



depth of information already before it, the Court does not believe that its adjudication of the sentence would be materially enhanced by receiving the proposed testimony in a hearing at this time.

For the foregoing reasons, the motion to hold a hearing prior to Adjudication of Sentence is **DENIED**.

2. **The Statement of the Presiding Bishop.** In the Respondent's Response to the Complainant's Sentencing Statement, the Respondent has objected to the submission of a recommendation on sentencing from the Presiding Bishop, and asks that the statement be disregarded by the Court and/or that the Court declare a mistrial on account of the prejudicial impact of the statement.

The Title IV process which resulted in the Presentment in this case was initiated under the provisions of Canon IV.3.23(b). As reported in Respondent's Exhibit 28, the information regarding the conduct of the Respondent was forwarded to the Review Committee by the Presiding Bishop "without judgment or comment upon the allegations." The Review Committee proceeded "as if a Charge had been filed." Canon IV.3.23(b). The Presiding Bishop is, for all practical purposes of this case, the Complainant. As such, the Presiding Bishop was entitled to the Notice of Judgment and the opportunity to be heard on sentencing, as provided in Canons IV.5.27 through 30.

The Presiding Bishop's status as the Complainant was expressly confirmed by the Church Attorney during a telephone conference with the Court's Lay Assessors on June 6, 2008, in which counsel for the Respondent participated. There was not and has not been any

objection on behalf of the Respondent to that identification. As the Complainant, the Presiding Bishop had a right to be heard with respect to sentencing. Canon IV.5.27-28.

Furthermore, Canon IV.5.27 gives broad discretion to the Respondent and to the Church Attorney to determine what “matters in excuse or mitigation or [other] comment[s] on the Sentence” to submit to the Court. Canon IV.5.27. The Respondent has taken advantage of that opportunity by including in his Submission statements from more than twenty-five acquaintances who comment upon either their own experiences with the Respondent or the appropriate sentence for the Court to adjudge. The Church Attorney chose to include the comments of the Presiding Bishop, the “Chief Pastor and Primate of the Church.” Canon I.2.4(a). That choice is in accord with the Canons. There are, therefore, no grounds for a mistrial or to disregard the Presiding Bishop’s statement.

With the exception explained in section 3 below, the Court will give careful and prayerful consideration to all of the statements submitted with respect to sentencing. No one statement, however, will control the outcome or be considered binding by the Court. The Court will not be unduly swayed or prejudiced by the Presiding Bishop’s expression of an opinion with respect to sentencing.

For these reasons, the motion to disregard the statement of the Presiding Bishop and/or to declare a mistrial is **DENIED**.

**3. Resolution and Statement of the Standing Committee.** In the Respondent’s Response to Complainant’s Sentencing Statement, the Respondent has objected to the inclusion in the Submission of Church Attorney of the “Resolution” and “Summary of

Conduct” of the Standing Committee of the Diocese of Pennsylvania (Appendix E to Complainant’s Sentencing Statement). The Respondent has asked that the Standing Committee Statement be disregarded and/or that the Court declare a mistrial.

Canon IV.5.27 gives broad discretion to the Respondent and to the Church Attorney to determine what “matters in excuse or mitigation or [other] comment[s] on the Sentence” to submit to the Court. The choice of the Church Attorney to include a Statement from the Standing Committee is well within the discretion extended to the parties in Canon IV.5.27. Submission of the Standing Committee’s statement does not constitute a violation of the Canons.

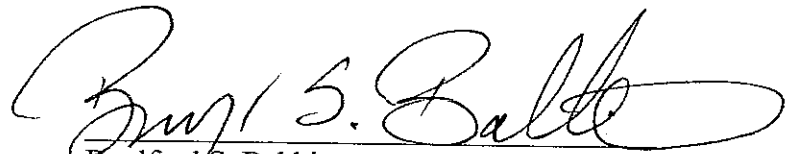
Nonetheless, the Court believes that the interests of justice would be best served by declining to consider the Standing Committee’s statement. The Standing Committee suggested that the Court should rely, in its Sentencing decision, on alleged misconduct and alleged Canonical Offenses that were not subjects of the Presentment or Trial. None of those alleged incidents is before the Court. Accordingly, relying on those allegations in considering the Sentence would be improper. Since such alleged conduct outside the Presentment is inextricably intertwined in the Standing Committee document, the Court will therefore disregard the Standing Committee’s Resolution and Summary of Conduct in its entirety.

The submission of the Standing Committee’s statement does not warrant entry of a mistrial. Submission of the Standing Committee’s statement did not violate the Canons. Further, the submission was made only after the Court rendered its determination that the Respondent had committed the offenses. Thus, the disputed statement could have had no

effect on, and could in no way undermine, the Court's finding. Disregarding the statement is a full and sufficient remedy.

For the foregoing reasons, the Motion to declare a mistrial on account of the Standing Committee Resolution and Comments is **DENIED**. The Motion to disregard the Resolution and Comments is **GRANTED**.

BY ORDER OF THE COURT THIS 30<sup>th</sup> Day of September

  
Bradford S. Babbitt  
Clerk of the Court