

On July 9, 2013, the moderator and clerk of the PPJC dismissed Appellant's remedial complaint, finding Appellant failed to state a claim upon which relief could be granted. Appellant challenged the dismissal to the full PPJC. On September 29, 2013, the PPJC upheld the ruling of the moderator and clerk and dismissed the complaint.

On October 2, 2013, Appellant appealed the PPJC decision to the SPJC. On March 10, 2014, the SPJC affirmed the decision of the PPJC. Appellant filed a Notice of Appeal with the GAPJC dated April 16, 2014.

Specifications of Error

There are six (6) specifications of error raised by the appeal, most with sub parts. The SPJC correctly exercised proper authority in rewriting Appellant's specifications of error pursuant to D-8.0404d. However, this Commission has elected to repeat below the specifications of error in substantially the same language drafted by Appellant.

1. *The SPJC erred with irregularities in its proceedings (D-8.0105a) by:*

- a. Failing to recognize the minimum standards necessary for the Appellant to state a claim upon which relief may be granted;*
- b. Failing to address each of the allegations of irregularities or deficiencies stated in the complaint and appeal;*
- c. Failing to abide with the duty to conciliate and mediate (D-1.0103);*
- d. Failing to allow the Appellant needed time to organize papers after the Stated Clerk of the Synod of South Atlantic dumped the Appellant's materials;*
- e. Failing to properly report about Appellant's oral argument regarding witnesses; and*
- f. Failing to properly support its finding that the Appellant was denied the final argument at the September 29, 2013 Presbytery PJC hearing.*

This specification is not sustained. See Decision below.

2. *The SPJC erred by refusing a party reasonable opportunity to be heard or to obtain or present evidence D-8.0105b by:*

- a. Failing to recognize the importance and relevance for Appellant to have a reasonable opportunity to present witness testimony;*
- b. Failing to properly report about Appellant's oral argument regarding witnesses; and*
- c. Failing to provide Appellant an opportunity to be heard within the guidelines and safeguards of a trial procedure permitting all facts and testimony to be heard and decided upon.*

This specification is not sustained. See Decision below.

3. *The SPJC erred by receiving improper, or declining to receive proper evidence or testimony, hastening to a decision before the evidence or testimony is fully received (D-8.0105c and d) and by failing to allow Appellant an opportunity to present witness testimony.*

This specification is not sustained. See Decision below.

4. *The SPJC erred in the manifestation of prejudice in the conduct of the case D-8.0105e by:*

- a. The failure of each member of the SPJC to carefully review and consider the record of appeal, briefs submitted by the parties, arguments and evidence;*
- b. Failing to apply the minimal standard of a stated claim to Appellant; and*

c. *Failing to properly characterize the motivation and intent of Appellant's actions.*

This specification is not sustained. See Decision below.

5. *The SPJC erred through injustice in the decision D-8.0105f by:*

- a. *Failing to acknowledge the plain meanings of support, nurture, justice and dignity afforded offended members, and the purpose and process of church discipline;*
- b. *Failing to acknowledge the inherent practical effect of denying an opportunity to resolve the fundamental issues contained within the original complaint and appeal;*
- c. *Failing to provide specific or substantive justification determining how being denied rebuttal testimony was harmless;*
- d. *Failing to comprehend how the session has adamantly resisted explaining to Appellant why neither discreet pastoral care, informal, nor formal charges were not pursued by the session in over three (3) years; and*
- e. *Failing to address the PPJC's error that the conduct and behaviors of non-members may not be ministered and witnessed to under pastoral care.*

This specification is not sustained. See Decision below.

6. *The SPJC erred in constitutional interpretation D-8.1050g by:*

- a. *Erroneous interpretation and application of the duty to conciliate and mediate D-1.0103;*
- b. *Failing to acknowledge and remedy the complaint's and appeal's plain irregularities and effects;*
- c. *Failing to acknowledge that session restatements of the Constitution are inherently damaging and unlawful;*
- d. *Erroneous interpretation and application of denying Appellant support, nurture, justice and dignity per the Book of Order;*
- e. *Erroneous interpretation and application because a false statement may be harmless in this specific case that the dishonest statement does not need to be addressed; and*
- f. *Erroneous interpretation and application of the meaning "renunciation of jurisdiction."*

This specification is not sustained. See Decision below.

Decision

After consideration of the record of the case, this Commission finds that Appellant does not state a claim upon which relief can be granted. In arriving at this conclusion, this Commission must assume the truth of all facts alleged in the complaint and then determine whether those assumed facts warrant any relief. See, *McKittrick vs. The Session of West End Presbyterian Church of Albany, New York, Minutes, 2003, pp. 272-274.*

Within our polity, certain responsibilities, and the power to implement those responsibilities, are assigned to councils. A council has the authority to act or not act in matters within its discretion. A delinquency may arise when a council fails to act when it is required to act under the Constitution. However, a council does not commit a delinquency when it refrains from exercising its power in discretionary matters, nor does a council commit a delinquency when it exercises its best judgment in a manner other than a member might wish. See, *Montreat vs. General Assembly Council, Minutes, 2002, p. 346.* The Session of Morrow Presbyterian Church was not delinquent in failing to act in accordance with Appellant's directives. Appellant's interpretation of the scope of the Rules of Discipline and the meaning of pastoral care do not create an obligation on the part of the Session to act as requested nor do they constitute a delinquency or irregularity if the Session fails so to act.

Appellant acknowledges that his former spouse is no longer a member of Morrow Presbyterian Church. Although there is some question in the record about how to characterize her departure, the resignation from membership was accepted by the Session. A former member of a congregation is no longer subject to either the jurisdiction of the Session or the Rules of Discipline, regardless of how the withdrawal from membership is characterized.

Further, although Appellant appealed from the April 28, 2013, letter from Appellee informing Appellant that his membership and ordination would “be revoked” if he persisted in work which disrupted the peace and harmony of the church, Appellant has, in fact, not been removed as a ruling elder or as a member of the Morrow Presbyterian Church. Because no such action has been taken, Appellant has failed to state a claim for which relief can be granted. Appellant’s other claims do not arise out of the delinquency of which Appellant complained: the April 28, 2013, letter.

Order

IT IS THEREFORE ORDERED that the Decision of the Synod of the South Atlantic Permanent Judicial Commission is upheld and this case is dismissed for failure to state a claim upon which relief can be granted.

IT IS FURTHER ORDERED that the Clerk of the Session of Morrow Presbyterian Church report this Decision and Order to the Session at its first meeting after receipt, that the Session 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 Presbytery of Greater Atlanta 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 South Atlantic 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-Appearances

Commissioners Barbara Bundick and Maurice Caskey were not present and 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 Appeal 222-01, Vern Richard Buck, Jr. Appellant (Complainant), v. the Session of the Morrow Presbyterian Church, Appellee (Respondent) made and announced at Louisville, KY this 4th day of October 2014.

Dated this 4th day of October, 2014.