

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

THE EPISCOPAL DIOCESE OF MASSACHUSETTS

v.

EDOM Title IV Matter

THE REVEREND DOUGLAS ANDERSON,

Respondent.

**OPINION OF HEARING PANEL ON THE MOTION OF THE EPISCOPAL DIOCESE
OF MASSACHUSETTS'S MOTION TO REDACT THE NAME OF THE
COMPLAINANT AND IDENTIFYING INFORMATION FROM MATERIALS POSTED
TO THE PUBLIC IN THIS MATTER.**

A. Background

On or about February 9, 2023, The Episcopal Diocese of Massachusetts (“the Diocese”) filed a Motion to remove the name of the Complainant and identifying information from materials posted to the public in the above-referenced matter. The Diocese argues that the “Respondent still has considerable ties to and influence in the community” where the alleged events occurred, and that dissemination of her identifying information will subject her to the “threat of harassment and unwanted and unwarranted intrusion into her personal life.” (Diocese’s Motion at 1.) The Diocese further asserts that redaction will not prejudice the Respondent as Respondent knows of the Complainant’s identity and has had access to the Investigator’s Report and numerous other documents and material supporting the alleged Offenses. As such, the Diocese submits there is good cause for redaction.

On February 22, 2023, the Reverend Douglas Anderson (“Respondent” or “Rev. Anderson”) filed an Opposition to the Motion (“Respondent’s Op.”) and asserts: a) the motion was incorrectly initiated by the Hearing Panel President; b) there are no facts in support of a threat of retaliation where Respondent is under a Pastoral Direction that precludes him from speaking to anyone at the non-profit organization or the parish regarding the charges; and that (c) there is no record of any such threatening behavior on behalf of the Respondent. (Respondent’s Op. at 1-2.) Additionally, Respondent argues that as the events took place in a diocese geographically distant from Massachusetts, there is no indication that anyone in a distant diocese would be aware of a posting on the Diocese of Massachusetts website. (Respondent’s Op. at 2.) Next, Respondent argues that

the requested redaction will have no effect where the Complainant's name has already been identified in an initial posting and where the Complainant would be easily identifiable by reference to the non-profit organization or the parish in question. Finally, the Respondent claims that the Diocese's claim of no prejudice fails where there are misrepresentations and exaggerations in the Diocese's motion papers.

B. Analysis

The Episcopal Church ("TEC") Canon IV.13.3 plainly provides the intent of TEC 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 public disclosure where:

[t]he 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

TEC Canon IV.13.3(b).

On January 4, 2023, pursuant to TEC Canon IV.13.3(b), the Hearing Panel, preparing to post the written Statement of the Church Attorney and the written Response of the Respondent, advised both parties (and the Bishop's office) of its intent to post both documents to the Diocesan website absent objection pursuant to TEC Canons. Thereafter, the Panel was advised by the Church Attorney of its intent to file a motion to redact which is the motion currently before the Panel.

TEC Canon IV. 6.11 suggests that absent good cause, the identity of Complainants, Injured Parties and Witnesses are not shielded from identification once the matter is referred to the Hearing Panel:

All 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.

Additionally, TEC Canon IV.11.5 also anticipates the eventual disclosure of the names of those who have been interviewed by any investigator:

All 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,

Here, the Complainant is the alleged victim of sexual misconduct, a highly sensitive claim in which it is not uncommon for a Complainant to be the object of harassment or retaliation. Such potential for harassment need not be connected to the Respondent but can come from others in the Church community who seek to protect, shield or support an accused cleric.

As to Respondent's allegation however, that the Panel's initiation of the redaction was somehow in error, the Panel finds such a claim to be without merit. TEC Canon 13.3 (b) does not require a party to initiate consideration of redaction, but it provides that the Panel may initiate the process on its own upon consultation with the Church Attorney, Respondent's Counsel and Advisor, Complainant's Advisor and attorney, if any and where appropriate, the Bishop Diocesan.

Additionally, Respondent claims that there is absolutely no evidence of any prior harassment by Respondent and ultimately, there is a Pastoral Direction in place that precludes any such behavior. While this may be the case, it does not preclude potential harassment by others who may have an interest in protecting an accused cleric.

Respondent further claims that, given that the matter arose in a diocese across the country from Massachusetts, there is no indication that anyone would be interested in a matter being heard in another diocese. Given the access most individuals have to internet services and the canonical requirement that documents in every Title IV case be largely available to the public, finding information on Title IV cases in any diocese across TEC is not difficult.

Respondent next argues that redaction is pointless when there had been a posted document (since removed) that contained information about the Complainant and, also, that referencing the non-profit organization and the parish where the events took place by name, makes the identification of the Complainant inevitable. The Panel finds that while other information may allow one to identify the Complainant, it is an insufficient basis to deny redaction. The goal of redaction is to protect a Complainant, Injured Person or Witness as much as is feasible upon the showing of good cause. Just because the Panel cannot guarantee complete protection does not mean the Panel, where appropriate, should cease any and all efforts to protect an individual who has shown good cause for redaction. The Hearing Panel favors minimizing harm.

Additionally, the Respondent argues that the Church Attorney has provided misleading and exaggerated and false information about the lack of prejudice to the Respondent upon redaction. However, where Respondent knows the identity of the Complainant,

Respondent does not provide any cognizable rationale for how he would be prejudiced by redaction.

Finally, during oral argument, Respondent argues that while non-redaction might cause harm to the Complainant, non-redaction might be of benefit to the Respondent in that other “false allegations might surface.” However, since the Complainant’s information is widely known (as Respondent purports), there has been sufficient time for other allegations to surface (if there are any).

Conclusion

To conclude, the motion of the Diocese to redact the name of the Complainant and any identifying information (including but not limited to identifying the non-profit corporation or the name of the parish involved) is hereby granted.

Additionally, it is ordered that in any future motion filed with the Panel, that the party filing said document (including moving papers, opposition or reply) shall file an unredacted version and a redacted version with this Panel. The redacted version should comply with this Panel’s Order by removing the Complainant’s name and any identifying information including the name of any non-profit organization and/or identifying parish with which she is or was associated.

Further, as noted by the Hearing Panel, the Respondent’s Counsel use of the Complainant’s name more than once during the recent oral argument and reference to her former workplace was inappropriate and should not happen again in any oral argument moving forward in this matter absent prior permission from the Panel.

The Rev. Nancy Gossling

The Rev. Nancy Gossling
President of Hearing Panel

The Rev. Joel Ives

The Rev. Joel Ives
Member of Hearing Panel

Ms. Diane Grondin

Diane Grondin
Member of Hearing Panel

March 2, 2023

