

FINAL

Anglican Church of Southern Africa  
Diocese of Cape Town

Judgement of the Diocesan Tribunal to hear charges of  
misconduct against the Revd Melvin Booysen

Held on 28 June, 21 July, and 5, 6, 10 and 11 August 2021

Judgement delivered 30 September 2021

*STATUS OF THIS JUDGEMENT:*

Canon 39:9 (a), headed *Judgement of Tribunal*, states :-

- (i) The judgement of the Tribunal as to the facts of the charge shall be that of the majority of its members, and all members shall have the right to state the ground for their finding.*
- (ii) In cases of charges under Canon 37(1) (a) or (b), (that is to say, charges of sexual assault or sexual harassment) all members of the Tribunal must produce written reasons for their decisions.*
- (iii) Members of the Tribunal may write joint, concurring judgements.*

In compliance with the above, we affirm that the following judgement is unanimous except for one item, and a certificate is attached, confirming that each member of the Tribunal concurs with the conclusions and the argumentation in this judgement. This obviates the need for each member's separate judgement to be produced and published in addition to this judgement. Where the difference exists, that is noted in the judgement and reasons are attached by the minority.

## Summary of Tribunal Judgement: The Revd M Booysen

This year, the Anglican Church of Southern Africa, in keeping with its longstanding commitment to address the lethal ABC of abuse, bullying and concealment in the Church, established a diocesan tribunal in Cape Town to give a fair and careful public hearing to complaints made by the Revd June Major against the Revd Melvin Booysen, and against the Church.

As Church our first obligation to June Major is to continue extending the compassion and respect to which she is entitled, and to offer such ministry as she may wish to receive.

This Tribunal unanimously finds the Revd Melvin Booysen NOT GUILTY of sexually assaulting June Major in Grahamstown in 2002. There is no evidence of the Complainant laying allegations or informing her Bishop prior to 2016, and no corroboration of them; we do not find her account consistent with a series of circumstantial factors in the story.

Booyesen is not her rapist.

The Tribunal finds Booysen GUILTY of breaching Resolution of Permanent Force 5 which governs ministerial conduct for clergy and lay leaders in this Church, by apparently invading the Complainant's private space in their lodgings; some therapy and retraining have been recommended to the Bishop.

Findings on the other charges are set out in the judgement and there is one dissenting opinion on the charge of harassment, which can be found there.

Mrs Major continues to represent herself as an active Anglican priest in good standing, which by her own choice, she has not been since she resigned some years ago. We recommend that the Bishop of Table Bay clarifies the truth to the public.

The reasoning on which the Tribunal based its findings will be introduced by the President at the announcement today, and opportunity will be given for clarification tomorrow when parties have had a chance to digest the judgement and formulate questions. Inquiries should be sent to the Tribunal's email address ([acsatribunal@gmail.com](mailto:acsatribunal@gmail.com)).

The Tribunal's reasoning and conclusions are set out fully in the judgement released today. (<https://bit.ly/38zJhgl>)

30 September 2021

### *1: INTRODUCTION*

On 3 December 2020, Articles of Presentment in terms of Canon 37: 6 & 7 of the Constitution and Canons of the Anglican Church of Southern Africa, were submitted to the Bishop of Table Bay, Bishop Joshua Louw, by the Ven Mark Long, relating to the Revd June Dolley Major and the Revd Melvin Booyesen.<sup>i</sup>

The Articles alleged, in summary, that Booyesen had raped Major 'on or about' October 2002 during a visit to Grahamstown, and that various persons in the Church had urged her to 'keep quiet' about the incident, thus effectively implicating the Church in concealment of the offence.

The Bishop then appointed a Board of Preliminary Inquiry in terms of Canon 39:2, under the chairmanship of Mr Henry Bennett, and the Board duly reported, indicating that there was a prima facie case to be answered.

Because Canon 37: 4 provides that

*No original proceedings shall be instituted before any Tribunal of this Province unless (i) the offence on which the Accused is charged shall have been committed within a period of five years prior to the commencement of such proceedings,*

it was necessary to seek an extension of the time period from the Metropolitan in terms of Canon 37: 4 (c). This was done and the Metropolitan's certificate archived at this Tribunal.

The terms of the Metropolitan's certificate should be noted:

*In July 2020 at a protest march outside my home, we encouraged the complainant, the Revd June Major to formally lodge her complaint to the Safe and Inclusive Church Commission. This was in the best interest of a fair, transparent and just process in dealing with the*

*seriousness of her allegations levelled against the Anglican Church of Southern Africa.*

*A formal request and full motivation was also received in October 2020, following the interview held with the complainant on 5 October 2020 by the Safe and Inclusive Church Commission.*

*Having applied our mind...I formally issue such permission, etc..*

This is in keeping with the ongoing efforts of ACSA since at least 1988, to address persistent abuse, bullying and concealment in the life of the Church.

On receipt of the Report of the Board of Preliminary Inquiry, the Bishop of Table Bay established a Diocesan Tribunal in terms of Canon 36: 5 and appointed the following members:

Canon Natalie Arendse

Mrs Sibongile Antoni

Archdeacon Terry Lester

Mr Elroy Machelm.

The parties were notified of their right of objection to these appointees in terms of Canon 39.7 (a) (i), and no objection was received.

In terms of Canon 36:5 (a), the Metropolitan appointed retired Bishop Peter Lee as President.

## *2: PROCESS*

A complication became apparent just a few days before this Tribunal convened. The Provincial Synod of the Church which alone can alter its legislation, met in the last week of September 2002. Canon 49.5, regarding the date of validity of new canons, states:

*All Canons of the Church of this Province shall be in force two months from the date of the authentication and*

*promulgation of the same, which shall always be made immediately before the dissolution of the Synod.*

The Provincial Synod of 2002 ended on 28 September of that year and the promulgation took place on that day. The Canon therefore came into force on 28 November 2002, meaning that although the Church had made a forceful statement about its opposition to sexual offences a month before the trip to Grahamstown which has formed the centrepiece of evidence presented in this Tribunal, the church's capacity to bring charges of either sexual assault or sexual harassment was delayed until a month thereafter. This technicality was overlooked by the Presenters in bringing their initial Articles of Presentment, and by the Board of Preliminary Inquiry.

However the Canons as they stood prior to the session of Synod in 2002 did include sexual immorality and conduct giving just cause for scandal or offence, and these duly appeared in the Articles of Presentment for this case. Not only could these be proceeded with but the Tribunal itself and the legal teams involved, judged that any evidence pertaining to sexual assault could be presented in support of those charges, could be publicised, and could be referred to in this judgement, even though technically the Accused Melvin Booysen could not be charged with or found guilty of such a charge, nor sentenced for such in the event of his being found guilty. All parties agreed to proceed on the substance and to abstain from launching any frivolous appeal based on this technicality.

The Tribunal opened on Monday 28 June 2021 and immediately faced the difficulty that one of the legal representatives had had to isolate themselves because of the COVID pandemic. As a result, after trying for some time to suit all the 15 diaries present, the Tribunal was adjourned until 21 July 2021.

The Presenters allege that the President was insensitive to the concerns of the Complainant June Major in setting this new date.<sup>ii</sup> In fact the legal teams had agreed upon this date before the session. The President took the initiative to try to accommodate the concerns of the complainant and the decision taken was that of everyone present except for her. The

Presenters' objection and the abuse which followed on social media are groundless.

In constituting the Tribunal the President specifically asked that the public should respect the process by refraining from seeking to influence the proceedings or otherwise interfering with the members directly or through the media, so that parties could be heard with care and without interference.

It is unfortunate that the Tribunal's efforts to create an atmosphere of courtesy and co-operation, and to create a safe space for careful listening were held in contempt so quickly by the Complainant and her supporters.

The Tribunal reconvened as agreed on Wednesday 21 July 2021, hoping to give the Revd June Major the hearing she had been seeking and to listen to her and indeed to the Accused the Revd Melvin Booysen, with the greatest possible care.

On this occasion the Presenters indicated that Major had been in contact with someone Covid-positive and was required to self-isolate. Arrangements had been made for her to testify electronically but her doctor, Dr G Josias, advised that the Revd June was herself unwell and unable to testify. After discussion the hearing was adjourned until 5<sup>th</sup> August 2021 with the intention of meeting on 5<sup>th</sup>, 6<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> of that month, to accommodate the public holiday on Monday 9<sup>th</sup>.

On 5 August 2021 the Tribunal was finally able to hear the evidence of the Revd June, consisting mainly of her own account of the visit to Grahamstown which she undertook in the company of the (now) Revd Mark Andrews and the Revd Melvin Booysen in around October 2002, for the purpose of registering her son at school while she began studies for the Anglican priesthood at the College of the Transfiguration in 2003.

The process of hearing evidence then proceeded until the evening of 11 August 2021.

On the morning of 11 August, Major interrupted the proceedings to announce that she had received news that her sister had tested positive for Covid-19 and that she had spent the weekend with her. After taking advice, she was advised to go home and isolate herself, and the Tribunal continued on the

advice of the medical and legal team set up by ACSA to ensure that the Church complies with the regulations and keeps people safe.

For various reasons the legal teams proposed to submit their closing arguments in writing, and this was done. This judgement comes within 21 days of receipt of the last such arguments.

### *3: EVIDENCE PRESENTED*

Presenter's case:

#### **3.1 Revd June Major:**

Testified that she was Deaconed in 2004 and Priested in 2005. She further served as a priest for 10 years, 11 years as a Deacon and later as Rector.

In 2002 she was accepted to the College of the Transfiguration (CoTT) as full time student in 2003 and 2004. She would need a school for her son and for this reason she decided to travel to Grahamstown and at first the Revd Melvin Booysen (hereinafter Booysen) offered to accompany her by bus. They eventually decided to travel with Revd Mark Andrews (hereinafter Andrews) and they would share the costs. Booysen agreed to accompany Revd June Major (hereinafter Major) as he felt he needed a break.

They arrived late the evening and went to their respective rooms. Andrews would stay over with the Urens and Booysen and Major with Fr Brian Maharaj and his family at the home of the Dean of Studies.

Major went to her room and was already in bed when her door opened. There were no locks on the door of her bedroom. Booysen proceeded to walk towards her and forced himself upon Major. He used his knees to pry open her legs. He lifted up her nighty and pulled his pants down. He placed his arm on her neck and she felt his flesh on her. Booysen penetrated her and she asked him to stop but he would not. There were children in the house and she thus could not scream.

Major called Andrews and told him what happened. He said that if Booyesen came back she should tell him that she already told him (Andrews).

The following day Andrews shouted at Booyesen. He told him how angry he was. Andrews said "I told you not to make contact with her".

Major said that she still had contact with Booyesen's wife, Wilhelmina however after the incident the relationship was not the same. There was nothing. She saw Booyesen as her rapist.

Major testified that she told Bishop Garth Counsell (hereinafter Counsell) about the incident and she was told by him that she should consider her canonical obedience to the Church.

Major spent 2 years in Grahamstown and her primary focus was on her son. She was told after by Counsell to remain silent.

In 2014 she was not doing well. She could no longer keep silent and she was not getting any justice. She therefore decided to go to the Police. She felt that family members were being raped and she was protecting the institution. At that point she decided to break her silence.

The matter was reported to Bellville SAPS in 2015. Her statement was taken down twice between Port Elizabeth and Cape Town. Her statement was made to male police officers and at one stage she was asked whether the accused ejaculated inside of her. For a long time she believed that no ejaculation does not amount to rape. It is only recently when speaking to medical officers that they informed her that any form of penetration amounts to rape.

Major heard nothing further from SAPS. She called Grahamstown and was told that Archbishop Thabo is well loved there.

She was also informed by SAPS that Andrews did not support her story and when she opened the case again it resulted in a "Nolle Prosequi".

### **During Cross Examination:**

(Witness Melissa Melnick completed her testimony and was followed by Andrews. Major returned thereafter to be cross examined by the Defence)

Major testified that she attended COTT in 2003 and was completed in 2004 after 2 years at COTT. The trip to Grahamstown was undertaken in the last quarter of 2002.

At the end of 2004 she came back to Cape Town and was ordained as a deacon in 2004 and as a priest on 24 September 2005.

Major further testified that she resigned as Rector in charge of the parish of St Matthews, Harfield Village in 2014 and not as priest. She testified that she resigned to work elsewhere. She met with Counsell and asked to go to another diocese as she did not want to be in the same diocese as her rapist.

Major testified that she instituted legal action against the accused in 2016. She confirms laying criminal charges against him at Bellville in 2015 and in Grahamstown in 2016.

She was cross examined on her reference to “Attempted Rape” as the charge on the front of the Docket. Further directed to the words “Nolle Prosequi” and further entry by the prosecutor which reads: “No reasonable prospect of successful prosecution”. In response Major testifies that she only received a letter from SAPS in February 2016 stating that the investigation continues and never received confirmation that the prosecution would not proceed despite calling regularly to follow up.

During further testimony Major confirmed that a fellow trainee sexually harassed her in 2003. This in response to the interview conducted by Ms Melnick with a family member who referred to an incident in 2003. Upon a question by Adv Myburgh on whether she told Ms Melnick about this incident she said no she did not, due to the fact that it was resolved.

Major was cross examined on why she did not report the incident of the alleged rape for 2 years as there was no oath of canonical obedience during that time. In response she maintains that her focus was on her studies. She further adds that Andrews said: “Why do you not leave it as it is”. At that

moment she left it. She confirms that there was no instruction. Instead they all agreed. Despite this Andrews was not a senior to Major and neither her to him.

Major was cross examined on typographical errors in her affidavit in Interdict proceedings pending in the Western Cape High Court.

Major was directed to paragraph 12 - 14 on page 73 of the presenters bundle.

Par 13 reads: "... I was persuaded by a Bishop within the Anglican Church to stay quiet so as to protect the (family) church". She was questioned on the reference to the word Bishop. Major in response testified that it was not with her Bishop but instead it was a discussion with Andrews. It was thus a typing error which she requested her attorney at the time to correct.

Major further testified that she had 2 matters before the High Court:

- The Civil Claim
- Application brought by Booysen in March 2021

At Par 14 Major was asked about her reporting of the matter to Counsell after being ordained as Deacon and she stood firm that the earliest she could report the incident was in 2005.

When questioned on why she left the matter after being asked to do so by Andrews and suggesting that there was no instruction at that time. She responds that Andrews asked her to leave it and they all agreed that she would leave the matter at that stage.

It was put to Major that the reason for the rape claim was for financial loss. For a loss of opportunity which in response she denies.

It was further put to Major that Counsell would deny that she told him about her rape. In response Major stated that she cannot speak for Counsell.

Furthermore that Counsell had a number of issues to address with Major and in light of this he was going to request her resignation.

It was further suggested that the claim of rape came about the same time of her resignation and requesting a letter of recommendation from Counsell. Major testified further in response to question from defence counsel, that she remained good friends with Wilhelmina. Upon being asked why she remained friends with Wilhelmina, she responded that she (Wilhelmina) is not to blame for what happened.

Major stood firm that her Bishop told her to remain silent and she obeyed him.

In further testimony she says that after the rape she remained at Fr Brian's home however she slept behind the door whilst wrapped in a blanket. She did not report to Fr Brian because of what they agreed in the garden.

Booyesen's version was put to Major however she disputes and reaffirms her version of the events.

[Following a delay because the presenters wanted to introduce a recording of a telephone conversation between Major and the Revd Mark Andrews in 2020, but which needed to be discovered to the Defence, transcribed and authenticated, Major's evidence culminated in the playing of the recording on the following day after the testimony of Ms Melnick and Revd Mark Andrews].

### **Regarding the telephone call with June:**

Andrews felt that his rights were infringed and that he did not know that the recording would go onto Facebook where people are now calling him a coward and a liar. He further felt that Major knew exactly why she called him and wanted to put him into a corner.

Andrews became very emotional when the recording was played. He said that the recording was available on Facebook and people are calling him a liar.

Never once in conversation was the word rape mentioned.

### **3.2 Melissa Melnick (Psychologist)**

Ms Melnick is a psychologist who examined Major in 2017 and wrote a 29-page report which was submitted to the Tribunal in evidence. Melnick was interviewed virtually on 6 August 2021 because she now resides in New Zealand.

It should be noted that Melnick's report -

3.2.1: Was the basis of a claim for treatment and the payment of treatment costs for Major, and was therefore angled to this end;

3.2.2: Contained a diagnosis of depression and trauma, in the form of post traumatic stress disorder, as at 2017;

We quote *'It is my professional opinion that Mrs Major is currently suffering from two psychological conditions, namely a major depressive disorder and a posttraumatic stress disorder'*.<sup>iii</sup>

Among the symptoms of this disorder listed by Melnick are:

*Negative alternations in cognitions and mood associated with the traumatic event, and clinically significant distress or impairment, in social, occupational or other important areas of functioning.*<sup>iv</sup>

3.2.3: Depends almost entirely on information supplied by Major, either in writing or in two interviews; its reliability therefore depends on the veracity and completeness of the information supplied by Major. There is the danger of a circular argument. As Melnick acknowledged, proof of any major omission in the material supplied to her would require her to reassess the patient and revise her report.

### **3.3 Rev Mark Andrews**

Minister for close to 20 years. Studies completed between 2004-2006.

Accompanied Rev June and Rev Melvin to Grahamstown in 2002

Wanted to take a computer down to Grahamstown. June said that she and Melvin would go down to Grahamstown. Mark drove them down.

Mark stayed with Rev Rodney and Rev Cheryl Uren.

Melvin and June stayed with Brian Maharaj's place.

Melvin and Mark were colleagues and not close friends.

Mark and June became close friends through attendance at college. Not currently good friends any longer.

Telephone call with June at the time in 2002. Sat and chatted with Rodney then went to room. Call from June.

Heard: "Hey get out of my room".

Asked "Are you ok?"

She said yes I am.

Next morning in the courtyard had a conversation.

Mark told Melvin that he did not feel it was respectful what he did.

There was no conversation regarding sexual conduct.

Mark just felt that walking into the complainant's room was disrespectful.

Mark did not find Melvin's demeanour any different. He was quiet when they travelled down and the same when they returned. He did not find Melvin's demeanour different.

On a question regarding Mark's relationship with Rev June deteriorating: He responded that his friendship with her ceased after the last year of college and not as it was before however he cannot remember the exact reason for this deterioration.

On a question by the defence counsel on Mark understood the context of the call and questioning to mean. He responded:

Melvin was in the room and Mark asked if she is ok.

Also that he was disrespectful by walking into the room

On being asked whether he was angry, Mark responded No.

Melvin is clear on the fact that he never entered June's room. He stood at the door. He cannot recall whether the door was opened or closed. He also cannot recall whether June was in bed or not.

Mark further confirms that the complainant never once said to him that she was raped.

Mark testified that if someone says that they were raped, he would not just brush it aside. What kind of a human being/priest would he be to merely brush it aside?

Mark said further that if June had told him, he (Mark) would have been in Pollsmoor by now (that is, for confronting her attacker).

Mark further that she never used the word Rape when they spoke in the courtyard. Only asked Melvin why he went into June's room.

Confirms that he did confront Melvin.

That the Police station is about 300 metres from where June was staying.

Does not recall coming down running to the Uren's house.

He further testified that he apologised for what June has gone through in reference to living on the streets etc. and that he was not there for her.

On a question of who paid for petrol travelling there and back Mark responds that he cannot remember. He further cannot remember an argument from either of them (Melvin and June) regarding petrol cost.

Testified that Melvin is a quiet person by nature and that he assisted with direction in travelling up.

**(At this stage the Presenters closed their case)**

## **Defence case**

### **3.4 Reverend Melvin Booyesen:**

Testified that he was ordained 16 December 1998. He was placed at St Aidan's where Rev June was a parishioner. They were family friends where Rev June and her husband Deon were involved in many ministries.

He adds that Rev June knew that Rev Melvin was at the COTT and thus he knew the place. For this reason she invited him to go with to Grahamstown.

His further evidence is that parties agreed that the petrol costs would be shared amongst themselves. Accommodation arrangements were that Rev June and Rev Melvin would stay at Fr Brian's house and Rev Mark with the Urens.

When they arrived at Fr Brian's house, Mark left and Rev June and Rev Mark spoke. There was a disagreement when they spoke about the petrol costs and after Rev Melvin said that Rev June had to contribute.

They each then went to their respective rooms.

Rev Melvin's evidence continued where he went to Rev June's room and stood in front of her bedroom door. He said that if this (referring to the disagreement regarding petrol costs) is an issue then he (Rev Melvin) will pay.

He recalls that he never entered Rev June's room.

When led on the discussion in the courtyard, Rev Melvin's testimony was that he does not remember them meeting and discussing the money matter.

Rev Melvin's further evidence was that the first time that he heard about the allegations brought against him was when he was contacted by a reporter in 2016.

He said that they stayed in Grahamstown for 2-3 days and during the trip back there was nothing different and that he is generally a quiet person.

He further testified that after returning from Grahamstown they (Rev Melvin and Rev June) would still chat.

Rev June was an altar server and she served at the funeral of Rev Melvin's child as she wanted to support them in that way.

They attended many retreats together and there were no times where she would shy away from him. There were also times where they would talk and have lunch together at these retreats.

Cross examination of Rev Melvin:

Rev Melvin was asked about his understanding of “Canonical obedience”. He responded that you have to abide by the rules and regulations as described by the church. Also that the Bishop has oversight over you as clergy.

When asked about their relationship, Rev Melvin testified that they were friends. This translates to someone you talk to and share things with. He knew the whole family of Rev June including her mother and other members. They were parishioners.

Regarding the trip to Grahamstown, Rev Melvin states that he was a student at COTT and Rev June approached him because they were friends.

On the conversation and eventually disagreement in the lounge and on being asked why he (Rev Melvin) had to ask Rev June about her petrol contribution, he responded that Rev Mark would never ask her.

He then proceeded to her room and said that he would pay for the fuel cost. As to why he approached her, he responded that he did not want them to have bad vibes.

He could not remember whether the bedroom door was open or closed. He only remembers not going into her room.

He did not recall Rev June being on a call but remembers her responding “I don’t want to discuss it anymore. Go back to your room”.

Regarding the courtyard he recalls them casually talking in the courtyard and there was nothing said regarding rape. That Rev Mark spoke casually to him and that the tone did not change in any way towards him (Rev Melvin).

After returning from Grahamstown the relationship with Rev June was different. There was contact but not as if they avoided each other. Rev June visited with his (Rev Melvin) wife, Wilhelmina. This relationship was still intact later.

Rev Melvin added that he told his wife, Wilhelmina everything regarding the disagreement about the petrol money contribution.

On a question of the reason why Rev June would be targeting Rev Melvin, he responds that she is targeting the entire Diocese and that he (Rev Melvin) is being used as a scapegoat. He further adds that Rev June had financial challenges and that she had lost a lot of things. For this reason she came up with these lies to help her get support from others.

Questions by the panel:

Rev Melvin when he approached Rev June's bedroom could not recall whether her door was opened or closed. He also does not know whether she was already in bed or not.

He further added that after returning from Grahamstown nothing changed between him and Rev June's husband.

He could not explain why he might have been targeted by Rev June.

### **3.5 Bishop Garth Counsell**

He is the retired Bishop of Table Bay. Consecrated as Bishop in 2004 and Retired in May 2019. From June 2004 he reported directly to the Archbishop.

His primary responsibility entailed oversight of clergy of the Diocese of Cape Town. This included oversight over both Rev Melvin and Rev June.

When asked whether Rev June reported in 2005 that she had been raped. Bp Garth's response was: "Absolutely not".

He further testified that he became aware of the rape in January 2016 and it was Rev Melvin who contacted him while he hosted a Bishop's conference at the time. Rev Melvin said

that he had been contacted by reporters and that he (Rev Melvin) wanted Bp Garth to hear it directly from him.

When confronted with Rev June's evidence that he (Bp Garth) instructed her to keep quiet and reminded her that she took an oath of obedience, he responded that they never had a discussion regarding this incident. His further testimony was that when he first heard about the reporting to him and the oath of canonical obedience was when Rev June was protesting outside Archbishop Thabo's residence in 2020. The following day the newspaper included that she reported the matter to him and that he pleaded with her and that she should consider the church.

Bp Garth dismissed the claim as reprehensible, and denied that he would stoop so low and to that level in order to protect the church.

He confirms that you cannot ask any priest to keep quiet and they do so.

Bp Garth explained the oath of canonical obedience to mean that when you are ordained but also when licensed to a particular church this is meant obedience within the context of the laws of the church set out in the Canons and within this there are due processes set out within the Canons. Furthermore that for any church to cover up such an incident would be wrong.

On the issue of Rev June's resignation:

Bp Garth testified that when placed at St Matthews in Claremont there were concerns raised by the church leadership against Rev June.

In response Bp Garth testified that Chapter advised that they should seek alternative placements. Also speaking to resignation Bp Garth outlined the implications of resignation insofar as her income, housing, Pension Fund if she were to proceed and thus encouraged her to think it through before resigning.

Rev June then nevertheless decided to resign at the end of August and requested to be present at Confirmation class and the actual confirmation of candidates.

Bp Garth responded in writing and included all the decided terms of the agreement including accommodation.

Cross examination of Bp Garth:

In cross examination Bp Garth testified that Rev Melvin was a cleric in the Diocese and he would have known him collegially.

In response to a question regarding the process of lodging claims, Bp Garth makes reference to the “Shepherds of the flock” which became part of Pastoral standards and which all priests should be familiar with. Further processes outlined in the Canons and Constitution of the ACSA.

### **3.6 Wilhelmina Booysen:**

Testified that she first heard about the allegations when a reporter called her on the landline and said that Rev June claimed that Rev Melvin had raped her.

Regarding the trip to Grahamstown she confirms that it was in the middle of the week and Rev Melvin had to check with her and also with the parish as he had to be back in time for the service on the Sunday.

Her testimony is that when Rev Melvin returned from Grahamstown there was nothing different about him.

She adds that Rev June remained in contact with her and also messaged when she left and upon her return. She also informed Wilhelmina at the time she decided to file for divorce against Deon.

They would generally have coffee at Wimpy when Rev June came down to Cape Town. She required official documents for her son which Wilhelmina assisted with through her work and they would frequently exchange messages.

Wilhelmina's further testimony is that when her daughter passed away Rev June called her from Grahamstown in order to sympathise and also came down for the funeral and she definitely served during the funeral service.

She adds that Rev June informed her personally at her work of her resignation from the church although she never questioned the reason for this. She also informed her that she got a job overseas and as soon as she is settled they must come and visit. She confirms that there were never any problems between her and Rev June. Added to this she never picked up anything between Rev Melvin and Rev June.

On the allegation of rape against Rev Melvin: Wilhelmina in testimony confirms that she believes Rev Melvin. That she further believes that the incident never happened. That Rev June never ever told her that this happened.

**Cross examination:**

Upon being questioned about the sharing of transport cost Rev Melvin informed Wilhelmina that he did contribute financially towards costs. She does not know whether he paid for Rev June.

After the trip Rev Melvin explained to her about an argument that they had about money.

That prior to 2002 the relationship between Rev June and Rev Melvin was good. After Rev June became a priest they would not sit together but they still maintained a relationship.

She testified that her friendship with Rev June was closer than Rev June had with Rev Melvin. They would continue to talk about the children and her work.

The friendship ended in 2015/2016 when the allegations were made.

When questioned about her relationship with Rev June from 2002, Wilhelmina stands firm that it did not change with her at all. Rev June never gave the impression that she was afraid of Rev Melvin and did not pick up that she had an issue with him.

On the loss of her daughter she said that Rev June was there in support and she was part of the servers guild who served during the funeral.

When Rev June lost their house they went together to assist her mother to get a passport and delivered it to her (Rev June's mother) at her house.

On being unfriended on Facebook and subsequent attack by Rev June, Wilhelmina's testimony is that she never told her why she did this. She added that Rev June wanted to get her way with the church. They assisted her when she became unemployed. Rev June would still send messages to Rev Melvin if it was his birthday or on their anniversary.

She does not have anything further to say regarding the petrol cost disagreement but maintains that her marital relationship with Rev Melvin is still a happy one.

#### *4: BURDEN OF PROOF*

The closing arguments of the Presenters state

*It is common cause onus of proof in determining the veracity of the allegations against the Accused is determined on a balance of probabilities.<sup>v</sup>*

This is not contested.

In this case there is only one witness and the psychologist supporting the allegation of rape and several declining to do so, all of whose testimony must be weighed.

The Tribunal proceeded and reached its conclusions on the basis of the balance of probability.

#### *5: ASSESSMENT OF EVIDENCE*

*The comments below cross-reference to the information given in section 3.*

We leave the evidence of the Complainant and chief witness, June Major, until last.

## 5.1 Ms Melissa Melnick

The date of this report being 2017, suggests that its usefulness as a description of Major's health and state of mind at any earlier date is limited.

Adv Myburgh in her cross-examination of Melnick, observed that there are several potentially traumatising events recorded in the report, including personal accidents to Major and her son, consequent surgery, and from her later years in Durban, experience of armed robbery and physical attacks on the streets; she was curious as to how Major's trauma came to be attributed only to one event 15 years previously and not at least in part to these other events, separately or in combination.

This question would be sharper if the potentially traumatising events were of a similar kind to the alleged rape, namely sexual assaults. In her report Melnick refers to Major's marriage of ten years which was approaching dissolution at just the time of the fateful trip to Grahamstown, as '*an abusive marriage*'<sup>vi</sup>. Melnick quotes Major as saying that '*she divorced Deon due to physical abuse*'<sup>vii</sup>, which connects to Major's statement in evidence on the previous day, that there had been '*physical violence*' in her marriage.

When the panel asked Melnick why she had not explored further the possibility that this abusive relationship could also have been a source of the acknowledged trauma in Major's life, Major intervened to say that the abuse and violence had only been in relation to a juvenile case (presumably involving Deon Major and their son Jared) and that it could not therefore be spoken about in this tribunal.

This closing of a legitimate avenue of enquiry does not settle all the questions. The term '*abusive marriage*' normally refers to the relationship between spouses; it can be plausibly argued that passing it to Melnick for her report was misleading, either of the recipients of the report or indeed of the psychologist herself. Similarly in using the term '*physical violence*' of her marriage without qualifying this with reference to a minor could be deemed misleading, whether intentionally or not.

Alternatively the protest about the juvenile case could be deemed disingenuous.

Indeed, the question arises whether this is an example of a pattern in which a half-truth is advanced to be believed, then when challenged is deftly withdrawn, having already become common currency in the public mind.

Melnick's report also made reference to another sexual assault which took place in Major's first year of study in Grahamstown at the hands of another student – that is in 2003, within a few months of the alleged incident with Booyesen. There is no trace of this serious incident in the material supplied by Major to Melnick in writing or verbally. However Melnick did interview a relative of Major's, Themba Meyer-Fels, who referred to '*an attempted rape in her training by a fellow trainee*'.<sup>viii</sup> This appears to refer not to the incident with Booyesen, who was not a trainee and which alleged event did not take place during her training, but to this subsequent event. However a casual reading of those words by someone who had not been apprised of the other event in 2003, might well have connected it incorrectly with Booyesen, as Melnick appears to have done.

When Major was questioned about why she had made no reference to this incident, involving a serious threat with a knife, in her main evidence, she said this was because the matter had been resolved. This response is inadequate.

To be clear, this tribunal is not qualified to diagnose anyone, nor to assess their personalities. We simply note Melnick's reference to Major as '*a vulnerable personality*' and her diagnosis of trauma and depression as at 2017. She did not expand on the relationship between the vulnerability and the trauma, nor suggest which may have preceded or caused the other. Our task is however to assess Melnick's evidence. We do not presume to attribute Major's trauma to any of the other men who may have featured in her life, whether known or not. We simply question why these other apparently traumatic incidents and relationships were sidelined or suppressed in the evidence supplied by Major to Melnick, and on the basis of which Melnick produced a report strongly holding Booyesen responsible for Major's trauma and everything flowing from it,









- The Presenters state, '*the Revd June's testimony is credible and consistent since 2002*'.<sup>xiii</sup>

This is an over-statement as (1) there is no extant record of any such testimony in the 14 years between 2002 and 2016. Major confirms this when she says '*the details of my rape has been (sic) in the public domain since 2016*'.<sup>xiv</sup>

The difficulty lies in the fact that one who does not break their silence, may fairly be presumed to have said nothing until they do.

There are some attempts to set up stepping stones of evidence during the period 2002-2016 through the corroboration of others but no corroboration has been possible.

(2) The Defence argue convincingly<sup>xv</sup> that the versions put out by Major between 2016 and the present differ, conflict and most importantly, escalate. It seems reasonable to use the earliest version as a basis for assessing what took place on the night in Grahamstown, because it is nearest to the events it describes and is less likely to have been embellished. However our judgement of what took place has to respond to the version given in evidence before us, which differs significantly from the versions offered in 2016.

TO BE CLEAR: Attempted rape is sexual assault and is deeply serious; comments here are not designed to minimise this. But they are designed to identify a version of Major's account which can be reliably used in assessing the Grahamstown event. By definition, this version excludes rape.

The following information emerged during 2016.

In January 2016, Major laid a charge of *attempted rape* with the police in Bellville<sup>xvi</sup>.

There is dispute as to whether Major intended to report rape and was misled by SAPS; it is possible that SAPS

erred, and it is possible that Major was later trying to exacerbate the charge and shift blame to SAPS. We can only assess the possibilities.

The docket reopened in 2021 still bears the charge, *attempted rape*.

In June 2016, Major made a statement to SAPS which clearly describes *attempted rape*, and excludes both violence and penetration.

In July 2016, Major made a second statement in which her story has morphed to include '*he penetrated me but not deep*'. This version introduces an arm on her neck but none of the other violent details which appear later.

In September 2016, Major issued her Open Letter to the Archbishop and others. This contains no description of the alleged attack but says she forgives Booyesen for '*trying to rape me*'.

*Except for the phrase in her contradictory statement to the police, all 4 inputs from 2016 point to an allegation of attempted rape, not the extended and violent assault which Major described in evidence at the Tribunal.*

This is further considered below.

5.7.2: The much-debated recording of Major's phone call to Andrews on Shrove Tuesday 2020 must be assessed. It is conceded that the call was recorded without the knowledge or consent of Andrews and then publicised. The call represents itself as an intimate and emotional call between estranged friends, one of whom seeks reconciliation and the healing of their relationship before Lent begins. The second part of the call lays severe allegations of neglect upon Andrews because he has allowed Major to suffer poverty and neglect. The earlier part, perhaps too strongly characterised by the Defence as 'a trap', seems to be drawing Andrews into acknowledging that Major had spoken to him on the infamous night in Grahamstown and had told him of being raped by Booyesen – thereby denying his denials of such knowledge to the police after Major laid charges in 2016, and exposing himself as a liar.

The difficulty with this evidence is manifest in the arguments of the Presenters who state that '*Rev June directly asked Rev Mark if he recalls the rape*' and immediately contradict this by saying, '*the words "rape" and/or "sexual assault" were not used during the course of the conversation*'.<sup>xvii</sup> It is clear that the initiator of the call has a clearer idea of what she is trying to allude to, whereas Andrews is clearly ambushed and responds cautiously and unclearly if not evasively. The dialogue can be taken along the lines claimed by the Presenters but this reading is not compelling and the material is too far from the events, too ambiguous and too compromised by the clandestine approach to have much evidential value.

5.7.3 Major was clear and articulate during her first testimony but became emotional during the playing of the recording. When she appeared for cross-examination she became belligerent and un-co-operative to the extent that some avenues of legitimate inquiry were closed.

5.7.4 It must be concluded that the evidence for the charges against Booysen is weak,

- because it makes its first appearance 14 years after the event
- because it comes from only one source, and is entirely uncorroborated
- because it is internally inconsistent and contradictory
- because the truthfulness of this witness in general is open to question (section 6 below)

It is an irony of breaking the silence, that a person can reasonably be presumed to have been uncommunicative up to that point. The issue is whether memory or evidence can be retrieved from earlier times, so as to constitute a credible narrative, especially if years of painful and traumatic experience of life have intervened, and may have affected the emotional and cognitive capacity of the witness.<sup>xviii</sup> (See 3.2)

## 6: *THAT NIGHT IN GRAHAMSTOWN*

This evening has been the focus of endless debate and confusion, and this Tribunal has no greater wisdom than others.

No absolutely self-consistent account can be constructed from the accounts available. However we have studied the detail carefully and believe that the account below is convincing, and affords a probable basis for the conclusions based upon it. We recognise that however the story is constructed, gaps and contradictions remain – whether through the passing of time, through cognitive incapacity or through an element of concealment by one or more of the parties.

6.1: It is common cause that Andrews, Booysen and Major travelled together by car from Cape Town to Grahamstown in October 2002.<sup>xix</sup>

6.2: They arrived late. The details vary in different accounts; Major refers to 1 am, Andrews to having supper, and Booysen to sitting in the lounge chatting and joking, but the overall impression is not in dispute.

6.3: There is dispute about whether the Marajh family were in residence when Booysen and Major arrived to stay, and the family were not brought to testify. But Booysen writes that Mrs Marajh received them and Major refers to children in the house, so the presence of some adults may be presumed.

6.4: Booysen states that he and Major sat chatting before retiring<sup>xx</sup> and that there was some disagreement about paying Andrews for the costs of the trip. The correctness of this is not material.

6.5: At some point they agreed to retire to their rooms. This signalled the creation of private space in which they might be free to be alone, disrobe and get into bed, therefore it was inappropriate for either of them to cross the privacy boundary thereafter. However the understanding of private space current in codes of conduct today may have developed since then, and the fact that the Booysen and Major families were friends may be a mitigating factor.

The weight to be assigned to this understanding of boundaries is the focus of the only disagreement among Tribunal members. See 6.14.

6.6: There is no suggestion anywhere in the material before us, that Major ever encouraged any romantic or sexual overture

from Booyesen, nor that she ever dressed or behaved inappropriately. The President asked a background question regarding the friendship between the two families, including Deon Major and Wilhelmina Booyesen, and Major firmly excluded this thought. Nothing of the kind is in view here.

6.7: Likewise the use of alcohol or drugs on that night should be excluded. Again the President asked a background question precisely to exclude that possibility.

(The Presenters have misrepresented that question in their objections; the question was not directed at Major's drug use but clearly at the social landscape of the family friendship. The objection should be dismissed as frivolous.)<sup>xxi</sup>

6.8: Booyesen states that he approached Major's bedroom door to try to resolve the squabble about costs. The Presenters dismiss this<sup>xxii</sup>; it is indeed implausible in regard to the money, but if Booyesen's motivation was to resolve a disagreeable clash in a longstanding friendship, it becomes more plausible. He had claimed, *'I didn't want any bad vibes'*.<sup>xxiii</sup>

CONCLUSION 1: While this would possibly surprise him, this invasion of private space was unprofessional and foolish, though hardly criminal. It renders Booyesen guilty of Charges 4 and 5.

6.9: All three witnesses place Booyesen at Major's door or closer. Booyesen admits his presence though cannot recall if the door was open or closed.

Andrews reports that when he spoke to Major by phone later in the evening, he heard her expressing surprise that Booyesen was entering the room, heard her chasing him out, and then asked if she was 'ok', to which she replied that she was. This begs questions about the sequence of events and the status of the two calls (see 6.10). It also raises questions about Major's state of mind, which is represented as curiously casual in the circumstances.

Major claims (in 2016, prior to the story growing in the telling) that Booyesen entered the room and attempted to rape her, but that she fairly quickly repelled him.

## 6.10: Major's state of mind

There is a contradiction in the Articles of Presentment which we failed to explore. Major states that she was hysterical but could not shout because of the children.<sup>xxiv</sup> However this is not hysteria, which by definition interferes with a person's rational self-control. If the attack was indeed as violent and extended as Major has later claimed, then she might well have been shocked, paralysed or stunned into involuntary silence – or she could indeed have become hysterical. But she was most unlikely to have been calmly avoiding disturbing the children while undergoing a violent assault. If she became hysterical<sup>xxv</sup>, as she states, the household was most unlikely to have been left undisturbed. See 6.12.

## 6.11: Two conflicting phone calls

Major's account is the more plausible. She states that after being attacked, she called Andrews and reported what had happened. They rather curiously agreed that he would come round and chat to Booyesen the following morning. The question is why it was not more pressing; that is, why Andrews did not call the police and/or rush round there immediately. He was staying 100 metres away. He rightly testified that this would have been his normal reaction if indeed he had received such a report. This suggests that the incident was in some way less dramatic than Major has subsequently claimed.

Andrews states that he and Major were friends who spoke often on the phone and were simply chatting about normal stuff (so he testified); that was when she reported that Booyesen had entered the room. But (1) they had been together all day and it was now, by Major's account, after 1 am; and (2) by this account, Booyesen must either have attacked her before and now returned to her room (in which case, why was she 'ok?'), or having been chased out during this call, he later returned, knowing that Andrews knew he was trying to get into her room, and attacked her. It would then appear that the crisis call she describes took place after that.

This requires believing that both versions are correct and that both calls were made, one after the other; but this is nowhere claimed by the witnesses. It is implausible. The two versions

stand in contradiction to each other, and one has to choose to believe one or the other.

It is now a long time since 2002 so memories can be understandably vague – but the contribution of these calls appears to have limited evidential value. To use them requires accrediting veracity to one and discarding the other.

#### 6.12: Circumstantial evidence

The main reason why we do not believe that rape took place that night, is that Major never alleged that until after 2016. It is just not there.

The second is that her account still goes entirely uncorroborated.

However, there are several other points to be made.

If an event took place on the scale to which Major testified in August this year (and continues to publicise), then it is highly unlikely that –

- 6.12.1 The event itself and her ensuing hysteria, did not disturb the family
- 6.12.2 Andrews did not immediately call the police and/or visit the Marajh home to protect his friend
- 6.12.3 Major remained in that house that night and for the following 3 nights, without insisting on removing
- 6.12.4 The perpetrator, the victim and their friend remained in town *together* for 3 days, amicably visiting students and staff of the College, informing the Urens, and not causing the slightest ripple on the rumour machine of COTT.

COTT is a small college with 60 students and few teaching staff and families, living in close proximity and allegedly all knowing each other's business. It is inconceivable that if such a major and violent crime had taken place in a staff home, no trace would have been left. Also, Major testified that she was violently sexually attacked with a knife after she had become a

student of the College in 2003, just months after the alleged event in 2002, and that the College addressed this incident quickly and decisively, largely through the good offices of the Revd Janet Trisk, who was on the staff. At a time when ACSA's response to such allegations could have been patchy, COTT was responsive. It is hard to believe that no mention of the 2002 event came up in conversation around the 2003 incident and that if any ripple about 2002 had been evident at COTT, Trisk would not have investigated.

- 6.12.5 Despite Major disputing this, she in fact remained in friendship with the Booyesen family, especially Mrs Booyesen, for some time and did not sever relations as she claimed - and as she very well might have done, had she truly been attacked on that night.

There undoubtedly remain unexplained aspects to the various accounts of that night, some of which may result from the passage of time and/or the impact of trauma upon accurate memory. It may also be that somewhere between Andrews, Booyesen and Major, agreements were made to hush up parts of what took place. The hypothesis that there may have been a sexual overture from Booyesen that night, or even an attempted rape, may fit better with the circumstantial factors enumerated above, than that rape occurred; such a possibility is not alleged, is not accessible and is not before us.

It is rape that is alleged, and on the balance of probability, did not take place. In fact the irony is that in regard to these circumstantial factors, the more graphic the story of the assault becomes over time, the less probable is it to have taken place.

6.13 To summarise -

**CONCLUSION 2:** On the evidence before us and on the basis of probability, this Tribunal is unanimously convinced that June Major was not raped by Melvin Booyesen in Grahamstown on that night, certainly not in the manner claimed in Major's testimony before us.

This is because:

(1) she made no such claim when she first 'broke her silence' in 2016,



6.14.2: The definition refers explicitly to an event *of a sexual nature*, and this is not proved. All nuisance is not necessarily sexual nuisance;

6.14.3: As explained at section 2 above, there was no explicit policy in force in ACSA on the date of the alleged incident, therefore Booyesen cannot be convicted of a crime which was not in force at the time;

6.14.4: Given the burden of proof set out at section 5, it was the responsibility of the Presenters to make the case before the Tribunal. But the Presenters did not make any reference to harassment, still less make the case in regard to Charge 2 which was waiting at hand to be made. They did not discharge the onus, and the Tribunal is therefore not persuaded.

The minority view is that –

6.15 Any invasion of privacy in these circumstances on the part of a man entering the private space of a woman, *by definition* constitutes sexual harassment; since the Accused can with reasonable probability be placed in Major's room, he is guilty as charged.<sup>xxvii</sup>

The team has had long and illuminating discussions of this point, for which we are grateful to each other. We agree to differ with great respect and mutual understanding.

CONCLUSION 3: The majority find Booyesen not guilty of sexual harassment.

The minority find him guilty and submit a note of their reasons in terms of Canon 39.9 (ii).

## ***7: THE RELIABILITY OF THE COMPLAINANT AND HER TESTIMONY***

TO BE CLEAR: The case made above and the conclusions reached, stand by themselves. However there is a context in which these are placed.

This section is also based on evidence before the Tribunal but takes note of events on the fringes of the hearing.

7.1: We have noted above the propaganda war which was being waged alongside the attempt to manage a fair and even-handed hearing. This was disdainful, abusive and relentless. We do not address the detail here but recommend that the Safe and Inclusive Church Commission review the material with a view to securing protection and redress for officials of ACSA who may have been defamed or abused.

Because this has been our own experience, we take the history in this section in reverse order.

7.2: On 11 August 2021, the day on which the complainant left the proceedings to isolate herself after her testimony was complete, she posted a number of statements about the events which were misleading. She stated that the venue of the hearing was never sanitised, and that when she left, she had objected to the continuance of the proceedings without her.

These are demonstrable falsehoods (she might say, 'blatant lies'). She was not present when the daily sanitising took place. When she departed on that day, she did not speak to the presiding officer to present an objection; she later sent a message but it was not on that subject.

The regrettable fact is that she appears to have a group of uncritical supporters who believe everything she says, whether true, false, half-truth or smear; and once the half-truth is in the public domain, it develops a credibility of its own, regardless of its merits. Whether that is accidental or strategic, is a question.

7.3: If we track back from this experience of the panel's - 'our truth' - to the bundles provided to the Tribunal, we come to Major's answering affidavit of June 2021. In cross-examination, Adv Myburgh for the Defence identified three contradictions between this document and the evidence given at the hearing. These were dismissed by Major as a light matter and blamed on the lawyer who had drafted the papers.

This in a sworn affidavit, signed by someone who has condemned others as 'lying under oath'.

7.4: The content of Major's clandestine recording of her telephone conversation with Andrews is discussed at 6.7.2.

Consider for a moment the ethics of that event.

Here is an ordained priest calling another with a sob story – she cannot afford to get to church on Ash Wednesday – purportedly seeking to address a breakdown in an old friendship and wanting to restore it before Lent begins. But actually it is a clandestine stratagem to entice Andrews into admissions which will either strengthen her case or allow her to trash his reputation in the media. The recorder is running before he picks up, with the evident intention – soon fulfilled – of broadcasting their intimate chat.

7.5: Reconsider section 6.1. According to our conversation with Ms Melnick, trauma can affect a person’s capacity to recall past events accurately, and can result in the displacement of anger from one person to another, thereby shifting blame and victimising the innocent.

So the selective submission of material by Major to Melnick, which appears to have skewed Melnick’s perspective at a number of points, may be the result of an emotional or cognitive block.

Or it may have been intended to mislead.

7.6: What happened in 2016 to cause Major to ‘break her silence’? She says she was triggered by a violent incident visited upon a young family member, and it may be so. But it also reads like an intellectual decision more than an emotional one. What was going on just then, which may explain her decision?

Space is devoted in the closing arguments to what may have motivated Major to act as she has done. The Defence have referred to financial gain, Mrs Booyesen stated that *‘she could not get what she wanted in the church’*. This discussion is speculative and should not occupy us, as it has no bearing on the outcome.

It is not for us to speculate. But it is for us to ask.

7.7: We have noted the Defence’s observation that the accounts given of Major’s experience since she started telling the story, differ, conflict and escalate in drama.

This may be something that is observed in traumatised people. It may also be progressive exaggeration.

7.8: Her version of what happened when she terminated her service and her pension, clearly choosing to end her stipendiary service with the Church (not at all 'resigning as a rector not as a priest' -whatever that means), differs from that held by the leaders of her parish, her archdeacon and her bishop.

7.9: Major speaks of her campaign, her 'story' and her 'truth'.

*'The strength I gained to speak my truth...'*<sup>xxviii</sup>

*'The reason why I have received so much traction and my people follow me is because I have told my story and they can relate to me.'*<sup>xxix</sup>

We were unable to secure clarity on whether this use of language is a post-modern philosophical subjectivity, or perhaps a therapeutic ploy which can be powerfully used to enable victims to 'own' their experience and pain in face of pressure to deny it; if it is that, its therapeutic value stands in contrast to its evidential weight. The question is whether the story forms the truth and powers the integrity of the campaign, or the reverse - the campaign is everything, the truth is made to fit it, and the story follows.

Oddly, if her posts are to be believed, this behaviour seems to co-exist with an obsession with lies, lying, liars, lying under oath and blatant lies. Everyone is lying except me.

7.10: Lastly consider Major's self-presentation as an Anglican priest. Ordination once upon a time, in the far distant past, is just one element in what makes a priest. The world understands that it also connotes being an active part of an Anglican community, holding its faith and values, leading in worship and pastoral care through a licence from the local bishop, accepting the doctrine and discipline of the body, and broadly acting loyally and faithfully towards it. Standing in perpetual and vociferous criticism while pumping up credibility with the title and the uniform is at best a half-truth, at worst, misrepresentation.

7.11: None of the points in this section is decisive by itself. They are straws in the wind, pointers, cumulative indicators of character which together tell a story. To us, they point to questions of integrity, mendacity, veracity and credibility.

As we noted early on, it is not odd or unusual for a person to believe their own story. But whether the story is factual or the fruit of distorted memory and traumatic experience, is another question.

What may not happen in a just and democratic society, is for the innocent to be victimised for the sake of a platform, or for public indignation to be harnessed for private gain.

As far as it lies with us, the members of this Tribunal salute those in our Church who continue to confront abuse, bullying and concealment, and those in our society who work authentically for the ending of violence. We regret any way in which present or former members of our Church may have undermined the integrity of this work.

## 8: *FINDINGS*

8.1: On the charge of sexual assault, the Accused Melvin Booyesen is NOT GUILTY

8.2: On the charge of sexual harassment, the majority find the Accused Melvin Booyesen NOT GUILTY; the minority find him GUILTY

8.3: On the charge of sexual immorality, the Tribunal finds that unlike the previous charges, this charge relates to consensual sexual behaviour, on which the Presenters have brought no evidence; therefore this charge is set aside

8.4: On the charge of conduct giving just cause for scandal and offence, and the charge of violating the Canons of the Church and Resolution of Permanent Force 5, the Accused Melvin Booyesen is GUILTY of unprofessional clerical conduct giving just cause for scandal, inasmuch as he acted carelessly in regard to the guidelines for ministerial conduct set out in Resolution of Permanent Force 5.

## 9: *RECOMMENDATIONS*

9.1 In terms of Canon 39.9 (a) (iv) and (v), this Tribunal recommends to the Bishop that the suspension of the Accused remain in place for a period of a few months to enable him to attend an extended retreat under guidance, therapy from an experience senior person, and retraining in the expectations laid upon a priest of ACSA by the Canons. Thereafter he should be exonerated and reinstated to ministry on condition of good behaviour.

9.2 Because of the confusion caused by Mrs Major misrepresenting herself as an active Anglican priest in good standing (7.10), when by her own choice she has not been such since she resigned some years ago, the Bishop of Table Bay is encouraged to clarify the truth into the public arena.

## 10.1: *AFFIRMATION*

This judgement is subscribed by the following with the exceptions noted:

(Insert signatures)

Minority judgement on Charge 2 submitted by Mrs Sibongile Antoni

September 2021

## **FINDINGS BY SIBONGILE ANTONI IN RESPECT OF THE CASE AGAINST: REV MELVIN BOOYSEN**

The following charges were brought against Rev Booyesen by the Anglican Church of SA following allegations brought to light by Rev June Major.

- |  |             |
|--|-------------|
| 1. Sexual assault<br>(a)   | Canon 37: 1 |
| 2. Sexual harassment<br>37: 1 (b)  | Canon       |
| 3. Sexual immorality<br>(d)  | Canon 37:1  |
| 4. Conduct giving just cause for scandal or offence etc,<br>Canon 37:1 (h)   |             |
| 5. Violation of the Constitution or Canons of the Church of<br>this Province, or of Resolution of Permanent Force No 5<br>Canon 37:1 (l) |             |

Contained herein are my observations and findings based on the evidence presented, in consideration of evidence, corroboration, circumstance, and weighed on the balance of probability.

## **OBSERVATIONS**

Rev Melvin Booyesen is an ordained priest in the Anglican Church Diocese of Cape Town. He was ordained on the 16<sup>th</sup> December 1998 and has testified the following:

- He knew June Major from St Aidan Anglican Church. She was a parishioner, and they became very close family friends as married couples
- When June was starting her journey into Ministry he took her to one of the interviews for FOV
- June invited him to accompany her and Rev Mark Andrews to Grahamstown
- He and June shared the accommodation and Rev Andrews was accommodated elsewhere
- When Rev Andrews left they spoke in the lounge after dinner. According to Rev Booyesen, the discussion in the lounge was about money as he wanted to make sure that Rev Major contributes towards the travel costs. He wasn't happy with how the discussion in the lounge ended and when he got to his room he decided to go to June's room to speak to her so that she can "pay the man" (referring to Rev Andrews).

- He admits that he went to June's room on two occasions, stood at the door but cannot remember if the bedroom door was open. According to Rev Booyesen he went to the room because he "didn't want any bad vibes". He indicated that he wanted the trip back home and the relationship not to be negatively affected because of how the discussion in the lounge (about June's contribution towards the trip) ended.
- He remembers the chat that took place the day after the alleged incident in the courtyard and maintains that it was still about the money
- He also remembers that the following day they went to town without Rev June Major
- He confirms that he interacted with Rev Major at church gatherings post 2003 and they were amicable
- He only heard about the rape allegations in 2016 when called by a reporter

Rev June's collaborated statements are that:

- She was accepted into Ministry in 2002 and travelled to Grahamstown towards the end of that year to look at schools for her son
- Subsequent to this she studied in Grahamstown in 2003 and was ordained on the 16<sup>th</sup> December 2004
- She (and her family) were very close friends with the Booysen family
- She travelled to Grahamstown in 2002 with Rev Booysen and Rev Andrews as she needed to find a school for her son and to prepare for her move to COTT in 2003. Rev Major had invited Rev Booysen to travel with her and the original plan was that they would travel by bus until Rev Andrews offered his car
- She slept in the same residence as Rev Booysen
- Whilst in her bedroom, chatting on the phone with Rev Andrews, she was heard saying to Rev Booysen "get out of my room". Rev Andrews further confirms in his testimony that he was concerned why Rev Booysen was in Rev Major's room and was angry as "you just don't do that". This collaborates Rev Major's testimony that Rev Booysen had been in Rev Major's room.
- A conversation took place between Rev Major, Rev Booysen and Rev Andrews at the courtyard of the college the day after the said incident. The nature of the conversation is however in question as there are conflicting views about what was discussed amongst the three clergy
- She reported (opened a case against) Rev Booysen in 2016. No evidence could be found to collaborate that Rev Major has reported the matter to the Church Leadership during the period 2002-2016

## FINDINGS

Based on the evidence presented during the tribunal and on the balance of probability, my findings are as follows:

1. Sexual assault - the sexual penetration under coercive circumstances or assault with the intent to commit a sexual act other than sexual penetration, and includes any intentional act (continues...) **I agree with the outcome of the tribunal regarding this charge**
2. Sexual harassment - the unwanted conduct of a sexual nature albeit physical, verbal or non-verbal conduct. (Section 6: 2, 2c pastoral standards). **I differ with the outcome of the tribunal and find Rev Booyesen guilty of sexual harassment**
3. Sexual immorality - **I agree with the outcome of the tribunal regarding this charge**
4. Conduct giving just cause for scandal or offence etc, **I agree with the outcome of the tribunal regarding this charge**
5. Violation of the Constitution or Canons of the Church of this Province, or of Resolution of Permanent Force No5. **I agree with the outcome of the tribunal regarding this charge**

## **REASONS FOR FINDING REV BOOYSEN GUILTY FOR SEXUAL HARRASSMENT: Charge 2**

Sexual harassment is the unwanted conduct of a sexual nature albeit physical, verbal or non-verbal conduct. (Section 6: 2, 2c pastoral standards). It occurs if a reasonable person would find the conduct offensive and humiliating.

It is common cause that during the proceedings that Rev Booyesen was in Rev June's room and she (Rev June) was heard instructing him to "get out of the room". The reasons for Mr Booyesen's visit to Rev Major's bedroom could not be corroborated and are questionable. I also find it questionable that Rev Booyesen, in his testimony could remember all the events before and after the bedroom incident except whether he was in or outside Rev Major's bedroom.

A bedroom is primarily for sleeping and accepted in these circumstances as an area of privacy and Rev Booyesen didn't provide plausible explanation for visiting Rev Major's room on two occasions during the same evening even though she had informed him earlier (in the lounge) that she is off to her bedroom. His unwelcomed actions not only violated her privacy (6.1.c) but also her dignity. I find no evidence that could possibly have created a conclusion by Rev. Booyesen that he had a right to go to Rev Major's room. To an outsider this would raise questions in respect of the true reason for his visit.

In observing events I have a grave concern that leads to a conclusion that the actions of Rev Booyesen were untoward. The grave concern is simply that it would commonly be questionable for a man to go to a women's bedroom in ungodly hours to continue a discussion about transport money. This conversation could easily be done in the day in a space that didn't infringe on private space (e.g., in the kitchen, lounge, outdoor etc.). What emergency would possibly make it so serious that it would need to be discussed in ungodly hours in the privacy of a women's bedroom?

Taking the claimants version into account of her experience and the corroborating evidence that someone heard the claimant say “get out of my room” adds weight to the version that the intention of Rev Booyesen was untoward, and it is more believable that this can be deemed as an act of sexual harassment. I do not accept that the version of Rev Booyesen as to why he went to the claimant’s room is plausible given the above. Whilst I am convinced that the Rev. Booyesen had alternative reasons for going to Rev, Major’s room, the overheard conversation by Rev Andrews confirms without a doubt that he was there without welcome.

After considering the evidence and weighing all the information to hand, I find Rev Booyesen guilty of sexual harassment

*11: JUDGEMENT PRONOUNCED ON 30 SEPTEMBER 2021*

*Provision made for queries for clarification during the following day*

*TRIBUNAL DISSOLVED ON 1 OCTOBER 2021*

*In terms of licence issued by the Metropolitan on 2 July 2021*

*Peter John Lee, President*

ENDS

- i All parties identified by surname after the first mention
- ii Presenters' Closing Arguments (P) 6.1
- iii Melnick report 14.1; contra Defence Closing Argument (D) 12.9
- iv Quoted at P 41.4,5
- v P 9
- vi Melnick p 23
- vii Melnick p 13
- viii Melnick p 11
- ix P 48
- x P
- xi P 62
- xii P 67
- xiii P 37
- xiv Major's Answering Affidavit of 21/06/17, page 72, para 7
- xv Defence Closing Arguments (D) Para 8 *passim*
- xvi Not 2015, as per P 19.1
- xvii P 23,28
- xviii
- xix Arguably in breach of Resolution of Permanent Force 5 and of Booyesen's Oaths and Declarations - but leave that aside
- xx Booyesen's statement to SAPS 2016/03/18
- xxi P 6.1
- xxii P 61'Major
- xxiii Booyesen's statement to SAPS 2016/03/18
- xxiv AP 10 & 12
- xxv As she did during the playing of the clandestine recording of her conversation with Andrews
- xxvi Canons pages 208, 209
- xxvii See dissenting opinion of Mrs Antoni
- xxviii Major June 2021 affidavit p7 section 21
- xxix Major June 2021 affidavit p10 section 23