

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

Janet E. Wolfe,)
 Appellant (Complainant),)
)
v.)
)
Presbytery of Winnebago,)
 Appellee (Respondent).)

DECISION AND ORDER

Remedial Case 219-04

Headnotes

1. **Authority of Presbytery:** A presbytery has the authority to address the work of a minister of Word and Sacrament through administrative means.
2. **Notice and Opportunity to be Heard:** When a minister of Word and Sacrament is faced with an administrative proceeding in which the severity of the outcome has the potential to approximate the results of a disciplinary case, the minister shall be furnished fair notice and a reasonable opportunity to be heard on the matter at issue.

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 January 14, 2009.

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 Margaret Zedan.

History

Wolfe, a minister of the Word and Sacrament in the Presbytery, was honorably retired, effective July 31, 2005. Subsequently, she expressed a desire to seek a call and with the encouragement of the Committee on Ministry (COM) began circulating her Personal Information

Form (PIF). After her retirement, Wolfe engaged in various ministerial activities. 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. On April 19, 2007, the COM limited the ways in which, and the frequency with which, Wolfe could perform certain ministerial functions and tasks. On August 27, 2007, following Wolfe's requests to have the limits removed, the COM modified those limits.

On October 12, 2007, Wolfe filed a Complaint with the Synod of Lakes and Prairies in which she alleged that the COM had made the equivalent of a disciplinary finding of wrongdoing and improperly restricted her from fully exercising the office of minister of the Word and Sacrament without a 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 could 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 dismissing her Complaint.

Wolfe appealed the dismissal of her Complaint to the GAPJC. In its Decision dated July 25, 2008, the GAPJC reversed the SPJC Decision, and ordered that the case be remanded to the SPJC for pre-trial and trial proceedings consistent with the *Book of Order*. Additionally, the SPJC was encouraged to explore alternative means of dispute resolution with Wolfe and the Presbytery.

A trial on the original Complaint was scheduled by the SPJC to be held on January 14, 2009. On October 1, 2008, the Presbytery Stated Clerk notified Wolfe of a "special hearing" which was scheduled for November 15, 2008, during a stated Presbytery meeting to "receive the report of the Committee on Ministry on its recommendations regarding the extent and scope of your pastoral ministry." The report and recommendations of the COM were not included in that notification to Wolfe. At that "special hearing," COM's report and recommendations restricting Wolfe's ability to fully exercise the office of minister of the Word and Sacrament were presented and received. However, counsel for the Appellee acknowledged during oral argument that the COM's recommended restrictions were incorrectly communicated to the Presbytery, which resulted in additional restrictions on Wolfe.

In its Decision and Order following the January 14, 2009, trial, the SPJC found in favor of the Presbytery, relying in part upon the special Presbytery hearing of November 15, 2008.

Specifications of Error

This Commission has considered all of the Specifications of Error as presented by the Appellant, but has restated them as follows:

The SJPC erred:

- 1. In finding that the Presbytery, through its COM, could properly restrict or limit Appellant's functions as a Minister of the Word and Sacrament in an administrative proceeding.*

This specification of error is not sustained.

2. *In finding that there was “fundamental fairness” in the proceedings conducted by the Presbytery and its COM.*

This specification of error is sustained.

3. *In considering evidence that occurred subsequent to the actions that were the subject of Appellant’s complaint herein.*

This specification of error is sustained.

Decision

Specification of Error No. 1: A presbytery has the authority to address the work of a minister of Word and Sacrament through administrative means. *Rice v. Presbytery of Philadelphia, Minutes, 2001, p.170*, states: “In light of G-6.0201, G-11.0103k, G-11.0103n, G-11.0103p, G-11.0502b, a presbytery clearly has the right and responsibility to approve or disapprove of the ministerial tasks undertaken by its members, including serving as temporary supply. This power should not be exercised arbitrarily.”

Ministers of Word and Sacrament are members of presbyteries, which “shall designate them to such work as may be helpful to the church in mission, in the performance of which they shall be accountable in the presbytery. They shall be responsible for participation in the larger ministry of the church in addition to the duties to which they are called and designated by the presbytery (G-6.0201).”

Wolfe is accountable to the Presbytery for the performance of her work. Presbytery has the authority to determine how she can be helpful to the mission of the church.

Specification of Error No. 2: The Synod erred in finding that the proceedings of the COM and the November, 2008 hearing conducted by the Presbytery were fundamentally fair. In a letter dated October 1, 2008 Wolfe was informed of a special hearing scheduled for November 15, 2008, at which recommendations would be made “regarding the extent and scope of your pastoral ministry.” At minimum, notice in this case should have included a copy of the COM’s report and recommendations.

Gaba v. Presbytery of Eastern Virginia, Minutes, 2003, p. 269, while concerning the work of an administrative commission which did not have the authority to dissolve a pastoral relationship, is instructive in this case. Wolfe, like Gaba, faced an administrative proceeding by a presbytery in which the severity of the outcome had the potential to approximate the results of a disciplinary case. *Gaba*, at page 271, states:

the specific allegations being made were intentionally withheld from both the pastor and the congregation until the day of the presbytery meeting, thereby depriving them

of the opportunity to prepare a reasoned response to the motion to dissolve. While Presbytery was not obligated to provide a full hearing under G-9.0505d at the meeting, it was obligated to provide the interested parties fair notice and a reasonable opportunity to be heard on the matters at issue.

Like Gaba, Wolfe did not have fair notice because she did not receive the specific recommendations being made about her (in this case by the COM) until the day of the Presbytery meeting.¹ In addition, because her counsel was unable to attend the November, 2008 Presbytery meeting, Wolfe had requested that the hearing be deferred, but that request was refused. That refusal abridged her right to a fair hearing.

Specification of Error No. 3: Prior to the SPJC trial, the Presbytery attempted to cure the deficiencies alleged in the original Complaint by holding a hearing at its November, 2008 meeting. In rendering its Decision, the SPJC improperly considered actions taken by the Presbytery at its November, 2008, meeting which were not the subject of the original Complaint.

Order

IT IS THEREFORE ORDERED that this case be remanded to the Permanent Judicial Commission of the Synod of Lakes and Prairies with instructions to enter an order directing the Presbytery of Winnebago to commence proceedings at a Presbytery meeting no later than December 31, 2009, to determine the restrictions on Wolfe, if any. The Presbytery shall provide Wolfe reasonable, adequate, and timely notice of the meeting, including the proposed restrictions and their rationale, and an opportunity to be heard at the meeting.

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 Angel Casarus-Urrutia was absent and did not participate in this case. Commissioner Michael Lukens was recused and did not participate in this case.

Certificate

¹ This conclusion is consistent with the Authoritative Interpretation on G-9.0505b issued by the 215th General Assembly (2003) (*Minutes*, p. 234).

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 Janet E. Wolfe, Appellant (Complainant) v. Presbytery of Winnebago, Appellee (Respondent), on August 10, 2009.

Dated this 10th day of August, 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 Louisville, Kentucky, on August 10, 2009.

Archibald Wallace, III, Counsel for Appellant
Margaret Zedan, Counsel for Appellee
Stated Clerk of the Synod of Lakes and Prairies
Stated Clerk Pro Tem of the Presbytery of Winnebago
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 August 10, 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, Louisville, Kentucky, on August 10, 2009, in Remedial Case 219-04, Janet E. Wolfe, Complainant/Appellant v. Presbytery of Winnebago, 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 August 10, 2009.

C. Laurie Griffith
Manager of Judicial Process and Social Witness