

## **THE AGONIZING SAGA OF ARCHBISHOP ANTONY'S LEGAL JIHAD AGAINST HOLY ASCENSION PARISH**

Since May of 1999, Holy Ascension Parish of Clifton, New Jersey, USA and its parishioners have been involved as Defendants in litigations initiated by Archbishop Antony and his followers in an effort to gain control of the parish assets and parish government. This 10 year long legal ordeal ended in December of 2009 when the New Jersey Supreme Court – for the second time – refused to review an Appellate Court ruling dismissing Archbishop Antony's efforts and thus leaving undisturbed the Parish's control over its own assets and administration and its fealty to its Ukrainian Mother Church in Kyiv, Ukraine.

### **HISTORICAL BACKGROUND**

To understand the significance of this decade long legal battle, it must be viewed in perspective with the historical development of Christianity in Ukraine and that country's striving for national independence for nearly a millennium.

Ukraine accepted Orthodox Christianity in the year 988 under the reign of Volodymyr the Great and the Ukrainian Orthodox Church evolved as an independent church with its see in Kyiv. In 1686, the Moscow Patriarchate took illegal control of the Ukrainian Orthodox Church [and of the Ukrainian nation] with the active participation of the Church of Constantinople. Russia's hegemony was finally removed by the declaration of Ukrainian independence from Russian domination in 1918, and in 1921, the autocephaly [independence] of the Ukrainian Orthodox Church was established. One of the bishops of this renewed independent Ukrainian Autocephalous Orthodox Church was Bishop Ioan Teodorovych, who was sent to the United States to establish **a diocese** of the Ukrainian Autocephalous Ukrainian Orthodox Church for the new Ukrainian immigrants in America. This diocese came to be known as The Ukrainian Orthodox Church of the USA [UOC-USA] and was an integral part of the Kyivan Church.

Although this US diocese of the Ukrainian Autocephalous Orthodox Church continued to flourish and grow in the West, a different fate awaited the Mother Church in Ukraine. In 1927, the atheistic communist government of the USSR terminated the right of the independent Ukrainian Orthodox Church to exist and most of its clergy were killed or exiled to Siberia by the Stalinist regime. Despite the ruthless annihilation of the Mother Church in Ukraine, the UOC-USA continued to proclaim that it was an integral part of the Ukrainian Autocephalous Orthodox Church of Kyiv, Ukraine and continued its ancient Ukrainian traditions as its standard bearer. These traditions included: conciliar structure and government with laity participation, election of bishops with laity participation, local parish ownership and control of assets, independent parish administration and government, election and dismissal of the pastor by the parish, and membership based upon the principles of non-coercion and voluntary association and most importantly autocephaly (independence) from all foreign rule or influence by any state or other religious patriarch or entity.

After WWII, a new wave of immigrants -- many of whom had belonged to the Ukrainian Autocephalous Orthodox Church reestablished during World War II in Ukraine but once again destroyed by the soviets -- joined the UOC-USA including then Archbishop Mstyslav Skrypnyk who, together with Metropolitan Ioan Teodorovych and all of the clergy of the UOC-USA continued to publicly affirm that the UOC-USA was the continuation of the Ukrainian Autocephalous Orthodox Church in Ukraine and of its customs and traditions and persistently stressed the independence and autocephaly and conciliar nature of the UOC-USA.

## **REBIRTH IN UKRAINE**

In 1989, towards the end of the existence of the USSR, an independent Ukrainian Autocephalous Orthodox Church was again reborn in Ukraine. Since a diocese of the Ukrainian Autocephalous Orthodox Church first established in 1921 continued to exist in the USA under the leadership of now Metropolitan Mstyslav, in order to reaffirm its continuity to the historical Ukrainian Autocephalous Orthodox Church, the newly reborn church in Ukraine recognized Metropolitan Mstyslav as the spiritual leader of the entire church. On July 5, 1990, Metropolitan Mstyslav of the UOC-USA was elected Patriarch of the Ukrainian Autocephalous Orthodox Church at a Sobor of the Ukrainian Autocephalous Orthodox Church in Kyiv, Ukraine. This Sobor and the attending hierarchs (including Archbishop Constantine and Bishop Antony of the UOC-USA jurisdiction) acknowledged and proclaimed that there was one world-wide Ukrainian Autocephalous Orthodox Church with its see in Kyiv, Ukraine, and that they were all constituent parts of that Church.

In July of 1992, a Sobor of the Ukrainian Autocephalous Orthodox Church was held in Kyiv, Ukraine. This Sobor, as the highest governing authority of the Ukrainian Autocephalous Orthodox Church, accepted Archbishop Filaret, formerly of the Russian Orthodox Church, and his followers into the Ukrainian Autocephalous Orthodox Church. To emphasize its patriarchal status, the Sobor adopted a resolution to change the name of the Ukrainian Autocephalous Orthodox Church to the “Ukrainian Orthodox Church – Kyivan Patriarchate”.

After the death of His Holiness Mstyslav in 1993, a Sobor of the Ukrainian Orthodox Church – Kyivan Patriarchate, was held in October of that year to elect his successor. This Sobor was attended by now Archbishop Antony as a representative of the American branch of the Ukrainian Orthodox Church, the jurisdiction known as the UOC-USA. He participated in the deliberations, meetings, and sacred rituals of the Ukrainian Orthodox Church – Kyivan Patriarchate; and he represented the American subdivision of the Ukrainian Orthodox Church, the UOC-USA, and was even a candidate for the position of Patriarch. The eventual successful candidate for the position of Patriarch was former Ukrainian soviet dissident Archbishop Volodymyr of Ukraine. In 1995, His Holiness Volodymyr died and Patriarch Filaret was elected as his successor and continues to this day as the Patriarch of the Ukrainian Orthodox Church – Kyivan Patriarchate and its spiritual head.

## **THE ABANDONMENT**

In December of 1994 after failing to become Patriarch of Kyiv, Archbishop Antony together with Metropolitan Constantine and other clergy of the UOC-USA secretly entered into an agreement with the Patriarch of the Church of Constantinople with its see in Istanbul, Turkey which agreement is commonly known as the “*Points of Agreement*”. In furtherance of this accord, Archbishop Antony and Metropolitan Constantine, were appointed in early 1995 to the hierarchy of the Turkish based Church of Constantinople, were given Greek bishopric titles of that church [Metropolitan Constantine became known as Constantine of Irinoupolis and Archbishop Antony assumed the title of Anthony of Hierapolis], and were no longer recognized as bishops of a Ukrainian autocephalous (independent) church thus becoming clerics of a church distinctly separate, foreign and different from the Ukrainian Orthodox Church of which over its history the UOC-USA claimed to be an integral component. The Patriarch of the Turkish based Church of Constantinople now claims the UOC-USA is an administrative part of the Church of Constantinople and the bishops of the UOC-USA are now under the direct control of the

Ecumenical Patriarch. The hierarchs of the UOC-USA now recognize the Patriarch of Constantinople as their primate hierarch and not the Patriarch of Kyiv and All Ukraine.

Historically, newly independent nations, such as Bulgaria, Romania or Poland for example, have established their own independent (autocephalous) Orthodox Church whose independent status is recognized by other Orthodox churches and civil governments. As such, Ukraine, now as an independent state, is also entitled to have an Orthodox church with such full self-governing status. However, Russia has historically worked very intensely to prevent such standing from being recognized for the Ukrainian Orthodox Church since such recognition would reinforce Ukraine's status as an independent state and as a separate and distinct nation. An independent Ukrainian Orthodox Church would also endanger Moscow's groundless claim to exclusive ancestral roots to Kyivan Rus and its Orthodoxy. Needless to say, the existence of an independent Ukraine runs directly counter to the centuries old policy interests of Moscow.

In 1995, this Russian fear of Ukrainian independence was most aptly expressed by the Patriarch of Moscow who, in a formal communiqué, strongly questioned Constantinople's acceptance into its religious hierarchy of the UOC-USA; Metropolitan Constantine, Archbishop Antony and other clergy. In a little known formal document, Protocol 937 issued in 1995, the Patriarch of Constantinople officially and unequivocally assured the Moscow Patriarch that the absorption of the UOC-USA hierarchs into the Church of Constantinople would permanently prevent the former UOC-USA hierarchs and clergy from advocating any independence (autocephaly) for any Ukrainian Orthodox Church in Ukraine. Needless to say, since 1995, these former UOC-USA hierarchs and clergy have steadfastly adhered to Constantinople's anti-Ukrainian and pro-Moscow directives and have not supported the autocephaly of the Ukrainian Orthodox Church in Ukraine. They have even refused to appear at Holodomor venues at which Kyivan Patriarchate clergy were present [despite the fact that before 1995 they were part of the same church and celebrated the Holy Liturgy together!] By these actions, the former UOC-USA hierarchs have -- wittingly or unwittingly -- undermined the development of Ukraine as an independent state.

### THE LAW SUITS

From 1995, the Holy Ascension parishioners continually questioned the propriety of Archbishop Antony and the other hierarchs in entering into the "*Points of Agreement*" with Constantinople and called attention to the extremely negative implications this agreement had on the Ukrainian Orthodox Church and Ukrainian statehood. The parish pointed out that by their actions, Archbishop Antony and the other hierarchs abandoned their positions in the UOC-USA jurisdiction; had no authority to subjugate the UOC-USA to foreign rule in absolute violation of its constitution; and actively misled the faithful. Furthermore, the parish emphasized that the UOC-USA continues to be in a part of the mother church – the Ukrainian Orthodox Church – Kyivan Patriarchate.

In response, Archbishop Antony took various actions against the parish and its parishioners culminating in the institution of a litigation in 1999 whose sole aim was to silence criticism by taking control of the Holy Ascension parish administration and real property despite the fact that such actions violated the age old traditions and constitution of the UOC-USA itself. During the course of the 1999 litigation, the claims and defenses of Archbishop Antony including the claims of the UOC-USA against the parish were dismissed **with prejudice**. In December of 2004, the Appellate Division of the NJ Superior Court dismissed the remaining claims of Archbishop Antony's supporters on constitutional grounds thus leaving intact Holy

Ascension Parish's control over its own assets and administration. Thereafter, the New Jersey Supreme court refused to review this Appellate Court decision.

In August of 2006, Archbishop Antony, now admittedly a Hierarchy of the Turkish based Orthodox Patriarchate of Constantinople, instituted an action and obtained a judgment purportedly on behalf of the UOC-USA in a "church court" against individual members of Holy Ascension Parish. The sole objective was to again obtain the same relief that was denied him in the 1999 civil litigation. i.e. control of the parish real and personal property and administration of the Parish, removal of the individual defendant parishioners from the Parish board and appointment of individuals selected by Archbishop Antony. Since Archbishop Antony invoked canon law against the parishioners, the parishioners petitioned the supreme spiritual authority of the Ukrainian Orthodox Church of Kyiv, Ukraine, His Holiness Patriarch Filaret, as to his verdict on the purported "church court" action instituted by Archbishop Antony. On October 24<sup>th</sup>, 2006, His Holiness Patriarch Filaret declared the alleged "church court" actions null, void and of no effect and a violation of canon law.

Unable to achieve his objectives solely via the alleged "church court", Archbishop Antony again sued the parishioners in civil court. The trial court rejected Archbishop Antony's complaint - again on constitutional grounds. This decision was affirmed in August, 2009 by the Appellate Division of the NJ Superior Court in a strongly worded unanimous opinion which very clearly recognized the rights of the parish to its own assets and administration. The UOC-USA attempted to have the matter reviewed by the Supreme Court of New Jersey but its request was denied on December 15, 2009, again, leaving intact Holy Ascension Parish's control over its own assets and administration and its historic loyalty to Ukrainian Orthodox Church in Kyiv, Ukraine.

### **IMPLICATIONS FOR THE FUTURE**

The implication of this 10 year long legal saga is that Holy Ascension Parish -- and others in the UOC-USA -- can successfully defend their parish rights to their own property and administration; to remain steadfast in their spiritual loyalty and fealty to the Mother Church in Ukraine; and to resist the impositions of the former clerics of the UOC-USA designed to force them into rebellion against their Orthodox Mother Church in Ukraine and its Patriarch.

This consequence will become more critical in the light of recent developments within the Church of Constantinople which now claims the UOC-USA as its administrative subunit. In November of 2009, The Ecumenical Patriarchate has demanded from all of its bishops [presumably including Metropolitan Constantine of Irinoupolis and Archbishop Antony of Hierapolis and Bishop Daniel of Pamphilon] that they surrender part of their diocesan or parish real property to the Patriarch of Constantinople. Moreover, the Ecumenical Patriarchate is reorganizing its North American church administration and there is evidence that UOC-USA governance will become directly subject to an intermediary bishop appointed by a Turkish based Church vitiating the role of the UOC-USA Sobor in total contradiction of the UOC-USA constitution itself. If this occurs, it would morph spiritual disloyalty of the former hierarchs of the UOC-USA into outright heartless betrayal of the Ukrainian immigrants who for over 90 years toiled to build churches and institutions with the belief that they - the parishioners - would be in control of their destiny, and which would manifest throughout time their national and autocephalous spiritual roots to Ukraine. We pray that such betrayal will not occur.

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