

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

.....
Morris Stimage-Norwood)

v.)

Presbytery of Southern New England)
.....

HEADNOTE

Remedial Case 214-7

Consultation with the Committee on Ministry in Cases of Involuntary Renunciation of Jurisdiction: The consultation required under G-6.0502 before a presbytery presumes that a minister has renounced the jurisdiction of the PCUSA by persisting in disapproved work calls for a face-to-face meeting between the minister and the full COM when the minister had requested such a meeting and such a meeting was possible.

On August 18, 2000, Complainant filed the remedial complaint in this matter against the Presbytery. Complainant also sought and obtained a stay of enforcement from the Permanent Judicial Commission of the Synod of the Northeast (SPJC). Acting pursuant to the stay, Presbytery reinstated Complainant on the member-at-large roll of the Presbytery.

On November 3, 2000, the SPJC held a hearing on the Presbytery's objection to the stay and denied the objection.

On November 4, 2000, SPJC rendered its Decision in this matter in which it found as follows:

1. That the Presbytery voted to remove Complainant from the rolls of Presbytery without affording him a reasonable opportunity to be heard.
2. That the Presbytery's removal of Complainant from its rolls was not a manifestation of prejudice.
3. That the Presbytery's removal of Complainant from its rolls was not unjust and punitive.

As a result, the SPJC set aside the action of the Presbytery presuming that Complainant had renounced the jurisdiction of the PCUSA, directed the Presbytery to cooperate with the Complainant and the Presbytery of Chicago regarding Complainant's dismissal and call to the Presbytery of Chicago, and directed the Presbytery to restore the Complainant to his status immediately prior to the action of July 22, 2000.

On February 10, 2001, the Presbytery placed Complainant on the inactive roll.

Specifications of Error

1. *The SPJC hastened to a decision before the evidence or testimony was fully received because it issued its decision regarding the propriety of a stay of enforcement without hearing all of the evidence or testimony on the underlying issue.*

This Specification of Error is not sustained.

The issues relating to the stay of enforcement are moot because the Decision of the SPJC led to the same result as had been the effect of the stay of enforcement.

2. *The SPJC manifested prejudice in the conduct of the case by permitting Complainant great latitude in presenting testimony because he appeared pro se, but the same latitude was not permitted the respondent, which was required to conform to strict rules of evidence without being told which civil jurisdiction controlled.*

This Specification of Error is not sustained.

The transcript of the trial does not indicate any obvious prejudice to the Presbytery on the part of the SPJC. Permanent judicial commissions are reminded that while general principles of jurisprudence may be helpful in conducting trials, it is not appropriate to attempt to incorporate or use the rules or procedures of any specific civil jurisdiction in the conduct of proceedings.

3. *The SPJC exhibited injustice in the process or decision because all materials in the record were not accorded proper weight and, therefore, led to an erroneous decision.*

This specification of error is not sustained. The transcript illustrates that both parties were provided opportunity to testify, to produce witnesses, and to introduce documents to establish the facts of the case. However, this Commission is not in a position to determine the probative value of each witness's testimony or the documentary evidence. The trier of fact is given broad discretion to weigh the evidence before it. Appellant does not complain that it was not permitted to produce additional witnesses to testify on its behalf, that its witnesses were not given adequate time to testify, that documents important to the case were not permitted to be introduced, or that the proceedings were conducted unfairly, except as stated in Specification of Error Number 2. Appellant's specification of error is a disagreement with the SPJC on the weight to be given to the conflicting evidence that was before it.

4. *The SPJC erred in constitutional interpretation by defining the meaning of consultation too narrowly to only include a face-to-face meeting with Complainant.*

This Specification of Error is sustained in part and not sustained in part.

The *Book of Order* contains the word "consultation" in many places, but does not specify what consultation entails. We do not agree with the SPJC's decision that consultation under G-6.0502 always requires a face-to-face meeting between a minister and the COM. While a face-to-face meeting is desirable in light of the severity of the consequences of an involuntary renunciation of jurisdiction, such a meeting may not always be possible. However, under the circumstances of this case, in which the Complainant repeatedly requested a meeting with the COM, the COM should have invited Complainant to meet in person with the full COM. Although the COM showed diligence in attempting to determine whether Complainant was engaged in disapproved work and was met with lack of cooperation from Complainant, Complainant's failure to cooperate did not excuse the COM's separate constitutional obligation to afford appropriate due process to Complainant before determining that Complainant had renounced the jurisdiction of the PCUSA. As noted above, under the circumstances of this case, appropriate due process would have included the requested face-to-face meeting.

Order

IT IS THEREFORE ORDERED as follows:

1. That the SPJC's decision to set aside the July 22, 2000, action of the Presbytery of Southern New England is affirmed.
2. That the action of the SPJC directing the Presbytery of Southern New England to cooperate with the Complainant regarding the dismissal and call of the Complainant to the Presbytery of Chicago, or to any other presbytery, is affirmed.
3. That the action of the SPJC directing the Presbytery of Southern New England to restore the Complainant to his status immediately prior to the action of July 22, 2000, is affirmed.

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.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of Southern New England 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.

The following members of the Commission were not present and took no part in the deliberations or decision: Jesse Butler, Mildred Morales, and Daniel Saperstein.

Dated this 14th day of April, 2002.