

**THE PERMANENT JUDICIAL COMMISSION
OF THE GENERAL ASSEMBLY
OF THE PRESBYTERIAN CHURCH (U.S.A.)**

ISAIAH D. AND DEVIA PHINISEE
Complainants/Appellants

v.

Remedial Case 206-2

PRESBYTERY OF GRACE
Respondent/Appellees

This is a remedial case which has come before this commission on appeal by Isaiah D. and Devia Phinisee, ministers, from an order of the Permanent Judicial Commission of the Synod of the Sun.

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

HISTORY

Isaiah D. and Devia Phinisee were co-pastors at Glendale Presbyterian Church and at St. Luke Presbyterian Church, Dallas, Texas, in the Presbytery of Grace. In March, 1992, two elders of the Session of Glendale Presbyterian Church, citing lack of finances and loss of membership, requested a called congregational meeting to request dissolution of the co-pastor relationships between Glendale and the Phinisees. At the congregational meeting on May 3, 1992, the congregation voted fifty-one to three to request dissolution of the co-pastor relationships. The co-pastors did not concur with this action. On May 23, 1993, the Session of the Glendale Presbyterian Church, the Session of St. Luke Presbyterian Church, and the

Phinisees met with the committee on ministry (COM). The COM recommended that the presbytery:

1. dissolve the co-pastoral relationships between Devia Phinisee and Isaiah Phinisee and the Glendale Church, effective June 23, 1992.
2. note the terms of dissolution as 4 months' continuation of salary, excluding continuing education and professional expenses.
3. note the co-pastoral relationships between the Phinisees and St. Luke Church remain intact.

In accord with the Book of Order, G-14.0603, the Phinisees requested to be heard by the presbytery at its next meeting on June 23, 1992, as to "the reasons why the presbytery should not dissolve the relationship." Unfortunately because of the untimely death of their son, the Phinisees were unable to attend the June 23, 1992, presbytery meeting and requested prior to the meeting that discussion regarding the dissolution of the co-pastorate be tabled until the next regular presbytery meeting, which was three months later.

Instead of granting this request, the presbytery appointed an administrative commission in accord with G-9.0502, with its duties specified as "to act upon the recommendations that the COM presented to presbytery, to resolve those recommendations and any matters related thereto." Four of eight members of the administrative commission were currently serving on the committee on ministry. The Phinisees and both churches were advised they could appear in person "to make whatever presentation" they wished. Hearings were held on July 15, 1992. All parties were notified on July 21, 1992, of the administrative commission's decision to concur with the committee on ministry's recommendations. This decision was announced at the meeting of the Presbytery of Grace on September 17, 1992.

The Phinisees filed what was entitled "Notice of Appeal" to this decision on August 19, 1992, but the Synod of the Sun Stated Clerk advised the date of receipt of the notice of appeal in fact was September 15, 1992. By letter dated October 6, 1992, the Phinisees essentially requested that their notice of appeal be retitled a complaint.

Relief requested by the Phinisees included:

1. restoration of co-pastoral relationship at Glendale as well as continued relationship at St. Luke, with the granting of three more years of continued salary at full benefits;
2. salary and housing allowance for month of July 22, 1992, [sic] be paid;
3. no bad reference be given by Grace Presbytery;
4. payment for punitive damage of \$10,000 or more be granted.

On January 28, 1993, the Synod PJC decided that the presbytery acted contrary to the letter and clear intent of the Book of Order in:

- a. appointing a commission composed of a majority of members of COM to determine whether presbytery should follow recommendations of COM;
- b. failing to state with specificity their powers;
- c. failing to instruct them to faithfully comply with the letter and intent of G-9.0505d, and
- d. accepting a report from the commission instead of requiring a full record of its proceedings.

The synod permanent judicial commission ". . . further determined . . . that the Complainants had failed to file a complaint as defined by D-6.0400 within the time authorized by D-6.0600a," and, therefore, dismissed the complaint. The result of this action was, in effect, to

concur with the presbytery in its actions to dissolve the co-pastor relationships between the Glendale Presbyterian Church and Isaiah D. and Devia Phinisee.

Appellee argues that the decision of the synod permanent judicial commission should be affirmed because the document dated August 19, 1992, did not constitute a complaint and that no complaint was filed within the time required by D-6.0600a. We hold that the document dated August 19, 1992, though inartfully drafted, was sufficient to constitute a complaint, putting the presbytery on notice that the appellants were seeking judicial review of the presbytery's actions. The presbytery claims no prejudice or surprise, and fully presented this case on its merits. Under these circumstances the synod permanent judicial commission had jurisdiction to hear this case.

SPECIFICATIONS OF ERROR

The specifications of error, as submitted, were unclear; however, our best understanding of intended specifications of error are that the synod permanent judicial commission erred in the following instances

(1) In not finding that the presbytery's committee on ministry failed to "serve as an instrument of presbytery for promoting the peace and harmony of the churches, especially in regards to matters arising out of the relationship between ministers and churches" (Book of Order, G-11.0502i).

This specification is not sustained.

The record is devoid of any evidence that would support this allegation.

(2) In not finding that the presbytery inappropriately appointed an administrative commission when there was no disorder in the church.

This specification is not sustained.

Appellants apparently misunderstood the basis on which the administrative commission was appointed. The reference to the Book of Order, G-9.0505, relied upon by appellants, is not applicable here. This administrative commission was established to fulfill presbytery's responsibility to hear appellants' reasons why the co-pastoral relationships should not be dissolved, in accord with G-14.0603.

(3) In not faulting the presbytery's omission of opportunity for the Phinisees to be heard by the whole presbytery.

This specification is not sustained.

An administrative commission acts for presbytery (Book of Order, G-9.0505a). The decision of whether to dissolve a pastoral relationship when a pastor does not concur is one which may be delegated to an administrative commission.

(4) In not faulting presbytery for the racially noninclusive composition of the administrative commission.

This specification is not sustained.

The appellants claim that the decisions and actions of the presbytery in these matters reflect an unwillingness to address attitudes of racial or gender prejudice. We recognize that racism and sexism can take very subtle forms. We have looked carefully at the record for any evidence of racist and/or sexist motivations, decisions and/or actions on the part of the presbytery and have found none.

(5) In not finding a conflict of interest inherent in the composition of the administrative commission.

This specification is not sustained.

Fifty percent of the administrative commission were committee on ministry members. Under the circumstances of this case, we question whether the Phinisees could have been fairly heard. However, the Glendale Presbyterian Church voted overwhelmingly to dissolve the co-pastoral relationships, and the Phinisees failed to demonstrate sufficient reasons why those relationships should not be dissolved.

ORDER

It is therefore ordered that the co-pastoral relationships between Isaiah D. and Devia Phinisee and the Glendale Presbyterian Church, Dallas, Texas, are dissolved effective July 21, 1992. Full salary, excluding continuing education and professional expenses, should be granted for four months following date of dissolution of July 21, 1992, as approved by the presbytery.

It is further ordered that the stated clerk of the Presbytery of Grace, 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 (Book of Order, D-8.1900).

The untimely death of Harold Densmore, member of the commission, on October 24, 1993, precluded his participation in the proceedings. Ferdinand Pharr, member of the commission, was not present and took no part in the proceedings. Clark Chamberlain, member of the commission, took no part in the proceedings due to his position as stated clerk of the Synod of the Sun.