

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

John R. Frye,)	
Complainant/Appellee,)	
)	DECISION AND ORDER
v.)	
)	Remedial Case 217-13
Session of First Presbyterian Church,)	
Tecumseh, Michigan,)	
Respondent/Appellant.)	

Headnotes

1. **Inactive member’s request for restoration to the active roll:** At a minimum, a session must convene to consider an inactive member’s request for restoration to the active roll.
2. **Timeliness of filing a remedial complaint:** A complaint filed within ninety days of the Session’s response to an inactive member’s request for restoration to the active roll is timely filed within the provisions of D-6.0202a.
3. **Session’s discretion in determining active members:** In determining active membership, a session has broad discretion, but its exercise of that discretion is limited by G-5.0202, G-10.0102b and s, and G-10.0302a(2)(a).
4. **Standard of review:** A permanent judicial commission shall not substitute its judgment for that of a session absent a showing that the session did not act “reasonably, responsibly, and deliberately within the Constitution of the church.” (Simmons v. Presbytery of Suwannee, *Minutes*, 1985, p.114.)

Arrival Statement

This remedial case comes to the General Assembly Permanent Judicial Commission (GAPJC) on appeal filed by Respondent/Appellant Session of First Presbyterian Church of Tecumseh, Michigan, (Session) from a decision by the Permanent Judicial Commission of the Synod of the Covenant (SPJC) dated July 14, 2005. This Commission finds that it has jurisdiction, that Session has standing to appeal, that the appeal was properly and timely filed, and that the appeal states one or more grounds for appeal under D-8.0105.

Appearances

John R. Frye, Complainant/Appellee (Frye), was represented by Edward H. Koster; Session was represented by Gregory Grover and William Wise.

History

On March 28, 2002, Session took action to place John and Marcia Frye on the roll of inactive church members. The Fryes were notified of this decision by letter from Session on April 17, 2002.

On March 31, 2004, Frye requested by letter to Session that it reverse the allegedly improper action taken in April, 2002, and restore the Fryes to active membership.

Frye received an unsigned letter dated April 13, 2004, purportedly from Session, stating that his request fell under the provisions of D-2.0202, and therefore it was not timely.

At its meeting on April 22, 2004, Session removed the Fryes from the membership roll.

On June 22, 2004, Frye filed a remedial complaint with the Presbytery of Maumee Valley, complaining that in its letter of April 13, 2004, the Session failed to reinstate Frye to the active roll.

On September 4, 2004, four members of the Permanent Judicial Commission of the Presbytery of Maumee Valley (PPJC) ruled that Frye had no standing to file the complaint because he was no longer a member of the church against which the complaint was directed. No other findings were made. On October 21, 2004, counsel for Frye requested a full PPJC hearing. Following a hearing on March 15, 2005, the PPJC ruled that it had jurisdiction; that Frye did have standing; that the complaint stated a claim on which relief could be granted; but that the complaint was not timely filed, because all aspects of the complaint related only to the Session action of March 28, 2002.

On April 6, 2005, Frye appealed the PPJC decision to the SPJC. Following a hearing on July 14, 2005, SPJC sustained in part the PPJC decision, concluding that the complaint was timely filed only with regard to Session's April 13, 2004 response or failure to respond to Frye's request to be restored to the active roll.

Session filed the present appeal and a request for stay of enforcement on August 26, 2005. The request for stay was granted. The GAPJC heard the appeal on February 10, 2005.

Specification of Error

Specification of Error: The Permanent Judicial Commission of the Synod of the Covenant erred in finding that the complaint was timely filed.

The specification of error is not sustained.

The complaint was timely filed with respect to the Session's response or failure to respond to Frye's letter of March 31, 2004. According to the present record, Session failed to meet to consider Frye's request to be restored to active membership. Instead, in an unsigned letter purportedly from Session dated April 13, 2004, Frye's request was summarily rejected as untimely. On June 22, 2004, Frye filed a complaint with the PPJC alleging a delinquency in the

issuance of the April 13, 2004, letter. This complaint was initiated within ninety days of Frye's receipt of the unsigned letter, and therefore within the ninety-day time limit prescribed in D-6.0202a. On remand, the PPJC should address whether Session's process for considering Frye's request to be restored to the active roll was appropriate.

On remand it will also be the PPJC's task to determine what, if any, relief is appropriate. The Book of Order grants a session "the responsibility and power to receive members" (G-10.0102b), to keep rolls (G-10.0102s), and to determine whether a person is "active in the church's work and worship" (G-10.0302a(2)(a)). A session's exercise of its discretion in matters concerning membership is broad, and a permanent judicial commission shall not substitute its judgment for that of a session absent a showing that the session did not act "reasonably, responsibly, and deliberately within the Constitution of the church." (Simmons v. Presbytery of Suwannee, *Minutes* 1985, p.114). Constitutional bounds include the limitations that the "conditions of active membership are to be "consistent with the order and confessions of the Presbyterian Church (U.S.A.)" (G-5.0202) and that "membership shall not be denied to any person because of race, economic or social circumstances, or any other reason not related to profession of faith" (G-10.0102b).

Decision and Order

IT IS THEREFORE ORDERED that the Permanent Judicial Commission of the Presbytery of Maumee Valley convene and conduct a trial limited to an examination of the Session's process in responding or failing to respond to Frye's request of March 31, 2004, to be restored to the active roll of the First Presbyterian Church of Tecumseh, Michigan.

The Presbytery Permanent Judicial Commission shall convene the trial within ninety days of this decision.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Covenant report this decision to the Synod at its first meeting after receipt, that the Synod 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.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of Maumee Valley report this Decision and Order to the Presbytery at its first meeting after receipt, that the Presbytery 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.

IT IS FURTHER ORDERED that the Clerk of Session of First Presbyterian Church, Tecumseh, Michigan report this Decision and Order to the Session at its first meeting after receipt, that the Session enter the full Decision and Order upon its minutes, and that an excerpt from those minutes showing the entry of the Decision and Order be sent to the Stated Clerk of the General Assembly.

Absences and Non-participants

William Carlough, P. David Snellgrove, and Judy Woods were not present and took no part in this case.

Dated this 12th day of February, 2006.

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 217-13, John R. Frye v. Session of First Presbyterian Church, Tecumseh, Michigan, made and announced at Austin, Texas, on February 12, 2006.

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 Austin, Texas, on February 13, 2006.

Gregory Grover, Counsel for Appellant
Thomas Sollars, Clerk of Session, First Presbyterian Church, Tecumseh, Michigan
Edward H. Koster, Counsel for Appellee
Dean McGormley, Stated Clerk, Presbytery of Maumee Valley
George W. Baird, Stated Clerk, Synod of the Covenant
General Assembly Permanent Judicial Commission (regular mail)

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 February 13, 2006.

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 at Austin, Texas, on February 13, 2006, in Remedial Case 217-13, John R. Frye v.

Session of First Presbyterian Church, Tecumseh, Michigan, and that it is the final judgment of the General Assembly of the Presbyterian Church (U.S.A.) in the case.

Dated at Austin, Texas, on February 13, 2006.

C. Laurie Griffith
Manager of Judicial Process and Social Witness