

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

-----)
Parker T. Williamson,)
Complainant/Appellee/Cross Appellant,)
)
v.)
)
Presbytery of Western North Carolina,)
Respondent/Appellant/Cross Appellee.)
-----)

DECISION AND ORDER

Remedial Case 217-7

Headnotes

1. **Authority to amend the Constitution:** No court in our denomination has the authority to amend the Constitution or to invalidate any part of it.
2. **Scope of Authority in granting remedial relief (D-7.0402b):** A permanent judicial commission was not acting beyond its judicial authority pursuant to D-7.0402b when it ordered a presbytery to formulate a plan for a presbytery-wide process of reconciliation.
3. **Requirement of separate written criteria for validation of ministries (G-11.0403):** requires a presbytery to develop separate written criteria for the validation of ministries within its bounds, which criteria must be based on the nature of ordained office found in G-6.0100 and G-6.0200, as well as the standards of G-11.0403a-e. A presbytery does not comply with this provision by simply incorporating by reference the standards of G-11.0403a-e as its written criteria.
4. **Presumption of correctness of factual findings on appeal:** The findings of a lower judicial body have a presumption of correctness and are not to be disturbed unless they are plainly wrong, without supporting evidence, or manifestly unjust.
5. **Limitations on exercise of freedom of conscience (G-6.0108):** recognizes the right of the corporate community to place limits upon the exercise of freedom of conscience by its officers. The Constitution is that self-limitation which the people themselves place upon their own rights in order that they may be able to live and work together in love and unity.
6. **Relevance of materials used in evaluating validation of ministry:** When evaluating a ministry for possible validation pursuant to G-11.0411, a presbytery is not precluded from reviewing relevant materials from prior years for the purpose of setting context for present statements or actions or for the purpose of showing a pattern that has continuity with present statements or actions.

7. **Presbytery discretion in making “thorough review” (G-11.0411):** While the Committee on Ministry of a presbytery is required to make a “thorough review” of a proposed ministerial function pursuant to G-11.0411, the question of what, and how much, to review lies within the sound discretion of the Committee on Ministry. Unless there is manifest injustice in the process, a higher judicial body should not substitute its judgment as to the exercise of that discretion.
8. **Burden of proof on minister seeking validation (G-11.0411):** In seeking validation of a proposed ministry pursuant to G-11.0411, the burden is on the minister to demonstrate that the proposed ministry is “consonant with the mission of the presbytery,” but in the process, the minister is to be accorded “fundamental fairness.”

Arrival Statement

This remedial case comes to the General Assembly Permanent Judicial Commission (GAPJC) on appeal by the Presbytery of Western North Carolina (Presbytery) and cross-appeal by the Rev. Parker Williamson (Williamson) from a decision of the Permanent Judicial Commission of the Synod of the Mid-Atlantic (SPJC) dated September 29, 2004. This Commission finds that it has jurisdiction, that the Appellant and Cross-Appellant have standing to appeal, that the appeals were properly and timely filed, and that the appeals state one or more grounds for appeal under D-8.0105.

Appearances

Mark Clark appeared as counsel for the Appellant/Cross-Appellee. Robert Howard and Peggy Hedden appeared as counsel for the Appellee/Cross-Appellant.

History

In early 2003, Presbytery implemented procedures intended to review and clarify the process by which ministries beyond the jurisdiction of the church would be evaluated for purposes of validation pursuant to Book of Order G-11.0403a-e. The effort was prompted by the requirement of G-11.0403 “that presbytery shall be guided by written criteria developed for validation of ministries within its bounds.”

Presbytery did not develop written criteria in addition to the standards set forth in the Book of Order (G-11.0403a-e). After lengthy discussion of the need for “written criteria,” Presbytery decided to incorporate by reference G-11.0403a-e as its written criteria, along with process statements and timelines. In October 2002, it also adopted a new policy for “determining and evaluating validated ministries,” which included the creation of a Validated Ministries Task Force (VMTF). VMTF was assigned responsibility to review annually written applications by ministers wishing to maintain their status as active members of Presbytery while serving in ministries within its bounds.

Presbytery’s policy also provided:

If, during the review, the VMTF sees a concern, then VMTF will invite either the minister, a member of the employing organization, or both, to respond to the concerns in person or in writing.

In addition, the policy required an in-person meeting between an applicant and VMTF once every three years. Presbytery also established a three-stage process for review and approval of validated ministries. As part of the process, VMTF would review the written application, and if necessary, meet with the applicant, after which it would provide advice and a recommendation to Presbytery's Committee on Ministry (COM) as to whether validation should be renewed. Along with its written recommendation, VMTF would provide an oral report to COM outlining the rationale for its recommendation. On those occasions when VMTF recommended non-validation, it would notify the minister of the decision. COM was given discretion as to whether it would meet with the minister and the minister's employer to discuss the application further and receive additional information that either might wish to provide. Once COM had gathered sufficient information, it would vote whether or not to accept the recommendation of VMTF, and then bring the question to the full Presbytery for final action.

Presbytery implemented this policy in early 2003. One of the first ministries reviewed under the revised procedure was that of the Rev. Steven Strickler (Strickler), a continuing member of Presbytery whose ministry as an employee of the Presbyterian Lay Committee (PLC) had previously been validated. Following discussions involving both Strickler and Williamson, his supervisor, VMTF recommended to COM that Strickler's ministry again be validated. COM in turn recommended renewal of validation to Presbytery. It did, however, add the proviso that should Strickler speak in churches concerning the issue of per capita apportionment, he also discuss the effects on the Church of withholding or redirecting per capita apportionment. Presbytery accepted the recommendation to validate Strickler's ministry at its stated meeting in April 2003.

A similar process commenced two months later when Williamson submitted an application for renewal of validation of his ministry with PLC. Some members of VMTF expressed concern regarding whether Williamson's position with PLC fulfilled all of the criteria under G-11.0403a-e. Following its discretionary policy in such cases, VMTF invited Williamson to meet with VMTF to discuss and describe his ministry. Williamson met with VMTF on November 3, 2003, bringing with him the chairperson of PLC, Ms. Peggy Hedden. Together they presented materials intended to justify renewal of the validation of Williamson's ministry as chief executive officer and editor of PLC's primary publication, *The Layman*.

The record indicates that the meeting between Williamson and VMTF was nearing closure when Ms. Hedden produced a document entitled "A Declaration of Conscience," a position paper of PLC that included within it a description of "irreconcilable disunion" within the Presbyterian Church (U.S.A.), hereinafter, (PCUSA) over the person and work of Jesus Christ, the authority of God's Word written, and the call to a holy life. The paper further urged PCUSA churches to consider withholding or redirecting per capita apportionment payments as well as unrestricted mission giving. Although the record is unclear as to precisely what happened at that juncture, VMTF adjourned its November meeting without making a decision on Williamson's validation, and decided instead to take the matter up at its December 2003 meeting.

VMTF met again on December 3, 2003, and, after lengthy discussion, voted four to one to advise COM to recommend against validation of Williamson's ministry. Williamson was advised of this action by e-mail the following day, five days before the next scheduled meeting of COM when VMTF's recommendation would be presented. When Williamson inquired as to the specific reasons for the decision, he was told his ministry did not meet the standard of G-11.0403d: "The ministry shall be carried on in accountability for its character and conduct to the presbytery and to organizations, agencies, and institutions." Although Williamson asked for greater detail, he was provided little, but he was invited to attend the upcoming COM meeting.

Williamson stated he was not able to attend because of prior commitments, but he did send a letter dated December 5, 2003, to the chair of COM urging COM to exercise caution as it deliberated the matter.

The COM met on December 9, 2003. It received the recommendation of VMTF and after protracted consideration of the matter in executive session, COM voted ten to four to recommend that Presbytery not renew the validation of Williamson's ministry. The record does not indicate when Williamson was notified of this decision, but it was no later than December 22, 2003, because on that date Williamson addressed a letter to the Coordinating Council of Presbytery with several proposals as to how consideration of the matter at Presbytery meeting should proceed.

COM met again on January 13, 2004, and appointed a sub-committee to prepare and present explanatory materials to Presbytery outlining the reasons underlying its recommendation. It also prepared a document entitled "Background Information," which further detailed the reasons for COM's action. Presbytery included this document with a packet of information mailed on January 14, 2004, to commissioners of Presbytery. The packet also included materials provided by Williamson setting forth reasons why, in his opinion, the validation should be renewed. As a member of Presbytery, Williamson subsequently received a copy of the entire packet by mail.

At the January 31, 2004 stated meeting of Presbytery, the sub-committee of COM gave a 20-minute presentation on the matter. This presentation included a set of power point slides which raised matters not communicated to Williamson in advance of the meeting, and included material published in *The Layman* going back over ten years. Presbytery granted representatives of PLC 20 minutes to make their presentation. Williamson was afforded five minutes to address Presbytery directly. A lengthy floor discussion and debate followed, during which a large number of visitors, who had been granted the status of corresponding members with voice but without vote, took an active part. Presbytery ultimately voted by secret ballot not to renew the validation, with 150 in favor and 106 opposed. By an amendment to the original recommendation, Williamson was moved to the status of member-at-large pursuant to G-11.0406b.

On March 4, 2004, Williamson filed a complaint with the Synod of Mid-Atlantic alleging a number of irregularities committed by Presbytery, along with its COM and VMTF. Williamson requested, among other things, that the action of Presbytery not to renew validation of Williamson's ministry be set aside. The SPJC heard the case in a two-day trial held on September 27 and 28, 2004. In its opinion, the SPJC concluded that Williamson's due process¹ rights were violated by Presbytery, in that he was not notified in a timely, clear, and concise manner of the specific reasons for the action to not validate his ministry. The SPJC found that due process and fundamental fairness were to be afforded to a person in Williamson's position. The SPJC concluded, however, that actions taken by Presbytery did not trigger procedural safeguards provided under the Rules of Discipline because there had been no "serious allegation of an offense" in its actions.

The SPJC ordered that the action of Presbytery invalidating Williamson's ministry be set aside and that the Presbytery take no further action with regard to reviewing the status of Williamson's ministry for one year from the date of its decision. The SPJC also ordered

¹ As noted below in the discussion of Specification of Error number 7, this Commission agrees that a person in Williamson's position should be accorded "fundamental fairness," but not necessarily the "due process" rights appropriate to a disciplinary proceeding.

Presbytery and Williamson to “jointly formulate a plan to implement a Presbytery-wide process of reconciliation concerning this issue.”

On October 22, 2004, Presbytery appealed the decision of the SPJC specifically challenging the requirements to take no action on the validation question for one year and to participate in a reconciliation process. Presbytery requested a stay of enforcement as to both orders. Williamson filed his own cross-appeal of the SPJC decision, challenging the SPJC’s decision as incomplete, and alleging six points of irregularity. He also objected to the Stay of Enforcement. The GAPJC vacated the stay of the reconciliation plan, and modified the order that Presbytery take no action for one year, ordering instead that the Presbytery take no action as to Williamson’s validation until the matter might be heard on the merits before the GAPJC.

Specifications of Error

The first two specifications of error set forth below are brought by Presbytery. The remaining specifications (3 - 7) are brought by Williamson.

Specification of Error #1 (Appeal). That portion of SPJC's decision which orders that the Presbytery take no further action with regard to reviewing the status of the validation of Williamson's ministry for a period of one year from the date of its decision is unnecessary, harmful and erroneously prohibits Presbytery from engaging in its constitutional responsibility to review each year Williamson's service in a vocation beyond the jurisdiction of the Church.

This specification of error is sustained.

The parties have agreed that the issue presented in this specification of error is moot in view of the decision in this Commission’s Modified Stay of Enforcement. In sustaining this specification of error, this Commission reaffirms that holding.

G-11.0411 specifies that a presbytery’s decision to permit an active member to engage in a validated ministry beyond the jurisdiction of the church “shall be subject to review and renewal annually.” Because the provision does not mention when, within the year, this review is to be conducted, a presbytery has the discretion to make this determination under the reserved powers clause of G-9.0103.

The record indicates that Presbytery has a system of annual review which in Williamson's case, extends from January 31 of one year to January 31 of the next year. SPJC's order directs Presbytery to undertake no further review of the status of the validation of this ministry for one year from the date of the SPJC decision. This means that Presbytery could not engage in the validation review process until September 29, 2005. Since this is approximately eight months later than the annual review date set by Presbytery, SPJC's order effectively prevents Presbytery from fulfilling its constitutional mandate under G-11.0411 as well as under G-11.0502a. As noted in the Modified Stay of Enforcement in this matter, "No court in our denomination has the authority to amend the Constitution or to invalidate any part of it." “Londonderry, et al. v. Presbytery of Northern New England, *Minutes*, 2001, 12.1028.”

Specification of Error #2 (Appeal). The SPJC did not have the judicial authority to order the formulation of a Presbytery-wide process of reconciliation.

This specification of error is not sustained.

Presbytery, citing D-5.0202, argues that SPJC's authority was limited to findings of procedural integrity and ordering Presbytery to correct them. Presbytery further argues that, in ordering a presbytery-wide process of reconciliation, SPJC was going beyond its constitutional bounds in "holding out itself as the ongoing arbiter of such a plan on issues of implementation, interpretation and enforcement." Relying on Chapter I of the Rules of Discipline and The Book of Confessions, Williamson argues that the SPJC order was an appropriate exercise of judicial discretion.

D-7.0402b, regarding decisions in matters before a permanent judicial commission, states in part:

If the complaint is sustained either in whole or in part, the commission shall either order **such action as is appropriate** or direct the lower governing body to conduct further proceedings in the matter. (Emphasis added.)

SPJC clearly had authority to order a plan for a process of reconciliation. Further, in light of the encouragement for reconciliation, which underlies the Rules of Discipline as expressed in Chapter I, and undeniable evidence in the record of tension between the parties throughout the proceedings at issue, this Commission finds that it was appropriate for SPJC to order a plan for a process of reconciliation.

This Commission is mindful of the challenges presented in formulating a reconciliation plan in this case. While this body will not dictate the terms of such a reconciliation plan, any such plan should take into consideration the limits contained in our Constitution as well as the need for the grace of God where conflicted situations exist. Williamson, as a minister member of Presbytery, engages in ministerial work under the authority of the Presbytery. In like manner, Presbytery has a duty and responsibility to honor the covenant to be bound in the body of Christ with its members.

A plan for reconciliation should be designed by Presbytery, in consultation with Williamson. As plans are discussed and formulated, this Commission reminds Presbytery of resources to be found in the "Directory for Worship" of the Book of Order (W-4.8000) and the *Book of Common Worship*.

Specification of Error #3 (Cross-Appeal). The SPJC erred in constitutional interpretation in finding that the Presbytery's Policy for Review of Validated Ministries was fully in compliance with G-11.0403.

This specification of error is sustained.

Under G-11.0403, a presbytery has the responsibility for determining “the ministers of the Word and Sacrament who shall be its continuing members.” In making this determination, G-11.0403 requires the presbytery to be guided by written criteria developed by it for validation of ministries within its bounds. This provision further requires that the criteria be “based upon the description of ordained office found in G-6.0100 and G-6.0200 *and* the following standards...” (emphasis added). Five standards (a through e) are listed at the end of the provision. The meaning of G-11.0403 is plain on its face and therefore is to be applied and implemented as written. The development and use of written criteria is mandatory, as evidenced by the use of the word “shall” in the applicable part of the provision. Presbytery has not complied with this requirement because it did not develop or utilize written criteria in addition to the five standards for validation of ministries. Therefore, this specification of error is sustained.

Presbytery's Policy for Validating Ministries indicates that VMTF “shall recommend” to COM that a ministry be validated or a validation renewed if VMTF “sees satisfactory evidence that the criteria for validated ministry is [*sic*] being met.” The Policy does not identify specific criteria but instead states that the criteria to be used “shall be the pertinent references in the Book of Order (G-11.0403, etc.)” This statement is not sufficient to meet the Book of Order mandate for a presbytery to develop written criteria. The SPJC decision stated, “The written policy was well conceived, and conscientiously implemented.” Nevertheless, because Presbytery did not develop separate written criteria, it necessarily follows that it could not have been guided by such written criteria when it made its determination regarding the validation of the ministry at issue.

In addition to the specific language of G-11.0403, fundamental principles of construction lead to the same understanding. G-11.0403 contains a provision regarding written criteria, and this, coupled with the use of the word “shall,” means that the provision must be given effect. Moreover, the presence of the conjunction “and” means that written criteria are to be based on descriptions found in G-6.0100 and G-6.0200 as well as on the standards listed in G-11.0403a-e.

Finally, the legislative history leading to the most recent amendment to G-11.0403 provides additional justification for the requirement for “written criteria.” The following amendment to G-11.0403 was approved in 1997:

A presbytery shall determine the ministers of the Word and Sacrament who shall be its continuing members. In making this determination the presbytery shall be guided by ~~all the following criteria~~ *written criteria developed by the presbytery for validation of ministries within its bounds. These criteria shall be based upon the description of the nature of ordained office found in G-6.0100 and G-6.0200 and the following standards:* (Note: italicized words added by amendment; strike-through words deleted by amendment.)

This amendment changed the designation of the items specified in G-11.0403 a through e from “criteria” to “standards.” Presbytery's failure to develop written criteria apart from the standards designated in a through e is inconsistent with the legislative intent that undergirds this provision.

Presbytery has argued that there is no constitutional requirement that the written criteria be original work product or specifically tailored to each applicant's requested ministry. This argument is not persuasive in view of the legislative history discussed herein. The clear intent of the General Assembly and presbyteries in adopting the amendment was to have presbyteries develop written criteria in addition to the constitutional standards listed in G-11.0403a-e. If the intent were for the criteria to be the same as the standards, the amendment would have so stated. This Commission further notes that there is no requirement for a presbytery to develop written criteria specifically tailored to each applicant's requested ministry. Generic or global written criteria are sufficient to meet the requirement of this provision. The Commission notes that the "shall" language does not prohibit a presbytery from adopting written criteria that include these standards.

The development and use of written criteria are important because such criteria, together with the constitutional standards, help reduce arbitrary determinations regarding validation of ministries. They also provide applicants with reasonable notice as to what is specifically required for validation so that they have ample opportunity to comply prior to submission of their applications. In reaching this decision, the Commission recognizes a tension with G-11.0403 and lack of clarity created by two related provisions, G-11.0406b and G-11.0411, having to do with the use of the word "criteria." Notwithstanding this tension, this Commission does not view the approach taken by the Presbytery as satisfying the requirement to develop separate written criteria.

Specification of Error #4 (Cross-Appeal). The SPJC erred in constitutional interpretation in opining that Presbytery did not err in taking action adverse to Williamson because of the Presbyterian Lay Committee's Declaration of Conscience.

This specification of error is not sustained.

With regard to this specification, the SPJC decision contains the following relevant findings:

1. no retaliatory action was taken by Presbytery against Williamson;
2. the actions taken by Presbytery were not based on any opinions he may have expressed or any respectful dissent he may have offered;
3. the COM found that the editorial policy espoused by *The Layman* was not consonant with Presbytery's mission;
4. *The Layman* is an institution wholly unrelated to the PCUSA and not subject to its discipline;
5. COM, based on the finding in 3 above, recommended that the position of Editor and CEO of *The Layman* could not be a validated ministry of the Presbytery; and
6. Presbytery's action was not retaliatory and was not punishment, but instead was an administrative determination.

These factual findings were made after SPJC heard testimony from several witnesses regarding the proceedings of the VMTF, COM and Presbytery, as well as after reviewing a significant amount of documentary evidence including the "Declaration of Conscience." The

findings have a presumption of correctness, and are not to be disturbed unless they are plainly wrong, without supporting evidence or manifestly unjust. “Rankin v. National Capital Union Presbytery, *UPC Minutes*, 1981, p.113.”; “Bevenssee v. Presbytery of New Brunswick, *Minutes*, 1998, 12.0136.” Thus, even if this Commission were to disagree with some or all of the findings, we would nonetheless be duty-bound to accept them unless at least one of the aforementioned three standards has been met. Based on a review of the entire record, this Commission has determined that there is sufficient evidence to support each of the findings. This Commission has also determined that none of the above findings is plainly wrong or manifestly unjust. Therefore, the specification of error cannot be sustained.

Williamson’s arguments center on the “Declaration of Conscience.” He contends that it was the primary basis for the recommendation by VMTF and COM not to validate Williamson's ministry, and that it was improperly considered by Presbytery, VMTF and COM. This Commission notes that the document was voluntarily offered to VMTF by a representative of PLC. It thus became a part of the records of VMTF and COM. It was therefore proper for Presbytery to give it consideration along with other items in reaching its decision.

Williamson has also argued that his support and endorsement of the “Declaration of Conscience” is constitutionally protected speech. This argument is not persuasive in view of the finding by the SPJC that Presbytery's action was not based on any opinions Williamson “may have expressed or on any respectful dissent he may have offered.” As previously stated, this Commission has no reason to disturb this finding. Notwithstanding Williamson’s contention that this finding is contrary to the “overwhelming evidence” in the record, the evidence referenced by Williamson is not sufficient to overcome the presumption of correctness given to determinations on factual issues by lower governing bodies.

Moreover, G-6.0108 recognizes the right of the corporate community to place limits upon the exercise of freedom of conscience by its officers. The Constitution is that self-limitation which the people themselves place upon their own rights in order that they may be able to live and work together in love and unity. Because Williamson may exercise his freedom of conscience only within the bounds prescribed by the covenant community, Presbytery could properly consider the Declaration of Conscience as one of many factors in reaching its decision.

Specification of Error No. 5 (Cross-Appeal). The SPJC erred in constitutional interpretation in finding that Presbytery did not err in considering statements and activities which had occurred and were known during previous years in which Williamson’s ministry was validated.

This specification of error is not sustained.

Williamson argues that Presbytery made its decision not to validate based in part on activities, publications, and statements of Williamson and *The Layman* from prior years. He maintains that this history was presumably part of the material evaluated by Presbytery during those years, and that validation had nevertheless been approved. Williamson argues that it violates principles of fundamental fairness to base a refusal to validate now in part on material that had not been a basis for refusal in the past.

The Presbytery responds that the Constitution places no constraints on dates of events that “might be considered relevant to presbytery members in making their decision.” It notes that “it might be relevant to review [Williamson’s] writings and public statements over a period of years to determine the context for statements made in a contemporary publication or public statement.” During her testimony, one of the COM presenters admitted she based the presentation made to Presbytery on “a series of articles in the *Presbyterian Layman* some time ago.”

The record confirms that Presbytery relied on material that was in some cases over ten years old. This, however, was not in itself a violation of the principle of fundamental fairness. This Commission holds that a presbytery is not precluded from reviewing relevant materials from prior years for the purpose of setting context for present statements or actions, or for the purpose of showing a pattern that has continuity with present statements or actions. The SPJC’s finding that Williamson had not been accorded fundamental fairness was not based on Presbytery’s use of old material, but on the manner in which the material was used, particularly during the presentation by COM to Presbytery. That finding was accepted by Presbytery and is not before this Commission.

Specification of Error No. 6 (Cross-Appeal). The SPJC’s decision erred in holding that the COM made a thorough review of Williamson’s ministry when it failed to read and consider the papers and documents Williamson provided to support his application.

This specification of error is not sustained.

Williamson argues that neither VMTF nor COM conducted a “thorough review” of the material submitted by Williamson in support of validation of his ministry, in violation of G-11.0411. Williamson further argues that principles of “fundamental fairness,” as set forth in “*Gaba v. Presbytery of Eastern Virginia, Minutes, 2003, p 269.*” (hereinafter referred to as *Gaba*), require a thorough review of all the material submitted by a minister seeking renewal of validation of ministry.

G-11.0411 provides in pertinent part, “The committee on ministry of the presbytery shall make a thorough review of the proposed ministerial function and report its recommendations to the presbytery.” The record indicates that some, possibly repetitive, material provided by Williamson, was not read by VMTF and COM before they reached their decisions. The record also indicates that at least one letter sent by registered mail was somehow lost or misplaced, and thus not delivered to VMTF in a timely manner.

While COM is required to make a thorough review of the proposed ministry, and while the loss of a letter delivered by registered mail raises questions about the care with which the process was undertaken in this case, the question of what, and how much, to review lies within the sound discretion of the COM. Unless there is a manifest injustice in the process, this Commission will not substitute its judgment as to the exercise of that discretion. “*Hope et al v. Presbytery of San Francisco, Minutes, 2004, 217-1.*”

Specification of Error #7 (Cross Appeal). The SPJC erred by refusing to consider the specification of error raised by Williamson that Presbytery erred by considering and acting upon charges and statements against Williamson that

were not supported by substantial, competent evidence sufficient to deprive Williamson of his validated ministry status.

This specification of error is not sustained.

This specification of error concerns the relative burdens of proof in an administrative setting such as the one at issue here. According to our Constitution, there is no entitlement to a validation of ministry in service beyond the jurisdiction of the church. A minister must first request permission of the presbytery (G-11.0402, G-11.0411). In this setting then, the burden is placed on the minister seeking validation to demonstrate that his or her ministry is “consonant with the mission of the presbytery.” (G-11.0411) Further, this Commission has held that, in administrative proceedings, a presbytery should accord the affected parties fundamental fairness, that is, “the opportunity to be heard and a consideration of their respective positions without prejudice.” “*Lewis v. Presbytery of New York, Minutes, 1995, p. 11.066.*” Thus, COM and Presbytery were not bound by a “preponderance of the evidence” standard, as Williamson argues in his brief, but were bound by a duty to accord fundamental fairness.

In its decision, the SPJC found that, although the action at issue was by COM and not an administrative commission, the analogy to *Gaba* was clear and it therefore applied. In *Gaba*, the Commission upheld an SPJC ruling that an administrative commission’s specific allegations against a minister “implied a disciplinary action,” thereby making procedural safeguards in G-9.0505b applicable. This Commission does not agree that G-9.0505b applies in this case; no specific allegations were made against Williamson as was the case in *Gaba*. However this Commission does agree with the SPJC that the proceedings of the Presbytery, its COM, and its VMTF were subject to the requirements of fundamental fairness as defined in *Lewis*. The SPJC found that the Presbytery erred in failing to provide Williamson with “fundamental fairness.” Presbytery did not appeal this.

In making the above findings regarding fundamental fairness, the SPJC did in substance consider this specification of error.

Order

IT IS THEREFORE ORDERED that the decision of the Permanent Judicial Commission of the Synod of Mid-Atlantic ordering that the Presbytery take no further action on validation of Williamson’s ministry for one year be reversed.

IT IS FURTHER ORDERED that the Synod decision on formulating a reconciliation plan be modified to read as follows: “The Presbytery of Western North Carolina formulate a plan to implement a Presbytery-wide process of reconciliation concerning its relationship with Parker T. Williamson, and that it consult with Parker T. Williamson in the formulation.”

IT IS FURTHER ORDERED that Presbytery develop, by January 31, 2006, separate written criteria for validation of ministries within its bounds as specified in G-11.0403.

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 Western North Carolina 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.

Concurring Opinion by Commissioners Catherine Borchert, Jesse Butler, William Carlough, Ernest Cutting, Fane Downs, Jane Fahey, Leon Fanniel, June Lorenzo, Wendy Warner, Christopher Yim:

We concur fully with the majority opinion. We offer the following to state further our understanding of the limitations upon the exercise of freedom of conscience by an officer within the Presbyterian Church (U.S.A.)

Williamson bases much of his argument on the issue of freedom of conscience and what he states is freedom of speech.

One of the most historic and widely quoted statements of the PCUSA is “That God alone is Lord of the conscience, and hath left it free from the doctrines and commandments of men which are in anything contrary to his Word, or beside it, in matters of faith or worship.” (G-1.0301a) This phrase from the Westminster Confession of 1647 states a basic foundation of Presbyterianism. If only God is to be our conscience, if there is freedom of belief, the nature of that freedom is crucial. The 195th GA (1983) said, “The right of private judgment...is a right for freedom of obedience to Christ...” “Historic Principles, Conscience and Church Government, *UPC Minutes*, 1983, p 141ff.”

G-6.0108 recognizes the right of the corporate community to place limits upon the exercise of freedom of conscience by its officers. In discussing the roles, rights, and responsibilities of officers, this provision states that for officers who have voluntarily accepted this call, “freedom of conscience with respect to the interpretation of Scripture is to be maintained.” Even within this arena, this freedom is to be maintained only “[s]o far as may be possible without serious departure from these standards, without infringing on the rights and views of others, and without obstructing the constitutional governance of the church...”

G-6.0108b is even more blunt:

It is to be recognized, however, that in becoming a candidate or officer of the Presbyterian Church (U.S.A.) one chooses to exercise freedom of conscience within certain bounds. His or her conscience is captive to the Word of God as interpreted in the standards of the church so long as he or she continues to seek or hold office in that body. The decision as to whether a person has departed from essentials of Reformed faith and polity is made initially by the individual concerned but ultimately becomes the responsibility of the governing body in which he or she serves.

Conflict and concern over the validation of the ministry of ministers who are called to service not under the jurisdiction of the church is not a new phenomenon. In 1953 the 165th General Assembly adopted a lengthy report concerning the way in which the right of presbyteries to determine who are to be their members might relate to the rights of ministers to “serve in work, not directly related to the Presbyterian Church in the United States of America.” Noting that “[t]he polity of the Presbyterian Church is basically that of covenant..., the report defines the nature of that covenant as follows:

The Constitution is that self-limitation which the people themselves place upon their own rights in order that they may be able to live and work together in love and unity...The limitation which any person places upon his rights when he becomes a member of the Presbyterian Church is the Constitution of that Church. It is the free consent thus to covenant with each other that makes us a Presbyterian Church on the basis of the Constitution. Freedom in our tradition is a positive value when coupled with responsibility...Every Presbyterian minister should remember that by his ordination he has voluntarily limited his freedom

“Presbyterian Church in the United States of America, *Minutes*, 1953, pp.115-116, 123.”

Therefore, as members of the church and as officers, freedom of conscience is absolute in belief, and answering only to God, through the discernment of the covenant community. Because Williamson may exercise his freedom of conscience only within the bounds prescribed by the covenant community, Presbytery could properly consider the Declaration of Conscience as one of many factors in reaching its decision.

Concurrence in Part and Dissent in Part by Commissioner June Lorenzo:

I concur in the majority decision, with the exception of its decision to sustain specification of error # 3. While I agree that G-11.0403 requires presbyteries to develop written criteria, I do not agree that a presbytery decision to adopt by reference the requirements of G-11.0403 as its written criteria constitutes a constitutional violation. I believe that both a clear reading of G-11.0403 and related provisions, as well as the legislative history, reveal a less stringent requirement in the Constitution. I also have concerns about the potential effect of such a rigid interpretation on many presbyteries.

Under G-11.0403, a presbytery is charged with the responsibility for determining “the ministers of the Word and Sacrament who shall be its continuing members.” This section provides in pertinent part:

A presbytery shall determine the ministers of the Word and Sacrament who shall be its continuing members. In making this determination the presbytery shall be guided by written criteria developed by the presbytery for validation of ministries within its bounds. These criteria shall be **based upon** the description of ordained office found in G.-6.0100 and G-6.0200 and the following standards: (Emphasis added.)

The key language in this paragraph is “based upon.” The “shall” language emphasized by the majority is not solely focused on producing written and additional criteria, but rather requires three equally important things: (1) to **determine** ministers of Word and Sacrament who shall be its continuing members, (2) to **be guided by** written criteria developed by the Presbytery, and (3) that the criteria **be based upon** the description of ordained office and standards outlined in G-11.0403 a-e.

Moreover, two related provisions in G-11.0406b and G-11.0411 contain language that does not mandate separate and additional written criteria either:

[G-11.0406b]: A member-at-large is a minister of the Word and Sacrament who has previously been admitted to the presbytery or another presbytery as an active member, and who now, without, intentional abandonment of the exercise of ministry that complies with all the **criteria in G-11.0403**. ... A member-at-large shall comply with **as many of the criteria in G-11.0403 as possible**. (Emphasis added)

[G-11.0411]: The committee on ministry of the presbytery shall make a thorough review of the proposed ministerial function and report its recommendations to the presbytery. The committee shall determine and report whether the service complies with all of the **criteria enumerated in G-11.0403, without exception**. (Emphases added.)

In the 1997 amendments to G-11.0403, which are discussed in the majority opinion, the word “criteria” was changed to “standards.” However, the language in the related provisions quoted above was left unchanged, which suggests that the bottom line in making a determination as to validation is the set of criteria contained in G-11.0403 a-e. Indeed, it is conceivable that had the case surrounded interpretation of these provisions, the result would have been different.

General Assembly Minutes for the 1997 amendment to G-11.0403 state that these amendments “would **ask** each presbytery to develop criteria for validation of ministry to define more clearly for itself and its minister members which specialized ministries are necessary for the ordering of the church’s life.”(Emphasis added.) “General Assembly, *Minutes*, 1997, 31.0241.” It is notable that the amendment was not accompanied by a mandate for presbyteries to produce such written criteria by a certain date. The legislative history does not clearly indicate a mandate for “additional criteria,” as the majority assert, but an encouragement for presbyteries to entertain a serious process for determining which specialized ministries are necessary for the ordering of the church’s life. The General Assembly, in amending G-11.0403, actually broadened the criteria for consideration to include a “description of the nature of ordained office found in G-6.0100 and G-6.0200.”

Williamson’s original formulation of this specification would have had this Commission determine that a presbytery’s decision to adopt by reference the standards contained in G-11.0403a-e would be “inherently deficient.” Such a standard would impose unreasonably rigid requirements on presbyteries. In this case, the record demonstrates that Presbytery made a serious effort to write criteria separate from those found in G-11.0403a-e, and thus its decision to incorporate by reference these standards, or criteria, was not a refusal to comply with the Constitution. To hold that a presbytery’s decision not to write separate criteria is “inherently

deficient” and an automatic violation of the Constitution, lacks support, especially in view of the inconsistency that exists between the provisions discussed earlier. This could also subject a number of presbyteries to similar cases.

For these reasons I would not sustain this specification of error, but would continue to urge presbyteries to heed the GA recommendation to undergo a process of examining what criteria would assist in making a determination on whether to validate ministries.

Absences and Non-participants

Commissioner Mildred Morales took no part in the deliberations or decision of the Commission on this case.

Dated this 4th day of April, 2005.

Certificate

We certify that the foregoing is a full and correct copy of the decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Remedial Case 217-7, Parker T. Williamson v. Presbytery of Western North Carolina, made and announced at Linthicum, Maryland, on April 4, 2005.

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 Linthicum, Maryland, on April 4, 2005.

Robert Howard, Counsel for the Complainant/Appellee/Cross Appellant
Mark Clark, Counsel for the Respondent/Appellant/Cross Appellee
James Adeyotte, Stated Clerk, Presbytery of Western North Carolina
Roger C. Harp, Stated Clerk, Synod of the Mid-Atlantic
General Assembly Permanent Judicial Commission

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 April 4, 2005.

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 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 Permanent Judicial Commission at Linthicum, Maryland, on April 4, 2005, in Remedial Case 216-7, Parker T. Williamson v. Presbytery of Western North Carolina and that it is the final judgment of the General Assembly of the Presbyterian Church (U.S.A.) in the case.

Dated at Linthicum, Maryland, on April 4, 2005.

C. Laurie Griffith
Manager of Judicial Process and Social Witness