

mittee (HRC) formed what it called a “fact-finding commission” (also referred to as “Music Commission”) to look into reported conflict in the music program. In mid-October, Appellant and another congregant contacted the pastor, expressing concern about the director of music. The director of music sent a memo to the pastor stating that he had endured “passive-aggressive bullying” for years from Appellant and the other congregant. The “fact-finding commission” interviewed multiple Westminster members, including Appellant. On December 4, 2015, the “fact-finding commission” asked Appellant and the other congregant to voluntarily step away from the music program on a temporary basis. Both, at the time of the request, agreed to do so. The period of time was later clarified to be until July 2017.

Appellant complained about the HRC’s action to the Session of the congregation. The Session determined that the HRC’s actions had been correct. The Session also formed what it called a “commission” on conflict resolution (later dissolved and re-established as a task force). The Presbytery Congregation Reconciliation Task Force (PCRTF) subsequently worked with the congregation’s task force, observed a combination of intersecting circumstances, and made recommendations with regard to both reconciling the conflict situation with the Appellant and with regard to what was described as “chronic anxiety in the congregational system.”

Appellant and the other congregant initiated a remedial complaint with the Presbytery, alleging irregularity on the part of the HRC, its chair, and the pastor, in that they acted without proper authority and without affording her due process. Appellant later amended her complaint to include the Westminster Session. The PPJC advised the complainants that the only claim upon which relief could be granted was with regard to the Session. The PPJC decision of September 22, 2016, concluded there was no relief to be granted, issued a decision to dismiss the case, and instructed the PCRTF to monitor compliance and progress with recommendations in its report.

On October 3, 2016, Appellant asked the PPJC to reconsider its decision. She then appealed the PPJC decision to the SPJC on October 17, 2016. The PPJC returned to the matter and held a remedial trial on June 24, 2017. The PPJC found that no formal process was initiated nor was there any disciplinary action taken by Appellee. The complaint was not sustained.

Appellant then appealed the second PPJC decision to the SPJC with four (4) specifications of error. The SPJC decision of November 7, 2017, did not sustain any of the specifications of error.

The GAPJC received a Notice of Appeal of the SPJC’s decision on November 27, 2017, and issued a Preliminary Order for hearing, on January 5, 2018. On February 16, 2018, Appellant amended the appeal to supplement the Record. Appellee concurred with the request on February 25, 2018; the GAPJC entered an order on March 1, 2018, regarding supplementing the Record. On August 17, 2018, the GAPJC heard oral argument.

Specifications of Error

Specification of Error No. 1: Error in constitutional interpretation-The SPJC erred in upholding the PPJC's finding that no formal process was initiated nor was there any disciplinary action taken by the Session.

This specification of error is not sustained.

The Record and the hearing before the GAPJC confirm that no formal process was undertaken, and the Session did not take disciplinary action against Appellant. While the Appellant describes the action as “disciplinary-like,” nothing done by the Session or its entities met the definition of disciplinary actions in the *Book of Order*.

Specification of Error No. 2: Injustice in the decision-The SPJC erred by holding there was no injustice in the decision. A preponderance of evidence at trial clearly showed that a decision was made and actions taken by the Human Resource Committee, where no such authority existed and where due process was not afforded to church members as required by the Book of Order.

This specification of error is not sustained.

The Record and the hearing before the GAPJC confirm that the request made to Appellant and another congregant to step away from the music program was not a disciplinary action. Rather, it was a request to which they voluntarily agreed. Neither the HRC nor its “Music Commission” had been constituted by the Session as an administrative commission under the terms of G-3.0109b. The HRC’s request cannot be considered the action of either an administrative commission or the Session. Therefore, the provisions of fair notice and opportunity to be heard are not relevant (G-3.0109b).

Specifications of Error Nos. 3 and 4: Injustice in the process and manifestation of prejudice in the conduct of the case.

These specifications of error are sustained. (See Decision below.)

Decision

Specifications of Error Nos. 3 and 4 of this Appeal are sustained. The SPJC decision is modified to reverse its findings with regard to specifications of error number 2, “Injustice in the process,” and number 4, “Manifestation of prejudice in the conduct of the case.” There was injustice in the remedial case process at the PPJC level. Such injustice at the PPJC level was prejudicial in favor of Appellee.

Appellant may have concluded the request to step away was an act of Session based on the fact that the request was voiced by the HRC chair, as chair of the “Music Commission.” In fact, this action was not an action of Session, but confusion on this point lies at the heart of this case. Session bears some responsibility for this confusion in permitting the HRC to form a so-

named “Music Commission” to inquire into difficulties in the program. G-3.0201 gives the session “responsibility for governing the congregation and guiding its witness to the sovereign activity of God in the world, so that the congregation is and becomes a community of faith, hope, love, and witness.” While not outside the scope of its authority, that authority might have been exercised more effectively in supervising its committee.

Fewer than 24 hours prior to the start of the PPJC trial on June 24, 2017, Appellant (Complainant at the PPJC trial) received a copy of a document dated October 22, 2015. When disclosing its exhibits before trial, Appellee (Respondent at PPJC trial) noted this as a confidential document without disclosing the subject matter. Appellant had requested that any documents with undisclosed content not be allowed at trial as they would be prejudicial in favor of Appellee. The PPJC allowed this document to be introduced at trial the next day. The admissibility of evidence arising in the course of a trial shall be decided by the moderator, after the parties have had an opportunity to be heard (D-7.0303a). The GAPJC interprets “opportunity to be heard” to include sufficient time to prepare a response or rebuttal to the evidence submitted. Appellant clearly did not have sufficient information about the formerly confidential document in adequate time to prepare a response or rebuttal to that evidence.

The original complaint to the PPJC included four (4) identifiable irregularities. The PPJC decision of June 24, 2017, appears to consolidate the first two of the alleged irregularities (injustice in the process and prejudice), which are addressed in the decision. However, the remaining two alleged irregularities (reconciliation and remediation) are not addressed in the decision. D-7.0402a requires a vote on each irregularity in the complaint. The Record does not indicate that the PPJC voted on those remaining irregularities, which was a failure to provide justice in this aspect of the decision-making process. The SPJC failed to address these errors.

The SPJC’s failure to provide any rationale for its November 7, 2017, decision constituted an injustice to Appellant. The GAPJC reminds the parties, and in a broader sense all permanent judicial commissions within the church, of its concerns on this matter, first raised in (*Buescher, et al., v. Presbytery of Olympia* 2008, 218-09) and reiterated in (*Presbytery of Greater Atlanta v. Ransom* 2009, 219-02):

[W]hile the Constitution does not require that a permanent judicial Commission provide a rationale for every irregularity or delinquency assigned in the complaint when rendering a decision (D-7.0402), this Commission recommends that permanent judicial commissions provide enough explanation for the church to understand the reasons for decisions and be guided accordingly.

In spite of these errors, there is no ready relief available to the GAPJC to grant. July 2017 has passed, and thus withdrawal of the request to step aside is moot. Requiring a public apology is beyond the authority of a permanent judicial commission. The GAPJC encourages all parties to continue the work of reconciliation.

The GAPJC notes that G-3.0301c lists among the responsibilities and powers of the presbytery, “promoting the peace and harmony of congregations and inquiring into the sources of

congregational discord.” The GAPJC observes that this matter might have been more successfully and satisfactorily addressed through the process of administrative review (G-3.0108) available in partnership between the session and the presbytery.

Order

IT IS THEREFORE ORDERED that the Decision of the Synod of Lakes and Prairies Permanent Judicial Commission is hereby modified.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of Lakes and Prairies report this Decision to the Synod of Lakes and Prairies at the first meeting after receipt, that the Synod of Lakes and Prairies 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 Des Moines report this Decision to the Presbytery of Des Moines at the first meeting after receipt, that the Presbytery of Des Moines 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 Clerk of Session report this Decision to the Session of Westminster Presbyterian Church, Des Moines, IA, at the first meeting after receipt, that the Session enter the full Decision upon its minutes, and an excerpt from those minutes showing entry of the Decision be sent to the Stated Clerk of the General Assembly.

Absences and Non-Appearances

The full Commission participated in the hearing and deliberations.

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 2017-02, *Julie Murphy, Appellant v. Session of the Westminster Presbyterian Church, Des Moines, Iowa, Appellees*, made and announced at Louisville, KY, this 19th day of August, 2018.

Dated this 19th day of August, 2018.