

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

Session of First United Presbyterian Church,)
Tecumseh, Michigan,)
Complainant/Appellant,) **DECISION AND ORDER**
)
v.) Remedial Cases 221-05 & 221-06
)
Maumee Valley Presbytery,)
Respondent/Appellee.)

Arrival Statement

These remedial cases come before the General Assembly Permanent Judicial Commission (GAPJC or this Commission) on appeals filed by Appellant, Session of First United Presbyterian Church of Tecumseh, Michigan (Appellant or Tecumseh). The appeals challenge Decisions of the Permanent Judicial Commission of the Synod of the Covenant (SPJC) to dismiss SPJC Remedial Cases 2012-01 & 2012-02, rendered on July 17, 2012, for failing to meet all of the required *Book of Order* preliminary questions in D-6.0305 and from Appellant's Challenge of the Preliminary Order of Dismissal issued by the Executive Committee of the General Assembly Permanent Judicial Commission (GAPJC-EC) on July 17, 2012.

Jurisdictional Statement

This Commission finds that it has jurisdiction, the Appellant has standing to appeal, the appeals were properly and timely filed, and the appeals state one or more grounds for appeal under *Book of Order* D-8.0105.

Appearances

Appellant was represented by Bruce A. McIntosh. Maumee Valley Presbytery. Respondent was represented by James A. Wilson, Marcy St. John, and James Friedmeyer.

History

In 2007, Presbytery adopted a "Process for Separation" (Dismissal Policy). In May of 2010, Tecumseh unanimously voted to call a congregational meeting to vote on whether to seek dismissal to the Evangelical Presbyterian Church (EPC). Pursuant to the Dismissal Policy, Tecumseh notified Presbytery's Stated Clerk and a Pastoral Team was formed. On September 21, 2010, Presbytery dissolved the Pastoral Team and installed an Administrative Commission.

On October 10, 2010, Tecumseh held a congregational meeting at which the motion to seek dismissal to the EPC was approved.

On April 1, 2012, Tecumseh filed its first remedial complaint with SPJC (SPJC 2012-01 or GA2012-106). Among other specifications of error, Tecumseh alleged that Presbytery erred in failing to abide by its Dismissal Policy. On April 4, 2012, SPJC declined to grant a stay of enforcement.

On May 15, 2012, Presbytery voted that First United Presbyterian Church (First Church) was in schism. Presbytery voted to treat those wishing to remain within the Presbyterian Church (U.S.A.) as the "Foundation Group" and to direct Presbytery's support to that group.

On May 23, 2012, Tecumseh filed a second remedial complaint (SPJC 2012-02 or GA2012-107), reiterating the first remedial complaint and adding an allegation that Presbytery erred in declaring First Church to be in schism and in dividing it without consultation with its members. On June 4, 2012, SPJC issued a stay. Presbytery objected and a hearing was held on June 28, 2012, at which SPJC voted to lift the stay subject to certain modifications. Tecumseh appealed this action to GAPJC and on July 17, 2012, GAPJC-EC rejected the appeal stating that only final decisions are subject to appeal. On August 10, 2012, Tecumseh filed a Challenge to GAPJC-EC's Preliminary Order.

On July 17, 2012, SPJC dismissed both SPJC 2012-01 and SPJC 2012-02 on the grounds that both failed to "state a cause on which relief can be granted." Tecumseh filed notice of appeal to GAPJC on both matters on July 31, 2012.

On August 3, 2012, GAPJC-EC accepted the appeals. On August 16, 2012, GAPJC-EC found Appellant had properly challenged the GAPJC-EC's July 17, 2012, Preliminary Order that rulings prior to final decisions cannot be appealed.

Specifications of Error

Specification of Error No. 1: (Appellant's Specification of Error #1, GA2012-106; Appellant's Specification of Error #1 and #7, GA2012-107). SPJC erred in dismissing SPJC Cases 2012-01 and 2012-02 for failing to state a claim upon which relief could be granted by refusing Appellant a reasonable opportunity to be heard or to obtain or present evidence (D-8.0105b), hastening to a decision before the evidence or testimony is fully received (D-8.0105d), causing an injustice in the process or decision (D-8.0105f), and erroneous constitutional interpretation (D-8.0105g);

This specification is not sustained.

Specification of Error No. 2: (Appellant's Specification of Error #2, GA2012-107). SPJC erred in constitutional interpretation (D-8.0105g) in both terminating and modifying the terms of the stay issued in SPJC Case 2012-02;

This specification is not sustained.

Specification of Error No. 3: (Appellant's Specification of Error #3, GA2012-107). SPJC's decision to lift the stay issued in SPJC Case 2012-02 resulted in an unjust decision (D-8.0105f);

This specification is not sustained.

*Specification of Error No. 4: (Appellant's Specification of Error #4, GA2012-107).
SPJC erred by receiving improper evidence (D-8.0105c) in its hearing on the Motion to Challenge the Stay of Enforcement in SPJC Case 2012-02;*

This specification is not sustained.

*Specification of Error No. 5: (Appellant's Specification of Error #5, GA2012-107).
SPJC exceeded its constitutional authority to modify, terminate, or continue a stay (D-6.0103g) when it acted to “lift with modifications” the stay issued in SPJC Case 2012-02;*

This specification is not sustained.

*Specification of Error No. 6: (Appellant's Specification of Error #6, GA2012-107).
SPJC exceeded its constitutional authority to modify, terminate, or continue a stay (D-6.0103g) when it included in its Decision in SPJC Case 2012-02 positive injunctive relief “[prohibiting] the existing Session and/or newly elected officers ... from meeting outside the presence of the Administrative Commission; and ordering existing officers, staff and pastor to immediately provide the Administrative Commission with all documents, minutes and financial records requested in the past or which may be requested in the future;”*

This specification is not sustained.

Appellant's Challenge to the Preliminary Order of the GAPJC-EC of July 17, 2012.

This challenge is not sustained.

Decision

The central focus of these two cases is a review of the decisions of SPJC to dismiss the Complaints on the preliminary question of failure to state a claim upon which relief could be granted (D-6.0305d). Upon review of the Complaints and the record and in the absence of sufficiently pleaded constitutional irregularities, this Commission concurs with SPJC that Appellant failed to state any claim upon which relief could be granted. [See *Anderson, et. al., v. Pby of Scioto Valley, Minutes*, 1998, p. 134, 12.0106]

This Commission notes that the record does not include transcripts from any of the hearings conducted by SPJC. Thus, this Commission has no ability to review additional information that SPJC may have considered in making its determination to dismiss.

Because of the above Decision, this Commission finds that it does not need to reach the issues concerning the stays of enforcement and appeals on rulings prior to final decisions.

Order

IT IS THEREFORE ORDERED that the Decisions of the Permanent Judicial Commission of the Synod of the Covenant are hereby sustained, and the cases are dismissed.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Covenant report this Decision to the Synod of the Covenant at its first meeting after receipt, that the Synod of the Covenant 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 Maumee Valley report this Decision to the Presbytery of Maumee Valley at its first meeting after receipt, that the Presbytery of Maumee Valley 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

The full Commission participated in this Decision.

Concurring Opinion of Clifford Looney, Barbara Bundick, Michael Lukens, and Robin Roberts

The majority opinion reaches the correct result for this case. The language, “in the absence of sufficiently pleaded constitutional irregularities” is, however, suggestive that the Complaints involved could have been formulated to successfully state a claim. That result would not have been possible on the facts alleged, which we must consider to be correct for the purpose of this decision.

The parties apparently agree that the primary question is whether the Presbytery could reject the work of the Pastoral Committee, appoint an Administrative Commission with original jurisdiction which could declare a schism, and identify the “true Church,” contrary to the wishes of the majority of the congregation. The Presbytery clearly can (G-3.0301a) and did. Alleging that they did what they have the power to do does not state a claim upon which relief can be granted. That legal status of our polity ends the inquiry.

The decision of the SPJC is correct and should be affirmed.

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 221-05 and 221-06, Session of First United Presbyterian Church of Tecumseh, Michigan, Complainant/Appellant, v. Maumee Valley Presbytery, Respondent/Appellee made and announced at Louisville, KY this 1st day of June 2013.

Dated this 1st day of June 2013.

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 C. Laurie Griffith to deposit it in the mail at Louisville, KY this 1st day of June 2013.

Bruce McIntosh, Counsel for Appellant
James A. Wilson, Counsel for Appellee
Stated Clerk, Synod of the Covenant
Stated Clerk, Presbytery of Maumee Valley
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 C. Laurie Griffith, on June 1 2013.

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 June 1, 2013, in Remedial Case 221-05 and 221-06, Session of First United Presbyterian Church of Tecumseh, Michigan, Complainant/Appellant, v. Maumee Valley Presbytery, 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, KY on June 1, 2013.

C. Laurie Griffith
Manager of Judicial Process and Social Witness