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

Patrick Handlson, Appellant,	**)**	
	)	
v.	**)**	**Decision and Order**
	)	**Remedial Appeal 224-07**
Presbytery of Middle Tennessee, Appellee.	**)**	
	)	

Arrival Statement

This is an appeal to the General Assembly Permanent Judicial Commission (GAPJC or this Commission) from a decision in a remedial case tried by the Permanent Judicial Commission of the Synod of Living Waters (SPJC) on January 10, 2019. In that decision, the SPJC reversed in part and affirmed in part actions of the Presbytery of Middle Tennessee (Appellee or Presbytery) in response to a complaint of Patrick Handlson (Appellant). Appellant appealed the SPJC's decision to the GAPJC.

Jurisdictional Statement

This Commission 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

Neal Lloyd and Jamie Bibee Lloyd appeared as counsel on behalf of Appellant. Hunter Brush and Terry Epling, committee of counsel, appeared on behalf of Appellee.

[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 SPJC decision herein.

History

This case arises as an appeal from a decision of the SPJC by Appellant, a minister member of the Presbytery of Middle Tennessee under censure of temporary exclusion from the exercise of ordered ministry.

In May 2016, the Presbytery received statements alleging Appellant engaged in sexual misconduct and communications of a sexual nature. An investigating committee was appointed, and the committee and Appellant negotiated an alternative form of resolution prior to a trial by the Presbytery Permanent Judicial Commission (PPJC). The PPJC accepted Appellant's guilty plea at trial on September 29, 2016, and ordered the agreed-upon censure. The PPJC censure reads:

> The [Presbytery]… does now declare you temporarily excluded from the office of teaching elder for a period of six months beginning October 1, 2016, and the completion of the following actions:
>
> 1. Your pastoral relationship with First Presbyterian Church, Cookeville [FPCC], will be dissolved pursuant to D-12.0104f and G-2.0904, Presbytery (acting through its Permanent Judicial Commission) having determined that the church's mission under the Word imperatively demands it. The exact timing and manner of implementing this decision left to the Committee on Ministry [COM], in consultation with the session of First Presbyterian Church, Cookeville.
>
> 2. You must cooperate with the Committee on Ministry in informing the congregation of First Presbyterian Church, Cookeville, that you are in full agreement with the decision to dissolve the pastoral relationship, and that this decision is in the best interest of all concerned, especially the congregation. You must inform them of your guilty plea and your desire to allow them to make a fresh start and begin the healing process without the divisions and distractions caused by the disciplinary proceeding.
>
> 3. You must receive counseling for a period of not less than one year. Presbytery will determine the adequacy of your treatment program and will have the discretion to arrange alternative counseling or psychological/psychiatric treatment to ensure that your counselor or therapist is fully qualified by training and experience to provide the needed counseling and therapy.
>
> 4. You will be temporarily excluded from the exercise of ordered ministry for a period of six months beginning on October 1, 2016.
>
> 5. As an act of grace, Presbytery will arrange for the payment of the costs of your health insurance to the Board of Pensions during the period of your temporary exclusion from ordered ministry if those costs are not covered by a severance package from First Presbyterian Church, Cookeville.
>
> 6. Upon the expiration of your period of temporary exclusion you will retire from active ministry as a Teaching Elder. You would not be allowed to perform any of the functions of ordered ministry following your retirement unless Presbytery approves your restoration pursuant to D-12.0104h.
>
> 7. Your retirement status will be determined by the Presbytery, based upon the recommendation of its Committee on Ministry. Your plea to the above charges will not

> preclude you from being classified as honorably retired if you demonstrate appropriate repentance and rehabilitation. You will be allowed to address Presbytery concerning your repentance and rehabilitation before it makes that decision.

A COM care team, which was established to deal with matters related to the PPJC decision, met with Appellant on a periodic basis. Appellant also was receiving counseling from a qualified counselor and therapist.

Appellant requested restoration to ordered ministry on March 29, 2017, six months after the decision; the COM denied that request and appointed a new care team. The COM also advised Appellant to apply to the Board of Pensions for retired status on June 1, 2017.

The COM considered Appellant's second request for restoration on September 12, 2017, following favorable reports from the counselor and the care team. The COM required counseling through the end of the calendar year and agreed to recommend Presbytery approval of Appellant's request for restoration and honorable retirement at its February 2018 meeting.

The COM reported to the Presbytery on February 3, 2018, recommending that Appellant be restored to the active roll of ministers of the Word and Sacrament and that he be granted status of honorably retired. Appellant addressed the Presbytery, answered questions from the floor, and was excused from the room during the subsequent debate and voting. The Presbytery defeated the COM's recommendation in a single vote that combined the actions on restoration and retirement status ("the first matter"). The Presbytery then considered a "second matter" and adopted the following motion without Appellant present in the room:

> In order to establish a process for the Presbytery and Mr. Handlson to move forward, if he so desires, Mr. Handlson can renew his request for reinstatement every 24 months provided the following:
>
> > 1. that he can show continued work toward healing and health through things like counseling, getting a support group, participating in a church;
> > 2. that he continue to abide by the restrictions placed upon him through his guilty plea and abide by the presbytery's Former Pastor Policy;
> > 3. that he submit written reports of his work toward healing and health every six months to the presbytery's Committee on Ministry; and
> > 4. that there be no more incidents of misconduct on his part.
>
> And that if Mr. Handlson desires for this body to reconsider the decision that has been made today, his request will come through the Stated Clerk of the Presbytery; and all of the documents provided at this meeting, including the victim's impact statement, as well as any other documents that the Committee on Ministry believes is important for this council to consider, will be included in the packet from the presbytery prior to the meeting.

Appellant filed a remedial complaint alleging three irregularities by the Presbytery in taking its February 3, 2018, actions. The SPJC preliminary order accepted two irregularities for trial. The SPJC trial was conducted on January 10, 2019, resulting in a decision that upheld the Presbytery's actions in all respects except for its requirement that Appellant wait twenty-four months between requests for restoration. The SPJC observed, "[W]hile the wording of the original censure is inartful in its implementation of both a definite time period *and* a supervised

rehabilitation process (when the Rules of Discipline call for one or the other), the exclusion was clearly intended to be temporary, not permanent, and the Presbytery's leadership is urged to help the Presbytery move forward in a manner that gives effect to the censure's intent."

On February 18, 2019, Appellant filed a notice of appeal with the GAPJC, which heard oral arguments on October 11, 2019.

Specifications of Error

Specification of Error No. 1: The SPJC erred in constitutional interpretation (D-8.0105g) by failing to find in the first matter that the Presbytery of Middle Tennessee erred:

1. *when it failed to follow the recommendation of its Committee on Ministry to restore Appellant to the active roll of ministers and grant him honorably retired status, thus not following the terms of the PPJC censure;*
2. *when it combined granting of honorably retired status with restoring to the exercise of ordered ministry; and*
3. *when it applied flawed process and criteria in assessing Appellant's repentance and rehabilitation.*

This specification of error is sustained.

Following a finding of guilt in a disciplinary case against a minister of the Word and Sacrament, it is the responsibility of a presbytery PJC to impose a censure. This censure is not subject to change or further interpretation by the presbytery as a whole. (See *Presbytery of Muskingum Valley v. Hauser,* 222-06, 2015.)

The responsibility of a presbytery is to enforce the censure as issued by the PJC, seeking to give it full effect while not perpetuating constitutional errors, particularly when there is confusion or ambiguity within the censure. According to D-12.0104a, a censure of temporary exclusion from the exercise of ordered ministry may be "for a definite period of time, **or** for a period defined by completion of supervised rehabilitation" (emphasis added). However, the censure in this case contained **both** a length of time (six months) and required actions (seven listed items) as requirements to be fulfilled. In addition, the various elements of the censure seem contradictory with one another and/or within themselves. Because the censure was not appealed, it became the final determination of the Presbytery in the matter.

A plain reading of the censure indicates that Appellant's temporary exclusion was intended to last for six months, as was reiterated in No. 4 of the required actions. As Appellee acknowledged in oral argument, Appellant also fulfilled the censure's required elements Nos. 1, 2, 3, and 6. No. 5 of the censure was a requirement for the Presbytery, not the Appellant.

The final element, No. 7 in the censure's list, provides a procedure for the Presbytery to determine Appellant's "retirement status." The Presbytery erred in conflating Appellant's restoration to the exercise of ordered ministry with considering his retirement status. Nothing

about the language of the censure suggests the Presbytery is to exercise its own judgment about Appellant's readiness for restoration to ordered ministry on the basis of his repentance. The Presbytery's effort to do so constituted an error and an injustice to the Appellant.

A presbytery is ill-suited to make a determination, through a floor debate, of a particular person's repentance. Sessions and PJCs are advised to impose censures with specific and measurable provisions, rather than requiring the council to conduct subjective evaluations in plenary session.

However, the censure in the instant case required the Presbytery to make such a determination in order to act on Appellant's retirement status. The censure assigned the COM the responsibility for making a recommendation. The record reflects that the COM considered assessments by its own care teams as well as a qualified counselor assigned by the Presbytery and recommended restoration and honorable retirement. The Presbytery declined to approve that recommendation. In most cases, a presbytery would be well served by showing deference to those with the greatest expertise and/or closest proximity to the situation.

G-12.0104h says, "The council that imposed the censure shall approve the restoration when the time of exclusion has expired or when the council is fully satisfied that the supervised rehabilitation pronounced has been completed." In this case, the Presbytery was unable to articulate any way in which the prescribed censure has not been completely fulfilled. While a presbytery may determine whether a temporarily excluded individual is to be granted "honorably retired" status, this Commission reminds the Presbytery of the ruling in *Veldhuizen & Yoshioka v. Presbytery of San Francisco* (209-2, 3; 1997): "We also hold that it is inappropriate for a presbytery to withhold the status of Honorably Retired from ministers or to place them on the inactive roll as a means of discipline."

Specification of Error No. 2: The SPJC erred in constitutional interpretation (D-8.0105g) by failing to find in the second matter that the Presbytery of Middle Tennessee failed to show fundamental fairness and protect Appellant's due process rights by conducting a debate and vote on an issue concerning Appellant without informing him or inviting him to be present for the debate or to speak on his own behalf.

This specification of error is sustained.

Authoritative interpretations (AIs) of the Form of Government have long recognized that ministers of the Word and Sacrament under temporary exclusion from the exercise of ordered ministry are still members of presbytery. An AI in 1994 classified them as "inactive members." Although that category no longer exists in the Form of Government, the privileges and limitations afforded to temporarily excluded ministers of the Word and Sacrament remain the same; namely, they are not "entitled to take part in the meetings of the presbytery or to speak, vote, hold office, or serve on committees, except that the inactive member may speak when the matter under consideration concerns that minister." (*Minutes*, 1994, Part I, p. 203). That AI goes on to reiterate, "a minister temporarily excluded from exercise of ordained office may speak at

presbytery meetings on matters relating to himself or herself." We hold that this authoritative interpretation remains in effect as an interpretation of D-12.0104d and D-12.0104e.

In the instant case, Appellant was permitted to speak on the first matter relating to his application for restoration. He was excused before the full discussion and vote in keeping with the custom of the Presbytery, although this Commission finds that there is no constitutional or parliamentary requirement for a presbyter to leave in such a situation. But having left the room for the first vote, Appellant should have been immediately informed of the initial vote and invited back in the room as soon as the second matter was introduced. Consideration of this second matter, the evidence shows, clearly contained proposals and discussion related to Appellant. This Commission maintains that he had a right to be present and to speak on matters pertaining to him.

Fundamental fairness requires allowing the voices of those potentially affected by a decision to be heard. It is a protection the church grants throughout its polity, and explicitly so for those facing decisions regarding their temporary exclusion from the exercise of ordered ministry. The action of the Presbytery, in this case, blatantly violated that principle.

Specification of Error No. 3: The SPJC erred in constitutional interpretation (D-8.0105g) by failing to find that the entirety of the Presbytery of Middle Tennessee's action on the second matter at its February 3, 2019, meeting amounted to an unconstitutional amendment of the PPJC censure.

This specification of error is sustained.

In a disciplinary case involving a minister of the Word and Sacrament, it is the exclusive responsibility of a PJC to impose a censure, as noted under Specification of Error No. 1. This censure is not subject to amendment by the council as a whole (*The Presbytery of Muskingum Valley v. Robert A. Hauser,* 222-06, 2015). Rather, the council is responsible for "ongoing enforcement" of the censure as issued by the PJC.

This Commission finds that the language of the Presbytery's action in the second matter is an amendment to the original censure. The approved motion goes beyond requiring the twenty-four-month waiting period between requests for restoration that was struck down by the SPJC. It also requires "continued work toward healing and health through things like counseling, getting a support group, participating in the church"; additional written reports to the Committee on Ministry; and new expectations regarding the avoidance of additional misconduct. These constitute additional requirements beyond those found in the original PPJC censure and not merely "ongoing enforcement" of that censure. Such a practice undermines the fairness of the church's disciplinary process by diminishing the exclusive authority of a PJC to impose a censure. This action, in its entirety, was a violation of the Constitution.

Of particular concern was this element of the Presbytery's action: "If Mr. Handlson desires for this body to reconsider the decision that has been made today… all of the documents provided at this meeting, including the victim's impact statement… will be included in the

packet from the presbytery prior to the meeting." This Commission holds that this action is an inappropriate use of the victim impact statement contemplated in D-11.0403e, which is intended for use only in the formulation of a censure following a finding of guilt. Its continued use may re-victimize those harmed by an offense and impair the council's future ability to assess an individual's repentance.

Decision

Concluding a temporary exclusion from the exercise of ordered ministry is an important, though difficult, responsibility of councils. As in all matters of church discipline, the purpose is to manifest our shared responsibility "for building up the body of Christ, not for destroying it, for redeeming, not for punishing" (D-1.0102). In this case, the Presbytery's actions fell short of this ideal.

Councils are encouraged to be extremely attentive to the details of their responsibilities under D-12.0104h. When crafting censures in disciplinary cases or when approving settlement agreements, sessions and PJCs are to abide by the Rules of Discipline, imposing temporary exclusion "for a definite period of time, **or** for a period defined by completion of supervised rehabilitation…" (D-12.0104h, emphasis added). Requirements for supervised rehabilitation should be clear and easily understood, without contradictions within the censure, allowing councils to objectively determine if the terms of a censure have been fulfilled. A council has the responsibility to effect restoration when the requirements of supervised rehabilitation have been completed (or earlier in accordance with D-12.0104i).

This case involves an egregious example of sexual misconduct. The Rules of Discipline establish a process for disciplinary cases to address such misconduct. While some might question the adequacy of the PPJC decision, the Constitution clearly assigns to the permanent judicial commission the responsibility for determination of a censure. For a presbytery to impose its will by amending the censure is outside the bounds of the Rules of Discipline.

All are encouraged to undertake every aspect of their discernment in disciplinary situations with attention to the principles stated in D-1.0101:

> 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.

Order

IT IS THEREFORE ORDERED that the decision of the Synod of Living Waters Permanent Judicial Commission is hereby reversed.

IT IS FURTHER ORDERED that all actions regarding Patrick Handlson by the Presbytery of Middle Tennessee at its meeting on February 3, 2018, are set aside and are to be considered null and void.

IT IS FURTHER ORDERED that the Presbytery of Middle Tennessee consider again the Committee on Ministry recommendation (on restoring Mr. Handlson to active ministry and on granting him honorably retired status) at its next meeting, but no sooner than thirty days from this Decision, voting separately on restoration and on his retirement status, and taking actions consistent with this Decision and Order.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of Living Waters report this Decision to the Synod of Living Waters at the first meeting after receipt, that the Synod of Living Waters 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 Presbytery of Middle Tennessee report this Decision to the Presbytery of Middle Tennessee at the first meeting after receipt, that the Presbytery of Middle Tennessee 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 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.

Concurring Opinion

While I concur with the decision, I have reservations with the portion of the analysis under Specification of Error No. 3 dealing with the use of the victim impact statement. Although the language used by the majority assumes that a victim impact statement is written, I am concerned that the language could be read to preclude any reference whatsoever by the victim concerning the harm caused by a minister who has engaged in sexual misconduct. While the disciplinary rules seek "to bring members to repentance and restoration," they also seek "to achieve justice and compassion for all participants involved" (D-1.0101). In bringing a member to repentance and restoration, we can never forget the victims.

_____

Diana Moore
October 14, 2019

Concurring Opinion

We concur with the Decision of this Commission. We further concur with the concurring opinion by Commissioner Moore. However, we have additional comments regarding the last two sentences of the analysis under Specification of Error No. 3 dealing with the use of victim impact statements.

This Decision holds that victim impact statement "is intended for use only in the formulation of a censure following a finding of guilt." This would prohibit the statement presented to a PJC from being utilized to assess an individual's degree of repentance.

The sharing of a victim impact statement is not prohibited in D-11.0403e and should be the individual right of the victim to allow or disallow the use of the statement. With the victim's agreement, the statement should be made available to the therapist of the offending individual in cases where rehabilitation or counseling is part of the censure. This information is very valuable to counselors and therapists when determining whether a particular individual has been successfully rehabilitated and/or is repentant.

_____ _____

Maurice R. Caskey Mari Glory González-Guerra

_____ _____

Linda Windy Johnston James C. Pak

October 14, 2019

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 Case 224-07, Patrick Handlson, Appellant, v. Presbytery of Middle Tennessee, 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.

Patrick Handlson, Appellant
Neal Lloyd and Jamie Bibee Lloyd, Counsel for Appellant
Hunter Brush and Terry Epling, Counsel for Appellee
Stated Clerk, Presbytery of Middle Tennessee
Stated Clerk, Synod of Living Waters

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 Case 224-07, Patrick Handlson, Appellant, v. Presbytery of Middle Tennessee, 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