

**ECCLESIASTICAL COURT OF REVIEW
OF THE PROTESTANT EPISCOPAL CHURCH
IN THE UNITED STATES OF AMERICA**

The Right Reverend Charles I. Jones III

Appellant

vs.

No. 1 - 2001

The Protestant Episcopal Church in the
United States of America

Appellee

**FINAL ORDER OF TERMINATION OF SUSPENSION
AND RESTORATION TO EPISCOPAL OFFICE AND ORDAINED MINISTRY**

In 2007 Appellant successfully completed the terms and conditions of his suspension. He became eligible to have the suspension terminated by this Court and to be restored to his Episcopal office and ordained ministry. It is regrettable that unconditional news of that restoration still has not been distributed by Appellee, notwithstanding several orders of this Court requiring that it be done. The time has come for the Orders of this Court to be carried out without further delay.

When the Court received no report from Appellee on the status of Appellant's suspension long after the time of the suspension had passed, the Court ordered Appellee to provide a status report so that the Court could discharge its responsibilities under Title IV. Appellee's report revealed that Appellant successfully met the terms of his suspension but that instead of Appellee's reporting that to this Court, the Presiding Bishop had erroneously announced the termination and had compounded the error by doing so in a manner contrary to the provisions of Title IV.

Fairness and justice are essential components of the ecclesiastical disciplinary process created by Title IV of the canons. They should be present at every stage of the Title IV proceedings, not least upon the occasion of the successful completion of the terms of a

suspension imposed by a Title IV court. The determination of whether a respondent has met the terms of a suspension can be made only by the Title IV court that imposed the suspension. Once the determination has been made, it is within the exclusive jurisdiction of the Title IV court to announce its decision through an order of the Court. If a respondent has successfully completed the terms of a suspension and is thereby entitled to be restored to the respondent's former status, both fairness and justice require that the announcement of successful completion be made unconditionally.

As this Court held in its Order of November 5, 2009, at pages 4 – 8, the Presiding Bishop committed error in attempting to decide whether Appellant had successfully completed the suspension imposed by this Court, in announcing that decision as if it was hers to make, and in making statements in connection with the announcement that made the termination of the suspension appear to be conditional. In order to correct those errors and to insure that Appellant receives the unconditional termination of this ecclesiastical disciplinary proceeding under Title IV to which he is entitled, this Court entered its Order of Termination and Restoration on November 5, 2009 that, among other things, required the Presiding Bishop to distribute the Order that would clarify the situation and provide Appellant with the unconditional termination and restoration to which he is entitled under Title IV.

Appellee failed to comply with that Order in a timely manner and, instead, filed a Motion for Reconsideration contesting both the adjudication of errors committed by Appellee and the requirement for Appellee to distribute a corrected notice of termination and restoration. Alternatively, Appellee agreed to the Presiding Bishop's distribution of an abbreviated order to a smaller list of recipients. Appellee did not contest the jurisdiction of this Court to require the Presiding Bishop to distribute a corrective order.

On August 12, 2010, this Court entered its order that sustained Appellee’s request that the Presiding Bishop distribute an order to an abbreviated list of recipients. The remainder of the Motion for Reconsideration was overruled. In doing so, the Court took special care to “clarify the differing limits of authority between the Presiding Bishop and this Court within the context of Title IV disciplinary proceedings” (emphasis added) *Id.*, page 2, and pointed out that the erroneous actions taken by the Presiding Bishop were erroneous because they were taken as part of the disciplinary proceedings under Title IV. The Court also emphasized that it “did not find and does not imply that the actions of the Presiding Bishop were anything but the result of an honest misunderstanding by the Presiding Bishop (or her advisors) of her duties with regard to the termination of suspensions imposed under Title IV.” *Id.*, page 3.

On September 28, 2010, Appellee then filed the Motion to Reconsider that is currently before the Court. Notwithstanding Appellee’s earlier agreement for the Presiding Bishop to distribute a corrected notification, the current Motion objects to the Presiding Bishop’s distribution of a notice and raises, for the first time, the issue of the jurisdiction of this Court to require the Presiding Bishop to take the very actions Appellee earlier agreed that the Presiding Bishop could take to correct the erroneous actions taken in 2007.

Appellee asserts that this Court “exceeded its canonical authority and power by issuing an order including commands that the Presiding Bishop take various specific actions” because Canon IV.6.2 does not give to this Court “the authority or power to command action by the Presiding Bishop of the Episcopal Church.” Appellee is incorrect both factually and canonically.

Factually, the specific actions ordered by this Court to be taken by the Presiding Bishop and Appellee are merely the actions necessary to correct the erroneous actions originally taken by the Presiding Bishop as a part of the disciplinary proceeding on the occasion of Appellant’s

successful completion of his suspension. It is disingenuous for Appellee to contend that the parties creating the errors cannot be required to correct them, especially in light of Appellee's earlier agreement to give a notification. Factually, the correction of those errors are a part of the Title IV proceedings over which this Court has jurisdiction.

Canonically, the correction of those errors committed as a part of a Title IV proceeding is squarely within the grant of authority to this Court found in Canon IV.6.2. That is not, however, the only grant of authority to this Court that is applicable here. Canon IV.14.17 states, in pertinent part: "It shall be the duty of all Members of the Church to . . . respond when duly served with Notice or Citation by a[n] . . . Ecclesiastical Trial Court in any matter arising under this title." An order of this Court directing the Presiding Bishop to correct errors made by the Presiding Bishop in this disciplinary proceeding is within the ambit of Canon IV.14.17.

While this has already been discussed in the Court's November 5, 2009, Order (*See*, e.g. pages 5 – 8), we reiterate for emphasis that the 2007 comments made by the Presiding Bishop relative to Appellant's membership in the House of Bishops and to her being consulted before Appellant is engaged by any other bishop in the work of the Church were erroneous because, by combining those comments with the notice of restoration, it made the restoration conditional and subject to those limitations. No such limitation was imposed by this Court or by Title IV. The Presiding Bishop committed error in linking the two. Thus, it is essential for compliance with the requirements of Title IV and for fairness and justice for Appellant that an Order of Termination and Restoration be distributed without those unauthorized limitations being placed upon the Order of this Court.

As we have already held, the notice of Termination and Restoration can be distributed by electronic means to a smaller group of recipients than those who, several years ago, received the

erroneous communication from Appellee. That is still appropriate and in the best interest of Appellant. The distribution of an unconditional Order of Termination and Restoration will provide Appellant with that to which he is entitled and that which fairness and justice entitle him to receive: unconditional termination of the suspension and restoration to his Episcopal office and ordained ministry.

IT IS, THEREFORE, ORDERED AND ADJUDGED:

FIRST: Appellant is hereby restored to the exercise of his Episcopal office and ordained ministry effective July 30, 2007, and his temporary inability to exercise the gifts of ministry conferred by ordination is restored; and,

SECOND: The Clerk of the Court is directed to send a copy of this Final Order of Termination and Restoration to Appellant and to the Church Attorney; and,

THIRD: Within twenty (20) days of the date of this Order, Appellee is directed to provide electronically to the Clerk of the Court both the electronic address and the mailing address of each of the following: the Ecclesiastical Authority of every Diocese of this Church, the Recorder of Ordinations, the Church Deployment Office, the Secretary of the House of Bishops and all members of the House of Bishops, the Church Pension Fund, the Secretary of Convention of the Diocese of Montana, and the Standing Committee of the Diocese of Montana.

FOURTH: Within ten (10) days of the receipt of the addressess from Appellee, the Clerk of the Court will transmit to each individual listed in Paragraph THIRD above a copy of this Order.

FIFTH: Within twenty (20) days of the date of this Order, Appellee will post a copy of this Order, a copy of the November 5, 2009, Order in this case, and a copy of the August 12, 2010, Order in this case, in the tab: Documents/Court of Review for the Trial of a

Bishop/Committees, Commissions, Agencies & Boards/The Executive Offices of the General Convention found at <http://generalconvention.org/ccab/files/36>

FIFTH: All other provisions of Appellee's Motion to Reconsider and Vacate are hereby overruled.

ORDERED AND ADJUDGED this the 3rd day of December, 2010.

s/ Clifton Daniel, III,
The Rt. Rev. Clifton Daniel, III, Presiding Justice

s/ Chilton R. Knudsen
The Rt. Rev. Chilton R. Knudsen

s/ D. Bruce MacPherson
The Rt. Rev. D. Bruce MacPherson

s/ Michael B. Curry
The Rt. Rev. Michael B. Curry

s/ Duncan M. Gray, III
The Rt. Rev. Duncan M. Gray, III

s/ Don E. Johnson
The Rt. Rev. Don E. Johnson

s/ S. Todd Ousley
The Rt. Rev. S. Todd Ousley

s/ Mary Gray-Reeves
The Rt. Rev. Mary Gray-Reeves

s/ Wayne Wright
The Rt. Rev. Wayne Wright