

DISCIPLINARY CASE 205-1

PRESBYTERIAN CHURCH (U.S.A.) v. Alan WHITELOCK

This is a disciplinary case which has come before this commission on appeal by Alan Whitelock, minister, from a decision by the Permanent Judicial Commission of the Synod of Rocky Mountains (synod PJC) in a case initiated by the Presbytery of Denver.

Pursuant to *Book of Order*, D-13.1200(a), this commission finds it has jurisdiction, the appellant has standing to appeal, that the appeal was properly and timely filed, and is in order.

History

In 1986, Mr. Whitelock was serving as pastor of Louviers Presbyterian Church. In February, 1986, Mr. Whitelock was contacted, by telephone, by a Ms. J.R. who, because of events happening in her life, was in need of pastoral care and counseling. She requested a meeting with Mr. Whitelock. From this meeting, a chain of events evolved which continued through October, 1989, and which constitute the basis for the charges which were ultimately filed against Mr. Whitelock. Acts of sexual intercourse in February, April, and May, 1986, were alleged. It was also alleged that Mr. Whitelock placed numerous telephone calls to Ms. J.R. beginning in February, 1986, and ending in October, 1989. The telephone calls were alleged to be sexually explicit and it was also alleged that Mr. Whitelock repeatedly urged Ms. J.R. not to discuss the sexual relationship. The calls became less sexually explicit, but he still admonished her not to reveal the relationship.

In November, 1989, Ms. J.R. became ill and suffered what was diagnosed as symptoms of posttraumatic stress disorder which included major depression. She sought psychiatric help.

In June, 1990, Ms. J.R. requested, in writing, that Mr. Whitelock pay her \$4000 to compensate her for expenses she had incurred for counseling and doctor bills, allegedly resulting from the sexual affair while he was her pastor and counselor. Ms. J.R., through her attorney, made an offer to compromise, but on July 19, 1990, her attorney withdrew the offer. It was her attorney's letter that led to the formation by the presbytery of the special disciplinary committee (SDC) on August 8, 1990.

On January 30, 1992, the SDC adopted a resolution stating that charges against Mr. Whitelock should be filed. Four charges were filed, each with supporting specifications. The charges alleged a course of conduct commencing February, 1986, and continuing through October, 1989, which constituted an offense within D-1.0800.

The case of the presbytery was that Mr. Whitelock had engaged in a course of conduct involving a chain of events commencing February, 1986, and continuing through October, 1989 - one continuous series of actions which constituted an offense. Mr. Whitelock objected, charging that there is no authority for linking--that acts alleged to have happened more than three years prior to the date charges were filed were barred by the three-year statute of limitations (D-7.1100), and that there were no acts within the three-year period, which constituted a chargeable offense.

Trial was held by the presbytery, and Mr. Whitelock was found guilty of all charges. After a mitigation hearing, the presbytery PJC imposed a censure of temporary exclusion from the exercise of ordained office for two years, but without loss of membership. An appeal was

filed to the PJC of the Synod of the Rocky Mountains.

The synod PJC disposed of the "chain of events" theory and dismissed all charges based on acts or omissions occurring prior to three years before charges were filed.

The presbytery PJC had also refused to order a psychiatric examination of the complainant to evaluate the mental health issues raised in the charges, the examiner to be one of Mr. Whitelock's choosing and whose expenses were to be paid by the presbytery. Synod PJC held this was error.

Specifications of Error

The brief of the appellant sets out five specifications of error.

(1) The synod PJC erred by not setting aside or reversing the Denver PJC decision after determining that Mr. Whitelock was improperly charged with acts or omissions that occurred prior to three years before charges were filed and after determining that the Denver PJC improperly refused to dismiss these charges.

This specification is not sustained.

(2) The synod PJC erred by not setting aside or reversing the Denver PJC decision after determining that it was improper to charge that there was a "chain of events ... which continued through October, 1989" and that "the events are nonetheless one continuous series of actions which constitute an offense as defined by the Rules of Discipline, D-1.0800.

This specification is not sustained.

(3) In the alternative, the synod PJC erred by refusing to remand the case for further proceedings after determining the charges were not proper under Rules of Discipline D-7.1100 and D-1.0800.

This specification is not sustained.

(4) The synod PJC erred by "affirming the presbytery PJC's decision that an offense had occurred within the statutory time limit" when, in fact no such decision had been made by the presbytery PJC.

This specification is not sustained.

The first four specifications of error are all based on the same set of circumstances. The synod PJC eliminated the charges based on acts or omissions occurring prior to three years before charges could be filed. However, the synod PJC still found there was sufficient evidence to sustain a conviction. We do not disturb the evidentiary findings of the trier of fact unless it is apparent there is no evidence to support the decision. We do not so find.

The synod PJC did, however, modify the judgment of the presbytery PJC to make the censure a temporary exclusion from the exercise of ordained office for the period of one year. (D-13.1300c).

(5) The synod PJC erred by refusing to remand the case for further proceedings after determining it was improper to refuse "to allow an examination of the Complainant [Ms. J.R.] to evaluate mental health issues raised in the charges."

This specification is not sustained.

The results of such an examination would be irrelevant to the actual charges brought by the special disciplinary committee.

Furthermore, there is no constitutional provision for requiring a PJC to order such an examination. No error is committed if it does not do so.

Order

It is therefore ordered that the judgment of the Permanent Judicial Commission of the Synod of the Rocky Mountains is affirmed.

Milton S. Carothers and Marcos Feliciano were not present and took no part in the proceedings.