

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

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Hyung K. Yun, Yun Soo Kim, Young )  
Yoon Kim, Kwan Young Lee, Seung G. )  
Ahn, In Bae Chun, Richard Yun, and Kee )  
Ho Lim, )  
                    Complainants/Appellants, )  
  )  
v. )  
  )  
Session of Korean United Presbyterian )  
Church of New Jersey, )  
                    Respondent/Appellee. )  
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**DECISION AND ORDER**

Remedial Case 218-08

**Headnotes**

1. **Dismissal on Preliminary Questions:** A permanent judicial commission must assume the truth of the facts alleged when considering the factual allegations in a statement of errors contained in a notice of appeal (D-8.0202e). A permanent judicial commission may not dismiss an appeal on jurisdictional grounds under D-8.0301 and D-8.0302 on the basis that the appellant has not “proven” the alleged errors.
2. **Hearing Required:** A decision to sustain or deny alleged errors is only appropriate after a hearing under D-8.0400 on the merits of the errors alleged.

**Arrival Statement**

This remedial case came before the General Assembly Permanent Judicial Commission (GAPJC or this Commission) on an appeal filed by the Complainants/Appellants, Hyung K. Yun, Yun Soo Kim, Young Yoon Kim, Kwan Young Lee, Seung G. Ahn, In Bae Chun, Richard Yun, and Kee Ho Lim, (Yun *et al.*) from a decision of the Permanent Judicial Commission of the Synod of the Northeast (SPJC) dated December 7, 2006.

**Jurisdictional Statement**

This Commission finds that it has jurisdiction to hear this appeal. Yun *et al.* have standing to appeal; the appeal was properly and timely filed;<sup>1</sup> and the appeal states one or more grounds for appeal under D-8.0105.

**Appearances**

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<sup>1</sup> See Yun *et al.* v. Session of Korean United Presbyterian Church, Decision on Challenge to Preliminary Questions of the GAPJC, dated May 7, 2007.

Dr. Hyung K. Yun and Mr. Seung G. Ahn, Committee of Counsel, and Elder John Lee appeared on behalf of Yun, *et al.* Mr. H.K. Dong represented the Session of Korean United Presbyterian Church of New Jersey (Session).

### **History**

This case arose from a remedial complaint filed by several members of the Korean United Presbyterian Church of New Jersey with the Presbytery of Newark concerning matters leading up to and at a congregational meeting for the election of elders and deacons on October 2, 2005. The Permanent Judicial Commission of the Presbytery of Newark (PPJC) tried the case on April 4, 2006.

The PPJC entered a Decision containing the parties' acknowledgment that certain irregularities identified in the Complaint had occurred and their agreement to six specific remedies recommended by the PPJC. Those persons elected at the congregational meeting were later ordained and installed and are presently serving their terms of office.

Yun *et al.* appealed the PPJC Decision to the SPJC. The Notice of Appeal stated, as grounds for the appeal, items enumerated in D-8.0105, specifically that: the PPJC erred in constitutional interpretation (D-8.0105g), there was injustice in the Decision (D-8.0105f), the Complainants were refused a reasonable opportunity to present evidence (D-8.0105b), there was manifestation of prejudice in the conduct of the case (D-8.0105e), and the PPJC hastened to a decision before the evidence or testimony was fully received (D-8.0105d). The Notice also included argument on the merits of each of those alleged errors.

The SPJC dismissed the appeal under D-8.0302c, holding that the Notice of Appeal did not state one or more of the grounds for appeal as set forth in D-8.0105. The SPJC Order of Dismissal also addressed the merits of the arguments of Yun *et al.* as set forth in their Notice of Appeal.

Yun *et al.* appealed the Order of Dismissal by the SPJC to this Commission, asserting that the SPJC had improperly dismissed the appeal. On July 27, 2007, the GAPJC heard oral argument on the issue of whether the SPJC appeal was properly dismissed based on a defective Notice of Appeal.

### **Specification of Error**

*Specification of Error: The Permanent Judicial Commission of the Synod of the Northeast erred in dismissing the case when it ruled that the Notice of Appeal did not state one or more of the grounds for appeal set forth in D-8.0105.*

This specification of error is sustained.

The Notice of Appeal met all requirements of D-8.0202, including the requirement to state the errors of the PPJC that were the grounds for appeal to the SPJC. In its consideration of the preliminary questions, the SPJC was limited by D-8.0301 and D-8.0302 to a consideration of whether the Notice of Appeal met the requirements of D-8.0202e and D-8.0105. The SPJC erred

because it considered the merits of the appeal prematurely and did not limit its decision at this preliminary stage to whether the Notice of Appeal was sufficient. This Commission held in *Daniel J. McKittrick v. The Session of West End Presbyterian Church of Albany, New York, Minutes*, 2003, p. 273, that when a permanent judicial commission is considering a motion to dismiss a case for failure to state a claim upon which relief can be granted, it must assume the truth of the facts alleged. The same standard must be applied when considering on a preliminary basis the factual allegations in a statement of errors contained in a notice of appeal (D-8.0202e). A permanent judicial commission may not dismiss an appeal on jurisdictional grounds under D-8.0301 and D-8.0302 on the basis that the appellant has not “proven” the alleged errors. Rather, a decision to sustain or deny alleged errors is only appropriate after a hearing under D-8.0400 on the merits of the errors alleged.

### **Decision**

This case is remanded to the SPJC for proceedings in accordance with D-8.0303 - .0307 and D-8.0400. In remanding this case to the SPJC, the parties and the SPJC are cautioned that the scope of the appeal is established by the Notice of Appeal of Yun *et al.* Therefore, the SPJC will need to consider whether the PPJC had jurisdiction to address errors alleged to have occurred before and at the congregational meeting, and whether the remedies requested in the appeal can be granted (*see* D-2.0202 and D-6.0200).

### **Order**

IT IS THEREFORE ORDERED that this case is remanded for further proceedings before the Permanent Judicial Commission of the Synod of the Northeast as provided above.

IT IS FURTHER ORDERED that the Clerk of Session of the Korean United Presbyterian Church of New Jersey 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).

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of Newark 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 Stated Clerk of the Synod of the Northeast 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.

### **Concurring Opinion**

I concur in all respects with the majority decision in this case. However, it bears noting that the record in this case, as well as the exchange during the GAPJC hearing, reveal the lack of a common understanding among the parties of the appropriate issues to address at various stages of the appeal. Unfortunately, the SPJC’s dismissal deepened this misunderstanding. Rather than

confining itself to the question of whether the Notice of Appeal stated one or more grounds for appeal as set forth in D-8.0105, the SPJC entertained issues that would have been addressed in a hearing on the merits. This decision, which was likely drafted with helpful intentions, only served to create further confusion.

In a denomination where we value our diversity, we must undertake the challenges presented when we have different cultures and different languages into which Presbyterian “culture” and polity are being translated. I therefore urge governing bodies to appreciate their critical role as “translator” of the *Book of Order* and its implementation at any given stage in cases such as these.

June L. Lorenzo

### 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 Remedial Case 218-08, Hyung K. Yun, Yun Soo Kim, Young Yoon Kim, Kwan Young Lee, Seung G. Ahn, In Bae Chun, Richard Yun, and Kee Ho Lim, Complainants/Appellants v. Session of Korean United Presbyterian Church of New Jersey, Respondent/Appellee entered on July 29, 2007.

Dated this 29<sup>th</sup> day of July, 2007.

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Wendy G. Warner, Moderator  
Permanent Judicial Commission of the General Assembly

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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 30, 2007.

Hyung K. Yun, Committee of Counsel for Appellant  
H.K. Dong, Counsel for Appellee  
Laurin McArthur, Stated Clerk, Newark Presbytery  
Mary Lynn Flowers, Stated Clerk, Synod of the Northeast  
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 30, 2007.

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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, Louisville, Kentucky on July 26-30, 2007, in Remedial Case 218-08, Hyung K. Yun, Yun Soo Kim, Young Yoon Kim, Kwan Young Lee, Seung G. Ahn, In Bae Chun, Richard Yun, and Kee Ho Lim, Complainant/Appellant v. Session of Korean United Presbyterian Church of New Jersey, Respondent/Appellee, 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 30, 2007.

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C. Laurie Griffith  
Manager of Judicial Process and Social Witness