

**THE PERMANENT JUDICIAL COMMISSION
OF THE GENERAL ASSEMBLY
OF THE PRESBYTERIAN CHURCH (U.S.A.)**

Kisup Park and Kyung Hee Park,

Appellants

v.

Presbytery of San Fernando,

Appellee

Decision and Order

Remedial Case 226-03

Arrival Statement

This is an appeal before the General Assembly Permanent Judicial Commission (GAPJC or this Commission) from a decision of the Permanent Judicial Commission (SPJC) of the Synod of Southern California and Hawaii (the Synod), dated September 30, 2023. That decision upheld a July 8, 2022, preliminary determination by the SPJC officers and dismissed Appellants' complaint (the Complaint) for failure to state a claim upon which relief could be granted. The notice of appeal was transmitted to the officers of this Commission on November 12, 2023.

Jurisdictional Statement

This Commission finds that it has jurisdiction, Appellants have standing to file the appeal, the appeal was properly and timely filed, and the appeal states one or more of the grounds for appeal set forth in the *Book of Order*, D-8.0105.¹

Appearances

Appellants Kisup Park and Kyung Hee Park (Appellants) appeared before this Commission via video conference with simultaneous interpretation. Ruling Elder Judy L. Woods appeared in person as counsel on behalf of Appellants. The Rev. David Wilkinson, stated clerk of Appellee Presbytery of San Fernando (Presbytery), appeared via video conference. The Rev. Daryl Fisher-Ogden and the Rev. Paul Chun appeared in person as members of the committee of counsel for Presbytery.

¹ *Book of Order* citations in this Decision are from the 2019-2023 edition, which was in effect at the time of the initial filings in the case.

History

In this case, Appellants challenge the process of dissolution of the congregation of which they were members, the sale of church property, and the conduct of a congregational meeting held on January 9, 2022. As this Commission has noted in its preliminary orders, “the parties in this case have already been on a circuitous journey, with a number of steps undertaken in a manner other than what is prescribed by the Rules of Discipline.” Because Appellants’ specifications of error relate to the conduct and process of these proceedings, the procedural history of the case is set forth in detail.

The Complaint in this case was filed by Appellants on January 18, 2022, as a disciplinary accusation against the pastor of the Korean Hanyang Presbyterian Church of Arleta, California (the Hanyang Church), which was part of the Presbytery of San Fernando. The Appellants were members of the Hanyang Church. Appellants’ Complaint alleged disciplinary offenses; it also challenged the process of the dissolution of the Hanyang Church, including the notice and conduct of a congregational meeting held January 9, 2022. In their Complaint, Appellants stated they had limited English abilities. The Complaint was stated in both Korean and English, with Steve Kuh acknowledged as the translator of the document for Appellants.

The facts related to the January 9 congregational meeting are disputed by the parties and have not been tried by any judicial commission. Because the case comes before this Commission on the preliminary issue of whether Appellants have stated a claim upon which relief can be granted, this Commission must assume the truth of the facts as alleged for the purpose of determining whether those assumed facts warrant any relief (*McKittrick v. Session, West End Presbyterian Church of Albany, New York* (2003, 215-05); *Colonial Presbyterian Church, Kansas City, Missouri v. Grace Covenant Presbyterian Church, Overland Park, Kansas* (2008, 218-01)).

In their Complaint, Appellants alleged irregularities with regard to the notice of the meeting and notice of the closure of the church; the conduct of the meeting (including the failure to elect a clerk and maintain and present appropriate records); the dissolution of the church; an earlier sale of the church manse; and efforts to elect a session.² Throughout the proceedings, the parties and the judicial commissions reviewing this case have noted that there has been no functioning session in place at the Hanyang Church. The Appellants alleged that these irregularities deprived them of due process, and asked (as translated into English) “for the opportunity to revive the church.”

The moderator and clerk of the Presbytery Permanent Judicial Commission (PPJC officers) subsequently reviewed the Complaint. In an undated order, the PPJC officers separated the disciplinary allegations in the Complaint from the claims that were more remedial in nature:

² At oral argument, counsel for both parties confirmed that there was no action taken at the congregational meeting as to the sale of the church building. The Presbytery took that action at a later date.

- To the extent that the Complaint raised disciplinary issues, the PPJC officers concluded that those issues were not ready for consideration, as no investigating committee had yet been formed.
- To the extent that the Complaint made allegations that were remedial in nature, the PPJC officers undertook to address the preliminary questions required under D-6.0305. The PPJC officers concluded that Mr. Park and Mrs. Park had standing as members of the Hanyang Church to file the Complaint, but that the Complaint failed to state a claim upon which relief could be granted, commenting that the issues were “better dealt with by the Presbytery’s Committee on Ministry or Polity and Records Committee.”

The PPJC officers also held that the Complaint lacked allegations specific enough to determine the timeliness of the Complaint. The PPJC officers “declined to take jurisdiction over this [remedial] case,” effectively dismissing the remedial portions of the Complaint.

It is important to note that Appellants’ January 18, 2022, Complaint, recast and understood as a remedial complaint, is the complaint that is the subject of the present appeal. The disciplinary allegations stated in the original Complaint are not before this Commission.

Appellants encountered difficulty in communicating with the Presbytery stated clerk about judicial process, as reflected in the following email exchange:

- Not long after the PPJC officers’ order, Appellants, through their translator Mr. Kuh, contacted the Presbytery stated clerk with questions about the judicial process for challenging the order.
- The stated clerk replied with the following (email quoted in full): “They [the procedures] are very long and complicated. You can find them in the Book of Discipline [*sic*] which is part of the Book of Order. If you don’t have a copy there are English and Korean versions available on the PCUSA website.”
- Mr. Kuh emailed back, asking the stated clerk what the next steps would be.
- The stated clerk replied (email quoted in full): “As you see from your review, there are threshold questions for the PJC to answer before getting to the point to naming any IC, I assume that is where we are.”
- When Mr. Kuh asked for the Presbytery phone number, the stated clerk replied (email quoted in full), “I don’t believe that you are a member of Han Yang nor a member of their Session and therefore have no standing for me to discuss this with you. Please share the action of the PJC with those who filed the complaint. Thank you.”
- Mr. Kuh wrote back, conveying Appellants’ request for an in-person meeting with the stated clerk: “The complainants, Kisup Park and Kyung Hee Park, would like to ask questions in person. Please give them a few available time slots next week.”
- The stated clerk declined to meet with Appellants, and then cautioned Mr. Kuh that he (Mr. Kuh) could not represent Appellants because he was not a member of a PC (USA) congregation and that he would not be serving as translator if there were any proceedings in the matter.
- Mr. Kuh replied, reminding the stated clerk that he (Mr. Kuh) was serving as translator for Appellants, not as counsel.

- In his next email, the stated clerk acknowledged Mr. Kuh's role as translator; stated that the congregation had voted to close the church and why, in his opinion, the January 9, 2022, congregational meeting had been proper; and explained that at the upcoming Presbytery meeting the Presbytery's Committee on Ministry would "move that the Presbytery concur with the action of the congregation." The stated clerk also informed Mr. Kuh "that only pastor members and elder commissioners elected by their Sessions have the right to speak or vote at this meeting."

On February 17, 2022, Appellants submitted (through Mr. Kuh) a notice of appeal to the SPJC challenging the order of the PPJC officers. On February 18, 2022, the Synod stated clerk notified Appellants, again through Mr. Kuh, that the SPJC officers were declining to accept Appellants' notice of appeal, explaining "they need to take one more step with the [PPJC]." The Synod stated clerk also informed Mr. Kuh that, because the stated clerk did not know what Mr. Kuh's role was in the case, and because Mr. Kuh was not a member of a PC (USA) congregation, the stated clerk would no longer accept filings from Mr. Kuh, requiring that they be sent directly to the stated clerk by Appellants. As explained below, it appears that Appellants subsequently sent the notice of appeal themselves to the Synod stated clerk, and that it was accepted.

On February 22, 2022, Presbytery voted to "accept the congregation's vote to dissolve the Hanyang congregation."³ At oral argument in this matter, the parties confirmed that no elders had been elected from the Hanyang Church to serve as commissioners to the Presbytery meeting.

As with their February 17, 2022, notice of appeal accepted by the Synod stated clerk, Appellants also continued to seek relief in other manners. For example, on March 16, 2022, Appellants sent a letter to the members of the Presbytery beseeching them to file a remedial complaint against the Presbytery for its action to dissolve the Hanyang Church. The Appellants also described their plans to "revive" the church.

On March 7, 2022, the Synod acknowledged receipt of Appellants' notice of appeal (dated February 17, 2022). The SPJC officers then took up Appellants' appeal, and issued an order on April 6, 2022. As the PPJC officers had done in their earlier order, the SPJC officers separated out disciplinary allegations in the Complaint from remedial claims:

- With regard to the disciplinary issues, the SPJC officers agreed with the PPJC officers that those issues were not yet appropriate for review, and "denied" the disciplinary aspects of Appellants' Complaint.
- With regard to the remedial issues in the Complaint, the SPJC officers remanded the case back for consideration of the preliminary questions by the full PPJC. Specifically, the SPJC officers directed the full PPJC to review the PPJC officers' determination (1) as to questions of fact surrounding the timeliness of Appellants' Complaint, and (2) whether the Complaint failed to state a claim upon which relief can be granted with regard to action taken at the January 9 congregational meeting.

³ In accordance with G-3.0301a, a presbytery has exclusive responsibility in "dissolving congregations in consultation with their members."

The full PPJC allowed for briefing on the issues and scheduled a hearing on the issue of whether the Complaint stated a claim upon which relief could be granted. In their brief to the PPJC, Appellants specified the relief they were seeking: “[T]hey would like a chance to revive the church and that they do not want the church to be closed.”

Prior to the hearing there was further communication between the Presbytery stated clerk and Appellants’ translator, Mr. Kuh. Mr. Kuh wrote to the Presbytery stated clerk on the issue of translation. Mr. Kuh maintained that contrary to the stated clerk’s earlier emails, there was no *Book of Order* provision that prohibited him from serving as Appellants’ translator. In his reply, the Presbytery stated clerk expressed concern that Mr. Kuh may not be a disinterested translator. The Presbytery stated clerk informed Mr. Kuh: “You are a participant with no standing as a member of the PCUSA to be in that role. I will receive no further communications directly from you,” and with regard to the hearing before the full PPJC stated, “Translation will be provided by Rev. Paul Chun who is a member of the PJC. You will not be present in any capacity.”

The PPJC hearing occurred on May 21, 2022. There was no transcription made of the hearing. On May 22, 2022, the Presbytery stated clerk informed Appellants by email of the PPJC’s decision. Like the PPJC officers’ order, the full PPJC separated out disciplinary allegations from remedial claims:

- To the extent that the Complaint made disciplinary allegations, the PPJC affirmed the procedures proposed by an investigating committee and “closed the case” with regard to disciplinary issues.
- To the extent that the Complaint raised remedial issues, the Presbytery stated clerk informed Appellants: “The PJC voted unanimously to agree with the action of the PJC officers. This concludes the case.”

There was no order or opinion issued, and no explanation in the email of the PPJC’s rationale as to the remedial issues raised in the Complaint. At oral argument before this Commission, a member of Presbytery’s committee of counsel stated that she had actually recused herself as moderator of the PPJC and argued the case before the full PPJC in opposition to the Appellants.

On June 9, 2022, Appellants appealed from the PPJC decision to the SPJC. In their notice of appeal, Appellants specified error in the proceedings, alleging that they had not received any decision on the jurisdictional issues raised in their appeal. Among other allegations of error, Appellants maintained that the PPJC during oral argument had addressed the wrong complaint. Specifically, Appellants argued that the PPJC had confused the Complaint at issue here with a separate disciplinary complaint that the Appellants had filed in February 2022, which related only to disciplinary issues, not the dissolution process.

In response to this latest notice of appeal, in an undated, unsigned order (later determined to have been issued on July 8, 2022), the SPJC officers set out to address the preliminary questions required by D-8.0301. Among other findings, the SPJC officers concluded that the PPJC had considered the February 2022 complaint, which was the wrong complaint, and remanded the case back to the PPJC for consideration of the January 18, 2022, Complaint.

On August 4, 2022, Appellants appealed from the order of the SPJC officers to the GAPJC. Upon receipt of the notice of appeal, the Assistant Stated Clerk of the General Assembly, in her capacity as Manager of Judicial Process and Social Witness, observed that the SPJC officers' ruling from which Appellants appealed was not a final decision of the SPJC, an observation with which this Commission agrees. In September 2022, the Assistant Stated Clerk of the General Assembly conferred with the Synod stated clerk about the need for the full SPJC to respond to the Appellants' challenge to the SPJC officers' ruling.

The case remained before the SPJC. Nothing happened in the case for the next ten months.

On July 9, 2023, Appellants communicated to the Acting Stated Clerk of the General Assembly that they had not received any communication regarding the status of their case other than that "the GAPJC has sent the case back to Synod PJC." (In fact, the case was never formally before the GAPJC since it was determined to be properly before the full SPJC.) The communication asked the Acting Stated Clerk of the General Assembly to update Appellants on the status of the case.

After receiving information regarding the status of the case before the SPJC, the officers of this Commission issued an order directing the SPJC to hear the case, treating the notice of appeal sent to the GAPJC as a challenge to the SPJC officers' July 8, 2022, findings. To facilitate those proceedings and avoid further confusion, that order clarified the proper parties to the appeal, specifically that Presbytery was the proper respondent in the case, and directed Presbytery to designate a committee of counsel. The order then outlined the process required by the Rules of Discipline for reviewing the SPJC officers' order on preliminary questions, and directed that the hearing and decision on the challenge to the order occur within ninety days.

The SPJC held a hearing on Appellants' challenge to the order of the SPJC officers on preliminary questions, and issued its decision on September 30, 2023. This is the decision that is the subject of this appeal. The SPJC held that Appellants had failed to state a claim upon which relief can be granted "due to the vagueness of the remedial actions requested by the Complainants." The SPJC focused particularly on language in the Complaint that, translated into English, stated that Appellants "would like a chance to revive the church." The SPJC also noted that no stay had been requested,⁴ the church building had been sold, and that it was "even more unclear what action the Synod PJC can take or what order the Synod PJC can issue that would result in the Complainants reviving the church."

Appellants filed a notice of appeal and a request for stay of enforcement with this Commission. The officers of this Commission accepted the appeal, and a Stay of Enforcement was entered on November 17, 2023. The stay directed Presbytery "to hold the sale proceeds in escrow or a similarly secure and segregated account until this Appeal is decided and any subsequent judicial process ordered as a result of this Appeal has been completed and finally decided."

⁴ In fact, Appellants' Notice of Appeal to the Synod dated February 17, 2022, included a request for stay embedded in their appeal, but it does not appear that any action was taken in response to that request.

Oral argument in this appeal was held on April 5, 2024.

Specifications of Error

Appellants state four specifications of error. Permanent judicial commissions have long-standing and broad authority to restate, group, consolidate, and summarize, but not omit, specifications of error presented in an appeal for purposes of clarity (*Book of Order*, D-8.0404d). This Commission has reordered (and slightly reworded) Appellants' specifications of error (retaining the Appellants' numbering), and addresses Specification No. 4 first, and then Specifications Nos. 1-3, as follows:

Specification of Error No. 4: By finding that the Appellants stated no claim upon which relief could be granted, the SPJC erred in constitutional interpretation of D-6.0305d and in dismissing the case (D-8.0105g).

This specification of error is sustained.

At the heart of their appeal, Appellants challenge the SPJC's dismissal of their Complaint for failure to state a claim upon which relief can be granted. This Commission's Decision in *McKittrick v. Session, West End Presbyterian Church of Albany, New York* (2003, 215-05) provides: "In ruling on a motion to dismiss for failure to state a claim, a permanent judicial commission must assume the truth of the facts alleged in the complaint and then determine whether those assumed facts warrant any relief." As such, this Commission assumes the truth of the facts alleged by Appellants in assessing whether they have stated a claim upon which relief can be granted.

The SPJC dismissed the Complaint and provided two reasons for doing so. The SPJC concluded that Appellants' request for relief was vague, and the SPJC was "unclear" as to what actions it could take to provide relief, particularly given that Appellants' congregation had been dissolved and the church building sold. This Commission finds that the SPJC erred in dismissing the Complaint for failure to state a claim upon which relief can be granted.

In its opinion, the SPJC referenced statements regarding relief sought by Appellants in their Complaint that they "would like a chance to revive the church" and that they would "call the old Hanyang Church members to come back and revive the church." The SPJC concluded that Appellants' request for relief was vague and unclear as to what actions it could take to provide relief.

This Commission does not find the words vague. The plain meaning of the request to revive the church is to ask that the dissolution be set aside or the congregation otherwise be reinstated.⁵ Appellants explained their request for relief in their various filings with the SPJC and argument was heard on the issue. Unfortunately, there is no transcript from the SPJC hearing.

⁵ The filings in this case contained debate over the exact English translation of the Korean word used in Appellants' request for relief. This Commission finds none of the interpretations vague, particularly given the context used in this proceeding.

This Commission finds that Appellants provided sufficient information to the SPJC for it to understand the request for relief. Further, at the time Appellants filed their Complaint, the Hanyang Church had not been dissolved,⁶ and the congregation could have been maintained if a judicial commission found such relief appropriate following success in a trial on the merits. The action to dissolve the congregation could also be set aside, even now.

The SPJC also noted that Appellants did not request a stay of enforcement to prevent the dissolution of the church, and the church has since “ceased to be a chartered church and its building sold.”⁷ But there was no obligation to seek a stay of enforcement.⁸ While Presbytery's actions of selling the church building cannot be undone, this does not preclude other types of relief. A judicial commission may exercise its declaratory authority to provide future guidance to a lower council (see *Laney v. Presbytery of North Alabama* (2017, 223-02)). As this Commission has held in *Tom, et al. v. Presbytery of San Francisco* (2012, 221-03), “When the lower council's actions cannot be undone, this Commission may exercise its declaratory authority to provide guidance to lower councils and prevent future violations.” Thus, even if Appellants' congregation could not be reinstated, a judicial commission may grant other appropriate relief.

The essence of Appellants' claims in this case is that Presbytery failed in its obligation to communicate and work with the members of the Hanyang Church regarding the dissolution of the congregation. G-3.0301a provides that “the presbytery has responsibility and power to ... provide that the Word of God may be truly preached and heard. This responsibility shall include ... merging, dismissing, and dissolving congregations in consultation with their members.” The Complaint includes allegations that the congregational dissolution process was improper. Such allegations amount to a claim that Presbytery has failed in its responsibility, and a trial on the merits of such a claim, with consideration of proper relief, is appropriate.

Specification of Error No. 1: The SPJC erred by irregular conduct of its proceedings (D-8.0105a).

This specification of error is sustained.

Specification of Error No. 2: The SPJC's erroneous dismissal of the complaint is a manifestation of prejudice in the conduct of the case (D-8.0105e).

This specification of error is sustained.

Specification of Error No. 3: The SPJC erred in its dismissal of the complaint and thereby acted unjustly in the process (D-8.0105f).

⁶ Despite the congregational meeting on January 9, 2022 (at which the Presbytery asserts a vote to dissolve the congregation was held, the validity and substance of which Appellants dispute), only the Presbytery had the authority to dissolve a congregation (see G-3.0301a). The parties agree that the Presbytery action to dissolve the congregation occurred on February 22, 2022, after the filing of the Complaint.

⁷ Appellants' notice of appeal to the Synod dated February 17, 2022, in fact included a request for stay, but it does not appear that any action was taken in response to that request.

⁸ The absence of a stay of enforcement does not in and of itself preclude a judicial commission from later granting available relief.

This specification of error is sustained.

In addition to their specification of constitutional error, Appellants also allege irregularity, manifest prejudice, and injustice in the proceedings. Although stated separately, these three specifications all focus on the conduct of the proceedings that led to the SPJC's decision in this case. Accordingly, this Commission addresses them together.

From the start, Appellants have sought relief from an action they deemed unjust, namely the dissolution of their congregation. At nearly every turn, the leaders and officials charged with ensuring fair and equitable access to the systems of governance and judicial review have proved less than helpful. In their arguments before this Commission, Appellants focus particularly on how they have experienced systems and officials insensitive to language and cultural barriers in this case's multicultural context. That is particularly manifest in Appellants' email communications (through their translator, Mr. Kuh) with the Presbytery stated clerk, as set forth above in the History section of this Decision. Shortly after the PPJC officers issued their decision on preliminary questions, Appellants, through Mr. Kuh, contacted the Presbytery stated clerk with questions about how to challenge the decision. The Presbytery stated clerk's initial responses were insufficient. The Presbytery stated clerk wrote back to Appellants, acknowledging that the procedures for challenging the decision were "long and complicated," and informing them that they could find the *Book of Order* online in both English and Korean.

As Appellants asked follow-up questions through Mr. Kuh, the Presbytery stated clerk became increasingly resistant to the role of Appellants' translator. As the Presbytery stated clerk responded with some information, he also began to state that Mr. Kuh had no "standing" to relay Appellants' questions, as Mr. Kuh was "not a member of Hanyang nor a member of their Session." Though the correspondence shows that Mr. Kuh repeatedly clarified that he was serving as translator, the Presbytery stated clerk inappropriately applied the requirements for serving as *counsel* to Mr. Kuh's role as *translator*. There is, in fact, no *Book of Order* requirement or prohibition with regard to whom a party in a judicial proceeding may select as their translator. The Presbytery stated clerk eventually refused to accept any further communications from Mr. Kuh.

At about the same time, the Synod stated clerk indicated that he, also, would not accept documents from Appellants forwarded through Mr. Kuh. It appears from the record and from oral argument that Appellants' February 17, 2022, appeal to the Synod was initially rejected when submitted via Mr. Kuh, and later accepted on March 7, 2022, only when it was received by mail, sent by Appellants. As the May 21, 2022, hearing before the full PPJC approached, the Presbytery stated clerk informed Mr. Kuh that he could not be present in any capacity.

One of the questions before this Commission is whether manifest prejudice was present in these proceedings; this Commission finds that it was. The *Book of Order* expresses a commitment to "Unity in Diversity," including full and fair access to the worship, governance, and life of the church: "The Presbyterian Church (U.S.A.) shall guarantee full participation and representation in its worship, governance, and emerging life to all persons within its membership. No member shall be denied participation or representation for any reason other than those stated in this Constitution" (F-1.0403). An earlier concurring opinion stated, and this Commission now affirms: "In a denomination where we value our diversity, we must undertake

the challenges presented when we have different cultures and different languages into which Presbyterian ‘culture’ and polity are being translated. I therefore urge governing bodies to appreciate their critical role as ‘translator’ of the *Book of Order* and its implementation at any given stage in cases such as these” (*Yun, et al. v. Session of the Korean United Presbyterian Church of New Jersey*, June Lorenzo concurring (2008, 218-08)).

Where officers and leaders of the church do not speak the language of members seeking assistance that the leaders are called and charged to provide, there is a responsibility and duty to take issues of translation seriously. There is no *Book of Order* provision that governs whom a party may ask or retain to provide translation support. (To be sure, officials and councils can and should retain their own official translation and interpretation services for trials and hearings. That was not at issue here.)

In their claims of irregularity, manifest prejudice, and injustice in the proceedings, Appellants also point to substantial delay in the proceedings. As stated above, the procedural path this case has taken has indeed been circuitous. Appellants acknowledge they bear some responsibility for how that path has unfolded, particularly in filings that were premature or filed with an incorrect council. Appellants point, however, to a particular substantial delay in the SPJC proceedings at issue here. During the ten-month delay in the SPJC’s consideration of the case, as described in the History above, the Hanyang Church property was sold, an action which all parties agree cannot be undone. Further proceedings in the SPJC began in July 2023, only after proceedings were directed by this Commission. This Commission finds that this particular substantial delay in the appellate proceedings – with no action or communication from the Synod or its SPJC – was irregular and reflects injustice in the proceedings.

As this Commission has noted in its earlier orders, this case has proceeded “with a number of steps other than what is prescribed by the Rules of Discipline.” Indeed, the record here is rife with irregularity. In addition to irregularities emphasized by Appellants, this Commission also finds the following irregularities, and offers guidance as appropriate:

- In proceedings before the SPJC, the record reflects that the SPJC allowed the Presbytery stated clerk to serve on the committee of counsel for Presbytery, and in opposition to Appellants. This is specifically prohibited by the *Book of Order*. D-6.0302b provides, “The clerk of session, the stated clerk, or executive of presbytery or synod shall not serve on a committee of counsel of the council served.” The role of the stated clerk in judicial proceedings is one of assistance and facilitation. The stated clerk communicates with the parties and their counsel, conveys filings between the parties and the judicial commission, and advises as to process. It is improper for a stated clerk, charged with facilitation and support, to then assume an adversarial role in the judicial proceedings.
- The GAPJC notes that the moderator of the PPJC, who (along with the clerk of the PPJC) first considered the Complaint, has served as a member of the Presbytery committee of counsel in opposition to Appellants before the SPJC and this Commission. Though not explicitly prohibited in the *Book of Order*, this Commission finds that this is not consistent with the principles of fairness and impartiality that undergird our disciplinary system, and accordingly makes clear: A commissioner serving on a permanent judicial

commission that adjudicates a particular case shall not thereafter serve as counsel in that case. Additionally, the moderator of the PPJC also served as a member of the Presbytery committee of counsel during the May 21, 2022, hearing by the full PPJC.⁹ At oral argument before this Commission, the committee of counsel member explained that she had argued the case in opposition to Appellants but had “recused” herself from voting. This is an irregularity and contrary to the principles set forth in D-7.0301, which provides: “No member of a permanent judicial commission shall appear as counsel before that commission while a member.”

- The record in this case includes an *ex parte* communication between the moderator of the PPJC (who was also serving on the Presbytery committee of counsel), the Presbytery stated clerk (who was also serving on the Presbytery committee of counsel), and the Synod stated clerk. Following the July 8, 2022, order from the SPJC officers on preliminary questions, the PPJC moderator and Presbytery stated clerk wrote to the Synod stated clerk with questions about the order. They indicated that they wanted “to be sure that the guidance of the Synod PJC is in accordance with the Book of Order,” and then stated, “If the clarification is provided we will proceed.” The PPJC moderator and Presbytery stated clerk then set forth concerns about the order, and then offered, “With or without hearing, we will be glad to provide the Synod PJC the facts as to why the Presbytery PJC is fully satisfied that the January 9, 2022, congregational meeting was properly announced and conducted.” At oral argument before this Commission, it was confirmed that the Appellants and their counsel were not included in this communication.

This Commission finds that communication to be irregular in many ways. The PPJC moderator and Presbytery stated clerk conditioned their compliance with the SPJC officers’ order on receiving the clarification they requested and on their own determination as to whether the SPJC officers’ order was correct. They offered to provide evidence to the SPJC “with or without a hearing.” In addition, they proposed to make their evidentiary case in a proceeding where they were actively arguing that there should be no evidentiary hearing. This Commission finds this communication to be not only irregular, manifestly prejudicial to the Appellants, and unjust, but also highly improper.

- Perhaps not as prejudicial as the irregularities set forth above, this Commission notes that for important hearings in this case, transcripts have not been provided as part of the record, which is inconsistent with the principles of D-7.0601. There is no transcript in the record for the hearing before the full PPJC. There are disputes in this case over what transpired at that hearing (particularly whether the PPJC was addressing the correct complaint). Similarly, there is no transcript in the record from the hearing before the full SPJC, although this Commission has been advised that this was a result of technical difficulties. Nevertheless, the lack of the transcripts has been prejudicial to the consideration of Appellants’ claims, is irregular, and has made the consideration of the issues in this case more difficult. Hearings on preliminary questions could result in the dismissal of a complaint, which is a “final decision that renders the case ripe for appeal” (*Raines v. Session of Miami Shores Presbyterian Church* (2006, 217-6)). Therefore, PJC

⁹ The record also indicates that another member of the PPJC served on the committee of counsel for the Presbytery before this Commission.

clerks are required to “[a]rrange in advance for the accurate verbatim recording of all testimony and oral proceedings” (D-7.0601a) at such hearings and to be prepared to provide a transcript in accordance with D-7.0601f.

This Commission finds that the record in this case is replete with irregularities, manifest prejudice, and injustice.

Decision

The Preamble to the Rules of Discipline sets forth the principles and values that undergird the Presbyterian Church (U.S.A.) understanding of church discipline:

The purpose of discipline is to honor God by making clear the significance of membership in the body of Christ; to preserve the purity of the church by nourishing the individual within the life of the believing community; to achieve justice and compassion for all participants involved; to correct or restrain wrongdoing in order to bring members to repentance and restoration; to uphold the dignity of those who have been harmed by disciplinary offenses; to restore the unity of the church by removing the causes of discord and division; and to secure the just, speedy, and economical determination of proceedings. In all respects, all participants are to be accorded procedural safeguards and due process, and it is the intention of these rules so to provide. (D-1.0101)¹⁰

At their heart, these principles express a basic commitment to the dignity and fair treatment of all people and to due process in judicial proceedings, the hallmark of which is clear notice and a meaningful opportunity to be heard.

Additionally, as set forth above, the Foundations of Presbyterian Polity section of the *Book of Order* expresses a commitment to “unity in diversity,” including full and fair access to the worship, governance, and life of the church: “The Presbyterian Church (U.S.A.) shall guarantee full participation and representation in its worship, governance, and emerging life to all persons within its membership. No member shall be denied participation or representation for any reason other than those stated in this Constitution” (F-1.0403).

The proceedings in this case fall short of these constitutional commitments and expectations. In the context of fraught congregational struggles and embedded within the complexity and richness of a broader multicultural setting, Appellants encountered systems and individuals not adequately prepared for or responsive to cultural difference. Appellants themselves acknowledge that they made procedural errors that have extended these proceedings; this Commission agrees. Even so, the record is clear that throughout these proceedings, Appellants have been seeking guidance as they sought to navigate the judicial process.

¹⁰ As articulated above, *Book of Order* citations in this Decision are from the 2019-2023 edition, which was in effect during the time of the allegations herein. The discussion here of the Preamble of the Rules of Discipline from that edition applies equally to the Preamble of Church Discipline as set forth in the 2023-2025 edition of the *Book of Order*.

This Commission has identified and listed many irregularities in these proceedings. This Commission further notes that the record and hearing in this case reflect a dismissive attitude toward Appellants and their concerns. Our governance and judicial process should reflect the equal dignity of all people, and it should provide full and fair access to the worship, governance, and life of the church.

This case should remind those serving in various roles in the judicial process of our high calling, and also brings to light the important duty of presbytery and synod stated clerks in that process. Stated clerks play an essential role as neutral and trustworthy facilitators of a fair and faithful process that upholds dignity, restores unity, and ensures “just, speedy, and economical” outcomes (D-1.0101). The role of stated clerks is never to exercise their own discretion about the merit of complaints or allegations, but always to make every effort to guide parties toward the proper methods of employing the tools of our polity and discipline. When parties seek assistance from stated clerks and encounter obstruction or inaccurate guidance, or when filings or orders are met with undue delay, trust in the process and in our covenant community is undermined. Stated clerks of all councils are urged to faithfully exercise their office in ways that build up the church and all its members.

In this appeal, this Commission finds that Appellants have stated a claim upon which relief could be granted. This Commission expresses no opinion on the merits of Appellants’ claims, which will now be the subject of trial.

This Commission exercises its authority to assume jurisdiction of this case for trial and resolution of Appellants’ claims. This Commission does not take this step lightly. In most cases, this Commission would remand to the SPJC for a trial. However, given the substantial delay, irregularity, manifest prejudice, and injustice of the proceedings in the Synod and Presbytery process, this Commission is compelled to conclude that this exercise of jurisdiction is necessary “to achieve justice and compassion for all participants involved; ... and to secure the just, speedy, and economical determination of proceedings” (D-1.0101).

Order

IT IS THEREFORE ORDERED that the decision of the Synod of Southern California and Hawaii Permanent Judicial Commission to dismiss the case is hereby reversed.

IT IS FURTHER ORDERED that the General Assembly Permanent Judicial Commission assumes jurisdiction of this case, with a date and place for trial before this Commission to be set and communicated to the parties at a future date.

IT IS FURTHER ORDERED that the Stay of Enforcement entered by this Commission on November 17, 2023, is continued and remains in effect. The Presbytery of San Fernando is directed to hold the proceeds from the sale of the Korean Hanyang Presbyterian Church building in escrow or a similarly secure and segregated account until this case is finally decided.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of San Fernando report this Decision to the Presbytery of San Fernando at the first meeting after receipt, that the

Presbytery of San Fernando enter the full Decision upon its minutes, and that an excerpt from those minutes showing entry of the Decision be sent to the Stated Clerk of the General Assembly.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of Southern California and Hawaii report this Decision to the Synod of Southern California and Hawaii at the first meeting after receipt, that the Synod of Southern California and Hawaii enter the full Decision upon its minutes, and that an excerpt from those minutes showing entry of the Decision be sent to the Stated Clerk of the General Assembly.


Absences and Non-Appearances

Commissioners MariGlory González-Guerra, Rocky Supinger, and Wendy Tajima were absent and took no part in the hearing and deliberations.


Certificates

We certify that the foregoing is a true and correct copy of the Decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Remedial Case 226-03, Kisup Park and Kyung Hee Park, Appellants v. Presbytery of San Fernando, Appellee, made and announced at Louisville, Kentucky, this 7th day of April, 2024.

Dated this 7th day of April, 2024




Brian D. Ellison, Moderator
Permanent Judicial Commission of the General Assembly



Diana Moore, Clerk
Permanent Judicial Commission of the General Assembly

I certify that I did, on this 7th day of April, 2024, transmit in person a certified copy of the foregoing to Flor Vélez-Díaz for delivery to the following persons:


- Kisup Park and Kyung Hee Park, Appellants
- Judy L. Woods, Counsel for Appellants
- Committee of Counsel for Appellee
- Stated Clerk, Presbytery of San Fernando
- Stated Clerk, Synod of Southern California and Hawaii
- General Assembly Permanent Judicial Commission



Diana Moore, Clerk
Permanent Judicial Commission of the General Assembly

I certify that I received a certified copy of the foregoing, that it is a full and correct copy of the decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.), sitting during an interval between meetings of the General Assembly, in Louisville, Kentucky, on April 7, 2024, in Remedial Case 226-03, Kisup Park and Kyung Hee Park, Appellants v. Presbytery of San Fernando, Appellee, and that it is the final judgment of the General Assembly of the Presbyterian Church (U.S.A.) in the case.

Dated at Louisville, Kentucky, this 7th day of April, 2024.



Flor Velez-Díaz, Assistant Stated Clerk
Manager of Judicial Process and Social Witness