

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

-----)	ORDER DENYING PETITION FOR WRIT OF MANDATE OR OTHER APPROPRIATE RELIEF IN MATTER ENTITLED HANMI PRESBYTERY, PETITIONER/COMPLAINANT, V. PERMANENT JUDICIAL COMMISSION OF THE SYNOD OF SOUTHERN CALIFORNIA AND HAWAII, RESPONDENT
Christopher Pae,)	
Complainant,)	
)	
v.)	
)	
Hanmi Presbytery,)	
Respondent.)	Remedial Case 217-4

Hanmi Presbytery has petitioned this Commission for a writ of mandate (sic), or other appropriate relief. The Petition requests that this Commission vacate a modified stay of enforcement issued by the Permanent Judicial Commission of the Synod of Southern California and Hawaii (SPJC) in a case against Hanmi Presbytery now pending in that Synod.

Statement of Facts

1. Christopher Pae, stated clerk of Hanmi Presbytery, commenced a remedial case against Hanmi Presbytery arising out of issues surrounding the election of a replacement stated clerk on December 4, 2003.
2. The SPJC issued a stay of enforcement on May 25, 2004, apparently maintaining Mr. Pae in the office of stated clerk pending the outcome of the case.
3. Hanmi Presbytery filed objections to the stay of enforcement.
4. The SPJC conducted a hearing on the Presbytery's objections on May 11, 2004, and continued, but modified the stay of enforcement.
5. The SPJC has not yet ruled on the merits of the underlying remedial complaint by Christopher Pae against Hanmi Presbytery.
6. In its Petition, Hanmi Presbytery now requests that this Commission vacate the modified stay of enforcement, or in the alternative, treat its Petition as a remedial complaint initiating a new case. Hanmi Presbytery argues that the SPJC's failure to vacate the stay is irregular because, under G-6.0107, "the right of God's people to elect their officers is inalienable."

Decision

The petition for a writ of mandate is denied. This Commission has no jurisdiction to modify or vacate the stay of enforcement until there is a decision on the merits of the underlying

case initiated by Christopher Pae. In an order dated May 15, 2004 in the matter of *Session of Second Presbyterian Church, Tulsa, Oklahoma, v. Presbytery of Eastern Oklahoma*, this Commission held that when a synod permanent judicial commission has held a hearing on an objection to a stay of enforcement as required by D-6.0103d, and the underlying case on the merits remains pending before that body, “there can be no further action until the merits of the case can be decided by the Synod Permanent Judicial Commission. Therefore, the General Assembly Permanent Judicial Commission does not have jurisdiction” to overturn the synod’s action concerning the stay.

This Commission further denies Hanmi Presbytery’s request to treat the Petition as a complaint initiating a new remedial case against the Permanent Judicial Commission of the Synod of Southern California and Hawaii. In *Presbytery of San Joaquin v. Permanent Judicial Commission of the Synod of the Pacific and the Synod of the Pacific, Minutes 2003, p. 265*, this Commission held that a challenge to the interim rulings of a synod permanent judicial commission cannot be pursued by a collateral attack on that commission through the filing of a separate remedial complaint against that body, but is properly pursued in the process of a direct appeal from that body’s ruling on the merits. Hence, the proper forum for consideration of the issues raised in the Petition is in the pending case of Christopher Pae v. Hanmi Presbytery and any appeal from a decision in that case.

Order

IT IS ORDERED, that the Petition is denied.

The following member of the Commission was not present and took no part in this Order: Gwen Cook. Leon Faniel was recused from participation in this matter.

Dated the 7th day of August, 2004.

Ernest E. Cutting, Clerk
General Assembly Permanent Judicial Commission

Certificate

We certify that the foregoing is a full and correct copy of the Order Denying Petition for Writ of Mandate or other appropriate relief in matter entitled Hanmi Presbytery, Petitioner/Complainant, v. Permanent Judicial Commission of the Synod of Southern California And Hawaii, Respondent, in Remedial Case 217-4, Christopher Pae v. Hanmi Presbytery, made and announced at Louisville, Kentucky, on August 7, 2004.

Jane E. Fahey, Moderator
Permanent Judicial Commission of the General Assembly

Ernest E. Cutting, Clerk
Permanent Judicial Commission of the General Assembly

I certify that I did transmit a certified copy of the foregoing to the following persons by UPS Next Day Air, directing C. Laurie Griffith to deposit it in the mail at Louisville, Kentucky, on August 9, 2004:

Paul Rolf Jensen, Committee of Counsel, Hanmi Presbytery
Margy Wentz, Stated Clerk, Synod of Southern California and Hawaii
Christopher Pae, Stated Clerk, Hanmi Presbytery

I further certify that I did transmit a certified copy of the foregoing to the Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.) by delivering it in person to C. Laurie Griffith on August 7, 2004.

Ernest E. Cutting, Clerk
Permanent Judicial Commission of the General Assembly

I certify that I received a certified copy of the foregoing, that it is a full and final correct copy of the decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.), sitting during an interval between meetings of the General Assembly at Louisville, Kentucky, on August 7, 2004, in Remedial Case 217-4, Christopher Pae v. Hanmi Presbytery.

Dated at Louisville, Kentucky, on August 7, 2004.

C. Laurie Griffith
Manager of Judicial Process and Social Witness