

MINUTES OF THE GENERAL ASSEMBLY

Without such a meaningful forum, the process is open to abuse. A Session could reject a candidate merely because of personality conflicts or other reasons contrary to the standards of the *BCO*. Although privacy concerns may dictate avoiding written explanations for rejecting candidates, legitimate concerns should be expressed in examination dialogue with a candidate, for his response may well satisfy the elder with such concerns that they are not well-founded.

Because Mr. Crouse was afforded no opportunity to defend himself in a meaningful examination, and because the few specifically articulated concerns did not reflect Biblical or Constitutional deficiencies, Mr. Crouse's second Complaint should have been sustained, as was his first.

CASE 2019-13
COMPLAINT OF MS. COLLEEN GENDY
v.
CENTRAL FLORIDA PRESBYTERY

DECISION ON COMPLAINT
February 4, 2021

I. SUMMARY OF THE FACTS

- 8/20/19 Following several months of formal and informal communication with Ms. Gendy concerning her marriage and her attempt to withdraw her membership under *BCO* 38-3 by affiliating with another church, the Session of St. Paul's Presbyterian Church, Orlando, Florida, voted to remove Ms. Gendy's name from its membership rolls "as an act of pastoral discipline without process (*BCO* 38-4)."
- 9/05/19 The St. Paul's Session sent Ms. Gendy a letter stating, "I am writing to inform you that in light [of] your making it known to us that you have no intention of fulfilling your membership vows at St. Paul's, the session has removed your name from our rolls as an act of pastoral discipline without process (see *The Book of Church Order* 38-4)."

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- 9/06/19 Ms. Gendy filed a Complaint against the action of the St. Paul's Session in removing her name from the membership rolls under *BCO* 38-4.
- 9/24/19 The St. Paul's Session denied Ms. Gendy's complaint for lack of standing since she was no longer a member of St. Paul's.
- 10/1/2019 Ms. Gendy took her Complaint to the Central Florida Presbytery in accordance with *BCO* 43-3.
- 11/12/19 Central Florida Presbytery ruled Ms. Gendy's complaint out of order for lack of standing since Ms. Gendy was no longer a member of any church within the bounds of the Presbytery.
- 11/15/19 Ms. Gendy took her Complaint to the Standing Judicial Commission.
- 06/04/20 The SJC Panel heard oral argument via Go to Meeting videoconference. The Panel included RE John Pickering (Chairman), TE Guy Waters (Clerk), and RE Mel Duncan. Also present were Panel alternates TE Sean Lucas and RE Jack Wilson, along with Complainant Gendy, TE Dominic Aquila (Ms. Gendy's assistant), TE Justin Borger (Presbytery's primary representative) and RE John Maynard (Presbytery's assistant representative). The Panel decision was drafted by RE Pickering and, after some revisions, was adopted unanimously by the Panel.
- 10/15/20 The SJC considered the Panel's opinion at its stated meeting and voted to remand the opinion to the panel for additional work.
- 12/21/20 The SJC Panel unanimously adopted a revised opinion drafted by RE Pickering.

II. STATEMENT OF THE ISSUE

Did Central Florida Presbytery err in finding that Ms. Gendy did not have standing to file the Complaint?

III. JUDGMENT

Yes.

IV. REASONING AND OPINION

Complainant argues that she has standing to pursue her Complaint that the St. Paul's Session erred by (a) holding on to her as a church member in violation of its obligation to let her depart under *BCO* 38-3a, and (b) removing her from membership as an act of pastoral discipline without process under *BCO* 38-4. Respondent argues that Complainant has no standing to complain about these actions since she was removed from membership under *BCO* 38-4 before she filed her Complaint. We hold that Complainant does have standing and remand the case to Central Florida Presbytery for consideration of Complainant's complaint.

Central Florida Presbytery argues that Ms. Gendy lacks standing to bring her Complaint since she is no longer a member of the Presbyterian Church in America, having been removed under *BCO* 38-4. The concept of standing is, under *BCO* 43-1, the other side of jurisdiction. *BCO* 43-1 provides: "It is the right of any communing member of the Church in good standing to make complaint against any action of a court to whose jurisdiction he is subject." So, if a member is *not* subject to a court's jurisdiction, that member cannot bring a complaint. The question before us, then, is whether Ms. Gendy lacked standing to complain against the Session's removal of her from membership. We find that she does, indeed, have standing to complain about her removal.

BCO 38-4 provides, in relevant part:

When a member of a particular church has willfully neglected the church for a period of one year, or has made it known that he has no intention of fulfilling the church vows, then the Session, continuing to exercise pastoral discipline (*BCO* 27-1a and 27-4) in the spirit of Galatians 6:1, shall remind the member, if possible both in person and in writing, of the declarations and promises by which he entered into a solemn covenant with God and His Church (*BCO* 57-5, nos. 3-5), and warn him that, if he persists, his name shall be erased from the roll.

If after diligently pursuing such pastoral discipline, and after further inquiry and due delay, the Session is of the judgment that the member will not fulfill his membership obligations in this or any other branch of the Visible Church (cf. *BCO* 2-2), then the Session shall erase his name from the roll. This erasure is an act of pastoral discipline (*BCO* 27-1a) without process. The Session shall notify the person, if possible, whose name has been removed.

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Notwithstanding the above, if a member thus warned makes a written request for process (i.e., *BCO* Chapters 31-33, 35-36), the Session shall grant such a request. Further, if the Session determines that any offense of such a member is of the nature that process is necessary, the Session may institute such process. (emphasis added).

The circular nature of the Presbytery's argument is obvious when it is considered from the Complainant's perspective. The Complainant is being told that she cannot complain about her removal from membership because she has been removed from membership. Put differently, fundamental fairness requires that a member facing formal process or removal without process retains standing to complain about the process or removal. Any other conclusion would permit a Session to remove any church member from membership for any reason or no reason without allowing that person to challenge the removal.

The importance of recognizing the Complainant's standing in this case is clarified by consideration of the nature of the Session's decision as "an act of pastoral discipline" and not a mere administrative act with no bearing on the Complainant's reputation or character. In addition to the wording of the provision itself, the history of *BCO* 38-4 illustrates this distinction. Following the SJC decision in the case of *Chen vs. Ascension Presbytery*, which interpreted a predecessor *BCO* provision dealing with removal of a member's name from the roll to mean that a member of the PCA essentially had a right to withdraw from church membership unilaterally, the General Assembly adopted the current language in *BCO* 38-4, moving the section from *BCO* chapter 46 ("Jurisdiction") and to *BCO* chapter 38 ("Cases Without Process") and adding the statement that "This erasure is an act of pastoral discipline," thus emphasizing that the action is a true "case" of discipline, not merely an administrative procedure. Therefore, if a Session may sever a person's membership in the church, surely that person should have the right to complain about it.

Ms. Gendy had standing to bring her Complaint. Presbytery should have so ruled and remanded the case to the St. Paul's Session for consideration of Ms. Gendy's original Complaint. Thus, we now remand the case to Presbytery so that it may take such action.

This Decision was written by RE John Pickering and revised and approved by the Panel 3-0. The SJC approved this decision unanimously on the following roll call vote:

MINUTES OF THE GENERAL ASSEMBLY

Bankson, <i>Concur</i>	Duncan, M., <i>Concur</i>	Neikirk, <i>Absent</i>
Bise, <i>Concur</i>	Duncan, S., <i>Concur</i>	Nusbaum, <i>Concur</i>
Cannata, <i>Concur</i>	Ellis, <i>Concur</i>	Pickering, <i>Concur</i>
Carrell, <i>Concur</i>	Greco, <i>Concur</i>	Ross, <i>Absent</i>
Chapell, <i>Concur</i>	Kooistra, <i>Concur</i>	Terrell, <i>Concur</i>
Coffin, <i>Concur</i>	Lee, <i>Concur</i>	Waters, <i>Concur</i>
Donahoe, <i>Concur</i>	Lucas, <i>Concur</i>	White, <i>Concur</i>
Dowling, <i>Concur</i>	McGowan, <i>Concur</i>	Wilson, <i>Concur</i>
(22-0-0)		

CASE 2019-14
COMPLAINT OF MR. JEAWHAN YOO, ET AL.
VS.
KOREAN SOUTHWEST ORANGE COUNTY PRESBYTERY

DECISION ON COMPLAINT
August 24, 2020

The SJC reviewed the Complaint and found the case Administratively Out of Order.

No documentation was received that the Complaint was first made to the presbytery whose act or decision was alleged to have been in error. *BCO* 43-2.

Further, the proper court to receive and adjudicate the charges and specifications that were included in the Letter of March 2, 2020 is the Presbytery. The case was dismissed on the following roll call vote:

Bankson, <i>Concur</i>	Duncan, M., <i>Concur</i>	Neikirk, <i>Concur</i>
Bise, <i>Concur</i>	Duncan, S., <i>Concur</i>	Nusbaum, <i>Concur</i>
Cannata, <i>Absent</i>	Ellis, <i>Absent</i>	Pickering, <i>Concur</i>
Carrell, <i>Concur</i>	Greco, <i>Concur</i>	Ross, <i>Not Qualified</i>
Chapell, <i>Absent</i>	Kooistra, <i>Concur</i>	Terrell, <i>Absent</i>
Coffin, <i>Concur</i>	Lee, <i>Concur</i>	Waters, <i>Concur</i>
Donahoe, <i>Concur</i>	Lucas, <i>Concur</i>	White, <i>Absent</i>
Dowling, <i>Concur</i>	McGowan, <i>Concur</i>	Wilson, <i>Concur</i>
(19-0-0)		

TE Ross disqualified himself under *OMSJC* 2.3(b) as a technology problem prevented him from reading the case file.