

certain agreements reached by Thomas and the Church concerning the dissolution. The Complaint sought the following specific relief from the SPJC:

1. Determine that the Church failed to honor the agreements it made that were part of the consideration for the dissolution.
2. Determine that the actions of the Stated Clerk of the Presbytery (Stated Clerk), acting as the agent of the Church and Presbytery, were an abrogation of the powers of the Church and the Presbytery, and were not authorized by the Church or the Presbytery.
3. Determine that the Presbytery committed an irregularity by not preventing the usurpation of its powers and responsibilities by the Stated Clerk.
4. Determine that the Presbytery failed to cure the irregularity of allowing the Stated Clerk to act as he did without specific authority.

Presbytery filed an Answer to the Complaint on July 28, 2010. On August 9, 2010, the officers of the SPJC determined not to accept the case for trial because the Complaint was not timely filed, and it failed to state a claim upon which relief could be granted. On September 9, 2010, Thomas challenged that decision of the SPJC officers. On November 22, 2010, the SPJC as a whole sustained the challenge, stating as to the issue of timeliness that a letter from the Stated Clerk of the Presbytery dated April 15, 2010, was within the 90-day filing period. In rendering that decision the SPJC stated, "Assuming that everything alleged by the Complainant can be proved at trial as true, we find that this case is initiated by the letter of April 15, 2010 ..." The SPJC also said that the action of the Stated Clerk of the Presbytery in writing the April 15, 2010, letter constitutes a "potential irregularity" upon which relief could be granted.

The SPJC trial of this case began on September 12, 2011. After Thomas rested her case, but before Presbytery had begun putting on evidence, Presbytery moved for a "nonsuit" (dismissal) based on timeliness, arguing that Thomas had not proved that any actions complained of occurred within 90 days before the Complaint was filed and that the *Book of Order* required a filing within such period. Thomas then added that, "[T]he 90 days should be counted from the time my contract ended when I sold my house, February 28, 2010."

The SPJC recessed to consider Presbytery's motion, after which it announced that it had voted unanimously "to grant the motion of nonsuit." The SPJC entered its Decision dismissing the case, finding that Thomas "failed to present any evidence of an irregularity that occurred within the 90 day time limit." In doing so the SPJC reconsidered its prior decision and found that Thomas did not prove that the April 15, 2010, letter contained language upon which a complaint could be based, and therefore did not advance the time within which a complaint could be filed.

Subsequently, Thomas filed a Notice of Appeal to this Commission.

Specifications of Error

The Notice of Appeal raised the following Specifications of Error:

1. *There were irregularities in the proceedings (D-8.0105a):*

- a. *Motions were not delivered to Thomas.*
- b. *Thomas did not receive materials made available to others.*
- c. *Thomas was disadvantaged because she was not represented by counsel.*
- d. *Witnesses were not effectively segregated.*

This Specification of Error is not sustained. *See the following Decision.*

2. *There were restrictions on Thomas' ability to provide proper evidence or testimony (D-8.0105c):*
 - a. *A civil court injunction barred Thomas from speaking to the PC(USA).*
 - b. *An irregular and unconstitutional "confidential agreement" was forced upon Thomas by the Church session.*

This Specification of Error is not sustained. *See the following Decision.*

3. *There was a manifestation of prejudice in the conduct of the case (D-8.0105e):*
 - a. *There was no person of color or woman on the SPJC.*
 - b. *The extreme wealth of the Church and the session's willingness to use it in the conduct of the case resulted in a disadvantage and severe financial hardship to Thomas.*

This Specification of Error is not sustained. *See the following Decision.*

4. *There was injustice in the process or decision (D-8.0105f):*
 - a. *It was unjust to require that Thomas end her wage and hour case in civil proceedings while the Church's civil injunction remained in place.*
 - b. *The SPJC erred by not imposing a financial remedy upon the Church.*
 - c. *To make "recommendations" for reconciliation rather than ordering reconciliation makes it difficult for the parties to reconcile.*

This Specification of Error is not sustained. *See the following Decision.*

5. *There was error in constitutional interpretation (D-8.0105g):*
 - a. *The SPJC erred by dismissing the Church from the case.*
 - b. *The SPJC erred by not imposing a financial remedy upon the Church.*
 - c. *The continuing civil injunction against Thomas is an offense to the Constitution.*

This Specification of Error is not sustained. *See the following Decision.*

Decision

This Commission affirms the SPJC Decision that the Complaint was not timely filed and was properly dismissed. The SPJC found that no irregularity occurred within 90 days of the Complaint being filed and that the 90-day period required by the Constitution had expired (D-6.0202a). In doing so, the SPJC reconsidered its prior Decision as to timeliness and concluded Thomas had not proven that the April 15, 2010, letter was an irregularity, and therefore could not advance the date so as to bring it within the 90-day filing requirement. This Commission agrees. Because of the untimely filing of the Complaint, which is jurisdictional, this Commission does not rule on the procedural and substantive claims in the Specifications of Error. Since the *Book of Order's* initial time requirement for filing a remedial complaint in D-6.0202a is jurisdictional, it can be raised at any time prior to a final decision.

None of Thomas' Specifications of Error address the timeliness issue which is jurisdictional. Therefore, none of the Specifications of Error is sustained.

Order

IT IS THEREFORE ORDERED that the decision of the Permanent Judicial Commission of the Synod of the Trinity is hereby affirmed.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Trinity report this decision to the Synod of the Trinity at its first meeting after receipt, that the Synod of the Trinity 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 Presbytery of Philadelphia report this decision to the Presbytery of Philadelphia at its first meeting after receipt, that the Presbytery of Philadelphia 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-Appearances

Commissioner Flor Vélez-Díaz was absent and did not take any part in the deliberations or decision.

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 220-11, Sandra M. Thomas, Appellant (Complainant) vs. the Presbytery of Philadelphia, Appellee (Respondent), made and announced at Indianapolis, IN, on April 29, 2012.

Dated this 29th day of April, 2012.