

History

On October 10, 1999, the Session of Elkton Presbyterian Church (Session) authorized a Finance and Stewardship Committee to develop a policy on endowment funds. On September 12, 2000, Appellant filed a complaint with the Permanent Judicial Commission of Shenandoah Presbytery (PPJC), alleging an irregularity in the Session's adoption of a resolution (Resolution) which established that endowment fund. At the September 21, 2000, meeting of Session, Appellant alleges, that she was "pressured" by Session members to resign from the Session. She did so and withdrew her complaint on September 22, 2000, after being informed that resignation precluded her ability to file a complaint. On August 10, 2003, after the Session amended the Resolution on July 14, 2003, Appellant filed a "Request to Act on a Delinquency" against the Session. The Session received her request on September 9, 2003, considered her complaint on November 11, 2003, and decided not to change its earlier decision on the matter. Thereafter, Appellant filed a complaint with the PPJC on November 30, 2003. Appellant alleged a "delinquency" in the adoption of Article 2 of the Endowment Fund Resolution, which named the Chairman of the Finance Committee as Chairman of the Endowment Committee.

The PPJC met in session on April 3, 2004, and on April 8, 2004, issued an order dismissing the appeal on two grounds: (1) the complaint was not timely filed, and (2) the complaint failed to state a claim upon which relief could be granted. The PPJC held that the Session acted within the scope of its authority in enacting the Resolution and that it would not "substitute its opinion as to the preferable forms of structures for the Endowment for that of the Session when it has been properly exercised."

Appellant appealed that decision to the SPJC on May 17, 2004. On November 4, 2004, the Moderator and Clerk of the SPJC ruled on the preliminary questions, as required in D-8.0301. The SPJC found that, while it had jurisdiction, Appellant had standing and the appeal papers were timely filed, the appeal did not state one or more grounds for appeal as set forth in D-8.0105. Appellant, on December 30, 2004, challenged this finding. At a hearing on March 3, 2005, the SPJC voted to sustain the decision of the Moderator and Clerk.

The present appeal, filed by Appellant on April 12, 2005, challenging the decision of the SPJC, was heard by the General Assembly Permanent Judicial Commission (GAPJC) on August 5, 2005.

Specifications of Error

This Commission's decision in this appeal turns on the preliminary question of whether the complaint states a claim upon which relief can be granted, as required by D-6.0305. The PPJC dismissed the case after conducting a hearing pursuant to a challenge by the Appellant. On appeal, the SPJC affirmed this determination. This Commission affirms the SPJC dismissal.¹

¹ This Commission notes that the findings of the SPJC Moderator and Clerk on the preliminary questions indicate that they found in the negative as to D-8.0203d, i.e., "the appeal states one or more of the grounds for appeal set forth in D-8.0105." Appellant's appeal to the SPJC did, in fact, state two grounds for appeal as indicated in the determination by the Moderator and Clerk. This Commission does not view this as reversible error in view of the SPJC determination that Appellant failed to state a claim upon which relief can be granted. Moreover, Appellant has not presented this as a specification of error.

In determining whether a complaint states a claim upon which relief can be granted, the Commission has assumed the truth of facts alleged in the complaint (Hope v. Presbytery of San Francisco, *Minutes* 2004, p.363). This case centers on Session's actions regarding the establishment and oversight of an endowment fund and Appellant's dissatisfaction with these actions. The Book of Order gives a session authority and responsibility for the mission and government of its church including responsibility for church financial matters (G-10.0102 h, i, m and G-10.0401), and for the constitution of its committees (G-9.0403, G-9.0501a). There is no provision in the Book of Order that restricts a session's actions on endowment fund matters; nor is there a provision that addresses the required composition of an endowment committee. Thus, assuming that all of the allegations contained in the complaint are true, there is no relief that can be granted.

This Commission notes that after hearing arguments and evidence including testimony, the PPJC dismissed the case. A permanent judicial commission may not substitute its judgment for that of a lower governing body unless the decision being reviewed is contrary to an express provision of the Book of Order, arbitrary, unreasonable or clearly erroneous. (Simmons, *et al.* v. Presbytery of Suwanee, *Minutes* 1985, 11.067) The Commission has reviewed the Findings and Order of the PPJC and finds no reason to set them aside.

This Commission understands Appellant's concerns about financial checks and balances and internal financial controls. However, this Commission finds that the Session's actions met the requirements of G-10.0400 regarding church finances. If Appellant believes that the checks and balances provided in the Book of Order are inadequate, the recourse is to seek an amendment to the Book of Order.

The specifications of error before this Commission address broader substantive issues on the merits regarding session governance of financial matters rather than the threshold issue of whether the complaint states a claim upon which relief can be granted. For this reason, this Commission does not sustain any of the specifications of error.

Specification of Error Number 1: The SPJC erred in failing to find that the Endowment Fund Resolution was illegal because it was never brought before the congregation for review.

This specification of error is not sustained

Specification of Error Number 2: The SPJC erred in failing to find that the Session committed an irregularity in adopting the Endowment Fund Resolution because the two reports submitted to the Session did not represent "Committee" recommendations.

This specification of error is not sustained.

Specification of Error Number 3: The SPJC erred in failing to find that the Session committed an obstruction of justice in "pressuring" her to resign from Session and withdraw her complaint.

This specification of error is not sustained.

This Commission notes that, as an active member of a congregation, Appellant did have standing to file a complaint even though she was no longer an active member of Session.

Specification of Error Number 4: The SPJC erred in failing to find that the Session committed an irregularity in adopting Article 2 of the Endowment Fund Resolution which failed to separate the powers and duties of the Endowment Committee from those of the Finance Committee.

This specification of error is not sustained.

Appellant has relied heavily on information and materials that she considers authoritative regarding the establishment of endowment funds. This Commission notes that such materials are advisory in nature only and do not have the authority of the Constitution.

Specification of Error Number 5: The SPJC erred in failing to find that the Session committed an obstruction of justice in failing to appear at the PPJC hearing.

This specification of error is not sustained.

Specification of Error Number 6: The SPJC erred in finding that sessions have the constitutional power to “constitute committees that will work under them.”

This specification of error is not sustained

Specification of Error Number 7: The SPJC erred in concluding that committee members have equal voice and vote.

This specification of error is not sustained

Decision and Order

IT IS THEREFORE ORDERED that the decision of the Permanent Judicial Commission of the Synod of the Mid-Atlantic is affirmed.

IT IS THEREFORE 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 Shenandoah Valley 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.

IT IS FURTHER ORDERED that the Clerk of Session of Elkton Presbyterian Church of Elkton, Virginia, report this Decision and Order to the Session at its next meeting, that the Session enter the full Decision and Order upon its minutes, and that an excerpt from those minutes showing entry of the Decision and Order be sent to the Stated Clerk of the General Assembly (D-8.0404f).