1984

Edmonds v. Pby of Cape Fear,
Remedial Case No. 196-3,
11.088

ABRAHAM L. EDMONDS
Complainant-Appellant
vs

PRESBYTERY OF CAPE FEAR,
Respondent-Appellant

Remedial Case No. 196-4

PRESBYTERY OF CAPE FEAR,
Respondent-Appellant
vs.

ABRAHAM L. EDMONDS
Complainant-Appellee

This is a remedial case involving a complaint brought by the Rev. Abraham L. Edmonds against the Presbytery of Cape Fear (hereinafter called Presbytery) following the dissolution by Presbytery of the pastoral relationship between Mr. Edmonds and the Cotton Memorial Presbyterian Church (hereinafter called the Church). Mr. Edmonds and Presbytery each bring separate appeals from the decision of the Permanent Judicial Commission of the Synod of the Piedmont (hereinafter called Synod) which affirmed the dissolution of the pastoral relationship and directed the Church, the Presbytery, and the Synod of the Piedmont to negotiate in order to provide Mr. Edmonds with four additional months' salary.

All of the events material to the disposition of the appeal occurred before March 2, 1983. We therefore apply the Constitution of The United Presbyterian Church in the United States of America in effect for 1982-83.

At a stated meeting held May 22, 1982, Presbytery received the report of its administrative commission and adopted the commission's recommendation that for the sake of peace and unity of the Church the pastoral relationship be dissolved. Mr. Edmonds was present at the stated meeting and announced that he would appeal Presbytery's action. He circulated a stay of enforcement which failed to receive the required signatures of one third of the members

present. (Rules of Church Discipline, Chapter VI, Section 13 (86.13).)

From the record, it appears that no further action was taken by or on behalf of Mr. Edmonds until September 30, 1982. On that date, counsel for Mr. Edmonds wrote to the stated clerk of Presbytery demanding " all salaries due [Mr.] Edmonds" and cleared that the May 22, 1982, action of Presbytery was null and void. The stated clerk responded in writing on October 7, 1982, denying that the action of May 22nd was invalid and informing Mr. Edmond's counsel that the next stated meeting of Presbytery would be October 30, 1982. Counsel for Mr. Edmonds acknowledged her awareness of this meeting by letter dated November 29, 1982, wherein she requested a copy of the Presbytery minutes of the October 30, 1982, meeting.

Judicial process is the exercise of authority by the courts of the church for the prevention and correction of irregularities and delinquencies by lower judicatories. (Rules of Church Discipline, Chapter I, Section 3 (81.03)). Review and correction of a lower judicatory may be obtained by filing a complaint in accordance with The Rules of Church Discipline, Chapter VI, Section 5 (83.05). A remedial case is initiated by filing a complaint. (Rules of Church Discipline, Chapter VI, Section I (86.01).) In order for a judicatory to exercise authority by way of a judicial process in a remedial case, a complaint must be filed within the time limits set out in our Constitution. (Rules of Church Discipline, Chapter VI, Section 6 (86.06).)

In these appeals Mr. Edmonds characterizes the action of which he complains as "the Presbytery's delinquency in reinstating the Complainant as Pastor (and) its failure to pay his salary commencing August 1, 1982." Although we conclude that the judicial process now before us involves an *irregularity,* and not a *delinquency* as explained below, this determination does not effect the outcome. The Constitution is clear that a complaint alleging a delinquency *shall* be filed within thirty days after failure or refusal of a respondent to act at its next meeting when so requested in writing. (Rules of Church Discipline, Chapter VI, Section 6 (a) (86.06).) The request for action by Presbytery was clearly made by Mr. Edmonds through his counsel's letter of September 30, 1982. There was no dispute that the next meeting of Presbytery was held on October 30, 1982, and that this fact was known to Mr. Edmond's counsel. Even if we were to accept his argument that this appeal involved a delinquency, the complaint against that delinquency should have been filed within thirty days after October 30, 1982. The complaint was not filed until March 2, 1983.

A delinquency is defined as an omission or failure to act in a situation where a judicatory is required to act by our Constitution. (Rules of Church Discipline, Chapter I, Section 7 (81.07).) We know of no provision, nor has counsel, referred us to any provision, which would have constitutionally required Presbytery to reconsider its action taken on May 22, 1982, dissolving the pastoral relationship. Therefore, we find no delinquency in these cases.

A careful reading of the entire record in these appeals persuades us that the only possible subject matter of the complaint could have been the action of Presbytery in voting to dissolve the pastoral relationship on May 22, 1982. If this was an erroneous decision, it would have constituted an irregularity under our Constitution. (Rules of Church Discipline, Chapter I, Section 6 (86.06).) A complaint alleging an irregularity shall be filed within thirty days after the irregularity occurs. (Book of Church Discipline, Chapter VI, Section 6 (86.06).) We find this provision of our Constitution to be both clear and mandatory. Where a complaint is filed after expiration of the thirty-day limit, no judicial process is commenced and there is nothing for a judicatory to consider. For this reason, the timely filing of an original complaint is a precondition to a judicatory's exercise of authority by way of a judicial process.

As noted above, a higher judicatory has no obligation to determine for itself whether the

matter before it involves a delinquency or irregularity. Having thus determined the nature of the action before it, a higher judicatory is bound by the provisions of the Constitution requiring a complaint to be filed within thirty days in order for the exercise of judicial process to begin.

Finding the document before us to have been filed more than thirty days following the action of Presbytery about which complaint was made, we conclude that because judicial process was not constitutionally initiated, Synod was without jurisdiction to hear the complaint. We are therefore constrained to vacate the decision of Synod and dismiss the complaint.

Elders Jose L. Capella, Esq., Frances L. Hollis, Esq., David A. Quattlebaum, Esq., and the Rev. F. Wellford Hobbie were absent from the meeting of the Permanent Judicial Commission. The Rev. Robert L. Craghead absented himself during the hearing and did not participate in the decision of the case. (D-8.1300.) The Rev. Harvard A. Anderson and Elder E. Lee Smith, Esq., were present for the hearing and discussion but were absent at the time of the final vote on the decision. (D-8.1300.)

Hawkins and Hennigan v. Pby of Catawba,
Case No. 196-1,
11.089

Reginald A. Hawkins and
Daniel O. Hennigan, Appellants,

vs.
The Presbytery of Catawba, Appellee

[This case] was a reference to the Permanent Judicial Commission of the General Assembly. The case was heard and decided by the Synod of the Piedmont before it came to the Permanent Judicial Commission of the Synod of the Piedmont.

Hennigan v. Pby of Catawba,
Case No. 196-2,
11.090

Daniel O. Hennigan, Appellant,

vs.
The Presbytery of Catawba, Appellee,

[This case] was postponed until the October 1984 meeting of the Permanent Judicial Commission of the General Assembly.