

REMEDIAL CASE 205-13
Gary Jon COOPER v.
Presbytery of MUSKINGUM VALLEY

This is a remedial case which has come before this commission on appeal by Gary Jon Cooper, minister, from an order of the Permanent Judicial Commission of The Synod of the Covenant.

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

In January, 1989, Gary Jon Cooper became pastor of the First Presbyterian Church of Marietta, Ohio, in the Presbytery of Muskingum Valley. By early 1991, some members of the church were voicing criticism of his ministry. Mr. Cooper sought the counsel of Hugh Berry, Executive Presbyter. As a result of that counsel, Mr. Cooper revised his Personal Information Form and began to circulate it.

In the spring of 1991, Mr. Cooper was on sick leave. In June 1991, Nancy Forinash, chair of Area IV of the presbytery committee on ministry (COM) held conversations with the chair of the personnel committee of the Marietta Church and with Mr. Cooper.

Ms. Forinash and Mr. Berry were requested to assist in dealing with the difficulties in the church. On August 29, 1991, they met with the Personnel Committee and Mr. Cooper. Several steps were recommended to Mr. Cooper to improve his ministry in Marietta, and it was agreed that another meeting would be held on October 28, 1991, to review progress.

However, on October 14, 1991, Executive Presbyter Berry and COM representative Forinash met with the full session, including Mr. Cooper. Following extended discussion, they and the session agreed to meet again on October 21, 1991. At the October 21 meeting, Mr. Berry divulged that Mr. Cooper was circulating his Personal Information Form. Discussion led the session to request Mr. Cooper to submit his resignation. Mr. Cooper repeatedly expressed his hope and prayer for a reconciled and renewed relationship with disaffected members of the congregation. Mr. Berry pointed out to the session provisions of the presbytery's guidelines on involuntary termination of pastoral relationships. The meeting proceeded to a mode of negotiation, at the conclusion of which Mr. Cooper agreed to resign based on a severance agreement patterned largely on the presbytery's guidelines.

The session called a congregational meeting for Sunday, November 10, 1991. The call for the meeting as issued by the clerk of session and mailed to members of the congregation indicated that dissolution of the pastoral relationship was requested by Mr. Cooper. When Mr. Cooper read the call of the congregational meeting from the pulpit on the two Sundays before the meeting, he pointed out that the proposed dissolution of the pastoral relationship was not his request.

On November 4, 1991, the session met and decided to propose to the congregation amendments to the severance agreement to which Mr. Cooper objected. Executive Presbyter Berry was moderator of the congregational meeting on November 10, 1991. The originally agreed-upon severance agreement was put before the congregation as stated in the call. The amendments prepared by the session were proposed and adopted, and the amended request for

dissolution of the pastoral relationship was adopted and sent to the presbytery. Mr. Cooper was present and spoke.

When the request for dissolution of the pastoral relationship was discussed by the Area IV sub-committee of the COM, Mr. Cooper was present and spoke. When the entire COM considered the matter on November 26, 1991, Mr. Cooper and his attorney were present, but did not have opportunity to speak until after the COM had reached its decision in executive session.

The presbytery met in special session on December 10, 1991, to deal with this situation and another involuntary dissolution of a pastoral relationship. Mr. Cooper was present and urged the presbytery not to dissolve his pastoral relationship, but to pursue a course of conflict resolution and reconciliation. The presbytery was not persuaded and proceeded to dissolve the pastoral relationship between Mr. Cooper and the First Presbyterian Church of Marietta effective that same day.

On January 7, 1992, Mr. Cooper filed with the Synod of the Covenant a complaint against the Presbytery of Muskingum Valley including sixty allegations or statements of fact and asking the synod to stay the enforcement of the presbytery's action, to reinstate him in his pastorate, and to award him monetary damages and counsel fees and costs. No stay was granted.

The PJC of the Synod of the Covenant held a trial of the case on August 18-20, 1992.

On October 13, 1992, the synod PJC sent its decision to Mr. Cooper. The synod PJC determined that the presbytery and its COM had not followed the presbytery's own policies on involuntary dissolutions. The synod, nevertheless, found that the dissolution of the pastoral relationship was in order, and that any reconciliation would have been impossible.

Specifications of Error

From the appellant's brief, this commission has determined a single specification of error: that the synod PJC committed a mistake or error in judgment.

This specification is not sustained.

Findings

The Presbytery of Muskingum Valley has prepared a set of procedures and policies designed to carry out the functions of the committee on ministry as set forth in G-11.0502(i) and (j), dealing with difficulties within a congregation. In concert with the synod PJC, this commission finds that the provisions of these procedures involving involuntary dissolution of pastoral relationships were not carried out. Even with early cognizance of the situation, the COM remained passive until too late to carry out a peacemaking role, and abandoned the field too early to negotiate a mutually acceptable involuntary dissolution, providing insufficient support to both the congregation and the appellant.

The failure of the Presbytery of Muskingum Valley to act in accordance with its own policies resulted in some injury to Mr. Cooper and to the First Presbyterian Church of Marietta. However, after careful review of the record, this commission agrees with the synod PJC that there is no hope of reconciling the pastoral relationship between Mr. Cooper and the First Presbyterian Church of Marietta, Ohio.

Order

It is therefore ordered that the judgment of the Permanent Judicial Commission of the Synod of the Covenant be affirmed.

It is further ordered that the presbytery committee on ministry and presbytery executive, in consultation with the General Assembly Church Vocations Unit, assist Mr. Cooper in seeking relocation.

It is further ordered that the stated clerk of the Presbytery of Muskingum Valley, the appellee, report this decision to the presbytery at its first meeting after receipt, that the presbytery 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, member of the commission, was not present and took no part in the proceedings.

Concurring opinion of Milton S. Carothers, James M. MacKellar and Joel Secrist

We concur with the findings of the majority.

Furthermore, we concur with the order of the majority as far as it goes.

However, the majority notes that Mr. Cooper suffered injury from the events about which he complained. A part of that injury was the loss of five months of employment at full salary and benefits. This continuance of employment was a part of the original severance package on the basis of which Mr. Cooper was persuaded to submit his resignation.

We believe that the Presbytery of Muskingum Valley and the First Presbyterian Church of Marietta should have been ordered to provide Mr. Cooper at least partial continuance of his lost salary.