Attorney.

Dated:

15/January/2024



Julian M. Bivins, Jr., President
Disciplinary Board of the
Diocese of Virginia