

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

Michael D. HAGGIN)	
Complainant/Appellant)	
)	
v.)	REMEDIAL CASE 209-1
)	
Presbytery of THE REDWOODS)	
Respondent/Appellee)	

This remedial case has come before this Commission on a preliminary order issued by the Moderator and Clerk of the Commission recommending dismissal of the appeal. The full Commission has considered the materials submitted by the parties and the record of the case and finds that the Notice of Appeal was not timely filed. We hold that for purposes of D-13.0400* (new D-8.0201) “filed with the . . . stated clerk” means filed with and received by the stated clerk of the governing body from which the appeal is taken.

Accordingly, this Commission ORDERS that the appeal be dismissed.

Stephen Taber, member of the Commission from the Presbytery of San Francisco, took no part in the deliberations or decision of the case. D-4.0400b.

Dated this 9th day of February, 1997.

*In adopting amendments to the Form of Government and Rules of Discipline, the 208th General Assembly (1996) affirmed this Commission’s request that all cases filed before the adoption of the amendments be adjudicated in accordance with the Rules of Discipline then in effect. Therefore, we consider this case in accordance with the 1995-1996 version of the Rules of Discipline. All references in this decision shall be to the 1995-1996 Rules of Discipline

DISSENTING OPINION

We respectfully dissent.

This appeal was timely filed. The Notice of Appeal was sent by certified mail with return receipt requested twenty-nine days after the Synod PJC decision was received by Appellant. That met the requirement that the Notice of Appeal be filed within thirty days of receipt of the decision.

To make timely filing of documents required in the Rules of Discipline dependent on the undependable delivery schedules of the U.S. Postal Service or commercial delivery services is to introduce unnecessary uncertainty into our Church's judicial process. Such an understanding of timely filing undermines the justice, procedural safeguards and due process which the Rules of Discipline intend to provide.

Therefore this Commission should recognize that it has jurisdiction and schedule a hearing of the Appeal at its earliest opportunity.

James M MacKellar

Cader Howard

Charles A. Hammond

David F. Bridgman

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Nancy A. Harper