

**Schneider v. Pby of Chicago,
Remedial Case No. 197-10,
11.072**

**THE REV. ROY L. SCHNEIDER
Complainant-Appellee**

vs.

**PRESBYTERY OF CHICAGO,
Respondent-Appellant**

This is a remedial case initiated by a complaint filed October 21, 1983, by Rev. Roy L. Schneider against the Presbytery of Chicago (hereinafter called Presbytery) concerning the action taken by the Presbytery at its September 27, 1983, stated meeting dissolving the pastoral relationship between the Rev. William Quiceno and the Ravenswood Presbyterian Church. The Presbytery's action was taken pursuant to a report and recommendation of an administrative commission established on December 14, 1982, to determine whether the pastor relationship should continue.

In his complaint, Mr. Schneider maintained that improper procedures were followed by the Presbytery at its September 27, 1983, meeting when the action was taken dissolving the pastoral relationship. The complaint identifies the "improper procedure" as improper time limitations related to the length of debate, too little time allowed for the reading of necessary additional papers distributed on the floor of Presbytery, and denying Mr. Quiceno a fair opportunity to answer the administrative commission's report. The complaint also alleges that procedural safeguards outlined in the Rules of Discipline were not followed by the Presbytery on September 27, 1983.

The Presbytery filed its answer denying the alleged improper procedures and asserting that the Rules of Discipline were not applicable because no disciplinary charges were made against Mr. Quiceno or anyone else. The Presbytery also filed a motion to dismiss the complaint for failure to state a claim upon which relief could be granted.

The Permanent Judicial Commission of the Synod of Lincoln Trails (hereinafter Synod) deferred ruling on the Presbytery's motion until after the case was heard on its merits. The Synod heard the case on January 30, 1984, at which time the parties presented testimony of witnesses and other evidence. Over the Presbytery's objections, the Synod elicited and received considerable evidence concerning alleged activities and procedures prior to the Presbytery meeting on September 27, 1983. Approximately five months after the hearing, Synod entered its judgement sustaining the complaint and remanding the case to the Presbytery for a new hearing.

The judgment was based upon the finding by the Synod that "accepting the report and adopting the recommendation of the administrative commission to the Ravenswood Presbyterian Church did not afford procedural safeguards as in cases of process, and did not follow the procedures outlined in the Rules of Discipline."

Notice of appeal to the General Assembly Permanent Judicial Commission was timely filed. Appellant Presbytery has standing to appeal and the General Assembly Permanent Judicial

Commission has jurisdiction under the *Book of Order*.

Appellant submitted four specifications of error. The first specification of error alleges that the Synod's decision is not supported by the evidence. We agree. There is sufficient evidence in the record to confirm the correctness of the procedures followed by the Presbytery on September 27, 1983, in accepting the report of its administrative commission and adopting its recommendation to dissolve the pastoral relationship of Mr. Quiceno and the church. Furthermore, we do not agree with the holding of the Synod that the Presbytery must use disciplinary procedures in the dissolution of a pastoral relationship "when it finds that the church's mission under the Word imperatively demands it." (G-11.0103n; G-11.0103o; G-9.0503e; G-14.0601; *Minutes*, PCUS, Part I, 1880, p. 196; 1902, p. 259; Digest of the Presbyterian Church in the United States, p. 101.) The specification is sustained.

The second specification alleges that the Synod erred in eliciting and receiving testimony on issues not raised by Mr. Schneider's complaint, and therefore was not properly before the Synod. Mr. Schneider's complaint dealt with the propriety of the procedures followed by the Presbytery in receiving and adopting the report of its administrative commission on September 27, 1983. The record indicates that, over the objection of Presbytery, the Synod elicited and received evidence concerning issues not raised by Mr. Schneider's complaint. This was not proper. (*George L. Setterfield vs. Presbytery of Western Reserve*, Remedial Case 189-13, *Minutes*, UPCUSA, 1977, Part I, pp. 196-199.) The specification is sustained.

The fourth specification of error deals with the decision of the Synod concerning the authority of the administrative commission and the Synod's finding that "receiving the report and adopting the commission's recommendations did not constitute action by Presbytery to dissolve the pastoral relationship of Mr. Quiceno." It is our opinion that the receiving of the commission's report and the adoption of its recommendations did, in fact, constitute action by Presbytery, dissolving the pastoral relationship. (*Roberts Rules of Order, Newly Revised*, Robert, General Henry M., 1981, Scott, Foresman and Company, pp. 419-422.) The specification is sustained.

It is the decision of the Permanent Judicial Commission of General Assembly that the appeal of the Presbytery of Chicago is sustained. The judgement of the Permanent Judicial Commission of the Synod of Lincoln Trails is set aside and action of the Presbytery is reinstated.

Elders William W. Black, Jose A. Capella, William F. Fratcher, Evelyn Reddin, and the Rev. Robert L. Craghead were absent from the meeting of the Permanent Judicial Commission.