

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

Rev. John H. An,)	
Appellant,)	
)	
v.)	Decision and Order
)	Remedial Appeal 224-06
Atlantic Korean American Presbytery,)	
Appellee)	

Arrival Statement

This is an appeal to the General Assembly Permanent Judicial Commission (GAPJC or this Commission) from an October 17, 2018, decision of the Permanent Judicial Commission of the Synod of the Mid-Atlantic (SPJC). In that decision, the SPJC upheld Atlantic Korean American Presbytery’s (Presbytery or Appellee) dissolution of the pastoral relationship between the Rev. John H. An (Rev. An or Appellant) and the Maryland Presbyterian Church (MPC), determining that the Presbytery met the requirements of G-2.0901. Appellant appealed the SPJC’s decision to this Commission.

Jurisdictional Statement

This Commission finds that it has jurisdiction, Appellant has standing to file this appeal, the appeal was properly and timely filed, and the appeal states one or more of the grounds for appeal under D-8.0105.¹

Appearances

The Rev. John An, Appellant, appeared with Ruling Elder Dong Yul Chough, counsel. The Rev. Nam Cho and the Rev. Chi Hyeon Yun, committee of counsel, appeared on behalf of Appellee.

History

This remedial case arises as an appeal from the SPJC decision of October 17, 2018, which affirmed the action of the Presbytery to dissolve the pastoral relationship between Rev. An and MPC on December 4, 2017.

¹ *Book of Order* citations in this Decision are from the 2017-2019 edition, which was in effect during the time of the actions and the SPJC decision herein.

On March 13, 2017, ten members of MPC sent a petition to the Presbytery listing nine reasons for the dissolution of the pastoral relationship between Appellant and MPC. The Presbytery requested a consultation in June 2017 with Appellant and the session to discuss the petition. Neither Appellant nor the clerk or any session member attended the meeting. Additional events documented in the record indicate continuing difficulties within the congregation.

The Presbytery Committee on Ministry (COM) reported the difficulties between Appellant and the congregation to the Presbytery General Council on November 16, 2017. The General Council ordered COM to hold a consultation with the pastor, the session, and the congregation pursuant to G-2.0904. Notice was sent by email on November 18, 2017, setting the consultation for November 26, 2017. The email indicated that COM would also send the information about the consultation to the members of the congregation in case the notice was not posted. The result of the consultation was to be reported by COM to the Presbytery at its stated meeting on December 4, 2017.

The MPC Session and Rev. An responded by email stating that they would not attend the consultation for three reasons: that MPC Session did not report any difficulties between Rev. An and the congregation; that the General Council did not go through due process; and that the motion by COM was invalid because of lack of due process. There was also a request to reschedule the consultation. Nonetheless, a number of MPC members attended the November 26, 2017, consultation with COM.

On December 4, 2017, the Presbytery dissolved the pastoral relationship between Rev. An and MPC. Rev. An attended the meeting, and after the vote he announced that he could not accept the result, and that the MPC Session would file a remedial action.

Subsequently, the MPC Session discussed a petition, dated December 11, 2017, protesting the dissolution of the pastoral relationship. During oral argument before this Commission, Appellant acknowledged that he moderated the meeting. The petition was attached to Appellant's notice of appeal to the GAPJC, but nothing in the record reflects what happened to the petition.

Appellant filed a remedial complaint against the Presbytery that was received by the SPJC on February 26, 2018. He did not request a stay of enforcement of the Presbytery's action to dissolve the pastoral relationship.

On October 17, 2018, the SPJC declined to sustain Appellant's complaint, upholding the dissolution of the pastoral relationship. The SPJC found that the requirement of a congregational meeting in G-2.0901 was fulfilled, in that Appellant by his own actions was resistant to any meetings and further refused and failed to post a notice of a congregational meeting as ordered by the Presbytery. The SPJC further suggested that the Presbytery hold a congregational meeting, with notice to be posted on the bulletin board and in the bulletin on two consecutive Sundays. The congregational meeting was held on December 2, 2018, and the congregation voted unanimously for the dissolution of the pastoral relationship.

On December 12, 2018, the GAPJC received Appellant’s notice of appeal. This Commission heard oral argument on October 11, 2019.

Specification of Errors

Specification of Error No. 1: The SPJC erred in its procedure and constitutional interpretation by upholding the Presbytery’s motion to dissolve the pastoral relationship, because a congregational meeting was not held as required in G-2.0904.

This specification of error is sustained in part and not sustained in part.

See decision below.

Specification of Error No. 2: The SPJC erred in its procedure and constitutional interpretation by upholding the Presbytery’s decision to dissolve the pastoral relationship. The Presbytery hastened to a decision in that notice for a congregational meeting pursuant to G-2.0904 was given on November 18, 2017, for a meeting to be held on November 26, 2017.

This specification of error is sustained in part and not sustained in part.

See decision below.

Specification of Error No. 3: The SPJC erred in procedure in upholding the Presbytery’s decision to dissolve the pastoral relationship. The SPJC ignored a request from the MPC Session and congregation to keep the pastoral relationship.

This specification of error is not sustained.

At oral argument, Appellant referenced the December 11, 2017, “Petition.” Appellant further stated during oral argument that the petition was drafted and “approved” by the MPC Session at a meeting at which he served as moderator. That session meeting occurred after the action of the Presbytery dissolving the pastoral relationship, thereby removing Rev. An as moderator. An action by a session, meeting in the absence of a duly appointed moderator, cannot be regarded as a legitimate action. Additionally, a “petition” has no standing in judicial process under the terms of the church’s Constitution. In any case, there is nothing in the record that indicates that the SPJC received this petition.

Decision

Both parties in this case failed to function according to the mandates of the Constitution. The lack of reliable facts and the lack of clarity in the record have made it virtually impossible for this Commission to identify who bears responsibility for particular failures in the process. For this reason, this Commission sustains in part and does not sustain in part Specifications of Error Nos. 1 and 2.

Prior to its action to dissolve the pastoral relationship on December 4, 2017, the Presbytery failed to call a congregational meeting as required by G-2.0901 and as authorized by G-1.0502. The consultation held on November 26, 2017, does not satisfy this requirement. The SPJC erred in constitutional interpretation of both G-2.0901 and G-2.0904 by confusing the requirements for congregational meetings (G-2.0901) and consultations with pastor, session, and congregation (G-2.0904). It further erred in ruling, “The requirement for holding a congregational meeting was met by issuing a call for such a meeting.”

Similarly, the refusal of Rev. An and the MPC Session to notify the congregation of, or to attend, the November 26, 2017, consultation mandated by the COM action of November 18, 2017, constitutes a refusal to comply with binding actions of a presbytery per G-3.0202c. Refusal to comply with lawfully enacted decisions of higher councils constitutes obstruction of the constitutional governance of the church and is intolerable in Presbyterian polity (G-2.0105).

The matter of adequate notice for congregational meetings and consultations is less clear than the specifications of error in this appeal would suggest. G-2.0904 does not specify a minimum amount of notice for a consultation; the question of adequate notice may best be determined by whether the majority of those invited to the consultation were in attendance. The record in this case indicates that a substantial portion of the MPC congregation was in attendance on November 26, 2017. Appellant and the MPC Session received multiple days’ notice by both email and telephone call, and were not otherwise prevented from attendance. Instead, they elected not to attend.

Notice for congregational meetings, on the other hand, is referenced in G-1.0502, but no particular minimum notice is prescribed. Congregations are to provide by their own rule for minimum notice of congregational meetings. It is unclear from the record whether MPC has adopted such minimum notice provisions. It is clear, however, that on December 2, 2018, the congregational meeting suggested by the SPJC was attended by a majority of the congregation, and resulted in a unanimous vote to dissolve the pastoral relationship. No complaints about notice for that meeting were received.

This Commission regards the circumstances of this case as a lamentable failure of both parties to follow the procedures of Presbyterian polity in the crucially important matter of the dissolution of pastoral relationships.

Having said this, the actions of the SPJC and the pursuant congregational meeting on December 2, 2018, have accomplished the steps required by the *Book of Order* to dissolve a pastoral relationship. Therefore, the relief requested—the reinstatement of Rev. An to his pastoral relationship at MPC—is no longer possible. An interim pastor is now in place, a pastor nominating committee has been formed, and a new session has been elected. These facts render this case moot. No additional action by this Commission is warranted.

Order

IT IS THEREFORE ORDERED that the decision of the Synod of the Mid-Atlantic Permanent Judicial Commission is set aside for the reasons detailed in this Decision. Because the congregational meeting required by G-2.0901 to concur in the dissolution of the pastoral relationship has already occurred, this case is moot, and no additional action is warranted.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Mid-Atlantic report this Decision to the Synod of Mid-Atlantic at the first meeting after receipt, that the Synod of Mid-Atlantic 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 Atlantic Korean American Presbytery report this Decision to the Atlantic Korean American Presbytery at the first meeting after receipt, that the Atlantic Korean American Presbytery 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

Commissioner James C. Pak was recused and did not participate in the hearing or deliberations. Commissioners Jean Kennedy and June L. Lorenzo were absent and did not participate in the hearing or deliberations. The commissioner position from the Synod of the Northeast was vacant.

Certificate

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 Appeal 224-06, Rev. John H. An, Appellant, v. Atlantic Korean American Presbytery, Appellee, made and announced at Louisville, Kentucky, this 14th day of October, 2019.

Dated this 14th day of October, 2019.

Ruth Goldthwaite, Moderator
Permanent Judicial Commission of the General Assembly

Deborah Little Cohn, Clerk
Permanent Judicial Commission of the General Assembly

I certify that I did transmit a certified copy of the foregoing to the following persons by Federal Express Next Day Air, directing Flor Vélez-Díaz to deposit it in the mail at Louisville, Kentucky, this 14th day of October, 2019.

Rev. John H. An, Appellant
Elder Dong Yul Chough, Counsel for the Appellant
Rev. Nam Cho and Rev. Chi Hyeon Yun, Counsel for the Appellee
Stated Clerk, Atlantic Korean American Presbytery
Stated Clerk, Synod of the Mid-Atlantic

I further certify that I did transmit a certified copy of the foregoing to the Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.) by delivering it in person to Flor Vélez-Díaz, on October 14, 2019.

Deborah Little Cohn, 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 October 14, 2019, in Remedial Appeal 224-06, Rev. John H. An, Appellant, v. Atlantic Korean American Presbytery, 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, on October 14, 2019.

Flor Vélez-Díaz
Assistant Stated Clerk of the General Assembly,
Presbyterian Church (U.S.A.), and
Manager of Judicial Process and Social Witness