

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

Patricia Fair-Booth,)	
Complainant/Appellant,)	
)	DECISION AND ORDER
v.)	
)	
National Capital Presbytery,)	Remedial Case 218-02
Respondent/Appellee.)	(formerly 217-16)

Headnotes

- 1. Standing.** An elder-commissioner enrolled at a particular presbytery meeting has standing to file a complaint against that presbytery concerning an irregularity or delinquency which occurred during that period of enrollment (D-6.0202a(1)).
- 2. Presbytery Membership.** A presbytery is a corporate expression of the church consisting of all the churches and ministers of the Word and Sacrament within a certain district. When a presbytery meets, each church shall be represented by an elder or elders commissioned by the session (G-11.0101). Duly elected elder-commissioners become temporary members of presbytery for a particular meeting only when they present themselves at the meeting and are enrolled by the presbytery for that meeting. Their membership terminates upon adjournment of that meeting. Specific exceptions to this are noted in G-9.0203b and G-11.0101c.
- 3. Enrollment of Elder-Commissioners at Presbytery Meetings.** An elder-commissioner to presbytery is enrolled at a presbytery meeting only if he or she is present at the meeting and fulfills the presbytery’s enrollment procedure. Such an elder is enrolled only for that meeting, and the elder’s enrollment terminates when the meeting is adjourned.
- 4. Parity between Elder-Commissioners and Ministers of the Word and Sacrament.** The *Book of Order* requires parity between ministers of Word and Sacrament and elder-commissioners in terms of voice and vote at meetings (G-6.0302). This requirement for parity at meetings does not mean that there is parity in how ministers and elders can become members of a presbytery or in their privileges or authority outside of presbytery meetings.

Arrival Statement

This remedial case comes to the General Assembly Permanent Judicial Commission (GAPJC) on appeal by Patricia Fair-Booth from a decision of the Permanent Judicial Commission of the Synod of the Mid-Atlantic (SPJC) to dismiss a Remedial Complaint against the National Capital Presbytery on the grounds that Fair-Booth lacked standing to bring her Complaint.

Jurisdictional Statement

This Commission finds that it has jurisdiction, the Appellant has standing to appeal, the appeal was properly and timely filed, and the appeal states one or more grounds for appeal under *Book of Order* D-8.0105.

Appearances

Patricia Fair-Booth, Complainant/Appellant, was present and represented by Mary Thomas. National Capital Presbytery, Respondent/Appellee, was represented by Stephen Morse.

History and Procedural Background

Patricia Fair-Booth (Fair-Booth) is a member of the session of the Church of the Redeemer (Church), a congregation in the National Capital Presbytery (Presbytery). In February 2005 the Church session elected Fair-Booth to a one-year term as one of its two commissioners to the Presbytery. Fair-Booth was unable to attend the Presbytery's stated meeting on September 27, 2005 due to health reasons. The Church's other commissioner was present at the meeting.

At the meeting the Presbytery's Committee on Ministry distributed and presented a recommendation to appoint an administrative commission for the Church. The recommendation was amended from the floor. The Presbytery approved the following amended motion:

The Committee on Ministry recommends that the presbytery appoint an Administrative Commission which will assess the situation and be empowered to act to dissolve the pastoral relationship and/or empowered to dissolve the session if it sees fit in accordance with the *Book of Order* (G-9.0505). Furthermore it recommends that the presbytery empower the Committee on Ministry Coordinating Team to appoint this Administrative Commission on its behalf.

On November 1, 2005 Fair-Booth filed a Remedial Complaint with the Synod of the Mid-Atlantic against the Presbytery. The Complaint, among other things, alleged that at its September 27, 2005, meeting, the Presbytery erred by appointing an administrative commission for the Church and by intervening in the affairs of the Church without the session's knowledge, request or approval. The Presbytery did not file an Answer to the Complaint as required by D-6.0303. Notwithstanding the absence of an Answer, the Moderator and Clerk of the SPJC proceeded with a preliminary examination of the Complaint and found that the SPJC had jurisdiction, Fair-Booth had standing to file the case, the Complaint was timely filed, and the Complaint stated a claim upon which relief could be granted. These findings were communicated to the parties by memorandum dated February 8, 2006.

The Presbytery did file an Answer on February 23, 2006 and made a timely challenge to the preliminary finding by the SPJC Moderator and Clerk that Fair-Booth had standing to file the Complaint. The Presbytery requested the opportunity to present evidence and argument, as

provided for in D-6.0306a, in order to show that Fair-Booth did not have standing because there was no record that she had attended the September 27, 2005 Presbytery meeting or had been elected as a Presbytery commissioner by her session. Based on these allegations, the Presbytery moved to dismiss the case pursuant to D-6.0306c. Fair-Booth responded that she did have standing because she had been elected by her session as a commissioner to the Presbytery, that the Complaint was based on a series of erroneous actions taken by the Presbytery, and was not based solely on the Presbytery's actions at the September 27, 2005 meeting.

Both parties submitted briefs to the SPJC. In its brief, the Presbytery acknowledged that Fair-Booth was a duly-elected commissioner to the Presbytery but maintained that she was not present at the September 27, 2005 Presbytery meeting, and therefore did not have standing to bring the Complaint. The Presbytery contended that standing to complain about an action by the Presbytery was limited to "a minister or elder enrolled as a member of presbytery concerning an irregularity or a delinquency during that period of enrollment..." (D-6.0202a(1)).

Fair-Booth acknowledged that she did not attend the September 27, 2005 meeting, but claimed that she had standing to complain because she was an "enrolled" member of the Presbytery, having been elected to serve as a commissioner to the Presbytery by the Church's session for a term that included the September 27, 2005 Presbytery meeting.

The SPJC conducted a hearing on March 27, 2006 on the issue of Fair-Booth's standing to bring this Complaint. Thereafter, the SPJC voted not to sustain the ruling by the SPJC Moderator and Clerk that Fair-Booth had standing as required by D-6.0305b because Fair-Booth "was not present at the meeting in which the irregularity allegedly occurred." As a result of this decision the Complaint was dismissed pursuant to D-6.0306c.

Fair-Booth appealed the SPJC decision to dismiss her Complaint to the GAPJC. The GAPJC heard the arguments of the parties on July 28, 2006.

Specification of Error

"The Synod of the Mid-Atlantic erred in its constitutional interpretation of the term 'enrolled' as it relates to the standing of elder-commissioners to file a complaint in a remedial case."

This specification of error is not sustained.

Decision

The sole issue in this case is whether a duly-elected elder-commissioner to a presbytery who did not attend a presbytery meeting has standing to file a remedial complaint against the presbytery for alleged irregularities that occurred during and prior to that meeting. The dispute concerns the difference between "membership" and "enrollment" in a governing body, in this case, a presbytery. The case illustrates the difference between ministers of the Word and Sacrament who are members of presbyteries with continuing membership status and

responsibilities (G-6.0201), and elder-commissioners who are elected by sessions from a particular church but who are members of a presbytery only when enrolled at a presbytery meeting.¹ “Presbytery is a corporate expression of the church consisting of all the churches and ministers of the Word and Sacrament within a certain district. When a presbytery meets, each church shall be represented by an elder [or elders] commissioned by the session” (G-11.0101). Under G-10.0102p, the session elects commissioners to presbytery and is encouraged to elect commissioners for specified terms. Elders elected as commissioners become enrolled members of presbytery only when they present themselves at a particular meeting of the presbytery occurring during the term for which the session elected them, **and** comply with the steps for enrollment (*e.g.*, signing an enrollment sheet, completing an attendance form, checking in with the stated clerk or the clerk’s designee, etc.).

Commissioning is not the same as enrollment. Whether elected for a single meeting or a longer term, an elected elder is “enrolled” only if he or she is present at a meeting and fulfills the presbytery’s enrollment procedure. Such an elder is “enrolled” only for that meeting, and the elder’s enrollment terminates when the meeting is adjourned. In this case Fair-Booth would have been an enrolled member of Presbytery had she attended the September 27, 2005 meeting and registered with the attendance sheet used by the Presbytery. Fair-Booth was not enrolled at that meeting and thus did not have standing to bring her Complaint. The Church’s other commissioner was enrolled at the September 27, 2005 Presbytery meeting, and would have had standing to complain about actions taken at that meeting, but did not bring or join this case.

The requirement for enrollment, as separate from election for presbytery commissioners is consistent with the principle that lower governing bodies do not determine the membership of higher governing bodies. Rather, lower governing bodies elect commissioners to higher governing bodies.

The importance of attendance and enrollment at a presbytery meeting, as a prerequisite to the elder-commissioner’s standing to complain about an action taken at the meeting, is not a mere technicality. The decisions of church governing bodies “should be founded on the revealed will of God” (G-1.0307). “Presbyters are ... to seek together to find and represent the will of Christ” (G-4.0301d). Presbyterians come together in governing bodies to deliberate and decide matters as a community of faith, open to the work of the Spirit among them. Voting by proxy is not allowed except in a corporate matter where civil law specifically requires that voting by proxy be permitted as to that particular matter (G-7.0404).

Fair-Booth argued that requiring elder-commissioners to enroll before being deemed a member of presbytery results in disparate treatment of elder-commissioners and ministers of the Word and Sacrament. However, the *Book of Order* states that ministers of the Word and Sacrament are members of a presbytery, not members of a particular church (G-6.0201). The *Book of Order* requires parity between minister and elder commissioners in terms of voice and

¹ Section G-11.0101c addresses the special status of elders who have been elected as moderator or other officers or chairs of committees or commissions of a presbytery. Under this provision, elders who hold the office of presbytery moderator have continuing membership in the presbytery during their term of office, others may be granted such status.

vote at meetings (G-6.0302). This requirement for parity at meetings does not mean that there is parity in how ministers and elders can become members of a presbytery, or in their privileges or authority outside of presbytery meetings. A minister's continuing membership in a presbytery parallels an elder's continuing membership in a church, rather than an elder-commissioner's transitory status at a presbytery meeting.

Fair-Booth's contention that she is complaining about matters outside of the September 27, 2005 meeting does not change the analysis or outcome in this case. An individual who has been elected by a session to be that church's commissioner to presbytery meetings does not, by that act of election, have standing to complain about actions of the presbytery, whether such actions occur in a meeting or outside a meeting of presbytery. Enrolled elder-commissioner members of presbytery have standing to complain only about things that happen at a meeting at which they were enrolled. A particular church and its session interact with the presbytery in many ways, while an elder-commissioner acts on behalf of a church only at presbytery meetings.

Fair-Booth lacks standing to bring her Complaint because she was not enrolled at the September 27, 2005 meeting. This does not mean that there are no checks on the presbytery's actions. Sessions can bring remedial cases against presbyteries (D-6.0202a(3)); ministers of the Word and Sacrament can bring remedial cases against presbyteries (D-6.0202a(1)); and individuals can bring disciplinary cases against other individuals within a presbytery (D-10.0102a). In this case, Fair-Booth acknowledged that other actions have been taken by her and others to challenge actions by the Presbytery concerning the Church.

Presbyteries should be attentive to the importance of rolls and enrollment records. Fair-Booth correctly noted that there are many reasons why it is important to keep complete and accurate records, including, for example, tracking of information about membership in specific categories (G-9.0105b). For purposes of enrollment, this Presbytery uses an attendance form that is to be completed by elder-commissioners and ministers and dropped into a box in order to record attendance at a meeting. While this method may be sufficient for preparing an attendance record to be included in the minutes of the meeting, it may be less than optimal for tracking "enrollment" or membership for other purposes. As this case illustrates, presbyteries should be deliberate and careful to record the attendance of those present at presbytery meetings and should maintain an accessible record of those elder-commissioners who are enrolled at each meeting. Such records may be needed, for example, for voting by ballot during a meeting.

This Commission acknowledges that situations that come about as a result of long-term, chronic or systemic conflict, such as this Complaint, are difficult to address in a remedial case. In such situations, churches and presbyteries are urged to be pastoral and prayerful in their response to one another and to consider other means of resolving conflicts as an alternative, or preliminary step, to judicial process.

Order

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

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 National Capital Presbytery 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.

Absence

Mildred Morales was not present and took no part in this case.

Certificate

We certify that the foregoing is a full and corrected copy of the decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Remedial Case 218-02 (formerly Case 217-16), *Patricia Fair-Booth v. National Capital Presbytery*, made and announced at Louisville, Kentucky, on July 31, 2006.

Dated this 31st day of July, 2006.

Wendy G. Warner, 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 July 31, 2006.

Patricia Fair-Booth, Complainant/Appellant
Mary Thomas, Counsel for Appellant
H. Stephen Morse, Counsel for Appellee
Richard E. McFail, Stated Clerk, National Capital Presbytery
Roger C. Harp, Stated Clerk, Synod of the Mid-Atlantic
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 July 31, 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 Louisville, Kentucky, on July 31, 2006, in Remedial Case 218-02 (formerly 217-16), Patricia Fair-Booth v. National Capital Presbytery, and that it is the final judgment of the General Assembly of the Presbyterian Church (U.S.A.) in the case.

Dated at Louisville, Kentucky, on July 31, 2006.

C. Laurie Griffith
Manager of Judicial Process and Social Witness