

**BEFORE THE REGIONAL DISCIPLINARY BOARD
OF THE EPISCOPAL DIOCESE OF SOUTHERN OHIO**

**IN RE: The Rev. Dr. Daniel W. McClain
Case No. 2023-01**

**FR. DAN'S REPLY TO
THE DIOCESE OF SOUTHERN OHIO'S MEMORANDUM IN OPPOSITION (dated
9/15/2025) TO FR. DAN'S MOTION FOR SUMMARY JUDGMENT AND IN THE
ALTERNATIVE FOR PARTIAL SUMMARY JUDGMENT (dated 2/12/2025)**

The Respondent, through his undersigned attorney, and with the support of his Advisor, for his reply to the Diocese of Southern Ohio's Memorandum in Opposition (dated 9/15/2025) to Respondent's Motion for Summary Judgment and in the Alternative for Partial Summary Judgment (dated 2/12/2025), respectfully states:

I. Introduction

The opening complaint is full of misinformation and falsely claims that Fr. Dan coerced his former spouse to drop abuse allegations. It was posted online and sent by email to over 200 people. After Fr. Dan responded to those allegations, the Diocese pivoted to a new set of unmeritorious fact allegations that were not disclosed to Fr. Dan until after Fr. Dan filed a motion for summary judgment. Witnesses who would controvert the allegations of the Complaint have been completely ignored. *See* Exhibit 1.

The four (or more) attorneys helping the Diocese with this matter likely have advised the Diocese that ecclesiastical proceedings, such as this Title IV, will not ever be evaluated by a

secular court. The Ecclesiastical Abstention Doctrine, adopted under First Amendment to the U.S. Constitution prevents courts from reviewing ecclesiastical proceedings.¹

Except as this Hearing Panel deems appropriate under Canon IV.14.Sec 6,² the Diocese will not ever be held accountable for humiliating Fr. Dan.

The most recent example of the Diocese's misuse of the privilege of judicial immunity over ecclesiastical proceedings, is their public accusation that Fr. Dan violently broke a watermelon during a zoom Bible study, and their private concession to the panel via email that they had grossly misconstrued what happened, and that there was no eyewitness.

Fr. Dan's former supervisor, who got along really well with Fr. Dan until Fr. Dan had to run Bruton Parish while that priest was dealing with his own unrelated suspension from ordained ministry, stated a negative opinion about Fr. Dan behind the veil of the investigator's affidavit, and without the potential for real cross examination. That was a bully maneuver. Fr. Dan's other past supervisors have discussed him positively. See **Exhibit 2**.

With total disregard for how this has affected Fr. Dan and the Church at large, the Diocese elected to forego the Conference Panel, where proceedings would have been confidential, and instead elected to use the Hearing Panel to publicly ruin Fr. Dan irrespective of whether they have evidence to prove their case. The harm is real. Fr. Dan has answered questions about this complaint in interviews for secular jobs where he did not get the job.

¹ *Serbian Eastern Orthodox Diocese for the United States of Am. and Canada v. Milivojevic*, 426 U.S. 696, 720 (1976); see also *Harrison v. Bishop*, 44 N.E.3d 350 (Ohio App. 6 Dist., 2015).

² That Section States: "An Order issued by a Conference Panel or Hearing Panel may (a) provide **any terms** which promote healing, repentance, forgiveness, restitution, justice, amendment of life and reconciliation among the Complainant, Respondent, affected Community and other persons; (b) place restrictions on the Respondent's exercise of ministry; (c) recommend to the Bishop Diocesan that the Respondent be admonished, suspended or deposed from ministry; (d) limit the involvement, attendance or participation of the Respondent in the Community; or (e) **any combination of the foregoing**." (emphasis added)

The purpose of Title IV has not been honored. This feels retributive. Canon IV.1 states the purpose of Title IV is:

By virtue of Baptism, all members of the Church are called to holiness of life and **accountability** to one another. The Church and **each Diocese shall support their members** in their life in Christ and seek to **resolve conflicts** by promoting healing, repentance, forgiveness, restitution, justice, amendment of life and **reconciliation among all involved or affected**. 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.

As of the Diocese's 10/6/2025 filing in this matter, it is clear that the Diocese thinks Fr. Dan is a bad guy because he defended himself in his divorce, used a lawyer to ask his former wife to stop slandering him (after the conclusion of the first Title IV in which a Frost Brown Todd attorney determined her abuse allegations were not credible, and even though a secular court made an adverse credibility ruling against her), and because his undersigned attorney made a confidential complaint against Bishop Smith.

In addition to causing real economic harm, these proceedings have been socially and emotionally damaging to Fr. Dan. *See Exhibit 3*, Letter from Rev. Robert W. Ahern, Jr. Ph.D., LISW-S.

The manner in which the Diocese has characterized people who appreciated Fr. Dan's ministry, has been hurtful to them as well. *See Exhibit 1*. The clergy who have been closest to Fr. Dan continue to support him. *See Exhibit 4*.

II. Title IV against Bishop Wayne Smith

In violation of the rule against retaliation,³ a Title IV complaint the undersigned made against Bishop Smith during the summer of 2022 has been referenced in Diocesan filings as evidence that Fr. Dan is essentially a bad person with a recalcitrant heart. The Church Attorney has stated in an email to the panel that making a complaint against Bishop Smith, “**shows a pattern of conduct that is antithetical to what the Church expects in its clergy.**”⁴

Clergy are **required** to report any matter that **may** be an offense under Title IV.⁵ *See Canon IV.4.Sec.1.(f)*

In the summer of 2022, the undersigned asserted a Complaint against Bishop Wayne Smith, who, among other things, was interfering with a child custody dispute apparently without thinking about the impact he was having on Fr. Dan’s sons. *See Exhibit 5.* Bishop Smith did stop openly interfering with the McClain divorce. However, as Bishop Smith had promised to do in the summer of 2022, Bishop Smith went on behind the scenes funding a costly investigation that looked at every corner of Fr. Dan’s life.

III. Fr. Dan hired a secular attorney after the Diocese requested a secular release.

The Diocese initiated a conversation about obtaining a release as part of its Accord and now seeks to discipline Fr. Dan for using secular law to influence this Title IV.

Fr. Dan could have sued Bishop Smith and the diocese for invasion of privacy and defamation after the Bishops unnecessary disclosure of information about Fr. Dan’s family in the

³ A Member of the Clergy shall be subject to proceedings under this Title for: retaliating against any person . . . because the person has reported information concerning an Offense, testified, or assisted in any proceeding under this Title. Canon IV.3.1

⁴ Clergy are **required** to report any matter that **may** be an offense. Canon IV.4.Sec.1.(f)

⁵ Canon IV.4.Sec.1.(f)

summer of 2022 and especially following the false representations by the Diocese that they were “cooperating with law enforcement.” Fr. Dan chose not to file a lawsuit and instead put his head down and got back to work at his parish and focused on the upkeep of his relationships with his boys and getting shared custody.

The Diocese claims in this Title IV proceeding that Fr. Dan is a bad person because he hired a secular lawyer who made a demand upon the Diocese. The Diocese fails to mention that Fr. Dan hired a secular lawyer **after the Diocese requested a secular release.**

On April 12, 2024, Mtr. Lynn proposed a resolution to this Title IV.⁶ *See Exhibit 6.* The bishops did not respond. That proposal was forwarded by the bishops to the Church Attorney, who re-involved the undersigned ecclesiastical counsel on 4/20/2024. The Church Attorney responded on 5/1/2024 stating:

“ . . . there are conditions that I believe the Bishop⁷ would be willing to consider in an accord, including possible financial support for Father McClain and his family for a period of time. **Obviously, in exchange for any monetary consideration, the Diocese would require that it and any others who participated in the investigation of this matter be guaranteed freedom from any “secular legal remedies”** referred to in your list of demands, any church disciplinary complaints or claims of any kind, or any other retaliatory action.”

See Exhibit 7. No request had been made of the Diocese other than Mtr Lynn’s letter.

After receiving this email and after having a phone call with the Church Attorney, the undersigned advised Fr. Dan that he would need an Ohio attorney for the negotiation of a secular

⁶Pursuant to Canon IV.9.Sec 1, “At any time before an Order becomes effective, the Respondent or any Member of the Clergy who has not yet become a Respondent but who is alleged to have committed an Offense may propose terms of discipline to the Bishop Diocesan.”

⁷ It is odd for a Church Attorney to speak on behalf of a bishop. Pursuant to Canon IV.2, there are limited instances in which a Church Attorney may discuss a Title IV with the bishop diocesan.

release in Ohio. Attorney Dave Duwell was engaged, and he made a demand upon the Diocese in September of 2024. Importantly, Fr. Dan did not make a demand on the diocese until after the Diocese conflated the secular and ecclesiastical issues and until after the Diocese requested a release as part of its negotiations for an Accord.

IV. Summary Judgment Must Be Granted on the Question of Abuse

The Diocese's 9/15/2025 response brief denies rehashing allegations of abuse stating: "The statement of offenses makes no allegation of physical abuse." *See* page 15 of the unpaginated 9/15/2025 Response.

This is not true. The Complaint (filed 1/25/2024) uses the word "abuse" three times on the last paragraph of page 10,⁸ and further claims that Fr. Dan is now being disciplined because he improperly "coerced" Ms. McClain to recant abuse allegations. The supporting emails discussed on page 10 of the Complaint were never produced in response to discovery demands, and the investigator's lengthy affidavit, makes no mention of a conversation with Ms. McClain.

The only email the Diocese has produced on this topic was sent in January of 2023, which was several months after the first case concluded, and could not have been evidence of coercion. In that January 2023 email, Fr. Dan points out the strangeness of Ms. McClain wanting to come to his church after she publicly accused him of abuse. Frankly, it is hard to understand.

Although she has shown no fear of filing motions and testifying in court, Ms. McClain is not going to testify in these Title IV proceedings.

The abuse allegations asserted by Ms. McClain in 2022 were investigated by a Frost Brown Todd Attorney. The Diocese, by its Church Attorney, stipulated on September 23, 2025

⁸ Four times total

that, “the allegations in the prior matter were never substantiated, were dismissed after a full investigation, and are not in any way the subject of this matter.”

How can it be true both that the allegations were dismissed after a full investigation, and that Fr. Dan improperly coerced Ms. McClain to recant the allegations as alleged in the 2024 Complaint? Fr. Dan is the only person in this ordeal whose story has not changed.

The Diocese’s complaint has been posted online since January of 2024, and secular employers have asked Fr. Dan about the Diocese’s Complaint in job interviews.

For the foregoing reasons, Fr. Dan respectfully requests that the Hearing Panel enter summary judgment against the Diocese on all allegations of “abuse.”

V. Fr. Dan positively impacted a lot of people and has endeavored to grow as a human and a priest.

Because this matter is public, people reached out to Fr. Dan and to the undersigned and asked how they could help. They have been advised that Fr. Dan is not able to visit with them and have been encouraged to fulfill their fiduciary obligations to St. Paul’s. Further, they have been advised that letters would be submitted to the panel in these proceedings. Their letters are attached, as **Exhibit 1**. Their letters show that Fr. Dan’s work at St. Paul’s was beneficial to a lot of people.

After the parish engaged a consultant in late 2021, Fr. Dan worked hard to implement the conclusions and recommendations of the consultant, which were not all positive, but were not nearly as bad as the Church Attorney paints Fr. Dan to be. *See Exhibit 8*. Interestingly, the consultant’s analysis contains themes common to the parishioner’s letters. Importantly, the consultant does not appear to have been interviewed by the Investigator.

Unlike the statements recited in the Investigator's affidavit, the letters of past employers and St. Paul's parishioners have not been filtered through the lens of an advocate who takes a side in these proceedings. The letters have been submitted as received, without alterations.

Fr. Dan is a high-energy person, who did a lot of work at St. Paul's. He restarted Christian formation programs, raised standards for the music program, developed online streaming, trained vergers, developed an Anglican Christmas festival, repainted the parish hall, and infused church gatherings with energy. He made numerous other changes and sometimes failed to bring everyone along. He got very frustrated with one vestryperson, not because of the disagreement about incense, as has been stated by the Diocese, but because of the way she talked to him in front guests at coffee hour.

Fr. Dan is willing to participate in a process that aligns with Title IV, but in light of the adversarial nature of this Title IV, in which the Diocese seeks deposition, and in which everything that can be construed negatively has been, the undersigned is at a loss for how to help Fr. Dan acknowledge shortcomings.

Fr. Dan has worked on self-development through regular meetings with a therapist, prayer and the study of scripture, compliance with all written instructions he has received from bishops, and therapeutic review of the psychological evaluation paid for by the Diocese. He does listen to criticism. See Exhibit 3.

In response to criticism by Judy Pritchard about his sermons, he attended the Episcopal Preaching Excellence seminar and tried to tell more stories. Finally, after the beginning of this Title IV he was enrolled in the Healthy Congregations leadership seminary called Bowen Family Systems Theory for a year and a half. If someone had told him there was a problem over tacos, he would have listened.

VI. The Investigator's Affidavit Should Not Be Relied Upon as Evidence

a. The Affidavit Is not "Clear and Convincing" Evidence of an Offense and Violates Title IV by Preventing Cross Examination

The Investigator's affidavit should be excluded because it prohibits cross-examination, fails to meet the "clear and convincing evidence" standard of proof required in Title IV proceedings, and frequently uses double hearsay.

By advocating for submission of the Investigator's Affidavit and testimony as evidence, the Church Attorney seems to argue that this Panel is obligated to hear all evidence irrespective of its quality. The Church Attorney's argument ignores the evidentiary standards set forth in Title IV.

It is true that Canon IV.13. Sec 10 states that the panel "may not exclude evidence **solely** because it is hearsay." However, this is not a blanket rule that all hearsay is admissible. Rather, section 10 goes on to state in subsection "c" that "Nothing in this section shall preclude **the exercise of discretion** by the president in taking measures appropriate **to preserve the integrity of the hearing.**" *Id.*

The Investigator's Hearsay Affidavit is not the quality of evidence anticipated by Title IV. Title IV requires decision makers to presume that the Respondent did not commit the Offense unless the Church Attorney proves otherwise. *See* Canon IV.19 Sec. 17. The standard of proof required for a Hearing Panel to find an Offense by a Respondent shall be that of "**clear and convincing evidence.**" *Id.* "Clear and Convincing" is defined in Canon IV.2 as "proof sufficient to convince ordinarily prudent people that there is a high probability that what is claimed actually happened." (emphasis added)

Canon IV.13 Sec 10. requires that all testimony be “under oath or solemn affirmation and be subject to cross-examination.” The panel is “to determine the credibility, reliability and weight to be given to all testimony and other evidence.”

To the extent the Hearing Panel finds the weight to be given to the Investigator’s affidavit is below the standard of proof required of the Church Attorney, there is no need for a hearing, and summary judgment can be entered against the Diocese. While evidence cannot be excluded “solely” because it is hearsay, the Respondent must be permitted to cross-examine witnesses, which would not be allowed if the Investigator’s affidavit or testimony is submitted as evidence. Moreover, as discussed in greater detail below, the Investigator’s affidavit lacks credibility. Accordingly, because the Investigator’s Affidavit does not meet the standard of proof required for Title IV proceedings, the Diocese is unable to satisfy its burden of proof and summary judgment should be entered against the Diocese on all its claims.

a. The Investigator’s Testimony was not disclosed in Mandatory Disclosures

Canon IV.13.5.a. requires the Church Attorney to make “mandatory” disclosures within sixty days of receiving the answer to the Complaint. In the mandatory disclosures, the Church Attorney was required to identify “the name and, if known, the address and telephone number of each individual likely to have direct knowledge of information which may be used to support the allegations against the Respondent.”

The Church Attorney failed to disclose that they intended to use their investigator as a witness. This deprived the undersigned of the opportunity to take the investigator’s deposition. The failure to disclose information has been prejudicial to the Respondent.

Canon IV.13.11 allows the Hearing Panel to sanction this behavior, including by, “1. **amending a scheduling order**; 2. limiting discovery; 3. refusing to allow the disobedient party

to support or oppose claims or defenses; 4. **refusing to allow the disobedient party to introduce certain matters into evidence**; 5. striking claims or defenses or responses; or 6. disqualification of counsel.”

Wherefore, the Respondent respectfully requests that the undisclosed testimony be precluded from the hearing. Alternatively, Respondent requests an opportunity to take the Investigator’s deposition.

b. The Investigator’s Affidavit was not disclosed in response to discovery requests.

Interrogatory 1 asked the Diocese to disclose its hearing witnesses. *See* Exhibit 9. It’s been over a year, and the Diocese still has not answered that interrogatory.

VII. The Investigator’s Affidavit is Not Credible

By submitting witness statements through an investigator, the Diocese has prevented cross-examination and is stymying a fair hearing. For the reasons discussed in subsections A through F below, The Investigator’s affidavit is not credible.

A. The Investigation was not neutral.

It is undisputed that the Investigator works at the direction of the Church Attorney. *See* Canon IV.11.Sec 5. The Investigator was engaged during Bishop Smith’s tenure. As conceded in the Diocese’s 10/6/2025 reply, the persons involved are motivated by their feelings about a 2022 Complaint that was made against Bishop Smith. The Investigator does not have a neutral disposition towards Fr. Dan and demonstrated willingness to jump to conclusions against Fr. Dan. For example, when Ms. McClain apparently advised him that she felt a parishioners had reached a conclusions about her mental health, it was assumed without supporting evidence that

Fr. Dan communicated those conclusions. Ms. Furmanski, as stated in Exhibit 1, came to that conclusion on her own, and not in the way the Investigator falsely assumed.

B. The Investigator Only Interviewed Adversarial Witnesses

The Investigator failed to investigate witnesses who would provide a positive perspective of Fr. Dan and only investigated negative witnesses. Numerous statements from positive witnesses indicate that not a single one of them was interviewed by the Investigator. See Exhibit 1.

C. The Investigator failed to evaluate secondary evidence.

The Investigator failed to look at secondary evidence. For example, service leaflets would show that the beloved clergy spouse's name was indeed read during the necrology and was not left out of a necrology. The Diocese has not answered a discovery demand for this information and the document is being obtained from the Canon to the Ordinary, not the Investigator. See **Exhibit 9**.

D. The Investigator does not state that he himself believes the allegations

Importantly, the investigator does not even state that he himself believes the allegations. He states no opinion of the credibility of the witnesses he interviewed, or whether he actually believed them. He merely recites what they stated to him.

E. Frequently the allegations are double-hearsay.

Often, the allegations in the affidavit are that someone else said what someone else said. This is not just hearsay. It is double hearsay.

F. There is evidence that the Investigator overlooked relevant exonerating facts, and made false statements.

1. Tithe

The investigator is hard on Fr. Dan for incomplete tithe but does not take into consideration the fact that his pay was impacted by work suspensions and a custody dispute. Further, he fails to mention that Fr. Dan agreed to a 10% pay reduction to help with the Parish's out of balance budget.

2. Stealing the Vergers from Another Parish

The Investigator falsely states that vergers were stolen from another parish. The vergers had already moved cities when they joined St. Paul's. They were not vergers at the time they joined St. Paul's. Fr. Dan taught them how to be vergers. See Exhibit 1. The priest is not, as stated by the Investigator, required to obtain consent from the vestry regarding decisions about worship. Rather, the Episcopal Church's vergers.org website states that, "Vergers work under the direction of their Rector, Vicar, or Priest-in-charge."

3. Fr. Dan did not turn parishioners against Kate McClain

The Investigator falsely alleged that Fr. Dan turned parishioners against Kate McClain and refused to serve communion to her. The parishioner stated that she came to her own conclusion about Ms. McClain. See Exhibit 1, Furmanski Letter

4. Parish Finances

The statement of Linda Bumiller, which is included in Exhibit 1, states that she was on the finance committee and that there was no financial malfeasance during her tenure. This is the only statement by an actual witness.

5. The Watermelon

Fr. Dan did not ever, as falsely stated under oath by the Investigator, break a watermelon during an online bible study. The real version of the watermelon story is stated by his oldest son, Henry. **Exhibit 10.**

VIII. Conclusions

Wherefore, Fr. Dan respectfully requests summary judgment against the Diocese on all claims asserted in this Title IV. Alternatively, Fr. Dan respectfully requests summary judgment against the Diocese on the claims of abuse.

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