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

In the matter of)	
Robert COOK)	
Appellant in a disciplinary case and)	
Complainant in a remedial case)	REMEDIAL CASE 209-12
_)	
vs.)	Denial of Motion
)	&
Presbytery of EAST TENNESSEE)	Final Order
Appellee in a disciplinary case and)	
Respondent in a remedial case)	

This disciplinary case has come before this Commission on a motion from Robert Cook for the Commission to assume jurisdiction, pursuant to D-5.0100e* of his appeal from a decision of the Permanent Judicial Commission of the Presbytery of East Tennessee. D-5.0100e provides that when a lower governing body fails to act in a particular remedial or disciplinary case for a period of ninety days after the initiation of the case, the higher governing body may assume jurisdiction. Contained in Appellant's request for the General Assembly Permanent Judicial Commission (GAPJC) to assume jurisdiction and supporting materials are complaints about Synod Permanent Judicial Commission (SPJC) actions in processing the appeal. Appropriate issues arising from the manner in which the Synod processed and resolved the case may be raised on appeal. The GAPJC, therefore, declines to assume jurisdiction in the disciplinary matter of Robert Cook.

The remedial case has come before this Commission as a complaint by Robert Cook

^{*}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.

against both the Presbytery of East Tennessee and the Synod of Living Waters over an alleged irregularity

on the part of the Presbytery and the alleged failure of the SPJC to address the substance of the complaint in the appeal of the disciplinary matter. The Moderator and other members of the Commission have determined that this Commission does not have jurisdiction over a remedial case filed against the Presbytery and that the Complainant does not have standing to file a case against the Synod.

Further this Commission reiterates its holding in *Evans vs. Presbytery of Lake Michigan*, *Minutes*, 1995, 121, that a remedial case may not be used to attack a disciplinary case determination.

IT IS HEREBY ORDERED that the motion to assume jurisdiction is denied and the remedial case is dismissed.

This Commission notes for the record that the Manager of Judicial Process is available to all parties and does not sit with the Commission in its deliberations.

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.