

Brad Davenport

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to Esq., Daniel, Tom, me

JB-As stated below, I believe Respondent's "Request for Review of Ministry Restrictions (Pastoral Direction)" raises issues relating to the jurisdiction of the Hearing Panel. If the Hearing Panel agrees, that should dispose of the Request. If it does not, the hearing on the Request, which Canon IV.7.10 requires be held within 15 days (although the Respondent has agreed to a reasonable extension), will require testimony from several witnesses. Thus, I ask the Hearing Panel to consider this email as akin to what is called a motion in limine in the civil world.

The Request invokes Canons IV.7.10 and IV.7.11, since this matter is now before a Hearing Panel. The first sentence of Canon IV.7.10 makes it clear that the required jurisdictional predicate is that there have been a "restriction on ministry or placement on Administrative Leave". The Request challenges the Pastoral Direction in Bishop Goff's letter of October 24, 2019. A Pastoral Direction is not a restriction on ministry or placement on Administrative Leave. Bishop Goff did not place the Respondent on Administrative Leave, a term defined in Canon IV.2. She did not restrict the Respondent's ministry or suspend her ministry in its entirety, including suspension from any ecclesiastical or related secular office. What Bishop Goff did was to announce that she was not going to renew the Respondent's Letter of Agreement at Incarnation, which is not a Title IV action, and to issue the Pastoral Direction that the Respondent adhere to the letter and spirit of the Policy on Resigning Priests. Neither Canon IV.7.10, nor Canon IV.7.11, nor any other canon, provides for review by any body of such a Pastoral Direction by a Diocesan. Thus, the Hearing Panel lacks jurisdiction to entertain the Request.

But even assuming jurisdiction for the sake of argument, Canon IV.7.11 is clear on what the Hearing Panel may consider: "The question before a Panel reviewing a restriction on ministry or Administrative Leave is **whether, at the time of the review and based upon information then available to the Panel, the restrictions on ministry or Administrative Leave and the terms and conditions thereof are warranted**" (emphasis supplied). The use of the present tense shows that the Hearing Panel's review is as of the time of its review, not as of the time the Bishop issued the restriction on ministry or Administrative Leave. But all of the Respondent's complaints about the Pastoral Directive relate to alleged defects in that document when Bishop Goff issued it. Respondent does not, and cannot, allege any circumstances that changed after Bishop Goff issued the Pastoral Direction. Thus, the Respondent is attempting to raise a "question before the Panel" which is not embraced within the scope of the "question" Canon IV.7.11 allows a Panel to decide.

I would appreciate it if you would bring this matter to the attention of the Hearing Panel. Resolution of it will shape the hearing on the Request, its duration, and evidence to be presented, including testimony from Bishop Goff and others on why she issued the Pastoral Direction contained in her October 24, 2019 letter.

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