

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

**CHURCH ATTORNEY'S RESPONSE TO
RESPONDENT'S NOTICE OF APPEAL**

Canon IV.13.11(c), which governs this appeal, says the standard of review "shall be *de novo*." The canons do not define that standard, but in common parlance it means the Disciplinary Board should decide the appeal without regard to the Hearing Panel's decision.

In the interest of time and economy, and subject to the Disciplinary Board's wishes, the Church Attorney is willing to submit the matter to the Disciplinary Board for *de novo* review on the Motion for Sanctions, the Respondent's Response, the Church Attorney's Surreply and the transcript of the hearing before the Hearing Panel, but without the Hearing Panel's December 4, 2023, Order. (The only thing the Church Attorney would add is that he received the Respondent's emails attached as Exhibit A to the Motion for Sanctions because of concerns of a member of the clergy who had received the emails.)

The Respondent seems to think otherwise on the standard of review. That is manifest by the repeated references in his Notice of Appeal to the Hearing Panel's Order. Indeed, the Order, not the Church Attorney's Motion for Sanctions itself, is the sole focus of the Respondent's appeal. Thus, the entire record relating to the Motion for Sanctions, including the Order, needs to be before the Disciplinary Board for it to decide the appeal, as framed by the Respondent. The Church Attorney assumes the Disciplinary Board will cause the Hearing Panel to transmit that record to the Disciplinary Board, although the record is on the Diocesan website.

The canons are silent on the standard of review under the Respondent's approach. But if the appeal is viewed as the same or analogous to a normal appeal from a Hearing Panel's order to the Court of Review, as the Respondent is treating it, there is a controlling canon, IV.15.5(b), which provides as follows:

In all other appeals, the Court of Review shall grant relief to the appealing party only if, on the basis of the record on appeal, it determines that the party seeking review has been substantially prejudiced by any of the following:

1. The action taken below violates the Constitution and Canons of the Church or the Diocese;
2. The Hearing Panel has exceeded the jurisdiction conferred by this Title;
3. The Hearing Panel has not decided all of the issues requiring resolution;
4. The Hearing Panel has erroneously interpreted or applied the Constitutions or Canons of the Church;

5. The Hearing Panel has committed a procedural error or engaged in a decision-making process contrary to this Title;
6. The factual determinations of the Hearing Panel are not supported by substantial evidence when viewed in the whole light of the record on appeal.

Addressing the Respondent's arguments through the Canon 15.5(b) prism, the first and obvious point is that the Respondent fails to address any of the six grounds articulated in the canon. Thus, the Disciplinary Board cannot conclude that the Respondent has been "substantially prejudiced" or is entitled to relief from the Hearing Panel's Order.

Turning to the Respondent's arguments, they are amply refuted by the Hearing Panel's reasoning as stated in its Order and by the papers and transcript before the Hearing Panel. The Respondent's contention that the role of the Church Attorney is somehow narrowed when a Title IV case moves from the investigation stage to the Hearing Panel stage is not supported by anything in the canons.

The Respondent's Counsel conceded this very point on page 26 of the transcript of the November 29, 2023, hearing before the Hearing Panel:

Reverend Jones: Is there a Canon that specifically says that his role changes to the extent that he can no longer investigate?

Mr. Burtch: There is no Canon that says that ---

Reverend Jones: But that's a general --

Mr. Burtch: -- specifically.

Reverend Jones: Thank you.

The Respondent reads out, and asks the Disciplinary Board to read out, of the Canons, the "or proceeding conducted under authority of this Title" language in Canon IV.3.1(b). The Disciplinary Board cannot do that.

Moreover, under the Respondent's argument Canon IV.19.18, which is an integral part of the Hearing Panel's Order (and not stayed by the Disciplinary Board's December 18, 2023, Interim Order Staying Sanctions) would be meaningless. That is because "the duty of all members of the Church to appear and testify or respond when served with a notice to do so from any Panel in any manner arising under this Title" does not arise until after a matter has moved from the "investigation" to the "proceeding" stage.

The Respondent's other argument, that 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," is likewise misplaced. There is nothing speculative about the undisputed evidence in the Respondent's emails, and the Respondent seems to have overlooked that the Hearing Panel found that the Respondent himself, "as Clergy, advised in contradiction to his responsibilities under Title IV.3.1(b)..." With respect to the individuals who received the Respondent's emails

and who may or may not have personal knowledge of this matter or be potential witnesses, neither the Disciplinary Board nor the Hearing Panel nor the Church Attorney knows who they are or what knowledge they have or their status as potential witnesses. That information will become known when the Respondent complies with the Corrective Sanctions in the Hearing Panel's Order. Until then, the Disciplinary Board and the Church Attorney should not be required to take the Respondent's word for it.

Finally, the Respondent, until now, did not comment on the Sanctions suggested by the Church Attorney in his Motion for Sanctions and ordered by the Hearing Panel in its December 4, 2023, Order.

For all these reasons, and under either standard of review, the Disciplinary Board should affirm the Hearing Panel's Order.

Date: December 27, 2023

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