

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

Gerald J. Larson, Gary L Collins, Rebecca)
B. Prichard, R. Winston Presnall, Margery)
McIntosh, Michal Vaughn, Lucy Stafford-)
Lewis, Julie Richwine, Jerry Elliott, Sara)
McCurdy, Gregory Vacca, Gail Stearns,)
Steve Wirth, Suzanne Darweesh, Jane)
Parker, Darlene Elliott, Frances Bucklin,)
Deborah Mayhew, James McCurdy, Judith)
Anderson, Susan Currie,)
Complainants/Appellants,)
)
)
v.)
)
Presbytery of Los Ranchos,)
Respondent/Appellee.)

DECISION AND ORDER

Remedial Case 221-04

Arrival Statement

This remedial case comes before the General Assembly Permanent Judicial Commission (GAPJC or this Commission) on appeal filed by Appellants, Gerald J. Larson, Gary L. Collins, Rebecca B. Prichard, R. Winston Presnall, Margery McIntosh, Michal Vaughn, Lucy Stafford-Lewis, Julie Richwine, Jerry Elliott, Sara McCurdy, Gregory Vacca, Gail Stearns, Steve Wirth, Suzanne Darweesh, Jane Parker, Darlene Elliott, Frances Bucklin, Deborah Mayhew, James McCurdy, Judith Anderson, and Susan Currie (Appellants), from a Decision of the Permanent Judicial Commission of the Synod of Southern California and Hawaii (SPJC) rendered on May 4, 2012.

Jurisdictional Statement

This Commission finds that it has jurisdiction, Appellants have standing to appeal, the Appeal was properly and timely filed, and the Appeal states one or more grounds for appeal under *Book of Order* D-8.0105.

Appearances

Appellants were represented by Douglas A. Nave and Susan Currie. The Presbytery of Los Ranchos (Presbytery) was represented by Judy L. Woods, H. Neal Wells III, and Emily McColl.

History

On September 15, 2011, Presbytery adopted the following resolution by majority vote (the Resolution):

Moved: That the Presbytery of Los Ranchos adopt the following statement interpreting this presbytery's understanding of certain behavioral expectations of members.

Affirming that 'The gospel leads members to extend the fellowship of Christ to all persons.' (G-1.0302) The Presbytery of Los Ranchos, meeting on September 15, 2011, affirms that the Bible, The Book of Confessions and the Book of Order (including G-2.0104b and G-2.0105 1 & 2) set forth the scriptural and constitutional standards for ordination and installation. Los Ranchos Presbytery believes the manner of life of ordained Ministers should be a demonstration of the Christian gospel in the church and in the world, including living either in fidelity within the covenant of marriage between a man and a woman or chastity in singleness and will so notify candidates for ordination/installation and/or membership in the presbytery. In obedience to Jesus Christ, under the authority of Scripture and guided by our confessions, this presbytery will prayerfully and pastorally examine each candidate's calling, gifts, preparation, and suitability for the responsibilities of office, including a commitment to fulfill all requirements as expressed in the constitutional questions of ordination and installation.

On October 14, 2011, twenty-one members of Presbytery filed a complaint with the Synod of Southern California and Hawaii (Synod), claiming the Resolution was irregular and requesting that Presbytery be ordered to rescind the Resolution. At the same time, Appellants filed with Synod a request for a stay of enforcement of the Resolution, which was granted by the SPJC on October 24, 2011.

The SPJC hearing was held on May 4, 2012, and a Decision and Order was entered which (i) lifted the Stay of Enforcement; (ii) ordered that "[t]he Presbytery of Los Ranchos may proceed as it sees fit to communicate its Resolution to current and future teaching elder members;" and (iii) further ordered that "the Presbytery of Los Ranchos be admonished that while this PJC considers the resolution constitutional, the use of specific language known to be divisive and inflammatory flies in the face of the responsibility to seek the peace, unity, and purity of the church." (Record pg. 32)

A Notice of Appeal and a Request for Stay of Enforcement were filed by Appellants with the GAPJC on May 29, 2012. On June 1, 2012, the GAPJC accepted the appeal and on June 4, 2012, a Stay of Enforcement was granted pursuant to D-6.0103d.

Specifications of Error

Specification of Error No. 1 (Appellants' Specification of Error No. 1): The SPJC failed to address the allegations stated in the Complaint.

This Specification is sustained.

While the SPJC erred in its consolidation of the allegations, such error did not preclude a full consideration of this case and was therefore harmless.

Specification of Error No. 2 (Appellants' Specifications of Error Nos. 3, 4): The SPJC failed to acknowledge the plain meaning and inherent practical effect of the Resolution.

This Specification is sustained. See Decision below.

Specification of Error No. 3 (Appellants' Specifications of Error Nos. 2, 4a, 4b, 6, 7, 8): The SPJC failed to recognize and correct Los Ranchos' improper restatement of the Constitution.

This Specification is sustained. See Decision below.

Specification of Error No. 4 (Appellants' Specifications of Error Nos. 9, 10, 10a): The SPJC erred in its interpretation and application of G-3.0102 and F-3.0209.

This Specification is sustained. See Decision below.

Specification of Error No. 5 (Appellants' Specifications of Error Nos. 4c-h, 10b): The SPJC erred by disregarding the constitutional guarantees of freedom of conscience and concomitant duty to show one another mutual forbearance.

This Specification is sustained. See Decision below.

Specification of Error No. 6 (Appellants' Specification of Error No. 5): The SPJC failed to correct Appellee's defiance of an established position of the church.

This specification is not sustained.

While there was overreaching, there was not deliberate defiance by Presbytery.

Decision

This Commission strongly affirms the right and obligation of an ordaining, installing, and enrolling council, in obedience to Jesus Christ, under the authority of Scripture, and guided by the Confessions, to prayerfully and pastorally examine each candidate's calling, gifts, preparation, and suitability for the responsibilities of office on a case by case basis (G-2.0104b). This Commission further affirms that individual commissioners in assessing persons for ordination on a case by case basis have the freedom to vote their conscience. The mutual forbearance required by F-3.0105 does not preclude the beliefs expressed in the Resolution. Such forbearance is best demonstrated by making ordination, installation, and admission decisions on a case by case basis, after the candidate has been presented and has declared his or her beliefs and stated his or her motives personally and after the examining body has had full opportunity to

judge the individual as well as abstract questions of doctrine. (See Swearingen Commission Report, *Minutes*, PCUSA, 1927, pp. 78-79.)

The issue before this Commission is whether the resolution adopted by Presbytery is an appropriate use of a presbytery's authority in issuing statements that "bear testimony against error in doctrine and immorality in life, resolve questions of doctrine and discipline, give counsel in matters of conscience and decide issues properly brought before them under the provisions of the *Book of Order*." (G-3.0102)

This Decision is informed by *Presbytery of West Jersey v. The Synod of the Northeast* Remedial Case 205-15, 1993). (West Jersey) In *West Jersey*, the Synod of the Northeast adopted two resolutions, one declaring itself to be a More Light Synod and the second urging the Presbyterian Church (U.S.A.) to repent of its sin of homophobia and rescind the definitive guidance of 1978. This Commission determined that the Synod of the Northeast's resolutions constituted an expression of opinion rather than compelling or directing any action. The present case is distinguishable from *West Jersey*, in that in *West Jersey* the resolutions were addressed, or understood to be addressed to the church as a whole, whereas the resolution in the present case is addressed, to "candidates for ordination/installation and/or membership in the presbytery." Herein lies the difference.

This Commission determines, therefore, that by directing the notification specifically to those who would potentially seek admission into Presbytery, the Resolution would have the practical effect of discouraging those seeking ordination or membership prior to the required case by case evaluation or examination. In so doing, Presbytery exceeded its authority and duty to "bear testimony against error in doctrine and immorality in life, resolve questions of doctrine and discipline, give counsel in matters of conscience..." (G-3.0102) and its right and obligation to "nurture the covenant community of disciples of Christ ... includ[ing] ordaining, receiving, dismissing, installing, removing, and disciplining its members who are teaching elders..." (G-3.0301c).

As in *Randall Bush et al. v. The Presbytery of Pittsburgh* (Remedial Case 218-10, 2008) and *Barlow J. Buescher et al. v. The Presbytery of Olympia* (Remedial Case 218-09, 2008), when Presbytery combined current *Book of Order* language from G-2.0104a with former *Book of Order* language G-6.0106b, it created at least a perception of an improper restatement of the *Constitution*. As this Commission stated in both *Bush* and *Buescher*, "[r]estatements of the *Book of Order*, in whatever form they are adopted, are themselves an obstruction to the same standard of constitutional governance no less than attempts to depart from mandatory provisions."

This Commission declares that the Resolution as written is unconstitutional and, therefore, void.

Order

IT IS THEREFORE ORDERED that the Decision of the Permanent Judicial Commission of the Synod of Southern California and Hawaii is reversed, and the Resolution adopted by the Presbytery of Los Ranchos is void.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of Southern California and Hawaii report this decision to the Synod of Southern California and Hawaii at the first meeting after receipt, that the Synod of Southern California and Hawaii enter the full decision upon its minutes and 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 Los Ranchos report this decision to the Presbytery of Los Ranchos at the first meeting after receipt, that the Presbytery of Los Ranchos enter the full decision upon its minutes and 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 Mary Charlotte McCall did not participate in the hearing or deliberations.

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 221-04, Gerald J. Larson, Gary L Collins, Rebecca B. Prichard, R. Winston Presnall, Margery McIntosh, Michal Vaughn, Lucy Stafford- Lewis, Julie Richwine, Jerry Elliott, Sara McCurdy, Gregory Vacca, Gail Stearns, Steve Wirth, Suzanne Darweesh, Jane Parker, Darlene Elliott, Frances Bucklin, Deborah Mayhew, James McCurdy, Judith Anderson, Susan Currie, Appellants (Complainants), v. Presbytery of Los Ranchos, Appellee (Respondent) made and announced at Louisville, KY this 29th day of October 2012.

Dated this 29th day of October, 2012.

Bradley C. Copeland Moderator
Permanent Judicial Commission of the General Assembly

Jay Lewis, 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 Federal Express Next Day Air, directing Joyce Lieberman to deposit it in the mail at Louisville, KY, this 29th day of October, 2012.

Doug Nave, Counsel for Appellant (Complainant)
Judy Woods, Counsel for Appellee (Respondent)
Stated Clerk, Synod of Southern California and Hawaii
Stated Clerk, Presbytery of Los Ranchos

General Assembly Permanent Judicial Commission

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 Joyce Lieberman, on October 29, 2012.

Jay Lewis, 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 Louisville, KY on October 29, 2012, Remedial Case 221-04, Gerald J. Larson, Gary L Collins. Rebecca B. Prichard, R. Winston Presnall, Margery McIntosh, Michal Vaughn, Lucy Stafford- Lewis, Julie Richwine, Jerry Elliott, Sara McCurdy, Gregory Vacca, Gail Stearns, Steve Wirth, Suzanne Darweesh, Jane Parker, Darlene Elliott, Frances Bucklin, Deborah Mayhew, James McCurdy, Judith Anderson, Susan Currie, Appellants (Complainants), v. Presbytery of Los Ranchos, 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 Louisville, KY on October 29, 2012.

Joyce Lieberman, Assistant Stated Clerk