

Dorothy Matsuda,)	
Walter Beck,)	
Bertha Beck,)	
Elmer Bertelsen,)	
Helen Bertelsen,)	
Ray Carpenter,)	
Janet Kirk,)	
Ted Leitner,)	
Gerry Murphy,)	
Beatrice Ridgwell,)	
Roger Scudier,)	
Henriette Scudier,)	
Donald Wetmore,)	
Madeline Wetmore, and)	
John F. Veldhuizen)	
Complainants/Appellants)	
)	
v.)	
)	Remedial Case 203-4
)	
Presbytery of San Francisco,)	
Respondent/Appellee)	

This remedial case came before the Permanent Judicial Commission of the General Assembly on May 10, 1991, pursuant to an appeal filed by Matsuda et al, from a decision rendered by the Permanent Judicial Commission of the Synod of the Pacific.

In accordance with D-13.1200a, the Commission determined that it has jurisdiction, and the Appellants have standing to appeal. This Commission determined that the appeal was timely filed because the record on appeal provided no indication that a certified written decision was ever delivered by the Synod Permanent Judicial Commission (Synod PJC) to the parties (D-8.1400). With this determination made, the appeal is in order.

History

The Appellants, except the Reverend John F. Veldhuizen, are members of the High Street Presbyterian Church of Oakland, California. Mr. Veldhuizen was a member in good standing of the Presbytery of San Francisco at the time the Complaint was filed.

For several years the relationship between the High Street Church and the Presbytery has been very troubled. During this period there was a Presbytery task force to deal with problems at the High Street Church, an administrative commission, several stated supply pastors, judicial

complaints, votes to dissolve the congregation, and at least one stay of enforcement to block such action.

The Presbytery's relationship to Mr. Veldhuizen, a non-parish clergy member of the Presbytery, was equally as troubled. There are indications in the record that some members of the Presbytery regarded Mr. Veldhuizen as a troublemaker interfering with the Presbytery's oversight of the High Street Church.

Mr. Veldhuizen rented office space in the High Street Church facilities and was considered by many of the High Street members to be a parish associate of the church, although such a relationship was not possible without an installed pastor.

In the summer of 1989, several members of the High Street Church and Mr. Veldhuizen filed a Complaint, dated July 24, 1989, with the Synod of the Pacific listing a significant number of "wrongs committed against the members and officers of the High Street Church" by the Presbytery of San Francisco. During the Fall of 1989, there was an exchange of communication between the moderator of the Synod PJC, Owen M. Panner, and Mr. Veldhuizen attempting to clarify the proper procedures, requirements, and content for the Complaint. An "amended complaint," dated December 19, 1989, was filed during this time period.

On May 5, 1990, the Synod PJC heard the amended Complaint. An appeal of the decision of the Synod PJC, dated September 4, 1990, claimed a number of procedural irregularities. Illustrative of these are the failure of the Synod PJC to deliver a certified copy of a decision to the Appellants, and the Presbytery stated clerk's reporting only a portion of the "Decree" (decision) to the Presbytery.

The Synod PJC produced a two page document entitled a "Decree" which was treated by the Presbytery and the Appellants as a decision. It was not, however, communicated to the parties in the manner the Book of Order prescribes for a decision. The record on appeal contains an unsigned and undated copy of this "Decree." It is on this "unofficial" copy of the

"Decree" that the Appellants have based their appeal and specifications of error.

A pre-hearing conference was arranged by the Executive Committee of this Commission to discuss the issues and narrow the focus of disputed facts. This conference was held in San Francisco on March 16, 1991. Appellants participated in the conference, but the Presbytery's Committee of Counsel communicated that "we see no benefit in participating in the hearing on 16 March ..."

A "Memorandum of Understanding" was drafted following the conference and the Presbytery's Committee of Counsel did communicate its agreement to all points of clarification addressed in the "Specification" portion of this decision. The Committee of Counsel did not submit a brief for the appeal hearing before this Commission and did not attend the hearing on May 10, 1991.

Specifications of Error

Appellants submitted seven specifications of error. As a result of the pre-hearing conference held on March 16, 1991, alternate wording for specifications was proposed. The acceptance of the alternate wording or action was by response to a written "Memorandum of Understanding." The Appellee, Presbytery Committee of Counsel, agreed to all proposed alternatives. Appellants agreed to the alternatives for specifications 1, 3, and 5.

The following specifications reflect the agreed upon alternatives for numbers 1, 3, and 5, and the Appellants' original wording for numbers 2, 4, 6, and 7.

Specification No. 1: The Synod of the Pacific Permanent Judicial Commission did not make a determination on the matters contained in the Complaint filed on July 24, 1989.

This specification is sustained (16-0-0).

There is no indication in the record that the Synod PJC ever heard or took action on that Complaint.

Specification No. 2: Refusal of the chair of the Synod of the Pacific PJC to recognize and grant any motions for postponement of the trial.

This specification is not sustained (1-15-0).

The Presbyterian judicial process does not contain the concept of "continuance" very common in civil law. The Synod PJC has the right and obligation to set an appropriate trial date and, barring extreme emergency, hold to it. The record indicates that Appellants were present and participated in the proceedings of May 5, 1990.

Specification No. 3: Neither the clerk of the Synod PJC nor the stated clerk of the Synod sent signed copies of the decision of the Synod PJC on the amended Complaint of December 19, 1989.

This specification is sustained (16-0-0).

There is no indication in the record of the Synod PJC's having complied with D-8.1400b and D-8.1600.

Specification No. 4: Failure to specify the whole opinion and judgement of the Synod of the Pacific PJC at the conclusion of the hearing, May 5, 1990.

This specification is not sustained (0-16-0).

The decision in a judicial proceeding is written after the session or permanent judicial commission has considered evidence, deliberated, and voted on specifications (D-8.1400b).

Specification No. 5: The Synod PJC did not specify its action on each irregularity or delinquency assigned in the complaint before it, and may have considered issues not raised in the complaint.

This specification is sustained (16-0-0).

There is no indication in the record of the Synod PJC's having done this. The terse decree of dismissal provides no guidance, information, or cause of understanding. The suggestions contained in the second part of the "Decree" are matters which the Synod PJC did have authority to order.

Specification No. 6: Presbytery of San Francisco stated clerk's biased reporting to presbytery.

This specification is not sustained (2-14-0).

This is not a specification of an error on the part of the Synod PJC.

Specification No. 7: As yet, we [Appellants] have not received a copy of the transcript of the court reporter, but it is our contention that we did prove the two charges against the Presbytery of San Francisco.

This specification is not sustained (0-16-0).

This is not an error in the judicial decision or proceedings of the Synod PJC.

Additional Procedural Irregularities

On a review of the record on appeal, the communications between the parties, and the procedures used in hearing this appeal, this Commission states the following findings:

1. The Reverend Donald I. MacInnes, the former Stated Clerk of the Presbytery of San Francisco, failed to read the whole "Decree" (decision) to the presbytery when presenting the action of the Synod PJC. This is a apparent demonstration of bias on the part of Mr. MacInnes.
2. Presbytery exceeded its own authority and usurped the authority of the High Street Church Session to determine the use of the physical facilities of the church (G-10.0102n).
3. Presbytery may have exceeded its authority by voting to dissolve the High Street Presbyterian Church without prior consultation with the church's members (G-11.0103i). The record does not indicate that this required consultation took place.
4. The Stated Clerk of the Synod erred in failing to file with this Commission documents which he had listed as the record in the case. (D-13.0700c).
5. Presbytery's Committee of Counsel erred in failing its responsibility under D-6.0700a:

In a remedial case when a governing body, agency, or council becomes either a complainant or a respondent, it shall designate no more than three persons to be a committee of counsel. This committee shall represent the governing body in that case until final decision is reached in the highest governing body to which the case is appealed.

- a. The Committee of Counsel described its task as "assisting" the Synod PJC rather than as defending the Presbytery on the charges in the Complaint.

- b. Subsequent to the May 5, 1990, hearing before the Synod PJC, the Committee of Counsel declined to participate further in the judicial processing of this case.

Order

IT IS, THEREFORE, ORDERED by the unanimous vote of this Commission that:

1. The Stated Clerk of the Presbytery of San Francisco read to the Presbytery at its next stated meeting the entire original "Decree" (decision) and this decision and that both the "Decree" (decision) and this decision be entered into the minutes of the meeting, and a copy of the Presbytery minutes be sent to this Commission.
2. The Stated Clerk of the Synod of the Pacific read to the Synod of the Pacific at its next stated meeting this decision in its entirety and that same be entered in the minutes of the meeting, and a copy of those minutes be sent to this Commission.
3. The Presbytery of San Francisco, through an appropriate body of the Presbytery, initiate negotiations of a lease and facilities use agreement between the High Street Session and the Hispanic ministry. This shall be initiated within 30 days from the date of this decision, with an agreement to be concluded no later than July 1, 1991.

Mr. Marcos Feliciano, Esq. and the Honorable Charles L. Weltner were not present and did not participate in the case.