

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

Hyung K. Yun, Yoon Soo Kim, Young Yoon)	
Kim, Kwan Young Lee, Seung G. Ahn, In Bae)	
Chun, Richard Yun, and Kee Ho Lim,)	DECISION AND ORDER
Appellants (Complainants),)	
v.)	Remedial Case 219-06
)	
The Session of the Korean United)	
Presbyterian Church of New Jersey,)	
Appellee (Respondent).)	

Arrival Statement

This remedial case came before the General Assembly Permanent Judicial Commission (GAPJC or this Commission) on an appeal filed by Appellants, Hyung K. Yun, Yoon 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 April 25, 2008.

Jurisdictional Statement

This Commission finds that it has jurisdiction, that Yun, *et al.* 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

Yun, *et al.* were represented by Ralph Clingan and Hyung K. Yun. The Session of the Korean United Presbyterian Church of New Jersey (Session) filed a brief, but did not attend oral argument.

History

This case arose from remedial complaints filed by members of the Korean United Presbyterian Church of New Jersey (KUPC) with the Presbytery of Newark Permanent Judicial Commission (PPJC) concerning two congregational meetings held in October, 2005. One complaint alleged irregular actions by the pastor (Pastor) and clerk (Clerk) at the meetings and also alleged that the Clerk had failed to maintain and review accurate membership rolls. A second complaint alleged irregularities against the Session and an elder involving the formation

and election of the church officer nominating committee. A third complaint alleged irregularities and delinquencies at the congregational meetings.

The three complaints were consolidated into a Restatement of the Complaint against the Pastor and Session (Restated Complaint) alleging irregularities and delinquencies at congregational meetings held on October 2 and October 30, 2005, such as involvement of inactive members, inadequate maintenance and availability of membership rolls at the meetings, improper voting procedures, improper formation of the church officer nominating committee, and improper procedures of the nominating committee. Yun *et al.* sought a declaration that the 2005 elections were invalid, that the nominating committee be dissolved and a new committee constituted, and that a new congregational meeting be held for the purpose of electing elders.

The case was tried on April 4, 2006, based on the allegations in the Restated Complaint and in two additional complaints filed on March 20, 2006, regarding certain alleged auditing and financial irregularities. The PPJC issued a Decision on May 8, 2006 (PPJC Decision), reciting all parties' acknowledgment that irregularities and delinquencies had occurred and stating that all parties had agreed to six specific remedies. The PPJC found that the church officer nominating committee had been properly formed. Those persons elected at the congregational meeting were later ordained and installed and have completed their terms of office or have resigned.

Nevertheless, Yun *et al.* appealed the PPJC Decision to the SPJC. 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. Yun *et al.* appealed to this Commission, asserting that the SPJC had improperly dismissed the appeal. On July 27, 2007, this Commission held that the Notice of Appeal stated grounds for appeal and remanded the case to the SPJC. In remanding the case, this Commission directed the SPJC to consider whether the PPJC had jurisdiction over errors alleged to have occurred at congregational meetings and, based thereon, whether relief could be granted. On April 25, 2008, the SPJC held that the PPJC erred in accepting jurisdiction of the case because the complaints were directed toward actions of the congregation and nominating committee, which are not "governing bodies" as defined by G-9.0101. The SPJC set aside the PPJC Decision. Yun, *et al.* appealed the SPJC decision to this Commission.

Specifications of Error

Specification of Error No. 1: The SPJC erred by rejecting the claim that the PPJC erred when it did not set aside the October 2005 elections on the basis of specific irregularities in election procedures.

This specification of error is not sustained.

In response to the request of Yun, *et al.* to set aside the October 2005 elections, the PPJC found that there was no basis to invalidate them. Even if there were, those persons elected have completed their terms, thereby rendering the issue moot.

Specification of Error No. 2: The SPJC erred in rejecting the claim that the PPJC denied access to certain evidence, with the result that the PPJC hastened to an unfair and unjust decision on the basis of insufficient evidence.

This specification of error is not sustained.

The record reflects that all parties had the opportunity to present evidence appropriate to the claims against the Session, as a governing body. Additionally, all parties agreed to the remedies adopted by the PPJC. These remedies were adequate to resolve this case. The Presbytery is encouraged to ensure that the remedies are fully implemented and that all parties honor their agreements.

Specification of Error No. 3: The SPJC erred in finding that no portion of the Restated Complaint alleged irregularities or delinquencies by a governing body, and therefore the PPJC had no jurisdiction.

This specification of error is sustained.

The SPJC correctly stated that remedial complaints can only be filed against governing bodies. To the extent that there are portions of the complaints in this case, including the Restated Complaint, that are addressed to individuals and the congregation generally, the SPJC did not err in finding that the PPJC had no jurisdiction over those complaints.

The PPJC did have jurisdiction, however, to consider those portions of the Restated Complaint alleging irregularities and delinquencies of the Session. The Restated Complaint alleged and the PPJC Decision found that there were irregularities and delinquencies in the acts of the Session. To that extent, the PPJC had jurisdiction and the SPJC erred.

Decision

The Decision of the Permanent Judicial Commission of the Synod of the Northeast is affirmed in part and reversed in part.

Order

IT IS THEREFORE ORDERED that the Decision of the Presbytery of Newark Permanent Judicial Commission is reinstated.

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.

Absences

Commissioner Angel Casarus-Urrutia 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 of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Remedial Case 219-06, Hyung K. Yun, Yoon Soo Kim, Young Yoon Kim, Kwan Young Lee, Seung G. Ahn, In Bae Chun, Richard Yun, and Kee Ho Lim, Appellants (Complainants), v. The Session of the Korean United Presbyterian Church of New Jersey, Appellee (Respondent), made and announced at San Diego, CA on March 2, 2009.

Dated this 2nd day of March, 2009.

Fred L. Denson, Moderator
Permanent Judicial Commission of the General Assembly

Gregory A. Goodwiller, 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 San Diego, CA on March 2, 2009.

Ralph Clingan, for the Appellants
H. K. Dong, Counsel for Appellee
Stated Clerk, Synod of the Northeast
Stated Clerk, Presbytery of Newark
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 March 2, 2009

Gregory A. Goodwiller, 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, in San Diego, CA on March 2, 2009, in Remedial Case 219-06, Hyung K. Yun, Yoon Soo Kim, Young Yoon Kim, Kwan Young Lee, Seung G. Ahn, In Bae Chun, Richard Yun, and Kee Ho Lim, Appellants (Complainants), v. The Session of the Korean United Presbyterian Church of New Jersey, Appellee (Respondent), and that it is the final judgment of the General Assembly of the Presbyterian Church (U.S.A.) in the case.

Dated at San Diego, CA, on March 2, 2009.

C. Laurie Griffith
Manager of Judicial Process and Social Witness

Concurring Opinion of Gregory A. Goodwiller, Judy L. Woods, and Susan J. Cornman

We concur with the foregoing Decision and Order.

Yun *et al.* alleged that the KUPC congregational nominating committee was not properly constituted because a majority of its members were elders and/or deacons in active service.

G-14.0223 requires, in part, that a majority of the members of a congregational nominating committee be individuals who are not “in active service on the session or in active service on the board of deacons.” However, when G-14.0223 was amended in 1990 to include the words, “in active service on the board of deacons,” G-6.0403 had not yet been amended to include the option of individually commissioned deacons who are in active service but are not composed as a “board of deacons.”

The language of G-14.0223 should be amended to account for the limits of service on congregational nominating committees by individually commissioned deacons in active service but who are not on “boards of deacons”, as now permitted by G-6.0403b.

Dated at San Diego, CA, on March 2, 2009.