

**Hardwick, Jr. v. Session, Pearsall Mem. Church,
Remedial Case No. 197-3,
11.066**

**JESSE C. HARDWICK, JR.
Complainant-Appellant
vs.**

**THE SESSION OF PEARSALL
MEMORIAL PRESBYTERIAN CHURCH,
Respondent-Appellee**

This is an appeal in a remedial case from a decision by the Permanent Judicial Commission of the Synod of North Carolina (the Synod PJC).

Appellant Jesse C. Hardwick, Jr., (Hardwick), a member of Pearsall Memorial Presbyterian Church, Wilmington, North Carolina (Pearsall), filed a complaint against the Session of that church in January 1983. The complaint charged that the Session was guilty of an irregularity by not answering Hardwick's letters of October 16 and November 12, 1982, requesting (1) that Hardwick's telephone number and address be corrected in the church roll and membership directory, (2) that he be given a copy of the photo church directory, and (3) that he be given the name of the elder to whom he had been assigned under the church's shepherding program. The relief requested by the complaint was the granting of these requests, plus the publishing of Hardwick's corrected address and telephone number in the church newsletter.

Pearsall filed an answer to this complaint which (1) alleged that the address has been changed on the "mailing list," (2) referred to a trial in the State Criminal Court on March 31, 1981, when Hardwick swore under oath that he was going to move his church membership and no longer attend services at Pearsall, (3) alleged that Hardwick did not attend for approximately one year and that for these reasons no change in his address was published in the newsletter, (4) alleged that no elder on the Session was willing to serve as Hardwick's shepherd, and (5) alleged that a pictorial directory had been mailed to Hardwick on March 16, 1982, and that there were no more copies available.

The case was tried before the Permanent Judicial Commission of the Presbytery of Wilmington (the Presbytery PJC) on May 7, 1983. The record of the testimony and other evidence indicates clearly that Pearsall intentionally took no action in response to Hardwick's letters of October 16 and November 12, 1982. The evidence presented by Pearsall shows that the reason for this decision was based primarily on Hardwick's past conduct, i.e., harassing other church members and creating disturbances in the church. There is also evidence of a trial in State Criminal Court in which Hardwick was found guilty of criminal conduct involving another member of the church, an order by the State Court restraining Hardwick from attending the church for a period of time, and disputed evidence of a sworn oath or agreement by Hardwick given in the State Court proceeding that he would move his membership from Pearsall. There was also evidence, a letter from the Session to Hardwick dated May 11, 1981, which refers to the

Session's understanding regarding Hardwick's obligation to move his membership. There was no evidence by Hardwick denying or refuting his agreement to move his membership.

By unanimous vote, the Presbytery PJC decided "on the evidence of the Session's letter to Mr. Hardwick of May 11, 1982 (sic), no irregularity was committed" and "that the Session did not commit any irregularity with respect to the complaint."

From this decision, Hardwick appealed to the Synod of North Carolina. By unanimous decision, the Synod's Permanent Judicial Commission (Synod PJC) affirmed the decision of the Presbytery's PJC finding "that upon thorough and exhaustive review of the records, if there were any errors, such were harmless and nonprejudicial."

We affirm. The brief for the appeal to this Commission contains ten specifications alleging errors in the decision of the Synod PJC. While we do not sustain any of the errors alleged, we would comment on two of them.

Specification 5 speaks of the "pastoral rights" of church members. The complaint mentions in particular the "Shepherd" plan of the Pearsall session. We take note of the rights of every member to pastoral care (Book of Church Order 7-1) and the responsibilities of pastor and session to provide such care. (Book of Church Order 10-4, 11-4; see also *Book of Order* G-5.020ff-G-6.0202. [sic]) Pearsall Church adopted a "Shepherd Plan" to fulfill only a part of their pastoral responsibility. The complaint focuses only on this program and the denial of a "shepherd" to Hardwick. Our not sustaining the appeal in this particular does not condone refusing Mr. Hardwick the pastoral care to which every member of the church is entitled.

Specification 6 objects to the participation of two members of the Presbytery PJC in the hearing before the Synod's PJC as Friends of the Court. Book of Church order (1982-83) states that "no member of any Permanent Judicial Commission shall appear as counsel." We do not feel that in this case the above prohibition was violated.

The Reverends Harvard A. Anderson, James W. Angell, Robert L. Craghead, and Elder Jose A. Capella were absent and did not participate in the decision.