

EVANGELICAL LUTHERAN CHURCH IN AMERICA

In the Matter of Disciplinary \*  
Proceedings Against the Rev. \*  
Bradley E. Schmeling \*

DECISION OF THE DISCIPLINE HEARING COMMITTEE

On August 8, 2006, Bishop Ronald B. Warren of the Southeastern Synod filed charges against Pastor Bradley E. Schmeling, accusing him of engaging in a pattern of conduct incompatible with the ministerial office in that Pastor Schmeling persisted in an active homosexual relationship. Bishop Warren asked that Pastor Schmeling be removed from the ordained ministry of the ELCA.

The discipline hearing committee constituted to consider those charges met during the period of January 18, 2007 to January 24, 2007 in Atlanta, Georgia. All twelve voting members of the committee were present throughout all aspects of the proceeding. The committee met in a preparatory session on January 18, heard the evidence and arguments from January 19 through January 23, and deliberated on January 23 and 24, 2007.

Findings of Fact

The parties stipulated to the following facts:

Pastor Bradley Schmeling was ordained on November 4, 1989. He was admitted to the roster of ordained ministers for the Southeastern Synod of the Evangelical Lutheran Church in America on August 1, 2000. He has been the Pastor of St. John's Lutheran Church in Atlanta since August 15, 2000.

In April 2000, prior to Pastor Schmeling's call to serve as Pastor at St. John's Lutheran Church, Bishop Warren received Pastor Schmeling's approval to disclose the

following:

Pastor Schmeling . . . assures me that being gay in his sexual orientation, he is in compliance with ELCA Expectations for Ordained Ministers, and understands that in the future should he not be in compliance, a bishop's request for his resignation from the roster, or a discipline hearing could result.

Pastor Bradley Schmeling has entered into a loving, lifelong partnership with another male that is mutual, chaste, and faithful. Their relationship includes the expression of sexual intimacy.

In March 2006, Pastor Bradley Schmeling disclosed to Bishop Ronald Warren that he was in a committed partnership with another man.

Although not stipulated, a near-unanimous committee finds that all of the following facts have been established by more than the preponderance of the evidence. Pastor Schmeling has remained on the roster of ordained ministers of the ELCA continuously since his ordination. He has served continuously in his call at St. John's Lutheran Church in Atlanta since August 15, 2000.

St. John's Lutheran is a member congregation of the Southeastern Synod of the ELCA and of the ELCA. Pastor Schmeling's call was issued in full compliance with the call process of the Southeastern Synod, including the recommendation of the synod Bishop, the Rev. Ronald B. Warren.

In the call process, Pastor Schmeling filled out the required mobility forms, but declined to answer the question, "Are you in compliance with the ELCA Expectations for Ordained Ministers?" Pastor Schmeling was forthright in explaining to Bishop Warren

and to the congregation at St. John's that he was homosexual<sup>1</sup> in his sexual orientation. He explained that he was in compliance at that time, but committed himself to advise the Bishop if he were no longer in compliance. The Pastor's disclosure explained that the question on the mobility form raised an issue of conscience and justice for him. As the Stipulation establishes, Pastor Schmeling acknowledged that if he should not be in compliance in the future, a bishop's request for resignation or a discipline proceeding could result.

Pastor Schmeling acknowledged in his direct testimony that in the call process Bishop Warren could have decided not to give Pastor Schmeling's name to St. John's as one of the approved candidates, and could have used virtually any reason. He testified that he was both surprised and pleased to be told that his was one of three names sent to the congregation.

In 2005, Pastor Schmeling entered into a loving, lifelong partnership with another man who is now a former pastor of the ELCA. Pastor Schmeling's partner resigned from the ELCA clergy roster. There is nothing in this record to suggest that resignation came about as a result of anything other than the partnership with Pastor Schmeling. Pastor Schmeling's partner has joined a congregation of the United Church of Christ, and has explored the possibility of becoming a member of the clergy of the UCC.

Pastor Schmeling immediately informed the leadership of St. John's about his new relationship, but postponed telling Bishop Warren until March 23, 2006. That delay related in part to the hope that the 2005 Churchwide Assembly would result in some

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<sup>1</sup> We use the term homosexual here because this is the terminology used in *Definitions and Guidelines*, and in *Vision and Expectations*.

favorable action, and in part to Pastor Schmeling's consideration for his partner, who had been uprooted from his lifetime home and was already experiencing the stress of major changes in his life.

Pastor Schmeling is, in the language of *Definitions and Guidelines*, a practicing homosexual person. In the language of *Vision and Expectations*, he is an ordained minister who is homosexual in his self-understanding who is not abstaining from homosexual sexual relationship.

When Pastor Schmeling entered into his call at St. John's, the congregation was fully aware of his homosexual orientation, but that orientation was not an issue for the vast majority of the members. At the congregation meeting to consider his call, six votes were cast against Pastor Schmeling. Two of those voters remain members of the congregation and have since become supporters of Pastor Schmeling.

The trends in congregation membership, in worship attendance and in stewardship at St. John's also suggest that Pastor Schmeling has had the support of the vast majority of the congregation from the very beginning. There was a reduction in the number of baptized members from 270 to 236 during Pastor Schmeling's first year. That reduction was the result of updating the congregation's records. During that same 2000 to 2001 period, stewardship decreased by less than 2% and average attendance at worship increased from 88 to 95. Since 2001, St. John's has grown substantially in membership (a cumulative 52% at the time of the hearing), in attendance at worship (up 31% at the time of the hearing) and in stewardship (up more than 70% at the time of the hearing).

St. John's membership includes several pastors who are on the ELCA roster, in either active or retired status, several teaching theologians, and several graduate students in theology. Pastor Schmeling is judged by this potentially critical audience to provide consistently high quality sermons and teaching. He is recognized as an innovative worship leader and has been called upon by the synod to plan and organize worship at two synod assemblies.

The witnesses from St. John's pointed with particular pride to the growth of their ministry to young people, of confirmation age and younger. At the time of the hearing, the number of children in the congregation had increased 78% over 2001. Pastor Schmeling is able to communicate with young people, share the faith in a manner that they find interesting and helpful, and help them develop language for talking about their faith. He possesses the patience and other qualities that are required to walk with a particular young person on a journey from confirmation to agnosticism to atheism and back to agnosticism, with the hope that the journey will finally return that young person to the faith.

Pastor Schmeling is described by one of the witnesses who is familiar with his work in the parish setting as being "incredibly gifted" and "the most gifted pastor I've ever encountered." Those specific descriptions come from a member of Pastor Schmeling's previous congregation in Columbus, Ohio, but they are evaluations that are shared in substance by the members of his present congregation. In both of his congregations, Pastor Schmeling has avoided making ministry to gays and lesbians a specific focus of his work. Instead, he has preferred to work to make the congregations he serves known for welcoming everybody. This approach has had the benefit of making gay and lesbian

persons feel welcome in his congregation and causing them to renew or reinvigorate their participation in the organized church. The members of St. John's Lutheran Church remain overwhelmingly supportive of Pastor Schmeling since the charges in this case were filed. The congregation's growth in membership, participation and stewardship have continued even since the charges against Pastor Schmeling were filed.

Pastor Schmeling and Bishop Warren have enjoyed a good relationship. Pastor Schmeling served as dean of his conference, Conference 11, or Conference Leaven. Conference deans in the Southeastern Synod are also non-stipendiary assistants to the bishop and serve, at least to some extent, at the pleasure of the bishop. Pastor Schmeling resigned as dean of his conference at the bishop's request when he advised the bishop of his homosexual relationship.

#### Determination

The parties disagree about what parts of the foregoing facts are relevant to the disposition of this case. Bishop Warren contends that this case is governed by *Definitions and Guidelines for Discipline* b. 4), second unnumbered paragraph, which provides, "Practicing homosexual persons are precluded from the ordained ministry of this church." The Bishop also points to *Vision and Expectations-Ordained Ministers in the Evangelical Lutheran Church in America*, section III, page 13, which provides in part that "Ordained ministers who are homosexual in their self-understanding are expected to abstain from homosexual sexual relationships."

*Vision and Expectations* informs candidates for ordained ministry in the ELCA, seminaries, congregations, and candidacy committees regarding the ELCA's vision for ordained ministry and the high expectations it places on those who serve in that

capacity. *Definitions and Guidelines* is the juridical document that describes the grounds on which ordained ministers may be subject to the disciplinary process. Under the Bishop's view, the stipulated facts would not allow any result other than to remove Pastor Schmeling from the ELCA's clergy roster. Bishop Warren is a conscientious servant of this church who does not dispute the facts relating to Pastor Schmeling's exemplary service to St. John's, but believes that faithful adherence to the promises he made at his installation as bishop require him to pursue the charges he has filed here.

Pastor Schmeling takes a different view. He contends that *Definitions and Guidelines* adopts one side of a divisive social issue in a document that is close, in its effect, to the constitution. He contends that the traditional Biblical basis for the policy is suspect. Indeed, one of the teaching theologians who testified on his behalf said that there is momentum among Bible scholars toward understanding the Biblical texts that are the basis for the traditional view of homosexuality as referring not to homosexual people, but to conduct that would be abusive apart from any homosexual content. The pastor contends that the church cannot bind a conscience, so that the policy is theologically suspect. He contends that there are ecclesiological difficulties with *Definitions and Guidelines* and *Vision and Expectations* because the statements relating to homosexual conduct in those two documents are ignored in some synods and have the effect in other synods of discouraging otherwise-qualified candidates from the ministry. He finds a pastoral issue because the church and its ministers are called to speak in solidarity with the oppressed, which would include homosexual persons, but are then required to reject the full participation of those very persons. He understands that the promises he made at his ordination require him to uphold the confessions and

constitution of this church, but he has no problem with that because the preclusion of practicing homosexual persons from ministry is not found in the confessions or constitution, but in documents that he contends are inconsistent with them.

Pastor Schmeling's counsel further develop Pastor Schmeling's basic contentions. In doing so, they point to:

- (1) chapter seven of the constitution, which sets forth the standards for ministry,
- (2) chapter twenty of the constitution, which sets forth the disciplinary process,
- (3) the original intent and pastoral aims of *Definitions and Guidelines* that are shown by its history and development as described by retired presiding Bishop Herbert Chilstrom, and
- (4) various decisions and votes taken at the 2005 Churchwide Assembly in Orlando.

Although a thorough discussion of these contentions would unduly extend this decision, each of them should receive a brief description. The pastor's contention from chapter seven is that provisions 7.22, 7.23, 7.30 and 7.31 and their related bylaws establish the qualifications for ordained ministers in this church. None of those provisions forbids a same sex relationship such as the one here. The pastor's witnesses and counsel summarize chapter seven as forbidding anything that impedes the proclamation of the gospel or the administration of the sacraments. This position calls for a case-by-case examination of each pastor in his or her own circumstances. Because St. John's is a healthy and growing congregation due in part to Pastor Schmeling's service and efforts, the argument goes, and his ministry is not impeded by

his same sex partnership, the pastor cannot be found to be engaged in conduct incompatible with the ministerial office. That is, the contested language in *Definitions and Guidelines* and *Vision and Expectations* adds a gloss to the constitutional standard that is not supported by the constitution itself.

The contention based on chapter twenty is that bylaw 20.21.01 sets out the offenses for which discipline is appropriate, and bylaw 20.21.02 establishes disciplinary actions that may be taken. Again, the first argument is that the language of *Definitions and Guidelines* and of *Vision and Expectations* goes beyond what is authorized by the bylaw. There is also an argument here that *Definitions and Guidelines* cannot mandate removal when the bylaws provide for three possible levels of disciplinary action.

The third contention, relying on the original intent and pastoral aims of *Definitions and Guidelines*, argues that *Definitions and Guidelines* contains material that was intentionally not included in the constitution in order to permit some measure of discretion that would not be available if that material was contained in the constitution or bylaws. It has occurred to many members of this committee that the inclusion of these standards in *Definitions and Guidelines*, rather than in the constitution and bylaws, also makes these standards more amenable to amendment, a point that this decision will develop in its closing pages.

The fourth basic contention is, in the words of the opening statement on behalf of Pastor Schmeling, that “Orlando changed everything.” The argument proceeds, in part, from the adoption by the 2005 Churchwide Assembly in Orlando of Recommendation One relating to the ELCA Studies on Sexuality. That recommendation was adopted by a vote of 910 to 76 and provides that this church, presumably including this disciplinary

hearing committee, is urged “to concentrate on finding ways to live together faithfully in the midst of disagreements, recognizing the God-given mission and communion that we share as members of the body of Christ.” (Preliminary Minutes, 2005 Churchwide Assembly, page 76) They also rely on the vote on the motion by Louis M. Hesse to substitute for Recommendation Three a proposed resolution that would affirm *Vision and Expectations* and *Definitions and Guidelines for Discipline*. That motion to substitute failed. (Preliminary Minutes, 2005 Churchwide Assembly, pages 101-02) They also point to Recommendation Three itself, in which a bylaw procedure for exceptions by the Conference of Bishops would be established. That recommendation was defeated by a vote of 490 to 503. (Preliminary Minutes, 2005 Churchwide Assembly, page 102)

In summary, they argue that despite the absolute language of *Definitions and Guidelines*, this disciplinary hearing committee has discretion to find that there has been no conduct incompatible with the ministerial office. In the alternative, Pastor Schmeling’s counsel contend that this committee has the discretion to choose private censure or suspension, because *Definitions and Guidelines* cannot supercede the constitution and limit the committee’s discretion to removal only.

Seven members of this committee have concluded that they are compelled to follow *Definitions and Guidelines*. The stipulated facts leave them no choice but to determine the Rev. Bradley E. Schmeling is a practicing homosexual person within *Definitions and Guidelines* section b.4) and is therefore precluded from the ordained ministry of this church.

The committee is nearly unanimous in its concern that *Definitions and Guidelines for Discipline* and *Vision and Expectations-Ordained Ministers of the Evangelical Lutheran Church in America* are at least bad policy, and may very well violate the constitution and bylaws of this church. This committee is determined to be faithful to its call and charge. The troublesome clause in *Definitions and Guidelines* was a part of that document when it was originally approved on November 19, 1989. It has been in effect for more than seventeen years. The September 14, 1998 report of the Committee of Appeals, included in the 1999 Pre-Assembly Report to the Churchwide Assembly, considered a somewhat similar set of circumstances and noted in paragraph 13 of its report that the Committee on Appeals is subject to the policy that this disciplinary hearing committee finds so troublesome. The Committee on Appeals concluded that it was obliged to uphold that policy. Although the Committee on Appeals did not set out the arguments that the pastor in that case made, so that this committee has no way to know whether they are the same as or different from the arguments made in this case, this disciplinary hearing committee is obligated to respect and follow the September 14, 1998 report of the Committee on Appeals.

The committee acknowledges the resolutions that were considered in the 2005 Churchwide Assembly. The committee recognizes that it has been enjoined by the vote on Recommendation One to “concentrate,” with the rest of this church “on finding ways to live together faithfully in the midst of disagreements.” Nevertheless, the 2005 Churchwide Assembly did not direct the Committee on Appeals to reconsider or revise *Definitions and Guidelines for Discipline* under the authority that Committee is given by

bylaws 20.71.11 and 20.71.12. Paragraph b.4) of *Definitions and Guidelines* remains the specific juridical authority for this case.

In the event that the Committee on Appeals determines that paragraph b.4) of *Definitions and Guidelines* is unconstitutional, so that this case should be decided under the standards for ministers established by chapter seven of the constitution and the procedures for discipline established by chapter twenty of the constitution, then this committee would find, with near unanimity, that there is nothing about Pastor Schmeling's acknowledged and stipulated homosexual relationship that would impede the proclamation of the gospel or the right administration of the sacraments. If relieved of the specific requirements of *Definitions and Guidelines* and permitted to decide this case under the standards of constitution chapters seven and twenty, this committee would find almost unanimously that Pastor Schmeling is not engaged in conduct that is incompatible with the ministerial office, and would find with near unanimity that no discipline of any sort should be imposed against him.

This discipline hearing committee has also attempted to perform faithfully its obligation to be familiar with prior decisions of the Committee on Appeals, as required by that committee's 1997 report. In its 1995 report, in the second case, the Committee on Appeals sought to serve this church by making suggestions to the Church Council and to the Conference of Bishops, based upon that committee's experience in a particular case. (Section 9, at page 612) Following that precedent, this discipline hearing committee respectfully makes the following suggestions to the assemblies of the synods of this church, and to the Churchwide Assembly itself:

First, this discipline hearing committee respectfully suggests that the synod assemblies memorialize the Churchwide Assembly, and the Churchwide Assembly act, to request that the Committee on Appeals and the Church Council, pursuant to the authority granted to them by provisions 20.71.11 and 20.71.12 of this church's bylaws, reconsider and revise *Definitions and Guidelines for Discipline* to remove the language that specifically precludes practicing homosexuals from service as ordained ministers of this church.

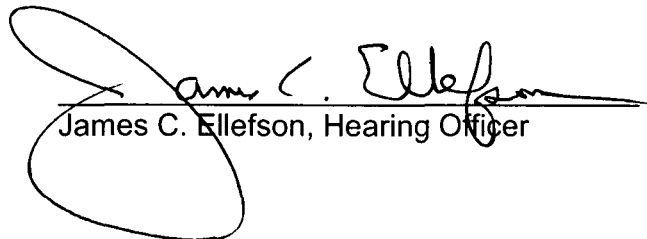
Second, this discipline hearing committee respectfully suggests that the synod assemblies memorialize the Churchwide Assembly, and the Churchwide Assembly act, to request that the appropriate churchwide unit, the Conference of Bishops and the Church Council, pursuant to the authority granted to them by provision 7.31.13 of this church's bylaws, reconsider and revise *Vision and Expectations* to remove the specific prohibition against homosexual sexual relationships.

Third, this disciplinary hearing committee respectfully suggests that the synod assemblies memorialize the Churchwide Assembly, and the Churchwide Assembly act, to request that the appropriate churchwide unit, the Conference of Bishops and the Church Council, pursuant to the authority granted to them by provision 7.31.15 of this church's bylaws, reconsider and revise the policy on reinstatement to the rosters of the Evangelical Lutheran Church in America to permit persons who have resigned or have been removed from the rosters of this church solely because they have entered into a loving, lifelong partnership with another person of the same sex that is mutual, chaste, and faithful, to apply for reinstatement immediately, as an exception to the usual requirement of a minimum of five consecutive years without call that must elapse before an application for reinstatement may be considered.

No member of this committee proposes that this church should be in the least tolerant of any sexual relationship, whether heterosexual or homosexual, that is in any way abusive or exploitative. Those cases should be governed by the language of *Definitions and Guidelines* and of *Vision and Expectations* that would remain. Those cases are as different from the case of Bradley E. Schmeling as night is from day.

It is the decision of this discipline hearing committee that the Rev. Bradley E. Schmeling be removed from the clergy roster of the Evangelical Lutheran Church in America, effective August 15, 2007.

Done and ordered this 7<sup>th</sup> day of February, 2007, for the discipline hearing committee.

  
James C. Ellefson, Hearing Officer