

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

.....)	
Presbyterian Church (U.S.A.) by)	
Presbytery of Charlotte,)	
Complainant/Appellee,)	HEADNOTE
)	DECISION and ORDER
v.)	
)	Disciplinary Case 215-9
George W. Jacobs,)	
Respondent/Appellant.)	
.....)	

1. **Temporary exclusion** – When a censure includes the temporary exclusion from the exercise of ordained office, and no stay of enforcement is in effect, the temporary exclusion is effective at the time of the decision at trial. (D-11.0403)

2. **Make up of a permanent judicial commission** - The inclusion of two pastors from the same church on a permanent judicial commission, though not prohibited by D-5.0101, may nevertheless give the appearance of impropriety.

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

.....		
Presbyterian Church (U.S.A.) by)	
Presbytery of Charlotte,)	
Complainant/Appellee,)	
)	DECISION and ORDER
vi.)	
)	Disciplinary Case 215-9
George W. Jacobs,)	
Respondent/Appellant.)	
.....)	

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 Mid-Atlantic (SPJC). The Commission finds that it has jurisdiction, that the Appellant has standing to appeal, that the appeal was properly and timely filed, and that the appeal states one or more grounds for appeal found in D-8.0105.

History

On October 31, 2000, a written statement of an alleged offense by the Appellant was filed with the Stated Clerk of Charlotte Presbytery. During the following week, pursuant to *Book of Order* D-10.0103, the Stated Clerk formed an Investigating Committee (IC) to determine whether charges should be filed (D-10.0201). The Appellant was also notified that an accusation had been made, following which the Appellant took a leave of absence from his duties as pastor of Mallard Creek Presbyterian Church. On November 9, 2000, the Stated Clerk/Executive Presbyter met with the session of the church to tell them that an unspecified accusation had been made against their pastor, and to suggest providing an extended leave of absence.

Following discussions with the session during December of 2000, the Appellant notified the session and congregation of his intention to resign. The pastoral relationship was formally dissolved at a congregational meeting held on January 14, 2001.

The IC continued its work throughout November, December, and January. On February 6, 2001, the IC filed formal charges against the Appellant (D-10.0403, D-10.0404). The Appellant then filed a Petition for Review (D10.0204) on February 23, 2001. After a request for extension by the Appellant, a hearing on the Petition for Review was held on March 27, 2001 (D-10.0204a). The determination of this hearing was that the IC had made a proper inquiry, and that the prosecution could continue.

A pre-trial conference with the Appellant was held on April 23, 2001 (D-10.0405). The trial before the Presbytery Permanent Judicial Commission (PPJC) was held on May 31 through June 2, 2001. The PPJC found the Appellant guilty of all five charges against him, and issued a censure in which the Appellant is to be excluded from exercise of ordained office for at least three years from the date of the judgment (June 24,

2001).

The Appellant filed a Notice of Appeal on July 17, 2001.

At the conclusion of the hearing on June 1, 2002, the SPJC ruled that of the ten specifications of error, none were affirmed, except the affirmation that the Appellant had the right to submit new evidence to the PPJC under D-14.0501.

SPECIFICATIONS OF ERROR

Specification of Error #1

“That there were irregularities in the proceedings (D-13.0106a); specifically that the Stated Clerk of Charlotte Presbytery disclosed the name of the accused before the investigation began, in violation of D-10.0203[sic].”

This specification is not sustained.

D-10.0103 states:

Upon receipt of a written statement of an alleged offense, the clerk of session or the stated clerk of presbytery, without undertaking further inquiry, shall then report to the governing body only that an offense has been alleged without naming the accused or the nature of the alleged offense, and refer the statement immediately to an investigating committee.

The decision of the SPJC erred in stating that the Appellant invited the Stated Clerk to convene the session. This is not a fact stipulated by anyone.

In the absence of the Appellant during the period of November 2-10, 2000, the Stated Clerk/Executive Presbyter did convene the session on November 9, 2000, in order to obtain a leave of absence for the Appellant. At that same meeting of the session, which was NOT the governing body of jurisdiction over the Appellant (that being the presbytery alone), the Stated Clerk/Executive Presbyter did state that the presbytery was investigating a formal accusation against the Appellant, but the content and nature of the alleged offense was not made known. Though it may have been inadvisable for the Stated Clerk to have made this disclosure to the session, it was not in violation of D-10.0103.

Specification of Error #2

“That there were irregularities in the proceedings (D-13.0106a); specifically, that two members of the PPJC were pastors at the same church in violation of D-5.0101.

This specification is not sustained.

The SPJC was correct in their ruling that “even though this is permitted by the Book of Order (D-5.0101), which clearly distinguishes between elders (on one hand) and ministers of the word and sacrament [sic](on the other), we believe that the inclusion of two pastors from the same congregation may present an appearance of impropriety, and

should be avoided. We note that Appellant had an opportunity to object during the trial, and did not do so. Finally Appellant has not shown injury resulting from this circumstance.” (SPJC decision)

Specification of Error #3

“The SPJC wrongly shifted their responsibility for hearing this new evidence. This new evidence could have been considered by the SPJC as it related directly to their own affirmation of an irregularity in the PPJC’s proceedings.” D-14.0501 and D-14.0502.

This specification is not sustained.

Since this evidence could have been discovered prior to the filing of the appeal, it was not timely filed (D-14.0502). Therefore, the new evidence is not admissible.

Order

IT IS THEREFORE ORDERED that the decision of the Permanent Judicial Commission of the Synod of the Mid-Atlantic be sustained with the exception of the specification of error regarding new evidence, since that evidence has been ruled inadmissible.

ADDITIONAL MATTER: During oral argument, both parties concurred in their understanding that the period of censure would not begin until after the appeal process had been completed. This is inconsistent with D-12.0104f –h. Unless there is a stay of enforcement in place, censure takes effect immediately upon the pronouncement of the decision at trial, which would indicate that the time of censure began on June 24, 2001.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Mid-Atlantic 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 Charlotte 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 3rd day of March, 2003.