

ONTARIO
JUDICIAL COMMITTEE OF THE GENERAL COUNCIL
(The United Church of Canada)

B E T W E E N:

REVEREND GRETTA VOSPER

Appellant

-and-

THE GENERAL SECRETARY of the GENERAL COUNCIL

Respondent

STATEMENT OF ARGUMENT IN REPLY

(Pursuant to Section 13.7.6 of The United Church of Canada's Appeals Resource, August 2013)

October 30, 2015

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PART I – STATEMENT OF ARGUMENT IN REPLY

Overview

1. The following is the Reply materials of the Appellant in response to the materials filed by the General Secretary on October 16, 2015.
2. Although the United Church of Canada (UCC) rules are silent on a right of Reply, it is important to note that the rules also do not provide for common litigation materials such as affidavits; however, both the Appellant and Respondent have submitted such materials in this appeal of the General Secretary's May 5, 2015 ruling.
3. The General Secretary's argument and record, including an affidavit sworn by Cynthia Gunn, raise new matters that the Appellant could not have reasonably anticipated in her initial materials. As a matter of fairness, the Appellant wishes to be heard and is submitting the following argument and record (including a second Affidavit of Randy Bowes) in Reply.
4. Specifically, the General Secretary's materials raise the following issues which the Appellant wishes to address in Reply:
 - i. The Respondent has raised several examples of the General Secretary's previous rulings;
 - ii. The Respondent references April 20, 2015 correspondence from Rev. David Allen to Nora Sanders; and,
 - iii. The Respondent references the numbers of congregants at West Hill United Church (WHUC) between 1997 and 2014.

Issue 1: Previous Rulings of the General Secretary

5. The Respondent's materials, including the affidavit of Cynthia Gunn, list a number of examples of previous opinions and rulings made by the General Secretary. In particular, the Respondent notes that two such rulings of the General Secretary, the content of which had broad implications for the Church, were both upheld on appeal. One ruling concerned whether ministers could perform same-sex marriages and another ruling concerned

whether individual congregations could have policies regarding whether ministers could perform same-sex marriages outside of church property.

Respondent's Materials at para. 21.

6. The Appellant concurs that both of these rulings had significant implications for the wider Church community and submits that the General Secretary's May 5, 2015 ruling is also of widespread importance to the United Church of Canada. Since the General Secretary's May 5, 2015 ruling, Reverend Vosper and WHUC have received hundreds of pieces of correspondence (both critical and supportive) demonstrating the importance of the General Secretary's ruling to the wider Church community and in particular to other currently ordained Ministers of the United Church. Indeed, Reverend Vosper and WHUC continued to receive such correspondence after the Appellant filed her initial materials on September 18, 2015. This additional correspondence has been appended to Randy Bowes's Reply Affidavit.

Reply Affidavit of Randy Bowes, Paragraph 22 & Exhibit "A"

7. It is important to point out that the two same-sex Rulings referenced by the Respondent were granted leave and received the benefit of a hearing wherein the parties received the opportunity to submit oral argument. The Appellant submits that her appeal of the General Secretary's May 5, 2015 ruling – a ruling that has broad implications for the United Church of Canada – similarly receive the benefit of an appeal hearing.

Issue 2: April 20, 2015 correspondence from Rev. David Allen to Nora Sanders

8. The Respondent stated, via Cynthia Gunn's Affidavit, that the General Secretary's Ruling was in response to a request by Reverend David Allen, via correspondence dated April 20, 2015. The Respondent emphasizes that this letter does not specifically identify the Appellant and that the General Secretary did not consider any other document or material pertaining to the Appellant.

Gunn Affidavit, para. 2.

9. The Appellant had not previously been aware nor seen a copy of Rev. Allen's April 20, 2015 correspondence to Nora Sanders.

10. A closer reading of Rev. Allen's correspondence demonstrates that the letter contains plenty of identifying information, which when combined with the Appellant's public presence and widespread reputation, would be nearly impossible for the General Secretary to avoid making the connection between the request being made of her and the well-known Reverend Vosper. The letter narrows the ordained minister in question to an individual within the Toronto Conference, who is known as a self-described atheist and who is a female minister. Short of attaching a photo of Reverend Vosper to this correspondence, Rev. Allen all but identified the Appellant by reputation.
11. We find it impossible to believe that the General Secretary did not know exactly whom the subject of the Toronto Conference's request was. The General Secretary, through the course of her duties, would be apprised of the major events and controversies within the United Church of Canada. Certainly, we would expect that the General Secretary would have kept her finger on the pulse of issues, news and events as regularly described in the United Church of Canada's monthly publication, the UC Observer. A quick search of the UC Observer's website yields many mentions identifying Reverend Vosper as an atheist minister. We pause here to highlight but a few:
 - i. In the October 2013 edition of the UC Observer, an article titled "Beyond Belief" describes Reverend Vosper as an atheist in an interview comparing and contrasting the differences and commonalities between Reverend Vosper and Rev. Connie denBok (who is described as a believer);
 - ii. In the January 2015 edition of the UC Observer, an article titled "Unravelling the Mysteries of Prayer" describes Reverend Vosper as a "a self-described atheist and author of Amen: What Prayer Can Mean in a World Beyond Belief" in a piece about the role of prayer and its neurological effects on the brain;
 - iii. In the February 2015 edition of the UC Observer, an article titled "The unlikely ascent of Kathleen Wynne" mistakenly refers to WHUC as an "avowedly atheist congregation". In fact, the congregation includes traditional believers, agnostics, atheists and everyone in between. Nevertheless, WHUC and its Minister, the Reverend Vosper are even known to high profile individuals such as our current Premier Kathleen Wynne; and,

- iv. Most recently, in the May 2015 edition of the UC Observer, an article titled “Confronting the Unbelievers” describes Reverend Vosper as “one of the United Church’s best-known and most controversial ministers” specifically citing her 2008 book *With or Without God* which makes the case that churches should be more welcoming to “those who either do not believe in the supernatural elements of religion or do believe but do not feel we can make absolute, universal claims about it.”
12. Suffice it to say, Reverend Vosper has a public reputation that is widely known not only within the United Church but also beyond the borders of the United Church to international audiences. It is on this basis that we find it difficult to believe that the General Secretary did not connect the dots between the Toronto Conference’s specific request and the very well-known Reverend Vosper.

Reply Affidavit of Randy Bowes, Paras. 15-20

13. A related argument of the Respondent is that the General Secretary merely issued a procedural ruling that was not directed at the Appellant personally. Instead, the General Secretary states that the ruling applies to the UCC as a whole. As such, the General Secretary argues that Reverend Vosper is not “directly affected”.

Respondent’s Statement of Argument, Paras. 58-64

14. We pause here to note that a similar claim could have been made of the same-sex Rulings referenced in the Respondent’s materials. In one of those same-sex Rulings, the Appellant was an individual by the name of Rev. Dr. Richard Bott. Quite obviously, the appealed ruling had wider implications for the entire United Church; nevertheless, an individual Appellant received the benefit of an appeal hearing on the matter.

Respondent’s Statement of Argument, Paras. 21

15. The Respondent does not provide any material in support of the Respondent’s interpretation of the words “directly affected”. Notwithstanding, we feel it is important to point out that the breadth of the impact of any General Secretary’s ruling should not preclude directly affected individuals from pursuing an appeal. In particular in this case, the Respondent acknowledges that the General Secretary’s ruling arises out of a

particular request issued within the context of specific concerns regarding the theology of the Appellant. We cannot ignore the fact that the Appellant's name is specifically identified in the Minutes of the April 15, 2015 meeting wherein the Executive of Toronto Conference passes a motion requesting a process from the General Secretary. To the extent that anyone is directly affected by this General Secretary's May 5, 2015 ruling, it is most certainly the Appellant.

Issue 3: WHUC's Membership Numbers

16. The Respondent's materials raise the issue of the fluctuating numbers of WHUC's congregation. While noting that there is "no reliable evidence that this was directly attributable to the Appellant's theological stance", the Respondent nevertheless proceeds to invite you to make such a speculation.

Respondent's Statement of Argument, Para. 15.

17. In response to the General Secretary's reference to a drop in membership, the Appellant wishes to state that a sizeable drop in membership occurred between 2002 and 2003 which was due to WHUC's Board removing names of individuals who had been inactive members for years. The numbers between 2003 and 2004 were actually stable and continued to be stable until 2008, with most of those 2008 losses being recorded in 2009.

Reply Affidavit of Randy Bowes, Paras. 5-14.

18. The Respondent's focus on WHUC's numbers alone however does not present an accurate picture of the kinds of decreases in membership being experienced by many other congregations, in particular other congregations in the same region as WHUC. In this context, you can see that WHUC's declining membership is not a localized aberration; rather, it is a regional trend reflective of national downward trends in the United Church of Canada's membership.

Reply Affidavit of Randy Bowes, Paras. 5-14.

19. One would think that against the backdrop of declining membership overall, that the UCC would be concerned about taking any steps that could have the effect of shuttering the doors of yet another congregation; particularly one in which the current members of the congregation support their Minister, the Reverend Vosper.

PART II – ORDER SOUGHT

20. The Appellant respectfully maintains her request that the Appeal Committee proceed to hear the appeal on one or more of the grounds.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Signed at Toronto, this 30th day of October 2015



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