

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

The Presbyterian Church (U.S.A.))
by The Presbytery of Central Florida)
Appellee)
v.) **DISCIPLINARY CASE**
207-12)
Rebecca Herrero)
Accused-Appellant)

This is a disciplinary case before this Commission on appeal by Rebecca Herrero from a decision of the Permanent Judicial Commission of the Synod of South Atlantic in a case tried by the Presbytery of Central Florida on reference from the Session of First Presbyterian Church, Daytona Beach, Florida..

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

HISTORY

In a letter to the Presbytery of Central Florida, dated March 16, 1993, the First Presbyterian Church of Daytona Beach, Florida, requested that the Presbytery take jurisdiction over allegations of sexual misconduct by Rebecca Herrero, a member

and deacon of that church, and a candidate for ministry under the care of the Presbytery of Central Florida. This same letter made reference to a Request for Vindication by Rebecca Herrero. On May 6, 1993, the Presbytery of Central Florida formed a Special Disciplinary Committee to investigate the matter. It did not specifically address the request for vindication.

The Special Disciplinary Committee filed four charges with the Stated Clerk of the Presbytery of Central Florida on March 3, 1994. On June 3, 1994, the Permanent Judicial Commission of the Presbytery of Central Florida found Rebecca Herrero guilty of charges I and III and dismissed Charges II and IV. The terms of censure excluded her from her candidacy for the ministry of Word and Sacrament for a period of one year and mandated counseling to be supervised by the Committee on Preparation for Ministry of the Presbytery.

On appeal, the Synod of the South Atlantic reversed the finding of guilty on Charge I, but found her guilty of Charge III which provides:

Sometime between March 1, 1990, and March 1, 1994, Rebecca Reed Herrero, while a candidate endorsed and supported by Central Florida Presbytery for the pastoral ministry and a member of First Presbyterian Church, Daytona Beach, Florida, of Central Florida Presbytery, Presbyterian Church, (U.S.A.) did at one or several locations, engage in a sexual relationship with a married man which was and is unacceptable

behavior for a candidate for the ministry of the Word and Sacraments in the Presbyterian Church (U.S.A.) on (sic) violation of her covenant relationship and her candidates promises and vows and Holy Scriptures.

The Synod Permanent Judicial Commission vacated and set aside the exclusion, referred the issue of exclusion to the Presbytery Committee on Preparation for Ministry, and remanded to the Presbytery of Central Florida reconsideration of the censure. The Synod Permanent Judicial Commission decision with regard to Charge III was appealed by Herrero to the General Assembly Permanent Judicial Commission.

SPECIFICATIONS OF ERROR

Appellant alleges 3 specifications of error:

Specification Number 1

"Mistake or injustice in the decision."

Under this specification, Appellant contends that the Synod could not find sufficient evidence in the record to find her guilty beyond a reasonable doubt. Appellant further contends that the Synod decision finding Appellant not guilty of Charge I and guilty of Charge III is inconsistent and therefore cannot stand.

This specification is not sustained.

We hold there is adequate evidence to find Appellant guilty beyond a reasonable doubt.

The decision of the Synod to reverse the guilty finding on Amended Charge I and to affirm the guilty finding on Amended Charge III is inconsistent. This Commission affirms the Synod as to Amended Charge III. Presbytery could not appeal the Synod decision on Amended Charge I.

D-13.0100b.

Specification Number 2

"Irregularity in the proceedings and a mistake by the Synod not to rule on a procedural irregularity."

Under this specification of error, Appellant contends the Presbytery failed to rule on her Request for Vindication.

This specification is not sustained.

The result of Appellant's Request for Vindication could have been appointment of a Special Disciplinary Committee. In fact, the accusation against Appellant had this same result. That Special Disciplinary Committee could either have vindicated Appellant or filed charges, so the Request for Vindication was superfluous.

Specification Number 3

"Mistake by the Synod in not overruling the Presbytery's procedural error in trying Appellant as a Candidate."

This specification of error is not sustained.

Appellant was a member and a deacon in the First Presbyterian Church of Daytona Beach and a Candidate for the ministry from that church. The Session requested the Presbytery to consider the matter on the church's behalf. This was proper. D-1.0500b, D-12.000.

DECISION

This Commission affirms the decision of the Synod Permanent Judicial Commission finding Appellant guilty beyond a reasonable doubt of Amended Charge III. This Commission affirms the Synod Permanent Judicial Commission decision to vacate and set aside the one year exclusion from candidacy. Exclusion from candidacy is not a permissible censure under the *Book of Order*. D-10.0100.

This Commission modifies the decision of the Synod Permanent Judicial Commission by setting aside the remand to the Presbytery of Central Florida Permanent Judicial Commission for reconsideration of the censure. We further modify the decision of the Synod by imposing a censure of temporary exclusion from membership for a period of one year commencing May 24, 1994.

Decisions with regard to her candidacy appropriately belong to the Presbytery.

ORDER

IT IS THEREFORE ORDERED that the Stated Clerk of the Presbytery of Central Florida 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 South Atlantic 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.

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

Dated this 22nd day of May, 1995.