

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

The Presbyterian Church (U.S.A.) through )		
the Presbytery of Wyoming, )		
Appellee (Complainant), )		<b>DECISION AND ORDER</b>
v. )		
Gordon R. J. King, )		Disciplinary Case 219-07
Appellant (Respondent) . )		

**Arrival Statement**

This disciplinary case came before the General Assembly Permanent Judicial Commission (GAPJC or this Commission) on an appeal filed by the Appellant Gordon R. J. King (King), from a Decision of the Permanent Judicial Commission of the Synod of the Rocky Mountains (SPJC), dated May 7, 2008.

**Jurisdictional Statement**

This Commission finds that it has jurisdiction, that King 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-13.0106.

**Appearances**

King was represented by Elizabeth Dunning. The Presbytery of Wyoming (Presbytery) was represented by Lynne Reade.

**History**

This disciplinary case began on May 5, 2000, with the filing of sixteen charges by an Investigating Committee of the Presbytery against King.

On March 1-2, 2002, a trial was held by the Permanent Judicial Commission of the Presbytery (PPJC). On March 2, 2002, the PPJC delivered a "provisional decision" on the charges, with a finding of guilt on one of the charges, that:

Between October 26 and November 3, 1999, you, Gordon R. J. King, did commit the offense of sexual misconduct in relation to [an 18 year-old female] of Midvale, Utah, in that you sent her a series of e-mail messages containing sexually suggestive language and inappropriate innuendoes. This is also an offense of conduct contrary to Scripture, namely I Timothy 5:1-2: 'Do not speak harshly to an older man, but speak to him as to a father, to younger men as brothers, to older women as mothers, to younger women as sisters – with absolute purity'. (NRSV)

The provisional decision specified the degree of censure as "Rebuke with Supervised Rehabilitation," with the order to attend a career guidance center which is under contract with the Presbyterian Church (U.S.A.) and approved by the PPJC to do an evaluation.

On August 8, 2005, the PPJC sent a letter to King advising him that "further rehabilitation is necessary for you, in the form of long-term individual, and probably group therapy and also spiritual direction, if you want to maintain your ordination in the Presbyterian Church (U.S.A.)," specifying the counselor, and identifying eight areas for counseling.

On September 21, 2006, the PPJC issued a "Final Decision of the Commission" which was read at an open meeting held October 20, 2006. This Final Decision was appealed by King to the SPJC on December 7, 2006.

On May 6, 2008, the SPJC had a hearing, subsequently voted not to sustain any of the specifications of error, and affirmed the PPJC's decision, which is the basis of King's Appeal filed June 19, 2008. This Commission heard the arguments of the parties on February 27, 2009.

### **Specifications of Error**

*Specification of Error No. 1. The SPJC committed injustice in the process and error in constitutional interpretation by misstating King's first specification of error and substituting its own.*

This Specification of Error is sustained.

*Specification of Error No. 2. The SPJC committed injustice in the process and error in constitutional interpretation by:*

- a) *applying an incorrect standard of review and thereby failing to meet its obligation to review the decision of the PPJC; and*
- b) *sustaining the decision of the PPJC convicting King of the charge of sexual misconduct.*

This Specification of Error is sustained.

*Specification of Error No. 3. The SPJC committed injustice in the process and error in constitutional interpretation by sustaining the finding of guilt on the charge of "Sexual Misconduct" made by the PPJC on the basis of the Presbytery's Standard on Sexual and Ethical Conduct (Standard):*

- a) *in the absence of evidence that King had ever been given a copy of the Standard;*
- b) *by relying on provisions of the Standard not relied upon by the PPJC, and*
- c) *by relying on provisions in the Standard that by their express terms were inapplicable to the conduct at issue.*

This Specification of Error is not sustained.

Individuals have the responsibility to know the policies of the governing bodies they serve.

*Specification of Error No. 4. The SPJC committed error in constitutional interpretation by affirming the imposition of supervised rehabilitation that fails to comply with the requirements of Rule D-12.0103 in that it fails to include a clear statement of how progress will be evaluated and how it will be determined when and if the supervised rehabilitation has been satisfactorily completed.*

This Specification of Error is not sustained.

The question raised by this specification of error is moot in light of the determinations stated above.

### **Decision**

Factual determinations made by a trier of fact are accorded a presumption of correctness. Questions of law are not subject to the same deference (*Spahr v. Presbytery of Redwoods, PCUSA Minutes year p 314*). The application of a local standard for conduct (ie., the Standard) does not relieve an appellate body of the obligation to determine whether that or any other legal standard has been properly applied. That determination is a question of law, not a question of fact.

The Record was undisputed and did not support a finding that King engaged in “sexual misconduct” as the term was defined in the Standard and as King was charged in May, 2002. The sections of the Standard on which the PPJC relied, specifically 3 and 5, required proof of misuse of authority and/or power to find that sexual misconduct occurred. The Record did not support such a finding. Because this determination is dispositive in this matter, the PPJC decision is reversed and King’s remaining specifications of error are moot.

### **Order**

IT IS THEREFORE ORDERED that the Decision of the Permanent Judicial Commission of the Synod of the Rocky Mountains is hereby reversed.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of Wyoming 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 Rocky Mountains 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 and Non-participants**

Angel Casusus-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 Disciplinary Case 219-07, Presbyterian Church (U.S.A.) through the Presbytery of Wyoming, Complainant (Appellee) v. Gordon R. J. King, Respondent (Appellant), made and announced at San Diego, CA on March 2, 2009

Dated this 2<sup>nd</sup> day of March, 2009.

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

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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.

Elizabeth Dunning, Counsel for Appellant  
Lynne Reade, Counsel for Appellee  
Stated Clerk, Synod of the Rocky Mountains  
Stated Clerk, Presbytery of Wyoming  
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

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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 Disciplinary Case 219-07, Gordon R. J. King, Respondent (Appellant), v. Presbyterian Church (U.S.A.) through the Presbytery of Wyoming, Complainant (Appellee), 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.

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C. Laurie Griffith  
Manager of Judicial Process and Social Witness

**Dissenting Opinion of Tony Cook, Mary Eleanor Johns, Meta Cramer, William Scheu,  
and Bradley Copeland**

For the reasons stated herein, we respectfully dissent from the majority decision of this Commission. This Commission has previously stated that “judgments of a lower commission have the presumption of correctness and may only be disturbed by a higher court if they are plainly wrong, without support or manifestly unjust” (*Congregation for Reconciliation v. Presbytery of Miami, Minutes 2000 p. 580*).

In the Spahr case, the Respondent was “charged with and found guilty of violating W-4.9001 and the 1991 AI by *performing* "wedding service[s] in the marriage of" two same sex couples.” The GAPJC determined that no violation could have occurred because W-4.9001 does not define marriage to include same sex couples, so it was not possible to conduct such a marriage ceremony by the terms of that definition.

This case is different. The undisputed facts match specific examples of the offense of sexual misconduct contained in the charge on which King was found guilty (“innuendos” and “sexually suggestive language”) listed in item number five of the Presbytery’s Standard on Sexual and Ethical Conduct.

The SPJC decision includes a concern that this standard might be ambiguous. However, our task in this disciplinary action is not to critique the Standard as written by the Presbytery. Our task is to determine whether there is any basis for the PPJC to conclude that the facts in the case constitute a violation of the Standard. We cannot substitute our legal conclusion for that of the PPJC unless we can find that there is no basis for the decision, based on a clear error in matching the facts to the offense charged.