

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

John E. GALLMAN)
Complainant/Appellant)
)
v.) REMEDIAL CASE 208-1
)
Session of OAK GROVE)
Presbyterian Church)
Respondent/Appellee)

This is a remedial case which has come before this Commission on appeal by Appellant John E. Gallman (Gallman) from a decision of the Permanent Judicial Commission of the Synod of South Atlantic (Synod PJC). The Synod PJC’s decision set aside, in part, a decision of the Permanent Judicial Commission of the Presbytery of Trinity (Presbytery PJC). This Commission finds that it has jurisdiction, that Gallman has standing to appeal, that the appeal was properly and timely filed, and that the appeal is in order. D-13.1200a.

HISTORY

Gallman is a member of the Oak Grove Presbyterian Church, Columbia, South Carolina (Oak Grove Church). Gallman was elected as a trustee for the Oak Grove Church on December 29, 1986, and the Appellee, the Session of Oak Grove Church (Session), does not dispute that he began to serve a three-year term as trustee on or about January 1, 1987. Because the Session failed to maintain full and accurate records of its proceedings, contrary to G-10.0301, including minutes of congregational meetings, the records of the Oak Grove Church do not clearly demonstrate that the congregation reelected Gallman to serve an additional term as trustee. Nevertheless, Gallman continued to serve as a trustee after the expiration of his original term and was shown or designated as a trustee on certain lists maintained by the Oak Grove Church and on documents executed by the Moderator and Clerk of the Session pertaining to accounts maintained by the Oak Grove Church with a local bank.

Apparently because of concern regarding Gallman's expenditure of church monies in connection with a church building project, on March 13, 1994, the Session voted to bar Gallman from counting offerings and to remove Gallman as a signatory on certain accounts maintained by the Oak Grove Church with the bank. Thereafter, a letter was sent by the Clerk of the Session to Gallman informing him of these steps and which Gallman construed as stating that he had not been elected as a trustee of the Oak Grove Church.

In May 1994, Gallman filed a complaint against the Session asserting that he had been elected and installed as a trustee, that he had been reelected to an additional term as a trustee by the congregation at a meeting held in December 1991, and that the Session could not remove him as a trustee. Gallman requested the Presbytery PJC to order the Session to rescind and apologize for its actions.

In 1994, the Presbytery of Trinity appointed a “Consultation Team” which made several recommendations to the Oak Grove Church to assist it in complying with various administrative and governance provisions of the *Book of Order* concerning, among other matters, the election and reelection of elders, deacons and trustees. Because the Oak Grove Church’s records failed to reflect when its currently serving officers (including trustees) were first elected, and a May 22, 1994, congregational meeting to elect new officers had been improperly noticed, the Consultation Team recommended that the then serving Session, Board of Deacons and Board of Trustees be dissolved and new officers elected in accordance with the *Book of Order*.

In July, 1994, the Presbytery PJC dismissed Gallman’s complaint. Despite finding that the complaint failed to state a claim upon which relief could be granted, the Presbytery PJC nevertheless stated that the Session had authority to bar Gallman from counting church offerings and that although the Session did not have the authority to remove Gallman from the office of trustee, the record before it failed to demonstrate that Gallman was, in fact, a trustee in 1993 or 1994 or that the Session had, in fact, acted to remove Gallman as a trustee.

Gallman then appealed to the Synod PJC. In a decision rendered in February, 1995, the Synod PJC found that trustees, elders, and deacons had not been elected in accordance with the *Book of Order* and that the minutes of the Session and congregational meetings were sub-standard and, at times, non-existent. Consequently, it could not determine whether Gallman was serving as a duly elected trustee. Nevertheless, it held that Gallman’s complaint had been rendered moot because, even assuming he had been duly elected as a trustee, his term of office had expired and a congregational meeting held on November 13, 1994, had dissolved the then

existing Session, Board of Deacons, and Board of Trustees, and new elders, deacons, and trustees had been elected.

The Synod PJC directed the Presbytery of Trinity to continue working with the Oak Grove Church to provide guidance and oversight to the pastor, Session, and congregation and to take steps to ensure that the meetings, actions, and proceedings of the church would be conducted in accordance with the *Book of Order*. The Synod PJC also noted that the record before it demonstrated that “the services which Mr. Gallman performed for the congregation in connection with the building project which he supervised were carried out responsibly, properly, and to the benefit of the church and its members.”

SPECIFICATIONS OF ERROR

As a preliminary matter, we note that in his brief filed before this Commission Gallman has alleged various irregularities in the proceedings before the Synod PJC and has also incorporated by reference the specifications of error which he identified in materials submitted to the Synod PJC. This incorporation by reference is improper. Under D-13.0800, Gallman should have identified all specifications of error he wished to allege. Despite noncompliance with D-13.0800, we address the specifications of error raised by Gallman before the Synod PJC and in his papers filed with this Commission. For the sake of brevity and to eliminate redundancy, we have summarized these specifications as follows:

Specification Number 1

Both the Presbytery and Synod PJC failed to compel the Session to produce minutes, reports and other records substantiating Gallman's right to serve as a trustee and, thus, they failed to consider all relevant evidence.

This specification of error is not sustained.

Gallman's specification of error misconceives the responsibilities of a permanent judicial commission. It is the obligation and responsibility of the parties in a remedial case to obtain and present relevant evidence, including records, writings, or other material objects. See D-9.0100. It is not the responsibility of a permanent judicial commission to search independently for documents or evidence that may be relevant in a case before it.

Further, based on the record presented, neither the Presbytery PJC nor the Synod PJC failed to consider or receive relevant evidence. In part, the evidence which Gallman believes should have been considered consists of material which was generated after the Presbytery PJC had rendered its decision and, thus, was not in existence before the Presbytery PJC issued its decision and could not be in the record on appeal presented to the Synod PJC. The other documents and materials which Gallman believes should have been obtained from the Session were either never in existence or unavailable.

Specification Number 2

The Session failed to produce minutes and other records substantiating Gallman's right to serve as a trustee.

This specification of error is not sustained.

As noted above the Synod PJC found that, contrary to the requirements of G-10.0301, the Session failed to maintain full and accurate records of its proceedings, including minutes of congregational meetings. Thus, the Session could not produce the documents and records demanded by Gallman which would have reflected his alleged reelection as a trustee in 1991. The record does not reflect that the Session intentionally refused to produce these materials in connection with this proceeding, but that it was unable to do so because of its noncompliance with the record retention requirements of the *Book of Order*.

Specification Number 3

The Synod PJC failed to consider relevant evidence concerning Gallman's "trusteeship."

This specification of error is not sustained.

Based on the record presented in this matter, the Synod PJC did not fail to consider the record before it and rendered its decision based on the evidence presented.

Specification Number 4

The Synod PJC's decision is unjust.

This specification of error is not sustained.

The Synod PJC found that the records maintained by the Session did not clearly demonstrate whether Gallman had been duly elected again to serve and was properly serving as a member of the Board of Trustees. The Synod PJC also found that Gallman had carried out his responsibilities in connection with the church building program responsibly and properly. We agree with the Synod PJC that with the passage of time Gallman's complaint has become moot. At a congregational meeting held on November 13, 1994, the then existing Session, Board of Deacons, and Board of Trustees were dissolved and new elders, deacons, and trustees were duly elected.

Specification Number 5

The Synod PJC erred in allowing the Committee of Counsel to participate in the hearing on the appeal because the Committee failed to appear at the time scheduled by the Synod PJC.

This specification of error is not sustained.

Through circumstances outside of their control, including an airplane failure, the Committee of Counsel apparently appeared late at the hearing before the Synod PJC. It was within discretion of the Synod PJC to excuse the Committee of Counsel's tardy appearance.

The record does not reflect that Gallman was in any way prejudiced when the Synod PJC afforded the Session's Committee of Counsel an opportunity to be heard at the hearing.

Specification Number 6

"Acute inconsistencies" exist between the findings of the Presbytery PJC, the Consultation Team and the Synod PJC regarding the minutes of the Session.

This specification of error is not sustained.

Whether inconsistencies exist among the findings of the Presbytery PJC, the Consultation Team and the Synod PJC regarding the minutes of the Session is irrelevant. As set forth in D-13.0100, an appeal is the

transfer to the next higher governing body of a remedial or disciplinary case, in which judgment has been rendered in a lower governing body, for the purpose of obtaining a review of the proceedings and judgment to correct, modify, vacate or reverse the proceedings and judgment.

Based on the record presented in this matter, the Synod PJC did not err in finding that Gallman's complaint had become moot. Because, based on the records maintained by the Session, no determination could be made whether Gallman was serving as a trustee of the Oak Grove Church, the Synod PJC did not err in setting aside the decision of the Presbytery PJC insofar as it was inconsistent with those determinations.

ORDER

IT IS THEREFORE ORDERED that the decision of the Synod of South Atlantic Permanent Judicial Commission is affirmed.

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; and

that the Stated Clerk of the Presbytery of Trinity 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; and

that the Clerk of Session of the Oak Grove Presbyterian Church read this decision in its entirety to the congregation at its first meeting after receipt, that the congregation 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, affirming the Synod Permanent Judicial Commission's directive that the Presbytery of Trinity continue the work of the Consulting Team to provide guidance to the pastor, Session, and congregation of Oak Grove Church to insure that its meetings, actions, and proceedings are in accordance with the *Book of Order* and conducted in a spirit of unity and reconciliation.

Dated this 29th day of October, 1995.