

REMEDIAL CASE 205-8

SESSION, WITHERSPOON PRESBYTERIAN CHURCH, Indianapolis, Indiana v. Presbytery of WHITEWATER VALLEY

This is a remedial case which has come before this commission on appeal by the Session of the Witherspoon Presbyterian Church, Indianapolis, Indiana, from an order by the Permanent Judicial Commission of the Synod of Lincoln Trails.

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

History

On February 6, 1991, in response to an order of the Permanent Judicial Commission of the Synod of Lincoln Trails, the Presbytery of Whitewater Valley elected an Administrative Commission (in other cases before us at this time, "Administrative Commission II") "to conduct any hearing necessary to resolve the situation at the Witherspoon Church." The commission had a number of meetings and studies culminating in a formal hearing on February 21-22, 1992. At the end of the first day the hearing was recessed for the night. The next morning, after meeting in closed session, the commission announced that the hearing would be in recess while a request to the presbytery for clarification of the authority of the commission was being processed.

At a special meeting on March 13, 1992, the presbytery, with the concurrence of the administrative commission, dissolved the administrative commission and elected another. Four days later the Session of the Witherspoon Presbyterian Church formally complained "to the Synod of Lincoln Trails of the action of Whitewater Valley Presbytery made at Indianapolis, Indiana on the 21st day of February, 1992 . . ." The Session stated the following as the reason for the complaint:

The decision of the respondent presbytery to conduct a trial-like proceeding on February 21, 1992 against the complainant's pastor while excluding the complainant has to be construed as a decision made by the governing body to refuse to give the complainant due process as required by the synod permanent judicial commission order instructing the respondent presbytery to 'elect a New Administrative Commission to conduct any hearing necessary' in the whole matter of the session's October 1, 1990 complaint. . . . [The] Administrative Commission did recess the trial-like proceeding on February 22, 1992 without the defense having called a single witness to refute any evidence thus far presented.

On June 16, 1992, the synod permanent judicial commission decided that "The complainant does not state a claim upon which relief can be granted." It is this decision which has been appealed to the General Assembly Permanent Judicial Commission.

Specifications of Error

Appellant raises five specifications of error:

- (1) There were irregularities in the proceedings.

This specification is not sustained.

(2) The session was refused a reasonable opportunity to be heard and to obtain and present evidence.

This specification is not sustained.

(3) The synod permanent judicial commission received improper evidence and declined to receive proper evidence and testimony.

This specification is not sustained.

(4) There was a manifestation of prejudice in the conduct of the case.

This specification is not sustained.

(5) There was a mistake and injustice in the decision.

This specification is not sustained.

These specifications of error are not sustained because they are not related to the issue raised by the appeal from the order of the synod PJC.

Findings

We cannot find anywhere in the record that presbytery's administrative commission took any binding actions during the February 21-22, 1992, session other than (1) to recess the hearings, and (2) to submit a request to the presbytery asking that the authority of the commission be clarified. There is no support in the record for the session's allegation that

[t]he decision of the respondent presbytery to conduct a trial-like proceeding on February 21, 1992 against the complainant's pastor while excluding the complainant has to be construed as a decision made by the governing body to refuse to give the complainant due process as required by the synod permanent judicial commission order . . .

The appeal of the session is without merit.

Order

It is therefore ordered that the order of the Permanent Judicial Commission of the Synod of Lincoln Trails is affirmed.

It is further ordered that the stated clerk of the Presbytery of Whitewater Valley, the appellee governing body, report this decision to the governing body at its first meeting after receipt, that the governing body enter the full decision upon its minutes, and that an excerpt from those minutes showing entry of the decision be sent to the Stated Clerk of the General Assembly. (D-8.1900)

Harold Densmore and David Prager, members of the commission, were not present and took no part in the proceedings.