

**HEARING PANEL OF THE DISCIPLINARY BOARD
OF THE EPISCOPAL CHURCH IN CONNECTICUT**

THE EPISCOPAL CHURCH IN CONNECTICUT

v.

ECCT Title IV Matter 2021-1

THE REVEREND AMJAD SAMUEL

Respondent.

**OPINION OF HEARING PANEL ON THE MOTION OF THE EPISCOPAL CHURCH
IN CONNECTICUT TO REDACT THE NAME OF ONE INDIVIDUAL, ██████████
██████████, FROM THE DISCOVERY PLAN AND SCHEDULING ORDER**

A. Background

On or about July 20, 2022, The Episcopal Church in Connecticut (“ECCT”) filed a Motion to remove ██████████ (“the requesting individual”) from the list of complainants in the above-referenced matter. ECCT argues that from the beginning that the requesting individual was inadvertently named as a complainant and that the requesting individual should not be penalized because of an error not of the individual’s making. ECCT further asserts that there is no prejudice to the Respondent.

On September 8, 2022, the Rev. Amjad Samuel (“Respondent”) filed an Opposition to the Motion and asserts that the motion should be denied where the ECCT has not provided any evidence to support the claim in the form of a certification or affidavit of the Church Attorney or of the requesting individual. Respondent further argues that the requesting individual has been revealed through the Statement of Offenses and the Notice of Hearing Panel that was already posted and that the individual was listed by reference to job title from which ██████ identity can be surmised. Respondent also notes that the Church Attorney does not represent Complainants.

Respondent also claims in the Opposition papers that he is prejudiced in that under the Canons of the Episcopal Church (“TEC Canons”) Respondent is allowed to conduct two depositions per complainant and to propound up to 20 interrogatories on each complainant. Respondent further alleges the if the requesting individual fails to cooperate or appear, there is no subpoena power to force the attendance of the individual. Finally, Respondent requests the Hearing Panel to deny the motion, but if granted, requests that Respondent be allowed two depositions and to propound twenty (20) Interrogatories as if the individual were still a complainant in the case. Additionally,

Respondent requests that if the requesting individual refuses to cooperate in the discovery that all charges that are related to any allegations by the requesting individual be dismissed with prejudice.

On September 13, 2022, ECCT responded to Respondent's Opposition and reasserted that the requesting individual should not be penalized because of a mistake acknowledged by the Church Attorney. ECCT further notes that it is willing to consent to allowing (2) additional depositions and to allow Respondent to propound 20 interrogatories as if the requesting individual is still a complainant. Finally, the ECCT argues that there can be no dismissal of charges related to the change of status of the individual from complainant to witness when there are no charges directly related to the requesting individual. ECCT further concludes that if, indeed, the requesting individual refuses to cooperate, the ECCT would suffer and not the Respondent as the ECCT would be deprived of the benefit of the individual's testimony and not the Respondent.

On September 16, 2022, Respondent filed a supplemental letter contesting ECCT's claim that the Statement of Offense (the charging document) did not contain charges relating to the requesting individual and that it specifically references the individual as being the object of a "hostile and intimidating environment created and fostered by Rev. Samuel."

B. Analysis

TEC Canon IV.13.3 plainly provides the intent of The Episcopal Church to ensure transparency in a Title IV proceeding:

As soon as possible, the Hearing Panel shall make documents available to members of the Church and the Church media as set forth in this Section. The documents shall be disseminated in such a way as to make them broadly known to the members of the Church and the Church media. For a matter in which a Priest or Deacon is the Respondent, dissemination shall include, at a minimum, posting to the diocesan website.

The TEC Canons further describe the documents that are subject to disclosure as "all documents filed with or issued by the Hearing Panel or any party or person including but not limited to motions, briefs, affidavits, opinions, objections, decisions, notices, challenges, and Orders." TEC Canon IV. 13.3(a).

However, the TEC Canons do provide a mechanism for relief from the disclosure where:

. . . the Hearing Panel, at its discretion and for good cause to protect any Injured person or allegedly Injured Person, may require the redaction of documents provided for in Sec. 5(a) after consultation with the Church Attorney; the Respondent's counsel, the Respondent's Advisor, the Complainant's Advisor or Complainant's counsel, if any, and where the appropriate, the Bishop Diocesan

Canon IV.13.3(b).

On June 8, 2022, pursuant to Canon IV.13.3(b), the Hearing Panel, preparing to post the Scheduling Order on the Diocesan website, sought consultation with the relevant parties as to whether there was an objection to the posting of the Scheduling Order. Thereafter, the Panel was advised by the Bishop's Assistant, that there was a person listed as a complainant who did not wish to be publicly identified. That, in turn, resulted in the filing of the Motion currently before this Panel.

Except for certain limited circumstances¹, complainants are not provided with confidential status in a Title IV proceeding. While in the initial investigative stages, the names of complainants remain confidential, once that matter proceeds to a Hearing Panel, any confidential status is generally lost. TEC Canon IV.11.5. However, as noted above, the Hearing Panel is provided with the discretion upon good cause to "protect an Injured Party" and by imposing restrictions or redactions on information that is otherwise to be publicly posted.

Here, however, the individual who is seeking relief never consented to being identified as a complainant in the matter. There is no church canon that forces an individual to become a complainant in a Title IV case. As such, the Church Attorney has no authority to deem someone a complainant absent their consent. Here, it is the Church Attorney's assertion that that consent was never obtained and indeed, it was his error in listing the individual as such.

Thus, an individual was improperly named as a complainant and, therefore, the records should be corrected to remove the individual as such. Such an error provides good cause to redact the individual's name from any filings relative to the requesting individual's status as a putative complainant. However, this does not preclude the disclosure of the requesting individual's name in any future filing that is unrelated to the individual being improperly named as a complainant. Should that matter arise in future filings, the ECCT would be required to make a separate motion with supporting information as to why the individual's name should not be disclosed, where otherwise appropriate, in the individual's capacity as a potential witness.

As to Respondent's claim of prejudice, the Panel disagrees. If the individual is no longer a complainant and the Church Attorney has represented there are no direct charges related to that individual, there is no harm to a reduction in Respondent's available discovery. However, the Church Attorney has consented to additional discovery, so it is the Panel's ruling that one additional deposition will be allowed and that the Respondent will be

¹ TEC Canon IV.6.11 provides that "[a]ll communications and deliberations during the intake and referral stages (including the identities of any Complainants, Injured Persons, or other persons who report information concerning an Offense) shall be confidential except as the Bishop Diocesan deems to be pastorally appropriate or as required by law".

TEC Canon IV.11.5 provides that "[a]ll investigations shall be confidential until such time as information obtained may be utilized by the Church Attorney, the Bishop Diocesan, or the Panels. All persons, prior to being interviewed by the investigator, shall be advised of the confidential nature of the investigation and when such information may be shared during the proceedings,

TEC Canon IV.8.3 provides that "[i]n every case, and notwithstanding any other provision of this Title to the contrary, the Bishop Diocesan may disclose such information concerning any alleged Offense or concerning any Accord or Order as the Bishop Diocesan deems pastorally appropriate."

allowed to propound a set of up to 20 interrogatories related to the requesting individual's allegations.

As to Respondent's claim that the requesting individual's identity as a complainant has already been revealed in prior filings, there is no reason why any such identifying documents should not also be redacted.

Finally, Respondent's request that the charges related to the individual be dismissed if the requesting individual fails to appear for a deposition or respond to discovery. Such a ruling is premature and as such, is denied. Although, if the Church Attorney is unable to assert evidence relating to the allegations of the requesting individual as the matter proceeds to a Hearing, the Respondent is free to make such an application at that time.

C. Conclusion

To conclude, the motion of ECCT to redact the name of the requesting individual from the Scheduling Order and from any other posted document that refers to the requesting individual's status as a complainant is hereby granted. The request by Respondent to seek a dismissal of charges is denied. Also, Respondent is entitled to one additional deposition and 20 interrogatories because the Church Attorney has not opposed same. Additionally, Respondent's request for consequences if the requesting individual fails to cooperate or appear is denied, as premature.

D. Discovery Obligations

It is the duty of the Panel to move this case expeditiously toward a date for final Hearing. Currently the discovery end date is November 21, 2022, which both sides have requested be extended. Given today's oral argument and the discovery update provided by counsel to the Panel, the following deadlines are set for action by the parties:

- 1) Respondent to File Motion to Compel: **October 11, 2022**
- 2) ECCT to file response papers: **October 25, 2022**
- 3) Joint Request for Extension of Scheduling Order and Proposed New Scheduling Order: **October 25, 2022**
- 4) Oral Argument on Motion: **November 2, 2022, at 3:00 p.m.**
- 5) Both Parties to Propound Interrogatories: **November 3, 2022**

The Rev. Joseph Shepley

The Rev. Joseph Shepley
President of Hearing Panel

The Rev. Louise Kalemkerian

The Rev. Louise Kalemkerian
Member of Hearing Panel

Tom Smith

Tom Smith
Member of Hearing Panel

October 4, 2022