

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

**Presbyterian Church (U.S.A.) by )  
The Presbytery of Elizabeth, )  
Complainant/Appellee, )  
v. )  
Thomas D. Lynn, )  
Respondent/Appellant )**

**HEADNOTE**

**Disciplinary Case 215-6**

**Vindication** - An Investigating committee formed in response to a request for vindication must follow all procedures applicable to the investigative process in D-10.0200, et al. including notifying the accused of his/her rights as provided in D-10.0203.

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<b>Presbyterian Church (U.S.A.) by</b>	)	
<b>The Presbytery of Elizabeth,</b>	)	
<b>Complainant/Appellee,</b>	)	
v.	)	<b>DECISION AND ORDER</b>
	)	<b>Disciplinary Case 215-6</b>
	)	
<b>Thomas D. Lynn,</b>	)	
<b>Respondent/Appellant</b>	)	

This disciplinary case comes to the General Assembly Permanent Judicial Commission (GAPJC) on appeal from a decision of the Permanent Judicial Commission of the Synod of the Northeast (SPJC). This Commission finds that it has jurisdiction, that the Appellant has standing to appeal, that the appeal was properly and timely filed, and that the Appellant states one or more grounds for appeal under D-13.0106.

**History**

On February 13, 1999, the Rev. Thomas D. Lynn (Appellant) requested an inquiry for vindication (D-9.0000) by the Presbytery of Elizabeth. Appellant made this request in response to allegations against him contained in a letter written by a couple in his congregation to whom he had sold an automobile. The allegations concerned not only the sale of the automobile but also the Appellant’s counseling practices. The Presbytery appointed an Investigating Committee (IC) which conducted interviews during the Spring of 1999. The IC vindicated the Appellant of charges related to the sale of the automobile.

In the course of its work, however, the IC heard negative testimony concerning the Appellant’s counseling techniques and pastoral care. On October 14, 1999, the IC filed formal charges against the Appellant and referred the case to the Committee on Ministry. The Committee On Ministry requested “that the Pastor cease all counseling and advertising for counseling immediately” until the Permanent Judicial Commission (PPJC) rendered a decision. A pre-trial conference was held on October 30, 1999, before the PPJC.

On December 1, 1999, the IC submitted amended charges, and the trial began on December 11, 1999. The trial took place in ten different sessions between December 11, 1999, and March 23, 2000. The decision of the PPJC was issued May 17, 2000.

The PPJC found the Appellant guilty of the offenses of verbally abusing and intimidating members of his congregation, failing to maintain confidentiality in private matters shared with him as a minister of the Word and Sacrament, and failing to act in a reconciling way. The PPJC ordered a program of rehabilitation which included: 1) completion of one unit of Clinical Pastoral Education (CPE) under an accredited CPE Supervisor; 2) seeking help from an accredited Pastoral Counselor for a three-month period, dealing with issues of power, authority and communication; 3) not accepting any

new counseling relationships until the previous conditions had been completed; and 4) undergoing training in conflict management and resolution with members of the session.

The Appellant perfected a Notice of Appeal with the Synod of the Northeast on November 14, 2000. On December 12, 2000, the Moderator and Clerk of the SPJC found that the papers in the appeal were not properly filed. On April 20, 2001, the SPJC heard an appeal of the December 12 decision and upheld the decision. A second Notice of Appeal was filed May 31, 2001, and the hearing on the appeal was held on October 11, 2001. The SPJC affirmed the decision of the Presbytery on October 13, 2001. The Appellant appealed this decision to the GAPJC.

This case arose out of a request for vindication by the Appellant. In the course of investigating the events giving rise to the request, the IC was made aware of a pattern of conduct inconsistent with acceptable pastoral practice. To some, it may seem a bewildering result that, in the course of requesting vindication for unfounded allegations of misconduct, one can be found innocent of wrongdoing in an alleged matter but guilty of misconduct in other situations that come to light in the course of investigation. Such is the instant case. When this reversal of expectations took place, the IC filed charges based on the information it had received, and the process common to the prosecution of a disciplinary case began.

### **Specifications of Error**

The Appellant urges that the Synod Permanent Judicial Commission erred in its decision in eight separate specifications. These are restated as four specifications in the interest of clarity.

#### *Specification 1:*

*The SPJC erred in failing to address the irregularities in the process.*

This specification is not sustained.

Appellant alleges that the charges filed by the IC were flawed in that they lacked specificity in regard to date, time, place, and circumstances. The record does not support this contention. The charges were sufficiently specific that Appellant knew the nature of the offenses with which he was being charged and was not deprived of a reasonable opportunity to defend himself.

Appellant further alleges that the IC failed to follow the procedures set forth in D-10.0202 b-d. There is, however, no evidence of any lack of thoroughness on the part of the IC in carrying out its investigation. Nor is there evidence of any papers, documents, or records that the IC failed to examine or to consider. Finally the reference to “all available witnesses” in D-10.0202d does not include any and all people who may know the Appellant but only those who had some knowledge of the events that led the Appellant to request an inquiry for vindication.

Appellant also argues that the IC failed to advise him of his “right to remain silent, to be represented by counsel, and, if charges are later filed, to have counsel appointed if unable to secure counsel” (D-10.0203). This Commission agrees that the IC should have so advised Appellant. According to D-9.0101a, when a governing body grants a request for vindication, “it shall proceed with an investigating committee as provided in D-10.0201.” The reference to D-10.0201 not only serves to legitimate the appointment of an investigating committee but also requires the investigating committee appointed under D-9.0101a to carry out its work in keeping with the procedures set forth in D-10.0202 and D-10.0203. Thus this Commission does not agree with the finding of SPJC to the contrary. This Commission does, however, agree with the SPJC that the “findings of guilt do not depend on any statements alleged to have been made by the Appellant to the IC but are substantiated by credible, admissible evidence of witnesses other than the Appellant.”

*Specification II:*

*The SPJC erred in failing to address the deficiencies in the PPJC receipt of evidence including:*

- a. The refusal of the PPJC to provide Appellant equal time to present defense evidence;*
- b. the PPJC’s action in declining to receive proper evidence and testimony on behalf of the Appellant because of time constraints;*
- c. receiving improper evidence and/or testimony from the Appellee over the objection of the Appellant’s counsel; and*
- d. closing the trial and hastening to judgment before the Appellant’s evidence and testimony were fully received.*

This specification is not sustained.

Trial proceedings in this appeal began with a pretrial conference on October 30, 1999. The trial was begun on December 11, 1999, and included sessions on December 13, 1999, and January 3, 4, 11, 27, 28, 2000; March 6 and 23, 2000, and concluded on May 17, 2001. Nothing in the record suggests that the Appellant lacked ‘equal time’ or that the PPJC declined to receive evidence and testimony favorable to him. No fewer than thirty witnesses gave testimony both for and against the Appellant. There exists no evidence in the record that the PPJC hastened to judgment.

*Specification III:*

*The SPJC erred in failing to find the entire process and decision unjust.*

This specification is not sustained.

The record does not support this specification. The Appellant urges irregularities and argues that the IC did not follow the *Book of Order* provisions mandating that such

committees look at *all* evidence. To the contrary, it is because the committee looked at all evidence that the vindication was granted and the other charges were filed.

*Specification IV:*

*The SPJC erred in its interpretation of the Constitution.*

This specification is not sustained.

The appellant makes no specific claim of misinterpretation and, in a review of the record, this Commission finds none.

### **Order**

IT IS THEREFORE ORDERED that the decision of the Permanent Judicial Commission of the Synod of the Northeast 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 General Assembly.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of Elizabeth 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.

Jesse Butler, William Carlough, Mildred Morales, and Daniel Saperstein, members of this Commission, were not present for the hearing and took no part in the deliberation or decision.

Dated this 3<sup>rd</sup> day of March, 2003.