

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

TOM BAKER, et al.)	
Complainants-Appellees)	
)	
v.)	Remedial Case 207-10
)	
THE PRESBYTERY OF MIDDLE TENNESSEE)	
Respondent-Appellant)	

This is a remedial case which has come before this Commission on appeal by the Presbytery of Middle Tennessee (hereafter Presbytery) from a decision by the Permanent Judicial Commission of the Synod of the Living Waters (hereafter Synod PJC).

The Permanent Judicial 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 5, 1994, the Presbytery of Middle Tennessee voted to dissolve the thirteen-member Brentwood (Tennessee) First Presbyterian Church. This action was taken on the recommendation of an Administrative Committee appointed by the Presbytery on February 6, 1993, to "present to Presbytery a plan for the revitalization of Brentwood First Presbyterian Church or a recommendation for its closure." As a part of its procedure, the Administrative Committee met with the Session of the Brentwood Church on September 19, 1993, for consultation.

Tom Baker, the stated supply pastor, and others brought a remedial case against the Presbytery, charging, among other things, that there was insufficient consultation with the

congregation before the action to dissolve the congregation was taken. The Permanent Judicial Commission of the Synod of Living Waters heard the case on August 16, 1994. Their decision was in favor of the Complainant, "on the grounds that the Administrative Committee did not appropriately consult with the members of the congregation in accord with G-11.0103i."

The Presbytery of Middle Tennessee has appealed this decision, on the grounds of irregularities in the Synod PJC proceedings.

SPECIFICATIONS OF ERROR

Appellant alleges seven specifications of error:

Specification Number 1

"The date of the PJC hearing was not set or announced in a timely fashion."

This specification is not sustained.

The parties appear to have had adequate notice for the hearing. We note, however, that in accordance with D-6.1000, the PJC should have given the parties an estimated date for trial at the outset of the case.

Specification Number 2

"The witnesses who appeared before this hearing were not properly cited as witnesses and were improperly allowed to testify."

This specification is not sustained.

Witnesses do not have to be cited in order to testify. D-8.0500b does not mandate citations for witnesses, but only provides a mechanism for issuing citations for witnesses if desired by any party.

Specification Number 3

“The PJC announced that they would not hear the Amended Complaint of Tom Baker et al., at the hearing. Despite this, while receiving the testimony of the improper witnesses, the PJC improperly allowed them to address the specifics of the declined Amended Complaint.”

This specification is not sustained.

We find that the testimony at issue under this specification was proper, irrespective of whether the Amended Complaint should have been allowed.

Specification Number 4

“The testimony and response to questions by uncited witness Mr. Garriott contained information that was completely irrelevant to the substance of the complaint, yet this information was accepted by the PJC.”

This specification is not sustained.

There was no objection raised at trial to the presentation of this material. That would have been the proper forum in which to raise this issue.

Specification Number 5

“Complainant and witness Mr. Baker erred in presenting partial evidence and mistaken information while offering testimony, which evidently influenced the decision of the PJC.”

This specification is not sustained.

It is the duty of the parties to challenge the veracity of witnesses. It is for the trier of fact ultimately to determine the credibility of witnesses.

Specification Number 6

“The PJC did not allow the Committee to present all of its evidence.”

This specification is not sustained.

An audio tape of the Administrative Committee's meeting with the Session was proffered

at the trial as evidence by the Presbytery. It was properly excluded by the PJC, because there was no authentication offered.

Specification Number 7

“The PJC hurried through the hearing, denying the Committee adequate time to present their evidence, properly cross-examine witnesses, and fully represent the position of the Presbytery of Middle Tennessee.”

This specification is not sustained.

Assuming, for the sake of argument, that the PJC unduly hurried through the case, there is insufficient evidence in the record that the appellant was substantively prejudiced by such haste. Waste does not inexorably follow from haste.

FURTHER FINDINGS

Although this Commission has not sustained any of the specifications of error stated by the Presbytery, we find that the manner in which the Synod PJC conducted this trial was seriously lacking in a number of respects. Without intending to be exhaustive, we note the following problems:

1. While not strictly required, a pre-trial hearing frequently is desirable. Many of the difficulties with witnesses and evidence raised in the trial could have been obviated by such a pre-trial conference.

2. The Synod PJC was inadequately prepared, as was the Presbytery. This shows a woeful lack of familiarity with the provision of the Rules of Discipline, perhaps attributable to a lack of suitable training.

3. The trial was not conducted with the degree of formality mandated by the Rules of Discipline. The record is replete with numerous examples.

ORDER

IT IS ORDERED that the decision of the Synod PJC be affirmed.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of Middle Tennessee 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 Living Waters 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. (D-8.1900)

Patricia K. Norris, member of the Commission, was not present and took no part in the proceedings.

Dated this 22nd day of May, 1995.