

MINUTES OF THE GENERAL ASSEMBLY

panels and are in process. The Standing Judicial Commission has completed its work on 2008-11, 2008-13, 2008-14, 2008-15, 2008-16, 2008-17, 2008-18, 2009-1, 2009-2, 2009-3, 2009-5, 2009-6, 2009-7, 2009-8, 2009-9, 2009-10 and 2009-11. The report on these cases follows:

III. REPORT OF THE CASES

CASE 2008-11 COMPLAINT OF TE DANIEL BROADWATER ET. AL. VS. CHESAPEAKE PRESBYTERY CASE 2008-11

I. SUMMARY OF THE FACTS

1. On December 10, 2007, the Session of Grace Reformed Presbyterian Church of Relay, Maryland, sent a Reference to Chesapeake Presbytery seeking “the determination regarding the issue of Dorothy L. George’s request for membership release and transfer from GRPC.” The Reference cited 11 facts regarding the matter in its letter.
2. On December 11, 2007 Pasadena Evangelical Presbyterian Church and Aisquith Presbyterian Church in letters to Chesapeake Presbytery requested Presbytery to assume original jurisdiction under *Book of Church Order* 33-1 in the matter relating to Mr. and Mrs. Arthur George, members of Grace Reformed Presbyterian Church.
3. At its Stated Meeting of February 16, 2008 Chesapeake Presbytery, acting on letters it received from Pasadena Presbyterian Church and Aisquith Presbyterian Church plus a subsequent letter from Chapelgate Presbyterian Church, appointed a commission empowered:
 - A. (1) to take original jurisdiction over Grace Relay Presbyterian Church* for those matters requested by two or more sessions in the Presbytery, (2) to charge the commission with conducting investigations, instituting process, and conducting other proceedings as duly required by our constitution, (3) to require the commission to take sworn testimony of those parties and witnesses pertinent to its investigation as a matter of record for its proceedings, and (4) to rule on each matter *ad seriatim*; and
 - B. to receive the Reference from Grace Relay and include it into the mandate for the new commission.

* Note: The official name of the church is Grace Reformed Presbyterian Church of Relay, MD

4. On March 16, 2008, TE Daniel Broadwater and REs William Carey and David Wheeler complained against the action of CP in appointing the commission.
5. On May 20, 2008, CP denied the Complaint.
6. On June 12, 2008, the Complaint was filed with the Standing Judicial Commission.

II. STATEMENT OF THE ISSUE

1. Did Chesapeake Presbytery err when it appointed a commission empowered (1) to take original jurisdiction over Grace Relay Presbyterian Church* for those matters requested by two or more sessions in the Presbytery, (2) to charge the commission with conducting investigations, instituting process, and conducting other proceedings as duly required by our constitution, (3) to require the commission to take sworn testimony of those parties and witnesses pertinent to its investigation as a matter of record for its proceedings, and (4) to rule on each matter *ad seriatim*?
2. Did Chesapeake Presbytery err when it appointed a commission empowered to receive the Reference from Grace Relay and include it into the mandate for the new commission?

III. JUDGMENT

1. Yes, with respect to that portion of the Commission's assignment to proceed under *BCO* 33-1 (Statement of Facts 3A), that portion of the Presbytery's action is vacated.
2. No, with respect to that portion of the Commission's assignment dealing with the Reference (Statement of Facts 3B), that portion of the Presbytery's action stands.

IV. REASONING AND OPINION

BCO 33-1 sets forth the instances in which a presbytery has authority to assume original jurisdiction over matters involving process against church members. Normally, this authority belongs to the session of the church to which members belong (except in cases of appeal). *BCO* 33-1 provides:

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“[h]owever, if the session refuses to act in doctrinal cases or instances of public scandal and two other sessions of churches in the same presbytery request the presbytery of which the church is a member to initiate proper or appropriate action in a case of process and thus assume jurisdiction and authority, the Presbytery shall do so.” A presbytery has no authority to assume original jurisdiction except under these conditions.

The letters from the three churches to Presbytery contained no specific allegations that the Session of Grace Reformed Presbyterian Church had refused to act in this particular matter. The Presbytery, in appointing the commission, made no preliminary finding of fact that the Session had refused to act in a case of process, nor did they explicitly charge the commission with making such a determination before proceeding under *BCO* 33-1.

The Respondent further advanced the argument that the newly appointed commission was presumed to have been acting only within the purview of its constitutional authority, and that it would assume original jurisdiction on behalf of the Presbytery only if it were authorized to do so. Our reading of the plain language of the motion, which was adopted by Presbytery, however, indicates that it was the intent and act of Presbytery to give present authority and power to the commission to take original jurisdiction over the matter. The Presbytery could have appointed a commission to determine whether jurisdictional facts existed under *BCO* 33-1. This determination could have been adopted, or not, by the Presbytery, and this determination would have been subject to later judicial review. However, this is not what the Presbytery did. The Presbytery, through its commission, assumed original jurisdiction over the matter without any showing or finding (based upon the record of the case) that the Session had refused to act in a case of process.

This decision was written by REs Calvin Poole and John White, with the concurrence of TE Bill Lyle and was amended by the full Standing Judicial Commission.

TE Dominic A. Aquila, Concur
TE Howell A. Burkhalter, Recused
RE E.C. Burnett III, Concur
TE David F. Coffin Jr., Concur
RE Marvin C. Culbertson, Concur
RE J. Howard Donahoe, Dissent
RE Samuel J. (Sam) Duncan, Concur

TE William R. Lyle, Concur
RE J. Grant McCabe, Concur
TE Charles E. McGowan, Concur
TE D. Steven Meyerhoff, Recused
TE Timothy G. Muse, Concur
RE Frederick J. Neikirk, Dissent
RE Steven T. O'Ban, Absent

TE Fred Greco, Concur	RE Jeffrey Owen, Concur
TE Grover E. Gunn III, Concur	RE Calvin Poole, Concur
TE William W. Harrell Jr., Dissent	TE G. Dewey Roberts, Concur
RE Terry L. Jones, Concur	TE Danny Shuffield, Concur
RE Thomas F. Leopard, Concur	RE John B. White Jr., Concur

18 Concur, 3 dissent, 2 recused, 1 absent

**CASE 2008-13 COMPLAINT OF TE STEVEN MEYERHOFF
VS.
CHESAPEAKE PRESBYTERY**

I. SUMMARY OF THE FACTS

1. On December 10, 2007, the Session of Grace Reformed Presbyterian Church of Relay, Maryland sent a Reference to Chesapeake Presbytery seeking “the determination regarding the issue of Dorothy L. George’s request for membership release and transfer from GRPC.” The Reference cited 11 facts regarding the matters in its letter.
2. On December 11, 2007 Pasadena Evangelical Presbyterian Church and Aisquith Presbyterian Church in letters to Chesapeake Presbytery requested Presbytery to assume original jurisdiction under *Book of Church Order* 33-1 in the matter relating to Mr. and Mrs. Arthur George, members of Grace Reformed Presbyterian Church of Relay, Maryland.
3. At its Stated Meeting of February 16, 2008 Chesapeake Presbytery, acting on letters it received from Pasadena Presbyterian Church and Aisquith Presbyterian Church plus a subsequent letter from Chapelgate Presbyterian Church, appointed a commission empowered:
 - A. (1) to take original jurisdiction over Grace Relay Presbyterian Church* for those matters requested by two or more sessions in the Presbytery, (2) to charge the commission with conducting investigations, instituting process, and conducting other proceedings as duly required by our constitution, (3) to require the commission

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