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August 21, 2019

Bishop Joel H. Lyle Jr.
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Elder Peter Davis
Judiciary Board Secretary
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Via Electronic Mail

Greetings,

Enclosed you shall find the Amended Complainants Petition of Official Charges pursuant to Article VIII, - Judiciary Board, Duties, ¶ 10 of the Church of God in Christ Constitution.

I am filing this petition in response to the violations of the Constitution by Bishop Martin Johnson, Chief Justice of the Judiciary Board of the Church of God in Christ, Inc.

Sincerely,

/s/ *Moses Tyson Jr.*
Moses Tyson, Jr.

Encl.

**Before The
GENERAL ASSEMBLY
JUDICIAL REVIEW COMMITTEE
OF THE
CHURCH OF GOD IN CHRIST, INC.**

MOSES TYSON, JR., AND
RONALD E. STIDHAM

COMPLAINANT(S)(S)

VS

BISHOP MARTIN LUTHER JOHNSON,
RESPONDENT

PURSUANT TO ARTICLE VIII—JUDICIARY BOARD

AMENDED COMPLAINANT(S)'S PETITION OF OFFICIAL CHARGES

Comes Now Elder Moses Tyson, Jr., and Elder Ronald E. Stidham, hereinafter referred to as the Complainant(s)(s); member(s) of the Church of God in Christ, Inc., and files this herein petition against Bishop Martin L. Johnson, Chief Justice of the Judiciary Board of the Church of God in Christ, Inc., with headquarters in Memphis, Tennessee and alleges and states as follows;

Bishop Martin L. Johnson, hereinafter referred to as the Respondent, did violate the rules and regulations of Article VIII—Judiciary Board of the Constitution of the Church of God in Christ, Inc. as follows:

STATEMENT OF FACTS

Respondent has willfully violated the statutes of the Constitution of the Church of God in Christ, Inc. Article III, Part II, §A, ¶5. The Judiciary Board was created by an act of the *will* of the General Assembly on April 11, 1991 as the Supreme Court of the Church of God in Christ, Inc. The General Assembly has stated the rulings of the Judiciary Board are final, therefore the rulings, decisions and orders of the Judiciary Board are to be executed to comply with Article III, Part II, §A, ¶5. Its authority, enshrined into the Constitution, an amendment to the Charter, by the General Assembly the only law making doctrine expressing body in the Church of God in Christ and as such, its orders are those of the General Assembly.

As a result of the deliberate and deceptive mishandling of the Bishop Kyles matter by Respondent, it is with deep regret I have decided to file charges against him.

The Judiciary Board is Board balances the legislative and executive branches by being that ultimate authority on questions of constitutionality and the final appellate forum of the Church for disputes¹. Respondent has failed to perform his constitutionally mandated duties as established by Article VIII —Judiciary Board; an amendment to the constitution/Charter of the Church of God in Christ, Inc.

We submitted Bishop Kyles appeal on or about two years ago for the first case and over a year ago on the follow up case. The Judiciary Board did not respond to our submissions. Then out of nowhere Respondent issued rulings with no basis of fact. I say this because again, for years the Judiciary Board sat silent and did not take up our cases. Then to really add insult to injury, he went on to preach for Bishop Tate, who was one of the direct "beneficiaries" of Respondent's illegal behaviors. Respondent also knew about the attached injunction as we discussed it in 2017

¹ Article VIII—Judiciary Board, Preamble, Judicial Code of Conduct, Conflicts of Interest, ¶2.

in St. Louis. To my knowledge the injunction has yet to be lifted. Given that Bishop Tate's consecration was not to go forward, per the attached injunction, Respondent going to preach there (see flier), in my opinion is shameless behavior.

I truly believe that our "Judiciary Board Justices" must remain above reproach and not engage in conduct that will cause questions as to its true independence of any undue influences. I have admired Respondent for many years and in fact over twenty years ago, I personally went with the late Presiding Bishop Owens when he appointed him as a Bishop. But, I cannot sit by and ignore the fact that his behavior has compromised the integrity of our current Judiciary Board not only by his illegal behavior, but also his influence to get others to even vote on the Bishop Kyle's matter, knowing the cases had never truly been adjudicated by them, per the rules?

COUNT I

MALFEASANCE

CANON 1. UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY BOARD

A justice should uphold the integrity and independence of the judiciary:

An independent and honorable judiciary is indispensable to justice in The Church of God in Christ. A justice should participate in establishing, maintaining, and enforcing, and should himself/herself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

The establishment of the Judiciary Board shall assure that the legitimately aggrieved members of the Church of God in Christ, Inc. are heard, that fairness prevails throughout the brotherhood, and that equal protection and due process are and continue to be the right of every Church member.

This independent, objective branch of Church government shall have as its highest objective the protection of the rights of every member of the Church of God in Christ, Incorporated as set forth in the Church constitution. The protection of those rights shall be without regard for official position or social station. Therefore, it shall be crucial that the Judiciary Board decisions are rendered without intimidation, coercion, or undue influence and that the members of said Board are fair, sober, objective and seasoned in their decision making.

Respondent adjourned the deliberations and caused the court to participate in ex parte communications with both the Board of Bishops² and the General Board concerning the case of Bishop Kyles. This was a violation of both Bishop Kyles United States Constitutional rights to due process and the rights established in Article VIII—Judiciary Board of the constitution of the Church of God in Christ, Inc. When the courts within the Church of God in Christ judicial system can be “summoned” by the Presiding Bishop, General Board, or anyone representing the Executive Branch to discuss current and or pending cases and the possible ramifications of an

² Exhibit 1: Page 12, Petition for Impeachment of Justice Davis

unfavorable verdict, that is an attack on the independence of the Judiciary Board and begs the question is it possible to receive justice in COGIC.

When the Chief Justice appears ready to place himself at the beck and call of those from whom he can receive promotion or elevation, all confidence in the ability of the Judiciary Board to render decisions that are fair, sober, objective and seasoned is shattered.

Respondent's violation of this Canon has severely tarnished the integrity and independence of the Judiciary Board and has reinforced the perception; they are just a committee with no real authority. Respondent should not have taken these action which therefore is; "Malfeasance".

Malfeasance: *is a wrongful act which the actor has no legal right to do, or any wrongful conduct which affects, interrupts, or interferes with performance of official duty, or an act for which there is no authority or warrant of law or which a person ought not to do at all, or the unjust performance of some act, which party performing it has no right, or has contracted not, to do.*

{Black's Law Dictionary 6th Edition}

COUNT II

JUDICIAL MISCONDUCT

CANON 2. AVOID THE APPEARANCE OF IMPROPRIETY

A justice should avoid impropriety and the appearance of impropriety in all his/her activities:

- A. A justice should respect and comply with the Church's constitution, amendments, by-laws, and all appendices thereto and should conduct himself/herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Respondent showed a blatant disregard for the rule of law, failed to respect, and comply with the Constitution of the Church of God in Christ, Inc. He refused to allow discussion and deliberation on the cases properly brought before the Judiciary Board. To discover the Judiciary Board did

not *consider* the pleadings and motions before them is outrageous³. How can the members of the Church of God in Christ or the public have any confidence in the integrity and impartiality of the Judiciary Board when the Chief Justice himself fails to follow the laws promulgated by the General Assembly? This thumbing of his nose at the law, the canons and the General Assembly constitutes Judicial Misconduct;

Misconduct. A transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior, willful in character, improper or wrong behavior; its synonyms are misdemeanor, misdeed, misbehavior, delinquency, impropriety, mismanagement, offense, but not negligence or carelessness. Term “misconduct” when applied to act of attorney, implies dishonest act or attempt to persuade court or jury by use of deceptive or reprehensible methods. *People v. Sigal*, 249 C.A. 2d 299, 57 Cal. Rptr. 541, 549.

(Black’s Law 6th Edition)

COUNT III

NONFEASANCE: FAILURE TO RULE ON RESPONDENTS PLEADINGS

Nonfeasance: Nonperformance of some act which person is obligated or has responsibility to perform; omission to perform a required duty at all; or, total neglect of duty. *Desmarias v. Wachusett Regional School Dist.*, 360 Mass. 591, 276, N.E.2d 691, 693.

Respondent has failed to comply with Article VIII—Judiciary Board, Organization and Procedure paragraph 1(a)

The chairman shall preside over all judicatory sessions. He shall also assign the task of writing the findings of facts and conclusions of law to one or more Judiciary Board members, or he may elect to write the facts and conclusions of law himself. The chairman shall also submit an annual report to the chairman of the General

³ Exhibit C –MLJ Impeachment

Assembly. This written report shall list all cases considered by the Judiciary Board that year and the Board's disposition of each case

There can be no findings of facts if the pleadings are not deliberated on by the court. Bishop Kyles has a United States Constitutional right as well as the right granted by the Constitution of the Church of God in Christ to appeal;

“... but the accused Bishop shall have the right to appeal an adverse decision to the General Assembly”⁴.

In 1991 by constitutional amendment, (except for elected officials) this right to appeal was as were all other adjudicatory duties, given to the Judiciary Board.

Respondent has a fiduciary duty to the entire membership of the Church of God in Christ to hear each case, and cause the decisions to be written which set forth the findings of facts and conclusions of law; Respondent failed to perform this duty which he was obligated to and agreed to do; an act of Nonfeasance.

⁴ Article VIII, Section D, ¶2(k)

We, the Complainant(s) Elder Moses Tyson, Jr. and Elder Ronald E. Stidham, members of the Church of God in Christ, Inc., as Complainant(s) in the above and foregoing Complaint, affirm that the statements and allegations contained herein are true, and correct on this Wednesday, August 21, 2019.

/S/ Moses Tyson Jr.

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documents relevant and necessary to resolve this case.” The foregoing conduct is a clear violation of the following Constitutional Provision:

PERFORM THE DUTIES OF OFFICE IMPARTIALLY

B. Administrative Responsibilities.

(1) A Justice should diligently discharge his/her administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other justices and court officials.

CODE OF JUDICIAL CONDUCT, CANON 3.

COUNT 4:

FACILITATED THE ISSUANCE OF FINAL ORDERS KNOWINGLY WITH INCOMPLETE AND INACCURATE INFORMATION

Justice Davis and Chief Justice Johnson have demanded that the Judiciary Board deliberate and issue final orders based on inaccurate and incomplete information in violation of Canon 3, set forth below:

PERFORM THE DUTIES OF OFFICE IMPARTIALLY

B. Administrative Responsibilities.

(1) A Justice should diligently discharge his/her administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other justices and court officials.

CODE OF JUDICIAL CONDUCT, CANON 3.

In the meeting of the Judiciary Board on May 29th at the National Women’s Convention, Secretary Davis distributed a brief filed by Appellant prior to the commencement of the meeting. During that meeting, the Judiciary Board met ex-parte with the Board of Bishops in violation of the rights of Appellant, and then proceeded to call a vote on an Order in the same case. At no time was any discussion allowed or made of the pleading filed by Appellant. The motion and accompanying brief, even though relevant to the issue being deliberated, was ignored in its entirety. When the issue was brought to Secretary Davis, he stated, Appellant’s matter is now

closed, and there would be no further discussion of the case. This is a blatant violation of the Canon 3(B)(1) set forth above, and has the effect of depriving appellants of due process promised in Article VIII.

Additionally, in the April 2nd conference call referenced in Count 2 above, the vote for a Final Order was called and pressed by Chief Justice Johnson without distributing the Appellant's Addendum, even though he had it in his possession for at least a week.¹⁴ Chief Justice Johnson emphatically and falsely stated that the Judiciary Board was "in possession of all documents relevant and necessary to resolve this case." This pleading, filed in or around March 25, 2019, has never been circulated to the Judiciary Board, largely upon information and belief, because it contains the only written evidence of Chief Justice Johnson's ethical and conflict of interest violation of Article VIII.

COUNT 5:

FAILURE TO CARRY OUT ADJUDICATIVE RESPONSIBILITIES

Justice Davis and Chief Justice Johnson have used their elected positions to wrongfully control and censor information, and in ways that give the appearance of impropriety and bias in favor of one party over the other, in violation of the following provisions:

CODE OF JUDICIAL CONDUCT:

CANON 2. AVOID THE APPEARANCE OF IMPROPRIETY

A Justice should avoid impropriety and the appearance of impropriety in all his/her activities:

A. A justice should respect and comply with the Church's constitution, amendments, by-Laws, and all appendices thereto and should conduct himself/herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

CANON 3. PERFORM THE DUTIES OF OFFICE IMPARTIALLY

¹⁴ See Exhibit C (Memorandum Dated April 2 discussing undisclosed pleadings).

Complainant

Exhibit 2

EXHIBIT C

APRIL 2, 2019 MEMORANDUM



MEMORANDUM
JUDICIARY BOARD OF THE CHURCH OF GOD IN CHRIST
~ CONFIDENTIAL ~

April 2, 2019

To: Fellow Justices

From: Justice E. Charles Connor & Justice Jonathan Saffold, Jr.

RE: Kyles et al - Response to Proposed Order

This memorandum is submitted in response to the proposed order distributed in the Kyles matter scheduled and scheduled for discussion this evening. The most difficult part of this memorandum is where to begin dismantling its flaws.

We have a Proposed Order that has nothing to do with any issue that has been discussed or resolved by this Court, a selective recital and omission of relevant and key facts, issues that have been formally and appropriately appealed that have been ignored, apparent non-disclosure of documents that are or may be relevant to the Proposed Order, no written opinions in opposition of memoranda that have been submitted, opinions that cannot be sustained by any substantive rule of law or procedure, unresolved issues regarding the propriety of the penalties imposed and possible conflicts of interest. The following is a high level summary. If desired and appropriate, detailed arguments can be drafted on each item above and below in a separate document.

A. This Proposed Order Has No Relevance to What Was Discussed or Deliberated.

Search memory, notes, recollection or the official recording of our meeting two weeks ago and you will find no discussion or conclusion that resembles the Proposed Order. At the conclusion of that conference call, it was stated (not agreed) that a proposed order would be drafted that made a request to the Board of Bishops to reconsider the penalties in the Kyles case. This resolution was questionable not only because of its flawed logic, which was questioned by both Justices Connor and Lewis, but also, because it was never put to an official vote. Never was a dismissal of this matter as drafted in the Proposed Order discussed in this context, analyzed or agreed upon.

This order is flawed by its inaccuracies, unfounded and inappropriate to consider as a starting point for discussion because it is no way a summary of what was decided two weeks ago. Again, in our last call, it was decided that a proposed order that requests from the Board of Bishops a reconsideration of their penalties would be drafted and distributed for review and comment.

B. This Proposed Order Contradicts Itself and Fails on Its Merits.

The key fact omitted in the Proposed Order is that the admission at issue, pursuant to Rule 7(c), is made over a year after the Rule 5(f) statute of limitations had run, which was addressed in my memorandum dated March 25, 2019, that has also apparently been ignored. Nonetheless, let's consider the logical path the Proposed Order attempts to walk.

The Proposed order appropriately follows a sequential progression of events that concludes quite simply as follows:

“Given that there was no adjudicatory hearing by way of Appellant’s waiver, therefore, there is now no action from which to appeal.”

There’s no question that “sequential logic” is effective and the proper methodology here. The problem with the Proposed Order, however, is not the methodology or vehicle ushering us to the finish line. Rather, the problem is the Proposed Order veers off course because a few very important items have been omitted from consideration.

In other words, the Proposed Order leaves out key steps in the sequence, namely the fatal Rule 5(f) violation. Rule 5(f) is not a suggestion, good idea, or philosophical goal. It is a serious legal rule of procedure that insures fairness and justice and that requires final resolution of a legal action within 545 days, and when violated, is fatal and dispositive to a case. If we apply the same logic used in the Proposed Order, but use the true and actual factual and procedural records, we get to the same place, but with a different passenger. The same conclusion is appropriate – “there is no action from which to appeal” – but in favor of Bishop Kyles.

If the case had properly been dismissed as it should have been, there would be no reason for Bishop Kyles to invoke Rule 7(c), because there would be no case against him. Stated alternatively, the Rule 7(c) plea/admission came well after this case should have properly been dismissed. If the the case had been properly dismissed pursuant to the Rules of Procedure, there would be no reason for a Rule 7(c) plea. Common sense suggests that no one would plead guilty to a tribunal if there is no cause or reason to do so. If Rule 7(c) applies, it must be considered as a matter independent of this case, which in turn means that the issue quite possibly not properly be before this court.

C. Bishop Kyles Has Appealed the 7(c) Plea Citing Numerous Flaws in the Process.

Bishop Kyles has filed an appeal of his Rule 7(c) plea that has not been considered by this Board. To not examine and address the merits of this appeal is in error. It is unthinkable to issue an order imposing a Rule 7 plea without addressing the errors cited on appeal of that plea.

This Court is the last stop and hope to internally resolve ecclesiastical issues. It is our duty to consider, resolve and not ignore all of the arguments made on an appeal, and to explain in writing, as a measure of accountability, our rationale and reasoning based on the laws and

governing rules of this church. We have not been afforded the luxury of simply “Passing” on tough, lengthy issues or politically charged issues.

D. The Penalty Imposed By the Board of Bishops Nullified Any Right Bishop Kyles Had to Invoke Rule 7(c).

Rule 7(c) is a Rule that embodies a procedure available to Bishops. By prematurely imposing a penalty that stripped Bishop Kyles of his Bishopric and any form of Pastoral duties, a Rule 7 plea is unavailable. Rule 7 pleas are available to Bishops as a form of mercy and designed to be plead in lieu of other defenses during the actual case, as opposed to a last option after all others have been exhausted. It is also a time and expense saving mechanism. A Rule 7 plea is appropriately plead before the penalty phase, not afterward.

In this instance, once Bishop Kyles was punished and stripped of all positions, he no longer had any privileges as a bishop or pastor. This includes access to Rule 7(c) and precludes his use of the same. This argument is admittedly not as compelling as the others, but as we contemplate the issues, it’s one that should nonetheless, be addressed.

E. This Order is Premature Because There May Be Pleadings that Have Not Been Verified and/or Disclosed to this Court.

It appears that a filing was made with the Court on March 23rd that relates to this case. On or around March 29th, a request was made to the Secretary that any pleadings or documents filed with the court be distributed and disclosed to all members. There has been no response to this request or disclosures that have been distributed. How can we deliberate without all of the information?

It is disappointing that we cannot trust that information will be distributed accurately and timely. We have pledged to the entire church that we would conduct ourselves in an exemplary manner that is beyond reproach, as we are in a position to judge the conduct of others. Make disclosure of the documents. It is unacceptable to withhold these items from consideration or not to even acknowledge their existence. It creates an uneven playing field within our body and will serve only to undermine the trust and confidence of this Board.

F. There are Two (2) Integrity Issues Related to Conflicts of Interest That Must Be Addressed Before an Order Can Be Issued in this Case.

We have been made aware of credible information concerning two (2) Justices that need to be addressed prior to any further discussion of this case on its merits. Interestingly enough, one of the potential conflicts is a part of the filing referenced above that has apparently been suppressed and censored from review by this court. At a minimum, the alleged filing, if it exists, contains information that raises a question of impropriety in the form of an obvious potential conflict of interest that has not been disclosed.

Both issues regarding the conflict of interest must be identified and addressed before proceeding any further. Not to do so would amount to blatant misconduct and gross error by this court. To issue an Order without at least addressing this very relevant issue in the suppressed March 23rd filing referenced above has the potential to undermine the confidence of the entire church.

These are issues too sensitive to be discussed over the telephone. The letter authored by Bishop's Sheard on behalf of the Board of Bishops dated March 13th, went undisclosed for an extended period of time, and then unaddressed for nearly a month. There has already been substantial delay. A delay of one more week for the purpose of discussing these issues in person at April Call will help to resolve a host of vital issues facing this Court. As the Proposed Order demonstrates, phone conferences involving controversial issues have the potential to yield outcomes that do not resemble the discussions. This is an issue that we cannot afford to miss, risk accuracy or allow something to be lost in the translation.

CONCLUSION

In short, the process and procedure this court has apparently adopted to resolve legal issues is confusing. We serve this church in a capacity so important that it gives us the final say in both judicial and constitutional matters, which are often times very difficult to digest, analyze and resolve. The importance and complexity of these issues call for the engagement and collective input of all nine justices to ensure fair, consistent and just resolutions.

Any legal argument or position worth adopting can be stated in writing and defended. Committees and courts are similar, but are distinguished by at least one important factor. Courts arrive at decisions through legal arguments, briefing and deliberation. This is our assurance that we have arrived at the proper conclusion and it is a way to hold each person accountable for their respective opinion.

We are a court, not a committee. The responsibility of this court is to dispense adjudicate and dispense the law, NOT outcomes. There are numerous issues that need to be addressed and analyzed in this case. Trial courts issue rulings, appellate courts consider and analyze errors in proceedings, and must be beyond reproach.

There must appropriately be an official postponement of any discussion of the Kyles case until our meetings in Memphis next week for all of the forgoing reasons. There are too many sensitive issues to hash out in a telephone conference where all justices are not present and the winner is the person who speaks the loudest and longest.