

MINUTES OF THE GENERAL ASSEMBLY

At this time, Cases 2018-01, 2019-01 and 2019-02 are being considered by panels. The SJC has completed its work on Cases 2018-02, 2018-03, 2018-04, 2018-05 and 2018-06. The report on those cases follows.

III. REPORT OF THE CASES

Case 2018-02
ANNA LEWIS

v.

PRESBYTERY OF THE MISSISSIPPI VALLEY

BCO-40-5 REPORT

February 7, 2019

The *BCO* 40-5 filing with the SJC is out of order.

The only responsibility the SJC has with respect to Chapter 40 is upon referral of a matter from the General Assembly according to *RAO* 16-10.c. and as administered under Chapter 15 of the *OMSJC*.

The SJC notes the Record does not contain evidence that the Session provided Mrs. Lewis with notice of its action erasing her name from the roll (*BCO* 38-4). If this notice was not properly given, Mrs. Lewis remains a member in good standing of the church in question, unless she has joined another church.

Bankson, <i>Concur</i>	Duncan, <i>Concur</i>	Meyerhoff, <i>Concur</i>
Bise, <i>Concur</i>	Ellis, <i>Concur</i>	Neikirk, <i>Concur</i>
Cannata, <i>Concur</i>	Evans, <i>Concur</i>	Nusbaum, <i>Dissent</i>
Carrell, <i>Concur</i>	Fowler, <i>Dissent</i>	Pickering, <i>Dissent</i>
Chapell, <i>Concur</i>	Greco, <i>Concur</i>	Terrell, <i>Concur</i>
Coffin, <i>Concur</i>	Jones, <i>Concur</i>	Waters, <i>Disqualified</i>
Donahoe, <i>Dissent</i>	Kooistra, <i>Concur</i>	White, <i>Concur</i>
Dowling, <i>Dissent</i>	McGowan, <i>Concur</i>	Wilson, <i>Dissent r</i>

(17 concurring, 6 dissenting, 1 disqualified)

TE Waters disqualified himself, as he is a member of the Presbytery which is a party to the case. *OMSJC* 2.10(d)(3)(iii).

CONCURRING OPINION

RE Dan Carrell
joined by TE Bryan Chapell

Having voted last month to concur with the Commission's Decision in this case, but with reservations then in mind, I now submit this brief Concurring Opinion. My vote stemmed from the final paragraph of the Decision; my reservations related to the first two paragraphs.

Having read the Dissenting Opinions, I found their thoughtful critique to strengthen my reservations. Thus, if another *BCO* 40-5 report comes directly to the SJC, in a manner similar to that of the instant case, I will urge the SJC to consider carefully the Dissenting Opinions in this case before reaching a decision in the new case.

Of course, if the *Rules of Assembly Operations* are amended as suggested by the Dissenting Opinions, what those Opinions offer will have become academic.

DISSENTING OPINION

RE Howie Donahoe,
joined by RE Steve Dowling, RE EJ Nusbaum, RE John Pickering,
RE Jack Wilson, and TE Paul Fowler

We respectfully dissent because the SJC could have continued adjudicating this Case. At the same time, we concede the interpretive issue is a bit complicated. A clarifying suggestion is offered at the end of this Opinion.

The *BCO* does not prohibit the SJC from directly adjudicating a *BCO* 40-5 report. In fact, the SJC has exercised direct jurisdiction over several such reports in the past.¹ The *BCO* commits such matters to the SJC, both directly (*BCO* 15-4 and *RAO* 17-2) and indirectly (*RAO* 16-10.c).

BCO 15-4 The General Assembly shall elect a Standing
Judicial Commission to which it shall commit all matters

¹ Examples of *BCO* 40-5 Cases directly received by the SJC: 2013-08, 2015-05, 2015-09, 2015-10, 2017-04, 2017-05, 2017-08, 2017-09, and especially 2016-02: *Central Carolina v. Louisiana*.

MINUTES OF THE GENERAL ASSEMBLY

governed by the Rules of Discipline, except for the annual review of Presbytery records, which may come before the Assembly.²

Case Background: The Session removed Ms. Lewis from church membership, purportedly because it believed she had "made it known that she had no intention of fulfilling the church vows" citing *BCO* 38-4. While the Record indicated the Session previously informed her it planned to do so, she claimed the Session misinterpreted her intention, and also, never gave the post-removal notification required by *BCO* 38-4. (There is no record of any such notification in the 48-page Record.) She eventually filed a *BCO* 40-5 letter to Presbytery (rather than filing a Complaint with the Session), claiming the Session had incorrectly assessed her intention and that she didn't learn of the actual removal until after the 60-day complaint filing period had expired. Presbytery granted the 40-5 review but ruled the Session had not erred. She then sent a 40-5 report to the General Assembly asserting that Presbytery was culpable of an important delinquency for failing to rule the Session erred. The PCA Clerk forwarded her report to the SJC, the officers found it in order, and a Panel held a hearing and filed a proposed decision. It was not until the SJC discussion on the Panel's proposed decision that the SJC ruled the matter out of order.³

The SJC ruling is below:

The *BCO* 40-5 filing with the SJC is out of order. The only responsibility the SJC has with respect to Chapter 40 is upon referral of a matter from the General Assembly according to *RAO* 16-10.c and as administered under Chapter 15 of the *OMSJC*.⁴

² A *BCO* 40-5 report like Ms. Lewis's is not reasonably foreseen in the phrase, "annual review of Presbytery records." Interpretation of this phrase will be addressed later in this Dissent

³ This Dissent does not address merit or lack of merit in Ms. Lewis's report.

⁴ The SJC Decision also included the following: "The SJC notes the Record does not contain evidence that the Session provided Mrs. Lewis with notice of its action erasing her name from the roll (*BCO* 38-4). If this notice was not properly given, Mrs. Lewis *remains a member in good standing* of the church in question, unless she has joined another church." (Emphasis added.). In that statement, the SJC surprisingly seems to adjudicate an important issue in the case. One might assume the parties would reasonably conclude that the SJC has issued some sort of ruling on the membership question. But if the SJC has no initial jurisdiction over a *BCO* 40-5 report, then such a statement seems out of place.

Interpretations

The hermeneutical route one must travel to arrive at the Decision's procedural interpretation is a circuitous one, and a bit circular, in which a series of specific interpretations must be made for several provisions, five of which are addressed below.

1. *BCO* 40-5
2. *RAO* 15-4
3. *RAO* 16-10.c
4. *RAO* 17-2
5. *OMSJC* 15.1

(For a 22-year legislative history involving, or leading to, these five sections, see [here](#).⁵)

In 1987, the recommendation to create the SJC was proposed to the GA. 2009 was the last year any substantive revisions were made to any of these five provisions.)

1. The Decision interprets *BCO* 40-5 *too narrowly*.

BCO 40-5. When any court having appellate jurisdiction shall receive a credible report with respect to the court next below of any important delinquency or grossly unconstitutional proceedings of such court, the first step shall be to cite the court alleged to have offended to appear before the court having appellate jurisdiction, or its commission, by representative or in writing, at a specified time and place, and to show what the lower court has done or failed to do in the case in question.

The court thus issuing the citation may reverse or redress the proceedings of the court below in other than judicial cases; or it may censure the delinquent court; or it may remit the whole matter to the delinquent court with an injunction to take it up and dispose of it in a

⁵ <https://docs.google.com/document/d/1qdJKt-MArYtzw64pgvvZXC7TvS6N2ufII3q5vVWkETk/edit?usp=sharing>

constitutional manner; or it may stay all further proceedings in the case; as circumstances may require.

This broadly-worded section doesn't stipulate how GA first addresses such reports. The phrase, "the court having appellate jurisdiction" could refer to the full General Assembly (perhaps through its Committee on Review of Presbytery Records) or to the GA's standing commission - the SJC. The interpretation that it can't refer to the SJC must be imported from elsewhere.

The Decision seems to hold that everything in *BCO* Chapter 40 is under RPR's initial authority. But the Chapter seems to broaden as it moves from the first paragraph to the fifth. So, when it gets to 40-5, it seems to be describing something that reasonably falls outside the definition of "annual review of Presbytery records" (a phrase discussed later). The most recent change to *BCO* 40-5 was made in 2006, and it is addressed in the next section.

2. The Decision interprets the exception clause in *BCO* 15-4 *too broadly*.

BCO 15-4. The General Assembly shall elect a Standing Judicial Commission to which it shall commit all matters governed by the Rules of Discipline, *except for the annual review of Presbytery records*, which may come before the Assembly. . . .⁶

The Decision interprets the italicized phrase as if the annual review includes jurisdiction over everything that might happen in a Presbytery (besides complaints and appeals). But the "annual review" now occurs each May when RPR meets in Atlanta. The Decision's interpretation would have merit if, instead, the clause was, "except for any and all matters that arise from *BCO* Chapter 40." But the Decision's broad interpretation can't come from our present clause itself, and it is doubtful that is how the clause was understood by men who adopted it in 2005-2006. Here's some history.

Fourteen years ago, in 2005, the Ad Interim Strategic Planning Committee proposed several revisions to the *BCO* and *RAO*. Below

⁶ Emphasis is added here, and throughout this Opinion, unless noted as "original."

are the changes proposed by the AISPC to *BCO* 15-4 and *BCO* 40-5, followed by the AISPC's rationale for each.

BCO 15-4. The General Assembly shall elect a Standing Judicial Commission to which it shall commit all ~~judicial cases within its jurisdiction~~ matters governed by the Rules of Discipline, except for the annual review of Presbytery records, which may come before the Assembly." (*M33GA*, p. 407 and *M34GA*, p. 45)

AISPC Rationale to GA (also included in package sent to the Presbyteries): "Proposed change makes clear that not just "judicial cases," a narrower category, *but all matters of discipline, a broader category*, are to be referred to the SJC."

BCO 40-5 (first sentence): "When any court having appellate jurisdiction shall ~~be advised, either by the records of the court next below or by memorial, either with or without protest, or by any other satisfactory method,~~ receive a credible report with respect to the court next below of any important delinquency or grossly unconstitutional proceedings of such court, the first step shall be to cite the court alleged to have offended to appear before the court having appellate jurisdiction, or its commission, by representative or in writing, at a specified time and place, and to show what it has done or failed to do in the case in question." (*M33GA*, pp. 184, 186 and *M34GA*, pp. 57-58).

AISPC Rationale to GA (also included in package sent to the Presbyteries): "Proposed change simplifies the language of the antecedent in the conditional, and allows for the use of a commission, in anticipation of a proposed amendment to "RAO" 14-10.c. establishing a judicial procedure *to settle the question of the disputed exceptions alleged under General Assembly review of presbytery records.*"⁷

Granted, the AISPC's rationale was not proposed for adoption, and there could have been several different reasons why men voted for this change at the 2005 GA, and then in the Presbyteries and at the

⁷ "RAO 14-10.c" referred to what is now *RAO* 16-10.c.

2006 GA. But given the AISPC rationale, it's hard to conclude that men would have seen these changes as resulting in *all* BCO 40-5 reports being assigned to RPR rather than the SJC. (Note: These two changes, and the several others proposed by the AISPC to the 2005 Chattanooga GA, were presented as being "not amendable" from the floor.)

The determinative question for interpreting statutes and constitutional provisions should be this: *What was the meaning of the words at the time they were adopted?* Other factors are less important, like the intent of those drafting or proposing the words, or the intent of the men voting for them (even if those intentions could be determined), or any subsequent legislation related to the words. So, again, it's hard to conclude that men would have understood these revisions as prohibiting the SJC from having *any* direct jurisdiction over *any* BCO 40-5 reports.⁸

In addition, because BCO 15-4 employs the phrase, "annual review of Presbytery records," it is worth assessing RAO Chapter 16: *Review of Presbytery Records*. In that chapter, the first two paragraphs describe the RPR's mission, but *only* cite BCO 40-1 and 40-2.

RAO 16-1. It is the right and duty of the General Assembly to review, at least once a year, the records of the presbyteries of the Presbyterian Church in America (BCO 40-1 and 2).

RAO 16-2. General Assembly carries out this review through its Committee on Review of Presbytery Records.

It is not until the final paragraph of RAO 16 that there is any reference to BCO 40-5, and the reference only pertains to how GA would handle repeated, unsatisfactory responses to exceptions of substance arising from RPR's review of minutes.

⁸ Associate Justice Antonin Scalia on interpretation - "*It seems to me the inevitable demonstration that the only sensible way to construe a constitution is the way you construe statutes. What did its words mean when they were adopted?*" Judicial Adherence to the Text of our Basic Law: A Theory of Constitutional Interpretation, a speech at Catholic Univ. of American, October 18, 1996. Scalia again - "*Our manner of interpreting the Constitution is to begin with the text, and to give that text the meaning that it bore when it was adopted by the people.*" Constitutional Interpretation the Old-Fashioned Way, delivered at the Woodrow Wilson International Center for Scholars, Washington, D.C., March 14, 2005.

3. The Decision interprets *RAO 16-10.c too broadly.*

RAO 16-10.c If, in responding to an exception of substance, a presbytery reports that it disagrees with the conclusion of the Assembly and/or has not corrected or redressed the identified problem; and, the committee . . . continues to believe that the presbytery has persisted in an error that is significant enough to require an Assembly response; then, the committee shall notify the Assembly of the continuing exception, and shall make recommendation as to whether the Assembly should again seek a more acceptable response from the presbytery, or should appoint a representative to present its case and *refer the matter to the Standing Judicial Commission to cite the presbytery to appear for proceedings according to BCO 40-5.*

RAO 16-10.c specifically addresses what happens if there have been repeated, unsatisfactory responses to a GA citation pertaining to a presbytery's minutes. It does not address *BCO 40-5* reports generally. There is no implication this is the *only* way the SJC could ever get jurisdiction over a *BCO 40-5* matter. It is just one of the ways - and this is crucial. SJC could get direct and immediate jurisdiction over a letter like Ms. Lewis's, *or*, it could get indirect jurisdiction if the matter was discovered during the annual review of presbytery records and RPR recommended that GA cite the presbytery to appear before the SJC per *RAO 16-10.c* and SJC Manual Chapter 15.

4. The Decision interprets *RAO 17-2 too narrowly.*

RAO 17-2. With respect to the Rules of Discipline, any reference (*BCO 41*), appeal (*BCO 42*), complaint (*BCO 43*), *BCO 40-5 proceeding*, or request to assume original jurisdiction (*BCO 34-1*) made to the General Assembly shall be assigned to the Standing Judicial Commission for adjudication.

The Decision requires us to interpret "*BCO 40-5 proceeding*" as *only* pertaining to a matter delivered to the SJC through a GA citation arising from an RPR recommendation, i.e., *only* an *RAO 16-1.c* referral. It requires the noun "*proceeding*" to be understood in a

narrow and exclusive way. But the narrow interpretation presupposes a broad interpretation of *RAO* 16-10.c and a narrow interpretation of *RAO* 15-4 and *BCO* 40-5.

The noun "proceeding" should be, or at least could be, understood more broadly. For example, *SJC* Manual 2-10.d says, "A member shall disqualify himself in any *proceeding* in which the member's impartiality might reasonably be questioned, including but not limited to the following circumstances . . ."

5. The Decision interprets *SJC* Manual 15.1 *too narrowly*.

OMSJC Chapter 15: Procedure for Hearing a Report Arising Out of General Review and Control (*BCO* 40; *RAO* 16-10.c)

15.1 A Report arising out of General Review and Control is one which purports to demonstrate an important delinquency or grossly unconstitutional proceeding of a lower court (*BCO* 40-5). When such a Report is submitted to the Commission, it shall be first handled according to *OMSJC* 9, as applicable.

Again, this paragraph describes *one way* a *BCO* 40-5 report could get to the *SJC*, that is, via *RPR* and a referral from *GA* as the result of a presbytery's repeated unsatisfactory responses. In other words, the parenthetical reference to *RAO* 16-10.c in the title indicates *one way* the *SJC* might receive such a report. But the reference to *BCO* 40 in the same parenthetical can only be interpreted to restrict review only to the *RPR* path if one has already concluded all *BCO* 40 matters must first go to *RPR*. But that is circular reasoning, and an interpretation that must be imported into *OMSJC* 15.1.

This quick review demonstrates that several specific (and disputable) interpretations must each be made in order to reach the interpretation in the Decision.

Precedent

We realize the *SJC* is not necessarily bound by precedent in the same way civil appellate courts might be. But the principle of *stare decisis* is sound nonetheless, partly because it helps ensure consistency and predictability.

And judicial precedent should not be set aside without clear and important justification.

Some legal commentators argue that overruling incorrect precedents "may occasionally be necessary to rectify egregiously wrong or unworkable decisions or to account for change in the Court's or society's understandings of the facts underlying a legal issue."⁹ But in our present Case, there was no unworkable or egregiously-wrong prior decision the SJC needed to overrule. And regardless, when an appellate court like the SJC chooses to overrule precedent we might expect a more thorough explanation for why it does so.

It is not unworkable for the SJC to directly adjudicate a *BCO* 40-5 report, and it was relatively simple in this present Case (up until the full SJC discussion on the Panel Report.)¹⁰

Case 2006-02: *Central Carolina v. Louisiana*. (M36GA, pp. 75-83) An earlier footnote in this Dissent cited nine cases in which the SJC accepted immediate and direct jurisdiction of a *BCO* 40-5 report referred by the PCA Clerk. We focus here on just one, and in *Central Carolina*, the SJC accepted direct jurisdiction of a 40-5 letter (and did not rule it should go to RPR first).

Central Carolina alleged in a letter to the PCA that Louisiana was culpable of an "important delinquency" regarding a particular minister in its bounds. Central Carolina asked the SJC "to assume original jurisdiction over the investigation of [the minister's] teaching [per *BCO* 34-1]," but added the following as the final paragraph of its letter.

Additionally, in the event that the Standing Judicial Committee declines to accept original jurisdiction over the investigation [the minister's] teaching, then the Central Carolina Presbytery hereby

⁹ Quote from report in Congressional Research Service. Accessed March 15, 2019. <https://www.everycrsreport.com/reports/R45319.html>

¹⁰ And though not a *constitutional* argument, RPR is far less suited to handle *BCO* 40-5 reports than the SJC. Neither the *RAO* nor RPR's internal Operating Manual address anything other than review of minutes submitted. There is no provision whereby an RPR member can raise anything learned outside of the submitted minutes. There is no mention of, nor any procedure for, handling a *BCO* 40-5 letter like Ms. Lewis's nor any provision for establishing a Record. And if a 40-5 letter has merit, and an injustice has been committed by a presbytery, someone like Ms. Lewis could get justice as much as a year quicker by immediate SJC review vs. the slower RPR route. Finally, RPR recommendations are fully debatable and amendable on the GA floor, but few if any of the commissioners will have read the Record of the case. But with SJC adjudication, the judges would have reviewed the Record.

MINUTES OF THE GENERAL ASSEMBLY

petitions the Standing Judicial Commission to cite Louisiana Presbytery to appear *per BCO 40-5 and SJC Manual 16*. (M36GA, p. 80)

Although the SJC ruled it could not assume original jurisdiction, it voted to cite Louisiana Presbytery to appear in person "pursuant to *BCO 40-5*." In October 2006, the SJC adjudicated the *BCO 40-5* case and instructed Louisiana to conduct a more thorough investigation of the minister's teaching.¹¹ Below is an excerpt from the summary in the SJC's unanimous Decision.

On January 26, 2006, Central Carolina Presbytery, *pursuant to BCO 40-5*, adopted and sent to the General Assembly the following Memorial relative to actions of Louisiana Presbytery. The Memorial was referred to the Standing Judicial Commission by the Stated Clerk. The 34th General Assembly concurred with that reference (*BCO 15-4*)." (M36GA, p. 72)¹²

In Part 1 of the Decision, the SJC ruled:

That, as Louisiana Presbytery has not completed an adequate examination of [the minister's] views, the Standing Judicial Commission hereby finds that the matters be redressed (*BCO 40-5*, para. 2, clause 1; cf., SJCM 16.9(a); *BCO 14-6*, a-b) by the following ... " (M36GA, p. 82, item 2.)

Then some months later in Part 2, the SJC ruled:

Amends - *Pursuant to BCO 40-5*, the SJC hereby cites Louisiana Presbytery to appear to show what it has done or failed to do in the case in question. (M36GA, p. 90.)

¹¹ Five of the SJC members who voted in favor of the Decision in *Lewis* were also on the SJC in 2006 and concurred in the Decision in *Central Carolina*. (RE Jack Williamson was on the SJC in 2006 and also concurred in *Central Carolina*. He was the Moderator of the 1st GA, chairman of the initial *Special Committee on a Manual for Operations of the General Assembly*, and a member of the first *Committee on the RAO*.)

¹² We note that the noun "Memorial" was just one of the terms used for *BCO 40-5* reports at the time. We also note that it is unclear what the SJC meant by the sentence, "The 34th General Assembly concurred with that reference (*BCO 15-4*)" because the GA Minutes don't seem to include anything regarding such. Note: Nine years prior, the 25th GA in Colorado Springs revised *BCO 15-5* to stipulate SJC Decisions "shall be the final decision of the General Assembly" (unless there was an SJC Minority Report).

In addition, the SJC's Response to an August 2006 Objection filed by Louisiana's appointed representative included the following:

We also conclude that the question of how and on what basis Louisiana Presbytery reached its decisions/judgments on the matters noted in the [Central Carolina letter] *are properly before the SJC under BCO 13-9.f, 40-4, 40-5 and SJCM 16.1.* ... Further, it is alleged that [Louisiana's] failure threatens the peace and purity of the church. As such, this matter is squarely within the circumstances *contemplated by BCO 40-4 ... (M36GA, p. 84)*

We conclude that the best way to address this presumption, to preserve the peace and purity of the Church, to bring closure to this issue within a reasonable time frame, and to give Presbytery the fairest opportunity to vindicate itself by explaining and defending its actions is to *follow the procedure of BCO 40-5 and BCO 40-6. (M36GA, p. 91)*

The SJC's unanimous Decision in *Central Carolina* – which was a highly visible Case – reflected an interpretation of *BCO 15-4* and *BCO 40-5* that is clearly different from the one reflected in the present Decision in *Lewis*.

Resolution

Perhaps some presbytery will propose an overture that seeks to legislatively clarify how *BCO 40-5* reports are processed. Perhaps the easiest way would be a clarifying revision to *RAO 17-2*, like the one below.

RAO 17-2. With respect to the Rules of Discipline, any reference (*BCO 41*), appeal (*BCO 42*), complaint (*BCO 43*), *BCO 40-5* proceeding **from RAO 16-10.c, other BCO 40-5 reports,** or proceeding or request to assume original jurisdiction (*BCO 34-1*), made to the General Assembly shall be assigned to the Standing Judicial Commission for adjudication.

DISSENTING OPINION

RE Jack Wilson, joined by

RE Steve Dowling, TE Paul Fowler and RE John Pickering

For the first time in recent memory, the Commission has determined that a *BCO 40-5* report will first be delivered to the Committee for Review of Presbytery Records (RPR) prior to review by the SJC. This procedure

MINUTES OF THE GENERAL ASSEMBLY

represents a departure from our past practice. The application of this decision is likely to make review of matters arising under *BCO* 40-5 more cumbersome and to delay their resolution. For these reasons, I respectfully dissent.

The dissent of RE Donahoe outlines in detail the SJC's consideration of a matter under *BCO* 40-5 in Case 2006-02: Central Carolina Presbytery v. Louisiana Presbytery. (*M36GA*, p. 75). Since that time, at least the following *BCO* 40-5 reports have been docketed by the SJC without referral to RPR:

- 2013-08 Jackson v. Northwest Georgia Presbytery (*M43GA*, p.568)
- 2015-05 *BCO* 40-5 Application of John B. Thompson, re: Grenada Session (*M44GA*, p. 518)
- 2015-09 *BCO* 40-5 Application of Brad Bumgarner, re: Presbytery of the Mississippi Valley (*M44GA*, p. 537)
- 2015-10 *BCO* 40-5 Application of John B. Thompson, re: South Florida Presbytery (*M44GA*, p. 539)
- 2017-04 *BCO* 40-5 report of RE John B. Thompson (withdrawn after docketing)
- 2017-05 *BCO* 40-5 report of TE James Bachmann (*M46GA*, p. 499)
- 2017-08 *BCO* 40-5 report of RE John B. Thompson (*M46GA*, p. 499)
- 2017-09 *BCO* 40-5 report of RE John B. Thompson (*M46GA*, p. 499)

The direct review of these matters by the SJC has not been unduly burdensome, and the foregoing reports were considered and decided promptly.

The new process required by this decision for referral to RPR and potential return transmission to the SJC (*RAO* 16-10.c) may significantly delay the review and resolution of these reports, especially for cases in which the issues do not arise directly from presbytery records. (In this case, the report originated from an action of a church session.) The application of this decision may make the process for reviewing reports of important delinquencies or grossly unconstitutional proceedings much more difficult to accomplish efficiently.

I believe review of the *BCO*, *OMSJC*, and *RAO* is warranted so that our process for review of alleged significant constitutional deficiencies can be conducted in a timely manner and in keeping with the intention expressed in *BCO* 15-4. The interpretive issues identified by the dissenters in this case

could be cured by a simple amendment to *RAO 17-2* so that it is revised to read as follows:

17-2. With respect to the Rules of Discipline, any reference (*BCO* 41), appeal (*BCO* 42), complaint (*BCO* 43), *BCO* 40-5 ~~proceeding report~~, or request to assume original jurisdiction (*BCO* 34-1) made to the General Assembly shall be assigned to the Standing Judicial Commission for adjudication.

Such an amendment would allow the effective process previously employed to docket and review these matters to continue.

Case 2018-03
GOEFFREY DURAND
v.
CENTRAL FLORIDA PRESBYTERY

REPORT AFFECTING CHRISTIAN CHARACTER (*BCO* 31-2)

February 7, 2019

This matter is a “report affecting Christian character . . .” (*BCO* 31-2), and before the SJC, it is Administratively Out of Order and cannot be put in order. There is no constitutional provision for the SJC to receive a *BCO* 31-2 report directly.

Bankson, <i>Concur</i>	Duncan, <i>Concur</i>	Meyerhoff, <i>Concur</i>
Bise, <i>Concur</i>	Ellis, <i>Concur</i>	Neikirk, <i>Concur</i>
Cannata, <i>Concur</i>	Evans, <i>Concur</i>	Nusbaum, <i>Concur</i>
Carrell, <i>Absent</i>	Fowler, <i>Concur</i>	Pickering, <i>Concur</i>
Chapell, <i>Concur</i>	Greco, <i>Concur</i>	Terrell, <i>Concur</i>
Coffin, <i>Concur</i>	Jones, <i>Concur</i>	Waters, <i>Concur</i>
Donahoe, <i>Concur</i>	Kooistra, <i>Concur</i>	White, <i>Concur</i>
Dowling, <i>Concur</i>	McGowan, <i>Concur</i>	Wilson, <i>Concur</i>

(23 concurring, 0 dissenting, 1 absent)