

IN IN THE DIOCESE OF VIRGINIA
THE MATTER OF
THE REV'D DR. B. CAYCE RAMEY, RESPONDENT

NOTICE OF APPEAL

Respondent, the Rev'd Dr. B. Cayce Ramey, by counsel, in accordance with Title IV. 11(c), hereby appeals to the Disciplinary Board from the Order on Church Attorney's Motion for Sanctions made by the Hearing Panel in this matter dated December 4, 2023.

On November 6, 2023, the Church Attorney filed a motion for sanctions against Respondent based on an email dated September 23 that Respondent sent to a number of individuals, including Members of the Clergy of the Church and Lay members of the Church, as well as some others. In the body of that email Respondent stated,

On the off chance your name appeared in some email somewhere in the past few years and so you get contacted by the Diocesan attorney, Brad Davenport, please know you are under no obligation to speak with him or to not speak with him either way. If he does call you, I would appreciate knowing. Very few if any of you should get contacted.

In its Order, the Hearing Panel found that, "the Respondent violated Title IV.13.11(a) to at least the extent of committing conduct 'contrary to the integrity of the proceedings.'" The Hearing Panel reasoned that, with respect to Clergy,

By writing to Clergy that they "are under no obligation to speak with..." the Church Attorney, the PANEL finds the Respondent advised in contradiction to Title IV.3.1(b) that commands Clergy "...shall be subject to proceedings under this Title for ...failing without good cause to cooperate with any investigation or proceeding conducted under the authority of this Title." The PANEL understands Title IV investigations and proceedings to include the Church Attorney's preparation for Panel hearing. In support of these findings the PANEL in part relies on the duties and responsibilities of Clergy as directed in Title IV to diligently cooperate in Title IV investigations and proceedings even before a matter is instituted as directed by Title IV.4.1(f) that commands Clergy "...shall... report to the Intake Officer all matters which may constitute an Offense...."

Further the Panel relied on Title IV.19 which notes that proceedings under Title IV are “neither civil nor criminal but ecclesiastical in nature...” and that members of the Clergy have submitted themselves to the discipline of the Church and may “not claim in proceedings under the Title constitutional guarantees otherwise associated with secular court proceedings.”

With respect to Laity, the Panel found that Respondent, as a member of the Clergy, advised Laity in contradiction to his responsibilities under Title IV, fundamentally as set forth above.

The grounds of Respondents Notice of Appeal are as follows:

1. The Hearing Panel’s finding that Respondent committed conduct “contrary to the integrity of the proceedings” has no support in this record. Nothing Respondent said or did is contrary to the integrity of these proceedings nor constitutes any violation of Title IV.

There have been two complete investigations in this matter. Both were completed and submitted long before Respondent’s September 23 email. The first was the report of David A. Penrod, Esquire dated February 21, 2023, and the second by the Rev’d Canon Richard H. Norman dated April 21, 2023. The matter has been thoroughly investigated and the reports made available to the Church Attorney.

There has been no contention or even suggestion that any person failed to cooperate with either investigation. There has been no contention that any person, witness, or potential witness, has failed to cooperate in connection with the proceedings of the Panel.

The specific obligations of all members of the Church, Clergy and Lay, are set forth in Canon IV.19.18 which provides: “...it shall be the duty of all members of the Church to appear and testify or respond when duly served with a notice to do so from any Panel in any matter arising under this Title.” No person has yet been duly served with a notice and no person has failed to respond or testify. Respondent’s statement in his email did not state or even suggest or imply that any member properly served with notice could choose not to respond or testify before the Hearing Panel.

Although under Title IV.2 the Church Attorney has a broad role, especially in the oversight of investigations, that role narrows and changes once a matter has been referred to a Hearing Panel. Canon IV.13.6 provides,

In all proceedings before the Hearing Panel, the Church Attorney shall appear on behalf of the Diocese, which shall then be considered the party on one side and the Respondent the party on the other.

Thus, when a matter has been referred to the Hearing Panel, the Church Attorney represents “the party on 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 the 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.

Were it to mean what the Hearing Panel found, it would be obviously unfair, since no corresponding privilege is accorded counsel to the Respondent. The only requirement, and mandate of Canon, is that members of the Church must appear and testify before the Hearing Panel when they are duly served notice. To advise any member of the Church, after all investigations have been completed, that they have the right to choose, or not to choose, to speak with a party representative does not interfere with any “proceeding” under this Title.

Respondent’s statement in the September 23 email was both clear and innocuous. His statement was directed to a group of friends, some of whom may have previously been identified to the Church Attorney in documents exchanged during the mandatory disclosures or answers to interrogatories. Respondent told them they might be contacted by the Church Attorney and they “are under no obligation to speak with him or to not speak with him either way.” He did not advise them not to speak with the Church Attorney nor did he advise them to speak with him. He simply said they were under “no obligation” to speak with him. Nowhere in the Canons is a mandate that any member of the Church, including any member of the Clergy, has a duty to be interviewed by the Church Attorney in connection with his representation of his client to prepare his case in a contested matter before a Hearing Panel.

Respondent's statement was not coercive, intimidating or even improper. It was a simple opinion which he made clear could be accepted or rejected.

The Hearing Panel erred when it found, "the Respondent violated Title IV.13.11(a) to at least the extent of committing conduct 'contrary to the integrity of the proceedings.'" Respondent's statement itself neither violated any canon nor did it have any adverse effect on the integrity of any proceeding in this matter.

2. The "Corrective Sanctions" of the Hearing Panel's Order are not supported by evidence, are speculative and violate the privacy of individuals having no personal knowledge of this matter.

As set forth above, since Respondent engaged in no sanctionable conduct, no sanctions at all are appropriate.

The Hearing Panel's "Corrective Sanctions", however, go far beyond correcting anything Respondent has even been alleged to do. Corrective Sanction No. 3 states,

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 for this matter, unless excused by the Panel.

Respondent's suggestion that individuals need not speak with the Church Attorney acting as the representative of a party, was in no way improper. But for the Hearing Panel to suggest that Respondent would encourage any person not to appear or testify or respond to a proper notice is totally unfounded and outside any issue the Hearing Panel considered. It is unsupported by any fact presented to the Hearing Panel. The words of Respondent's email are simple and clear. No reading of Respondent's September 23 email could reasonably conclude that Respondent suggested any member should defy a notice to appear, testify or respond before the Hearing Panel. There is no basis under Title IV to sanction Respondent for something he has not even been accused of doing.

Corrective Sanction No. 2 requires Respondent to provide the "names and communications addresses of all Clergy persons to whom the September 23, 2023, email was sent." Every member of the Clergy with any personal knowledge of this matter known to Respondent was identified in the mandatory disclosures or in Respondent's answers to the Church Attorney's interrogatories. Any member of the Clergy not so previously identified has, to Respondent's knowledge, no personal information about this matter. They cannot be witnesses because they would have nothing to offer which would

either prove or disprove the case. While Respondent believes that his Eucharistic Fast is a proper and necessary act of discipline and conscience, he understands that others disagree. That is the cornerstone issue in this case. Disclosing the names of Clergy who are not witnesses, and who will not be witnesses, only subjects them to inquiry and exposure they do not seek. It violates their privacy. Corrective Sanction No. 2 should be struck to the extent it requires persons to be identified and their addresses to be provided when they have no relevant connection to any issue in this matter.

For these reasons the Order of the Hearing Panel of December 4, 2023 should be rescinded.

Respectfully submitted,

/s/Jack W. Burtch, Jr.
Counsel to Respondent

Date: December 13, 2023

Burtch Law, PLLC
1802 Bayberry Court, Suite 302
Richmond, Virginia 23226
(804) 593-4004
jb@burtchlaw.com

I certify that a copy of this NOTICE OF APPEAL has been provided by email to Mr. Julian Bivins, President, the Disciplinary Board, The Rt. Rev'd E. Mark Stevenson, J.P. Causey, Esquire, Bradfute W. Davenport, Esquire, The Rt. Rev'd Susan E. Goff, the Rev'd Edward O. Miller, Jr., the Rev'd Cayce Ramey.

/s/Jack W. Burtch, Jr.

Date: December 13, 2023