

MINUTES OF THE GENERAL ASSEMBLY

TE Paul B. Fowler, Concur

TE Fred Greco, Concur

RE D. W. Haigler, Jr., Concur

RE Bruce Terrell, Concur

RE John B. White, Jr., Concur

RE Robert (Jack) Wilson, Concur

In accord with *OMSJC* 2.10(e), a member subject to disqualification shall disclose on the record the basis of the member's disqualification. TE Aquila recused himself because he is working closely on a project with the Complainant, TE Smith. RE Duncan recused himself because of his relationship to the parties and their representatives. TE Kooistra recused himself because of his relationship to the parties and their representatives.

**COMPLAINT 2011-18
MR. MATT RUFF
VS.
NASHVILLE PRESBYTERY**

I. SUMMARY OF THE FACTS

- 11/01/10 In Case 2009-28, Complaint of Matt Ruff vs. Nashville Presbytery, SJC finds that Presbytery erred by failing to conduct an adequate investigation pursuant to *BCO* 31-2 after receiving an adverse report concerning the character of one of its members, and that Presbytery erred when, on the basis of the evidence before it, failed to find a strong presumption of guilt as to offenses allegedly committed by one of its members. The matter was remanded to Presbytery "for further proceedings consistent with this opinion."
- 11/2010 NP directs its Committee on Judicial Business (CJB) to conduct an investigation consistent with the ruling of the SJC in 2009-28.
- 08/09/11 CJB makes its report with recommendations to NP, which report is adopted. Pursuant to the report NP hears a confession which was also submitted in writing from TE George Grant under *BCO* 38-1 and censures TE Grant with an admonition. These actions occurred in Executive Session, but were reported to Mr. Ruff by direction of Presbytery.

APPENDIX T

08/29/11	Mr. Matt Ruff files a Complaint against NP with respect to its actions concerning TE Grant on August 8, alleging that NP failed to comply with the SJC Decision in 2009-28.
09/29/11	NP Shepherding Committee sponsors a meeting between TE Grant and Mr. Ruff, at which meeting TE Grant apologizes to Mr. Ruff for past sins and seeks reconciliation. Mr. Ruff subsequently declines further meetings.
11/08/11	NP adopts a recommendation by CJB that Mr. Ruff's Complaint be denied.
11/29/11	Mr. Ruff files the Complaint with the SJC.

II. STATEMENT OF THE ISSUES

1. Did NP fail to conduct a *BCO* 31-2 investigation with respect to reports concerning TE George Grant consistent with the opinion of SJC in 2009-28?
2. Did NP fail to comply with the provisions of *BCO* 31-2 with respect to reports concerning TE George Grant, consistent with the opinion of SJC in 2009-28, by concluding the matter as a Case Without Process under *BCO* 38-1?
3. Did NP err in receiving a confession under *BCO* 38-1 that did not adequately address all the matters raised under their *BCO* 32-1 investigation, consistent with the opinion of SJC in 2009-28?
4. Did NP fail to properly administer its censure in the Case Without Process with respect to the confession of TE George Grant?

III. JUDGMENT

1. No.
2. No.
3. Yes.
4. Yes.

IV. REASONING AND OPINION

Complainant argues that NP failed to comply with the SJC Decision in 2009-28. He asserts, first, that NP, through its CJB, failed to conduct an adequate *BCO* 31-2 investigation. Second, Complainant asserts that it was impermissible for NP to conclude its *BCO* 31-2 investigation by acting to discipline TE Grant in a Case Without Process under *BCO* 38-1. It appears to be the position of the Complainant that NP was obliged by the SJC ruling to institute *process* and conduct disciplinary case against TE Grant.

The ROC demonstrates that NP, though its CJB, conducted an investigation that included: 1. a review of the nature and history of the relationship between Mr. Ruff and TE Grant; 2. a review of the procedural history of Mr. Ruff's complaints against TE Grant and others; 3. a review of the information provided by Mr. Ruff, by TE Grant, and by the NP Shepherding Committee; 4. interviews with the parties and other interested persons, including the Elders at Parish Presbyterian, the Elders at Christ Community Church, and members of the NP Shepherding Committee, including TE Len Hendrix and TE Rick Allen, and other members of NP; and 5. a review of all application provisions in the *BCO*. This record satisfies the requirements of *BCO* 31-2.

In the course of this investigation, TE Grant expressed a desire to confess sin as to matters identified in the ruling of the SJC, as previously identified by NP's Shepherding Committee. He acknowledged that he can, particularly under pressure, manifest a haughty spirit. He acknowledged that he is sometimes slow to see his own sin and quick to see the sin in others. He admitted that he is prone to try to explain away sin rather than acknowledge fault. He admitted that he can be slow to pursue peace and reconciliation, in attempt to avoid further conflict. The CJB concluded that the confession offered by TE Grant addressed everything that could reasonably rise to the level of an "offense" in this matter. The CJB reviewed the provisions of the *BCO* in light of TE Grant's confession. *BCO* 38-1 provides that when a person is prepared to make a confession, the Court may proceed to render a judgment without any formal process. This provision is properly employed in any case where the facts to be established by trial are not in dispute, and the accused is willing to forgo formal proceedings.

Under *BCO* 38-1, the CJB recommended that NP hear TE Grant's confession and apply the censure of admonition. NP adopted that recommendation. TE Grant delivered a written and oral confession in Executive Session at the August 9, 2011 NP meeting, and NP applied the censure of admonition.

APPENDIX T

Although Presbytery had the right to employ *BCO* 38-1 in these proceedings, the confession of offence should have covered all that might have been subject to indictment had the *BCO* 31-2 investigation continued and a strong presumption of guilt determined. The Record of the Case shows, however, that the “Statement of Facts and Confession of Guilt” (the “Confession”) is almost entirely abstract (ROC 38-39). That is to say, there is very little said of sins against particular people. However, the matters that initiated the *BCO* 31-2 investigation were reports concerning TE Grant’s offenses against Mr. Ruff and others. That being the case, the “Confession” cannot adequately conclude the matters raised in the *BCO* 31-2 investigation. Presbytery erred in a matter of judgment by considering the written “Confession” as being a full statement of the facts (*BCO* 39-3.3 and 38-1). Presbytery is directed to meet with TE Grant and find an agreeable amendment to the “Confession” so that particular sins against particular people are acknowledged in accordance with *Confession of Faith 15*:

5. Men ought not to content themselves with a general repentance, but it is every man’s duty to endeavor to repent of his particular sins, particularly.
6. As every man is bound to make private confession of his sins to God, praying for the pardon thereof; upon which, and the forsaking of them, he shall find mercy; so, he that scandalizeth his brother, or the church of Christ, ought to be willing, by a private or public confession, and sorrow for his sin, to declare his repentance to those that are offended, who are thereupon to be reconciled to him, and in love to receive him.

Presbytery, in its censure of Admonition (ROC 36-37), does recognize the duty of TE Grant to apologize to, and seek reconciliation with, Mr. Ruff, and rightfully admonishes TE Grant to do so. On September 9, 2011, NP’s Shepherding Committee sponsored a meeting between TE Grant and Mr. Ruff, but nothing in the ROC shows that the Committee was satisfied with what transpired, or that the same was reported to NP, thus concluding TE Grant’s responsibilities under the Admonition. Presbytery is directed to sponsor another meeting between TE Grant and Mr. Ruff and any others who Presbytery determines were offended in this matter and to record its satisfaction with the Scripturally faithful character of these proceedings, or, if not, to pursue the matter further, up

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to and including indictment of one who will not satisfy the spiritual requirements of repentance, or of one who will not satisfy the spiritual requirements of forgiveness, reconciliation and reception in love.

This opinion was written by TE David Coffin and adopted as amended by the full Standing Judicial Commission.

The Roll Call vote on Case 2011-18.

Adopted: 18 concurring, 1 disqualified, and 5 absent.

TE Dominic A. Aquila, Concur	TE Paul Kooistra, Concur
TE Howell Burkhalter, Absent	TE Brian Lee, Concur
RE E. C. Burnett III, Absent	TE William R. Lyle, Concur
RE Daniel Carrell, Absent	TE Charles E. McGowan, Disqualified
TE Bryan S. Chapell, Concur	TE D. Steven Meyerhoff, Concur
TE David F. Coffin Jr., Concur	RE Frederick (Jay) Neikirk, Concur
RE Marvin C. (Cub) Culbertson, Concur	RE Jeffrey Owen, Concur
RE Howie Donahoe, Concur	RE John Pickering, Concur
RE Samuel J. (Sam) Duncan, Concur	TE Danny Shuffield, Absent
TE Paul B. Fowler, Concur	RE Bruce Terrell, Concur
TE Fred Greco, Concur	RE Robert (Jack) Wilson, Concur
RE D. W. Haigler Jr., Concur	RE John B. White Jr., Absent

In accord with *OMSJC* 2.10(e), a member subject to disqualification shall disclose on the record the basis of the member's disqualification. TE McGowan was disqualified because he is a member of a court which is a party to the case (*OMSJC* 2.10(d)(3)(ii)).

**COMPLAINT 2012-01
MR. PAUL SHERFEY
VS.
JAMES RIVER PRESBYTERY**

The Case is dismissed on the ground that it was found to be Judicially Out of Order because the action complained against is not in the Record of the Case. (*BCO* 43-1, *OMSJC* 10.6).

The Roll Call vote on Case 2012-01.

Adopted: 13 concurring, 5 dissenting, 1 abstaining, 1 disqualified, and 4 absent.