

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

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Janet E. Wolfe, )  
Appellant (Complainant), )  
 )  
v. )  
 )  
Presbytery of Winnebago, )  
Appellee (Respondent). )  
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**DECISION AND ORDER**

Remedial Case 219-04  
(formerly 218-19)

**Arrival Statement**

This remedial case came before the General Assembly Permanent Judicial Commission (GAPJC or this Commission) on an appeal filed by the Appellant Janet E. Wolfe (Wolfe) from a decision of the Permanent Judicial Commission of the Synod of Lakes and Prairies (SPJC) dated March 14, 2008.

**Jurisdictional Statement**

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

**Appearances**

Wolfe was present and represented by Archibald Wallace, III. The Appellee, Presbytery of Winnebago (Presbytery), was represented by David Arey.

**History**

Wolfe is a minister of the Word and Sacrament in the Presbytery. Effective July 31, 2005, Wolfe was honorably retired. Subsequently, she expressed a desire to seek a call and began circulating her Personal Information Form (PIF). In an October 20, 2006, letter from the Presbytery's Executive Presbyter, Wolfe was directed to discontinue circulating her PIF and was encouraged to find secular employment. In January of 2007, Wolfe accepted a pulpit supply position in the Presbytery but was immediately advised by the Committee on Ministry (COM) to resign, which she did. On April 19, 2007, the COM limited the ways in which, and the frequency with which, Wolfe could serve as a minister to a congregation. Following Wolfe's requests to have the limits removed, the COM modified those limits on August 27, 2007.

On October 12, 2007, Wolfe filed a Complaint with the Synod of Lakes and Prairies in which she alleged that the COM had improperly restricted her from fully exercising the office of minister of the Word and Sacrament without a disciplinary hearing or affording her due process.

On December 8, 2007, the officers of the SPJC issued a Preliminary Order, dismissing the Complaint, because the Complaint did not state a claim upon which relief can be granted (D-6.0305d). On January 15, 2008, Wolfe challenged the Preliminary Order under D-6.0306a.

On March 14, 2008, via a conference call, a hearing was held before the SPJC to consider Wolfe's challenge. The SPJC affirmed the Preliminary Order. The case was dismissed on the ground that one of the items in D-6.0305 was answered in the negative, that is, that the Complaint failed to state a claim upon which relief can be granted.

Wolfe filed her Notice of Appeal to the GAPJC on April 11, 2008. The executive committee of the GAPJC found that the GAPJC has jurisdiction, that Wolfe has standing to file the appeal, that the Appeal was properly and timely filed, and that the Appeal states one or more of the grounds for Appeal under D-8.0105. A hearing was held before the GAPJC on July 25, 2008.

### **Specification of Error**

*The SPJC erred by ruling that the Complaint failed to state a claim upon which relief can be granted.*

The specification of error is sustained.

### **Decision**

The issue to be decided by this Commission is whether the SPJC erred in ruling that the Complaint failed to state a claim upon which relief can be granted. In determining whether the Complaint states a claim upon which relief can be granted, the SPJC and this Commission must assume the truth of facts as alleged by Wolfe in the Complaint (*McKittrick v. Session of West End Presbyterian Church, Minutes*, 2003, p. 272).

This Commission must accept Wolfe's allegation that the COM did not report to the Presbytery with a recommendation for action as required by G-11.0502b. Further, both parties conceded that this did not happen.

In *Rice v. Presbytery of Philadelphia, Minutes*, 1996, 12.068, the GAPJC held that "a presbytery clearly has the right and responsibility to approve or disapprove of the ministerial tasks undertaken by its members.... [T]his power should not be exercised arbitrarily." Under *Lewis v. Presbytery of New York City, Minutes*, 1995, 11.066, a presbytery is "obligated to treat all parties fairly and provide them with an opportunity to present their positions. The test is fundamental fairness -- the opportunity to be heard and a consideration of their respective positions without prejudice." Under the *Rice* and *Lewis* standards, there are two disputed issues which the SPJC should have tried: the absence of a COM report and recommendation to

Presbytery; and, whether sufficient opportunities were otherwise provided by the COM for Wolfe to be heard.

In rendering this decision, this Commission concludes that the Complaint states a claim upon which relief can be granted and the SPJC has the authority to grant the relief requested by Wolfe. This Commission makes no determination of the merits of this case or whether Wolfe will be able to prove the facts she alleges in her Complaint.

### **Order**

IT IS THEREFORE ORDERED that the Final Order of the Permanent Judicial Commission of the Synod of Lakes and Prairies dated March 14, 2008, be reversed and this case is remanded for pre-trial and trial proceedings consistent with the *Book of Order*. The Permanent Judicial Commission of the Synod of Lakes and Prairies is also encouraged to explore with Janet E. Wolfe and the Presbytery of Winnebago alternative means to resolve the dispute prior to trial.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of Winnebago report this decision to the Presbytery of Winnebago at its first meeting after receipt, that the Presbytery of Winnebago 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 Synod of Lakes and Prairies report this decision to the Synod of Lakes and Prairies at its first meeting after receipt, that the Synod of Lakes and Prairies 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.

### **Absences and Non-participants**

Commissioner H. Clifford Looney was absent and did not participate in this case. Commissioner Michael Lukens was recused and did not participate in this case.

### **Certificate**

We certify that the foregoing is a true 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 219-04 (formerly 218-19), Janet E. Wolfe, Appellant (Complainant) v. Presbytery of Winnebago, Appellee (Respondent), on July 27<sup>th</sup>, 2008.

Dated this 27<sup>th</sup> day of July, 2008.

Fred L. Denson, Moderator  
Gregory A. Goodwiller, Clerk