

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

Douglas J. Essinger-Hileman and)
Sandra D. Essinger-Hileman,)
Complainants/Appellants,)
v.)
The Presbytery of Miami,)
Respondent/Appellee.)

DECISION AND ORDER

Remedial Case
218-05

Headnotes

1. **Fundamental Fairness.** Principles of fundamental fairness include reasonable notice and an opportunity to be heard.
2. **Dissolution of a Pastoral Relationship by a Presbytery**
 - a. The *Book of Order* does not set forth a specific procedure to be followed when neither the congregation nor the pastor has requested dissolution, and no administrative commission has recommended or is empowered to act to dissolve the relationship.
 - b. The matter of the dissolution of a pastoral relationship is so serious that ordinarily the pastor and the congregation should be given notice and an opportunity to be heard before a final vote to dissolve (G-11.01030).

Arrival Statement

This remedial case comes to the General Assembly Permanent Judicial Commission (GAPJC) on appeal filed by the Complainants/Appellants, Douglas J. Essinger-Hileman and Sandra D. Essinger-Hileman (Pastors) from a decision of the Permanent Judicial Commission of the Synod of the Covenant (SPJC) dated September 7, 2006.

Jurisdictional Statement

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

Appearances

The Pastors appeared in person and without counsel. The Presbytery of Miami (Presbytery) was represented by W. McGregor Dixon.

History

The Pastors first met with the Committee on Ministry (COM) of the Presbytery of Miami in September, 2004. Although questions were raised about their call, the COM approved their service as co-pastors of the United Presbyterian Church of Belle Center (Church), and the congregation subsequently voted to extend the call on October 10, 2004. At its meeting on November 9, 2004, the Presbytery received the Pastors as members and approved their installation as co-pastors of the Church.

Having received new information regarding the background and previous service of the Pastors, the COM held a special meeting on November 13, 2004, at which it rescinded its approval of the call and established a task group to meet with the parties, also making arrangements for financial compensation to the Pastors in the event their starting date at the Church was delayed. The scheduled start date of the Pastors was delayed by one day while the task group accomplished its work. The Pastors began work at the Church on November 16, 2004, upon e-mail approval by the COM.

At its November 30, 2004, meeting, the COM received the report of its task group, “rescinded its rescission,” and approved several recommendations intended to facilitate healthy pastoral relationships, including: the creation of a “companion group” to begin meeting with the Pastors as they began their ministry at the Church, a testing and counseling process for the Pastors at the Presbytery’s expense, and the completion of a unit of Clinical Pastoral Education by one of the Pastors, also at the Presbytery’s expense.

The Pastors were officially installed on January 8, 2005. The “companion group” met with them on a number of occasions over the next several months, reporting regularly to the COM. The initial reports were positive, but at its meeting on May 31, 2005, the COM approved an expenditure for the Pastors’ participation in the crisis process at the Midwest Career Development Center. At its July 26, 2005, meeting, the COM adopted a recommendation to invite the Session of United Presbyterian Church of Belle Center (Session) to request the formation of an Administrative Commission (AC) to the Church.

At a special meeting of the Presbytery on August 23, 2005, an AC was appointed by the Presbytery. The COM, the Pastors and the Session concurred in the appointment of the AC. The AC was granted the authority to assume original jurisdiction of the Church, if necessary, but was not granted authority to dissolve the pastoral relationships of the Pastors.

The AC conducted a congregation-wide listening process, and met on several occasions in the fall of 2005, including a lengthy meeting with the Pastors on November 13, 2005. The Pastors were placed on administrative leave at their own request from November 29, 2005, through January 21, 2006, during which time the Pastors agreed “to

refrain from all pastoral responsibilities including preaching, pastoral calls, and pastoral contact with the parishioners, attending all church meetings, services, and congregational functions,” according to the minutes of the AC. On December 22, 2005, the AC met with the Pastors, at which time the possibility of the dissolution of their pastoral relationships was discussed openly.

On January 5, 2006, the AC held a joint meeting with the Session to which the Pastors were specifically invited and at which the Pastors were present. The Pastors were informed of the Session’s intent to pursue the dissolution of their pastoral relationships at the annual meeting of the congregation. The AC/Session meeting continued with open discussion of two severance package options which had been presented to the Pastors prior to the meeting. The Pastors were afforded the opportunity to state their views regarding the Session’s intentions and to openly question members of the Session.

At the conclusion of the AC/Session meeting on January 5, 2006, the Session adopted a motion to recommend that the pastoral relationships be dissolved as part of the congregation’s annual meeting scheduled for January 15, 2006. On January 12, 2006, the Pastors filed a complaint with the SPJC alleging irregularities in the action of the Session regarding this recommendation. On January 13, 2006, a stay of enforcement was issued resulting in the cancellation of the January 15, 2006, annual meeting.

On January 15, 2006, the AC “met informally” with the congregation to “provide the congregation with pastoral care” and to “allow them [to] ask questions or relay feelings over the Stay of Enforcement,” according to the minutes of the AC.

At a special meeting on January 17, 2006, the COM approved a recommendation to the Presbytery that it call a meeting of the congregation for January 29, 2006, for the sole purpose of considering a request for dissolution of the pastoral relationships. The Pastors were notified that this motion would be presented to the Presbytery at its meeting on January 21, 2006.

On January 19, 2006, the Pastors filed two additional complaints with the SPJC against the Presbytery claiming that the AC violated terms of the Stay of Enforcement by meeting with Church members on January 15, 2006, and requesting that the COM be prevented from bringing any action to call a congregational meeting to dissolve the pastoral relationships between the Pastors and the Church.

The Pastors were not present at the January 21, 2006, meeting of the Presbytery, at which the COM presented its recommendation that the Presbytery call a congregational meeting at the Church for January 29, 2006, for the sole purpose of considering a request for dissolution of the pastoral relationships. A substitute motion from the floor to dissolve the pastoral relationships in accordance with G-11.0103o “effective at the close of this presbytery meeting,” was adopted in place of the COM recommendation.

On April 20, 2006, the Pastors filed a Complaint with the SPJC regarding the Presbytery's action to dissolve the relationships. The SPJC heard the case and issued its decision on September 7, 2006, which was to dismiss the Complaint.

The Pastors filed an appeal to the GAPJC on October 24, 2006. Oral arguments were heard on May 4, 2007.

Specifications of Error

Specification of Error No. 1: The Permanent Judicial Commission of the Synod of the Covenant erred in that it manifested prejudice in the conduct of the case by limiting the Pastors' closing argument but not limiting the Presbytery's closing argument, by not answering all of the specifications of error raised by the Pastors, and by denying the Pastors' lines of questioning in oral argument.

This specification of error is not sustained.

This Commission finds that the SPJC properly and adequately addressed the Pastors' complaint.

Specification of Error No. 2: The Permanent Judicial Commission of the Synod of the Covenant erred by incorrectly interpreting the Constitution in its assertions that "the Book of Order fails to provide clear guidance with regard to a situation such as occurred in this case, where a motion to dissolve the pastoral relationships was made on the floor of the Presbytery, in the absence of the pastors," and that the Book of Order's requirements for due process are not applicable in this instance.

This specification of error is sustained in part and not sustained in part.

This commission concurs with the result reached by the SPJC, but not with its rationale. The SPJC was correct in affirming the action of the Presbytery to dissolve the pastoral relationships between the Pastors and the Church. The SPJC was unanimous in finding that the pastoral relationships in this instance were irretrievably broken and that the church's mission under the Word imperatively demanded dissolution in accordance with G-11.0103o. No remedial action or relief by any judicatory body will restore those relationships, and, therefore, the decision to dissolve the pastoral relationships should not be reversed. In this instance, there is a long history of efforts to address the difficulties in these pastoral relationships, and responsibility for these difficulties is shared by all parties. The Pastors admittedly knew that a process for dissolving the pastoral relationships had begun and matters concerning this process would be addressed at the January 21, 2006, Presbytery meeting. The Pastors made a decision not to attend the Presbytery meeting.

The docket for the Presbytery meeting included the COM's recommendation that a congregational meeting be called for the sole purpose of taking action on the Session's recommendation to dissolve the pastoral relationships, but did not state that the

Presbytery would take action to dissolve the pastoral relationships at the Presbytery meeting. The Church's elder commissioner offered a substitute motion to dissolve the pastoral relationships in place of the motion to call a congregational meeting for the same purpose.

The *Book of Order*, G-14.0602 and G-14.0603, addresses procedures for the dissolution of a pastoral relationship when requested by the pastor and/or the congregation. Similarly, G-9.0505b(1) and (2) address dissolutions through an administrative commission. In this case, none of these procedures applied. The *Book of Order* does not set forth a specific procedure to be followed when neither the congregation nor the pastor has requested dissolution, and no administrative commission has recommended or is empowered to act to dissolve the relationship.

Under G-11.0103o, a presbytery has authority to dissolve a pastoral relationship "when it finds that the church's mission under the Word imperatively demands it." The Presbytery's authority to act on this basis is not at issue here.

Principles of fundamental fairness include reasonable notice and an opportunity to be heard (see *Lewis v. Presbytery of New York City, Minutes*, 1995 P.____. Here, the Pastors had notice of the Presbytery meeting and could have spoken to the substitute motion if they had elected to attend the Presbytery meeting.

Under the unique circumstances of this case, it cannot be said that it was fundamentally unfair for the Presbytery to proceed with the substitute motion. It would have been a better practice, however, to provide for a fuller hearing of the issues before voting on the substitute motion, particularly when the motion at hand involved so serious a matter as the dissolution of pastoral relationships. Some means should have been devised by which the Pastors and the congregation were given notice and an opportunity to be heard before the final vote to dissolve was taken.

Specification of Error No. 3: The Permanent Judicial Commission of the Synod of the Covenant erred by incorrectly interpreting the Constitution in not answering the Pastors' assertion that the Administrative Commission did not follow the provisions of G-9.0505 of the Book of Order and therefore determining that these provisions are applicable at the discretion of the presbytery.

This specification of error is not sustained.

The provisions of G-9.0505 relate specifically to the decisions of administrative commissions. In the instant case, the AC had neither been granted the authority to dissolve the pastoral relationships nor had it decided to recommend to the Presbytery that the pastoral relationships be dissolved.

Order

IT IS THEREFORE ORDERED that the decision of the Permanent Judicial Commission of the Synod of the Covenant is affirmed.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Covenant report this Decision and Order 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 Miami Presbytery 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.

Absences and Non-participants

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

Certificate

We certify that the foregoing is a true and correct copy of the Decision and Order of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Douglas J. Essinger-Hileman and Sandra D. Essinger-Hileman v. The Presbytery of Miami in Remedial Case 218-05, made and announced at Kansas City, Missouri, on May 7, 2007.

Dated this 7th day of May, 2007
