

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

DAVID B. WHITE

Complainant/Appellant

v.

Remedial Case 207-2,

PRESBYTERY OF THE REDWOODS

Respondent/Appellee

This is a remedial case which has come before the Permanent Judicial Commission of the General Assembly on an appeal from a decision of the Permanent Judicial Commission of the Synod of the Pacific on a Complaint filed by David B. White.

This commission assumes jurisdiction in accordance with Book of Order, D-5.0100e, because the synod permanent judicial commission has failed to act on the preliminary determination made by the moderator and clerk within a period of ninety days.

History

At its meeting on September 17-18, 1993, at Westminster Woods, Occidental, California, the Presbytery of the Redwoods passed a motion to adopt a "Covenant for Dialogue in a Protective Environment" (hereafter referred to as covenant) which reads in part:

3. We will not initiate any disciplinary case against any person who participates in such study and dialogue when such action would be based solely upon the current policy of the Church which prohibits the ordination of lesbian and gay people as Deacons, Elders, and Ministers of the Word and Sacrament.

4. We will not initiate any remedial case against any Session or the Presbytery for failure to initiate such a disciplinary case against a participating person.

Thereafter, complainant filed with the Synod of the Pacific a remedial complaint dated October 7, 1993, against the Presbytery of the Redwoods. Complainant claimed the covenant was unconstitutional because it was contrary to the Book of Order and requested the synod to order the presbytery to rescind the covenant. On February 26, 1994, the synod permanent judicial commission moderator and clerk issued an order dismissing the case "due to inability to grant the relief sought" on the basis of Warner v. Presbytery of the Pacific (198-3) (Minutes, 1986, Part I, p. 155) and Veldhuizen v. Presbytery of San Francisco (206-1) (Minutes, 1994, Part I, p. 134). On April 15, 1994, the moderator issued an order correcting a citation. The full Permanent Judicial Commission has never acted on this order, and the complainant was not granted a trial on the preliminary questions. Complainant filed a notice of appeal on May 12, 1994, with the General Assembly Permanent Judicial Commission.

Specifications of Error

(1) The citation of Warner v. Presbytery of the Pacific

(General Assembly Judicial Commission Case No. 198-3, see Minutes, 1986, Part I, p. 155) does not apply since it concerns action in regard to a special disciplinary committee, a feature which is not present in the case being appealed.

This specification of error is sustained.

(2) The citation of Veldhuizen v. Presbytery of San Francisco

(General Assembly Judicial Commission Case No. 206-1, see Minutes, 1994, Part I, p. 139) does not apply since it concerns action in regard to a special disciplinary committee, a feature which is not present in the case being appealed.

This specification of error is sustained.

In the absence of explanatory language in the synod order, it is impossible for this commission to understand the applicability of the cited cases to this case.

(3) The order prevents complainant from having his case heard.

This specification of error is sustained.

In this instance we understand David B. White to be complaining about the lack of opportunity to address the jurisdictional issues.

(4) The order claims the relief can not be granted.

This specification of error is sustained.

Because of the errors in specifications 1, 2, and 3, this jurisdictional issue has not been properly addressed.

Decision

Book of Order, D-6.1200a requires the permanent judicial commission moderator and clerk to examine the jurisdictional issues. Book of Order, D-6.1200b requires a trial on the preliminary questions if any party or commission member raises a question about any of the jurisdictional issues. Once the permanent judicial commission moderator and clerk in this case raised a question about jurisdiction, the proper procedure should have been to issue a preliminary order giving the parties and the other commission members an opportunity to be heard or to hear the issues in question. Because this procedure was not followed, the synod has never disposed of the case.

Order

It is therefore ordered that this case be remanded to the Synod of the Pacific Permanent Judicial Commission for a trial on the preliminary questions and for further actions in accordance with this decision.

Robert Hotchkiss and Owen Panner, members of the Permanent Judicial Commission,
were not present and took no part in the proceedings.