

Church Of God In Christ, Inc.
General Council of Pastors and Elders
Judicial Review Committee / Ecclesiastical Appeals Court

P. O. Box 356
Douglasville, Georgia 30133-0356



Dr. Frederick D. Jenkins - Georgia
Chairman / Chief Ecclesiastical Appeals Court Judge

ECCLESIASTICAL APPEALS COURT JUDGES

Supt. Alton Barnes- Connecticut
Dr. Destry C. Bell, Sr. - Texas
Supt. Lee E. Blackmon- Texas
Supt. Timothy Bouknight- Massachusetts
Dr. Robert E. Garner -Michigan
Supt. Johnnie Q. Jones -California
Supt. Jesse J. Lipford -Tennessee
Supt. Bruce A. McCoy -Michigan
Pastor Lawrence H. Murray -Nevada
Supt. Kenneth L. Paden -Georgia
Supt. Embra R. Patterson -Illinois
Elder Ward A. Snow -Alabama
Pastor Talbert W. Swan, II- Massachusetts
Pastor Carl E. Williams- Tennessee

Church Of God In Christ, Inc.
General Council of Pastors and Elders
Judicial Review Committee / Appeals Court
P. O. Box 356
Douglasville, Georgia 30133-0356



Case No. **BLGSRvKFJCOGIC062012**

THE CASE

OF

Pastor Barry L. Ginyard, Sr.

VS.

**Kentucky First Ecclesiastical Jurisdiction
Church Of God In Christ**



Church Of God In Christ, Inc.
General Council of Pastors and Elders
Judicial Review Committee / Appeals Court

THE CASE
of

Pastor Barry L. Ginyard, Sr.
Appellant

vs.

CASE#BLGSRvKFJCOGIC062012

Kentucky First Jurisdiction Church Of God In Christ
Appellee

General Council of Pastors and Elders

The Chairman of the General Council of Pastors and Elders of the Church Of God In Christ received a Formal Request for Appeal from Supt. James Z. T. Harris of the First Ecclesiastical Jurisdiction of Indiana Representative/Counsel for Pastor Barry L. Ginyard, Sr. on or about May 25, 2012. The letter of request was forwarded to the Judicial Review Committee / Appeals Court of the General Council of Pastors and Elders and received on or about May 30, 2012.

SYLLABUS BY THE COURT

The jurisdiction of Civil Courts to address matters involving church affairs is limited. Neither state nor federal courts may undertake the resolution of quintessentially religious controversies, whose resolution the First Amendment to the Constitution of the United States of America commits exclusively to the highest ecclesiastical tribunals of the Church.

The Establishment Clause of the First Amendment to the Constitution of the United States of America prevents the government from appointing ministers. The Free Exercise Clause also prevents the government from interfering with the freedom of religious groups to select their own. The First Amendment permits hierarchical religious organizations to establish their own rules and regulations for internal discipline and government and to create tribunals for adjudicating disputes over such matters.

Purely theological questions and matters ecclesiastical in character must be determined by the authorities of the particular church involved according to its laws and usage. Civil Courts have no jurisdiction to review or control the decisions of duly constituted church authorities. However, when church-related controversies involve civil or property rights, the Civil Courts can and will take jurisdiction and decide the merits of the case in order to assure regularity of business practices and the right of private use and ownership of property. See Gospel Tabernacle Body of Christ Church v. Peace Publishers & Co., 211 Kan. 420, 422, 506 P.2d 1135, reh. denied 211 Kan. 927, 508 P.2d 849 (1973) (court considered whether a board of trustees had authority to convey church property absent approval of members of the congregation).

The Church of God in Christ, Inc. is a long established ecclesiastical organization. Numerous local churches are a part of its hierarchical system. See *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 49 L. Ed. 2d 151, 96 S. Ct. 2372, *reh. denied* 429 U.S. 873 (1976) (Supreme Court recognized that the Orthodox church was a "hierarchical church," with a governing body, set rules of procedure, and an internal appeals procedure). The Church of God in Christ is typically organized with various Pastors, district superintendents, and Bishops. See *Church of God v. Middle City Ch. of God*, 774 S.W.2d 950, 951 (Tenn. App. 1989).

The National Church has duly adopted a constitution, policies, procedures, by-laws and a Judicial Code of Conduct applicable to its local churches. The Pastor of the Local church is responsible for ensuring local compliance with the National Church's doctrinal and other policies and is empowered by the Jurisdictional Bishops upon appointment within their jurisdiction. See *Church of God in Christ, Inc. v. Graham*, 54 F.3d 522, 524 (8th Cir. 1995). Part I, the Constitution, Article III, Part 2, Section D, ¶¶ 5, 9, and 11 and Section J. of the Official Manual of the Church of God in Christ.

The Judicial procedure of the Church of God in Christ affords its members justice through a Trial Court process at the Jurisdictional level in the Jurisdictional Council of Pastors and Elders. Should the matter not be resolved there following the established procedure for appeal, they may appeal to the First Court of Appeals at the General Council of Pastors and Elders (conducted by the Judicial Review Committee/Appeals Court). Should the issues remain unresolved, again following established procedure for appeal they may appeal to the Final Court of Appeal, The Judiciary Board (the Supreme Court of the Church of God in Christ) whose ruling is final and without appeal.

The Judicial Review Committee/Appeals Court of the General Council of Pastors and Elders upon formal request through the Chairman of the General Council of Pastors and Elders for Appeals shall review Trial Court's entry of Judgment and/or Final Judgment rendered by the administration for abuse of discretion, judicial error, failure to follow court rules and procedure, prosecutorial misconduct and denial of Due-Process. Article V Section A ¶¶ 3, 4 of the Official Manual of the Church of God in Christ empowers the General Council of Pastors in the following manner:

“It shall serve as an Ecclesiastical Council to try, hear and determine cases and all other matters referred to it under the Constitution or Laws of the Church.”

“It shall establish such rules and regulations as it may deem necessary and proper for the conduct of its business not inconsistent with the Constitution or Laws of the Church.”

It should be understood the Failure to file and answer or respond to a pleading is prima facie evidence of default. All of the allegations set forth in a petition are considered admissions when not denied in an answer or other responsive pleading is submitted. Absent extraordinary circumstances, **If** an affirmative defense is **Not** asserted in an answer or other responsive pleading, it is **Waived**.

STATEMENT OF JURISDICTION

The Official Manual of the Church Of God In Christ, Copyright 1973, reprinted in 1991 and 1992 in *Article III, Part II, Section B*. states:

“The General Assembly is the supreme legislative and judicial authority of the Church Of God In Christ. It is the only tribunal which has power to express doctrine and creeds of the Church, and its decisions shall be binding on all members of the Church Of God In Christ.”

However in the *Biblical Apologetics for the establishment of the Judiciary Board of the Church of God in Christ* CFR-cc-93 page #2 states:

“On April 4, 1990, upon the recommendation and Report of the Committee on Constitution, submitted November, 1989, it was ordered by those certified delegates, present and voting, in the General Assembly, pursuant to the Constitution of the Church of God in Christ, Article VIII – The Judiciary Board, that the Judiciary Board of the Church of God in Christ, Incorporated, shall be established as an independent third branch of church government to exist in conjunction with the two present branches of government, the executive branch and the legislative branch.”

From the *Judicial Code Of Conduct of the Church Of God In Christ, Inc.* adopted November 14, 1994 in *Section VIII. Self-Government of the Judiciary*, states in part:

“An independent Judiciary is an important force in preserving the Church’s rules, regulations, constitutional provisions, doctrinal interpretations and traditions. Equal protection and “due process” shall be the right of every member. The Judiciary plays a vital role in the preservation of the polity of the Church of God in Christ, Inc. as a “Hierarchical Church.” The fulfillment of this role requires and understanding of their relationship to federal, state and local judicial systems and especially the first and fourteenth amendments of the United States Constitution.”

Under the separation of powers, each branch of government has a specific function. The Legislative Branch the (General Assembly) makes the laws. The Executive Branch the (General Board) implements the laws. The Judiciary Branch the (Church Court System) interprets the laws, decides legal controversies and settles disputes.

Thus removing the Judicial authority of the Church of God in Christ from the General Assembly (the Legislative Branch) to the Church Court System the (Judicial Branch). The General Council of Pastors and Elders being attached to the Judiciary Branch of the Church of God in Christ according to the Official Manual of the Church of God in Christ *Article V. Section A. Para 3-4* which states:

“It shall serve as an Ecclesiastical Council to try, hear and determine cases and all other matters referred to it under the Constitution or laws of the Church.

It shall establish such rules and regulations as it may deem necessary and proper for the conduct of its business not inconsistent with the Constitution or Laws of the Church.”

It is understood that the General Council of Pastors and Elders “**Purpose** is to Protect the rights and privileges of the Pastors and Elders of the Church of God in Christ, its **Mission** is through education of its members to insure compliance with the doctrine, charter, constitution, by-laws, rules, regulation, policies and procedures of the Church of God in Christ as they now are or may be amended from time to time and of course its **Function** is that of an Ecclesiastical Council to try, hear and determine cases and matters referred to it.” It is the First Ecclesiastical Court of Appeal in the Church of God in Christ subject only to review by the Judiciary Board (the Supreme Court of Appeal of the Church of God in Christ). An independent judiciary is indispensable to justice in the Church of God in Christ.

After careful review of the request for appeal and the documents that were attached the following was determined:

1. That the parties are Clergy and members of the Church Of God In Christ.
2. That all parties, the Local Church, the Ecclesiastical Jurisdiction and the Clergy are active in the Church Of God In Christ and as such subject to the Authority, Rules, Regulations, Policies, Procedures, Constitution, By-laws, Doctrine, Charter, Discipline and Judicial Process of the same.
3. That neither party has exhausted all Remedies within the Ecclesia that is available to them, in this case.

The Judicial Review Committee / Appeals Court of the General Council of Pastors and Elders of the Church Of God In Christ has both Personal and Subject Matter Jurisdiction in this

matter pursuant to *Article III Part II Section D* and *Article V Part II Section A* of the Official Manual of the Church Of God In Christ; *Article V Section II*, and *Article V Section II Para 3* of the Rules and Regulations of the General Council of Pastors and Elders, as well as the COGIC Judicial Code of Conduct 1994, there is also sufficient case laws that would allow for resolution in this matter in the Ecclesia: (*Goesele v. Bimeler*, 55 US. (14 How) 589, *Baker v. Nachtrieb*, 60 U.S. (19 How.) 126, *Attorney General v. Federal Street Meeting-house*, 66 U.S. (1 Black) 262, *Watson v. Jones* 80 U.S. (13 Wall.) 679, *Kreshik v. St. Nicholas Cathedral of the Russian Orthodox Church of North America*, 363 U.S. 190 (*percuriam*),). The Judicial Review Committee/Appeals Court shall take original jurisdiction of this matter as an Ecclesiastical Council to hear, try and determine the issues of this matter.

STATEMENT OF THE CASE

Per the Appellant's request this case arose out of a letter dated January 30, 2012 from members of Moore Temple Church Of God In Christ to Bishop Dwight Haygood and the Kentucky 1st Jurisdiction Ministers and Elders Council, alleging that Pastor Berry L. Ginyard, Sr. the Appellant had "...an array of behavior not consistent with the Official Manual of the Church of God in Christ". This led to an Investigating Committee being formed, a Jurisdictional Trial, being conducted and the Appellant being found guilty and subsequently removed from office as Pastor of Moore Temple Church of God in Christ.

FACTS

1. That on May 11th and 12th, 2012 in Kentucky First Jurisdiction of the Church Of God In Christ a Trial was conducted involving Pastor Berry L. Ginyard, Sr.
2. That Supt. James Z. T. Harris of the First Ecclesiastical Jurisdiction of Indiana was Representative/Counsel for Pastor Berry L. Ginyard, Sr.
3. That Pastor Timothy Brown and Pastor Kenneth Walker were Representatives/Counsels for Kentucky First Jurisdiction.
4. That the Jury Panel consisted of : Pastor Stanley May, Pastor Ira Hathaway, Elder Samuel Wilson, Supt. Marshall Chambers, Pastor Michael Smith, Supt. Theodore Thomas, Supt. Clarence Scisney, Pastor James Everhart, Pastor Jesse Burton and Pastor Hubert Robinson (as Alternate).
5. That Supt. James Z. T. Harris raised several procedural questions and possibly conflict of interest issues, to include the blacked out (Redacted) documents relative to this case.
6. That the Judicial Committee of Kentucky First Jurisdiction at the conclusion of the trial did find Pastor Berry L. Ginyard, Sr. guilty and rendered its verdict and in lieu of that verdict a decree to the Pastors and Elders Council of Kentucky First Jurisdiction.
7. That the Pastors and Elders Council of Kentucky First Jurisdiction met on May 21, 2012 and by a majority vote ratified the work of the Judicial Committee of Kentucky First Jurisdiction (the verdict and in lieu of that verdict a decree).
8. That a document dated May 22, 2012 containing the verdict and in lieu of that verdict a decree of the Judicial Committee of Kentucky First Jurisdiction ratified by the Pastors and Elders Council of Kentucky First Jurisdiction was addressed to Bishop Dwight L. Haygood, Sr.
9. That Supt. James Z. T. Harris Representative/Counsel for Pastor Berry L. Ginyard, Sr. on behalf of Pastor Berry L. Ginyard, Sr. did file a Formal Notice of Appeal.

ISSUES

1. Whether there were irregularities and procedural errors before and during the Jurisdictional trial proceedings?
2. Whether evidence and/or documents were shared with the Appellant and/or his counsel/representative under the rule of discovery/disclosure and were they tampered with before and/or during the Jurisdictional Trial proceedings?

3. Whether witnesses for the Appellant were barred from the Jurisdictional Trial proceedings?
4. Whether the sentence fit the offense?
5. Whether a conflict of interest or its appearance existed?

FINDINGS AND CONCLUSIONS

After careful and prayerful review of the petition, the documents presented by both the Appellant and Appellee and based on these documents in concert with the Policies, Procedures, Charter, Constitution, By-Laws, the Church of God in Christ Judicial Code of Conduct, the General Council of Pastors and Elders Official Handbook, the Church of God in Christ culture, history, traditions and usual practices, as well as applicable federal, state and local statues/laws and relevant case laws; This Court renders the following relative to this case:

With regards to Issue #1. (Whether there were irregularities and procedural errors before and during the Jurisdictional trial proceedings?)

The Court found that in the documents presented by both the Appellant and Appellee, that most of the documents presented by the Appellant as documents received from the Appellee during the Jurisdictional Trial were redacted documents, while the Appellee upon request of this court, presented copies of the original and redacted documents. For many, the word “redact or redaction” is not an everyday term. However they are probably more familiar with the now antiquated “**black magic marker**” method of manually striking private information from a document, in other words to *cut out, white-out or black-out* parts of a document.

In legal proceedings, this is generally justified for reasons of privilege. Although relevant documents have to be disclosed between litigants, some documents, in whole or in part, may contain references, parts, or elements which are not subject to disclosure:

An example might be a long, relevant document which has a few paragraphs which contains *a summary of legal advice protected by the client-solicitor privilege, jeopardize state security or reveal the identity of a state informer*. If practicable, the document should be disclosed but "**redacted for privilege**"; with the confidential portion blacked-out or whited-out or otherwise removed.

Other examples of information that might properly be redacted from a document prior to disclosure to the other side in a law suit include *trade secrets, confidential and non-relevant medical or psychological information*.

Pursuant to Fed. R. Civ. P. 5.2; Fed. R. Cr. P. 49.1, and Joint General Order Number 04-01 for the United States District Court for the Eastern and Western Districts of Kentucky, “*it is the responsibility of counsel and the parties to review the transcript for redaction purposes.*” Only the following personal identifiers may be redacted without further permission of the Court:

1. Social Security number;
2. Name of Minor Children;
3. Dates of birth
4. Financial Account Numbers; and
5. Home Addresses (applicable in criminal cases).

And pursuant to Commonwealth of Kentucky Court of Appeals NO. 2010-CA-001742-MR, Kentucky New ERA, Inc. v. City of Hopkinsville, Kentucky, KRS 61.878(1)(a) and Codified in KRS Chapter 6, the Kentucky Open Records Act, Kentucky law requires its reviewing courts to conduct a two-part test to Redacting documents:

“First, we must determine whether the information sought is of a personal nature. Second, we must examine whether the public disclosure of this information would constitute a “clearly unwarranted invasion of personal privacy.” We do this by weighing the privacy interest of the persons involved against the public’s interest in disclosure.”

Such is not so in this case and therefore not in compliance with *Church Of God In Christ Official Manual (1973 reprinted 1991, 1992) Pages 31-33 Part II Article VIII Section B. Trials of Pastors of Local Churches* which the Appellee site as its guide

The Court found based on the documents presented by the Appellee that there were 30 letters of concern/complaint submitted by individuals identifying themselves to be members of Moore Temple Church of God in Christ of Louisville, Kentucky, dated from September 24, 2011 to January 30, 2012. The letters were addressed in the following fashion:

Bishop Dwight Haygood and The Kentucky 1 st Jurisdiction Ministers and Elders Council	1
Bishop Haygood	3
To whom it may concern (Addressed to no one)	9 10
Reviewer	1
Kentucky First Jurisdiction Leadership	2
Review/ethics Committee Kentucky First Jurisdiction	1
Pastor Ginyard	1
Kentucky First Jurisdiction Headquarters	1
Kentucky First Jurisdiction Officials	1
Dear Sir	1

The Court took note and further found that of the 30 letters submitted, (*some had multiple signatures*), (*8 had no dates with respect to when it was written*), (*one duplicate*), and (*of the 48 signatures 11 had signed two documents of the same concern/complaint*). That the letter dated January 30, 2012 addressed to Bishop Dwight Haygood and the Kentucky 1st Jurisdiction Ministers and Elders Council had no signatures, nor was there a charge of (*Conduct unbecoming a minister of the gospel*), nor was there any supporting documented evidence, and the letter was not addressed in accordance with Part II Article VIII Section B. Trials Of Pastors Of Local Churches.

The Court also noted a document presented by the Appellee dated January 8, 2012 reflecting a Moore Temple Meeting Attendance which shows a membership of (*58 persons with signatures and their positions*) at Moore Temple. Additionally the court noted a letter and document presented by the Appellant dated April 28, 2012 showing the (*Moore Temple Church of God in Christ Membership Roster of 79 persons*). If the court was to consider the letters addressed in the following fashion:

Bishop Dwight Haygood and the Kentucky 1 st Jurisdiction Ministers and Elders Council	1
Bishop Haygood	3
Kentucky First Jurisdiction Leadership	2
Review/ethics Committee Kentucky First Jurisdiction	1
Kentucky First Jurisdiction Headquarters	1
Kentucky First Jurisdiction Officials	1

You would have a total of 9 concern/complaint, and if the court were to consider the membership of Moore Temple at the 58 signature individual submitted by the Appellee you would be at 16% of the membership filing a petition of concern/complaint against their pastor, which is far less than the required majority as is outlined on *Part II Article VIII Section B. Trials Of Pastors Of Local Churches*:

2. The procedures for the trial of a local Pastor shall be as follows:

- (a). When a majority of the members of the Church of God In Christ have documented evidence that a Pastor of a local church has committed any or all of the offenses enumerated hereinabove, they may file charges against such Pastor specifically setting out the acts and things complained of. The original copy of the charges shall be filed in the office of the Secretary of the Assembly of the Ecclesiastical

Jurisdiction of which the Church and Pastor are a part, or with which they are affiliated, and copies thereof shall be filed in the office of the General Secretary of the Church of God In Christ at its National Headquarters in Memphis, Tennessee.

There is no evidence or documentation that the members of Moore Temple Church of God in Christ complied with the above stated direction.

The Court found in the letter dated February 17, 2012 submitted by the Appellee, from the Office of the Jurisdictional Secretary Kentucky First Jurisdiction to Bishop Joel H. Lyles, Jr., General Secretary Church of God in Christ which stated in part:

“Enclosed is a packet of formal complaints submitted to the office of the Jurisdictional Secretary by members of Moore Temple Church of God in Christ, Kentucky First Jurisdiction, Louisville, Kentucky. These complaints are registered by 38 of the 73 members of the congregation, giving a total of 52% of the congregante. This meets the requirement of Article VIII – Church Discipline Section B. Trial of Pastors of Local Churches. This packet serves as a formal filing of the copies of complaints in the Office of the General Secretary of the Church of God in Christ at its National Headquarters in Memphis, Tennessee [Article VIII, Section B, 2 (a)].”

This letter appears to have relied on the letter of January 30, 2012 as the basis for its submission to the Office of the General Secretary as it references (*a packet of formal complaints received from 38 of the 73 member congregation of Moore Temple Church of God in Christ*), if this is in fact the case as it appears it is, then the Appellee should take note that this letter was not signed, had no supporting documented evidence, and was submitted in compliance with the provisions of *Part II Article VIII Section B. Trials Of Pastors Of Local Churches*.

That the letter of February 17, 2012 seems to have anticipated a trial even before an investigating committee was appointed or formed, which could be considered prejudicial against the Appellant.

The Court reviewed the letter submitted by the Appellee dated March 2, 2012 from Barber, Banaszynski & Hiatt, PSC Attorneys at Law addressed to the Chairman of Board of Bishops of the Church of God in Christ, Inc. referencing “Grievances Addressed At Reverend Barry L. Ginyard, Sr., Pastor, Moore Temple Church of God in Christ, Louisville, KY” addressing the followings complaints against Bishop Haygood:

1. Bishop Haygood has interfered with Reverend Ginyard’s financial responsibilities with regards to Moore Temple Church of God in Christ.
2. Bishop Haygood further caused or solicited the congregation for grievances against Reverend Ginyard.
3. Bishop Haygood has had ex parte meetings of the Board of Directors without Reverend Ginyard’s input and knowledge.
4. Bishop Haygood has steadfastly refused to meet with Reverend Ginyard to resolve the perceived issue.

Instead of filing formal charges against Bishop Haygood what the Appellant sought was that Reverend Ginyard be permitted to pastor Moore Temple in accordance with local church rules and doctrine of the denomination.

The court noted in a letter dated March 14, 2012 signed by Bishop Dwight L. Haygood, Sr. Prelate of Kentucky First Jurisdiction addressed to Superintendent Barry L. Ginyard, Sr. which stated in part:

“It has come to my attention that you have defied this directive and have made contact with some of the complaints. Due to this indiscretion, effective immediately, I am suspending you, with pay, as pastor of Moore Temple until further notice.”

The Court took note of a letter submitted by the Appellee though not dated it addresses a date of March 18, 2012 the Court surmised the date of this letter to be on or after that date, the

letter is from Supt. Barry L. Ginyard, Sr. to Bishop Charles E. Blake in which Supt. Ginyard filed formal charges against Bishop Dwight L. Haygood, Sr. to wit:

Violating his right as a Pastor in the Church of God in Christ.
Not giving him Due Process, and Abuse of his authority as Bishop.

The Court also took note of a letter dated April 6, 2012 signed by Bishop Dwight L. Haygood, Sr. Prelate of Kentucky First Jurisdiction to Superintendent Barry L. Ginyard, Sr. which stated the following:

“This letter serves to officially reinstate you as pastor of Moore Temple Church of God in Christ, 2315 West Broadway, Louisville, Kentucky. This reinstatement is effective immediately as declared on April 6, 2012 and serves until such time the results of your trial are in effect. This decision was propagated by higher authority of the Church of God in Christ.”

The Court surmised that there must have been intervention as it relates to this matter from the National Church or at the very least the Board of Bishops under who’s direct supervision The Jurisdictional Bishop falls.

The Court found in the documents titled Kentucky First Ecclesiastical Jurisdiction Church Of God In Christ Summary of Investigation Result of Investigation directed by the office of the Jurisdictional Prelate in reference to Moore Temple Church of God in Christ dated 3/19/2012, the following that:

“on February 24, 2012, Bishop Dwight L. Haygood, Sr. Prelate of Kentucky 1st Jurisdiction appointed Elder Timothy W. Brown, Elder Kenneth Walker, and Superintendant Willie Scott to investigate complaints concerning the pastorate of Moore Temple Church of God in Christ. On February 24 and 25 the investigation team convened at Miracle Temple COGIC in Louisville, KY and interviewed the Trustee Board of the church and members that had filed complaints concerning Pastor B. L. Ginyard. The purpose of our intivestigation is to determine whether the findings warrant a trial in accordance with *Section B. Trial of Pastors of Local Churches* (page 31) listed in the Official Manual of the Church of God in Christ.”

“The result of the investigation team’s findings and documented evidence presented in substantiation of the complaints and allegations would warrant a trial in accordance with **Article VIII. Section B. Trial of Pastors of Local Churches.**”

The Court has not been provided with any documentation to show when the investigating Committee was appointed, or instruction given to them as to the nature and extent of or timeline of their investigation, no letter of notice to the parties to and of the investigation.

This Court has not been provided copies of the documented evidence alleged by the Appellee in the investigation summary.

The Court reviewed a document (fax dated 04/05/2012) addressed to “(to Atty James Harris, read below)” not signed but signature block for Supt. Barry L. Ginyard, Sr. in which he chronicles his genealogy in the Church of God in Christ, and his alleged history of abuse at the hand of Bishop Haygood.

The Court reviewed closely the letter dated April 28, 2012 from James Z. T. Harris-Chairman Jurisdictional Chairman though not signed it stated in parts:

“Dear Chairman Armstead, there seem to be several errors in your procedure for bring an action (charge) against my client. The Black Book (official manual) page 31, section B. Trial of Pastors, item #2, A through D, there seems to be as many as 6or 7 mistakes in procedure, which is a violation of “Due Process”.

Your letter informing Pastor Barry Ginyard of a trial, has not date. The General Secretary don’t seem to have a certified letter on file. There don’t seem to be 51 percent of the church complaining, and not very

considering only which side has the preponderance of evidence, or whether the proposition is more likely true or false.

The decision maker, either a Judge or a Jury, decides whether the burden of proof has been fulfilled.

It should be noted that Evidence in law, is any information or object that a court accepts to help decide a case. Evidence may be in the form of oral testimony by a witness, or it may be any kind of object or document.

Evidence is presented to the "Trier of facts," which usually is the jury if there is one or the judge if the case is to be tried without a jury. In either case it is the judge who decides on the admissibility of evidence—that is, whether or not it may be presented in court. To be admissible, evidence must be relevant and it must be competent.

As is widely noted the law of **evidence** encompasses the rules and legal principles that govern the proof of facts in a legal proceeding this is common to the ecclesia as well. These rules determine what evidence can be considered by the trier of fact in reaching its decision and, sometimes, the weight that may be given to that evidence. The law of evidence is also concerned with the quantum (amount), quality, and type of proof needed to prevail in litigation.

This Court also concurs with the ascertainment that Under law, evidence that would otherwise be admissible at trial may be excluded at the discretion of the trial judge if it would be unfair to the defendant to admit it.

While the Church Of God in Christ neither in its Official Manual, Charter, Constitution, By-Laws, Policies and Procedures, Judicial Code of Conduct, General Council of Pastors and Elders Official Handbook, through neither the Legislative, Executive nor Judicial Branch expresses any procedure for Discovery and/or Disclosure or the acquisition and/or presentation of evidence, nor the identity, qualification or use of witnesses in its judicial procedures, we do however rely on precedence that has been established through our usual practice as well as reliance upon established Federal, State, and Local Civil Procedures and relevant Case Laws not in conflict with our rights under the constitution of the United States of America.

The Court takes note of Kentucky Rules of Civil Procedure CR 26.02 Scope of Discovery and CR 93.04 Exchange of Information to wit in parts:

(1) In General

“Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.”

(1) “Not later than ten (10) days prior to the pretrial conference each party shall disclose the following material to all other parties with a copy to the court:

(a) Name, Addresses and telephone number of any witness whom the party may call at trial together with copy of any statement of such person or if there is not such statement, a summary of the testimony the person is expected to give. However, no party shall be required to furnish any statement (written or taped) protected by the attorney-client privilege or work product rule.

(c) A copy of any document or writing which is to be presented at trial.”

Rule 103 “Rulings on evidence” according to Kentucky civil procedure states in part:

“(a) Effect of erroneous ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected; and

(1) Objection. If the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or

(2) Offer of proof. If the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked.”

It is clear to this court that sufficient objection and concern was raised by the Appellant during the Jurisdictional Trial.

The Church Of God In Christ Official Manual states in *Part II Article VIII Section B. Trials Of Pastors Of Local Churches Para 2 subpara (a):*

When a majority of the members of the Church of God In Christ have documented evidence that a Pastor of a local church has committed any or all of the offenses enumerated hereinabove, they may file charges against such Pastor specifically setting out the acts and things complained of.

From the documents presented to this Court by both the Appellant and Appellee, which were the Redacted Documents addressed in *Findings/Conclusion to Issue #1*. The Court notes from the Trial Transcripts, inclusive of the audio and video that there were several references to ten (10) (*bounced checks, an insurance check, a car rental, a revival, a birthday celebration service, and the collection of funds by the Appellants wife*), to date neither the Appellant or the Appellee have supplied this Court with copies of this evidence, the court also took note that this evidence was not supplied at the Jurisdictional Trial either as requested by the Appellant.

As to the question of tampering with evidence, this court understands Tampering with evidence to be (“*Tampering with evidence consists of destroying, changing, hiding, placing or fabricating any physical evidence with intent to prevent the apprehension, prosecution or conviction of any person or to throw suspicion of the commission of a crime upon another.*”); and looked to *TITLE L. KENTUCKY PENAL CODE KRS § 524.100 “Tampering with physical evidence”* (2002) which states in part:

- (1) A person is guilty of tampering with physical evidence when, believing that an official proceeding is pending or may be instituted, he:
 - (a) Destroys, mutilates, conceals, removes or alters physical evidence which he believes is about to be produced or used in the official proceeding with intent to impair its verity or availability in the official proceeding; or
 - (b) Fabricates any physical evidence with intent that it be introduced in the official proceeding or offers any physical evidence, knowing it to be fabricated or altered.
- (2) Tampering with physical evidence is a Class D felony.

CONCLUSION: ISSUE #2

It is clear to this Court that the Appellee by their own admission from the trial transcripts did not supply the Appellant and/or his Representative/ Counsel the required evidentiary documents per established discovery guidelines, thus hampering the defense. Other than the redacted documents addressed in *Findings/Conclusion to Issue #1*, this court finds no evidence that would suggest any tampering with evidence. With this assertion the court agrees in part and disagrees in part.

With regards to Issue #3. (Whether witnesses for the Appellant were bared from the Jurisdictional Trial proceedings?)

This Court is in harmony with established procedures that accepts the testimony of witnesses as the most common form of evidence. A witness can be a person who actually viewed the action or other event at issue, or a witness can be a person with other relevant information.

Any competent person may testify as a witness, provided that the testimony meets other requirements, such as relevancy and competency.

To be admissible, testimony must be limited to matters of which the witness has personal knowledge, meaning matters that the witness learned about using any of his or her senses, the witness must declare under oath or affirmation that the testimony will be truthful.

Witnesses may be called to testify by any party to a dispute.

The party who calls a witness to testify generally questions the witness first, in what is known as direct examination. The judge may exercise reasonable control over the questioning of witnesses in order:

- (1) "To make the interrogation and presentation effective for the ascertainment of the truth;
- (2) To avoid needless consumption of time, and
- (3) To protect the witnesses from harassment, or undue embarrassment" (Fed. R. Evid. 611(a))."

In the Ecclesia the above stated concept is generally the same in practice with a few exceptions.

The Official Handbook of the General Council of Pastors and Elders of the Church Of God In Christ Appendix (F) "The Trial Process" Para 10-12 states:

10. "The Chairman/Presider shall then give the accuser and/or Advisor/Counsel time to present their case and any evidence, witnesses or relevant materials to conclusion in the case before the Jurisdictional Council, allowing for cross examination by the accused and/or Advisor/Counsel.
11. The Chairman/Presider shall then give time to the accused and/or Advisor/Counsel to present its defense to include evidence, witnesses or relevant materials to conclusion, allowing for cross examination by accuser and/or Advisor/Counsel.
12. The Chairman/Presider shall then allow for rebuttal witness should there be any."

The Appellant has asserted that they were bared from presenting witnesses for the Appellant at or during the Jurisdictional trial, nor were they permitted to question any of the witness and/or complaints for the prosecution before or during the Jurisdictional trial.

CONCLUSION: ISSUE #3

We find that from all the documents presented to this Court by both the Appellant and Appellee (including trial transcript, audio and video of the Jurisdictional trial proceedings), *that neither side presented a witness list nor were there any witnesses called at the Jurisdictional Trial to corroborate the prosecution's assertions.* The Appellee did not refute this assertion by the Appellant. While the Appellant did not supply this Court with the list of witnesses it wished to call this was not their burden at the Jurisdictional Trial, even though raised by Representative /Counsel for the Appellant the Jurisdictional Trial court took no action to address thus hampering the Appellants defense.

With regards to Issue #4. (Whether the sentence fit the offense?)

This Court holds that Ecclesiastical Discipline is the exercise of that authority which our Lord and Jesus Christ has committed to the visible church for the preservation of its purity and good order. It may be either judicial or administrative:

In the Ecclesia Judicial Discipline is concerned with the prevention and correction of offenses. An offense is anything in the doctrine or practice of a member of the church or of a church court which is contrary to the Word of God. The purpose of Judicial Discipline the court further holds is to vindicate the honor of Christ, to promote the purity of his church, and to reclaim the offender.

Administrative Discipline is concerned with the maintenance of good order in the government of the church in other than judicial cases. The purpose of its exercise is that all rights may be preserved and all obligations faithfully discharged.

All members of the church are under the care and authority of the church, and subject to its discipline.

At the Appeals Court level it should be noted that we are not retrying or rehearing the case of the lower court, we are reviewing the lower courts actions to determine if there were in fact procedural errors as alleged by the Appellant, and if necessary overturn, reverse and/or remand the case back to the lower court for corrective actions.

The grounds for an appeal include matters such as:

- a. Any irregularity in the proceedings of the lower ecclesiastical court;
- b. Hindrance of procedural rights;
- c. Refusal of reasonable indulgences to a party on trial;
- d. Receiving improper or declining to receive proper evidence;
- e. Rendering a decision before all testimony is taken;
- f. Evidence bias or prejudice in the case; and
- g. An unjust or mistaken sentence.

The Church Of God In Christ in its' Official Manual states, in *Part II Article VIII Section B. Trials Of Pastors Of Local Churches Para 2 Sub-Para (g)*:

“(g) In the event the charges are not sustained, the complaint shall be dismissed. But if the charges are sustained, it shall render its decision or enter a Decree, as follows:

- (1) It may order that the Pastor be placed on probation; or
- (2) It may suspend the pastor for a definite period of time; or
- (3) It may remove him from office and declare the pulpit vacant; or
- (4) It may render such other decisions or decrees as justice may demand or as it may determine to be in the best interest of the Church of God In Christ.”

CONCLUSION: ISSUE #4

It is the conclusion of this Court that for a sentence to be considered unjust or a mistake it must be imposed outside of the guideline so set in the afore mentioned procedure: *Part II Article VIII Section B. Trials Of Pastors Of Local Churches Para 2 Sub-Para (g)* of the Official Manual of the Church Of God In Christ, such is not the case based on the face of the language.

The Court further concludes that Church Justice is always tempered with mercy, as we find in Galatians 6:1 “*Brethren, if a man be overtaken in a fault, ye which are spiritual, restore such a one in a spirit of meekness; considering thyself, lest thou also be tempted.*”

Therefore ***With regards to this Issue*** the Court takes no position, but that as is outlined in The Church Of God In Christ Official Manual, *Part II Article VIII Section B. Trials Of Pastors Of Local Churches Para 2 Sub-Para (g)*.

With regards to Issue #5. (Whether a conflict of interest or its appearance existed?)

It is the view of this court that *Conflict of Interest* is difficult to define, yet many people think they know it when they see it.

The legal definition of *Conflict of Interest* is usually set out in state laws governing nonprofit corporations, to include churches, however not very specific and covers relatively few situations.

Most conflicts fall into a gray area where ethics and public perception are more relevant than statutes or precedents.

Conflict of Interest arises whenever the personal or professional interests of an officer or member are potentially at odds with the best interests of the nonprofit, church or entity they represent.

Loss of public confidence and a damaged reputation are the most likely results of a poorly managed conflict of interest.

Because public confidence is important to most nonprofits, which could and do include many of our churches, officers should take steps to avoid even the appearance of impropriety. Even the bible states in 1 Thessalonians 5:22 “*Abstain from all appearance of evil*”

While being in conflict of interest is not, in and of itself, evidence of wrongdoing or evil, for many professionals it is virtually impossible to avoid it from time to time. A conflict of interest can, however, become a legal matter *if* the individual tries to influence the outcome for personal or corporate benefit.

In cases of a conflict of interest, the conflicted individual is expected to recuse himself from the matter and not take part in, or influence in any way, the process.

In this case the Appellant argues that an appointed member of the Jurisdictional Investigating Committee is now also assigned as one of the Prosecutors, the Chairman of the Jurisdictional Pastors and Elders Council argues that since he did not go in to investigate the matter and since he is not on the Jurisdictional Jury he has a right to be a prosecutor.

CONCLUSION: ISSUE #5

It is the Court’s view that the only capacity in which a member of the Investigating Committee can serve during a Jurisdictional Trial Proceeding is that of a “Witness”; any other position compromises the integrity of the process, contributes to a gross procedural error and creates the appearance of a Conflict of Interest as alleged by the Appellant; therefore *With regards to this Issue* the court agrees that there existed the potential for a conflict of interest.

OPINION

This is a very convoluted and complicated case having many variables the impacts the proceedings and conclusion, many emotions, relationships, comradeship, family and church history all in the name of love for the church, and maintaining a legacy.

But for the fact, that this church (Moore Temple Church Of God In Christ formerly 19th and Cedar Church Of God In Christ until 1985), was Pastored by one man for some 63 years, that one man was also the Jurisdictional Bishop of Kentucky First Jurisdiction for some 57 of those 63 years, having been appointed Jurisdictional Bishop by the Late Founder of the Church Of God In Christ, recognized by the National Church as its Historian, Recording Artist, and Global recognition as a Living Legend in the Church Of God In Christ, being given emeritus status from both positions before his death in 2010; filling these vacancies might not have been so challenging.

While the court understands and can appreciate friendship, alliances, loyalties, and the desire for legacy within the church, we are a “Court” of laws, rules, policies, procedures and discipline, and as such we must go where the evidence take us and the rules of law and policies of our Church demands we go.

The Church of God In Christ, Classification is Protestant, its Orientation Pentecostal and its Polity Episcopal, generally the rule of this church is by the Office of Bishops. That is, one man may govern those under his authority (whether lay members or members of the clergy), and he need not be chosen by the people to be the leader, but in accordance with *Article IV Section A. of the Official Manual of the Church Of God In Christ*:

“Jurisdictional Bishops,....., shall be appointed and removed by the Presiding Bishop with the approval of the General Board.”

a higher authority of the Church Of God In Christ. The Authority for the Jurisdiction, thus resting in the Jurisdictional Bishop unless otherwise provided for by the order and rule of the Church Of God In Christ, this then is communicated to subordinates, and extends over all of the congregations of the Church Of God In Christ.

It appears to this Court that Moore Temple Church Of God In Christ membership to include its appointed and/or elected officers have a misunderstanding of the Hierarchical operation of the Church Of God In Christ. Decisions in the local church are made at the level of the Pastor who according to *Article VI Section J. of the Official Manual of the Church Of God In Christ*:

“The Pastor is the chief executive officer of the local Church and shall have the general oversight and supervision thereof.

1. The Pastor shall have the right to appoint or remove officers of the local church, and to administer his office in accordance with the Charter, Constitution, By-Laws of the Church Of God In Christ.
2. The Pastor shall be responsible for the spiritual and doctrinal guidance of the local church.”

not the laity or any elected or appointed church board or officer except in those areas where the policies of the Church Of God In Christ permits, thus, according to the *Judicial Code of Conduct of the Church Of God In Christ* the Hierarchical Operation in the Church of God In Christ. It might be said that the Church Of God In Christ is an Episcopacy operating within a Democracy with a Theocratic flavor.

In the history, culture and tradition of the Church Of God In Christ, the duties of local church Trustees Board, Board of Directors, Financial Officers, etc, this includes elected and/or appointed officers have been and are complicated, resulting from a very broad range of activities within the Church Of God In Christ, and the variety of administrative, operational, financial, and technically complexities which are encountered.

In the Local Church in the Church Of God In Christ, elected and/or appointed members are elected and/or appointed to serve as custodians of the local church property, which shall include but not limited to proper maintenance, insurance, finances, property rights, etc., and they shall act on behalf of the local church in concert with and at the direction of the Pastor. They shall provide support and assistance to the Pastor and the local church as required; **they are not an independent arm of the local church.** While the previous administration of the local church may have permitted the elected and/or appointed boards and officers to act in a somewhat quasi independent matter there is no constitutional, by-law, or policies provisions in the Church Of God In Christ that gives local church boards or officers any Episcopal or Administrative authority over that of the Pastor of the Local church.

Their primary duty being the maintenance of any and all assets which shall become property of the local church through gifts, sales, offerings, tithes, interest, bequests, designation, purchase or transfer as is required by the local church.

They are to preserve, protect and secure all property of the local church and its subsidiaries; this shall include tangible and intangible properties such as logos, copyrights, trade names, trademarks and publishing rights, royalties etc, all to be held in Trust for the use and benefit of the members of the church.

In the Church Of God In Christ the church boards of the local church have no Episcopal administrative responsibilities with respect to the day to day administrative or Episcopal operation of the local church that is the responsibility of the Pastor and his cabinet/officers

appointed and/or elected. The Church Boards are subject to the will of the membership of the Local Church through the office of the Pastor of the local church.

This case is further complicated because from the documents provided by both the Appellant and Appellee the issues surrounding Moore Temple Church of God in Christ, Bishop Dwight L. Haygood, Sr. and the Appellant has gone through many venues to include but not limited to the Law office of Barber, Banaszynski & Hiatt, PC, the Chairman of the Board of Bishops of the Church Of God In Christ, and the Presiding Bishop of the Church Of God in Christ alleging:

5. Bishop Haygood has interfered with Reverend Ginyard's financial responsibilities with regards to Moore Temple Church of God in Christ.
6. Bishop Haygood further caused or solicited the congregation for grievances against Reverend Ginyard.
7. Bishop Haygood has had ex parte meetings of the Board of Directors without Reverend Ginyard's input and knowledge.
8. Bishop Haygood has steadfastly refused to meet with Reverend Ginyard to resolve the perceived issue.

Instead of filing formal charges against Bishop Dwight L. Haygood, Sr. as prescribed in the Official Manual of the Church of God in Christ *Article VIII Section D*. the Appellant sought relief through the assistance of the civil arena; not exhausting the remedies afforded him in the ecclesia. The Appellant was subsequently suspended with pay and later reinstated only to be tried convicted and removed from office 46 days later and now the appeal.

At the Jurisdictional Trial this is where we have the "fact-finding" phase of a case and is held to determine the guilt or innocence of the defendant. It is the prosecution's burden to prove the defendant's guilt beyond a reasonable doubt. The defendant is not required to prove his innocence, present any evidence nor call or cross-examine witnesses and has the right to decide whether to testify. In the case where there is a Jury and a judge presiding, usually six to twelve eligible persons are selected to hear the case and make a finding of guilt or innocence. It is the Jury, **NOT** the judge presiding, who is the fact finder.

In law as well the Ecclesia, a "**Duty of Care**" is a legal obligation imposed on a person, persons (or entity) requiring that he, she (or it) adhere to a standard of reasonable care while performing any acts and/or duty that could foreseeably harm or deny others certain rights, liberty and/or privileges. Duty of care is the first element that must be established to proceed with an action for any form of negligence; the claimant must be able to show a duty of care imposed by law that the defendant has breached. Every case turns on two (2) simple things:

- #1 ... the law of the case and
- #2 ... the rules of court (evidence and procedure)

From the Jurisdictional Trial Transcripts Pastor Timothy W. Brown, Prosecution for Kentucky First Jurisdiction stated in his closing argument:

"...regardless to what you hear this is what the defense must show:

Pastor Ginyard's personal conduct and leadership was in accordance with the Pastoral charge given for being installed into the office according to the Church Of God in Christ Official Manual copyright 1973, pages 210-212,

Number 2 Pastor Ginyard's action were not in violation or infringement of Article VIII Section B, Trial of Pastors of Local church, page 31 of the Official Manual,

Lastly the third point, that Pastor Ginyard overall leadership and Pastoral ethics, his dealing with the Board of Director of Finance were ultimately in the best interest of Moore Temple Church of God in Christ in a selfless and sacrificial manner and not in a personal and self-serving manner without any accountability or responsibility to the church."

In this the prosecution errors because the *Burden of Proof* rested solely with the *Prosecution*, **NOT** the *Appellant*.

Pastor Brown continued with:

“...now let me say first and foremost what is on trial is not Pastor Ginyard as a person, that’s not what’s on trial.... I ask two questions:

What will become of Moore Temple Church of God in Christ?

What will become of the legacy of the church?

Leadership is what’s on trial here not the person.”

It is the understanding of this Court that “**Leadership**” has been described and understood to be “*a process of social influence in which one person can enlist the aid and support of others in the accomplishment of a common task*”. Other in-depth definitions of leadership have also emerged, that being “**Leadership**” is “*organizing a group of people to achieve a common goal*”. The leader may or may not have any formal authority. Studies of leadership have produced theories involving traits, situational interaction, function, behavior, power, vision and values, charisma, and intelligence, among others. All attributed to and involving **Someone** (a person), not something whom people follow, **Someone** (a person) not something who guides or directs others.

Since leadership is of the *person* and the **person** provides the leadership how does the prosecution propose to separate them when they are interwoven? It is this Court opinion that this statement and position cannot be sustained on the face of the evidence presented and thus a threat to justice in this case.

POSITION OF THE COURT

We Affirm that, with regards to Issue #1. Based on the documents provided this Court by both the Appellant and Appellee that there were in fact numerous irregularities and procedural errors committed by the Appellee as alleged by the Appellant.

We Affirm that, with regards to Issue #2. It is clear to this Court that the Appellee, by their own admission from the trial transcripts did not supply the Appellant and/or his Representative/Counsel the required evidentiary documents per established discovery guidelines, thus hampering the Appellants defense. Other than the redacted documents addressed in *Findings/Conclusion to Issue #1*, this Court finds no evidence that would suggest any tampering with evidence.

We Affirm that, with regards to Issue #3. From all the documents presented to this Court by both the Appellant and Appellee (including trial transcript, audio and video of the Jurisdictional trial proceedings), *that neither side presented a witness list nor were there any witnesses called at the Jurisdictional Trial to corroborate the prosecution’s assertions*. The Appellee did not refute this assertion by the Appellant. While the Appellant did not supply this Court with the list of witnesses it wished to call this was not their burden at the Jurisdictional Trial, even though raised by Representative /Counsel for the Appellant the Jurisdictional Trial court took no action to address thus hampering the Appellants defense.

We Affirm that, with regards to Issue #4. That for a sentence to be considered unjust or a mistake it must be imposed outside of the guideline so set in: *Part II Article VIII Section B. Trials Of Pastors Of Local Churches Para 2 Sub-Para (g)* of the Official Manual of the Church Of God In Christ, such is not the case. The Court Affirms that Church Justice is always tempered with mercy, as we find in Galatians 6:1 “*Brethren, if a man be overtaken in a fault, ye which are*

spiritual, restore such a one in a spirit of meekness; considering thyself, lest thou also be tempted.”

We Affirm that, with regards to Issue #5. the only capacity in which a member of the Investigating Committee can serve during a Jurisdictional Trial Proceeding is that of a “Witness”; any other position compromises the integrity of the process, contributes to a gross procedural error and creates the appearance of a Conflict of Interest as alleged by the Appellant.

We Affirm that, based on testimony offered by the Representative/Counsel for the Appellant during the Jurisdictional Trial there were numerous admission to allegation and questionable conduct as posed by the prosecution, which this Court cannot ignore, and the Appellant must answer.

There is sufficient question as to the procedure employed before and during the Jurisdictional Trial of this case that warrant this Court to set aside the decision and decree of the Kentucky First Jurisdiction Council of Pastors and Elders and to enter an Order of Reverse, there is also sufficient admissions by the Appellant through documentation and his Representative/Counsel that this Court cannot ignore and requiring an Order of Remand with Instruction to all parties to this dispute.

The Order of Reverse and Remand is to be carried out within ninety (90) days of receipt of the Order barring any appeal to the Judiciary Board (Supreme Court of the Church Of God In Christ) which must come within thirty (30) from receipt of this order and/or any Mediation/Arbitration the parties choose to enter into, with notice to this Court not later that thirty (30) days from receipt of this order.

The Reverse and Remand Order with Instruction is attached to this Order,

Given under my hand this Twenty ninth Day of November 2012

Dr. Frederick D. Jenkins, Chairman / Chief Appeals Court Judge
Judicial Review Committee/ Appeals Court
General Council of Pastors and Elders Church Of God In Christ
678/836-4573=Cell
770/693-7671=Fax
drfdj97@aol.com





Church Of God In Christ, Inc.
General Council of Pastors and Elders
Judicial Review Committee / Appeals Court

THE CASE
of

Pastor Barry L. Ginyard, Sr.
Appellant

vs.

CASE#BLGSRvKFJCOGIC062012

Kentucky First Jurisdiction Church Of God In Christ
Appellee

REVERSED AND REMANDED ORDERED

Pursuant to *Article VIII Section B. Para 2 Sub Para (h)* before the Appeals Court of the General Council of Pastors and Elders of the Church Of God In Christ, Pastor Barry L. Ginyard, Sr. appealed the May 21, 2012 Guilty Verdict and Decree of the Kentucky First Ecclesiastical Jurisdiction Council of Pastors and Elders.

1. Background

On May 11-12, 2012 a Jurisdictional Trial was held in Kentucky First Ecclesiastical Jurisdictional Council of Pastors and Elders at issue allegations against Pastor Barry L. Ginyard, Sr. to wit: (1) Malfeasance, (2) Misfeasances, (3) Nonfeasance, and (4) Conduct unbecoming a Minister of the Gospel. By a majority vote of the Judicial Committee of the Jurisdictional Council of Pastors and Elders of Kentucky First Ecclesiastical Jurisdiction Pastor Ginyard was found guilty of all four counts, and a decree was entered that he be removed from the office of Pastor of Moore Temple Church of God in Christ.

2. Analysis

The jurisdiction of this Court being established, the statement of the case, the facts and issues of the case being presented to this Court by both parties herein, via briefs, audio and visual format and after careful and prayerful review the following:

- (a) Documented presented in this matter by the Appellee of written submission were redacted in format, open written statements appeared erroneous in format; thus denying the Appellant opportunity to complete discovery properly. This is a reversible error.
- (b) According to the Chairman of the Kentucky First Ecclesiastical Jurisdiction Council of Pastors and Elders only two (2) of the three (3) members Investigating Committee conducted the investigation of the allegations thus violating *Article VIII Section B*.

Para 2 Sub Para (b). This is a reversible error.

- (c) According to the Chairman of the Kentucky First Ecclesiastical Jurisdiction Council of Pastors and Elders, Pastor Kenneth Walker who was assigned to the Investigating Committee was also assigned to serve as one of the Prosecutors for Kentucky First Jurisdiction, when challenged by the Appellant's Representative/Counsel, the Jurisdictional Council took no corrective action, allowing Pastor Kenneth Walker to serve in two (2) phases of this case, this was a Fatal procedural error. Members of the Investigating Committee during any trial proceedings serve only as witness, thus avoiding the appearance of a conflict of interest defense. This is a reversible error.
- (d) The prosecution during closing argument suggested that the Appellant had a burden of proof, when in fact the burden of proof was on the prosecution; he also stated that the Appellant (the person) was not on trial, that what was on trial was (Leadership) the Court asks whose leadership? He also suggested evidentiary errors on the part of the prosecution, which denied the Appellant the right to cross-examine or challenge any witness or submission against him. This is a reversible error.
- (e) There is no evidence that supports the members of Moore Temple church of God in Christ complying with the provisions of *Article VIII Section B. Pars 2 Sub Para (a)* of the Official Manual of the Church of God in Christ. This is a reversible error.
- (f) Through documents presented by the Appellant and the Appellants Representative/Counsel in closing arguments for the Appellant there were admissions that this Court could not ignore and therefore this case is remanded back to the Jurisdictional Council for a New Trial to address the issues of Misfeasance, Malfeasances and Conduct unbecoming a Minister of the Gospel.

This new trial should take place not later than ninety (90) days from receipt of this Order, unless there is an appeal to the Judiciary Board (the Supreme Court of the Church Of God In Christ) which must come not later that thirty (30) from receipt of this Order, such appeal must be on the basis of judicial error, or unless the parties enter into Arbitration/Mediation to settle this matter not later that thirty (30) days from receipt of this Order with notice to this Court.

3. Instruction

The Jurisdictional Council is so ordered to follow all instruction for the Trial of Pastor of Local Church as outlined in the *Official Manual of the Church Of God In Christ* copyright 1973, reprinted 1991, 1992, the *Judicial Code of Conduct* approved by the General Assembly of the Church Of God In Christ November 14, 1994, and the *Official Handbook of the General Council of Pastors and Elders* adopted November 1993, Revised December 2000, revised enhanced reprinted August 2011. The Jurisdictional Investigations Committee shall serve as witness only in this trial and subject to cross-examination, complete discovery to the Appellant inclusive of all witnesses the prosecution plans to call and all evidence the prosecution plans to present.

It is the understanding of this Court that the Appellant has been suspended from his office as Pastor of Moore Temple Church Of God In Christ with pay pending the outcome of this Appeal, this was corroborated by Bishop Dwight L. Haygood, Sr. Jurisdictional Prelate of Kentucky First Ecclesiastical Jurisdiction, who is now the interim Pastor of Moore Temple church of God in Christ. From trial transcript the Appellant salary was set at \$1000.00 per week in documents supplied this Court by the Appellee in a letter dated June 15, 2012 the Moore Temple Church of God in Christ Board of Directors reduced the Appellant salary from \$1000.00

per week to \$800.00, and in a letter not dated from the Moore Temple Board of Directed it informed the Appellant that they would “continue the payment of \$800.00 on the 1st & 3rd Sunday through the month of August. August 19, 2012 will be the last payment to you from the church.” The Board of Directors of Moore Temple Church of God in Christ should take notice that they have **NO Constitutional Authority** at the local church level in the Church Of God In Christ to take such action without a vote of the Church membership at the direction of its duly appointed Pastor or Jurisdictional Bishop in the absence of the Pastor. The Board of Director of Moore Temple Church of God in Christ is **Not an Independent** arm of the local church they are subject to the direction of the Pastor and the wishes of the membership as presented by the Pastor.

It is the order of this Court that the Appellant is to be paid his full entitlement of salary and any arrears money due him.

This Court has reviewed the letter dated June 13, 2012 submitted by the Appellee, while this Court cannot order the Appellant to accept a settlement offer, nor can it order the Appellee to offer one, this Court can order that the parties consider Arbitration/Mediation in bring resolution to this dispute, since the Appellant has less that three (3) years of invested service at Moore Temple Church of God in Christ.

It is the order of this Court that the Jurisdictional Bishop of Kentucky First Ecclesiastical will remain the interim Pastor of Moore Temple Church of God in Christ to the conclusion of this matter, that it is his responsibility to insure that the Appellant is paid as prescribed in this order.

This is the Order of the Appeals Court of the General Council of Pastors and Elders of the Church Of God In Christ Given under my hand this Twenty Ninth Day of November 2012

Dr. Frederick D. Jenkins, Chairman / Chief Appeals Court Judge
Judicial Review Committee/Appeals Court
General Council of Pastors and Elders Church Of God In Christ
678/836-4573=Cell
770/693-7671=Fax
drfdj97@aol.com



CERTIFICATE OF MAILING

I hereby certify that I have this day served the foregoing document upon the Parties of record in this proceeding set forth below by mailing a copy thereof, properly addressed by first class registered mail:

Bishop Dwight Haygood
Kentucky First Jurisdiction
121 Masters Street
Radcliff, Kentucky 40160

Moore Temple Church of God in Christ
2315 West Broadway Street
Louisville, Kentucky 40211

Kentucky First Jurisdiction Church of God in Christ
Pastors and Elders Council
P. O. Box 1167
Radcliff, Kentucky 40160

Pastor Barry L. Ginyard, Sr.
8707 Big Tree Circle #F
Louisville, Kentucky 40220

Supt. James Z. T. Harris
Prince of Peace COGIC
3412 East Prospect Street
Indianapolis, Indiana 46203

Bishop John H. Sheard
Chairman Board of Bishops COGIC
19511 Afton Road
Detroit, Michigan 48203

Bishop Joel H. Lyles, Jr.
General Secretary COGIC
4731 Stella Brooke Lane
Rosedale, Maryland 21237

Supt. Michael Eaddy
Chairman General Council
3570 West 5th Avenue
Chicago, Illinois 606214

Done: This 11th day of January, 2013.

Dr. Frederick D. Jenkins, Chief Appeals Court Judge
Judicial Review Committee/Appeals Court
General Council of Pastors and Elders Church Of God In Christ

Church Of God In Christ, Inc.
General Council of Pastors and Elders
Judicial Review Committee / Appeals Court
P. O. Box 356
Douglasville, GA 30133-0356
678/836-4573-Cell
770/693-7671-Fax
[Email drfdj97@aol.com](mailto:drfdj97@aol.com)