

Update on Decision by Committee on Appeals

March 29, 2007

On March 7th, Pastor Bradley Schmeling appealed the Disciplinary Hearing Committee's decision to remove him from the clergy roster on August 15, 2007. He requested that the Committee on Appeals (CoA) wait to make a decision until after the churchwide assembly meets in August, and he requested a stay to his removal until the CoA makes its final decision.

Two days after Pastor Schmeling's appeal, Bishop Warren cross-appealed. His statement follows:

Bishop Warren's cross-appeal asks the CoA to rule that the DHC exceeded its authority on two issues raised in its decision: (1) that the DHC exceeded its authority by staying its decision to remove Pastor Schmeling from the ordained clergy roster, a power given only to the Committee on Appeals; and (2) that the DHC exceeded its authority by making policy recommendations to the Churchwide Assembly, another prerogative limited by the ELCA's governing documents to the Committee on Appeals.

Finally, concurrent with his Notice of Cross-Appeal, Bishop Warren asked the Committee on Appeals to provide an appellate briefing schedule which would give the CoA time to reach and publish its decision in advance of the ELCA Churchwide Assembly ("CWA") in August 2007. Pastor Schmeling has specifically asked the CoA to delay any briefing or decision until after the CWA has concluded. Bishop Warren's cross-appeal and proposed schedule, however, provide the CoA with the opportunity to provide its conclusions on this case as part of churchly deliberation in advance of the Churchwide Assembly.

Last week, The CoA made its decision in regards to the briefing schedule. They have asked the parties to submit written briefs on Pastor Schmeling's appeal and the Bishop's cross-appeal on the following schedule:

Initial Statements: May 7

Responsive Statements: May 21

Reply Statements: June 1

The rules say that normally the Committee on Appeals will make a determination within 60 days.

The Committee on Appeals has also indicated that, if it has not reached a decision on the appeal and cross-appeal before August 15 (the date set for Pastor Schmeling's removal), the Committee on Appeals will take under consideration Pastor Schmeling's request that the removal date be stayed and act on that request in time "to avoid any untoward circumstances to the parties.