

**EPISCOPAL DIOCESE OF MILWAUKEE  
BEFORE THE ECCLESIASTICAL TRIAL COURT**

**The Standing Committee of the  
Episcopal Diocese of Milwaukee,**

Presenter,

-v-

**The Reverend Martha Ann Englert,**

Respondent.

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**FINAL JUDGMENT AND SENTENCE**

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The Rev. Martha Englert has been adjudged guilty of the canonical Offense of Conduct Unbecoming a Member of the Clergy (Canon IV.4.1(j)) after an Ecclesiastical Trial during which the Court heard the testimony of 27 witnesses over the course of six days.

During the course of the numerous pretrial hearings, this Court encouraged the parties to pursue resolution of the case short of trial. The Court felt strongly that a resolution without trial would be in the best interest of all concerned: Ms. Englert, Grace Church, and the Diocese of Milwaukee. The Court went so far as to hold an in-chambers conference with the parties to try to facilitate resolution short of trial. However, both parties were resolute and unyielding in their positions. This Court concluded that, regrettably, neither side entered into good-faith discussion of the options available other than trial.

Before discussing the Sentence, the Court first will address Ms. Englert's contention that she cannot be found guilty of the canonical Offense of Conduct Unbecoming a Member of the Clergy for conduct that was primarily verbal.<sup>1</sup> The Court

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<sup>1</sup> "A review of the findings of the Court can only lead to the conclusion that the Court believes that it is a canonical offense for a Member of the Clergy to speak freely and candidly; to express opinions, observations and concerns about members of her congregation; to vent feelings; to have and show emotions; to get frustrated, or angry; to cry ..... (Respondent Sentencing Submission, page3)."

rejects the argument that verbal language cannot constitute conduct, within the meaning of the canons. Much of what ministers “do” is done through words, including preaching, teaching, counseling, advising, and directing. Indeed, the Offense of heresy itself – “holding and teaching publicly or privately, and advisedly, any doctrine contrary to that held by this Church,” Canon IV.1(c) – consists entirely of verbal conduct. If words were not conduct, virtually the whole range of what ministers do would be excluded from the possibility of being “conduct unbecoming a member of the clergy.” This would be an absurd result, and clearly not one intended by the Canons. It is unsurprising that Respondent provides no authority for her position; this Court is aware of none. No one knows better than the Church that words have consequences, particularly words uttered by members of the clergy. Clearly, words can wound, cause injury and suffering, and bring great harm to a congregation, as the Respondent’s words did in this case. Her words are the essence of the conduct that, in the aggregate, brought material discredit upon the Church and Holy Orders, as well as prejudicing the reputation, good order and discipline of the Church. (This issue is further discussed by Judge Cheesman in his attached concurring opinion, which discussion is endorsed and incorporated into this opinion of the Court).

In deliberating upon an appropriate disposition of this case, the Court is struck by two things: 1) first and foremost, the breadth and depth of harm caused by the Respondent to the individual Victims, to Grace Church, and to the greater Episcopal Church, and 2) secondarily, Respondent’s complete lack of any acceptance of responsibility or expression of remorse for the extensive harm she has caused.

The Respondent was found responsible for a “Pattern of Inappropriate Remarks” as charged in the Presentment. The Court, in its deliberations, made specific factual findings with respect to each of the allegations in the Presenter’s “Final Evidence Bill of Particulars.” Incorporated herein, and appended to this opinion, are the Factual Findings of the Ecclesiastical Trial Court.<sup>2</sup> These are the allegations that the Court has found to have been proven, by clear and convincing evidence, and to constitute the charges before the Court. The Court based its Judgment on the totality of the evidence, and in particular, on the credibility of the witnesses who testified at trial, including the numerous Victims and the Respondent herself. There were additional witnesses, and instances of inappropriate remarks that, while not providing a basis for separate allegations in the Presentment, further corroborate the Court’s findings that the evidence established a pattern of inappropriate remarks as charged. The Respondent engaged in a pattern of deliberately and repeatedly abusive, hurtful and inappropriate language directed at the members of her congregation. The Respondent screamed at, verbally abused, and

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<sup>2</sup> The names of witnesses and victims are protected in the court’s findings, and these names are not to be disclosed to anyone outside of the parties and the victims. The Court file will retain the Findings with the names of witnesses included.

gossiped about her parishioners on a regular basis. The Court did not find the Respondent responsible for the charge of “inappropriate disclosures” (the other Count of the Presentment), primarily because the context of the conversations did not make it clear that she was violating pastoral confidences. However, at a minimum, she engaged in repeated instances of malicious gossip, which served no pastoral purpose and, in fact, hurt her congregation and sabotaged long-standing relationships. Rather than helping her parishioners recognize their gifts in service to Grace Church and enabling or enhancing their participation, Respondent regularly, harshly and unfairly criticized parishioners who for years had supported the mission of the Church with their time, talent, and treasure. She verbally harangued them in public settings, causing considerable distress, and criticized their efforts to others. She created a confrontational atmosphere at Grace Church, characterized by intolerant criticism, verbal abuse, and rampant mistrust.

The dissent suggests that “the majority of these accusations were based on the testimony of two individuals, both disgruntled Church staff members, one of whom was a former close friend of the respondent.” (See Dissenting Opinion, attached) . We disagree. Of the two witnesses mentioned in the dissent, only one was a staff member; the other, like most of the witnesses, was a volunteer and member of the parish. There was no significant relationship between these two witnesses so as to suggest commonality of purpose or coordination of testimony. More importantly, the Court’s findings (see attached Factual Findings) were based upon the testimony of fourteen separate witnesses, as well as upon the corroborating testimony of additional witnesses not specifically named. The Court found these witnesses to be extremely and consistently credible. Their testimony was based on no discernible personal animus toward the Respondent. The evidence was overwhelming in support of the Judgment that Respondent was guilty of the Offense as charged.

Canon IV.15 defines “Conduct Unbecoming a Member of the Clergy” as follows:

“... any disorder or neglect that prejudices the reputation, good order and discipline of the Church, or any conduct of a nature to bring material discredit upon the Church, or the Holy Orders conferred by the Church.”

Consequently, the focus of the inquiry is on the harm caused by the Respondent’s conduct. The harm caused to Grace Church and the Victims in this case, as well as to the Church at large, is significant. The Respondent’s actions caused unnecessary and unjustified pain and grief to a number of parishioners, many of whom, as a result, came to question their faith and commitment to the church, causing some to leave Grace Church altogether. Parishioners who were active members of Grace for many years no longer felt welcome in their religious community. The parish suffered deep divisions and conflicts as parishioners took sides. The injury has been sustained and will be lasting.

In the midst of this strife suffered by her parish and occasioned by her conduct, the Respondent remains unremorseful and apparently unconcerned. The named Victims were invited to submit written statement to the Court, and most did. Respondent's response to these submissions was to discount and belittle their concerns, criticize them for their views, and further alienate them from herself and the Church. She has accepted no responsibility for her actions. Nor has she expressed remorse or regret for the loss of relationships and the wreckage that her tenure at Grace Church has wrought. It is this lack of recognition, responsibility or remorse, along with her systematic disregard for the care and concerns of others, that causes the Court grave concern about Respondent's ability to effectively function as a pastor in the Episcopal Church, or even as a priest in any capacity, without significant intervention and change.

Among the numerous instances making up Respondent's pattern of inappropriate remarks, the Court was particularly shocked that Respondent Englert cursed the Cup when administering communion, and indicated to more than one parishioner that she imagined the Communion Cup to contain hemlock when she administered it to those whom she disliked. Judge Cheesman of this Court writes separately regarding this egregious violation of the sacred trust between communicant and priest (see attached Concurring Opinion). The Court adopts Mr. Cheesman's analysis, although not his recommended Sentence.

**WHEREFORE**, the Ecclesiastical Trial Court for the Diocese of Milwaukee, with the concurrence of two-thirds of the Members of the Court who served for this Trial, hereby adjudges that the following Sentence shall be imposed on the Rev. Martha Englert, subject to any further proceedings permitted by Title IV of the Canons:

That the Rev. Martha Ann Englert shall be **SUSPENDED** from the Priesthood for a period of ten years from the date of this Final Judgment and Sentence. The period of the suspension may be reduced by five years, if all of the following conditions are met by Ms. Englert to the satisfaction of her Bishop:

1. That Ms. Englert receive approved psychological counseling to address anger management and impulse control. A treatment plan should be identified by the treating psychologist and approved by the Bishop, so that progress can be monitored.
2. That Ms. Englert meet regularly with a spiritual director of her own choosing, who is approved by her Bishop.



3. In consultation with her spiritual director and the Bishop, and subject to the Bishop's approval, that Ms. Englert spend time in sincere and structured contemplation of the Eucharist, such as:
  - Spending a significant amount of time in retreat, in contemplation of the Sacrament, or
  - Meditating upon the Sacred nature of the Eucharist from early church sources, a minimum of two occasions per year, and present to the Bishop her reflection and understanding of these meditations. A list of suggested meditations is attached.
4. That Ms. Englert demonstrate, to the satisfaction of her Bishop, an acceptance of responsibility for the consequences of her actions in committing this canonical Offense.
5. That Ms. Englert's treating psychologist and spiritual director be given copies of this opinion with all attachments, including the Factual Findings of the Court.
6. That Ms. Englert report to her Bishop quarterly as to the status of her compliance with the conditions of suspension, with at least one report each year being in writing.

Judge Hands of this Court dissents from the Judgment of Guilt but, accepting the Judgment of the Court, concurs in the recommended Sentence.

Judge Cheesman of this Court concurs with this opinion and offers a concurrence.

Attachments:

Meditations on the Sacred Nature of the Eucharist

Acknowledgements

Factual Findings of the Ecclesiastical Trial Court

Judge Cheesman Concurrence

Judge Hands Dissent

Dated the 11<sup>th</sup> day of September, 2007.

BY THE COURT:

James Carroll

Bonnie P. Campbell

John Grady

James A. Hanks

# ATTACHMENTS

**EPISCOPAL DIOCESE OF MILWAUKEE  
BEFORE THE ECCLESIASTICAL TRIAL COURT**

**The Standing Committee of the  
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**Meditations on the Sacred Nature of the Eucharist  
From Early Church Sources**

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1. ST. PAUL: 1 Cor. 10:16-17 and 1 Cor. 11:23-27
2. ST. IGNATIUS OF ANTIOCH: "Letter to the Smyrnaeans", paragraph 6;  
"Letter to the Ephesians", paragraph 20; "Letter to the Romans", paragraph 7;  
Epistle to the Philadelphians, 3:2-4:1
3. ST. JUSTIN MARTYR: "First Apology", Ch. 66; Dialogue with Trypho",  
Ch. 117; "Dialogue with Trypho", [41: 8-10].
4. ST. IRENAEUS: "Against Heresies"; "Five Books on the Unmasking and  
Refutation of the Falsely Named Gnosis". Book 4:18 4-5, Book 5:2, 2-3;
5. ST. CLEMENT OF ALEXANDRIA: "The Instructor of the Children". [1,6,41,3]  
;[2,2,19,4];
6. ST. CYPRIAN OF CARTHAGE: "The Lapsed" Ch. 26; "The Lord's Prayer",  
chapter 18:
7. . EPHRAIM: "Homilies", 4,4; 4,6.
8. ST. ATHANASIUS: "Sermon to the Newly Baptized"
9. ST. CYRIL OF JERUSALEM: Catechetical Lectures 22: 1, 3.
10. ST. GREGORY OF NAZIANZ: "Letter to Amphilochius, Bishop of Iconium"

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**ACKNOWLEDGEMENTS**

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The Court owes a great debt of gratitude for the assistance that we have received in completing this difficult and important obligation. We would like to thank:

Our Lay Assessor, Attorney Richard Hoskins. Attorney Hoskins donated a substantial amount of time to the service of this court, accepting a mere pittance for his significant contribution. He was required to travel, many times, from his home in Chicago to Milwaukee and to Madison. There were six pretrial meetings of the Court, including two pretrial hearings with the parties, six days of trial, and three days of deliberation, as well as numerous telephone conferences, emails, and discussions. Mr. Hoskins' contributions and assistance to the court were invaluable. His knowledge of the canons, his direction and guidance to the court, his deep and abiding faith, his common sense, sense of justice, and sense of humor were of immeasurable service to the Court.

Our Clerk of Court, Loraine Garner. Ms. Garner accepted the call to become the third clerk to this court. It's a thankless job. It involves managing a tremendous amount of documents, facilitating communication between the court and the parties, arranging the logistical details necessary for the court to function, and being responsible for a voluminous record. Ms. Garner accepted this position, knowing and understanding the commitment involved. She has been superb in her response to the court, and we have come to rely upon her administrative skill and her cheerful acceptance of this difficult task.

Rev. Chris Keogh and the kind parishioners of Good Shepherd, Sun Prairie. The majority of the trial was held at Good Shepherd, who welcomed this Court, the participants and attendees, with open arms. Good Shepherd made everyone feel welcome, re-arranged their church, provided refreshments, and were extraordinary hosts.

Rev. Amy Richter and the parishioners of St. Paul's, Milwaukee. St. Paul's was the site of the pretrial hearings, and all of the meetings of the Court. We were always welcomed by the sexton and the parish. They opened their doors, and put the coffee on. They were always accommodating and gracious, and become "home" to the court.

Rev. Shannon Kelly and St. Francis House, Madison, who hosted one of the days of the trial, and made all participants feel comfortable and welcome.

Rev. Scott Lehanna and St. Mary's Dousman, who hosted the court during one of the days of the court's deliberation.

Members of the Court who were called but were unable to serve to the conclusion of the Trial: Rev. Tom Winslow, Rev. Amy Richter, and Attorney Jan Rhodes. Their contributions to the Court, and their willingness to serve, deserve our thanks.

We especially remember the contributions of Attorney George Greene, who was called home to God in the midst of the trial. George was smart, level-headed, compassionate, and kind. We were honored to serve with him, and miss him tremendously.



**ECCLESIASTICAL TRIAL COURT  
FOR THE DIOCESE OF MILWAUKEE**

THE STANDING COMMITTEE OF THE EPISCOPAL  
DIOCESE OF MILWAUKEE, INC.

Presenter,

v.

THE REVEREND MARTHA ENGLERT

Respondent.

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**FACTUAL FINDINGS OF THE TRIAL COURT (Public Version)**

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The Court hereby finds that the following factual allegations, contained in Presenter's "Final Evidence Bill of Particulars" have been proven and are relevant to the charges in the Presentment. The Court bases its Judgment upon this evidence, the exhibits received into evidence, and the totality of the evidence presented.

1. Over the phone, the Respondent read to Anne Strauss an e-mail communication relating to pastoral counseling, pastoral communications and pastoral issues involving Person 10 in the fall of 2005. The e-mail communication that the Respondent read to Strauss was sent on October 15, 2005. Presenter's Exhibit 3.
2. In the spring of 2005, the Respondent told Linda Newman that she had provided pastoral counseling in Maine to the husband of a well known author whom the Respondent said had an addiction to Internet pornography. Presenter's Exhibit 1.

3. Respondent told the Vestry at the January 2006 meeting that Person 10 was a troubled person who had complained to the Bishop about her, that Person 10 had been receiving pastoral care from Rev. Shemayev, and that “it had become necessary to terminate the pastoral relationship” because Person 10 “made inappropriate [sexual][sexual harassment] approaches to the priest.” This led to a pastoral e-mail being read to the Vestry which did not substantiate sexual advances or sexual harassment. Presenter’s Exhibit 3 and Presenter’s Exhibit 8. The Respondent read the e-mail to the Vestry. The Respondent incorrectly testified that the sexual harassment of Shemayev continued by e-mail leading up to the January 2006 Vestry meeting. It was later stipulated there were not and never had been such e-mails.
4. The Respondent stated, with regard to Person 40 and Person 40’s family, that:
- a) Person 51 and the Respondent agreed that Person 40 had been a “bitch” since the death by suicide of Person 40’s father.
  - b) Person 40’s mother drank herself into a coma and was in the ICU following the death by suicide of Person 40’s father and that it “would be a very bad thing to bring Person 40’s mother home to live with Person 40 ...” This was told to William Barnett-Lewis by the

Respondent in a conversation that took place in August, 2005. This was also communicated by the Respondent to the Vestry.

- c) Person 40's mother had been arrested, put in jail for drunk driving, and would do "serious jail time" because she had been arrested so many times for drunken driving. This was disclosed to Strauss by the Respondent.
- d) Person 40's son had been arrested for an alcohol-related driving offense and had lost his driving license "due to an alcohol related law infringement." This was said to Anne Strauss.
- e) Person 40 could not be trusted around children because Person 40's mental health was so bad following the death by suicide of Person 40's father. This was said by the Respondent in a Vestry meeting that took place in August, 2005 or September, 2005. Respondent also stated that Person 40's mother was an alcoholic and had been hospitalized and was in a coma.
- f) Person 40 and Person 51 might get a divorce, that Person 40's mental health was causing behaviors that were hard on the marriage, and that Person 51 was fed up and "probably going to leave Person 40." This was said to Anne Strauss.
- g) Person 40's daughters were required to provide too much child care and that this would cause problems for the daughters later in life. She also stated that Person 40 was not caring for Person 40's young son as was needed.

- h) Person 40's parents had problems which resulted in Person 40 not getting needed parental nurturing as a child or as an adult because of Person 40's parents' "mental health and alcoholic involvements," resulting in "a negative impact on Person 40's mental health."
- i) The Respondent described in graphic detail to Anne Strauss some aspects of the death by suicide of Person 40's father, including that he had shot himself in the head, that he had done it in his own home and that "brains and blood and other body tissues were splattered all over the room, on the wall, on the carpet, on the furniture." Respondent told Strauss that Person 40's mother probably had witnessed the suicide and that it was "necessary for Person 40 to walk through the scene of the death and that doing so was a major contribution to Person 40's mental breakdown." Additionally, the Respondent told Strauss of how the death scene smelled and of her advice to Person 40 to use Vick's vapo-rub and that "walking through the remains ... caused Person 40 to succumb to a mental breakdown." The Respondent told Strauss that when Person 40 went to the police station to pick up a bag containing Person 40's father's personal effects Person 40 looked into the bag, saw what was thought to be a rosary, and related how touched Person 40 was that Person 40's father had a rosary with him when he died. When Person 40 reached into the bag Person 40 realized it was not a rosary but "congealed bits of brain tissue and other body tissues congealed onto a key chain," causing Person 40 to be overcome and run out of the room

to vomit. Respondent told Strauss the death by suicide of Person 40's father was "the ultimate fuck you" to the family.

- j) When Melissa Thiessen was working in the Church office as a receptionist, the Respondent spoke to her about Person 40 following the death of Person 40's father. Respondent said Person 40 was mentally unstable and not performing her job.
- k) In late August or early September, 2005, the Respondent told Melissa Thiessen that Person 40 needed therapy, that Person 40 wouldn't go to therapy because Person 40 was a therapy snob, that Person 40 was enabling her mother "to stay in shock and to stay a drunk," and that Person 40 was not doing her job and the Respondent did not know how long "she could allow Person 40 to continue at this job."
- l) Before a Wednesday staff meeting, probably on September 21, 2005, the Respondent again raised with Thiessen the issue of Person 40's mental health. On this occasion, the Respondent for 20 to 30 minutes repeated over and over to Thiessen that Person 40 was crazy, Person 40 had been a "bitch", and that Person 40 could not be employed at Grace Church any longer. The Respondent also said that Person 40 was enabling her mother.
- m) The Respondent discussed with Francine Hartman that Person 40, after Person 40's father's death, was having "a very hard time," was "not handling things well," needed time off "for support and counseling," and was "not able to come back to work." The Respondent also told

Hartman that Person 40's mother was an alcoholic who had a drinking and driving problem after her husband's death, and that that Person 40's father was crazy and this was a "family problem."

n) In September, 2005, Respondent told Melissa Thiessen that she was going to have to fire Person 40 because Person 40 was not doing the job Person 40 was hired to do.

5. In front of the staff, Respondent verbally attacked Person 26 because of Food Pantry finances and rumors, angrily asserting that Person 26 was responsible for rumors that Grace Church would not support the Food Pantry and that the Food Pantry might close. Respondent stated that Person 26 was not running the Food Pantry right, was not competent in the job, and that Person 26 was to blame for the Food Pantry rumors that upset the Respondent. Respondent criticized Person 26 for not letting people know "what was actually going on" regarding the Food Pantry.

6. In early 2004 the Respondent told Mary Ann Cook that Persons 4 and 5 were not adequate as clergy and that she would not have them at Grace Church as regular clergy staff. She stated that Person 4 was a nice person but inadequate. Person 5 "ran" Person 4. Person 5 was a "bitch" and controlling.



7. Shortly after the Respondent starting working at Grace Church, Respondent was at the home of Mary Ann and Frank Cook. Speaking of another candidate for the Grace Church job whom the Respondent was surprised and appalled had been offered the Grace Church job, the Respondent called him emotionally unstable, talked about his class bias (wanted a rich parish), said the candidate's wife was gay, that she had left a lesbian relationship to marry, and called the marriage "very surprising." The Respondent also reflected on the lack of qualifications of two prior candidates.
8. At a November 2005 Vestry meeting, Respondent verbally attacked a committee chair, Person 15, as being incompetent, a poor budgeter.
9. Respondent stated Person 13 was living with another person, had moved out of the house where Person 13 had lived with Person 14, and that they were going to get divorced. This was told to Bill Warner and Judy Rose in church a few minutes before a Sunday service and later told to the Vestry. The Respondent also stated to Kabura Mukasa and two other women the following Sunday that it makes her mad to see Person 13 in church "after all that Person 13's done to Person 14 and the kids." The Respondent went on to say that Person 13 was no longer with Person 14 and kids, that Person 13 was living with another person and yet "Person 13 thinks Person 13 can still come here and sing in the choir."

10. In the March 2005 Vestry meeting, the Respondent told the Vestry the Person 13/Person 14 family portrayed themselves as a Christian family and they are not. The Respondent told the Vestry that the Person 13 and Person 14's marriage "was in terrible trouble", that the Person 13 was unfaithful to Person 14 and that their daughter was suffering from an eating disorder. Respondent stated that in such situations the unfaithful person often comes to church with a new spouse and she hoped that would not happen here. Respondent said they "held themselves out as a model Christian family" but in fact were not getting along and were getting a divorce and that Person 13 had left the home, would not talk to Person 14, Person 14 was distraught, and the family was a mess.

11. The Respondent told Linda Newman more than once that the marriage of Person 23 and Person 22 was in trouble.

12. The Respondent told Linda Newman several times in the second half of 2005 that Person 15 and Person 16 lived as friends, that theirs was not a "real marriage" and the marriage was in trouble. .

13. Respondent told Tracy Thompson that Person 16 was planning to divorce Person 15 because Person 16 was sick of Person 15's "drinking heavily" to mask "a very deep depression" because of health problems Person 15 was having.

14. Respondent told Linda Newman that the marriage of Person 11 and Person 10 was in trouble in part because Person 11 was addicted to pornography on the web.
15. Respondent said to Tracy Thompson that Person 10 was working hard to keep the family together and to pay the bills, and that the marriage probably would not last because Person 11 was crazy and Person 10 did not feel able to leave Person 10's son safely with Person 11 while at work.
16. The Respondent told Kara Pagano during an in-person meeting that took place on August 3, 2005 that Person 18 was a "big alcoholic." Respondent also told Linda Newman that she was worried about Person 18's drinking.
17. The Respondent stated to Elizabeth Steinhoff that Person 15 had a drinking problem, that Person 15 was drinking too much, and that Person 15 probably would drink more because Person 15's back problems were getting worse. In early 2005, the Respondent told William Barnett-Lewis that Person 15 was a problem on the Vestry and that Person 15 had "a severe drinking problem."

18. Respondent told Tracy Thompson that Person 15 was in a very deep depression and drinking heavily, and that Person 16 is sick and tired of it and planning to divorce Person 15.
19. In September, 2005, Respondent stated to Anne Straus that Person 40 was mentally unstable and mentally ill following the death by suicide of Person 40's father. The suicide had exacerbated Person 40's mental health state "to the extent that she was incapacitated." She stated that Person 40 was falling apart, Person 40 had been pushed to the edge by the suicide, and that the Respondent did not want to tip Person 40 over the edge.
20. The Respondent disclosed to Anne Strauss that Person 40 had a sleeping disorder and Lyme's disease that caused Person 40 to be unable to care for the children and that led to the older children having to provide "most of the parenting in child care" for the young son. Respondent said the two older daughters "would never leave home" because Person 40 "wanted them to do what was Person 40's job" and because Person 40 was "keeping them at home in order to get work out of them."
21. The Respondent said Person 22 was "unrealistic" regarding the healing business and that Person 22 had gone to the Respondent begging her for rent money from the Rector's Discretionary Fund. The Respondent told this to Tracy Thompson.

22. The Respondent said to Linda Newman in conversation that there was no financial stability for Persons 22 and 23, that Person 22 was not being as careful with the money as the Respondent thought Person 22 should be, and that the Respondent had to give them money to “put food on the table.”

23. **Hemlock Remarks**

The Respondent was often angry or frustrated with particular parishioners. When the Respondent would give communion to those parishioners, she would all the time say to herself that the wine was hemlock and name the parishioner, saying silently to herself, “Drink the hemlock, \_\_\_\_\_. Drink the hemlock.”

The Respondent told Tracy Thompson she had done this on more than one occasion. The one person the Respondent named to Tracy Thompson in this regard was Person 17.

Erin Thiessen was an acolyte for a Sunday service within the final weeks before Person 40’s employment at Grace Church ended. The Respondent approached Thiessen while communion was being distributed and said, “Sometimes when I’m giving communion out to some people, I imagine Hemlock spilling over the cup.” The Respondent asked Thiessen if she knew what Hemlock was and Thiessen said she did.

On one occasion in early/mid-summer, 2005, Elizabeth Steinhoff and the Respondent saw and greeted each other in the courtyard at Grace Church. The Respondent said to Steinhoff, “Oh, I’d like to put poison in Person 17’s communion cup.”

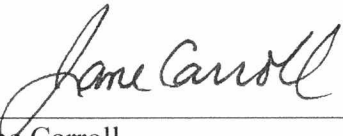
24. When upset or angry, the Respondent would talk with parishioners, often by telephone, and engage in long, loud, and angry outbursts about the issues and people who were on her mind:

25. An hour telephone call took place on November 19, 2005 with Anne Strauss in which the Respondent yelled and screamed things, saying that Strauss was taking too much of her time and that the parents were not competent to make decisions for the Sunday School. Because the Respondent was yelling and clearly out of control, Strauss asked if they should talk another time to which the Respondent replied, “No.” After an hour, the Respondent hung up on Strauss who did not understand what had happened during the conversation. An issue was the time for Sunday School to meet, including that certain times under consideration would, according to the Respondent, cause the junior choir leaders to go “totally apeshit”. The Respondent also said that she was spending too much time talking to Strauss and Strauss was taking too much of the Respondent’s time.



26. The Respondent bared her breasts to Person 22 in 2005, in the Sacristy while discussing plastic surgeries that she had undergone.
27. The Respondent told Anne Strauss in the fall of 2005 that she provided false information to a parishioner, Person 17, whom she called a gossip and had “set up” to fall into the trap of “being caught in the act of gossiping.”
28. Respondent stated that the older parishioners at Grace Church were particularly difficult because they interfered with getting things done, especially Person 17 whom the Respondent disliked. This was said to Kara Pagano on August 3, 2005. The Respondent also told Pagano that John Fetterman had told the Respondent that the older parishioners “had always been like that” and drove him nuts the way they were driving the Respondent nuts. Respondent named Person 17 in particular, calling her a shrew who interferes and a definite pastoral case.

Dated this 15<sup>th</sup> day of June, 2007

  
\_\_\_\_\_  
Jane Carroll  
Presiding Judge

**EPISCOPAL DIOCESE OF MILWAUKEE  
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**CONCURRING OPINION**

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Discussion of Verbal “Conduct”

The respondent has asserted the astonishing notion that she cannot be held accountable for her remarks, because “words are not actions”. As an attorney as well as a priest, I submit that the notion that “words are not actions” are belied both by the following statutes in the **Criminal Code of Wisconsin** (these are considered criminal *acts* punishable by fine or imprisonment or both, and are cited here as illustrations of criminal conduct recognized by courts in Wisconsin, which are similar to laws of other jurisdictions) and by the Church’s doctrine and worship.

I. The Criminal Code of Wisconsin<sup>1</sup>

**940.201 Battery or threat to witnesses.** Whoever does any of the following is guilty of a Class H felony:

940.201(2)(a)

(a) Intentionally causes bodily harm or threatens to cause bodily harm to a person who he or she knows or has reason to know is or was a witness by

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<sup>1</sup> I limit myself to the area of law in which I practice: criminal trials and appeals. There are, to be sure, other examples in the civil law and administrative code demonstrating that words can be actions.

reason of the person having attended or testified as a witness and without the consent of the person harmed or threatened.

(b) Intentionally causes bodily harm or threatens to cause bodily harm to a person who he or she knows or has reason to know is a family member of a witness or a person sharing a common domicile with a witness by reason of the witness having attended or testified as a witness and without the consent of the person harmed or threatened.

940.203(2)

(2) Whoever intentionally causes bodily harm or threatens to cause bodily harm to the person or family member of any judge under all of the following circumstances is guilty of a Class H felony:

There are other subsections prohibiting threats to Dept. of Revenue personnel and to workers in the commerce dept. and dept. of workforce development [aka “welfare”].

The gravamen of the offense is the utterance of words reasonably understood to threaten harm to another person by virtue of their government position and exercise of authority within that position. It is not necessary that the physical harm be done or even attempted. The words themselves are an act punishable under the law.

**940.44 Intimidation of victims; misdemeanor.** Except as provided in s. 940.45, whoever knowingly and maliciously prevents or dissuades, or who attempts to so prevent or dissuade, another person who has been the victim of any crime or who is acting on behalf of the victim from doing any of the following is guilty of a Class A misdemeanor:

**940.45 Intimidation of victims; felony.** Whoever violates s. 940.44 under any of the following circumstances is guilty of a Class G felony:

(3) Where the act is accompanied by any express or implied threat of force, violence, injury or damage

(4) Where the act is in furtherance of any conspiracy

**941.13 False alarms.** Whoever intentionally gives a false alarm to any public officer or employee, whether by means of a fire alarm system or otherwise, is guilty of a Class A misdemeanor.

**941.35 Emergency telephone calls.**

(3) Whoever intentionally asks for or requests the use of a party line on the pretext that an emergency exists, knowing that no emergency in fact exists, is subject to a Class B forfeiture.

941.38(2)

(2) Whoever intentionally solicits a child to participate in criminal gang activity is guilty of a Class I felony.

**942.01 Defamation.**

942.01(1)

(1) Whoever with intent to defame communicates any defamatory matter to a 3rd person without the consent of the person defamed is guilty of a Class A misdemeanor.

942.01(4) but (4) No person shall be convicted on the basis of an oral communication of defamatory matter except upon the testimony of 2 other persons that they heard and understood the oral statement as defamatory or upon a plea of guilty or no contest.

**943.011 Damage or threat to property of witness.**

**943.015 Criminal damage; threat; property of department of revenue employee.**

**944.30 Prostitution.** Any person who intentionally does any of the following is guilty of a Class A misdemeanor:

944.30(1)

(1) Has or offers to have or requests to have nonmarital sexual intercourse for anything of value.

944.30(2)

(2) Commits or offers to commit or requests to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another for anything of value.

944.30(4)

(4) Masturbates a person or offers to masturbate a person or requests to be masturbated by a person for anything of value.

944.30(5)

(5) Commits or offers to commit or requests to commit an act of sexual contact for anything of value.

944.32 Soliciting prostitutes. Except as provided under s. 948.08, whoever intentionally solicits or causes any person to practice prostitution or establishes any person in a place of prostitution is guilty of a Class H felony.

*And note: 944.32 - ANNOT.*

*Section 944.32, 1985 stats., prohibiting solicitation of prostitutes, does not violate right of free speech. Shillcutt v. State, 74 Wis. 2d 642, 247 N.W.2d 694 (1976).*

**944.33 Pandering.**

944.33(1)

(1) Whoever does any of the following is guilty of a Class A misdemeanor:

944.33(1)(a)

(a) Solicits another to have nonmarital sexual intercourse or to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another, masturbation or sexual contact with a person the solicitor knows is a prostitute; or

944.33(1)(b)

(b) With intent to facilitate another in having nonmarital intercourse or committing an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another, masturbation or sexual contact with a prostitute, directs or transports the person to a prostitute or directs or transports a prostitute to the person.

#### **946.01 Treason.**

946.01(1)

(1) Any person owing allegiance to this state who does any of the following is guilty of a Class A felony:

946.01(1)(a)

(a) Levies war against this state; or

946.01(1)(b)

(b) Adheres to the enemies of this state, giving them aid and comfort.

946.01(2)

(2) No person may be convicted of treason except on the testimony of 2 witnesses to the same overt act, or on the person's confession in open court.

#### **946.03 Sedition.**

1) Whoever does any of the following is guilty of a Class F felony:

946.03(1)(b)

(b) Is a party to a conspiracy with or a solicitation of another to overthrow the government of the United States or this state by the use or threat of physical violence; or

946.03(1)(c)

(c) Advocates or teaches the duty, necessity, desirability or propriety of overthrowing the government of the United States or this state by the use or threat of physical violence with intent that such government be overthrown; or

946.03(1)(d)

(d) Organizes or assists in the organization of an assembly with knowledge that the purpose of the assembly is to advocate or teach the duty, necessity, desirability or propriety of overthrowing the government of the United States or this state by the use or threat of physical violence with intent that such government be overthrown.

**946.10 Bribery of public officers and employees.** Whoever does either of the following is guilty of a Class H felony:

946.10(1)

(1) Whoever, with intent to influence the conduct of any public officer or public employee in relation to any matter which by law is pending or might come before the officer or employee in the officer's or employee's capacity as such officer or employee or with intent to induce the officer or employee to do or omit to do any act in violation of the officer's or employee's lawful duty transfers or promises to the officer or employee or on the officer's or employee's behalf any property or any personal advantage which the officer or employee is not authorized to receive;

**946.11 Special privileges from public utilities.**

946.11(1)

(1) Whoever does the following is guilty of a Class I felony:

946.11(1)(a)

(a) Whoever offers or gives for any purpose to any public officer or to any person at the request or for the advantage of such officer any free pass or frank, or any privilege withheld from any person, for the traveling accommodation or transportation of any person or property or for the transmission of any message or communication; or

946.11(1)(b)

(b) Any public officer who asks for or accepts from any person or uses in any manner or for any purpose any free pass or frank, or any privilege withheld from any person for the traveling accommodation or transportation of any person or property or for the transmission of any message or communication; or

946.11(1)(c)

(c) Any public utility or agent or officer thereof who offers or gives for any purpose to any public officer or to any person at the request or for the advantage of such officer, any frank or any privilege withheld from any person for any product or service produced, transmitted, delivered, furnished or rendered or to be produced, transmitted, delivered, furnished or rendered by any public utility, or any free product or service whatsoever; or

946.11(1)(d)

(d) Any public officer who asks for or accepts or uses in any manner or for any purpose any frank or privilege withheld from any person for any product or service produced, transmitted, delivered, furnished or rendered by any public utility.

**946.12 Misconduct in public office.** Any public officer or public employee who does any of the following is guilty of a Class I felony:

946.12(5)

(5) Under color of the officer's or employee's office or employment, intentionally solicits or accepts for the performance of any service or duty anything of value which the officer or employee knows is greater or less than is fixed by law.

**947.01 Disorderly conduct.** Whoever, in a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance is guilty of a Class B misdemeanor.

Annotations to this statute: 947.01 - ANNOT.

*A "true threat" is a statement that a speaker would reasonably foresee that a listener would reasonably interpret as a serious expression of a purpose to inflict harm, as distinguished from hyperbole, jest, innocuous talk, expressions of political views, or other similarly protected speech. It is not necessary that the speaker have the ability to carry out the threat. State v. Perkins, 2001 WI 46, 243 Wis. 2d 141, 626 N.W.2d 762, 99-1924.*

947.01 - ANNOT.

*Application of the disorderly conduct statute to speech alone is permissible under appropriate circumstances. When speech is not an essential part of any exposition of ideas, when it is utterly devoid of social value, and when it can cause or provoke a*



*disturbance, the disorderly conduct statute can be applicable. State v. A.S. 2001 WI 48, 243 Wis. 2d 173, 626 N.W.2d 712, 99-2317.*

**947.012 Unlawful use of telephone.**

**947.015 Bomb scares.**

**947.017 Threats to release chemical, biological, or radioactive substances.**

**948.04 Causing mental harm to a child.** [It is possible to violate this statute with words alone].

948.04(1)

(1) Whoever is exercising temporary or permanent control of a child and causes mental harm to that child by conduct which demonstrates substantial disregard for the mental well-being of the child is guilty of a Class F felony.

**948.05 Sexual exploitation of a child.**

948.05(1)

(1) Whoever does any of the following with knowledge of the character and content of the sexually explicit conduct involving the child may be penalized under sub. (2p):

948.05(1)(a)

(a) Employs, uses, persuades, induces, entices, or coerces any child to engage in sexually explicit conduct for the purpose of recording or displaying in any way the conduct.

**948.07 Child enticement.** Whoever, with intent to commit any of the following acts, causes or attempts to cause any child who has not attained the age of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class D felony:

**948.08 Soliciting a child for prostitution.** Whoever intentionally solicits or causes any child to practice prostitution or establishes any child in a place of prostitution is guilty of a Class D felony.

\* \* \*

## II. The Doctrine and Worship of the Church

A priest of this Church cannot rationally assert that words are not actions. The sacraments themselves, including her ordination, are actions the elements of which are not merely the physical substances but the words which give them meaning and power. One of the sacraments, in fact, by its nature has no physical element at all: confession. The elements of the Eucharist are consecrated by the act of saying the Words of Institution; a deacon, priest or bishop is made so not only by the laying-on of hands but by the spoken assent of the assembled congregation and

the words spoken by the consecrator as hands are laid on the ordinand. The speaking of these words are acts of power, without which the thing cannot be done.

Any pastor knows that words have the power to heal and to hurt. Jesus Himself used words to still the storm, to heal the sick, to restore life to Lazarus, to cast out a demon. They were seen and referred to as “mighty acts”. He gave His disciples, and thus His Church, authority to declare “whose sins you forgive” and “whose sins you retain”. Are not prayers speech [whether formed with the lips or in one’s mind alone] and is not praying a devotional act?

The implication of Respondent’s assertion is that as long as all she did was say something, she didn’t “do” anything, and that her words are protected as the exercise of “free speech”. She misunderstands the term.

Even in the secular context, “free speech” has its limitations. Most are familiar with Oliver Wendell Holmes’ famous observation that free speech doesn’t give one the right to shout “fire!” in a crowded theater. More specific to the ordained ministry, however, is the limitation that was voluntarily accepted at ordination and, indeed, was recognized by others prior to ordination. Respondent was certified to her bishop as already demonstrating a manner of life suitable for the exercise of the ordained ministry, which means that she had already voluntarily put restraints on what she said and how she said it. To accept the “doctrine, discipline and worship of Christ as this Church has received them” is to conform oneself to restrictions of speech and conduct that otherwise would not apply.

Respondent cannot protest that she exercises her ministry in conformity with her ordination vows and the canons of this Church, and at the same time invoke “free speech” because of her own wounded feelings, when it hurts members of her congregation. She may indeed be free to express herself to a confessor or spiritual director or close friend; but to blurt out her anger, frustration and resentments without restraint is an exercise in irresponsibility, not free speech.

The court rejects the Respondent’s assertion and argument.

### Discussion of the Recommended Sentence

I concur in the finding and judgment of the court, and write separately to state my view that the offense warrants deposition.

The Court has recommended a Sentence of Suspension.

While this disposition may be appropriate to the other offenses for which she was found guilty, I question its rehabilitative capability and efficacy with regard to the finding that on multiple occasions Ms. Englert viewed the chalice as containing “hemlock” as she administered it to certain members of her flock.

From the time of the first reading of the Presentment against Ms. Englert, I have viewed the accusation that she blasphemed the Sacrament as the most egregious of the alleged offenses. This belief in no way diminishes the serious nature of the other charges. It recognizes, however, that for a priest to refer to the consecrated wine as “hemlock”, indicating a toxic rather than redemptive nature, is to then and there separate herself from the priesthood. At her ordination to the diaconate, Ms. Englert promised to be “loyal to the doctrine, discipline and worship of Christ as this Church has received them”. The obedience promised is to Christ Himself, not merely to a set of rules set down by General Convention. The doctrine of Christ concerning the Eucharist is that the consecrated wine is His Blood, “the cup of salvation” as it is administered to the faithful at communion. To refer to it as a cup of hemlock, lethal poison, is to violate this promise in the most fundamental way. In my view, Ms. Englert then and there renounced her ordination vows. Thus, the disposition of this case is not properly addressed to the healing of a damaged priesthood, but to the recognition of its destruction by Ms. Englert herself.

At her ordination to the priesthood, Deacon Englert was certified to her bishop as having “manner of life suitable to the exercise” of that ministry. I find it impossible to believe that this certification could or would be ratified today by those who presented her for ordination, given that she has been found to have committed this offense. Deacon Englert repeated her vow to be loyal to the doctrine, discipline and worship of Christ when she was ordained priest. She violated that promise when she administered to her congregants not a cup of salvation but, in her eyes, a cup of damnation.

It matters not whether she thought or spoke in jest, anger, frustration or confusion. The toxic intent is manifested in the act. Had she kept these thoughts to herself, of course, she would answer only to God and her conscience, but still would have been exercising her ministry under false colors. That she revealed her intent to others, not in remorseful confession but in triumphant glee, reveals a manner of life unsuited to the ordained ministry, and a profound misapprehension of the very nature of priesthood. The other charges found to be substantiated by the evidence only highlight the revelation that Martha Ann Englert effectively renounced her ordination vows by her actions.

My personal view is that deposition would be warranted here. However, under the circumstances, I join in the Sentence of Suspension as set forth in the Final Judgment and Sentence of the Court.

Dated this 11<sup>th</sup> day of September, 2007.

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Benbow P. Cheesman Jr.+  
Judge of the Ecclesiastical Trial Court  
Diocese of Milwaukee

**EPISCOPAL DIOCESE OF MILWAUKEE  
BEFORE THE ECCLESIASTICAL TRIAL COURT**

**The Standing Committee of the  
Episcopal Diocese of Milwaukee,**

Presenter,

-v-

**The Reverend Martha Englert,**

Respondent.

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**DISSENTING OPINION**

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It is the opinion of this judge that the respondent, The Rev. Martha Englert was not proven guilty of the charge of conduct unbecoming a member of the clergy by clear and convincing evidence. From the testimony I have heard and the evidence I read, I conclude that the alleged misconduct was not proven by clear and convincing evidence.. There were two central accusations against her, i.e., first, that she made improper disclosures and second, that she made inappropriate remarks. The accusations concerning inappropriate disclosures were rejected by the entire court. The accusations concerning inappropriate remarks were judged by 3 of the 4 judges as proven. For the following reasons, I dissent from those findings.

I find that these allegations were carried forward by parishioners whose feelings were hurt by the way they perceived The Rev. Martha Englert. However, feelings are not facts and have a way of mushrooming. The majority of theses accusations were based on the testimony of two individuals, both disgruntled Church staff members, one of whom was a former close friend of the respondent. From carefully listening to their testimony as well as to that of others who worked and interacted with the respondent, I find these improper remarks accusations to be the result of undue bias and animus. I found the respondent's testimony regarding the accusations against her to be credible.

In my opinion, the unfortunate proceeding was the result of personal and professional relationships gone sour. I respectfully offer that such conflicts are more properly handled initially by a series of professional interventions, including trained psychological relationship counseling and professional mediation. If these far less costly

avenues of conflict resolution fail, then a speedy ecclesiastical trial should be the venue of last resort.

Dated this 11<sup>th</sup> day of September, 2007

The Rev. Donald R. Hands, Ph.D.  
Judge of the Ecclesiastical Trial Court