

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

Robert M. Lewis)
Complainant-Appellee)
)
v.) **Remedial Case 207-13**
)
The Presbytery of New York City)
Respondent-Appellant)

This is a remedial case which has come before this Commission on appeal by the Presbytery of New York City from a decision of the Permanent Judicial Commission of the Synod of the Northeast. It developed as a result of the dissolution of the pastoral relationship between Robert M. Lewis and the North Presbyterian Church of New York City (North Church) by the Presbytery of New York City.

This 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. D-13.1200a

HISTORY

Robert M. Lewis, minister, began his pastorate at the North Presbyterian Church, New York City, in the fall of 1991. In September 1993 several elders of North Church contacted the Presbytery's Committee on Ministry (COM) to present their concerns about Complainant's conduct. In response, the COM scheduled a triennial visit (G-11.0502c) by a member of COM for the November 1993 Session meeting. The Session and pastor were notified.

The Complainant was three hours late for the meeting, although it had been scheduled for the Session's regular meeting date and time. At the meeting, concerns were expressed about

conditions within the church. The record shows that there were problems between the Session and Complainant. Certain members of the Session indicated that they were going to initiate dissolution of the pastoral relationship at the December meeting. After being notified of this situation, COM sent its liaison and the General Presbyter to the December meeting in an effort to mediate the conflict.

At the December meeting, increased hostility was evidenced between Complainant and some members of the Session. One witness, who testified on Complainant's behalf, admitted that at that meeting and afterward there were irreconcilable differences between the Complainant and a majority of the Session. Session voted 9 to 4 to seek dissolution of the pastoral relationship.

Thereafter, COM invited Complainant to meet with them to discuss the problems and the options that remained open. Complainant did not meet with COM as proposed. In addition, COM invited the Clerk of Session, several Session members, and the Complainant to meet with them at the January 1994 COM meeting. The Clerk and several Session members presented a list of concerns and requested that the congregation be allowed to vote on the dissolution of the pastoral relationship. The Complainant arrived late and engaged in an unprovoked personal attack on the Clerk of Session. Seeing this hostility, and with knowledge of the November and December Session meetings, COM concluded that any attempt at mediation would be futile and that, for the good of the church, a vote on dissolution of the pastoral relationship should be presented to the congregation of North Church.

A congregational meeting was held at North Church on February 13, 1994. The first vote on a motion to dissolve the pastoral relationship resulted in a 21-21 tie. On a second vote, the motion failed 20-21.

At its meeting on February 15, 1994, COM received a report of the congregational meeting. It voted to recommend to Presbytery a dissolution of the pastoral relationship. In a letter dated February 23, the General Presbyter informed the Session and the pastor of the COM's decision. The letter pointed out that irreconcilable differences existed "among members of the congregation and the Session and between the Pastor and the Session." The Congregation was also informed of the COM's recommendation.

At the meeting of the Presbytery on March 26, 1994, the recommendation of the COM for dissolution of the pastoral relationship was presented. Time was allocated to the COM Chair, the COM liaison, the Clerk of the Session, and the Complainant to present their views on the recommendation. In addition, representatives of the church were given an opportunity to speak. The recommendation to dissolve the pastoral relationship was then voted on and approved by a vote of 72 to 15. The Complainant presented a dissent and protest.

The Complainant filed his complaint on April 6, 1994. The complaint alleged that: a) Presbytery voted to terminate without a fair and equitable investigation to determine the authenticity of the accusations; b) Presbytery through its COM had accepted a Personnel Committee report and used it as a basis of termination; and c) Presbytery "fueled and fanned" flames of division, accepting one story and failing to act as mediator. He further claimed the COM denied him due process. The Presbytery denied these allegations.

After trial, the Synod PJC found from the evidence that the COM had acted improperly and that the Presbytery should provide the Complainant full compensation for the period from May 1, 1994, through December 31, 1994. The Presbytery appealed to this PJC.

SPECIFICATIONS OF ERROR

Specification Number 1

“The Complaint fails to state an action for which relief should have been granted; the original motion to dismiss should have been granted.”

This specification of error is not sustained. The allegations in the complaint, if true, were sufficient to state a claim for relief.

Specification Number 2

The Synod PJC erred in holding that the COM violated the Complainant’s rights to due process.

This specification is sustained.

Based on the record and the facts recited above, it is difficult to see what more the COM could have done to seek reconciliation between the hostile parties. The Complainant was afforded a full opportunity to be present at every meeting over a period of six months where the problems of North Church were considered and to present his position on the question of the dissolution of the pastoral relationship, including the meeting of Presbytery where the vote to dissolve was taken.

It is important to point out that this is not a disciplinary case where the Complainant was charged with improper conduct and where his guilt or innocence was to be determined. The issue in this case is whether the relationship among the pastor, session, and congregation was so hostile as to demonstrate irreconcilable differences. It must be emphasized that a Presbytery, in hearing and deciding whether or not a pastoral relationship should be dissolved under G-11.0103o “when it finds that the church’s mission under the Word imperatively demands it,” is exercising one of its administrative powers and is not acting in a judicial capacity. The Presbytery, however, in making such a decision is obligated to treat all parties fairly and provide

them with an opportunity to present their positions. The test is fundamental fairness - the opportunity to be heard and a consideration of their respective positions without prejudice.

Two recent cases of this Commission provide guidance to presbyteries dealing with this section. In *Campbell v. Presbytery of Atlantic, Minutes*, 1988, 122, it was held that a presbytery may dissolve the pastoral relationship without the request of either pastor or congregation, but upon recommendation of its COM, after the COM has met with the pastor and the session and has offered to be available to consult with the congregation, which it did in this case. In *Schneider v. Presbytery of Chicago, Minutes*, 1985, 123, it was held that it is not necessary for a Presbytery to use disciplinary procedures in the dissolution of a pastoral relationship under G-11.0103o. It should, however, give to a party the opportunity to present its position which was provided the Complainant in this case.

For these reasons we hold that Specification 2 should be sustained.

Specification Number 3

The Synod PJC erred in holding that the COM acted beyond its authority under the Campbell case and G-11.0103.

This specification is sustained for the reasons set forth in the discussion under Specification Number 2.

Specification Number 4

The judgment and ruling of the Synod PJC is not supported by the evidence presented at the trial.

This specification is sustained.

The Synod PJC held, in substance, that the Presbytery voted to dissolve the pastoral relationship without a fair and equitable investigation to determine the authenticity of the accusations against the Complainant. This holding is contrary to the evidence. The basis for the

dissolution by the Presbytery was not misconduct on the part of the Complainant but the irreconcilable differences and the hostility within the church. This was not a disciplinary case in which the pastor was charged with misbehavior. The undisputed evidence established that the Session and the pastor were in irreconcilable conflict and that the congregation was closely divided on the dissolution issue. In fact, the Synod PJC in its opinion made a specific finding that “the pastoral relationship became irreconcilable after the congregational meeting of February 13 and the stated meeting of Presbytery of March 26.” In our judgment the only logical decision of the Presbytery was to dissolve the relationship. Under these circumstances, the ministry of North Church under the Word imperatively demanded dissolution. G-11.0103o. It was error for the Synod PJC to substitute its judgment for that of the Presbytery and to order that the Presbytery should provide full compensation for the period from May 1, 1994, through December 31, 1994. The Synod PJC erred in finding that the Presbytery acted improperly. We further note that there was no basis for penalizing the Presbytery by requiring it to pay compensation .

ORDER

IT IS THEREFORE ORDERED that the decision of the Synod of The Northeast Permanent Judicial Commission be reversed. The action of the Presbytery dissolving the pastoral relationship is sustained.

IT IS FURTHER ORDERED that the Complainant repay to the Presbytery of New York City any amounts paid to him pursuant to the Synod PJC’s order.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Northeast 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)

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of New York City 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. (D-8.1900)

James MacKellar, member of the Commission from the Synod of the Northeast, was present for the argument, took part in the discussion, but abstained from voting on the decision.

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

Dated this 22nd day of May, 1995.