

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

DAVID B. WHITE

Complainant/Appellant

v.

Remedial Case 207-3

PRESBYTERY OF THE REDWOODS

Respondent/Appellee

This remedial case 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 its moderator and clerk within a period of ninety days.

History

An accusation was filed by appellant with the stated clerk of the Presbytery of the Redwoods against Minister B on December 19, 1992. A special disciplinary committee was designated to investigate the accusation. The special disciplinary committee of the presbytery sent a letter dated January 13, 1994, to appellant reporting that the committee had decided not to file charges. At its meeting on January 21, 1994, the Presbytery of the Redwoods received the report of the special disciplinary committee.

On February 7, 1994, appellant filed a remedial complaint against the Presbytery of the Redwoods with the Synod of the Pacific seeking an order from synod requiring that charges be filed by the special disciplinary committee of the Presbytery of the Redwoods. 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. 139). On April 15, 1994, the moderator issued an order correcting a citation. White then filed a timely notice appealing the moderator and clerk's order to the General Assembly Permanent Judicial Commission.

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.

This commission finds that the Warner and Veldhuizen cases cited above, which hold that the decision of the special disciplinary committee is not reviewable, apply to this case. As determined in Warner and Veldhuizen, D-7.0800b(5) gives a special disciplinary committee sole discretion about whether charges shall be filed in a disciplinary case.

Order

It is therefore ordered that this case be dismissed for failure to state a claim upon which relief can be granted.

It is further ordered that the stated clerk of the Presbytery of the Redwoods, 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.

It is further ordered that the stated clerk of the Synod of the Pacific report this decision to the synod at its first meeting after receipt, that the synod 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).

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