

SHERWOOD W. ANDERSON)	
)	
Complainant/Appellant)	
)	
v.)	Remedial Case 203-2
)	
PRESBYTERY OF CENTRAL FLORIDA)	
Respondent/Appellee)	

ORDER

The above captioned matter came before the Permanent Judicial Commission of the General Assembly on October 4, 1990, pursuant to an appeal filed by Rev. Sherwood W. Anderson (Appellant) from a decision rendered by the Permanent Judicial Commission of the Synod of South Atlantic, Presbyterian Church (U.S.A.).

Pursuant to D-13.1200a, Book of Order, this Commission finds it has jurisdiction, the Appellant has standing to appeal, the appeal was properly and timely filed, and the appeal states a claim upon which relief can be granted.

This is a remedial, not a disciplinary, case. It developed as a result of the dissolution of the pastoral relationship between Appellant and the Winter Park Presbyterian Church by an Administrative Commission appointed by the Presbytery of Central Florida.

HISTORY

Before considering the issues raised on the appeal, it would be helpful to summarize the problems of Winter Park Presbyterian Church and the events which occurred.

Dr. Anderson became pastor in January, 1981.

In April, 1982, the Presbytery Executive, Dr. John S. Lyles, visited the Session, at its request, to discuss the difficulties. He made a number of recommendations later that month.

During the period of December, 1982, to early 1983, the Session invited the Committee on Ministry (COM) to visit with it because of ongoing

polarization. The COM recommended that the entire staff, including the Appellant, resign so that a fresh beginning could be made. The recommendation was subsequently withdrawn at the request of the Session.

On January 12, 1989, the Session, by a vote of 18 to 8, requested assistance from the COM in settling the long term difficulties within Winter Park Presbyterian Church. Membership had continued to decline, and there was increasing polarization of the Session. Problems of leadership, motivation, nurturing, and administration were mentioned by certain elders. Dr. Anderson appeared before a COM sub-committee, at his request, and expressed his views.

The subcommittee, recognizing the complexity of the problem and the need "for fresh eyes and ears", recommended to the COM that it request Presbytery to appoint an Administrative Commission. This recommendation was unanimously approved by the COM.

On March 7, 1989, the Presbytery of Central Florida approved the appointment of an Administrative Commission "to inquire into and settle the difficulties" at Winter Park Presbyterian Church and further instructed the Administrative Commission to be guided by a current overture of the General Assembly that would add to G-9.0505 provisions that would give to individuals in any case where removal from office, discipline, or other serious result might occur, the rights to face their accusers and to hear the allegations against them, and to be given sufficient time to prepare a defense, including the cross-examination of witnesses. This due process rule was to apply whether or not formal charges under the Rules of Discipline had been filed or were anticipated.

The Administrative Commission was appointed and agreed to operate by the proposed amendment which became effective in June, 1989.

The Administrative Commission divided its procedures into two stages: an inquiry phase and a settlement or hearing phase. The inquiry stage was investigatory in nature--interviewing witnesses and researching the records of the COM and the Session. The purpose was to determine the difficulties of

Winter Park Presbyterian Church, to identify persons who may be at risk, and to align the interests within the church.

During the settlement or hearing stage, the Commission, after stating the difficulties and persons at risk, permitted all interested parties to be present, heard witnesses, and received evidence.

All parties were urged to propose settlements and to present reasoned defenses on their behalf.

The Commission agreed to consider only information presented at the hearing and all proposed settlements in reaching their final recommendations.

At the settlement hearing, every opportunity was given to any individuals at risk to face his or her accusers, and to discuss allegations before the Commission.

The Commission completed the inquiry phase by May 22, 1989, and set the settlement hearing. All participants appeared before the Commission at a specially called meeting at Winter Park Presbyterian Church on May 24, 1989. Appellant was urged to, and did, attend the meeting, having been advised by letter that his pastoral relationship with Winter Park Presbyterian Church was at risk and that he had the right to be represented by counsel.

The settlement hearing, held at Winter Park Presbyterian Church, lasted some 21 hours over a two day period, June 24 and June 25, 1989. At the hearing, representatives of various positions presented evidence, including witnesses, and were given the opportunity to contest or rebut any evidence supporting the opposing positions. The hearing was recorded by a professional court reporter.

After the hearing the Commission met three times to consider settlements. The Commission issued, on behalf of the Presbytery, a settlement order dissolving the pastoral relationship between Winter Park Presbyterian Church and the Appellant.

The settlement was announced to Appellant and the Session of Winter Park Presbyterian Church on August 3, 1989, and to the congregation on August 6, 1989.

The settlement order, which included the dissolution of the pastoral relationship of Appellant on the basis that the church's mission under the Word imperatively demanded it, was reported to Presbytery at its September, 1989, stated meeting and was placed in the minutes without question or objection.

Dr. Anderson filed a timely complaint with the Synod. On May 17, 1990, the Synod PJC entered its decision. It found that, with the one exception that the Administrative Commission acted beyond the scope of its authority by forbidding the Appellant from attending worship services at Winter Park Presbyterian Church, the contentions raised by Appellant on the appeal were not supported by the evidence, and therefore were without merit. Appellant then filed an appeal with the General Assembly.

SPECIFICATIONS OF ERROR

Appellant has submitted the following specifications of error:

The Permanent Judicial Commission of the Synod of South Atlantic erred in affirming the decision of the Administrative Commission for the Presbytery of Central Florida for the following reasons:

1) Two members of the Administrative Commission were absent the entire second day of the hearing, yet voted on the decision, contrary to tradition, precedent, and Book of Order provisions.

This Commission finds there was no error because D-8.1300(c) applies only to a judicial commission, not to an administrative commission, unless the administrative commission in its discretion agrees to apply that provision. It did not do so in this case. Specification No. 1 is not sustained.

2) The Presbytery of Central Florida never specifically delegated nor designated the power to dissolve the pastoral relationship to the Administrative Commission, yet the Administrative Commission's order dissolves the pastoral relationship between Rev. Sherwood Anderson and the Winter Park Presbyterian Church.

In reviewing the record in this case, this Commission notes the fact that the Presbytery ordered the Administrative Commission to observe the provisions of the Book of Order

G-9.0505(d), prior to its inclusion in the Form of Government in 1989, which secure certain due process rights of a person whose position is in jeopardy. This shows Presbytery knew that the Commission might determine that it was imperative, in the best interests of the Church, that the pastoral relationship be terminated.

This Commission holds that the Presbytery of Central Florida fulfilled the requirement for specificity required by the Book of Order G-9.0502(b) when it established an Administrative Commission to "inquire into and settle the difficulties" in the Winter Park Presbyterian Church. This is affirmed, even though the Administrative Commission ordered that the pastoral relationship between the Winter Park Presbyterian Church and the Rev. Dr. Sherwood Anderson be severed. Specification No. 2 is not sustained.

The Commission suggests that in order to avoid misunderstanding in the future, a presbytery, in appointing an administrative commission to inquire into and to settle difficulties in a church, state with particularity in the order of appointment, any limitations or restrictions on the powers delegated to the administrative commission. If a presbytery intends or does not intend that an administrative commission have the power to dissolve a pastoral relationship, it should so indicate in clear and express language.

3) The Stated Clerk of the Presbytery of Central Florida acted beyond the scope of power and authority provided in the Book of Order.

Specification No. 3 is not sustained, because there is no evidence in the record before us to support it.

4) The Administrative Commission made no finding that "the church's mission under the Word imperatively demands" a dissolution or that any error or omission was committed by the Appellant in this matter.

This Commission holds that the findings of the Administrative Commission that Appellant is not, and has not been an effective head of staff, program coordinator or session moderator for Winter Park Presbyterian Church, that the difficulties have persisted too long, and that it is "imperative to the mission of that church" that they be resolved as swiftly as is consistent with Christian decency and good order, is sufficient. Specification No. 4 is not sustained.

5) The Permanent Judicial Commission of the Synod of South Atlantic failed to consider, be guided by, and find precedent in the previous decisions of the General Assembly Permanent Judicial Commission and its predecessor organizations and the guidance of the decisions of other Synods.

This Commission holds that there is nothing in the record before us to show that the Synod PJC ignored the Church precedents and did not consider them. Specification No. 5 is not sustained.

6) The Administrative Commission has mixed judicial process and administrative process throughout the proceedings in this matter.

This Commission finds no error. The Administrative Commission acted as an administrative body, not as a judicial commission, but afforded due process safeguards as required by G-9.0505. Specification No. 6 is not sustained.

7) In spite of the Presbytery of Central Florida's instruction to follow the provisions of Book of Order G-9.0505, the Administrative Commission repeatedly failed to follow both the spirit and the letter of due process protections guaranteed by G-9.0505 for the following reasons:

a) While the Book of Order guarantees that a person in the Appellant's position shall be given the right to face his accusers and hear from them the allegations or assertions against them, the Appellant was denied that opportunity.

This Commission finds that there is no evidence in the record before us to support this contention. Specification No. 7(a) is not sustained.

b) The Administrative Commission did not allow sufficient time for the Appellant to prepare a reasoned defense after he was finally made aware of the general nature of the allegations against him.

This Commission finds that there is no evidence in the record before us to support this contention. Specification No. 7(b) is not sustained.

c) Neither the Administrative Commission nor any other representative of the Presbytery of Central Florida ever provided the Appellant with a short and plain statement of the matters at issue, in violation of G-9.0505.

This Commission finds this specification essentially correct. The evidence presented to this Commission does not indicate that the provisions of the Book of Order G-9.0505(b) were complied with, in that the Appellant was not given a short and plain statement of the matters at issue. While this specification of error is sustained, we find that the failure was not prejudicial. The Appellant was clearly aware of the problems in the Winter Park Presbyterian Church and the relevant matters at issue. Therefore, this Commission holds that this error does not warrant a reversal of the finding of the Permanent Judicial Commission of the Synod of South Atlantic which upholds the final decision of the Presbytery of Central Florida's Administrative Commission.

8) The Administrative Commission declined to receive evidence offered by the Appellant, received improper evidence, and allowed Appellee to introduce evidence not previously disclosed to the Appellant.

This Commission finds that this contention is not supported by the evidence contained in the record before us. Specification No. 8 is not sustained.

Accordingly, the Commission having voted unanimously that the Permanent Judicial Commission of the Synod of South Atlantic, Presbyterian Church (U.S.A.), did not commit prejudicial error on any of the specifications of error advanced by the Appellant, the decision of the synod's judicial commission is affirmed.

The Rev. William M. Kelly, Hon. Edward P. Snead Jr., Hon. Charles L. Weltner, and Mr. Marcos Feliciano were not present and took no part in the proceedings.

Signed and dated this 8th day of October, 1990.