

IN RE: The Rev. Dr. Daniel Wade McClain
Respondent,

Hearing Panel of the Disciplinary Board of The Episcopal Diocese of South Ohio

Case No. 2023-01

**REPLY MEMORANDUM IN SUPPORT OF THE EPISCOPAL DIOCESE OF SOUTHERN
OHIO'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

In his Opposition Memorandum to the Diocese's Motion for Partial Summary Judgment, Respondent offers no dispute to the charge that he knowingly committed adultery in violation of the Seventh Commandment, the Canons and his ordination vow "to do your best to pattern your life and that of your family in accordance with the teachings of Christ, so that you may be a wholesome example to your people." He simply continues his pattern of excusing his own behavior while blaming others. He also misstates the Diocese's position in seeking partial summary judgment. The Diocese is not seeking Respondent's deposition "solely on the basis of the {adulterous} relationship". (Opp. Memo. at p. 1) The Diocese is seeking deposition because of an ongoing pattern of misconduct of many kinds. It is asserting, however, that the undisputed offense of adultery – even if there were no others – is sufficient to merit deposition in the circumstances present here.

Respondent's opposition arguments boil down to this: Kate McClain is a bad person, wife and mother; Respondent is a good person, husband and father; and, because of his essential goodness, he should be treated with sympathetic understanding and retain his collar. His arguments are factually unsupported and legally irrelevant. There is no factual dispute that he began a sexual relationship with a woman not his wife in February 2023, while he was still preaching from St. Paul's pulpit and still married to his wife, Kate. There is no dispute that he continued in that adulterous relationship for almost two years, until his divorce in December 2024. There is no dispute that he did not report the offense to an Intake Officer as he was required to do under Title IV, Canon IV. 4.1(f), an additional violation of the Canons. There is no dispute that he was brazen in conducting the affair, spending significant parts of the work week away from his parish and streaming morning prayer services to his congregation from his lover's patio.

Respondent does not dispute the charged offense. He just attempts to excuse it. He offers two "mitigating factors": 1) that an unnamed bishop "informally instructed" him that his marriage was over; and 2) that he was engaged in a protracted custody dispute. (Opp. Memo. at p.1). Neither factor matters nor mitigates. An informal observation, even by a bishop, that his marriage had failed did not somehow do away with the Canons, his vows or

his marriage. It did not render them or their attendant obligations meaningless. There is no assertion that the bishop in question knew Respondent was in an adulterous relationship or condoned it. The same is true of the custody dispute. Life's troubles do not exempt priests from the rules of the Church. Moreover, it is hard to see how this argument cuts in Respondent's favor. One can reasonably question why a devoted father and priest, eager to do what was best for his children and congregation, would, while in the middle of a nasty custody battle, choose to become sexually involved with a woman who lived a 90- minute drive from his parish. True love did not fall unexpectedly into Respondent's lap in February 2023. Respondent went hunting for it on an on-line dating app called Hinge, an online dating app that is designed to be deleted. (Opp. Memo at p. 8, paragraph 39) He took affirmative action to defy the Church and its principles.

Respondent complains that the Diocese does not really know him and evinces an attitude of "otherness" toward him. (Opp. Memo at p. 2). This argument does nothing to change the undisputed fact of his long-lasting and unreported adultery. It also does nothing to "mitigate". Those who do know Respondent well, his first wife, St. Paul's staff, and many St. Paul's parishioners, find him to be manipulative, controlling, deceitful and self-serving, among other things. And the Diocese does know much about the "real Dan". For example, it knows he applied for Diocesan funding for a "professional development" trip to the UK without revealing he was taking his girlfriend along. Bishop Smith's alleged bias is neither here nor there. He and the Intake Officer were obligated to consider whether the allegations, *if true*, would constitute offenses under Title IV, not to make credibility determinations at that stage of the proceedings.

Respondent's lengthy discussion about sexual misconduct and the Church's stance on sex and marriage is of no relevance. Respondent has not been charged with sexual misconduct under Canon IV.4.1(h)(1) and the Church's stance on marriage is not at issue. At issue is the Church's stance on adultery. Respondent offers no evidence or citation that adultery is permitted to a clergyman so long as he really loves his girlfriend and his wife is somehow flawed. But that is the new Standard of Conduct Respondent would have this Hearing Panel adopt.

Respondent ignores that he is a priest and that, along with the authority and privilege of that position, come greater responsibility and accountability: "This Title applies to Members of the Clergy, who have, by their vows at ordination, accepted additional responsibilities and accountabilities for doctrine, discipline, worship and obedience". (Canon IV.1). As the Episcopal Church website explains, Title IV was not written just for offenses that have caused widespread harm or endangerment but also can be used to prevent greater harm if a pattern of potentially offensive behavior has been detected.

Respondent pursued his adulterous relationship for almost two years, without self-reporting or any expressed regret or misgiving. This was part of and unfortunately consistent with Respondent's overall pattern of conduct that caused great harm to the people of St. Paul's.

Respondent's continuing lack of repentance is evident even in this most recent filing. Nowhere does he admit to actual wrongdoing or express contrition. To the contrary, he "acknowledges that it would have been best for him to refrain from having a relationship until the legal end of his marriage to Ms. McClain". (Opp. Memo. at p. 9, paragraph 46). His concern was and remains what is "best for him", not what is best for the Church or the St. Paul's congregation. While he now urges the Hearing Panel to consider him with "compassion" and proceed in the spirit of "healing, repentance, forgiveness, restitution, justice, amendment of life and reconciliation", he appears to view that obligation as unilateral, applying only to the Church. (Opp. Memo. at pp. 2,3). Respondent himself has demonstrated the opposite behavior throughout this proceeding. In April 2023, he threatened to sue Kate McClain for defamation. (See Exhibit 1, attached). In January 2023, he refused to allow Kate McClain to attend St. Paul's services unless she recanted her allegations. (See Exhibit K to the Memorandum in Opposition To Respondent's Motion for Summary Judgment). His counsel filed a Title IV Complaint against Bishop Smith in August 2022 (See Exhibit 2, attached). He most recently threatened a lawsuit against the Diocese apparently for the purpose of influencing this Title IV matter, which would be a violation of Canon IV.19,2 and an Offense under Canon IV.3.1(a). (See Exhibit 3, attached). There is no evidence, or even representation, that Respondent would turn over a new leaf and try to be Christ-like in all things if restored to the pulpit.

Finally, Respondent argues that the Diocese has not demonstrated that the undisputed offense is material or substantial or of clear and weighty importance to the ministry of the Church. The offense's importance is self-evident. The Bible's commandment against adultery is not a man-made rule or "best practice" of the Church. It is God's law. The Episcopal website stresses that the vows of ordination to conform to the doctrine, discipline and worship of the Church are foundational to the Title IV process. The clergy are called to be examples to the laity and when they fail, it brings hurt and sadness to the whole community. That hurt is multiplied when Respondent shows no remorse and basically proclaims "It would have been better for me to have waited to get a girlfriend, but I didn't, and it was worth it. Dish out whatever punishment you wish. I did what was best for me." (Opp. Memo. at p. 9, paragraph 46).

Respondent chose to put himself and his desires above and outside the Church. The Diocese requests that his choice should now be recognized and implemented by the Hearing Panel. Members of the clergy are to live ethical lives, not just tell others to do so.

Respectfully submitted,

Steven J. Ellcessor
Church Attorney

Dated: October 6, 2025