

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

DECISION

Peter C. BOWER)	
Complainant/Appellee)	
)	
v.)	REMEDIAL CASE 212-10
)	
)	
Presbytery of PITTSBURGH)	
Respondent/Appellant)	

This is a remedial case which has come before the Commission on appeal by the Presbytery of Pittsburgh (Presbytery) from a decision by the Permanent Judicial Commission of the Synod of the Trinity (SPJC) regarding a complaint by Peter C. Bower (Complainant) against the Presbytery of Pittsburgh (Respondent).

JURISDICTIONAL STATEMENT

The Permanent Judicial Commission finds that it has jurisdiction, that appellant has standing to appeal, that the appeal was properly and timely filed, and that the appeal states one or more grounds for appeal (D-8.0105).

HISTORY

The Session of the Shadyside Presbyterian Church of Pittsburgh, Pennsylvania (Shadyside), having considered various complaints regarding their minister, took action on March 31, 1998, to call a congregational meeting to initiate the dissolution of the

pastoral relationship between Complainant and the congregation of Shadyside. The congregation, at a called meeting on April 26, 1998, approved a resolution requesting Presbytery to dissolve the relationship between the Complainant and the congregation.

On June 25, 1998, Presbytery denied the congregation's request to dissolve the pastoral relationship at that time and established an appropriately constituted Administrative Commission (Commission) to help Shadyside resolve its problems. The Presbytery recommended to the Commission a program of action developed by the Presbytery Committee on Ministry (COM).

Following the assessment of the situation, the Commission, unable to effect a reconciliation, notified Complainant on August 27, 1998, that he was placed on administrative leave, effective September 2, 1998, and that the Commission was "preparing a recommendation for dissolution to take to the Committee on Ministry." Further, the Commission stated that a "final recommendation to Presbytery will follow a timely hearing, unless you [Complainant] concur with the recommendation for dissolution." Complainant did not concur with the recommendation.

A meeting of the Commission and Complainant was held on October 1, 1998, which did not conform to the requirement of the Presbytery that ". . . following the full hearing called for in Book of Order G-9.0505d, to recommend to presbytery the dissolution of any pastoral relationship whenever they deem this advisable for the survival, healing and best interests of the congregation . . ." The record indicates that no hearing was established as required by Presbytery.

On October 21, 1998, prior to the meeting of Presbytery on October 22, 1998, at which the pastoral relationship was dissolved, Complainant filed with the Stated Clerk of the Synod of the Trinity a remedial complaint against Presbytery. The complaint alleged "irregularities and

delinquencies in the process, decisions and actions” of the Commission, which were deemed to be the actions of the Presbytery.

In accordance with established procedures, members of the Executive Committee of the SPJC, conferring by telephone on November 9, 1998, found that the requirements of D-6.0307, with the exception of “d,” which is that a claim must be made that allows relief, had been met.

Motions to stay enforcement of the action of the Commission were filed on October 21 and November 19, 1998, but the SPJC declined to issue a stay in response to these motions.

On November 20, 1998, Complainant filed a challenge to finding “d”, viz., that his complaint did not state a claim upon which relief can be granted. In accordance with D-6.0308, a hearing was held at Camp Hill, Pennsylvania. Following argument and evidence by Complainant and Presbytery, the SPJC determined that the complaint met all the requirements of D-6.0307, including “d”.

Following deliberations, the SPJC set a date and held a trial on October 21, 1999, at Camp Hill, Pennsylvania. The finding of the SPJC is that, “Presbytery through the Commission for Shadyside intervention failed to accord Complainant procedural safeguards and due process as required by D-1.0101 and G-9.0505d . . .”

The Presbytery of Pittsburgh appealed the findings of the SPJC to the Permanent Judicial Commission of the General Assembly.

SPECIFICATIONS OF ERROR

There are four specifications of error which have been recast in the interest of brevity and clarity.

I. The Complainant failed to state a claim upon which any relief can be granted.

This specification is not sustained.

When his complaint was originally filed, Complainant alleged irregularities that raised claims for which relief could be granted, if proven to be true. By the time this Case reached this Commission, Complainant had abandoned all requests for affirmative relief. Consequently, the SPJC was not in the position to grant the Complainant any relief, despite finding due process violations. The SPJC's inability to grant relief on appeal did not negate Complainant's allegation of claims for which relief could have been granted.

- II. G-9.0505 does not require an Administrative Commission to hold a formal hearing prior to placing Complainant on administrative leave.

This specification is sustained.

- III. Complainant waived his right to a formal hearing.

This specification is not sustained.

A hearing was not strictly required under G-9.0505d in this case because the power to dissolve the pastoral relationship was not included in that scope of power Presbytery gave to the Commission. However, the Presbytery in the instructions it gave to the Commission required the hearing. This Commission held in *Rice v. Presbytery of Philadelphia* (Minutes 1996, 170) that even when the hearing called for in G-9.0505d is not required, "Christian courtesy and fairness indicate that it would . . . [be] proper. . . ."

- IV. SPJC Complainant is required to reimburse the witnesses for documented expenses.

This specification is sustained.

Permanent Judicial Commissions do not make monetary awards. But in this case, the Book of Order, (D-7.0201d) provides that “the party calling the witness” is to pay expenses incurred in attendance at the trial.

Order

IT IS THEREFORE ORDERED that the SPJC Decision is reversed in conformity with this Decision and that the Complainant pay the actual, documented expenses incurred by the witnesses whom he called.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Trinity report this Decision to Synod at its first meeting after receipt, that a copy of this Decision be entered into the minutes and that an excerpt of 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 Pittsburgh report this decision to the Presbytery at its first meeting after receipt, that a copy of this Decision be entered into the minutes and that an excerpt of those minutes showing entry of the Decision be sent to the Stated Clerk of the General Assembly.

Charles Hammond, a member of the Commission, recused himself and took no part in the deliberations or Decision.

Dated this 22nd day of May, 2000.