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Court of Appeals affirms Bishop Dixon in Accokeek case

by Jan Nunley

(ENS) On May 22, 2002, the U.S. Court of Appeals for the Fourth Circuit unanimously affirmed an earlier decision by the U.S. District Court recognizing the authority of Washington bishop *pro tempore* Jane Holmes Dixon to refuse the election of the Rev. Samuel Edwards as rector of Christ Church and St. John's Parish in Accokeek, Maryland.

The decision stated, in part:

"Our examination of this record, and our study of the organization and operation of the Episcopal Church, compels the determination that the court was correct in both its analysis and in its conclusion: The Episcopal Church is hierarchical."

"In the Episcopal Church, the priests and the laity of a diocese are subject to the authority of their bishop."

"Because the highest ecclesiastical authority of the Diocese, Bishop Dixon, has determined that the Vestry's interpretation of the Canons is incorrect, this challenge to the injunction is without merit."

Bishop Dixon's "decision is therefore final and binding, and it must be recognized as such by a civil court."

"I continue to rejoice in the theological and biblical diversity of the Diocese of Washington. It has been my

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privilege to safeguard the doctrine, discipline, and worship of the Episcopal Church as affirmed in this decision," said Dixon in a statement released by the diocese. "My prayer for all the people of Christ Church and St. John's Parish, Accokeek is that they can once again come together to do the vital work that we are called to do as Christians, to preach and live the Gospel of Jesus Christ."

Canonical quandaries

Dixon refused Edwards' call as rector on the grounds that he was not "duly qualified" to be rector of the calling parish. She said she based her decision on reports of Edwards' teachings while executive director of the group Forward in Faith/North America (FIF/NA), including editorials calling ECUSA "the Unchurch," saying that ECUSA practices "institutionalized lawlessness," that the "machinery" of the Episcopal Church is "hell-bound" and advocating "gumming up the works," and another urging clergy and congregations to "sever their connections" with ECUSA. She also cited Edwards' "willingness to break certain solemn vows that he took at his ordination" as an Episcopal priest; his "unwillingness to guarantee his obedience" to Dixon as his bishop; and his "lack of commitment to keeping Christ Church and church property" in the Episcopal Church.

Edwards, his attorneys and the parish vestry claimed that Dixon's "right of advice and objection" to his call as rector was limited to the 30 days following notification. Edwards' attorney, Charles Nalls, said that Dixon did not respond to the vestry until "more than sixty days after the notification, thirty days after notification of the intent to contract and two weeks after the ratification of the clergy contract," according to a letter he sent to Dixon.

Canon III.17.2 specifies that no election for a rector may be held until the name of the priest being proposed is given to the ecclesiastical authority, who then has 30 days to respond. But the following section (III.17.3) states that "if the Ecclesiastical Authority be satisfied that the person so chosen is a duly qualified Priest and that the Priest has accepted the office," the election may be recorded as valid. The canon does not specifically state any restriction on the amount of time given to the ecclesiastical authority to

respond once an election for rector is held, although Nalls maintained that another 30-day time limit is implied.

Nevertheless, Edwards took up residence in the parish rectory and functioned as a priest for 60 days without a license from the bishop, which is permitted by the canons. That term expired on May 25, 2001, and the following Sunday Edwards celebrated the Eucharist. When Dixon arrived for a later service, she was met at the door by vestry members who refused to allow her to officiate in the church. She was heckled at an alternative service hastily assembled at a nearby pavilion, and vestry members summoned county police to have Dixon and her supporters removed from the property as trespassers. Police declined to intervene.

Suits and appeals

Dixon [filed suit](#) June 25, 2001, in U.S. District Court in Greenbelt, Maryland, asking that a federal judge prohibit Edwards from officiating at Christ Church and prohibit the vestry from barring her from "ministering to the congregation and performing episcopal acts there." The suit asked the court to declare Edwards' contract with the parish invalid, contending that the hiring over the objections of the bishop violates the 1798 Maryland Vestry Act, requiring that the appointment of rectors be subject to the canon law of the Episcopal Church. The suit also asserted that "all parish property is held in trust for the Episcopal Church and the diocese," while the vestry claims it holds the deed "in fee simple," direct ownership with an unrestricted right to the property.

In October 2001, Judge Peter J. [Messitte](#) declared the contract between the vestry of the parish and Edwards "invalid, null and void, unenforceable and without effect" and that under the Maryland Vestry Act, Edwards is "unlawfully using and occupying buildings and property" of the parish. He ordered Edwards and the vestry to "take no actions, directly or indirectly" to hinder Dixon "or her delegate" in officiating at services and presiding at meetings of the vestry and parish. Edwards was prohibited from officiating "on or near" the grounds of the church and from taking any action in the capacity of rector of the parish.

Edwards and his family [vacated](#) the parish rectory at the end of November 2001, but he appealed Messitte's decision in January 2002.

More decisions pending

Edwards also faces [presentment charges](#) filed by a group of Washington clergy and partially sustained by the standing committee of the Diocese of Fort Worth. The presentment has been given to the Ecclesiastical Trial Court of the Diocese of Fort Worth, which is expected to try the case this summer. [Presentment charges](#) filed against Dixon in connection with the Accokeek case were dismissed in September 2001.

"With this decision, all parties involved have a tremendous opportunity to begin a very hopeful, healing process," said bishop-elect John Bryson Chane, who will be consecrated and installed as the eighth bishop of Washington in June, in a statement. "This healing will enable not only the members of Christ Church Accokeek, but also the Episcopal Church at large, to refocus our energies where they should be, affirming the mission of the church. That mission is to live into our unity as the body of Jesus Christ. I look forward, as the next Bishop of Washington, to this important work and welcome the opportunities for continuing this work of healing."

Edwards, his attorneys and the parish vestry have not yet announced whether they intend to appeal the latest court decision to the U.S. Supreme Court.

--The Rev. Jan Nunley is deputy director of Episcopal News Service.

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