

# PART III

## JUDICIAL CASES STANDING JUDICIAL COMMISSION 1999-2018

This digested summary of the Cases heard by the Standing Judicial Commission (SJC) is arranged according to Case number. For each Case we have included a Summary of the Case, the Issue, the Judgment, the Reasoning, and Key Words relevant to the case. See Introduction (p. vi) for a fuller explanation of what is included here and why.

Readers should note that the General Assembly's role in the decisions of the SJC changed in 1997, when the 25th General Assembly revised *BCO* 15-5.a so that the Assembly no longer voted to sustain or reject SJC decisions. From 1997 onwards, the SJC decision was final unless a Minority Report from the SJC was submitted to the General Assembly. In a few of cases before 1997, the decision of the SJC was not accepted by the General Assembly and required further judicial and Assembly action.

Appeals and References are noted after each relevant case number. All other cases are Complaints.

### Abbreviations

ROC = Record of the Case

JKO = Judically Out of Order

AOO = Administratively Out of Order

OOO = Out of Order

Obj = Objection

D-Op = Dissenting Opinion

C-Op = Concurring Opinion

MR = Minority Report

RONR = *Robert's Rules of Order*

OMSJC = *Operating Manual of the Standing Judicial Commission*

Key Words given here are not exhaustive and frequently indicate topics and issues that are included in the full record of the case but which are not immediately evident in the digested summary here.

**1996-06 Williams v. South Texas**

*M27GA*, 1999 Louisville, p. 77. JOO. Parties could not agree on the ROC.

**1997-17 Lebo v. Susquehanna Valley**

*M27GA*, 1999 Louisville, p. 77. Not sustained 19-1.

Summary

The Complainant alleged that the Session of Carlisle Reformed Presbyterian Church (CRPC) erred by allowing the congregation to adopt a motion regarding one part of the budget. Complaints were then filed with the Session and Susquehanna Valley Presbytery (SVP), both of which were denied.

Issue

1. Did the SVP err in denying a Complaint that alleged that the congregation of CRPC acted unconstitutionally when it approved a motion to supplement the Assistant Pastor's Fund from the 1996-1997 budget carry-over?
2. Did SVP affirm the allegation that the Session had ceded approval of the church budget to the congregation?

Judgment

1. No
2. No

Reasoning

The Complainant argued that the congregation should not have had input on this decision regarding the church's budgetary approval and process, and that only the Session has the authority to make a decision such as this. However, there was no violation of *BCO* 12-5b with regards to the Session's power to approve and adopt the budget. The issue before the congregation was not whether to approve or not to approve the budget or any portion of it. It was dealing with a special circumstance unique to it as a congregation, and the Session did not abdicate its responsibility to approve and adopt the budget.

Key Words – budget, salary, congregational meeting, *BCO* 12-5, 25-7

**1998-01    Snapp v. James River**

*M27GA*, 1999 Louisville, p. 70. Reheard by the entire SJC. Not Sustained 15-6. D-Op.

Summary

The Complainant alleged that James River Presbytery (JRP) erred by sustaining the ordination exam of a man holding an Anthropomorphic Days view of the Genesis creation days. The Complainant filed a Complaint with JRP, which was not sustained. See also Case 1998-05.

Issue

Did JRP err at its October 11, 1997, meeting when it sustained the examination of TE Andrew Conrad?

Judgment

No.

Reasoning

Previous GAs had already affirmed that a Presbytery has the authority and discretion to discuss, deliberate, and decide an issue of doctrine properly before it by the broader church. In addition, the 26<sup>th</sup> GA appointed an Advisory Committee to study and report back to the GA on the constitutionality of the various views of creation in Genesis 1. Thus the highest court of the PCA had not made any determination that “anthropomorphic” days are out of accord with our confessional standards and the creation account in Genesis 1.

Key Words – creation, days, 24-hour, Genesis, Adam, anthropomorphic, doctrine, ordination, examination, views, *WCF 1:9, WCF 4:1*

**1998-02    Session of St. Paul v. Central Florida**

*M27GA*, 1999 Louisville, p. 79. Not sustained 17-1. D-Op.

Summary

The Complainant alleged that a Central Florida Presbytery (CFP) commission erred by declining to find a strong presumption of guilt of a minister when one-third of the Session of Christ Church (CC) in Jacksonville, FL, filed charges.

Issue

1. Did CFP err in sustaining the report of the commission examining matters related to CC, Jacksonville, FL?
2. Did CFP err in sustaining the report of the commission examining matters related to Rev. John Hutchinson?

Judgment

1. No.
2. No.

Reasoning

The Complaint was divided into two issues, the first regarding the original Complaint against the Session of CC, and the second regarding the charges against TE Hutchinson. In Issue One, the Complaint stemmed from an initial communication sent to the Session raising allegations and making a motion that the Session [of CC] commence appropriate disciplinary action against TE Hutchinson, including if necessary commencing process against him before Presbytery. The Session understood this motion to be asking them to commence judicial process against a TE, and hence they denied the request, holding that TE Hutchinson was under the judicial authority of the Presbytery. The Complainants argued that it was the Session of CC which needed to investigate TE Hutchinson, not CFP, referencing *BCO* 31-2 and 32-2. However, the commission of CFP denied this Complaint, reasoning that “We acknowledge that the Session may inquire into the alleged sin of a TE, but that it should not conduct such an investigation that appears clearly to lead to a need for adjudication since it is not the court of original jurisdiction (*BCO* 31-2). In Issue Two, the Complaint alleged that Presbytery had erred in three ways. First, the Complainants argued that there were irregularities in the proceedings of the CFP commission, including that the Presbytery commission should have proceeded directly to trial, rather than first investigating to determine if there was a strong presumption of guilt. The commission proceeded according to *BCO* 31-2. Although the Complainants wanted the commission to proceed directly to trial, CFP did not approve of this approach and had the right to do so. Second, the Complainants cited some nine instances of CFP directly or through commissions refusing to allow reasonable indulgence. The SJC found that it was difficult to arrive at any conclusion about this. However, CFP was within its right not to allow

the court to be circularized. Third, concerning the charge that the commission was prejudiced, the SJC found that the evidence was not conclusive.

Key Words – strong presumption of guilt, process, investigation, jurisdiction, notice, witnesses, reasonable indulgence, prejudice, commission, *BCO* 31-2, 32-2

**1998-03      Appeal of Williams v. South Texas**  
*M27GA*, 1999 Louisville, p. 90. AOO.

**1998-04      Yelton v. Westminster**

*M27GA*, 1999 Louisville, p. 90. AOO 19-0. The Appellant joined RPCNA.

**1998-05      Long et al. v. James River**

*M27GA*, 1999 Louisville, p. 73. Reheard by the entire SJC. Not Sustained 13-8. D-Op.

Summary

The Complainant alleged that James River Presbytery (JRP) erred when it instructed a minister not to teach or preach his anthropomorphic views on creation. See also Case 1998-01.

Issue

Did JRP err when it instructed TE Andrew Conrad post ordination not to teach or preach his views on creation and “anthropomorphic days”?

Judgment

No.

Reasoning

The ROC did not show that errors of process or unconstitutional acts occurred. Lacking proof of procedural errors or significant reasons, the SJC deferred to the Presbytery in accordance with our *BCO*. (*BCO* 39-3)

Key Words – teach, preach, creation, days, 24-hour, Genesis, Adam, anthropomorphic, doctrine, ordination, examination, views, *WCF* 1:9, *WCF* 4:1, *BCO* 39-3, 43-3

**1998-06    Appeal of Kim v. Korean Southwest**

*M27GA, 1999 Louisville, p. 90.* AOO. Appellant withdrew from the PCA.

**1998-07    Appeal Chong Ho Yi v. Korean Capital**

*M27GA, 1999 Louisville, p. 91.* AOO. The Appellant did not properly file.

**1998-08    Appeal of Smith v. Southwest**

*M28GA, 2000 Tampa, p. 218.* Sustained 21-0.

**Summary**

The Appellant was convicted by the Session of Covenant Presbyterian Church (CPC) and Southwest Presbytery (SWP) on charges of divisiveness, gossip, contumacy, and breaking membership vows following a congregational meeting to vote on dissolving the church's relationship with the current pastor.

**Issue**

Did SWP clearly err when it did not sustain the Appeal of Mrs. Beverly Smith?

**Judgment**

Yes. The Presbytery clearly erred in judgment by not sustaining the Appeal and by not reversing the judgment of the Session. The Session clearly erred in both judgment and procedure. Therefore, the finding of guilt was reversed and the discipline of suspension from the sacraments was annulled.

**Reasoning**

Both lower courts (the Session of CPC and SWP) were found to have erred in judging that the evidence presented at trial, as contained in the ROC, supported the finding of guilt. There were no witnesses called to testify at the trial, and the prosecution's case therefore rested exclusively on documentary evidence (given in 10 Specifications). The documentary evidence, however, was clearly insufficient to support the finding of guilt. Furthermore, the Session of CPC clearly erred in procedure. SWP noted these errors in procedure, which included no witnesses being

produced by the prosecution (violating *BCO* 35-3), prejudice and presumption of guilt, lack of reasonable indulgence, and suspension from the Lord's Supper. SWP erred in judgment by not finding these procedural errors to be significant enough to require remanding for retrial (assuming that the evidence had supported the charges).

Key Words – charge, evidence, witness, contumacy, divisive, letters, vows, prejudice, indulgence, suspension, *BCO* 33-4, 35-3, 39-3, 42-6

**1998-09      Appeal of Baer v. Illiana**

*M28GA*, 2000 Tampa, p. 229. Not sustained 19-0.

Summary

Following his ongoing conflicts with the Youth Pastor at Westminster Presbyterian Church (WPC) and his unauthorized individual statement made to the congregation, TE David Baer informed the Session of WPC that he requested for the assistance of Illiana Presbytery (IP) and its Shepherding Committee (SC). The SC advised TE Baer that “his ministry was done at WPC and he should get counseling immediately.” While the Session of WPC had been asking TE Baer to resign of his own accord, eventually TE Baer’s pastoral relationship with WPC was dissolved by IP. The Judicial Commission of IP heard charges against TE Baer (the Appellant), who was convicted on charges of violating the 4<sup>th</sup> and 7<sup>th</sup> ordination vows, the 9<sup>th</sup> commandment, and the 3<sup>rd</sup> installation vow. The Appellant was indefinitely suspended from the exercise of his pastoral office until he demonstrated repentance.

Issues

1. Did IP err in concluding that the Appellant violated the 9<sup>th</sup> commandment, the 4<sup>th</sup> and 7<sup>th</sup> ordinations vows, and the 3<sup>rd</sup> installation vow by erroneously informing the congregation of WPC that the Session had “demanded” his resignation six weeks before the congregational meeting?
2. Did IP commit such irregularities, manifest such prejudice, and commit such actions by their judgment and censure of the Appellant as to deprive him of the due process of the *BCO* and of righteous and Biblical judgment as is required by Scripture and the Constitution of the PCA?

Judgment

- 1.No.
- 2.No.

Reasoning

Much attention was given to the meaning of the word “demand” as used erroneously by the Appellant on two occasions during the congregational meeting called to determine whether or not his resignation would be required. The Appellant claimed on November 23, 1997, that “[I]t is six weeks now they have been demanding my resignation” and later in the meeting stated: “Did you know the Session was demanding my resignation when it first started some six weeks ago?” It cannot be denied that individual Session members expressed themselves strongly. However, the Session as a whole took no formal action until just after the congregational meeting, and the previous viewpoints of individual members must be considered only as opinions of particular Session members. The Appellant admitted that the word “demanded” was an “emotionally charged word” which inflamed passions. The Appellant was surely bearing witness before the congregation in a matter of great significance to the people, and he had the duty to maintain a much higher standard than he did. The SJC also found no convincing support for the allegation that any specific material available to the Presbytery had been improperly withheld from the Appellant, or, in any event, would be likely to had any significant impact upon the final judgment herein.

Key Words – vows, congregational meeting, resignation, dissolution, call, judicial commission, prejudice

**1998-10 Reference of Complaint of Curtis v. Eastern Carolina  
M28GA, 2000 Tampa, p. 236. Declined 14-5.**

Summary

TE Curtis, a minister ordained by Eastern Carolina Presbytery (ECP), sought to transfer to Ascension Presbytery (AP). AP denied the transfer based on his creation views, but gave permission for him to labor in its bounds as Assistant Professor of Biblical Studies at Geneva College. ECP then set up a committee to investigate his view but later sustained a Complaint against that action, and the committee was dissolved. A motion seeking to prohibit Curtis from “teaching his exceptions” failed.

TE Black complained that ECP did not adopt that motion. ECP sustained Black's Complaint and Curtis then complained against ECP's teaching prohibition. ECP sought to refer Curtis' Complaint to the SJC, but it declined to accept the Reference and instructed ECP to hear the Complaint.

Recommendation

The panel recommended to the SJC that the reference from ECP be returned to ECP with the instruction that the Complaint of TE Curtis be heard. (*BCO* 43-1 and 43-2)

Reasoning

While the case before the Panel was "judicial" and ready to be adjudicated, it was also clear that the Respondents did have some grounds for arguing that ECP did ask "advice" (either from the SJC or CCB). Given this element of uncertainty and the principle that the lower court ought to hear cases before it, it was the judgment of the SJC that this case be returned to ECP for adjudication at the next available stated meeting and that the substance of TE Curtis' Complaint be heard.

Key Words – teach, creation, days, doctrine, transfer, exam, views, *BCO* 43-1, 43-2

**1999-01    Western Carolina v. Tennessee Valley**

*M28GA*, 2000 Tampa, p. 238. AOO 17-3.

*M29GA*, 2001 Dallas, p. 70. 17-0. The SJC declined to indict. 3 C-Op.

Summary

Western Carolina, Calvary, and Ascension Presbyteries overruled for the GA to assume original jurisdiction over TE John Wood of Cedar Springs Presbyterian Church (CSPC) in Tennessee Valley Presbytery (TVP), whom they alleged "allowed women to fill the pulpit in a PCA church." The SJC initially ruled the matter AOO, stating that *BCO* 34-1 did not apply because the SJC judged that TVP did not "refuse to act." However, the 28<sup>th</sup> GA in Tampa overruled the SJC AOO ruling and instructed the SJC to follow *BCO* 31-2. The following year, the SJC reported its investigation to the 29<sup>th</sup> GA in Dallas and its decision declining to indict due to lack of a strong presumption of guilt. The 29<sup>th</sup> GA in Dallas approved that decision.

Reasoning

The SJC, upon review of and deliberation on the panel's Report and all relevant documents, found that the investigation did not result in a strong presumption of guilt (*BCO* 31-2) on the part of TE Wood in connection with a woman speaking on August 16 and 23, 1998, at CSPC, and therefore judicial process should not be instituted against him. Based upon the evidence, the SJC believed that when the Session approved the plan for Dr. Linda Eure to speak in the evening service, the Session did not intend to have her preach, nor did the Session intend to violate PCA polity. However, the SJC concluded that what she said "crossed the line," as evidenced from the testimony of the REs and TEs who attended the service. But this "crossing of the line" did not require the institution of process against TE Wood. In addition, the SJC concluded that judicial process should not be instituted against TE Wood for his expressed views regarding women and preaching because: (1) the investigation did not produce evidence that raised a strong presumption of guilt on the part of TE Wood in connection with any public scandal caused by agitation regarding or promotion of the view that women should be ordained or that women should preach in PCA churches; (2) the investigation did not result in a strong presumption of guilt that TE Wood promoted his views on women and preaching in PCA churches; (3) there was no clear evidence of TE Wood's views are outside the bounds of our Standards.

Key Words – women, preach, teach, assume original jurisdiction, investigation, strong presumption of guilt, *BCO* 34-1

**1999-02 Tan v. South Texas**

*M28GA*, 2000 Tampa, p. 241. AOO 22-0. Fax was not acceptable. Subsequent mailing was not timely filed *BCO* 43-3.

**1999-03 Appeal of Gatis v. Northeast**

*M29GA*, 2001 Dallas, p. 82. Withdrawn.

**1999-04 Appeal of Fitzsimmons v. Evangel**

*M28GA*, 2000 Tampa, p. 242. AOO 21-0. Not timely filed per *BCO* 42-2.

**1999-05    Appeal of Rountree v. Covenant**  
M29GA, 2001 Dallas, p. 82. Not Sustained 15-0.

Summary

The Appellant alleged that Covenant Presbytery (CP) erred when it divested a TE (the Appellant) without censure, after being on the Presbytery rolls for over 7 years without call.

Issue

Did CP err in its divestiture without censure of TE Lawrence Rountree?

Judgment

No. CP acted within its constitutional prerogatives in divesting without censure.

Reasoning

The *BCO* provides that when a minister continues on the rolls “without a call to a particular work for a prolonged period, not exceeding three years, the procedure as set forth in *BCO* 34-10 shall be followed.” In total TE Rountree was on the rolls of CP without call for over seven years, four years longer than provided for in the *BCO*. As of 2001, he still had no prospects for a call to a particular ministry. Residing out of the bounds of CP, it was difficult for that Presbytery to provide oversight and maintain pastoral relations.

Key Words – demit, call, divestiture, *BCO* 13-2, 34-10

**1999-06    Appeal of Shive v. Central Carolina**

M29GA, 2001 Dallas, p. 85. Not sustained 17-1. See previous Case 1997-09.

Summary

The Appellant alleged that the Session of Christ Covenant Church (CCC) erred by (1) misinterpreting a previous SJC Decision [Case 1997-09] and (2) increasing his censure from indefinite suspension from sacraments to excommunication. Readers of this decision or the decision in Case 1997-09 should note that the Appellant (Dr. Shive) was blind. All written material in these cases was read to him, which affected his understanding of the written material and process of the cases.

### Issues

1. Did Central Carolina Presbytery (CCP) err by affirming the Session's interpretation of the Judgment of SJC Case 1997-09 (Shive v. CCP) that the guilt of Dr. Shive was not reversed but affirmed as to the 4 charges of (1) sexual immorality, abuse, and licentiousness, (2) premeditated sexual exploitation, (3) lying and bearing false witness, and (4) scandalous living?
2. Did Presbytery err by affirming the Session's decision to increase Dr. Shive's censure from indefinite suspension to excommunication?

### Judgment

1. No. There was no mention in the Judgment in Case 1997-09 (*M26GA*, p. 137) that the guilt of Dr. Shive was reversed on any charge. Thus the guilty verdict of CCC Session stands unchanged on all 4 charges. The penalty of excommunication was recommended to be changed to indefinite suspension from the sacraments. Hence the guilty verdict of the Session in SJC Case 1997-09 remained unchanged.
2. No. The Judgment in SJC Case 1997-09 gave the Session these instructions: "... that until satisfactory evidence of repentance is given to Session of CCC, to impose such conditions concerning Dr. Shive's involvement in the life of CCC, as the Session may find." Thus Presbytery did not err in affirming the action of the Session in imposing the censure of excommunication on Dr. Shive after the Session determined that Dr. Shive had not given "satisfactory evidence of repentance." Presbytery properly followed *BCO* 39-3(2) in giving "great deference to a lower court regarding these factual findings which the lower court is more competent to determine." The SJC did likewise.

### Reasoning

The SJC believed that the failure of the Appellant to properly interpret the decision in Case 1997-09 was a failure to center on the clear and unambiguous language stating these specific issues being judged in the case and the definite conclusions rendered on the specific issues. The Appellant interpreted the SJC Decision in Case 1997-09 to mean that the "decision clearly challenged and struck down the allegations" of the Session and reversed the verdicts of guilt on all four charges. However, the SJC believed that the Appellant misinterpreted the SJC Decision and the Discipline Commission of the Session properly interpreted it. In Issue/Judgment 4 of Case 1997-09, the SJC judged that no procedural

errors were committed by CCP which required reversal or remanding. This clear and unambiguous language in defining the issue and stating the judgment showed without question that the Appellant's interpretation of the decision was in error. In Issue/Judgment 5 of Case 1997-09, the SJC judged that CCP did err in affirming the decision of the Session's infliction upon the Appellant the highest censure of excommunication based on the ROC. However, in contrast to the Appellant's claim, in this judgment there was absolutely no language that gave any indication that the four guilty charges against the Appellant were reversed or remanded.

Key Words – repentance, censure, disability, excommunication, sexual sin, abuse, false witness, counseling, *BCO* 39-3

**1999-07 Black v. Eastern Carolina**

*M29GA*, 2001 Dallas, p. 98. Not sustained 13-3. D-Op.

Summary

The Complainant alleged that Eastern Carolina Presbytery (ECP) erred when it failed to sustain or deny a Complaint about a licentiate transferring from Philadelphia Presbytery (PP), and when it ruled that the licentiate had “not taken an exception to *WCF* regarding creation.”

Issues

1. At its October 1999 meeting, by failing to either sustain or deny TE Black's Complaint, did ECP fail to *consider* his Complaint?
2. Did ECP err in July 1999 when it ruled that licentiate Inman had “not taken an exception to the *Westminster Confession of Faith* and Catechism regarding creation” in light of the specific written views contained in the ROC?

Judgment

1. No. Presbytery did not fail to consider the Complaint. While the Complaint was not *explicitly* denied, it was *essentially* denied and therefore the Complainant had proper right to complain to this higher/broader court. It should not have been remanded simply because of the Presbytery's failure to either sustain or deny.
2. No. Presbytery did not err when it ruled in July 1999 that the licentiate's view on the length of the creation days did not constitute an exception to the Westminster Standards.

### Reasoning

The issue in this case was not whether a man's particular view was acceptable for licensure or ordination. (The Complainant said he supports the man's licensure.) Nor was the issue whether a man's particular view should be teachable. (Presbytery did not rule on that.) The issue was whether any and every non-Calendar Day view should be considered as an exception to the Westminster Standards. Regarding Issue One, the Complainant contended that ECP had not "adjudicated" the Complaint because it neither sustained nor denied it (both motions failed). At the Panel hearing, however, the Respondent for ECP believed the Presbytery had essentially denied the Complaint. The SJC agreed with the Respondent. The Complaint had been "adjudicated" by the Presbytery. Regarding Issue Two and the Complaint that ECP repent of "modern revisionism" in its failure to affirm 24-hour days in Genesis One, the SJC was unable to judge whether ECP was guilty of the alleged "modern revisionism" and in need of repentance. The Complaint did not define "modern revisionism" and the ROC did not deal with this alleged sin. At the same time, the SJC disagreed with the relatively recent contention that the allowance of non-Calendar Day view is a "modern revision" in the history of Reformed churches, on the basis of the diversity of opinion in the more than 150 years of the conservative Reformed community and the history of the PCA since its formation in 1973.

Key Words – creation, days, 24-hour, Genesis, doctrine, exam, transfer

### **2000-01 Morrison v. Philadelphia**

*M29GA*, 2001 Dallas, p. 114. Not sustained 18-0.

### Summary

The Complainant alleged that Philadelphia Presbytery (PP) failed to constitutionally handle a "Memorial" which alleged that the Session of Calvary Presbyterian Church (CPC) was guilty of a "grossly unconstitutional proceeding" involving a dispute between two REs who were not on the Session.

### Issue

Did PP act in an unconstitutional manner in adopting the report of Commission?

Judgment  
No.

*Editorial Note: In 2006, the presbyteries approved the amendment of BCO 40-5 which removed reference to judicial memorials (see Ecclesiastical Commissions (BCO 15), 2006, p. 52, 34-8 and 2006, p. 55, 34-8, Items 2 and 3 of this digest).*

Reasoning

The matters before the SJC in this case concerned the methodology for dealing with a memorial, and not the specific issues raised in the memorial. *BCO 40-5* clearly provides for “memorials” to be a means of getting a matter before a higher court. *BCO 40-5* does not indicate that the mere receipt of a memorial sets before the higher court a judicial case. Under these provisions, the Presbytery was called to act in a serious manner and investigate to ascertain if a formal trial was warranted, but was not required to instigate formal process. In reviewing this matter, the SJC noted that Presbytery’s Commission followed a very thorough procedure of “investigation.” It was also clear that the Presbytery was not under any requirement to address the charges in the original Complaint and raised again in the memorial but merely to investigate whether the Session was guilty of any “important delinquency or grossly unconstitutional proceedings” in its handling of the Complaint.

Key Words – memorial, investigation, *BCO 31-2, 40-5*

**2000-02 Adams v. Northeast**

*M29GA*, 2001 Dallas, p. 122. AOO 18-1. C-Op. The Complaint was about a matter that was the subject of an appeal in another case (*BCO 43-1*) and requests the relief that an accused be retried on matters he has been acquitted of by his Presbytery.

**2000-03 South Coast Presbytery Memorial**

*M29GA*, 2001 Dallas, p. 124. Withdrawn.

**2000-04 Staley v. North Texas**

*M29GA*, 2001 Dallas, p. 124. AOO 19-0. The Complainant lacked standing, as he was not a member of the PCA.

**2000-05 King v. Evangel**  
M29GA, 2001 Dallas, p. 124. Abandoned.

**2000-07 Stadick v. Northern Illinois**  
M29GA, 2001 Dallas, p. 125. AOO 19-0. Not timely filed per *BCO* 43.

**2000-08 Session of Korean Presbyterian Church of Washington v. Korean Capital**  
M29GA, 2001 Dallas, p. 125. AOO 15-0. Prematurely filed. Presbytery had not completed its action on the Complaint.

**2000-09 Sung Keon Kim v. Korean Capital**  
M30GA, 2002 Birmingham, p. 109. Sustained 17-3.

Summary

The Complainant alleged that Korean Capital Presbytery (KCP) erred by “replacing” the Session of the Korean Presbyterian Church of Washington (KPCW) with a Presbytery commission without congregational approval. The two groups claimed to be the rightful Session.

Issue

Did KCP err in its action of October 9, 2000, “...to suspend the functions of the KPCW Session and have the Presbytery [commission] replace the functions” (of the KPCW Session) without the prior consent of the congregation?

Judgment

Yes. Therefore, the subsequent actions of the Commission acting as Session of KPCW were annulled.

Reasoning

The action of KCP clearly violated Preliminary Principle Six in the Preface to the *BCO* which states that “...the power to elect persons to the exercise of authority in any particular society resides in that society.” The appointment of the Commission by KCP was unauthorized by the *BCO*; and therefore, its actions are not binding on the Session and congregation. This action similarly violated *BCO* 16-2 which states that

“...the right of God’s people to recognize by election to office those so gifted is unalienable. Therefore no man can be placed over a church in any office without the election, or at least the consent of that church.” In this case, KCP sought to “act for” the congregation and Session of KPCW, and in doing so KCP erred.

Key Words – preliminary principle, act for, congregational approval, *BCO* 13-9, 16-2

**2000-10 Tinsley et al. v. Southeast Alabama**

*M29GA*, 2001 Dallas, p. 126. AOO 14-0. Not timely filed per *BCO* 43-3.

**2001-01 Appeal of Charles Kim v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 115. Sustained 16-1.

Summary

The Appellant alleged that a Commission of Korean Capital Presbytery (KCP) did not have jurisdiction to conduct the trial of an RE.

Issue

Was KCP and/or its Commission appointed on October 9, 2000, the proper court to assume original jurisdiction to receive and adjudicate the charges against the Appellant Charles C. Kim?

Judgment

No, such original jurisdiction should be with the Session; therefore, the Presbytery’s action, and/or the Judicial Commission of Presbytery’s actions, in this matter were reversed.

Reasoning

The action of KCP clearly violated Preliminary Principle Six in the Preface to the *BCO* which states that “...the power to elect persons to the exercise of authority in any particular society resides in that society.” The appointment of the Commission by KCP was unauthorized by the *BCO*; and therefore, its actions are not binding on the Session and congregation. This action similarly violated *BCO* 16-2 which states that “...the right of God’s people to recognize by election to office those so gifted is unalienable. Therefore no man can be placed over a church in

any office without the election, or at least the consent of that church.” In this case, KCP sought to “act for” the congregation and Session of KPCW, and in doing so KCP erred.

Key Words – preliminary principle, *BCO* 16-2, 31-1, 33-1; original jurisdiction

**2001-02      Appeal of Sang Soo Ryoo v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 122. Sustained 19-0.

Summary

The Appellant alleged that a commission of Korean Capital Presbytery (KCP) did not follow *BCO* procedures in judicial process.

Issue

Did the Judicial Commission follow *BCO* procedures in instituting and conducting judicial process?

Judgment

No, the commission did not follow the procedures of *BCO* 32; and, therefore, the case was remanded to Presbytery for a new trial in compliance with *BCO* 32.

Reasoning

It was clear that no indictment was ever served upon the accused. It was not clear whether or not an indictment was ever prepared. Further, there was nothing in the ROC to show what occurred when the judgment was entered by the lower court. It appears to have been entered by default without any hearing and testimony. It was not clear from the ROC whether or not a prosecutor was appointed formally. The proper service of an indictment together with a list of witnesses is critical and because that did not happen here, the case had to be remanded.

Key Words – charge, citation, indictment, *BCO* 32-3

**2001-03      Appeal of Sung Keon Kim v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 124. Sustained 17-0.

Summary

The Appellant alleged that a commission of Korean Capital Presbytery (KCP) did not follow *BCO* procedures in judicial process.

Issue

Did the Judicial Commission follow *BCO* procedures in instituting and conducting judicial process against the Appellant?

Judgment

No, the commission did not follow the procedures of *BCO* 32 and 34; and, therefore, the case was remanded to Presbytery for a new trial in compliance with *BCO* 32 and 34.

Reasoning

It was clear that no indictment was ever served upon the accused. It was not clear whether or not an indictment was ever prepared. Further, there was nothing in the ROC to show what occurred when the judgment was entered by the lower court. It appears to have been entered by default without any hearing and testimony. It was not clear from the ROC whether or not a prosecutor was appointed formally. The proper service of an indictment together with a list of witnesses is critical and because that did not happen here, the case had to be remanded.

Key Words – charge, citation, indictment, *BCO* 32-3, 34

**2001-04      Appeal of Moon K. Ham v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 127. Sustained 16-1.

Summary

The Appellant alleged that a commission of Korean Capital Presbytery (KCP) did not have jurisdiction to conduct a trial of an RE.

Issues

Was Presbytery and/or its Commission appointed on October 9, 2000, the proper court to assume original jurisdiction to receive and adjudicate the charges against the Appellant?

Judgment

No, such original jurisdiction should be with the Session; therefore, the Presbytery's action and/or the Judicial Commission of Presbytery's actions, in this matter were reversed.

### Reasoning

The court of original jurisdiction for communicant members in any local church is the Session of that church. The Appellant in this case was a member of the Korean Presbyterian Church of Washington (KPCW) and thus, any judicial action or censure against a member needed to originate within the court of original jurisdiction, the Session.

Key Words – charge, censure, original jurisdiction

### **2001-05 Ham et al. v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 109. Withdrawn.

### **2001-06 Sang Bai Kim and Chan Soo Kim v. Korean Eastern**

*M31GA*, 2003 Charlotte, p. 94. Sustained 15-3.

### Summary

The Complainant alleged that a commission of Korean Eastern Presbytery (KEP) improperly called a congregational meeting to vote on REs.

### Issue

1. Did the Administrative Commission, duly appointed by KEP on September 19, 2000, violate *BCO* principles in calling and facilitating a congregational meeting of Cheltenham Presbyterian Church (CPC) on February 18, 2001, for purposes of voting on Ruling Elders and church trustees, and in recognizing a church Session on the basis of that meeting?
2. Did KEP violate *BCO* principles in approving, on March 2, 2001, the Administrative Commission's actions taken on February 18, 2001?

### Judgment

1. Yes. Therefore, the lower court's decision was reversed in whole, and the Complaint was sustained.
2. Yes. Therefore, the lower court's decision was reversed in whole, and the Complaint was sustained.

### Reasoning

The essence of this case involved the proper interpretation of *BCO* 13-9 and the proper response to *BCO* 25-2. It was clear from the ROC that the

Session of the CPC was deadlocked and without a moderator. Further, the Session had failed to honor a petition from members of the church to call a congregational meeting as provided in *BCO* 25-2. When no meeting had been called within the required time period, the petitioners complained to the KEP. Rather than follow the procedure in *BCO* 43, KEP attempted to resolve the matter first pastorally. When this was unsuccessful, it called and facilitated a congregational meeting on the basis of its interpretation of *BCO* 25-2, specifically to vote on Ruling Elders and trustees. It is clear from precedents, from *BCO* 25-2, and from a more detailed explanation in the judgment in the SJC case 2001-01, that the responsibility for calling a congregational meeting rests with the Session. The proper course of action in this instance would have been to adjudicate the Complaint. By doing so, the Presbytery could have ruled for the petitioners and instructed the Session in terms of *BCO* 13-9, b, to call the congregational meeting.

Key Words – congregational meeting, vote, Ruling Elder, *BCO* 13-9, 25-2, 43

**2001-07 Andy Lee v. Korean Capital**  
*M30GA*, 2002 Birmingham, p. 129. Sustained 15-2.

Summary

The Complainant alleged that Korean Capital Presbytery (KCP) erred by appointing a commission to act as the Session of the Korean Presbyterian Church of Washington (KPCW) and that all actions of that commission should be annulled.

Issue

1. Did the KCP err in its action of October 9, 2000, in suspending the Session of the KPCW and appointing a Commission to act for the KPCW Session without the prior consent of the congregation?
2. Are the subsequent actions of the commission, acting as the KPCW Session, in accordance with the *BCO*?

Judgment

1. Yes.
2. No, therefore, all subsequent actions of the commission acting as the Session of KPCW were annulled.

### Reasoning

The issue in this case had to do with whether or not the KCP had the *BCO* authority to suspend the Session of the KCPW and act for the Session in the manner set forth by the facts of the case. The action of KCP to suspend the KPCW Session and appoint a Commission was based on *BCO* 13-9. The Complainant correctly argued, however, that *BCO* 13-9 cannot be understood in isolation from other relevant portions of the *BCO*, including Preliminary Principle Six, *BCO* 3-1, and *BCO* 16-2, which underscore the right of the congregation to be governed by those duly elected by that body. Based on the ROC, the KCP did not have the prior consent of the congregation to suspend its REs and appoint a Presbytery Commission to act for the Session of KPCW. Therefore, the KCP Commission was erected and clothed with powers to act for the Session in a manner not provided for in the *BCO*. Thus, all subsequent actions of the Commission were annulled insofar as the Commission was not constituted in accordance with *BCO* requirements.

Key Words – reference, preliminary principle, *BCO* 13-9, 16-2

### **2001-08 Andy Lee v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 133. Sustained 15-2.

### Summary

The Complainant alleged that the Korean Capital Presbytery (KCP) erred by appointing a Commission to act for the Session of Korean Presbyterian Church of Washington (KPCW) which sought and ultimately received a civil court order restraining certain REs from interfering with the Commission.

### Issue

1. Did the KCP err in its action of October 9, 2000, in suspending the Session of the KPCW and appointing a Commission to act for the KPCW Session?
2. Did the KCP err when its appointed Commission sought and obtained an injunction from the civil courts to conduct the Sessional affairs of the KPCW?

### Judgment

1. Yes.
2. Yes, but if the Commission had been established in accordance with

the *BCO* it would have been proper for the Commission to seek such civil assistance as may have been “necessary for the protection and security equal and common to all others.” (Preface II-I(b), *BCO*)

Reasoning

For Issue One, it is explicit in the *BCO* (*BCO* 25-11) that none of the rights and responsibilities of the congregation shall ever be taken away “without the express consent and affirmative action” of the congregation. Since there was no evidence that Presbytery suspended the Session and appointed the Commission with the required prior consent of the congregation, this action of the Presbytery was ruled as unauthorized by the *BCO*. Regarding Issue Two, *BCO* (II-I(b)) recognizes that in certain circumstances assistance may be requested of civil authorities to provide protection and security equal and common to all others. The SJC made no judgment concerning the appropriateness of having sought a civil court order. It was only as the Commission was functioning as the Session of the KPCW without authority of the *BCO* that an error was made.

Key Words – reference, preliminary principle, civil authorities, civil courts, *BCO* 25-11

**2001-09      Appeal of Charles Kim v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 137. Sustained 17-0.

Summary

The Appellant claimed that a commission of Korean Capital Presbytery (KCP) did not have jurisdiction to conduct the trial of an RE.

Issues

Was the Presbytery and/or its Commission which was appointed on January 8, 2001, the proper court to assume original jurisdiction to receive and adjudicate the charges against Appellant?

Judgment

No, such original jurisdiction should be with the Session; therefore, the Presbytery’s action and/or the Judicial Commission of Presbytery’s actions, in this matter were reversed.

Reasoning

The court of original jurisdiction for communicant members in any local church is the Session of that church. The Appellant in this case was a member of the Korean Presbyterian Church of Washington (KPCW) and thus, any judicial action or censure against a member needed to originate within the court of original jurisdiction, the Session.

Key Words – original jurisdiction, local church

**2001-10    Appeal of Charles Kim v. Korean Capital**

*M30GA, 2002 Birmingham, p. 139. Sustained 15-1.*

Summary

The Complainant alleged that a commission of Korean Capital Presbytery (KCP) did not have jurisdiction to conduct trial of an RE.

Issues

Was Presbytery and/or its Commission appointed on January 8, 2001, the proper court to assume original jurisdiction to receive and adjudicate the charges against Appellant?

Judgment

No, such original jurisdiction should be with the Session; therefore, the Presbytery's action and/or the Judicial Commission of Presbytery's actions, in this matter were reversed.

Reasoning

The court of original jurisdiction for communicant members in any local church is the Session of that church. The Appellant in this case was a member of the Korean Presbyterian Church of Washington (KPCW) and thus, any judicial action or censure against a member needed to originate within the court of original jurisdiction, the Session.

Key Words – original jurisdiction, local church, Ruling Elder

**2001-11    Byung Han Yoo v. Korean Northwest**

*M30GA, 2002 Birmingham, p. 140. AOO. Not timely filed per BCO 43-2.*

**2001-12      Appeal of Peter Lee v. Korean Capital**  
*M30GA, 2002 Birmingham, p. 141. Sustained 16-1.*

Summary

The Complainant alleged that a commission of Korean Capital Presbytery (KCP) did not have jurisdiction to conduct trial of a Deacon.

Issues

Was Presbytery and/or its Commission appointed on January 8, 2001, the proper court to assume original jurisdiction to receive and adjudicate the charges against Appellant?

Judgment

No, such original jurisdiction should be with the Session; therefore, the Presbytery's action and/or the Judicial Commission of Presbytery's actions, in this matter were reversed.

Reasoning

The court of original jurisdiction for communicant members in any local church is the Session of that church. The Appellant in this case was a member of the Korean Presbyterian Church of Washington (KPCW) and thus, any judicial action or censure against a member needed to originate within the court of original jurisdiction, the Session.

Key Words – original jurisdiction, local church

**2001-13      Appeal of Samuel Hong v. Korean Capital**  
*M30GA, 2002 Birmingham, p. 142. Sustained 16-1.*

Summary

The Appellant alleged that a commission of Korean Capital Presbytery (KCP) did not have jurisdiction to conduct trial of a Deacon.

Issues

Was Presbytery and/or its Commission appointed on January 8, 2001, the proper court to assume original jurisdiction to receive and adjudicate the charges against Appellant?

Judgment

No, such original jurisdiction should be with the Session; therefore, the Presbytery's action and/or the Judicial Commission of Presbytery's actions, in this matter were reversed.

Reasoning

The court of original jurisdiction for communicant members in any local church is the Session of that church. The Session in this case was a member of the Korean Presbyterian Church of Washington (KPCW) and thus, any judicial action or censure against a member needed to originate within the court of original jurisdiction, the Session.

Key Words – original jurisdiction, local church

**2001-14    Appeal of Moon K. Ham v. Korean Capital**

*M30GA, 2002 Birmingham, p. 144. Sustained 15-1.*

Summary

The Appellant alleged that a commission of Korean Capital Presbytery (KCP) did not have jurisdiction to conduct trial of an RE.

Issues

Was Presbytery and/or its Commission appointed on January 8, 2001, the proper court to assume original jurisdiction to receive and adjudicate the charges against Appellant?

Judgment

No, such original jurisdiction should be with the Session; therefore, the Presbytery's action and/or the Judicial Commission of Presbytery's actions, in this matter were reversed.

Reasoning

The court of original jurisdiction for communicant members in any local church is the Session of that church. The Appellant in this case was a member of the Korean Presbyterian Church of Washington (KPCW) and thus, any judicial action or censure against a member needed to originate within the court of original jurisdiction, the Session.

Key Words – original jurisdiction, local church

**2001-15    Appeal of In Mo Chung v. Korean Capital**  
*M30GA, 2002 Birmingham, p. 146. Sustained 16-1.*

Summary

The Appellant alleged that a commission of Korean Capital Presbytery (KCP) did not have jurisdiction to conduct trial of an RE.

Issues

Was Presbytery and/or its Commission appointed on January 8, 2001, the proper court to assume original jurisdiction to receive and adjudicate the charges against Appellant?

Judgment

No, such original jurisdiction should be with the Session; therefore, the Presbytery's action and/or the Judicial Commission of Presbytery's actions, in this matter were reversed.

Reasoning

The court of original jurisdiction for communicant members in any local church is the Session of that church. The Appellant in this case was a member of the Korean Presbyterian Church of Washington (KPCW) and thus, any judicial action or censure against a member needed to originate within the court of original jurisdiction, the Session.

Key Words – original jurisdiction, local church

**2001-16    Appeal of Joo Bok Suh v. Korean Capital**  
*M30GA, 2002 Birmingham, p. 147. Sustained 16-1.*

Summary

The Appellant alleged that a commission of Korean Capital Presbytery (KCP) did not have jurisdiction to conduct trial of an RE.

Issues

Was Presbytery and/or its Commission appointed on January 8, 2001, the proper court to assume original jurisdiction to receive and adjudicate the charges against the Appellant?

Judgment

No, such original jurisdiction should be with the Session; therefore, the Presbytery's action and/or the Judicial Commission of Presbytery's actions, in this matter were reversed.

Reasoning

The court of original jurisdiction for communicant members in any local church is the Session of that church. The Appellant in this case was a member of the Korean Presbyterian Church of Washington (KPCW) and thus, any judicial action or censure against a member needed to originate within the court of original jurisdiction, the Session.

Key Words – original jurisdiction, local church

**2001-17      Appeal of Choon Soon Lee v. Korean Capital**

*M30GA, 2002 Birmingham, p. 149. Sustained 15-1.*

Summary

The Appellant alleged that a commission of Korean Capital Presbytery (KCP) did not have jurisdiction to conduct trial of an RE.

Issues

Was Presbytery and/or its Commission appointed on January 8, 2001, the proper court to assume original jurisdiction to receive and adjudicate the charges against the Appellant?

Judgment

No, such original jurisdiction should be with the Session; therefore, the Presbytery's action and/or the Judicial Commission of Presbytery's actions, in this matter were reversed.

Reasoning

The court of original jurisdiction for communicant members in any local church is the Session of that church. The Appellant in this case was a member of the Korean Presbyterian Church of Washington (KPCW) and thus, any judicial action or censure against a member needed to originate within the court of original jurisdiction, the Session.

Key Words – original jurisdiction, local church

**2001-18      Appeal of Sang Soo Ryoo v. Korean Capital**  
*M30GA*, 2002 Birmingham, p. 151. Sustained 17-0.

Summary

The Appellant alleged that a commission of Korean Capital Presbytery (KCP) did not follow *BCO* procedures in the judicial process of a TE.

Issues

Did the Judicial Commission follow *BCO* procedures in instituting process and conducting judicial process against the Appellant?

Judgment

No, the commission did not follow the procedures of *BCO* 32, 34; and, therefore, the case was remanded to Presbytery for a new trial in compliance with *BCO* 32, 34.

Reasoning

It was clear that no indictment was ever served upon the accused. It was not clear whether or not an indictment was ever prepared. The proper service of an indictment together with a list of witnesses is critical, and because that did not happen here the case needed to be remanded.

Key Words – judicial commission, indictment, depose, *BCO* 32, 34

**2001-19      Appeal of Sung Keon Kim v. Korean Capital**  
*M30GA*, 2002 Birmingham, p. 154. Sustained 18-0.

Summary

The Appellant alleged that a commission of Korean Capital Presbytery (KCP) did not follow *BCO* procedures in judicial process of a TE.

Issues

Did the Judicial Commission follow *BCO* procedures in instituting process and conducting judicial process against the Appellant?

Judgment

No, the commission did not follow the procedures of *BCO* 32, 34; and, therefore, the case was remanded to Presbytery for a new trial in compliance with *BCO* 32, 34.

Reasoning

It was clear that no indictment was ever served upon the accused. It is also not clear whether or not an indictment was ever prepared. The proper service of an indictment together with a list of witnesses is critical, and because that did not happen here the case needed to be remanded.

Key Words – judicial commission, indictment, depose, *BCO* 32, 34

**2001-20 Dae Hee Lee v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 109. Withdrawn.

**2001-21 Ha Oak Kim v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 109. Withdrawn.

**2001-22 Moon Ham v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 109. Withdrawn.

**2001-23 Dae Hee Lee v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 109. Withdrawn.

**2001-24 Williams v. Eastern Carolina**

*M30GA*, 2002 Birmingham, p. 109. Withdrawn.

**2001-25 Dallison v. Northern Florida**

*M30GA*, 2002 Birmingham, p. 156. Not sustained 15-0.

Summary

After being indefinitely suspended from office for 3 years, a TE alleged that the Presbytery of North Florida (PNF) erred by increasing his censure to deposition without instituting a new trial.

Issues

1. Did the PNF err constitutionally or procedurally when it acted on January 12, 2001, to depose Anthony Dallison from the office of TE,

and to suspend him from the sacraments of the Church without instituting fresh process against him?

2. Did the PNF err when on January 12, 2001, it determined Anthony Dallison to be impenitent with respect to his originally confessed sin, and increased the original censure to that of deposing him from the office of TE, and suspending him from the sacraments of the Church?

Judgment

1. No. Where a TE has confessed guilt to Presbytery under *BCO* 38-1, Presbytery has the authority to impose the censure here imposed on January 12, 2001, without initiating new charges and conducting a new trial.
2. No. Presbytery's determination of impenitence and the imposition of additional censure based upon that determination were within the sound discretion of Presbytery, and within Presbytery's authority, under *BCO* 37-3, 37-4, 37-8, and 34-4b.

Reasoning

The central issue in this case was the Complainant's argument that Presbytery did not have the power to increase the censure at a later date without first proving his impenitence through the full process of a new trial with further charges. Before a trial, the accused is to be considered innocent until proven guilty. The situation changes, though, once the accused either confesses to the offense or through trial is determined to be guilty of such. At that point, the court no longer bears the responsibility of proving his guilt. The onus is not on the court to prove the offender's impenitence, but on the offender to satisfy the court that he is repentant. There were several established and unchallenged facts, which occurred after the initial censure, which supported the position that NFP was correct in its judgment and discretion concerning the Complainant. These facts were the matters investigated by Presbytery in determining to increase the Complainant's censure to deposition from ministry. The main position of the Complainant was that the lower courts do not have authority according to the exercise of their discretion and judgment to proceed to higher forms of censure without first proving the impenitence of the offender. However, this position would effectively nullify the binding and loosing authority which Christ gave to His church (Matthew 18:18; John 20:23). In addition, *BCO* 36-2 says "the degree of censure and mode of administering it shall be within the discretion of the court." If the court determines in its mercy that it is going to inflict the

lowest censure possible in the beginning and move to higher censure only if necessary, that discretion is within their authority and should not be overturned by the higher court “unless there is clear error on the part of the court” (*BCO* 39-3).

Key Words – case without process, deposition, physical abuse, discretion, *BCO* 34-4b, 36-2, 37-3, 38-1

**2001-26 Price v. Northern Illinois**

*M30GA*, 2002 Birmingham, p. 109. Abandoned.

**2001-27 Price v. Northern Illinois**

*M30GA*, 2002 Birmingham, p. 109. Abandoned.

**2001-28 Ball v. Westminster**

*M30GA*, 2002 Birmingham, p. 162. Not sustained 17-1.

Summary

A TE alleged that Westminster Presbytery (WP) erred when it adopted a plan to leave the PCA at a future date, arguing that this plan violated freedom of conscience and that WP acted in a manner inconsistent with the doctrinal standards and the form of government of the PCA.

Issue

Did WP err when it denied the Complaint of Larry Ball against the decision of Presbytery to withdraw from the PCA pursuant to procedures adopted at its May 15, 2001, meeting?

Judgment

No. Thus the Complaint of TE Larry Ball against the decision of WP to withdraw from the PCA pursuant to the procedures adopted at its May 15, 2001 meeting was denied.

Reasoning

The Complainant argued that the nature of the WP plan to withdraw from the PCA violated the principles of historic “grass roots” Presbyterianism because the plan amounted to WP “acting for” the local church. He cited

Case 1995-07. While Case 1995-07 related to the relationship between a local church and a Presbytery, the SJC agreed to follow the same line of reasoning in this case in deciding who and what make up the membership of any court of the church (in this case we were concerned with a Presbytery), and in deciding with what ecclesiastical body that Presbytery will affiliate. It is that Presbytery itself that has both the ecclesiastical and a civil authority to make those determinations. WP, within the framework of the *BCO*, has the authority to decide the composition of its own membership and its ecclesiastical affiliation. Such a decision was not “acting for” a local church.

Key Words – withdrawal, preliminary principle, freedom of conscience, *BCO* 25, 25-11

**2001-29 Yates v. South Texas**

*M30GA*, 2002 Birmingham, p. 109. Withdrawn.

**2001-30 Session of Third Presbyterian v. Evangel**

*M31GA*, 2003 Charlotte, p. 101. JOO. 19-0.

Summary

This case was a lease dispute between a church and school (separate corporations) in which Evangel Presbytery (EP) acted as Arbitrator in a legally binding arbitration.

Issue

Was this case judicially in order?

Judgment

No, the SJC ruled that this Complaint was not judicially in order (SJC Manual 11.5.d).

Reasoning

The SJC did not have jurisdiction in this case, following Preliminary Principle 8 and *BCO* 3, 11, and 13-9. The SJC applauded EP’s desire to assist two Christian parties in a dispute, but PCA courts should not serve as civil arbitrators, even if both parties are under the jurisdiction of the PCA. EP should not have accepted that role in the first place. Since it

was not within the jurisdiction of a church court to serve as a civil arbitrator, then it was not within the purview of the SJC or the Presbytery to conduct appellate review of legally binding arbitration judgments either.

Key Words – property, school, building, legally binding, civil arbitration, *BCO* 3, 11, 13-9

**2001-31      Appeal of Jeansonne v. Eastern Carolina**

*M31GA*, 2003 Charlotte, p. 105. JOO 19-0. Per decision in Case 2001-33, this was remanded to the Session.

**2001-32      Session of Christ Covenant v. Central Carolina**

*M31GA*, 2003 Charlotte, p. 107. JOO 18-0.

Summary

The Session of Christ Covenant Church (CCC) indicted a woman on charges of divorcing without Biblical grounds, but she was acquitted at trial. Although the husband's Complaint to the Session of CCC was denied, Presbytery later sustained the husband's Complaint. The Session of CCC then filed a Complaint with the SJC against the Presbytery's ruling.

Issues

Was this case judicially in order?

Judgment

No, the case was not judicially in order.

Reasoning

The Session of CCC should not have received the husband's Complaint because the Complaint was not timely filed; it exceeded the thirty-day requirement of *BCO* 43-2.

Key Words – divorce, filing, timely filed, membership rolls, *BCO* 43-2

**2001-33      Marshall v. Eastern Carolina**

*M31GA*, 2003 Charlotte, p. 109. Sustained 19-0.

Summary

A Deacon at Christ Presbyterian Church (CPC) was found guilty of “causing dissension and strife among the brethren.” The Deacon appealed to Eastern Carolina Presbytery (ECP), which was sustained. A Session prosecutor of CPC (RE Keith Williams) filed a Complaint with ECP, which was sustained by ECP and voided its decision on the Deacon’s initial appeal. The Complainant (TE Marshall) alleged that this reversal by ECP was a procedural error and claimed that the sustaining of the initial Appeal should be reinstated.

Issue

Did Presbytery err in sustaining the Complaint of RE Keith Williams at its July 21, 2001, stated meeting, which had the effect of rescinding its judgment of April 21, 2001, to wit: reversing in whole the judgment of the CPC Session against Deacon Neil Jeansson?

Judgment

Yes. The judgment of ECP of July 21, 2001, was reversed and the judgment of April 21, 2001, stood [sustaining the appeal] and thereby the case was remanded to the Session of CPC [for a new hearing or withdrawal of the charges].

Reasoning

This case dealt with the judicial propriety of a Presbytery hearing and acting on a Complaint where an Appeal was taken. *BCO* 43-1 prohibits a Complaint in a judicial case where an Appeal “is taken.” The words, “is taken,” have reference to an Appeal on a case whether past, current or pending. It does not mean just a current case under appeal. Once an Appeal has been taken in a judicial case, no Complaint is allowable.

Key Words – appeal, complaint, dissension, Deacon, procedural error, *BCO* 43-1

**2001-34 Nichols and Couch v. James River**

*M33GA*, 2005 Chattanooga, pages 72, 98, 146. Sustained parts 13-3. C-Op. Obj (p.146).

Summary

Three judicial cases arose out of conflicts between the Session and congregation of West End Presbyterian Church (WEPC) regarding a

minister. There were 17 separate Complaints rolled into these three cases. Cases 2002-02 and 2002-03 were answered by reference to the SJC decision in this case. This Complaint alleged that James River Presbytery (JRP) erred by not dissolving a pastor's call after the congregation voted 52-42% to dissolve (with 5% abstaining). JRP declined to do so because it deemed the congregation's "reasons...were insufficient" (*BCO* 23-1). JRP later filed an Objection after the SJC Decision, which the GA answered by referencing the C-OP.

Issue

1. Were all 17 of the Complaints in Judicial Cases 01-34, 02-02, and 02-03 judicially in order?
2. Did JRP err, at its April 21, 2001, meeting and subsequent meetings when it declined to approve its Ministerial and Church Relations Committee's (MCRC) recommendation to grant the constitutional request of WEPC to dissolve the relationship between TE Robert Wilson, its pastor, and WEPC?
3. Did JRP err in approving a motion, at its July 28, 2001, Presbytery meeting, to make a gift equivalent to full salary and allowances to TE R.C. Wilson for a period of 3 months, pending a refusal of WEPC to continue payments to him?

Judgment

1. No. Not all 17 Complaints within Judicial Cases 2001-34, 2002-02 and 2002-03 were judicially in order. The following Complaints were not judicially in order, to-wit: Complaint 07-01, Judicial Case 2001-34; Complaint 10-01, Judicial Case 2002-02; Complaint 13-01, Judicial Case 2002-02; Unnumbered Complaint - Judicial Case 2002-02; Complaint 16-01, Judicial Case 2002-03; Complaint 18-01, Judicial Case 2002-03; Complaint 19-01, Judicial Case 2002-03. All the other Complaints in these cases were in order.
2. Yes. JRP had no constitutional basis at its Presbytery meetings in 2001 beginning with its April 21, 2001 meeting, permitting it to delay granting a proper constitutional request by WEPC to dissolve the relationship between the local church and its pastor.
3. No. This gift was within the discretion of JRP to determine its own benevolent giving.

Reasoning

In the ROC for the 3 cases that were judicially in order, JRP constantly referred to *BCO* 13-9c and 23-1 as its authority for postponing the

constitutional request of WEPC to dissolve its relationship with TE Wilson. The SJC held that JRP misinterpreted these two sections. Concerning *BCO* 13-9c, the Presbytery has the power “to establish the pastoral relationship, to dissolve it at the request of *one or both* parties, or where the interest of religion imperatively demands it.” However, following Preliminary Principle 6, a Presbytery does not have the power to force a minister on a congregation without the prior consent of the congregation; nor does a Presbytery have the authority to force a congregation to keep a pastor when said congregation has made a constitutional request to Presbytery to dissolve the relationship. Concerning *BCO* 23-1, the Presbytery should cite the minister to appear to show cause why the Presbytery should or should not resolve the relationship. The only requirement for the Presbytery is to determine that there was “a meeting of the congregation called and conducted in the same manner as a call of the pastor.” There is no other requirement. Without further instructions in this *BCO* 23-1, it logically follows that if the Presbytery determines that such a congregational meeting was constitutionally called and properly held, and the majority voted to dissolve the relationship with the pastor, then it is a *purely administrative matter* for the Presbytery to concur in the dissolution of the relationship between the pastor and the local church.

Key Words – dissolve, call, congregational meeting, *BCO* 13-9, 23-1

**2001-35 Moon Ham et al. v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 172. AOO. This case dealt with allegations presented to Presbytery but not in the form of a Complaint against a Presbytery action or inaction (*BCO* 43-1).

**2001-36 Moo S. Lim et al. v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 172. AOO. Ruled moot per Cases 2000-09 and 2001-08.

**2001-37 Moo S. Lim et al. v. Korean Capital**

*M30GA*, 2002 Birmingham, p. 172. AOO. Not properly before the Presbytery or the SJC due to the Complaint not first being filed with and acted upon by the Session. *BCO* 33-1

**2002-01      Appeal of Sang Bai Kim and Chan Soo Kim v. Korean Eastern**

*M31GA*, 2003 Charlotte, p. 112. Sustained in part 18-1.

Summary

The Appellants alleged that Korean Eastern Presbytery (KEP) erred when it denied two men's appeal of a Session conviction at Cheltenham Presbyterian Church (CPC). They also alleged that Presbytery erred when it increased censure.

Issue

1. Did Presbytery err in denying the Appeal of the Appellants and sustaining of the judgment of CPC?
2. Did Presbytery and its judicial commission err in proceeding under *BCO* 42-9 and 32-6, b, to increase the severity of censure due to contumacy?

Judgment

1. No. Therefore, the specified errors of failing to follow the *BCO* were not sustained and the decision of the Presbytery was affirmed in whole.
2. Yes. Presbytery erred by increasing the censures from suspension from sacraments and office to deposition and excommunication.

Reasoning

The CPC Session received charges against the two Appellants from two Deacons of CPC. The Session instituted process against them and found them guilty. The decision was then reported to the two Appellants and was reported to and reviewed by KEP. In the absence from the ROC of any glaring misinterpretation and misapplication of the Constitution of the Church as noted in *BCO* 39-3, principle 4, the panel was guided by *BCO* 39-3, principles 1-3, in affirming the decisions of the lower court. When reviewing an appeal, the Presbytery (higher court/appellate court) does not have the authority to inflict a greater censure than did the trial court (the Session). An appellate court may give its opinion on the reasonableness of a censure, but it has no authority to increase it. Otherwise, an Appellant might open himself up to jeopardy if the appellate court could increase his censure. *BCO* 42-9 does not give this power to the higher court.

Key Words – increased censure, deposition, excommunication, contumacy, *BCO* 39-3, 42-9

**2002-02 Nichols and Couch v. James River**

*M33GA*, 2005 Chattanooga, p. 85. OOO. See Case 2001-34.

**2002-03 Nichols and Couch v. James River**

*M33GA*, 2005 Chattanooga, p. 72, 146. OOO. See Case 2001-34.

**2002-04 Judicial Reference from Evangel**

*M31GA*, 2003 Charlotte, p. 93. Not acceded to by the SJC.

**2002-05 Plowman v. Philadelphia (refiled)**

*M32GA*, 2004 Pittsburgh, p. 59. Sustained 18-0. C-Op. (See also 2004-02.)

**Summary**

The Complainant was suspended from the sacraments by the Session of Lehigh Valley Presbyterian Church (LVPC). Her Complaint to the Session against this action was sustained in part, but her suspension from the sacraments was not lifted. The Session of LVPC later found the Complainant guilty of contumacy (on July 1, 2002) because she refused to force her children to testify at trial. The Complainant filed an Appeal with Philadelphia Presbytery (PP) on July 31, 2002, but PP deemed the Appeal out of order. The Complainant then filed a Complaint against the Session's action of finding her guilty of contumacy. The Complaint was ruled out of order, as not timely filed, by both the Session of LVPC (on September 20, 2002) and PP (on October 19, 2002).

**Issues**

1. Did PP err in its interpretation of *BCO* 42-2 and as a result did not accept Mrs. Plowman's Appeal dated July 31, 2002, against the judgment of the Session of LVPC taken on July 1, 2002?
2. Did the PP, at its January 18, 2003 meeting, err in its interpretation of *BCO* 43-1 in finding Mrs. Plowman's Complaint of October 19, 2002 out of order because it was not timely filed?

**Judgment**

1. Yes. The case was remanded to PP to hear the Appeal as originally filed on July 31, 2002.
2. Yes. *BCO* 43-1 states that a Complaint cannot be filed where an Appeal is pending. There was an Appeal pending and the Complaint

was timely filed after the Appeal was renamed as a Complaint. Once the Appeal was renamed as a Complaint, on the suggestion of the chairman of the Judicial Business Committee, the Complaint was timely filed.

Reasoning

The first issue was whether the Complainant had a right to file an Appeal against the judgment of the Session of July 1, 2002, or whether it had to be a Complaint. Since she filed an Appeal first, then withdrew it, renamed it and refiled it as a Complaint, following the expressed opinion of the chairman of the Judicial Business Committee of PP, both the Appeal and Complaint needed to be considered as being the same matter. It was the SJC's judgment that Mrs. Plowman had the right to file an Appeal because she had submitted to regular trial (*BCO* 42-2), despite the Session's determination that she had not submitted to regular trial because she would not allow her daughters to testify. Notwithstanding this fact, it was also our judgment that her Complaint should have been ruled as timely filed. We believed that the Appeal was proper and should have been found in order and adjudicated, but in either case (as an Appeal or Complaint), Presbytery should have taken Mrs. Plowman's case.

Key Words – timely filed, contumacy, trial, children, *BCO* 42-2, *BCO* 43-1

**2002-06      Appeal of Wright v. Northern California**

*M31GA*, 2003 Charlotte, p. 93. OOO and Withdrawn.

**2002-07      Nichols v. James River**

*M31GA*, 2003 Charlotte, p. 93. OOO.

**2002-08      Gardiner v. North Georgia**

*M31GA*, 2003 Charlotte, p. 93. OOO.

**2002-09      Appeal of Merriam v. Tennessee Valley**

*M32GA*, 2004 Pittsburgh, p. 67. Not sustained 17-0.

Summary

The Appellant previously filed an Appeal after Tennessee Valley Presbytery (TVP) deposed him from the office of TE following criminal

charges (*Supplement to PCA Digest*, 1994-98, vol. 3, p. 223), which the SJC sustained and remanded for new trial (Case 1995-10). TVP then sought to Reference the trial to the SJC, which the SJC declined (Case 1996-07). TVP declined to conduct a new trial on those charges, but eventually conducted a trial on three new charges. TVP found TE Merriam guilty on each count, and suspended him from office indefinitely. TE Merriam then appealed, alleging that Presbytery erred in trial procedures and judgment.

Issue

Did TVP err in its procedures or judgment in finding the Appellant guilty of the charges?

Judgment

No.

Reasoning

The Appellant asserted that his case should never have been introduced into judicial process in that a called meeting of TVP was not properly called by the required number of churches (*BCO* 13-12). The SJC found no evidence in the ROC to support that claim. The Appellant also alleged that TVP was not qualified to judge him because of prejudice arising from the previous cases (1995-10 and 1996-07). No specific evidence was cited and the SJC found that TVP was precisely the proper body to conduct the trial of the Appellant by virtue of *BCO* 34-1. The SJC found that the trial was properly conducted with appropriate deference given to the Appellant.

Key Words – suspension of credentials, Christian character, child safety, criminal charges, missionary, *BCO* 13-12, *BCO* 34-1, *BCO* 39-3.2

**2002-10      Goerig v. Pacific Northwest**

*M31GA*,      2003 Charlotte, p. 116. Sustained 17-0.

Summary

The Complainant alleged that the Session of Faith Presbyterian Church (FPC) should not have removed her name from roll per *BCO* 38-4. The Complaint also alleged that Pacific Northwest Presbytery (PNP) should have sustained the Complaint and remanded it to the Session.

Issue

Did PNP err in denying the complaint filed by Carolyn Goerig on December 23, 2001, against the decision of FPC Session of September 13, 2001?

Judgment

Yes, because the Session of FPC did not follow the provisions of *BCO* 38-4 with regard to Carolyn Goerig's membership, PNP should have remanded the case to the Session of FPC.

Reasoning

Although the Complainant requested that her membership be transferred to another PCA church and that a certificate of transfer was sent to the church's Session, she never united with that church. Therefore, her membership was still with FPC. The intent of the Session of FPC to erase the Complainant's name from its membership rolls "formally and retroactively" according to the steps found in *BCO* 38-4 was not a permissible act because the biblical steps of pastoral oversight required in that section were not followed by the Session of FPC. In addition, under the Rules of Discipline in the *BCO*, there are specific provisions under which members can be removed from or dismissed from or the names removed or erased from the membership of local congregations (*BCO* 38-4). While the Session of FPC considered this section, the Session did not comply with the provisions of *BCO* 38-4.

Key Words – membership rolls, transfer, *BCO* 38-4, *BCO* 46-3

**2002-11 Abshire v. Pacific Northwest**

*M31GA*, 2003 Charlotte, p. 119. Sustained 16-0.

Summary

Two REs (Lynch and Rooney) at Faith Presbyterian Church (FPC) filed charges against their pastor, TE Abshire (the Complainant in this case). Two members of the congregation then filed charges against those two REs. The pastor and another RE on the Session administratively suspended the two REs from office. After Lynch and Rooney filed a Complaint with the Session, Pacific Northwest Presbytery (PNP) formed a judicial commission to investigate the matter and it eventually annulled the suspensions and dismissed the charges against the two REs.

CASES OF THE STANDING JUDICIAL COMMISSION

TE Abshire complained against the Commission's actions, alleging that the Presbytery Commission failed to follow *BCO* 43 in handling the Complaint from two REs who were suspended from office.

Issue

1. Did PNP err by appointing a Judicial Commission prematurely?
2. Did the Commission exceed its authority as granted by the charge of the Presbytery?
3. Did the Commission err by creating an unconstitutional remedy – exhortation?
4. Did the Commission err by entering an immediate ruling on the Complaint of REs Lynch and Rooney without hearing argument?
5. Did the Commission err when it took various other actions?

Note: The Complainant asserted a sixth issue, which the SJC Panel hearing the Complaint ruled to have been not properly before the Panel at this time, as that issue was filed with Presbytery on May 25, 2002, as a separate Complaint and had yet to be acted upon by Presbytery.

Judgment

1. No.
2. No.
3. No.
4. Yes, and the Lynch/Rooney Complaint was remanded to Presbytery.
5. No.

Reasoning

Regarding Issue One, the Complainant asserted that a Presbytery must appoint a committee to investigate the charges pursuant to *BCO* 31-2, prior to establishing a commission to deal with the matter. While the appointment of a committee may be prudent in some circumstances, the *BCO* does not require such, and a Presbytery has the option of creating a commission to deal with the entire matter. Regarding Issue Two, had the Complainant timely filed a Complaint concerning this action, he would have had an argument that PNP's action had exceeded the scope of the Notice. However, since no Complaint was timely filed, the Complaint that the Commission exceeded its authority as granted by the charge of the PNP was denied. Regarding Issue Three, the Complainant asserted that *BCO* 30 only provides for the censure of admonition, suspension from office and the sacraments, excommunication, and

deposition from office, and that Presbytery's exhortation was improper. However, the Complainant had apparently misunderstood the Commission's exhortation to be a formal act of discipline against him, as it was clear that the Commission/PNP was not proceeding with formal discipline against TE Abshire. Regarding Issue Four, the Complainant asserted that the Lynch and Rooney Complaint was sustained without the Commission's following the procedures set out in *BCO* 43. In this case, the Commission did not follow the procedures set out in *BCO* 43, and the Rooney and Lynch Complaint was remanded to Presbytery. Regarding Issue Five, the Complainant asserted that the Commission made findings, conclusions, and judgments without conducting a single trial or hearing arguments. However, excepting the failure in Issue 4, the Commission's Report was in the nature of a pastoral letter, not formal discipline, and as such, did not require formal hearing or trial.

Key Words – pastoral letter, exhortation, *BCO* 30, 43

**2002-12    Gardner v. North Georgia**

*M31GA*, 2003 Charlotte, p. 93. OOO.

**2002-13    Lachman v. Philadelphia**

*M31GA*, 2003 Charlotte, p. 93. OOO.

**2002-14    Appeal of Lachman v. Philadelphia**

*M32GA*, 2004 Pittsburgh, p. 71. Not sustained 19-0. C-Op.

Summary

The Appellant, an RE, was disciplined by the Session of Calvary Presbyterian Church (CPC) for "a lack of submission to the Session," "the use of Complaints against the Session and the church," "creating bad morale," "retarding the work of the Session and engaging in personal attacks," and "causing disharmony." The Appellant alleged that his suspension from the office of RE by the Session should be reversed because no witness testified to prove his guilt, per *BCO* 35-3.

Issue

Did the Presbytery of Philadelphia (PP) err when it sustained the ruling of the Session of CPC, Willow Grove, PA?

Judgment

No.

Reasoning

The Appellant argued that the trial before CPC should not have been upheld by PP because the Session had failed to present a single witness to prove his guilt. The Appellant wrote several letters to the Session which formed the basis of the charges against him, which the Appellant, without repentance or remorse, acknowledged writing. However, the SJC concluded that there were multiple witnesses to the Appellant's guilt in these matters. There was the witness of the documents; and there was the witness of the Appellant acknowledging that those documents were written by him. In addition, there were witnesses, even though called by the defense, who supported the charges.

Key Words – witness, evidence, suspension, *BCO* 35-3

**2002-15 Bjork v. Philadelphia**  
*M31GA*, 2003 Charlotte, p. 93. OOO.

**2002-16 Session of Delhi PCA v. Louisiana**  
*M32GA*, 2004 Pittsburgh, p. 78. Sustained 18-3. 3 D-Op.

Summary

Louisiana Presbytery (LAP) assumed original jurisdiction over a member (Mike Holland) of Delhi Presbyterian Church (DPC) after he had transferred membership from Auburn Avenue Presbyterian Church (AAPC), following public accusations made by Holland against TE Steve Wilkins and AAPC. Despite the DPC investigating and finding that no offense had been committed, LAP indicted and convicted Holland of contumacy, thus barring him from the Lord's Table, and "admonish[ed] the Session of DPC for not supporting the [AAPC] Session in the matter...."

Issues

1. Was the Complaint against the censure of Mike Holland timely filed?
2. Is the exercise of original jurisdiction over Mike Holland by LAP an act that is within the scope of the SJC's appellate review in this case?
3. Did LAP err in finding Mike Holland guilty of contumacy?

Judgment

1. Yes.
2. Yes.
3. Yes. Thus, the Complaint of DPC Session was sustained, and the judgment of the LAP, for lack of jurisdiction, was a nullity. Therefore, Mr. Holland was subject to the jurisdiction of DPC Session and its decisions.

Reasoning

In applying *BCO* 33-1 to this case, it was clear that the DPC Session investigated the matter and came to the conclusion that there was no strong presumption of the guilt of Holland, or anyone else, that would serve as a basis to institute process. This investigation was in accordance with *BCO* 31-1 and met the constitutional mandate for the Session “to act” (*BCO* 33-1). As a result, LAP had no basis upon which to assume original jurisdiction of the matter. The determination of where jurisdictional boundaries were was not a matter of timely filing of a Complaint but is preset by the Constitution. The declaration of LAP that they took original jurisdiction from DPC did not make it so.

Key Words – original jurisdiction, contumacy, *BCO* 11-4, 31-1, 33-1

**2002-17      Appeal of Sung K. Kim v. Korean Capital**

*M32GA*, 2004 Pittsburgh, p. 103. JOO 18-0. The Appellant did not submit to a trial. (TE deposed for contumacy.)

**2002-18      Herzer and Morrison v. Philadelphia**

*M32GA*, 2004 Pittsburgh, p. 104. JOO. Filed against the actions of a judicial commission only, not the completed actions of the Presbytery.

**2003-01      Appeal of Chavalas v. Northern Illinois**

*M32GA*, 2004 Pittsburgh, p. 105. JOO 18-0. Per *BCO* 42-7, the SJC partially sustained the Appeal and suspended the judgment and censure of the Appellant because of incomplete transcript of testimony due to recording malfunction (*BCO* 35-7, 42-7).

**2003-02      Thornton v. Westminster**

*M33GA*, 2005 Chattanooga, p. 99. Sustained in part 18-1. C-Op. D-Op.

### Summary

The Complainant alleged that Westminster Presbytery (WP) erred by not conducting a complete *BCO* 31-2 investigation on allegations that TE Frank Smith secretly taped a phone conversation with TE Dewey Roberts. After a study committee was formed to see if secret taping was a sin, WP did not file charges against TE Smith. The Complainant also alleged that WP erred by appointing TE Roberts a Voluntary Prosecutor in the case.

### Issues

1. Did Presbytery err in not conducting a complete *BCO* 31-2 investigation regarding the secret taping done by TE Smith?
2. Did Presbytery err in not conducting a proper *BCO* 31-2 investigation of TE Smith and in not instituting process against TE Smith in the matter of the allegation of lying to and threatening of TE Roberts?
3. Did the Complainant prove that Presbytery acted with partiality in its dealing with TE Smith's secret taping of a phone call?
4. Did the Complainant prove that Presbytery established unbiblical criteria for determining whether or not secret taping is wrong?

### Judgment

1. Yes. The matter was remanded back to Presbytery for a new hearing with the instruction that Presbytery was to conduct a new *BCO* 31-2 investigation of the secret taping of TE Smith. The Presbytery investigation needed to pursue the testimony of witness TE Roberts and any other available witnesses. The Presbytery investigation needed to research the legal ramifications of a secret tape of a phone conversation being reduced to writing and the legal consequences of the secret tape being destroyed by the party after the taping.
2. No.
3. No.
4. No.

### Reasoning

For Issue One, the Investigative Committee (IC) acted prematurely in bringing its recommendation to WP because it failed to seek the testimony of a witness TE Roberts. The IC also failed to investigate several key legal matters prior to giving its report to WP. The IC failed to ascertain if the destruction of the tape is a violation of *WLC* 144 and 145. For Issue Two, the ROC indicated that information was obtained from all available

witnesses. Without corroborative testimony or witnesses, WP was justified in its decision not to institute process. For Issue 3, while the Complainant claimed that WP's decision not to institute process against TE Smith was caused by cronyism and partiality, his Complaint failed to meet the burden of proof to substantiate such a claim. For Issue 4, neither the ROC nor the oral argument proved that WP's policy is unbiblical.

Key Words – instituting process, secret audio recording, partiality, Voluntary Prosecutor, *WLC* 144, 145, *BCO* 31-2

**2003-03      Appeal of Paul Lee v. Korean Southwest  
M33GA, 2005 Chattanooga, p. 107. Sustained 19-0.**

Summary

The Appellant alleged that Korean Southwest Presbytery (KSWP) erred in process and judgment in a TE's trial on three charges of "using 'inappropriate language,' second, not submitting to admonitions to comply with directions from the Presbytery, its committees and its commission, and third, his failing to respond to directions for the hearing of his earlier Complaint...." He was laboring out of bounds at the time.

Issue

1. Did the KSWP err in the verdict of guilty on the charge TE Lee failed to comply with the citations of the Officers Committee?
2. Did KWSP err when it held TE Lee liable for rejecting the admonitions of the Admonition Committee?
3. Did KWSP err in the manner in which its JC conducted the trial of TE Lee?
4. Did the KSWP err in imposing the censure of definite suspension upon TE Lee?
5. Did the KSWP err in imposing the additional censure of automatic indefinite suspension after one year if TE Lee failed to repent?

Judgment

Yes on all five Issues.

Reasoning

The KSWP erred when it ruled that TE Lee "disobeyed three times" the "summons (or "citation") authorized by the Presbytery and sent by the

Officers of Presbytery.” The ROC did not support KSWP’s assertion that the summons and citation was “authorized by the Presbytery.” Instead, the citation was both authorized and issued unlawfully by the Executive Committee, as nowhere does the *BCO* authorize a *committee* to compel attendance. It was also clear that TE Lee did not ignore the “citations.” The KSWP also erred when it held that TE Lee rejected the admonition of the Committee to Admonish (AC). Although the KSWP claimed that the AC was not intending to “admonish” as a censure under *BCO* 30-2, the conclusion was inescapable that the creation of a formal committee for the stated purpose to admonish TE Lee was tantamount to imposing censure without process. Finally, the KSWP’s most significant errors were its failures to follow fundamental procedural requirements that rendered the process fatally prejudicial to TE Lee.

**Key Words** – investigation, citation, admonish, cross-examine, out of bounds, *BCO* 31-2, 32-3, 32-15, 32-17, 35-7

#### **2003-04 Chin v. Covenant**

*M33GA*, 2005 Chattanooga, p. 113. Not sustained 14-7. D-Op.

##### Summary

The Complainant alleged that the Session of Covenant Presbyterian Church (CPC) erred by declining to interview their 6-yr-old twins and 4-yr-old for admission to Lord’s Supper after the family transferred from Auburn Avenue Presbyterian Church (AAPC), where the children had previously been communicant members. The Complaint to Covenant Presbytery (CP) was denied.

##### Issues

1. Did the Session of CPC err in its understanding and application of *BCO* 57-2 in denying the request of Dr. and Mrs. Frank Chin to examine their young children for admission to the sealing ordinances?
2. Did CP err in its denial of the Complaint of Dr. and Mrs. Frank Chin?

##### Judgment

1. No.
2. No.

##### Reasoning

*BCO* 57-2 does not require a Session to examine every young person put forward by parents for admission to the sealing ordinances. *BCO* 57-2

leaves the determination of “the time when young persons come to understand the Gospel” to the “prudence of the Session.” It was our judgment that the CPC Session acted within its constitutional discretion in concluding that “the time” had not yet come for examination of Dr. and Mrs. Chin’s children.

Key Words – paedocommunion, Auburn Avenue, Lord’s Table, sacraments, examination, *BCO* 57-1, 57-2

**2003-05 Thornton v. Westminster**

*M33GA*, 2005 Chattanooga, p. 99. See Case 2003-02.

**2003-06 Wright v. Eastern Carolina**

*M32GA*, 2004 Pittsburgh, p. 106. JOO 17-1. D-Op. A Session sent a *BCO* 41 Reference to Eastern Carolina Presbytery for advice on a doctrinal issue. The Complaint was against the Presbytery’s answer. The SJC ruled that the answer was only advice and thus not a complainable Presbytery action.

**2003-07 Tan v. South Texas**

*M32GA*, 2004 Pittsburgh, p. 113. AOO 19-0. Prematurely filed. Presbytery had not yet considered the matter.

**2004-01 Westminster Presbyterian Church v. Westminster**

*M33GA*, 2005 Chattanooga, p. 71. Withdrawn.

**2004-02 Appeal of Plowman v. Philadelphia**

*M33GA*, 2005 Chattanooga, p. 118. Sustained 21-0. See also Case 2002-05.

Summary

The Appellant alleged that the Session of Lehigh Valley Presbyterian Church (LVPC) had manifestation of prejudice in various aspects of the judicial process. The Appellant also alleged that the Session erred by stopping a trial and convicting her of contumacy for refusing to have her 14- and 16-year-old children testify in a trial related to marital separation.

Issues

1. Did Philadelphia Presbytery (PP) err in ruling that the trial of Mrs. Plowman may be resumed by the Session of LVPC with a new TE moderator chosen by the Session (Summary of The Facts 12.d)?
2. Did the Presbytery err in not lifting all the suspensions of Mrs. Plowman from the Lord's Table?
3. Did Presbytery err in finding no manifestation of prejudice by the Session of LVPC in the handling of this case?

Judgment

1. Yes.
2. Yes.
3. Yes. Therefore the appeal was sustained and all judgments and censures were set aside.

Reasoning

The SJC was not in a position to judge the intentions of the lower court, particularly in view of *BCO* 31-2 which demands a presumption of guilt before the courts shall institute due process. However, we did find that the various irregularities in the proceedings in the lower court created a situation that made it impossible for the Appellant to receive a fair trial. As regards the first two suspensions from the Lord's Table, the Presbytery's lack of specific action to lift the Appellant's second suspension (July 1, 2002), but not the initial suspension (December 21, 2001), was in error. With regard to the third suspension, the SJC found that the Session's communication (November 13, 2003) did not formally invoke the censure of suspension from Communion but rather was pious advice on the part of the Session.

Key Words – children, witness, testimony, divorce, communion, *BCO* 36-5, 42-2, 42-6

**2004-03 Harris v. Heritage**

*M33GA*, 2005 Chattanooga, p. 123. Not sustained 14-7. D-Op.

Summary

The Complainant alleged that the Session of Christ Presbyterian Church (CPC) erred by not publishing each minister's salary in the budget and not asking the congregation to approve all changes in terms of call.

Issues

1. Did Heritage Presbytery (HP) err when it ruled, “There is nothing either implicit or explicit in the *BCO* stating that changes in a pastor’s call be approved by vote of the congregation”? (*ROC*, p. 17)
2. Does the *BCO* require that changes in the terms of a pastor’s call be publicized to the congregation?

Judgment

1. No.
2. No.

Reasoning

*BCO* 20-6 requires that a call include not only the approbation of the calling body, but also the terms of the call. Since there is no explicit provision in the *BCO* that requires any subsequent congregation action for changes to terms of calls, it appears that once the original call (which includes the terms) has been approved, any future adjustments or changes become the responsibility of the Session (not the congregation), since the Session approves and adopts the budget (*BCO* 12-5.b). It was the SJC’s judgment that the *BCO* makes no explicit provisions for either the congregation or the Presbytery to approve changes in terms of calls.

Key Words – call, congregational action, budget, salary, *BCO* 12-5.b, 20-1, 20-6

**2004-04      Appeal of Jerguson v. Western Carolina**

*M33GA*, 2005 Chattanooga, p. 130. AOO 20-0. Case was being reheard by Presbytery. *BCO* 42-2.

**2004-05      Blevins v. Westminster**

*M33GA*, 2005 Chattanooga, p. 131. Sustained 20-0. C-Op.

Summary

The Complainant alleged that Westminster Presbytery (WP) erred when it ruled that a Complaint, which related to the Session of Westminster Presbyterian Church (WPC) denying a request for a new trial, was not timely filed. The Complaint asserted “new testimony” concerning a previous Session judgment against Mrs. Clark, a congregation member of WPC. *BCO* 35-13 [now 35-14], *BCO* 43-1, 43-2

Issue

Did Presbytery err in its commission's ruling of February 3, 2004 (received by Presbytery on April 17, 2004), that the Blevins/Seufert Complaint was not timely filed?

Judgment

Yes. The Blevins/Seufert Complaint, filed on June 8, 2003, against WPC Session's action of May 30, 2003, denying Mrs. Clark's April 24, 2003, request for the removal of her censures and a transfer of her church membership, was timely filed. Therefore, the denial of the Blevins Complaint by WP was in error, and WP should have reheard the WPC Session and Warhurst Complaints with the merits of the Blevins/Seufert Complaint being duly considered.

Reasoning

The issue before the SJC was a procedural one involving the interpretation of *BCO* 35-13 and *BCO* 43. "If, after trial before any court, new testimony be discovered which the accused believes important it shall be his right to ask a new trial and it shall be within the power of the court to grant his request." (*BCO* 35-13 [now 35-14]) The SJC considered Mrs. Clark's April 2003 letter to be essentially a request under *BCO* 35-13. The "new testimony" was the February 2003 ruling of Presbytery sustaining her Complaint. If Presbytery had not sustained her Complaint, there would not have been any "new testimony."

Key Words – new testimony, divorce, infidelity, *BCO* 35-13 [now 35-14], 43

**2004-06      Appeal of Tan v. Houston Metro**

*M33GA*, 2005 Chattanooga, p. 137. AOO 22-0. The Appellant did not submit to a regular trial. *BCO* 42-2.

**2004-07      Session of First Presbyterian Augusta v. Savannah River**  
*M33GA*, 2005 Chattanooga, p. 138. Sustained 18-1.

Summary

The Complainant alleged that Savannah River Presbytery (SRP) erred when it sustained a Complaint alleging that the Session of First

Presbyterian Church (FPC) erred (1) by adding items to docket of congregational meeting and (2) by recommending a course of action to congregation.

Issues

1. Did the SRP err in rejecting the FPC Session's right to add items to the agenda of a congregational meeting called in response to a petition from members of the congregation (*BCO* 25-2)?
2. Did the Presbytery err in rejecting the Session's right to inform the members of the congregation of the rights afforded to them by *BCO* 24-6 (now 24-7) and to recommend that the members of the congregation exercise those rights; and then in annulling the subsequent actions of the Session as indicated in Statement of the Facts 7:c and d?

Judgment

1. Yes. *BCO* 25-2 does not prohibit a Session from adding additional agenda items to a congregational meeting conducted pursuant to a petition from the congregation, and as announced in the call for the meeting.
2. Yes. *BCO* 24-6 (now 24-7) does not prohibit a Session from placing a congregation's right to seek dissolution of its official relationship with certain Ruling Elders before the congregation through a recommended course of action, nor to take subsequent action based on that vote.

Reasoning

The critical issues in this dispute arose from the September 10, 2003, congregational meeting at FPC. Specifically, SRP concluded (two reasons are given in the full report) that *BCO* 24-6 (now 24-7) proceedings (dissolving official relations without censure), which were initiated against eleven elders by a vote of the congregation at that meeting, violated *BCO* 25-2 and 24-6 (now 24-7). However, *BCO* 25-2 did not prohibit the FPC Session's actions, nor did it give members of the congregation an unfettered right to require the Session to call a congregational meeting to conduct business of the congregation's choosing. The Session, under our Constitution, retains the responsibility to determine whether the business proposed by the petition conforms to the requirements of our Constitution. Where the parties disagreed was whether the Session had the further authority to add an agenda item that the petitioners had not sought. *BCO* 25-2, 3, 4, and 5 clearly afford the

Session that authority. For Issue 2, the Respondents argued that the process contemplated by *BCO* 24-6 (now 24-7) may only be initiated through a personal motion from a member of the congregation. Nothing in the language of *BCO* 24-6 imposes such a limit. The critical issue was whether the congregation, after receiving a recommendation from the Session, considered its options and freely acts as the consciences of members may have required. The record clearly demonstrated that that was exactly what happened in this matter. The congregation clearly made its own decision and asked the Session of FPC to dissolve the official relationship between the congregation and eleven Ruling Elders. The Presbytery's application of *BCO* 24-6 to this situation was incorrect.

Key Words – dissolution, office, congregational meeting, business, divest without censure, dissolve official relationship, *BCO* 24-6 (now 24-7), 25-2

#### **2004-08    Thornton v. Westminster**

*M34GA*, 2006 Atlanta, p. 85. Sustained (but SJC vote not recorded in GA Minutes). 2 C-Op. Obj.

##### Summary

The Complainant alleged that Westminster Presbytery (WP) erred by not approving the congregation call from Memorial PCA (MPC) to a TE (the Complainant) who had been without call (*BCO* 20-10), but instead began divestiture process of *BCO* 34-10. Seventeen members of WP filed an Objection to the SJC Decision ruling that the Presbytery had erred. (cf. Cases 2003-02 and 2003-05)

##### Issues

1. Did Presbytery err on July 17, 2004 in denying the Complaint against its action taken on April 17, 2004, by declining to place the call from MPC into the hands of TE Jim Thornton?
2. Did Presbytery err on July 17, 2004 in denying the Complaint against its action taken April 17, 2004, by beginning the process of divestiture without censure against TE Thornton per *BCO* 13-2 and *BCO* 34-10?

##### Judgment

1. Yes.
2. Yes.

Reasoning

On April 17, 2004, WP voted to begin the process to divest TE Thornton of his office without censure pursuant to the latter half of *BCO* 34-10. At the time of this vote, the Presbytery also had in its possession a duly issued call from TE Thornton by the Session of MPC. These circumstances preclude the application of *BCO* 34-10 against TE Thornton. WP argued that the *BCO* gave it an absolute right to review calls to its members (or prospective members) and to refuse to place those calls in the hands of its members if, in its judgment, the call is not beneficial to the church. Presbytery mistakenly cited *BCO* 20-10 as support for its decision. In support of this unfettered exercise of discretion and judgment, WP pointed to *BCO* 39-3. However, *BCO* 39-3 goes on to state that the higher court is to reverse the lower court where “there is clear error on the part of the lower court.” This was a case of clear error. In effect, WP refused to approve this call so that it could invoke the provisions of *BCO* 34-10 against TE Thornton and remove him from office without judicial process.

Key Words – call, divestiture, *BCO* 20-10, 34-10, 39-3, 45-1, 45-4

**2004-09      Appeal of Robar v. Central Carolina**

*M33GA*, 2005 Chattanooga, p. 144. OOO 17-4. D-Op. Not properly filed in accord with *BCO* 42-4.

**2004-10      Appeal of Merriam v. Tennessee Valley**

*M33GA*, 2005 Chattanooga, p. 71. Withdrawn.

**2004-11      Appeal of Scott v. Northern California**

*M33GA*, 2005 Chattanooga, p. 71. Moot.

**2004-12      Hunt v. Western Carolina**

*M33GA*, 2005 Chattanooga, p. 72. OOO.

**2004-13      Zaepfel v. Central Carolina**

*M34GA*, 2006 Atlanta, p. 84. Abandoned.

**2005-01      Appeal of Chastain v. Heritage**

M34GA, 2006 Atlanta, p. 99. Not sustained 20-1. D-Op. Obj. Protest.

Summary

After the failure of a church-related school to open, followed by a report from the Assistant Pastor to the Session of Christ Presbyterian Church (CPC) about the Pastor's (the Appellant) behavior and much conflict within the Session, charges were brought against the Appellant. The Appellant alleged that the charges of divisive behavior against him by Heritage Presbytery (HP) were unlawful, and that a verdict of guilty was wrong. Moreover, the Appellant alleged that the censure of suspension from the Lord's Table and from office was unjust, and that reversible errors in process were committed. Following the SJC's Decision not to sustain the Appeal, an Objection was filed by the TE who assisted in TE Chastain's defense. Protests were filed by 8 TEs and 1 RE from 8 Presbyteries.

Issues

1. Was HP's charge a lawful charge?
2. Was Appellant's behavior divisive in the Church?
3. Was the censure unjust?
4. Were there errors in the process?

Judgment

1. Yes.
2. Yes.
3. No.
4. Yes, but none that would require the Presbytery's Judgment to be reversed or the case remanded.

Reasoning

For Issue 1, the Appellant maintained that his conduct was not sinful and did not rise to the level of an offense. He contended that since the terms "divisive" and/or "divisiveness" do not appear in the AV, the RSV, or the ESV, or in our Constitution, then the behavior alleged to be contrary to scripture cannot be proven as such. Regardless, such behavior can constitute an offense and be a sin, as evidenced in the Appellant's letters to the congregation, which violated his ordination vows in *BCO* 21-5, "to promise subjection to your brethren in the Lord" and "be zealous and faithful in maintaining the truths of the Gospel and the purity and peace

and unity of the Church.” For Issue 2, the Appellant argued that he merely disagreed with the TE Gentry’s PCR (“Pastoral Concerns and Recommendations”) and with the Session. The Appellant framed the issue by asking whether or not he responded to TE Gentry’s PCR (and subsequent events) in a manner that was contrary to Scripture or the Standards. As set forth above, his actions in response to the same were violations of his ordination vows. For Issue 3, the Appellant contended that the censures of indefinite suspension from the Lord’s Supper and office were unduly harsh, and should be used prior to indefinite suspension. Such an argument would have been valid if the Appellant had, upon conviction, satisfied the Presbytery as to his repentance and made such restitution as is appropriate. However, there was an absence of any admission of guilt/confession of sin and reconciliation in the ROC in connection to the charges of which the Appellant was found guilty. For Issue 4, the Appellant alleged three errors in process. Of the three alleged errors (including a violation of *BCO* 32-5), only one of the allegations (that Presbytery mishandled evidence and testimony) was found to have contained an error, although none of the errors committed by HP related directly to the matters on which the Appellant was found guilty.

Key Words – vows, peace, unity, censure, suspension, divisiveness, evidence, testimony, school, school board, images of Christ, *BCO* 21-5, 30-1, 30-3, 32-5

**2005-02 Andrino v. Southern Florida**  
*M34GA*, 2006 Atlanta, p. 84. OOO.

**2005-03 Session of Living Word v. Pacific Northwest**  
*M34GA*, 2006 Atlanta, p. 84. OOO.

**2005-04 Session of Hudson Korean APC v. Korean Eastern**  
*M34GA*, 2006 Atlanta, p. 84. OOO.

**2005-05 Wichter Memorial Re: Case 2004-05 Blevins v. Westminster**  
*M34GA*, 2006 Atlanta, p. 84. “Was found in order but the SJC officers determined not to hear it.”

**2005-06 Andrino v. Southern Florida**  
*M34GA*, 2006 Atlanta, p. 84. OOO.

**2005-07 Andrino v. Southern Florida**  
*M34GA*, 2006 Atlanta, p. 84. OOO.

**2005-08 Appeal of Peter B. Kim v. Korean Eastern**  
*M34GA*, 2006 Atlanta, p. 131. Not sustained 17-1. D-Op.

Summary

After resisting Presbytery's decision to dissolve the Appellant's pastoral relationship with Hudson Presbyterian Church (HPC), the Appellant was convicted by Korean Eastern Presbytery (KEP) of being "contumacious against the authority of Presbytery." He was deposed and excommunicated. The SJC upheld the conviction but reduced the censure of excommunication to indefinite suspension from sacraments.

Issues

1. Shall the judgment against TE Peter B. Kim "of being continually contumacious against the authority of the Presbytery" be sustained?
2. Shall the censures of deposition and excommunication of Peter B. Kim be sustained?
3. Shall the judgment against TE Peter B. Kim of threatening two REs of the HPC with a civil lawsuit in a letter written by his attorney on December 28, 2004, be sustained?

Judgment

1. Yes.
2. Yes in part. The censure of deposition was sustained. The censure of excommunication was not sustained but was changed to indefinite suspension from the sacraments.
3. No. This particular letter of December 28, 2004, was alluded to several times in the ROC, but is not itself in the ROC. Therefore, it could not constitutionally be considered by the SJC in determining the judgment on this charge.

Reasoning

The charge of contumacy for which the Appellant was found guilty related to the broader meaning of not being subject to the brethren as found in the fourth ordination vow (*BCO* 21-5). The censure of

deposition was sustained and the Presbytery was reminded of its obligations under *BCO* 46-8. However, the censure of excommunication was excessive in this instance because of the nature of the conflict, and was changed to indefinite suspension from the sacraments (*BCO* 30-3).

**Key Words** – contumacy, vow, subject to brethren, civil lawsuit, dissolution of pastoral relationship, *BCO* 32-6, 39-3.3, 46-8

**2005-09 Peter B. Kim v. Korean Eastern**

*M34GA*, 2006 Atlanta, p. 139. Not sustained 17-1. C-Op. D-Op.

**Summary**

The SJC agreed that Korean Eastern Presbytery (KEP) erred when it denied the Appellant's Complaint after the congregation of Hudson Presbyterian Church (HPC) voted for Presbytery to dissolve its pastoral relationship with the Appellant, but this error did not justify the Complainant's refusal to obey KEP's directive. And in light of the deposition and failed Appeal in 2005-08, no remedy was necessary or possible.

**Issues**

1. Did KEP err in denying the Complaint dated June 1, received June 7, and heard on August 9?
2. Did KEP err in denying the Complaint of TE Peter B. Kim at a called meeting on August 9, 2005?

**Judgment**

1. Yes, but this unconstitutional action at the beginning of this process did not justify TE Kim's refusal to obey the directive of Presbytery and, in light of his deposition from office (Case 2005-8), further action on this matter was moot.
2. Yes. See Judgment 1.

**Reasoning**

*BCO* 25-2 states that members in good standing of a congregation may petition the Session to call for a congregational meeting. If the Session cannot act, fails to act, or refuses to act, then any member in good standing of that congregation may file a Complaint according to procedures of *BCO* 43-2. In this case, the Complaint of January 9, 2005, should have

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been made to the Session of the HPC, not KEP. The ROC clearly indicated that said Complaint was filed first with KEP, not HPC.

Key Words – contumacy, congregational meeting, dissolve pastoral relationship, *BCO* 43-2, 15-1, 15-3

**2005-10      Memorial of Southern Florida**

*M34GA*, 2006 Atlanta, p. 84. OOO.

**2005-11      Andrino v. Southern Florida**

*M34GA*, 2006 Atlanta, p. 84. OOO.

**2005-12      Peter B. Kim v. Korean Eastern**

*M34GA*, 2006 Atlanta, p. 84. OOO.

**2005-13      Zaepfel v. Central Carolina**

*M34GA*, 2006 Atlanta, p. 84. OOO.

**2006-01      Andrino v. Southern Florida**

*M34GA*, 2006 Atlanta, p. 84. OOO.

**2006-02      Memorial of Central Carolina v. Louisiana**

*M36GA*, 2008 Dallas, p. 75. Sustained 17-0 and 20-0.

Summary

Central Carolina Presbytery (CCP) adopted and sent a Memorial (CCM), pursuant to *BCO* 40-5, alleging that Louisiana Presbytery (LAP) had not done an adequate *BCO* 31-2 investigation into allegations of theological error committed by TE Steve Wilkins. The SJC concurred and instructed the LAP to investigate. This matter was dealt with by the SJC over an extended period of time and in several stages. LAP later filed an Objection to the SJC decision and the SJC answered the Objection. Part I of this report deals with the SJC's initial hearing on the matter, LAP's subsequent re-examination of TE Wilkins directed by the SJC, and

related events (January 2006 through May 2007). Part II deals with the actions of the SJC in response to LAP's re-examination of TE Wilkins (May 2007 through October 2007).

Part 1 – SJC vote 17-0 in October 2006.

Issues

1. Does the CCM raise questions of sufficient gravity that we are led to conclude that the allegations, if true, are likely "hostile to the system of doctrine" and "strike at the vitals of religion?" (*BCO* 20-4)
2. If so, does the CCM sufficiently represent the relevant writings of TE Wilkins on the matters at hand so as to raise appropriately the concerns that are alleged in the CCM?
3. If so, then it is incumbent on LAP to show how it investigated those views; how and on what basis they concluded those views were consistent with The Westminster Standards and the published declarations of LAP; and how, to the extent necessary, they demanded corrective action and sought to make sure that any erroneous views that were previously published are clarified, thus protecting the peace and purity of the Church.

Judgment

1. Yes.
2. Yes.
3. It was the conclusion of the SJC that LAP did not demonstrate either by formal records or informal recollections that it had "with due diligence and great discretion" (*BCO* 31-2) dealt with the allegations that TE Wilkins' views were out of accord at key points with the system of doctrine as summarized in the Westminster Confession of Faith and Larger and Shorter Catechisms, which are "standard expositions of the teachings of Scripture in relation to both faith and practice." (*BCO* 29-1, 39-3) As a result, Presbytery did not meet its responsibilities under *BCO* 13- 9.f and 40-4, 5, and thus had not adequately protected the peace and purity of the Church.

Reasoning

The SJC cited nine examples (listed in the full report as *a* through *i*) of the lack of diligence on the part of LAP, including that the Presbytery committee charged with investigating the views of TE Wilkins kept no minutes or transcripts, did not consider a number of his writings and

published presentations, and did not hold a face-to-face meeting with TE Wilkins to examine his views. Since LAP did not complete an adequate examination of TE Wilkins' views, the SJC specified six amends (listed in the full report as *a* through *f*) for LAP to re-examine TE Wilkins on the specific concerns raised by the CCM, including the amend that these directions were to be accomplished and reported to the SJC no later than February 16, 2007, for final review. Finally, the SJC reminded LAP that, should it find that it cannot comply with the stipulations of this redress, it may request by Reference (*BCO* 41-3) that GA assume jurisdiction in the matter.

Part 2 – SJC vote 20-0 in October 2007.

Issues

1. Did LAP comply with the directive of the SJC that it, “with due diligence and great discretion” (*BCO* 31-2) deal with the allegations that TE Steven TE Wilkins’ views are out of accord at key points with the system of doctrine as summarized in the Westminster Confession of Faith and Larger and Shorter Catechisms, which are “standard expositions of the teachings of Scripture in relation to both faith and practice” (*BCO* 29-1, 39-3) by carrying out the amends specified by the SJC in Section II of the “Reasoning, Opinion, and Amends” portion of Part I of this report?
2. Did LAP reach a decision consistent with the Constitution of the PCA when it found “no strong presumption of guilt in any of the charges contained [in the CCM] and exercise[d] its prerogative not to institute process regarding [those] allegations?”

Judgment

1. Yes.
2. No. See the judgment, reasoning and opinion in case 2007-8, TE James Jones Jr. et al. vs. Louisiana Presbytery, in particular Judgment 2.

Amends

“Pursuant to *BCO* 40-5 the SJC hereby cites LAP to appear ‘to show what it has done or failed to do in the case in question.’ To implement this process, RE Samuel J. Duncan is hereby appointed to: a) serve as prosecutor in this matter and conduct the case, which is designated as Case 2007-14; b) select Assistant Prosecutors from members of the GA to assist him with this matter; c) draw an indictment to be served upon

LAP, with the circumstances and specifications therein not being limited to those raised in 2006-02 and 2007-8; d) prepare a citation instructing LAP to respond, in writing or at a called meeting of the SJC, to the indictment and to enter its plea to the matters contained therein not later than February 1, 2008. (*BCO* 40-6, 31-2, 32-3) If LAP enters a plea of ‘not guilty,’ then LAP is directed to appear, through its representatives, for trial in this matter before the SJC on March 5, 2008 (*BCO* 40-5, 40-6, 31-2, 32-3).”

### Reasoning

The written examination and the transcribed oral examination of TE Wilkins demonstrated that LAP carried out the directive of the SJC that LAP, as a court, examine TE Wilkins on the specific concerns raised by the CCM. While not all of the actions were finalized by the date originally set by the SJC, it was clear that Presbytery made a good faith effort in this regard. Whether the decisions of LAP were, in substance, in keeping with the Constitution of the PCA was a matter separate from the procedural issues noted above. In case 2007-8, the SJC found that the record supported a probable finding that LAP had erred, and thereby violated *BCO* 13-9.f, 40-4, and 40-5, when it failed to find a strong presumption of guilt that the views of TE Wilkins were out of conformity with the Constitutional standards. Since the case did not arise under *BCO* 34-1, and given that LAP had declined to request by Reference (*BCO* 41-3) that GA assume jurisdiction in this matter, it must be stressed that what was before the SJC was not allegations against TE Wilkins *per se*. Rather, what was before the SJC was whether LAP had dealt adequately and constitutionally with those views. The conclusion of case 2007-8 was that there was a reasonable presumption that Presbytery had not so done. To address this presumption, to preserve the peace and purity of the Church, to bring closure to the issue within a reasonable time frame, and to give Presbytery the fairest opportunity to vindicate itself by explaining and defending its actions, procedure of *BCO* 40-5 and 40-6 was to be followed. It was for this reason that the SJC mandated the amends noted above.

Key Words – paedocommunion, children, Lord’s Supper, Federal Vision, *BCO* 13-9, 34-1, 40-5, 40-6, 41-3

### **2006-03      Memorial of Calvary v. Louisiana**

*M34GA*, 2006 Atlanta, p. 84. OOO. Requested SJC assume original jurisdiction of TE Wilkins. *BCO* 34-1.

**2006-04 Peffley v. Heritage**

*M34GA*, 2006 Atlanta, p. 84. OOO.

**2006-06 Ehrlich v. North Georgia**

*M35GA*, 2007 Memphis, p. 77. Not sustained 18-0.

Summary

A Complaint was made by two members of Intown Community Church (ICC) after the Session warned and instructed that they not distribute an open letter to the church which was critical of the pastor and the North Georgia Presbytery (NGAP).

Issue

Did NGAP err on April 18, 2006, in denying the Ehrlich Complaint, and in so doing sustain the action of the ICC Session of November 5, 2005, which instructed Devin and Tracey Ehrlich not to distribute their “open letter” to the church (ROC, p. 72)?

Judgment

No. The Complaint was denied.

Reasoning

The Complainants argued that, while a Session has the general authority to instruct members about writing letters that could disturb the peace of the Church, the Session in this instance did not exercise its authority with proper discretion. The Complainants argued also that the Session’s action effectively bound their consciences contrary to the PCA’s Standards. However, the SJC found that, in this instance, the Session did not require that Complainants have implicit faith in a doctrine or theological formulation that was contrary to the Word of God, nor a blind obedience to an act of worship not governed by the Word of God. Rather, the Session gave its wise counsel and instruction in response to a request by the Complainants with the exhortation not to breach their membership vows, in order to preserve the peace of the Church and to submit to the government of the Church. While liberty of conscience rules out implicit faith and absolute and blind obedience to the Church, believers who have voluntarily submitted to the oversight of the Church through their membership vows, have a moral obligation to follow the lawful injunctions of the Church as long as they remain members of the Church.

Key Words – letter, peace, membership vows, *BCO* 57-5

**2006-07    Appeal of Chastain v. Heritage**

*M35GA*, 2007 Memphis, p. 81. JOO 15-3. C-Op. D-Op. Obj. Ruled OOO because the Appellant renounced PCA jurisdiction on May 8, 2006. Therefore, all proceedings after May 8, 2006, in this matter were moot, and the decision in SJC 2005-01 remained in effect. See **Digest PART I, Actions, Church Censures (BCO 30), Avoiding Discipline by Renouncing the Jurisdiction of the PCA, 2007**, p. 98, 35-32.

**2007-01    Lee v. Korean Eastern**

*M36GA*, 2008 Dallas, p. 92. AOO 19-0.

Summary

An “interim pastor” (TE Eliot Lee) was selected to serve at Hudson Korean Presbyterian Church (HKPC). After one year, his term was not extended by Korean Eastern Presbytery (KEP). A Complaint was filed that KEP’s actions took place at a meeting without a quorum. This case also incorporates two other cases: Cases 2007-06 and 2007-07.

Issues

1. Did KEP err when it determined that only those actions at the 71<sup>st</sup> Stated Meeting on 10-03-06, dealing with HKPC were invalid?
2. Did Presbytery err when it clarified that TE Lee’s call as “interim pastor” for one (1) year or “until the [TE Peter B. Kim] litigation in the civil court can be resolved” was that of stated supply and limited to one (1) year, unless renewed by the Session and Presbytery, pursuant to *BCO 22-6*?
3. Did Presbytery err when it appointed its Pulpit (Stated Supply Approval) Commission?
4. Did Presbytery err when it appointed its Judicial Commission?

Judgment

1. It was moot since all actions taken at the 71st Stated Meeting of Presbytery on October 3, 2006, were null and void.
2. No. Interim pastor and stated supply are the same and limited by *BCO 22-6* to one (1) year, unless renewed by Presbytery. Further, since HKPC withdrew its request to extend the stated supply term of TE Lee, there was no such request pending, and TE Lee’s term as Stated Supply ended on or about October 3, 2006. Accordingly, the HKPC pulpit had been vacant since that time.
3. No.
4. No.

Reasoning

For Case 2007-01, the Complaint of TE Lee was moot and all actions taken at the 71st Stated Meeting of KEP on October 3, 2006, were taken without a quorum, and therefore, were null and void. In this case, the minutes of the meeting reflected “at the time of the roll call, there were 27 teaching elders and 2 Ruling Elders [present]. [A quorum would require at least three (3) Ruling Elder commissioners.]” For Case 2007-06, the Complainant argued that the action of KEP in approving him to be “interim pastor for the next 12 months, and until the [TE Kim] litigation in the civil court can be resolved” was tantamount to being approved to be pastor under Chapter 20 of the *BCO*. However, this argument failed for numerous reasons. The ROC does not indicate a call as pastor, with terms, as required by *BCO* 20-6, was extended or approved by HKPC and/or submitted to KEP for approval. KEP also never installed the Complainant as pastor of HKPC, as required by *BCO* 21-9 and 21-10. In addition, there are only four types of pastors recognized by *BCO* 22 (pastor, associate pastor, assistant pastor, and stated supply). The only reference in the *BCO* to interim pastor is found in the index, which has a cross reference to Stated Supply. The Complainant’s approval as interim pastor must be interpreted to be Stated Supply. For Case 2007-07, the Complainant argued that the *BCO* does not provide for the appointment of a Pulpit (Stated Supply Approval) Commission. However, this argument failed because *BCO* 15-2 provides that Presbyteries may appoint commissions to ordain and install ministers. KEP did not err in the appointment of this commission, as well as the scope of the matters that were entrusted to it when it was formed.

Key Words – interim pastor, stated supply, pulpit commission, quorum, *BCO* 15-2, 21, 22

**2007-02 Malone v. Metro NY**

*M36GA*, 2008 Dallas, p. 99. Sustained in part 19-0.

Summary

The Session of Redeemer Montclair Presbyterian Church (RMPC) brought a motion before Metro New York Presbytery (MNYP) to dissolve its pastoral relationship with TE Patrick Malone. The Complainant alleged that a commission of MNYP, which was established to investigate charges relating to possible misconduct, erred by assuming authority it

did not have when it rendered also judgment in the matter. The SJC vacated the Presbytery's judgment and censure. This case involved the proper interpretation of *BCO* 38-1 and cases without process.

Issues

1. Did the Presbytery, at its meeting on May 13, 2006, authorize its commission to fully adjudicate matters related to TE Malone?
2. Could the Presbytery, on the basis of the record prepared by the commission, proceed against TE Malone in a case without process under *BCO* 38?
3. Where a judgment and censure are properly imposed, does a Presbytery exceed its authority and improperly bind the conscience or conduct of an offending member by stating actions the offending member must undertake in order to demonstrate true repentance?

Judgment

1. No.
2. No.
3. No.

TE Malone's Complaint was sustained in part, and the judgment and censure of the Presbytery were vacated, without prejudice to further proceedings consistent with the Reasoning and Opinion set out below (*BCO* 43-10).

Reasoning

The MNYP committee committed two constitutional failures which required that the judgment and censure in this matter be vacated. First, the Presbytery failed to establish the purpose and authority of the commission it formed on May 13, 2006. The minutes described the commission as a "Judicial Commission." However, the stated purpose of the commission was to "investigate charges against TE Malone." The only constitutionally appropriate action by the commission under these circumstances would have been to investigate the charges and determine whether there was a "strong presumption of guilt." It had no constitutional power to render a judgment or censure on behalf of Presbytery. Second, cases under *BCO* 38-1 are extraordinary remedies and require a clear record demonstrating that the offending party has come forward with the intent of having Presbytery render judgment on the basis of his confession. The letters exchanged between the

commission's chairman and the Complainant were insufficient to make a showing of the Complainant's intent to have the commission, or Presbytery, render judgment against him without process.

Key word – allegations, confession, without process, investigation, authority, repentance, *BCO* 15-2, 15-3, 38-1

**2007-03 Segallis v. Central Florida**

*M36GA*, 2008 Dallas, p. 75. OOO.

**2007-04 Engel v. Evangel**

*M36GA*, 2008 Dallas, p. 108. Sustained 17-0.

Summary

The Complainant filed series of Complaints with the Session of Redeemer PCA (RPC) on its policy disallowing single or divorced men to stand for office. The Session declared that these Complaints were evidence of the sin of contentiousness and rebellion against the Session and suspended the Complainant from the Sacraments until he provided satisfactory evidence of repentance. The Complainant sought higher court review from Evangel Presbytery (EP) of this verdict and censure. There was some confusion as to whether his filing with the higher court was a Complaint or Appeal. The SJC ruled that EP erred by not remanding the case to the Session with instructions that Session conduct a trial or dismiss the charges.

Issues

1. Did EP err by determining not to declare the Complainant innocent or guilty of the sins for which he had been censured by his Session?
2. Did EP err by failing to send back the Complaint with instructions for a hearing, according to the provisions of *BCO* 43-10?

Judgment

1. No, the Presbytery had no record of the evidence from the lower court proceedings upon which to base a determination of guilt or innocence since the Session did not conduct a trial.
2. Yes, in view of the fact that the Session brought serious charges against the Complainant and moved directly to impose the censure of

suspension from the Lord's Supper upon him without a trial or a confession of sin on his part, the Presbytery should have remanded the case to the Session, according to the provisions of *BCO* 42-9, with instructions either to initiate process in accordance with *BCO* Chapters 31, 32, 33, 35, and 36, or to formally dismiss all charges against the Complainant, in addition to having lifted the wrongly imposed censure. According to the provisions of *BCO* 43-10, the SJC therefore sent this matter back to the Presbytery with instructions to rehear Mr. Engel's Complaint in view of our determination of error as set forth above.

### Reasoning

The Complainant, according to the provisions of *BCO* 42, filed an Appeal with EP against the improper censuring action of his Session, after the Complainant was critical of the Session's established qualifications for church officers which disqualified single and divorced men. Upon receipt of the appeal, the Presbytery unilaterally reclassified the appeal as a Complaint and processed it under *BCO* 43. The Complainant then filed a Complaint against this action (herein First Complaint). The Presbytery acknowledged its error and reconsidered the matter as an appeal, and Presbytery found that the Session of RPC erred by issuing the censure without compliance with *BCO* 36. However, neither the Presbytery nor the SJC made any determination as to the merits of the Session's charges against the Complainant since there was no record from the lower court upon which to make a determination of guilt or innocence. The SJC determined that the Presbytery had indeed erred 1) by unilaterally reclassifying the Appeal as a Complaint and 2) failing to remand the matter to the Session with instructions for the Session to conduct a trial on the charges in accordance with *BCO* 36 or to withdraw the charges. Although the Session had rescinded its censure of suspension from the Lord's Supper, the charges of sinful contentiousness and rebellion against the Session were not withdrawn and therefore remained pending. It was noted that if the Session withdrew the charge or found the Complainant innocent, the Session should clearly communicate to the Complainant and to any in the congregation who may have been informed of the charges that such action had been taken.

Key Words – contentiousness, election of officers, qualifications, singleness, divorce, censure without trial, Lord's Supper, *BCO* 36, 42, 43

**2007-05      Appeal of Mitchell v. Evangel**  
*M36GA*, 2008 Dallas, p. 75. Withdrawn.

**2007-06      Lee v. Korean Eastern**

*M36GA*, 2008 Dallas, p. 92. Not sustained 19-0. This case was heard with Cases 2007-01 and 2007-07. For the summary, issues, judgment, and reasoning for this case, see Case 2007-01.

**2007-07      Han v. Korean Eastern**

*M36GA*, 2008 Dallas, p. 92. Not sustained 19-0. This case was heard with Cases 2007-01 and 2007-06. For the summary, issues, judgment, and reasoning for this case, see Case 2007-01.

**2007-08      Jones et al. v. Louisiana**

*M36GA*, 2008 Dallas, p. 113. Sustained 22-0. See Case 2006-02.

**Summary**

The Complainant alleged that Louisiana Presbytery (LAP) erred in not finding a strong presumption of guilt against TE Steve Wilkins when it investigated to determine whether his views differed from the PCA Constitutional standards. The Complainant was joined by seven other Complainants.

**Issues**

1. Did LAP fail to apply the correct Constitutional standard when it sought to determine whether TE Wilkins “may differ with The Confession of Faith and Catechisms in any of their statements and/or propositions?” (*BCO* 21-4, *RAO* 16-3.e.5)
2. Does the record support a probable finding that LAP erred, and thereby violated *BCO* 13-9.f, 40-4, and 40-5, when it failed to find a strong presumption of guilt that some of the views of TE Steve Wilkins were out of conformity with the Constitutional standards?

**Judgment**

1. Yes.
2. Yes.

Therefore the Complaint was sustained; Presbytery’s action of April 21, 2007, to deny the Complaint of TE Jones was annulled (*BCO* 43-10);

and the Memorial from Central Carolina Presbytery (CCP) remained before the SJC. [See the judgment in 2006-2 for additional amends.]

### Reasoning

It was the opinion of the SJC that LAP erred in two crucial and related ways. First, it failed to apply the proper Constitutional standard for dealing with TE Wilkins' differences. Second, it apparently failed adequately to guard the Church from "erroneous opinions that injure the peace or purity of the Church" (*BCO* 13-9(f)). For Issue One, Presbytery repeatedly asserted that TE Wilkins claimed no further exceptions (beyond five exceptions or reservations he had held since ordination), did not overtly deny or expressly contradict the teaching of the confession and, therefore, could not be found to be in violation of its teaching. Further, LAP argued once that party had asserted that his views are not out of accord with the Constitutional standards, it was the responsibility of other parties to refute that assertion – not the duty of Presbytery to independently ascertain whether the party being examined was correct. However, Presbyteries are to determine whether a candidate or member has any differences with the teaching of the Constitution. A difference does not require overt contradiction or denial. It can arise when a member "quibbles" with the sufficiency of the exegesis underlying the proposition of the Constitution. In several instances, Presbytery's own description of TE Wilkins' statements established that TE Wilkins did state differences with The Confession. Presbytery was required to investigate these differences and classify them under *RAO* 16-3(e)(5). Rather than complying with this affirmative responsibility, LAP asserted that TE Wilkins does not deny or contradict teachings of the Constitutional standards and concluded that the standards had not been violated. That conclusion was in error for two specific reasons. First, as mentioned above, it applied a non-constitutional standard as to what constitutes a "difference". Second, the duty to evaluate the difference rests squarely on the shoulders of the Presbytery. It may not defer to the examined party's claim that his view is not in conflict with the Constitution; Presbytery must make that determination on its own. For Issue Two, the record was clear that TE Wilkins expressed views that differed at key points from the Constitutional standards. Given the nature of those apparent differences, it was the conclusion of the SJC that there was a strong presumption from the records that LAP did, in fact, neglect its duty to "condemn erroneous opinions which injure the purity or peace of the Church" when it found "no strong presumption of guilt in any of

the charges contained [in the Memorial of CCP] and exercise[d] its prerogative not to institute process regarding those allegations;” and when it acted to deny the Complaint of TE James Jones. In the following four areas, the stated views of TE Wilkins differed from the Constitutional Standards and did so in ways that fairly raised questions as to whether the views were hostile to the fundamentals of the system of doctrine: (a) concerning election, (b) concerning perseverance and apostasy, (c) concerning visible/invisible church, (d) and concerning baptism. A full reasoning of how the stated views of TE Wilkins differ in these four areas can be found in the full report of the case.

**Key Words** – investigation, teaching, paedocommunion, differences and exceptions, Federal Vision, Auburn Avenue, Lord’s Supper, *BCO* 13-9, 31-2

**2007-09     Eliot Lee v. Korean Eastern**

*M37GA*, 2009 Orlando, p. 132. Sustained 20-0. C-Op. See also Case 2007-10.

Summary

The Complainant alleged that Korean Eastern Presbytery (KEP) erred 1) by authorizing a Presbytery commission to act on behalf of the Session of Hudson Korean Presbyterian Church (HKPC) and 2) by approving the actions of the committee when it filed civil action, including a restraining order, against the Complainant.

Issue

1. Did KEP err when it empowered and authorized the Pulpit (Stated Supply Approval) Commission to act on behalf of HKPC Session at the 01-26-07 Called Stated Meeting?
2. Did KEP err when it approved and ratified actions of the KEP Executive Committee, the actions of the Pulpit (Stated Supply Approval) Commission, and when it filed a civil action against TE Lee seeking among other things a restraining order against TE Lee and to adjudicate ecclesiastical matters?

Judgment

1. Yes. All actions and decisions made by the Pulpit (Stated Supply Approval) Commission in regard to its acting on behalf of the HKPC Session (and Church) were annulled, and any HKPC funds so expended were to be returned to HKPC by KEP, if the congregation so requested.

2. Yes. The Complaint filed by KEP and the Pulpit (Stated Supply Approval) Commission, acting on behalf of the HKPC Session (and Church), in the New Jersey state court sought to adjudicate ecclesiastical matters that were clearly within the jurisdiction and oversight of the courts of the PCA, i.e. who was the rightful pastor of HKPC and authorizing the Pulpit (Stated Supply Approval) Commission to act as the Session of HKPC.

Reasoning

In Case 2007-09, KEP erred when it empowered and authorized the Pulpit (Stated Supply Approval) Commission to act on behalf of the HKPC Session. The ROC was clear that neither the Session of HKPC nor the congregation of HKPC ever consented, voted or asked KEP to add additional members to the Session or to allow KEP to act on behalf of the HKPC Session. KEP acted on its own accord, without the consent of those to be governed, and in doing so breached a fundamental element of PCA polity (*BCO* 16-2). In Case 2007-10, KEP, under our Constitution, was granted the power to do certain things and take certain actions in *BCO* 13-9, utilizing the civil courts of this land to enforce its decisions and coerce obedience to its actions. This should not be construed to mean that a church court is prohibited from the civil courts to resolve purely civil matters, such as trespass or breach of contract. It was noted that KEP decided to file the lawsuit in civil court during an informal “call around” and no minutes of the action exist. This action conflicts with RONR (10<sup>th</sup> ed., pp. 482-83), because KEP did not conduct “such a meeting...by a technology that allows all persons participating to hear each other at the same time...”

Key Words – civil courts, stated supply, *Robert's Rules of Order*, *BCO* 16-2

**2007-10 Eliot Lee v. Korean Eastern**

*M37GA*, 2009 Orlando, p. 132. This case was heard with Case 2007-09. For the summary, issues, judgment, and reasoning for this case, see Case 2007-09.

**2007-11 Appeal of Eliot Lee v. Korean Eastern**

*M37GA*, 2009 Orlando, p. 144. Sustained 20-0.

Summary

The Appellant alleged that Korean Eastern Presbytery (KEP) erred in proceeding to trial. The SJC reversed the censure of deposition and excommunication.

Issue

Did KEP err when it proceeded to the trial of TE Lee?

Judgment

Yes. KEP's disposition and excommunication of TE Lee was reversed and rendered. As pastoral counsel (and not in any way to be construed as a formal censure), the SJC encouraged TE Lee to be more circumspect, charitable, open minded, and humble in dealing with his brethren in the future.

Reasoning

While this Appeal presented many issues, procedural errors by KEP seemed to override the necessity of discussing all errors in this Reasoning. However, three errors should be mentioned. First, the ROC did not provide evidence that KEP met the requirements of *BCO* 32-3 in regard to the serving of the Indictment and Citation upon TE Lee. Second, the ROC did not provide evidence that KEP met the requirements of *BCO* 32-7. Third, the ROC evidenced KEP's failure to provide TE Lee with 14 days' notice of the trial, as required by *BCO* 32-3.

Key Words – citation, notice, pastoral counsel, *BCO* 31-2, 32-3, 32-7

**2007-12    Grady v. Southwest Florida**

M36GA, 2008 Dallas, p. 125. Sustained 12-2. C-Op.

Summary

The Complainant alleged that Southwest Florida Presbytery (SWFP) erred by including in its Minutes a Committee report with a finding of sins and errors of a TE. The SJC ruled that that action essentially imposed censure of admonition without due process.

Issue

Did SWFP err when it read into its minutes of the May 8, 2007, stated meeting the Shepherding Committee's report which contained a finding of "sins and errors" concerning TE Grady?

### Judgment

Yes. SWFP erred by reading into the minutes of its May 8, 2007, stated meeting the report of the Shepherding Committee which contained a finding of “sins and errors” based on unsubstantiated and unproven opinions about TE Grady in violation of his due process. Therefore, SWFP was directed to expunge the Shepherding Committee’s report from their minutes for May 8, 2007.

### Reasoning

In this particular case, the actions of SWFP on May 8, 2007, effectively imposed the censure of admonition without due process (*BCO* 30-1, 2). The SJC recognized that a committee of Presbytery may reach, without judicial process, an opinion that a teaching elder has engaged in “sins and errors” (see for example *BCO* 31-2), and that such an opinion may even be included in the minutes of Presbytery as the opinion of the committee. However, in this case Presbytery appeared to adopt or endorse the findings of the committee by “concur[ring]” in the recommendation of the committee, “effectively making it the recommendation of Presbytery as a whole.” Further, Presbytery directed that the committee report be read to the teaching elder’s congregation. In so making the committee’s recommendation the action of Presbytery and in making the report public, without making clear that Presbytery had not adopted the portions of the report alleging sin by the teaching elder, Presbytery effectively admonished the teaching elder without due process.

Key Words – due process, presbytery committee, *BCO* 30-1, 2, 31-2

### **2007-13 Kniseley et al. v. Rocky Mountain**

*M37GA*, 2009 Orlando, p. 150. Not sustained 15-4. C-Op. D-Op.

### Summary

The Complainant alleged that Rocky Mountain Presbytery (RMP) erred by allowing a church to title a female staff person as Minister of Church Life.

### Issue

1. Did RMP err when it “acknowledge[d] that the title ‘minister’ as used in the *BCO* is synonymous with ‘pastor’ and ‘teaching elder,’”
2. Did RMP err, that it also “acknowledge[d] that the title ‘minister’ has been used in a general or generic manner and in this general way may be used for unordained church staff members.”

Judgment

1. No. The *BCO* uses the title “minister” in a specifically defined manner.
2. No. The PCA *BCO* is silent on the general use of the title “minister” for non-ordained staff.

Reasoning

This decision dealt only with the constitutional issue and does not address the *wisdom* or *propriety* of using the title “minister” in a general manner. Our decision was limited to a decision which was based upon the ROC and the constitutional documents of the PCA. The title “minister” as used in the *BCO* defines and directs the internal operation of the church and is used synonymously with the titles “teaching elder” and “pastor.” While recognizing that the term “minister” is used in a general sense in many churches, the issue in this case was whether churches are at liberty, in some situations, to use terms in a broader, more informal and non-technical sense which the *BCO* uses in a restricted, formal, and technical sense. While recognizing that the *BCO* does not *prescribe* matters involving non-ordained staff hired by local churches (including their titles), it was also important to note that the *BCO* does, at least in some instance, *proscribe* such matters (*BCO* 40-2). The use of the term “minister” (or other such terms from the *BCO* that could be used in a generic sense outside their specific use in the Constitution) for non-ordained church staff members would be proper only where the generic use is made plain to the competent observer by other terms included in the title (e.g., “Minister of Music”), by employing a distinctive means of appointing and commissioning such staff members, and by the way such staff members are publicly acknowledged in relation to the ordained officers of the church.

Key Words – women, ordination, minister, non-ordained staff, *BCO* 40-2

**2007-14    PCA vs. Louisiana Presbytery (Trial)**

*M36GA*, 2008 Dallas, p. 128. Admonition 16-1. C-Op. Obj.

Summary

See Cases 2006-02 and 2007-08. Following Cases 2006-02 and 2007-08, the SJC found that Louisiana Presbytery (LAP) failed to reach a decision consistent with the Constitution of the PCA when it found no strong presumption of guilt in any of the charges contained in the Central

Carolina Memorial (CCM) and exercised its prerogative not to institute process against TE Wilkins regarding those allegations. Charge 1 was dismissed after trial. Regarding Charge 2, LAP pled guilty prior to trial and SJC imposed censure of Admonition.

Verdict

**Specification 1** – After the trial, Specification 1 was dismissed by the SJC for reasons noted below.

**Specification 2** – The Presbytery's guilty plea having previously been entered on Specification 2, the SJC voted to proceed to the imposition of the censure of admonition (*BCO* 32-3, para 3; 36-3) for the reasons noted [in the Reasoning].

Reasoning

Regarding Specification 1, the SJC dismissed Specification 1 against LAP on the grounds that, 1) the SJC could not conclude that Presbytery was *required* by Scripture, the Constitution, or the directives of the SJC to apply *BCO* 21-4 and *RAO* 16-3(e)(5) to the *BCO* 31-2 investigation required by the SJC in Case 2006-02; 2) the SJC recognized and received Presbytery's explanation for their not guilty plea; and 3) while LAP did fail to address TE Wilkins' differences, some of which were out of conformity to the Constitution, all the matters raised in this section were also dealt with in Specification 2. Regarding Specification 2, by entering a guilty plea, LAP acknowledged the matters alleged and confessed its failures as to them. By doing so it was subject to judgment and censure without further process. In light of the withdrawal of TE Wilkins and Auburn Avenue Presbyterian Church from the PCA, there was no practical means by which LAP could make amends for its failure.

Imposition of Censure

For the censure in full, see the full report in *M36GA*, 2008 Dallas, p. 133.

Key Words – Wilkins, paedocommunion, censure, strong presumption of guilt, *BCO* 21-4, 31-2, *RAO* 16-3(e)(5)

**2007-15 Sang Chul Choi v. Korean Central**  
*M36GA*, 2008 Dallas, p. 75. OOO.

**2007-16      Appeal of Grady v. Southwest Florida**  
M37GA, 2009 Orlando, p. 163. Sustained in part 13-2.

Summary

After announcing his intention to resign following a critical report by a Southwest Florida Presbytery (SWFP) Shepherding Committee (SC), the pastor of Faith Presbyterian Church (FPC), TE John Grady, changed his mind and the congregation of FPC voted against dissolving his call. TE Grady was later found guilty at trial on three charges and was indefinitely suspended from office. His Appeal alleged seven specifications of error. The SJC sustained the convictions but vacated suspension and dissolution of call, and remanded the case to Presbytery for reconsideration of both.

Issue

1. Did Presbytery err in its judgment by using documents not introduced into evidence?
2. Did Presbytery err in its judgment by committing irregularities and refusing reasonable indulgence to the Appellant?
3. Did Presbytery err in its judgment by suspending TE Grady under *BCO* 31-10?
4. Did Presbytery err in its judgment in application of *BCO* 35-3, 35-10, and 32-20?
5. Did Presbytery err in its judgment by manifesting prejudice against the Appellant?
6. Did Presbytery err in its judgment in its interpretation of “subjection to the brothers?”
7. Did Presbytery err in its judgment in allowing inappropriate questions?

Judgment

1. No.
2. Yes, but the error was not materially prejudicial to the accused.
3. Issue 3 was not properly before the SJC.
4. No (regarding *BCO* 32-20 and 35-3), and Yes (regarding *BCO* 35-10, but the error was not materially prejudicial to the accused).
5. No.
6. Yes.
7. No.

The judgments of SWFP in this case were affirmed in part and reversed in part (*BCO* 42-9), and the case was remanded to Presbytery with the instruction that Presbytery reconsider the censure.

### Reasoning

For Issue One, the Appellant contended that Presbytery based its judgment in large part upon a report by the SWFP's SC report which was presented to Presbytery. Since the SC report was never marked as an exhibit at the trial of this matter and was never entered into evidence, the Appellant claimed that any reference to it was prejudicial and required reversal of the judgment rendered by Presbytery. However, the Appellant's claim that the judgment was based upon the SC report was not supported by the sections of the judgment making specific findings of fact regarding the Appellant's guilt. Therefore, the Appellant's claim was mistaken. For Issue Two, the Appellant contended that the trial court was required to rule on a dozen "motions, notations, and objections" (MNO) presented by his counsel at his arraignment. Presbytery rightly observed that the *BCO* does not require a pre-trial ruling or hearing on such matters. Nonetheless, the disposition of these MNOs should have occurred at the beginning of the trial rather than during or after. However, the Appellant did not demonstrate that the timing of the court's rulings on his MNO's resulted in actual harm to his defense. For Issue Three, in this instance the arguments of the parties were not relevant because this matter was not properly before the SJC. For Issue Four, *BCO* 32-20 contains a caveat that a one-year window exists in which to commence process (in case of scandal), except if the offense "has recently become flagrant." The SJC found that Presbytery exercised appropriate discretion in their determination to commence process after the one-year window. The SJC did, however, sustain the Appellant's assertion that Presbytery misapplied *BCO* 35-10 (and 32-13) regarding telephonic testimony. However, the defense was able to cross-examine these two witnesses and the court's procedural error did not materially prejudice the Appellant. For Issue Five, the Appellant alleged that "the court believed [the Appellant] was manifesting an impenitent spirit by not admitting he was wrong and the court held this against [the] Appellant to the point of manifesting prejudice." He alleged the court "believed that the mere filing of the charges was *prima facie* evidence that they were true..." However, neither of the two examples from the trial commission's 29-page report (cited by the Appellant as evidence of his claim) substantiates the allegation of prejudice against Presbytery. For Issue Six, Presbytery erred in its interpretation of *BCO* 13-9.c and subsequently misapplied *BCO* 21-5 in relation to Grady's June 15 decision to rescind his resignation. It appeared that some members of SWFP held the view that a Presbytery can administratively dissolve a

minister's call, against the wishes of both him and the congregation, relying on the second clause of *BCO* 13.9.c. And so, if Presbytery directs a minister to resign but he declines, he has apparently failed to be in subjection to his brethren because Presbytery has the power to demand it. This misapplication of our Constitution so thoroughly permeated the Presbytery's actions in this matter, especially its censure, that we set aside the censure with directions to Presbytery that it conduct further judicial proceedings to determine what censure might be appropriate. For Issue Seven, the Appellant complained that "as a number of witnesses for the prosecution were concluding their testimony, a member of the judicial commission asked...‘Do you believe that TE Grady is fit for pastoral minister?’" Citing *BCO* 35-5, he asserted this question was out of order in a judicial proceeding. However, Presbytery reported that neither TE Grady nor his counsel objected or "appealed to the court" when this question was asked, and Presbytery contended it was not an inappropriate, frivolous or irrelevant question. The SJC did not find this question violated *BCO* 35-5.

Key Words – ordination vow, evidence, subjection to brethren, resignation, witness, *BCO* 31-10, 35-3, 35-5, 35-10, 32-20

**2008-01 Session of Crossroads Community v. Philadelphia**  
M37GA, 2009 Orlando, p. 176. Not sustained 10-3. C-Op. D-Op. With Case 2008-10.

#### Summary

The Complainants alleged that Philadelphia Presbytery (PP) erred by licensing and later ordaining a man who held the view that women can serve as Deacons but who also maintained that he would not practice or implement his view.

#### Issue

1. Did PP err when it approved for licensure a candidate who (1) stated a difference with the *BCO* as to a woman's eligibility to serve in the office of Deacon, but who (2) affirmed that he would conduct his ministry in accordance with the form of government established by the *BCO*?
2. Did PP err when it approved for ordination as a TE, a candidate who (1) stated a difference with the *BCO* as to a woman's eligibility to serve in the office of Deacon, but who (2) while stating some qualifications,

affirmed that he would conduct his ministry in accordance with the form of government established by the *BCO*?

Judgment

1. No.
2. No.

Reasoning

The Complainants in these cases argued that differences with any aspect of our Constitution – the doctrinal standards and the *BCO* – must be handled and judged in the same manner. A candidate for licensure is required to demonstrate basic knowledge of the *BCO* (19-2.b.3). He is not, however, required to make any personal affirmations regarding his approval of it. Nevertheless, in this matter the licensure examination included specific questioning concerning the candidate's views as to the office of Deacon and whether there was Biblical support for the idea that a woman could serve as a Deacon. At the conclusion of the examination, the candidate clearly affirmed his willingness to operate within the parameters required by the *BCO*. So long as a candidate for licensure expresses a willingness to operate in accordance with the parameters established by our *BCO*, he does not violate the standards of our Constitution by questioning whether the provisions of the *BCO* are contrary to Scripture or sound judgment. The Complainants also argued that the *BCO* establishes more than the practices which we agree to operate under as a church body. They claimed that the provisions of the *BCO* are doctrinal in nature and that differences with that doctrine must be judged by the same standard as differences with our confessional standards. Where a candidate for ordination asserts a difference with the *BCO*, our Constitutional standards implicitly require the Presbytery to consider that difference under a three-part inquiry arising out of the third ordination vow (*BCO* 21-5). Applying the standards to the case at hand, the record showed that the candidate satisfied these questions and plainly asserted his willingness to conduct his ministry in conformity with the *BCO*. The SJC was required to give great deference to the judgment of Presbytery on matters of discretion and judgment best addressed by the court with familiar acquaintance with the events and parties (*BCO* 39-3.3).

Key Words – views, women, office, Deacon, diaconate, ordination, exceptions, difference, *BCO* 19-2, 21-5, 39-3.3

**2008-02    Hofland et al. v. Eastern Carolina**  
*M37GA*, 2009 Orlando, p. 131. Withdrawn.

**2008-03    Acree v. Chesapeake**  
*M37GA*, 2009 Orlando, p. 131. OOO.

**2008-04    Acree v. Chesapeake**  
*M37GA*, 2009 Orlando, p. 131. OOO.

**2008-05    Acree v. Chesapeake**  
*M37GA*, 2009 Orlando, p. 131. OOO.

**2008-06    Acree v. Chesapeake**  
*M37GA*, 2009 Orlando, p. 131. OOO.

**2008-07    Acree v. Chesapeake**  
*M37GA*, 2009 Orlando, p. 131. OOO.

**2008-08    Soh v. Philadelphia**  
*M37GA*, 2009 Orlando, p. 131. OOO.

**2008-09    Session of Red Mountain v. Evangel**  
*M37GA*, 2009 Orlando, p. 193. Sustained 19-0.

Summary

A husband complained to Evangel Presbytery (EP) that the Session of Red Mountain Church (RMC) failed to indict his wife for allegedly pursuing an unbiblical divorce. Presbytery sustained his Complaint. The Session then filed a complaint to the SJC against this action by Presbytery.

Issue

1. Did Presbytery err when it determined that in response to Dr. Carl Walker's charge of March 7, 2007, the RMC Session failed to rule biblically, specifically, and authoritatively on whether or not the divorce suit brought by Melanie Walker violated the Scripture?

2. Did Presbytery err when it determined that the RMC Session improperly based its decision, in part, on a finding that there was no strong presumption of guilt that Mrs. Walker's suit violated the Scripture?
3. Did Presbytery err in the way it handled its judicial commission report to the Presbytery.
4. Did Presbytery err when, by its adoption of the Presbytery Commission's revised report, it found that Melanie Walker did not have biblical grounds for divorce?

Judgment

1. Yes.
2. Yes.
3. Yes.
4. Yes.

Reasoning

For Issue One, the SJC found that the Session gave due attention to the passages of Scripture that speak to the matter of divorce, and sought to articulate its understanding to those passage to Dr. Walker as well as to EP. Regarding the Session's alleged failure to rule specifically on this matter, the assertion appeared to rest upon the Presbytery's assumption that all Session interactions with members in difficulty must be conducted by the full Session (rather than through deputed agents of the Session). Finally, while the Session of RMC could have been more forthright in communicating with both Dr. and Mrs. Walker, the SJC found that the Session did give a clear ruling that accorded with the reality of the situation at the time of the ruling. For Issue Two, Carl Walker's November 26 Complaint charged the Session with "...the error and delinquency of the Session...not to prosecute the charge of un-biblical divorce in the case of Carl and Melanie Walker..." Dr. Walker expected the Session to investigate what he considered to be a charge against his wife and to find a strong presumption of guilt by which to prosecute her. The nature of the matter before RMC Session and the relief Dr. Walker clearly expected made the Session's consideration of this matter (according to *BCO* 31-2) reasonable and appropriate. For Issue Three, the ROC indicated that the Presbytery Judicial Commission presented a partial report, and that the Commission modified its previously distributed written report during the lunch break, following discussions by the floor. Such action violated *BCO* 15-3. For Issue Four, the SJC was unconvinced that the Presbytery could rightfully determine from the indirect evidence it had before it that Mrs. Walker's divorce

was in fact unbiblical. The SJC also found itself in agreement with the Complainants' contention that the instruction for the Session to engage Mrs. Walker in accordance with Matthew 18 presupposed that she was in sin and judged her apart from due course. By the ruling, the SJC was neither affirming nor denying that Mrs. Melanie Walker had biblical grounds for her divorce from Dr. Carl Walker. What the SJC was affirming was that on March 7, 2007, when Dr. Walker asked for a ruling from his Session on whether his wife's pursuit of a divorce was biblical or not, the Session acted in such a way that no clear error is manifested that would lead a higher court rightly to sustain a Complaint against that action in accordance with *BCO* 39-3, paragraphs 2, 3.

**Key Words** – divorce, physical abuse, secret audio recording, Matthew 18, *BCO* 31-2, 39-3, 43-10

**2008-10    Grasso et al. v. Philadelphia**

*M37GA*, 2009 Orlando, p. 176. Heard with Case 2008-01.

**2008-11    Broadwater et al. v. Chesapeake**

*M38GA*, 2010 Nashville, p. 130. Sustained 18-3.

Summary

After the Session of Grace Reformed Presbyterian Church of Relay, MD (GRPC) sent a Reference to Chesapeake Presbytery (CP) concerning the transfer of one of its members, CP granted a *BCO* 33-1 petition from three Sessions and appointed a Commission to assume original jurisdiction over GRPC. The Complainant alleged that CP erred in this action.

Issue

1. Did CP err when it appointed a commission empowered (1) to take original jurisdiction over GRPC 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 CP err when it appointed a commission empowered to receive the Reference from GRPC and include it into the mandate for the new commission?

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 was 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 stood.

Reasoning

A Presbytery has no authority to assume original jurisdiction except under the conditions of *BCO* 33-1, including "if the Session refuses to act in doctrinal cases or instances of public scandal" or if two other Sessions of churches in the same Presbytery so request it in order to initiate proper or appropriate action. However, the letters from the three churches to Presbytery contained no specific allegations that the Session of GRPC 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 Presbytery, through its commission, assumed original jurisdiction over the matter without any showing or finding (based upon the ROC) that the Session had refused to act in a case of process. 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 Presbytery did. The Presbytery, through its commission, assumed original jurisdiction without showing or finding that the Session had refused to act in a case of process.

Key Words – original jurisdiction, *BCO* 33-1

**2008-12      Appeal of Malone v. Metro New York**

*M37GA*, 2009 Orlando, p. 131. OOO.

**2008-13      Meyerhoff v. Chesapeake**

*M38GA*, 2010 Nashville, p. 133. Moot 21-1. In light of the decision in Case 2008-11.

**2008-14    White v. Siouxlands**

*M38GA*, 2010 Nashville, p. 135. Sustained 22-1. C-Op. D-Op.

Summary

The Complainant alleged that Presbytery of Siouxlands (PS) erred by not appointing a *BCO* 31-2 committee to investigate a minister's alleged Federal Vision view.

Issue

Did PS err when it denied a Complaint seeking the appointment of a committee to conduct a *BCO* 31-2 investigation?

Judgment

Yes, and the matter was sent back to PS with instructions to conduct a *BCO* 31-2 investigation as to whether or not TE Greg Lawrence holds or is preaching/teaching views with respect to the Covenant of Works or other doctrines associated with the so-called Federal Vision theology that are contrary to the doctrinal standards of the PCA.

**Note:** Eleven Cases followed, between Cases 2008-15 and 2009-10, which arose out of related circumstances in Western Carolina Presbytery. All Decisions were reported to the 38<sup>th</sup> GA in Nashville.

Reasoning

The Complainant alleged that PS failed to carry out its responsibility under *BCO* 31-2 when it neglected "to erect a judicial committee or commission to investigate reports affecting one of its members." The Respondents argued that, to act under *BCO* 31-2, Presbytery must establish the "validity" of the report in question. Based upon the "questionable nature of the evidence presented," the Respondents questioned the meaning of the term "report" in *BCO* 31-2 and held that PS was justified in refusing to appoint an investigating committee. However, the SJC found that the matters and evidence brought by the Complainant before PS indeed constituted reports (not "hearsay") that should have provoked Presbytery's investigation under *BCO* 31-2.

Key Words – evidence, report, ordination, examination, Federal Vision, Covenant of Works, *BCO* 31-2

**2008-15    Smith v. Western Carolina**

*M38GA*, 2010 Nashville, p. 156, 170. Sustained 21-0.

### Summary

This case arose following a conflict in 2007 at Friendship Presbyterian Church (FPC) in Black Mountain, NC, between a TE and an RE regarding the RE's viewpoints on, and material he circulated related to, race. The Complainant alleged five errors regarding Presbytery's handling of the matter. The SJC sustained two Complaints due to a congregational meeting being judged as illegitimate.

### Issue

1. Did Presbytery err at its called meeting on June 17 when it appointed the Inman Commission to consider and handle the Reference from the Session?
2. Did Presbytery err at its called meeting on August 19 when it considered requests from the congregation arising from a congregational meeting on August 7?
3. Did Presbytery err at its called meeting August 19 when it approved a motion to declare in its Minutes that the August 6 Session action canceling the August 7 congregational meeting was not "wise, equitable or suited to promote the welfare of the church...?"
4. Did Presbytery err at its called meeting August 19 when it declined to adopt a motion to cite the Session to appear and answer per *BCO* 40-5?
5. Did Presbytery err at its called meeting August 19 when it appointed the Sealy Commission?

### Judgment

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

### Reasoning

For Issue One, when a Presbytery appoints a Commission to handle a Reference, the congregation does not need to consent to the specific men on that Commission. Contrary to the Complainant's assertion, Presbytery did not "take over governance of the congregation." Its role was far more limited and clearly permissible. For Issue Two, because the Session of FPC had voted 2-1 on August 6 to cancel the congregational meeting of August 7, the meeting was not legitimate. The Session had the right to cancel the meeting at any time prior to its convening. Further, the

Presbytery erred at its August 19 meeting in that it “took original jurisdiction under *BCO* 13-9 to act on FPC’s request to dissolve the relationship of RE Linton and Pellom and conduct a review of *BCO* 24-7.” Therefore, all actions taken by the congregation on August 7, 2008 were invalid. For Issue Three, while the action of the Session to cancel the August 7, 2008, congregational meeting was constitutional, the SJC did not find that Presbytery had erred in its declaration that the Session’s action was not wise or suited to promote the welfare of the Church, even if those actions may be constitutional. For Issue Four, the SJC did not find that Presbytery violated the Constitution when it declined to adopt the motion to formally follow *BCO* 40-5, and therefore this specification of error was not sustained. No evidence was provided in the record to demonstrate the nature of the “credible reports” that the Complainants argue should have triggered *BCO* 40-5. For Issue Five (see also Issue Two), since the August 7 congregational meeting was illegitimate, there was no valid dissolution request for Presbytery or its Sealy Commission to consider. So the October 23 decision of the Commission declining to dissolve the calls of REs Linton and Pellom was voided, as are all other Presbytery actions and any Complaints related to it.

Key Words – Reference, race, congregational meeting, original jurisdiction, *BCO* 13-9, 24-7, 40-5

**2008-16      Hutchinson and Bulkeley v. Western Carolina**  
M38GA, 2010 Nashville, p. 156, 173. Not sustained 21-0.

Summary

This case arose following a conflict in 2007 at Friendship Presbyterian Church (FPC) in Black Mountain, NC, between a TE and an RE regarding the RE’s viewpoints on, and material he circulated related to, race. The Complainants alleged that Western Carolina Presbytery (WCP) erred in how it handled the RE’s confession. (The Case was referred to Presbytery by the Session.)

Issue

Did Presbytery err at its stated meeting August 2 in how it handled RE Payne’s confession?

Judgment

No.

### Reasoning

A Presbytery Commission conducted a *BCO* 31-2 investigation, found a strong presumption of guilt, and assisted the accused in preparing his confession per *BCO* 38-1 Case Without Process. In their brief, the Complainants asked the SJC to direct Presbytery to amend its August 2 decision and not consider this a “full” statement of the facts. In addition, they asked the SJC to determine that “a strong presumption of guilt has indeed been raised with regard to other sins beyond Neill Payne’s statement to Presbytery,” and to institute process, appointing a prosecutor to prepare the indictment and to conduct the case.” These amends, asking SJC to rule that a strong presumption of guilt exists on sins not yet confessed, were akin to asking SJC to assume original jurisdiction. If there were sins additional to what Mr. Payne confessed, the Complainants can present formal charges against him to his Session.

Key Words – confession, race, statement, case without process, *BCO* 31-2, 38-1

### **2008-17 Hutchinson and Bulkeley v. Western Carolina** *M38GA*, 2010 Nashville, p. 156, 174. Not sustained 21-0.

#### Summary

This case arose following a conflict in 2007 at Friendship Presbyterian Church (FPC) in Black Mountain, NC, between a TE and an RE regarding the RE’s viewpoints on, and material he circulated related to, race. The Complainants alleged that Western Carolina Presbytery (WCP) erred by not suspending the RE from sacraments in addition to imposing indefinite suspension from office (in a *BCO* 38-1 case without process).

#### Issue

Did Presbytery err at its stated meeting August 2 by not also suspending RE Payne from the Sacraments, in addition to indefinitely suspending him from office?

#### Judgment

No.

#### Reasoning

The Complainants alleged that Presbytery was “knowingly allowing an unrepentant sinner to be admitted to the Sacraments” by not also suspending RE Payne from the Sacraments. They also asserted that an

unrepentant man cannot be said to be “in good standing” and therefore, should be barred from the Lord’s Supper per *BCO* 58-4. Furthermore, they cited *BCO* 58-2 and *WLC* Q173 which teach that the “ignorant and scandalous are not to be admitted to the Lord’s Supper.” Apparently, the Presbytery did not deem Mr. Payne to be in either of those categories after his confession, and believed indefinite suspension from office to be the appropriate censure. Indeed, according to the *BCO*, there could likely be several instances in which a court chooses to indefinitely suspend a man from office, but not from the Sacraments. The SJC did not find that the Presbytery had erred in constitutional interpretation, and therefore gave “great deference” to them in this decision involving “discretion and judgment” (*BCO* 39-3.3).

Key Words – sacraments, Lord’s Supper, repentance, confession, race, suspension, *BCO* 30-3, 36-5, 37-3, 38-1, 58-2

**2008-18      Hutchinson and Bulkeley v. Western Carolina  
M38GA, 2010 Nashville, p. 156, 178. Not sustained 21-0.**

Summary

This case arose following a conflict in 2007 at Friendship Presbyterian Church (FPC) in Black Mountain, NC, between a TE and an RE regarding the RE’s viewpoints on, and material he circulated related to, race. The Complainants alleged that Western Carolina Presbytery (WCP) erred in its Commission’s opinion regarding an RE’s views related to race and IQ which he expressed in an email.

Issue

Did Presbytery err in its Commission’s opinion regarding the views of Mr. Payne, specifically, those expressed in his November 26, 2007, e-mail?

Judgment

No.

Reasoning

The Complainants alleged that Presbytery erred when its Commission failed to condemn the views of RE Payne specifically expressed in a November 26, 2007, email circulated to 19 members and non-members. However, the SJC did not find that the decision of Presbytery was errant

and therefore, this specification of error was not sustained. The Presbytery, through its Inman Commission, expressed its opinion in adopting two motions with rationale (pp. 38-39 of ROC 2008-15 and at July 15 in the Summary of Facts), including that such views, while “not in themselves explicitly out of accord with the Constitution of the church...may have an understandable opprobrium and odium attached to them because of their association with reprehensible views and conduct.” The SJC stated that it certainly does not believe that the Bible teaches the “fate” of a nation depends primarily on the intelligence of its people or their race, or that God’s blessings are based on those criteria either. But the SJC does not have before it a “statement of views” sufficiently presented for SJC to render a judgment and therefore, we defer to Presbytery’s evaluation of the matter. The SJC stated that the Complainants could consider presenting this email as a piece of evidence if they chose to deliver formal charges against Mr. Payne to his Session. In addition, the Session could query him about this email as they considered whether and when to lift his indefinite suspension.

Key Words – race, views, email, evidence

**2009-01 Smith v. Western Carolina**

*M38GA, 2010 Nashville, p. 179. Answered by reference to Decision in Case 2008-15.*

**2009-02 Smith v. Western Carolina**

*M38GA, 2010 Nashville, p. 182. Not sustained in main part 21-0.*

Summary

This case arose following a conflict in 2007 at Friendship Presbyterian Church (FPC) in Black Mountain, NC, between a TE and an RE regarding the RE’s viewpoints on, and material he circulated related to, race. Western Carolina Presbytery (WCP) investigated the views published by the RE on race and IQ and initially found no strong presumption of guilt, but later sustained a Complaint (hereafter Hutchinson Complaint) and reversed the finding. This new Complaint alleged that the reversal was an error. The SJC remanded the case to Presbytery for process.

Issue

Did Presbytery err on November 18, 2008 when it sustained the Hutchinson complaint, to wit: By this Complaint I am requesting that we

correct our error by reversing the action and judgment of the Commission, publicly declaring, at the very least, that the view, “that relative average intelligence quotient can be correlated to race on a continuum, with ‘Oriental’ as superior, followed by ‘White’ then ‘Brown’ (Hispanic) then ‘Black’ in descending order,” is indeed out of accord with the Constitution of our Church; and publicly declaring that holding to such a view is indeed a violation of Christian liberty, destroying the very purpose of the liberty Christ has purchased for believers under the gospel, whereby there is neither Jew nor Gentile, for we are all one in Christ Jesus (Galatians 3:28)”?

Judgment

Yes, in part, and No, in part. We did not find that Presbytery erred in its November 18 decision to reverse its previous decision, which did not find a strong presumption of guilt on the matter of views. This was a matter of discretion and judgment on which the higher court must afford great deference (*BCO* 39-3.3). However, the SJC was not hereby rendering any opinion on the merits of that decision or the reasoning in the Hutchinson Complaint. We found that Presbytery erred procedurally by immediately adopting a judgment against RE Payne’s views without process. The SJC annulled the declaration made by Presbytery regarding RE Payne’s views, and remanded the case to WCP for adjudication.

Reasoning

The effect of Presbytery’s action in sustaining TE Hutchinson’s Complaint on November 18, 2008, was to reverse its prior finding that there was not a strong presumption of guilt against RE Neill Payne regarding his views. By sustaining the Complaint, WCP ruled in essence that there was a strong presumption of guilt against Mr. Payne regarding his views. And since Presbytery ruled that there was a strong presumption of guilt regarding his views, the case was remanded to Presbytery to take the next appropriate Constitutional steps and commence process against RE Payne on the matter of his views or rescind their Nov. 18 decision that there was a strong presumption of guilt and drop the matter.

Key Words – investigation, race, presumption of guilt, *BCO* 15-3, 31-2

**2009-03 Leissing v. Western Carolina**

*M38GA*, 2010 Nashville, p. 180. 21-0. See Case 2008-15.

### Summary

This case arose following a conflict in 2007 at Friendship Presbyterian Church (FPC) in Black Mountain, NC, between a TE and an RE regarding the RE's viewpoints on, and material he circulated related to, race. Western Carolina Presbytery (WCP) appointed a Commission (hereafter Sealy Commission) to "deliberate and act upon the congregation's request for the dissolution" of its relationship with two of its REs under the provisions of *BCO* 24-7.

### Issue

Did Presbytery err at its stated meeting on November 7, 2008, when voted to reverse the October 23 decision of its Sealy Commission, thereby granting the congregation's August 7 request and dissolving the calls of REs Linton and Pellom?

### Judgment

This Complaint was answered by reference to the SJC decision in issue 5 in Case 2008-15, when it ruled that Presbytery erred when it appointed the Sealy Commission.

Key Words – non-judicial commission, dissolution, race, *BCO* 24-7

### **2009-05 Payne v. Western Carolina**

*M38GA*, 2010 Nashville, p. 197. Not sustained 21-0.

### Summary

The Complainant alleged that Western Carolina Presbytery (WCP) erred procedurally in a *BCO* 31-2 investigation of a TE and erred in not finding a strong presumption of guilt.

### Issue

1. Did Presbytery err in how it conducted the 31-2 investigation of accusations related to TE Bulkeley?
2. Did Presbytery err at its stated meeting on February 28, 2009, when it judged there was not a strong presumption of guilt related to accusations made against TE Bulkeley?

### Judgment

1. No.
2. No.

Reasoning

The Complainants alleged two primary irregularities with the process that Presbytery followed, arguing that the conclusion would have been different if a different process had been followed. They alleged that 1) it was error for the Investigating Committee not to interview any of the people who sent grievance letters to Presbytery, and 2) the process took far too long. The SJC stated that *BCO* 31-2, however, does not specify any particular procedures for a court to follow for investigations. It enjoins them to use “due diligence” but also affords them “great discretion.” It does not stipulate a timeline, composition of the investigating body, interview requirements, etc. In different situations, prudence and wisdom may dictate different procedures. It is up to the investigating court to determine those procedures, subject to review by a higher court. For Cases 2009-09 and 2009-10, the SJC found that neither had standing to bring a Complaint because they were not under the jurisdiction of said court (*BCO* 43-1 and 11-4).

Key Words – evidence, interviews, jurisdiction, grievance letter, *BCO* 31-2

**2009-06      Bordwine v. Pacific Northwest**

*M38GA*, 2010 Nashville, p. 208. Sustained 17-2. C-Op. D-Op. Obj.

Summary

The Complainants alleged that Pacific Northwest Presbytery (PNW) erred by declining to indict TE Peter Leithart after investigation into the views he expressed related to the “9 Declarations” adopted by the 37<sup>th</sup> GA in Orlando, which were recommended by the study committee on Federal Vision, New Perspective, and Auburn Avenue Theologies. The SJC, in essence, instructed Presbytery to indict and proceed to trial.

Issue

Did Presbytery err in its handling of the Reports from the Presbytery Study Committee appointed to examine Leithart’s fitness to continue as a PCA TE?

Judgment

Yes. The Complaint was sustained, and the case was sent back to Presbytery with instructions to proceed according to the Reasoning and Opinion of this Decision.

### Reasoning

The Record in this matter suggested that there were aspects of the teachings of TE Leithart that were in conflict with our standards. These teachings could have reasonably been deemed to be injurious to the peace and purity of the Church (*BCO* 13-9.f). However, without formal judicial process, PNW did not have the authority to render a definitive judgment as to whether those teachings strike at the vitals of religion or were industriously spread (*BCO* 34-5, 34-6). In light of these findings, PNW was directed to proceed, as follows:

- (1) Pursuant to *BCO* 31-7, PNW may counsel TE Leithart that the views set forth above constitute error that is injurious to peace and purity of the church and offer him pastoral advice on how he might recant and make reparations for those views or, if he is unwilling or unable in conscience to do so, that he is free to take timely steps toward affiliation with some other branch of the visible church that is consistent with his views;
- (2) If said pastoral advice is not pursued or fails to result in TE Leithart's recanting or affiliating with some other branch of the visible church before the Fall Stated Meeting of PNW, then PNW shall take steps to comply with its obligations under *BCO* 31-2.

Key Words – Federal Vision, 9 Declarations, New Perspectives on Paul, Auburn Avenue, *BCO* 13-9, 31-7, 34-5, 34-6

### **2009-07 Urish v. Rocky Mountain**

*M38GA*, 2010 Nashville, p. 235. Not sustained 20-0. C-Op.

### Summary

The Complainants alleged that Rocky Mountain Presbytery (RMP) erred by ordaining a man who held that women could, under Session authority, teach (but not preach) in a church. This view was based on the candidate's exegesis of 1 Timothy 2:12.

### Issue

Did RMP err in sustaining a candidate for ordination's theological examination when that candidate would in various ministries of the church, exclusive of preaching, allow a woman to teach from Scripture to men and women, all under the authority of the Session?

### Judgment

No.

Reasoning

While many of the SJC had questions about the candidate's exegesis of 1 Timothy 2:11-15, we did not find sufficient evidence in the record or arguments to require the conclusion that Presbytery erred in not finding the expressed views call into question his ability to affirm the first ordination vow. Further, the candidate in this case expressly rejected the following – that a woman could serve as an elder; that a woman could preach in public worship; and, that a woman could teach the Scriptures in any church ministry context outside of the express oversight and authoritative governance of the church Session. With these express limitations of a woman's role in place, the Presbytery examined the candidate as to the basis for his exegesis of 1 Timothy 2:11ff – essentially that Paul forbids "authoritative teaching" (such as preaching), and does not prohibit other forms of teaching that may occur in the ministry life of the church (Sunday school, small groups, breakfast meetings, seminars, etc.). At the conclusion of a discussion of his view, Presbytery voted to sustain his theological exam. There was no motion made to find his view as to a woman teaching out of accord with our system of doctrine. Applying the above standards to the matter before us, the SJC found no basis in the ROC to conclude that the Presbytery committed clear error in affirming the theological examination of the candidate at issue. We found, therefore, no constitutional basis to set aside the judgment of the Presbytery.

Key Words – exegesis, women, teaching, ordination, examination, *BCO* 39-3

**2009-08    Linton v. Western Carolina**

*M38GA*, 2010 Nashville, p. 197. Combined with and answered by Decision in Case 2009-05.

**2009-09    Lyons v. Western Carolina**

*M38GA*, 2010 Nashville, p. 197. Combined with and answered by Decision in Case 2009-05.

**2009-10    Woodward v. Western Carolina**

*M38GA*, 2010 Nashville, p. 197. Combined with and answered by Decision in Case 2009-05.

**2009-11    Edison et al. v. Southwest Florida**  
M38GA, 2010 Nashville, p. 242. Sustained 15-3. D-Op.

**Summary**

Southwest Florida Presbytery (SWFP) sustained the transfer exam of a TE. A Complaint was later filed against that action, which was sustained. The TE was reexamined but did not pass and Presbytery determined not to approve his call to a church in SWFP and not to receive him into Presbytery's membership. This new Complaint alleged that this reexamination was unconstitutional.

**Issue**

1. Did SWFP err when it acted "to sustain the Complaint filed against the actions of Presbytery in sustaining the theological exam of Mr. Gregory on February 14, 2009"?
2. Did SWFP err: (a) when it acted as if sustaining the Complaint against its actions with respect to the theological exam of Mr. Gregory on February 14, 2009, of itself, had the effect of rescinding its previous action in sustaining the theological examination and approving the call of TE Gregory, and (b) when it therefore determined "that T.E. Gregory be sent back to the Presbytery as a whole in order to undergo a theological reexamination"?
3. Did SWFP err when it determined "that the SWFP must correct its record of the reception of Bryan Gregory into its membership, and recognize that Presbytery does not have constitutional grounds to approve his call to a church which is a member of our Presbytery...Therefore the mentioned actions which have been determined to have been made in error are now reversed."?

**Judgment**

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

**Reasoning**

For Issue One, according to *BCO* 43, a Complaint is a "written representation made against *some* act or decision of a court of the Church" [emphasis added]. Clearly the approval of a theological examination and call of a minister qualifies as "some act or decision" which may be liable to Complaint and thus was properly within the

power of the Presbytery to hear and sustain. For Issue Two, although Presbytery had the duty to hear and sustain a Complaint against its action, sustaining the Complaint does not, of itself, correct or invalidate the action(s) complained against. Accordingly, there was no constitutional or parliamentary ground for determining that “TE Gregory be sent back to Presbytery as a whole in order to undergo theological reexamination.” For Issue Three, after the unconstitutional reexamination of TE Gregory, Presbytery did act to rescind motions previously adopted with respect the TE Gregory’s examination, membership, and call. However, *RONR* specifies that membership, having conferred certain rights, can only be removed by whatever disciplinary processes the organization may have adopted for its members. Having already conferred membership upon TE Gregory, SWFP could have no other recourse than to undertake proceedings according to *BCO* 31-2.

Key Words – *Robert’s Rules of Order*, amend, rescind, annul, reexamination, *BCO* 14-7, 19-6, 31-2, 43-10

**2009-12      Armes v. Southwest Florida**

*M39GA*, 2011 Virginia Beach, p. 529. Sustained 23-0. See also Case 2009-21.

Summary

The Complainant was excommunicated by the Session of Covenant Presbyterian Church (CPC) in Lakeland, Florida. He filed a Complaint with the Session, which was denied. He then filed a Complaint with Southwest Florida Presbytery (SWFP), but Presbytery advised him that, since he was excommunicated, he was not afforded the privilege of having a Complaint heard. However, prior to the SJC Panel Hearing, the parties agreed to remand the case to Presbytery for a hearing.

Issue

Did SWFP err, by its actions on April 1, 2009 (through its Stated Clerk) and on May 12, 2009, when it ruled Out of Order the Complaint of Paul Armes and denied a hearing to Paul Armes with respect to his Complaint of March 8, 2009, filed against the Session of CPC of Lakeland, Florida, complaining of the Session’s action of February 15, 2009, excommunicating Paul Armes?

Judgment

Yes. This Case was remanded to SWFP.

Reasoning

The Parties stipulated to the Panel that this case should be remanded to SWFP in accordance with the Judgment set forth above.

Key Words – excommunication, out of order, membership

**2009-13    Johnson v. Southwest Florida**

*M38GA*, 2010 Nashville, p. 129. OOO.

**2009-14    Session of Ellisville Presbyterian v. Grace**

*M38GA*, 2010 Nashville, p. 129. Withdrawn.

**2009-15    Robinson v. Metro New York**

*M38GA*, 2010 Nashville, p. 129. JOO.

**2009-16    Eliot Lee v. Korean Eastern**

*M38GA*, 2010 Nashville, p. 129. AOO.

**2009-17    McNeil v. Chesapeake**

*M38GA*, 2010 Nashville, p. 129. AOO. See also Cases 2009-18, 2009-19 and 2009-20.

**2009-18    McNeil v. Chesapeake**

*M38GA*, 2010 Nashville, p. 129. AOO. See also Cases 2009-17, 2009-19 and 2009-20.

**2009-19    McNeil v. Chesapeake**

*M38GA*, 2010 Nashville, p. 129. AOO. See also Cases 2009-17, 2009-19 and 2009-20.

**2009-20    McNeil v. Chesapeake**

*M38GA*, 2010 Nashville, p. 129. AOO. See also Cases 2009-17, 2009-18 and 2009-19.

**2009-21    Armes v. Southwest Florida**

*M39GA, 2011 Virginia Beach, p. 530.* Sustained 21-1. D-Op. See also Case 2009-12.

Summary

The Session of Covenant Presbyterian Church (CPC) excommunicated a man who then alleged that Southwest Florida Presbytery (SWFP) had erred by ruling his Complaint out of order. Presbytery believed this Complaint was simply a restatement of a previous complaint to Presbytery. The SJC remanded the matter to Presbytery.

Issue

Did SWFP err, by its actions on September 12, 2009, when it denied the second Complaint of Mr. Armes as being Out of Order in that it was simply a restatement of his original Complaint then under consideration as SJC 2009-12?

Judgment

Yes. This Case was remanded to SWFP.

Reasoning

The second Complaint contained allegations against the actions of the Session which occurred after the filing of the initial Complaint, and after that Complaint was in progress. Under these circumstances, the second Complaint could not be denied as being “of the same substance” as the first.

Key Words – excommunication, trespassing

**2009-22    McNeil v. Chesapeake**

*M39GA, 2011 Virginia Beach, p. 535.* Not Sustained 18-0.

Summary

The Session of Severna Park Evangelical Presbyterian Church (SPEP) found a man guilty at trial of sins in a marriage and imposed the Censure of Admonition. During process, he charged his wife with sin after she filed for divorce, but the Session declined to indict. The Complainant then filed a Complaint with Chesapeake Presbytery (CP). His Complaint was against the Session declining to indict.

Issue

Did the Lower Court err in denying the Complaint against the September 19, 2009, action of CP? but the Complaint against the Sept. 19. 2009, action of CP was made to the SJC, I think. So how could the Lower Court be the one to deny the Complaint?

Judgment

No.

Reasoning

In accordance with *BCO* 39-3.2, “a Higher Court should not reverse a factual finding of a Lower Court, unless there is clear error on the part of the Lower Court” and “a Higher Court should not reverse such a Judgment by a Lower Court, unless there is clear error on the part of the Lower Court.” In addition, the Lower Courts found Mr. McNeil “guilty of being abusive” and imposed a Censure; the Constitution states that “[g]reat caution ought to be exercised in receiving accusations from any person who is known to indulge a malignant spirit towards the accused...[or] who is himself under Censure” (*BCO* 31-8). The ROC demonstrated no clear procedural error on the part of the Lower Court. Moreover, the SJC stated that it found no error in the Lower Courts’ conclusion that Mrs. McNeil did not sin in her Decision to Appeal to the Civil Magistrate for the purpose of protecting herself and her children.

Key Words – divorce, physical abuse, civil magistrate, *BCO* 31-8, 39-3

**2009-23 Koerkenmeier v. Illiana**

M39GA, 2011 Virginia Beach, p. 538. Sustained 20-0.

Summary

The Complainants alleged that Illiana Presbytery (IP) erred by appointing a Commission (at the request of a TE and an RE) to investigate matters at Center Grove Presbyterian Church (CGPC) (*BCO* 13.9.f) and alleged that IP erred by adopting its report.

Issue

Did IP err when it appointed a Commission to “deal with matters at CGPC” and in adopting the Commission Report on October 17, 2009?

Judgment

Yes, but it was harmless error for which no remedy was necessary.

Reasoning

IP erred in appointing a Commission with such broad powers “to deal with the matters” at CGPC that the Commission appeared to have taken jurisdiction of Members of CGPC. Such broad language as found in the motion to appoint the Commission (p. 539), appeared to empower the Commission to take Original Jurisdiction over any matter within the local congregation, contrary to *BCO* 11-3 and 4, 33-1. However, in this Case, the Complainants conceded that the Commission did not exercise this broad grant of power (to deal with the matters). There was no evidence in the Record that the Commission exercised this broad grant of power and authority; they only acted as would be expected of any Committee, i.e. investigate and make recommendations to the Court. Accordingly, any errors committed by Presbytery were harmless.

Key Words – original jurisdiction, interview, *BCO* 15-1, 15-3

**2009-24      Phelps v. Pacific**

*M39GA*, 2011 Virginia Beach, p. 543. Not Sustained 23-0.

Summary

A censured OPC minister joined a PCA church and applied to come under care of Pacific Presbytery (PP), which PP denied. He then became a PCA RE of New Life Burbank Church (NLB). PP investigated the Session’s records and found that no constitutional irregularities were present. The Complainant alleged that Presbytery erred by not citing the Session with an error.

Issue

Did PP err when it denied the Complaint of RE Roger Phelps, dated May 14, 2009?

Judgment

No.

Reasoning

The Complainant contended that, because Presbytery declined to accept Irons as a candidate for the gospel ministry (per *BCO* 18-3), Irons was disqualified for the Office of RE at NLB. This contention was incorrect. Presbytery was not required to find Irons unqualified for the Office of

RE in this specific instance. A central claim of the Complainant in this matter was that because the Office of Elder constitutes “one class of office” and because “Ruling Elders possess the same authority and eligibility to Office in the Courts of the Church as teaching elders” (*BCO* 8-9), there must be an identical standard for eligibility of a man to the Office of Ruling or Teaching Elder. But this was not the case.

Key Words – session records, Ruling Elder, membership, *BCO* 8-9, 18-3

**2009-25    Brown v. Northern California**

*M39GA*, 2011 Virginia Beach, p. 548. Sustained 20-0. C-Op. With Case 2009-26.

Summary

Northern California Presbytery (NCP) adopted a recommendation that stated six different views and practices related to the diaconate which were permissible be held and practiced in the Presbytery. These diverse views and practices had already been present in the Presbytery for some time. The Complainants alleged that some of the views and practices were in error.

Issue

Did NCP err when it adopted an abstract statement of what views, with respect to the Office of Deacon, Ministers or Sessions may hold and practice while being “in conformity with the general principles of Biblical polity”?

Judgment

Yes.

Reasoning

At the heart of this matter was the belief that NCP, by adopting the recommendations of its Procedural Committee, determined which views related to the Diaconate may be held and practiced by Ministers, Sessions, and Member Churches of Presbytery. This belief was incorrect. No Court of this Church is authorized to issue an authoritative decree outside of the proper exercise of its jurisdiction. (See, e.g., *BCO* 11-4, *BCO* 12-5, 13-9, 14-6, 31-1, 40-1). No decree of a Court of this Church has binding effect except over those who are expressly under the

jurisdiction of the Court when it issues the decree. (See, e.g. *BCO* 14-7 and OMSJC 19.3 [now 17-3]) Accordingly, the actions of Presbytery against which the Complaints were made were annulled (*BCO* 43-10). This judgment by the SJC neither expressly, nor by implication, rendered judgment on the fidelity, or lack thereof, of the six views set forth in the actions of Presbytery.

Key Words – diaconate, Deacon, Deaconess, ordination, commissioning, *BCO* 9-7

**2009-27 Cutler v. Platte Valley**  
*M38GA*, 2010 Nashville, p. 129. OOO.

**2009-28 Ruff v. Nashville**  
*M39GA*, 2011 Virginia Beach, p. 567. Sustained 20-0. C-Op.

Summary

The Complainant alleged that Nashville Presbytery (NP) conducted an inadequate *BCO* 31-2 investigation of a TE and erred in declining to indict. The Presbytery Shepherding Committee (SC) found that the TE had sinned but concluded that there was no strong presumption of guilt.

Issue

1. Did Presbytery err 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?
2. Did Presbytery err when, on the basis of the evidence before it, it failed to find a strong presumption of guilt as to offenses allegedly committed by one of its members?

Judgment

1. Yes.
2. Yes.

Reasoning

Under the Standing Rules of NP, the SC is charged with exercising both aspects of Church discipline – the general pastoral oversight of Presbytery members and the judicial investigation of those members

when warranted. In its desire to deal “pastorally” with the matters raised in this case, NP failed to fulfill its equally important judicial responsibilities. For the following reasons, the Complaint was sustained and the matter was remanded to the Presbytery for further proceedings consistent with this Opinion. First, the evidence in the ROC concerning the *BCO* 31-2 investigation undertaken by the SC was incomplete and internally inconsistent. Second, neither the SC nor the Presbytery provided any explanation as to how a member’s conduct could be described as “sin,” yet there be no strong presumption of guilt that an offense had occurred. The work of a *BCO* 31-2 investigation is to determine whether there is a strong presumption of guilt that an offense has occurred, not to convict or absolve the person accused of a wrong, or to determine whether the offense alleged is great or small. In the absence of any explanation by Presbytery as to why behavior described as sin was not an offense, the Complaint had to be sustained.

**Key Words** – strong presumption of guilt, *BCO* 31-2

**2009-29    McNeil v. Chesapeake**

*M38GA*, 2010 Nashville, p. 129. AOO. (See also Cases 2009-30 and 2009-31).

**2009-30    McNeil v. Chesapeake**

*M38GA*, 2010 Nashville, p. 129. AOO. (See also Cases 2009-29 and 2009-31).

**2009-31    McNeil v. Chesapeake**

*M38GA*, 2010 Nashville, p. 129. AOO. (See also Cases 2009-29 and 2009-30).

**2009-32    Warren v. Chesapeake**

*M38GA*, 2010 Nashville, p. 129. AOO.

**2010-01    McNeil v. Chesapeake**

*M40GA*, 2012 Louisville, p. 522. Abandoned 18-0. The Complainant did not appear at the SJC Panel hearing and did not submit a brief.

**2010-02 Cutler v. Platte Valley**  
*M38GA*, 2010 Nashville, p. 129. AOO.

**2010-03 Appeal of McNeil v. Chesapeake**  
*M39GA*, 2011 Virginia Beach, p. 575. AOO 15-0.

Summary

A Commission of Chesapeake Presbytery (CP) found strong presumption of guilt and indicted a congregant. He declined to appear or plead at two arraignments. CP suspended him from sacraments.

Reasoning

The Appeal was judicially out of order because “only those who have submitted to a regular trial are entitled to an Appeal” (*BCO* 42-2). If the Appeal was properly understood to be a Complaint, it is judicially out of order because it was not first made to the Court (i.e. CP) whose act or Decision was alleged to be in error (*BCO* 43-2). The defect of such Complaint could not be cured, as the time limit of thirty (30) days (per *BCO* 43-2) had already passed. Because McNeil was no longer a communing member of the Church in good standing (*BCO* 43-1), any Complaints, other than a Complaint related to the highest censure (*BCO* 30-4), received after the date the notification of McNeil’s censure (January 16, 2010) were to be judicially out of order. This was to remain so until the censure was removed (per *BCO* 37-3) and McNeil was once again a communing member of the Church in good standing.

Key Words – excommunication, *BCO* 30-4, 33-3, 34-4, 42-2, 43-1, 43-2

**2010-04 Sartorius et al. v. Siouxlands**  
*M39GA*, 2011 Virginia Beach, p. 578. Not sustained 19-1. C-Op. D-Op.

Summary

The Complainants alleged that the Presbytery of Siouxlands (PS) erred in its *BCO* 31-2 investigation of TE Joshua Moon (who defended a different TE accused of holding so-called Federal Vision theology and teaching contrary to the Standards) and by failing to find a strong presumption of guilt.

### Issues

1. With respect to certain reports concerning TE Joshua Moon, was PS sufficiently diligent and careful in compliance with its responsibilities under *BCO* 31-2?
2. With respect to certain reports concerning TE Joshua Moon, did PS err in finding TE Moon's testimony a satisfactory explanation concerning the reports and finding no strong presumption of guilt in TE Moon related to the reports?

### Judgment

1. Yes.
2. No.

### Reasoning

The Complainants held that TE Moon's defense of certain views of TE Lawrence, as views within the permissible latitude afforded by the PCA's standard for subscription, implied that TE Moon shared in the alleged errors of TE Lawrence. But the SJC stated that this was a non sequitur. It may be illustrated as follows: it is widely held that paedocommunion is a permissible minority view within the PCA, but it does not follow that all who consider it permissible, hold to the position of paedocommunion. The Complainants also held that certain views expressed by TE Moon, capable of a heterodox interpretation, must be so interpreted. But this violated the Judgment of charity, that if a view can be interpreted in an orthodox fashion, it ought to be so interpreted until one is forced to do otherwise. The Complainants also held that certain of TE Moon's views implied heterodox doctrines, and therefore imputed those doctrines to TE Moon. But this is a non sequitur as well. One cannot properly impute implications that are drawn from a position to a person who expressly denies the implication.

Key Words – paedocommunion, Federal Vision, subscription, charity, ordination, licensure, *BCO* 31-2, 39-3

### **2010-05 Cutler v. Platte Valley**

*M38GA*, 2010 Nashville, p. 129. AOO.

### **2010-06 Yuan, An Appeal to the SJC of the PCA Regarding a Minister's Heresy**

*M38GA*, 2010 Nashville, p. 129. AOO.

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**2010-07 Sang Chui Choi v. Korean Central**  
*M39GA*, 2011 Virginia Beach, p. 528. AOO.

**2010-08 McNeil v. Chesapeake**  
*M39GA*, 2011 Virginia Beach, p. 528. JOO. See also Cases 2010-09, -10, -11, -12, -13, -14.

**2010-09 McNeil v. Chesapeake**  
*M39GA*, 2011 Virginia Beach, p. 528. JOO. See also Cases 2010-08, -10, -11, -12, -13, -14.

**2010-10 McNeil v. Chesapeake**  
*M39GA*, 2011 Virginia Beach, p. 528. JOO. See also Cases 2010-08, -09, -11, -12, -13, -14.

**2010-11 McNeil v. Chesapeake**  
*M39GA*, 2011 Virginia Beach, p. 528. JOO. See also Cases 2010-08, -09, -10, -11, -13, -14.

**2010-12 McNeil v. Chesapeake**  
*M39GA*, 2011 Virginia Beach, p. 528. JOO. See also Cases 2010-08, -09, -10, -11, -13, -14.

**2010-13 McNeil v. Chesapeake**  
*M39GA*, 2011 Virginia Beach, p. 528. JOO. See also Cases 2010-08, -09, -10, -11, -12, -14.

**2010-14 McNeil v. Chesapeake**  
*M39GA*, 2011 Virginia Beach, p. 528. JOO. See also Cases 2010-08, -09, -10, -11, -12, -13.

**2010-15 Carpenter et al. v. Siouxlands**  
*M39GA*, 2011 Virginia Beach, p. 528. Withdrawn.

**2010-16    Lyons v. Western Carolina**

*M39GA*, 2011 Virginia Beach, p. 594. Not sustained 23-0. C-Op.

Summary

The Complainant alleged that Western Carolina Presbytery (WCP) erred by dismissing the charges he brought against a TE. The Complainant also alleged that Presbytery erred in ruling his Complaint AOO.

Issue

1. Did WCP err in dismissing the “Charges and Specifications against TE Craig Smith Bulkeley” brought by Kirk Lyons on Feb. 27, 2010?
2. Did WCP, on May 4, 2010, err in ruling AOO the Complaint of Kirk Lyons against Presbytery’s action on Feb. 27, 2010?

Judgment

1. No.
2. Yes, but the error was not prejudicial.

Reasoning

The SJC stated that Presbytery erred in its Judgment on May 4, 2010, because it failed to see that the Complainant had gained standing to complain by the filing of charges (*BCO* 32-2). With respect to this filing, the Complainant came under the jurisdiction of the Presbytery, and thus met the standards of *BCO* 43-1. However, that error notwithstanding, nothing was lost in the cause of the Complainant, since there had been no showing of clear error as to the underlying action of Presbytery. Therefore, the Complaint was denied.

Key Words – filing of charges, *BCO* 31-8, 32-2, 32-20, 34-2, 38-4

**2010-17    Request by Sarafolean to cite Siouxlands Presbytery**

*M39GA*, 2011 Virginia Beach, p. 528. AOO. TE David M. Sarafolean (a minister in Great Lakes Presbytery) requested the GA to cite Siouxlands Presbytery for alleged failures. TE Sarafolean mistakenly believed he could do this via a *BCO* 40-5 letter.

**2010-18    PCA v. Gulfstream**

*M40GA*, 2012 Louisville, p. 523. Satisfactory 19-0. After repeated failures to respond to GA regarding exceptions of substance in past annual records, Presbytery was cited to appear before the SJC. Presbytery responded, and the SJC found the responses satisfactory.

**2010-19 PCA v. Korean Central**

*M39GA*, 2011 Virginia Beach, p. 601. Satisfactory 20-0. After repeated failures to respond to GA regarding exceptions of substance in past annual records, Presbytery was cited to appear before the SJC. Presbytery responded, and the SJC found the responses satisfactory.

**2010-20 PCA v. Korean Northwest**

*M40GA*, 2012 Louisville, p. 524. Satisfactory 18-0. After repeated failures to respond to GA regarding delinquency of Minutes and exceptions of substance in past annual records, Presbytery was cited to appear before the SJC. Presbytery responded, and the SJC found the responses satisfactory. The SJC received the Presbytery's delinquent Minutes and forwarded them to RPR for review.

**2010-21 PCA v. Korean Southeast**

*M39GA*, 2011 Virginia Beach, p. 601. Satisfactory 20-0. The SJC received Presbytery's delinquent Minutes and forwarded to RPR for review.

**2010-22 PCA v. Korean Southeast**

*M39GA*, 2011 Virginia Beach, p. 601. Satisfactory 20-0. The SJC received Presbytery's delinquent Minutes and forwarded to RPR for review.

**2010-23 PCA v. Pacific**

*M39GA*, 2011 Virginia Beach, p. 601. Satisfactory 20-0. After repeated failures to respond to GA regarding exceptions of substance in past annual records, Presbytery was cited to appear before the SJC. Presbytery responded, and the SJC found the responses satisfactory.

**2010-24 Wood v. Northwest Georgia**

*M40GA*, 2012 Louisville, p. 525. JOO 16-6. D-Op.

Summary and Reasoning

This Case was JOO in view of the fact that Northwest Georgia Presbytery (NGP) had rescinded the action complained against (*OMSJC* 10.5.c).

From the Minutes of NGP, dated January 29, 2011: “MSP: that part #2 of the complaint of Laura Wood against the Session of Grace Covenant PCA, dated September 9, 2009, be affirmed as being ‘in order’ in accordance with *BCO* 43-8, and a commission established to hear the Complaint.” The September 9, 2009, Complaint part #2 was as follows: “Allowing my husband, Mark Wood, to abandon my daughter and I [sic] and to file for divorce without holding him accountable for his behavior against his family and the Church of Jesus Christ.” Further the defects in this Case could not be cured, and the Case was dismissed because there were no longer any grounds for the Complaint (*OMSJC* 10.5.c).

**Key Words** – standing, divorce, *BCO* 43-8, *OMSJC* 10.5, *OMSJC* 10.6

**2010-25 Yuan v. South Coast**

*M39GA*, 2011 Virginia Beach, p. 528. AOO.

**2010-26 Eliot Lee v. Korean Eastern**

*M40GA*, 2012 Louisville, p. 530. Sustained 19-2.

**Summary**

The Complainant alleged that Korean Eastern Presbytery (KEP) erred when it dismissed charges that he brought against two other TEs.

**Issue**

Did Presbytery err on October 5, 2010, in “dismissing” TE Eliot Lee’s Complaint against the Presbytery, thereby affirming Presbytery’s decision on June 2, 2009, to dismiss TE Lee’s charges against the two TE members of Presbytery without a trial?

**Judgment**

Yes, and this matter was remanded to Presbytery for action consistent with this Decision.

**Reasoning**

In sum, once a Presbytery receives, from one who had the right to file charges, properly drawn charges against one or more TE members of Presbytery, the Presbytery must proceed to accept and adjudicate those charges under the provisions of *BCO* chapter 32, unless it can show that

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one or more of the situations spelled out in *BCO* 29-1, 32-20, 34-2 and 31-8 applies. But if a Presbytery determines to dismiss charges on the basis of the above provisions, the burden of proof is clearly on the Presbytery. It may constitutionally dismiss such charges only with reasoning that is documented in the record and subject to review by the higher court (see *BCO* 40-2 and 43-1). KEP did not meet this standard. It was not clear on which, if any, of the aforementioned standards KEP was relying in dismissing the charges, nor was it clear from the record that there was sufficient evidence to warrant such a dismissal. In view of KEP's failure to demonstrate constitutional grounds for dismissing the charges, KEP was required to begin process (*BCO* 32-2), appoint a prosecutor, order an indictment drawn (including the names of witnesses known to support the charges), and cite the accused to appear to answer the charges (*BCO* 32-3). This case was remanded to the Presbytery for actions consistent with this opinion.

**Key Words** – Administratively Out of Order, strong presumption of guilt, charges, dismiss, civil courts, law suit, *BCO* 32

### **2010-27 Ruff v. Nashville**

*M40GA*, 2012 Louisville, p. 538. JOO 18-0. Obj.

### **2010-28 Gonzales v. Great Lakes**

*M40GA*, 2012 Louisville, p. 542. Sustained 23-0. C-Op.

#### Summary

The Complainant alleged that Great Lakes Presbytery (GLP) erred in approving five recommendations from a Judicial Commission conducting a *BCO* 31-2 investigation of a TE. In the fifth recommendation, GLP put on record their intent, in the event that the TE did not follow their advice, to decline to recommend him for transfer, dismissal, or installation in a call.

#### Issue

Did GLP err when it, at its September 18, 2010, Stated Meeting, approved the recommendations presented by its Judicial Commission erected to conduct a *BCO* 31-2 investigation of TE Stephen Gonzales?

Judgment

Yes. The Complaint was sustained with regard to Presbytery's approval of recommendation five (see Summary of Facts dated September 18, 2010), and that action was annulled (*BCO* 43-10).

Reasoning

GLP, as all Presbyteries, did have a shepherding role with authority to exercise pastoral oversight of its members. While GLP had the authority to receive and act on recommendations presented to it regarding a member, in this particular instance, it exceeded its province. GLP did have the right to take up the content of some of these recommendations, properly presented, in its capacity to provide the shepherding oversight of one of its members. However, apart from due process, no pastoral recommendations, counsel or advice from a court to a member can expressly, or by implication, diminish a member's good standing.

Key Words – minutes, admonition, without call, divest, infidelity, leave of absence, *BCO* 13-2, 34-10

**2011-01 Sang Shul Choi v. Korean Central**

*M40GA*, 2012 Louisville, p. 550. AOO 17-1. Prematurely filed.

**2011-02 Gonzales v. Great Lakes**

*M40GA*, 2012 Louisville, p. 551. Sustained in part 23-0.

Summary

The Complainant alleged that Great Lakes Presbytery (GLP) erred by ruling his Complaint out of order. The Complainant also alleged that GLP erred by not investigating his charges against the TE who chaired the Commission that conducted a *BCO* 31-2 investigation of the Complainant.

Issues

1. Did GLP err when it ruled Out of Order on January 8, 2011, TE Gonzales's Complaint stating "that Presbytery has already dealt with all the issues"?
2. Did GLP err when it ruled Out of Order on January 8, 2011, TE Gonzales's Complaint regarding its failure to investigate TE Dupee?

Judgment

1. Yes.
2. No.

Reasoning

For Issue One, the Complainant argued that GLP erred in ruling his Complaint Out of Order based on the fact “that the Presbytery has already dealt with all the issues.” In fact, GLP erred in that it conflated and confused the substance of two different Complaints. GLP did adjudicate the issues involved in the first Complaint (Case 2010-28); however, the second Complaint and the issue raised in it had not yet been dealt with by GLP. For Issue Two, the Record indicated, and the Complainant repeatedly acknowledged, that TE Dupee made the alleged offending statement (which TE Gonzales argued violated the Ninth Commandment) while reporting to GLP, not as an individual, but in his capacity as Chairman of the Church and Ministerial Welfare Committee. As such, the reports affecting TE Dupee’s character were not of a personal nature since he was functioning as a member of a GLP Committee and as such had immunity from being investigated.

Key Words – Ninth Commandment, slander, immunity, Presbytery Committee, *BCO* 31-2

**2011-03 Sagan v. Covenant**

*M40GA*, 2012 Louisville, p. 554. Not sustained 20-0. See also Case 2011-04.

Summary

The Complainants alleged that Covenant Presbytery (CP) erred when it received and acted on a report and recommendations of its MNA committee concerning a joint campus work committee with Mississippi Valley Presbytery and Grace Presbytery.

Issue

Did CP err at its October 2010 meeting when it received and acted on the report and recommendations from its MNA Committee (MNA-CP) concerning the Mississippi Joint Committee on Campus Work (MJCCW)?

Judgment

No, and the Complaints were denied.

### Reasoning

These Cases center on the proper role and scope of a committee of Presbytery. In this instance, the MNA-CP was directed by CP to investigate the salary status of RUM ministers and come back with recommendations. The ROC showed that, in the conduct of its work on reviewing salaries, MNA-CP determined that one campus minister had an acute need, and the Committee recommended to MJCCW that his salary and housing be increased. After discussion, MNA-CP perceived that MJCCW was unwilling to work with MNA-CP. MNA-CP then considered as an extension of its direction, “the question of how best to shepherd our RUF-CP ministers within the bounds of CP.” As a result of this discussion, MNA-CP formed a subcommittee to study the MJCCW system in depth, the result of which was the subject of these Complaints. The SJC found that neither the report nor the recommendations exceeded the MNA-CP’s authority for five reasons, including the fact that the study was presented as a natural extension of the issue of salaries paid to campus ministers, and that the Committee had been granted oversight by Presbytery of MJCCW.

Key Words – Reformed University Fellowship, campus ministry, salary, Presbytery committee, MNA

#### **2011-04 Gunn v. Covenant**

*M40GA*, 2012 Louisville, p. 554. Not sustained. Answered in the Decision on Case 2011-03.

#### **2011-05 Young Bae Kim v. Korean Capital**

*M40GA*, 2012 Louisville, p. 560. AOO. Not timely filed.

#### **2011-06 Sawyers v. Missouri**

*M41GA*, 2013 Greenville, p. 552. Sustained 14-1 but further action mooted.

### Summary

Nine members of Missouri Presbytery (MOP) alleged that Presbytery erred by not finding a strong presumption of guilt regarding a minister’s views which allegedly included Federal Vision theology.

Issue

Did MOP err in failing to find a strong presumption of guilt that TE Jeffrey Meyers held views contrary to the Westminster Standards (*BCO* 34-5) when it conducted its *BCO* 31-2 investigation of his views and writings?

Judgment

Yes.

Reasoning

The SJC found that MOP erred in failing to find a strong presumption of guilt that TE Meyers holds views contrary to the Westminster Standards (*BCO* 34-5) when MOP conducted its investigation. The appropriate remedy for a failure to find a “strong presumption of guilt that...views represent offenses that could properly be the subject of Judicial Process (*BCO* 31-2, *BCO* 29-1 and 2)” would be to “take steps to comply with [Presbytery’s] obligations under *BCO* 31-2” (see SJC Case 2009-06). However, during the pendency of this Case before the SJC, MOP conducted a trial of TE Meyers in accordance with *BCO* 31-2 on April 13 and 14, 2012. Therefore, since MOP had already accomplished the applicable remedy for this Case, any further action on this Case was moot.

Key Words – Federal Vision, doctrine, paedocommunion, *BCO* 31-2, 34-5

**2011-07 PCA v. Warrior**

*M40GA*, 2012 Louisville, p. 561. Satisfactory 19-0. After repeated failures to respond to GA regarding exceptions of substance in past annual records, Presbytery was cited to appear before the SJC. Presbytery responded and the SJC found the responses satisfactory.

**2011-08 Sherfey v. James River**

*M40GA*, 2012 Louisville, p. 562. JOO 18-0. C-Op. This Complaint was not timely filed and was therefore Judically Out of Order, even though the clerk of James River Presbytery gave the Complainant incorrect filing advice. The SJC reminded Presbyteries that when a Presbytery acts in reviewing the decisions of lower courts, it should consider Appendix H of the *BCO*.

**2011-09    Jennings v. North Florida**

*M40GA*, 2012 Louisville, p. 565. Sustained 19-1. D-Op.

Summary

The Complainant alleged that North Florida Presbytery (NFP) erred in process whereby it restored a TE who was previously deposed for inappropriate relationships with two church members.

Issue

Did NFP err in the process by which it acted to restore Mr. Scott from deposition?

Judgment

Yes.

Reasoning

The Complainants alleged that NFP erred in restoring a man to gospel ministry 1) without re-ordaining him, and 2) without following the provision in *BCO* 34-8 that restoration should not be approved “until it shall appear that the general sentiment of the Church is strongly in his favor,” arguing that this general sentiment could not be demonstrated by a vote of 19-17. The Respondents for NFP argued that the *BCO* does not require a deposed minister to be re-ordained and re-qualified for the office of elder. Further, the *BCO* does not give a uniform process for restoration but leaves procedural details largely in the hands of the Presbytery. In this instance, a general sentiment that finds a strong favor, while not providing a quantifiable amount in the Presbytery, required at the very least more than a mere majority, even though a majority vote prevails. NFP’s vote of 19-17 to restore Mr. Scott did not meet a reasonable test of the standard of “a strong favor.” The question of the necessity of re-ordination in the process of restoration from deposition is not a settled matter. Until there is further clarification, the statement for restoration in *BCO* 37-5 can be considered sufficient.

Key Words – deposition, general sentiment, reordination, church plant, infidelity, *BCO* 30-5, 34-8, 37-8, 37-9, 46-8

**2011-10    Testa v. South Florida**

*M40GA*, 2012 Louisville, p. 580. AOO 19-0.

**2011-11 Hahn v. Philadelphia Metro West**

M42GA, 2014 Houston, p. 500, 509. Not sustained 18-0. See also Cases 2011-12 and 2011-15.

Summary

This Case, along with Cases 2011-12 and 2011-15, all arose out of substantially the same set of facts (and Case 2011-16 is a duplicate of 2011-15). In Case 2011-11, the Complainant alleged that Philadelphia Metro West Presbytery (PMWP) erred by ruling that it was permissible for the Session of Christ the King PCA (CTKPC) to prohibit the Complainant from attending worship there until he had undergone psychiatric evaluation.

Issue

Did PMWP err on September 17, 2011, when it found that the CTKPC Session did not unlawfully prohibit Hahn (the Complainant) from attending worship?

Judgment

No.

Reasoning

The central issue in this case was whether PMWP erred in finding that the CTKPC Session did not unlawfully prohibit the Complainant from attending worship for the period of time until the Complainant had undergone a psychiatric evaluation for the purpose of determining whether it was safe for others for the Complainant to attend worship. The SJC found in this case that PMWP did not err when it found that the CTKPC Session did not unlawfully prohibit the Complainant from attending worship at CTKPC until he had received a psychiatric evaluation. First, PMWP showed the appropriate standard of deference to the lower court (CTKPC Session) (*BCO* 39-3.3). Further, the SJC found that the action taken by the CTKPC in prohibiting the Complainant from worship at CTKPC was not a judicial action, as it: (a) did not apply in general to the Complainant's worshipping with a PCA congregation (or another other congregation other than CTKPC); (b) no judicial judgment or censure was pronounced against the Complainant; and (c) the action was a matter of pastoral guidance and wisdom by the CTKPC Session for the safety and protection of the congregation and the Complainant.

Key Words – mental illness, restraining order, church safety, *BCO* 39-3.3

**2011-12 Hahn v. Philadelphia Metro West**

*M42GA*, 2014 Houston, p. 500, 513. Not sustained 18-0. See also Cases 2011-11 and 2011-15.

Summary

The Appellant alleged that Philadelphia Metro West Presbytery (PMWP) erred in finding him guilty of violating the Fifth and Ninth Commandments, and the Second Great Commandment.

Issue

Did PMWP err in finding Hahn (the Appellant) guilty of violations of the Ninth Commandment, violations of the Fifth Commandment, and violations of the Second Great Commandment?

Judgment

No.

Reasoning

The Appellant alleged that there were irregularities and other errors in the trial and judgment by the PMWP, including discrepancies between Session minutes and police reports, the refusal of PMWP to grant the Appellant his requested amendment to the charges against him, “hurrying to a decision,” and the “manifestation of prejudice in the case.” Once again, as the SJC reviewed the decisions of PMWP with respect to the Appeal, PMWP showed the appropriate standard of deference to the lower court (CTKPC Session) (*BCO* 39-3.3). Although there may have been evidence contrary to the judgment rendered by PMWP, the SJC could not hold as a matter of law that there was clear error on the part of PMWP in rendering its judgment.

Key Words – Second Commandment, Fifth Commandment, Ninth Commandment, mental illness, restraining order, church safety, *BCO* 39-3.3

**2011-13 Appeal of Spann v. Session of Oak Mountain**

*M40GA*, 2012 Louisville, p. 580. AOO 18-0.

**2011-14 Reese and Bech v. Philadelphia**

*M42GA*, 2014 Houston, p. 528. Sustained 18-1. C-Op. D-Op.

Summary

An RE and a TE alleged that Philadelphia Presbytery (PP) erred by declaring out of order their Complaint which alleged that PP erred by not allowing questions to be raised when considering a minister's new call within the same Presbytery. See also Cases 2008-01 and 2008-10.

Issue

Did PP err at its September 21, 2011, meeting when it declared the Complaint of RE Reese and TE Bech to be out of order?

Judgment

Yes.

Reasoning

PP erred in ruling the Complaint out of order on the basis of a misapplication of RONR. Presbytery declared the Complaint to be out of order based on the rationale that the Complaint violated the Constitution because, in the opinion of Presbytery, the Complaint included accusations made against a TE contrary to *BCO* 34, as well as requested amends that would be contrary to *BCO* 31-38. When PP refused to take up the merits of the Complaint (or allow opportunity for the Complaint to be amended), the other issues of error raised in the Complaint were not addressed. The SJC stated that it did, however, concur with PP's conclusion that the amends sought by the Complainants were not appropriate. If anyone believes that a TE or Session is not acting in accordance with the Constitution of the PCA (and in the absence of evidence to the contrary we must assume that they are), he must deal with such error through the procedures found in *BCO* 31, 32, and 34. In particular, the Complaint process cannot be used to remove a properly ordained and installed TE from an approved call.

Key Words – views, women, office, Deacon, Deaconess, diaconate, ordination, exceptions, *BCO* 20-10, 21-1, 21-5, 34, 43-2

**2011-15    Hahn v. Philadelphia Metro West**

*M42GA*, 2014 Houston, p. 500, 515. Not sustained 18-0. C-Op. See also Cases 2011-11 and 2011-12.

Summary

The Complainant alleged that Philadelphia Metro West Presbytery (PMWP) erred when it denied the institution of process against three people.

Issue

Did PMWP err on September 17, 2011, in denying the institution of process against Lisa Ridenour, RE Ridenour, and TE Huber?

Judgment

No.

Reasoning

On October 18, 2011, PMWP denied the Complaint against its decision not to institute process (filed by the Complainant on September 30, 2011), citing as its grounds the Complainant’s “attitude and actions throughout the hearing and trial process this year” as manifesting “the character traits described in *BCO* 31-8.” Although in general *BCO* 32-2 requires that a court commence process upon the filing of charges, the court is afforded some discretion according to *BCO* 31-8. In this Case, PWMP specifically found that the language of *BCO* 31-8 applied to the Complainant and his charges. In addition, PMWP found that there was insufficient evidence to indicate a strong presumption of guilt on the part of the three accused. The SJC was also required to defer to the lower court in such judgments apart from a showing of clear error (*BCO* 39-3). The ROC provided no such showing.

Key Words – mental illness, restraining order, church safety, *BCO* 31-8, 39-3.3

**2011-16 Hahn v. Philadelphia Metro West**

*M42GA*, 2014 Houston, p. 516. Identical to Case 2011-15.

**2011-17 Smith v. Mississippi Valley**

*M41GA*, 2013 Greenville, p. 555. Not sustained 17-0.

Summary

The Complainants alleged that Mississippi Valley Presbytery (MVP) erred in excommunicating a TE, erring in five ways in handling the TE’s *BCO* 38-1 case without process, which led to his deposition and excommunication (*BCO* 30-4, 34-4, 32-6, 27.3.c). The Complaint was against the excommunication only.

Issue

Does the SJC sustain any of the five allegations of error asserted in the Complaint?

Judgment

The SJC sustained part of one allegation, but did not sustain any part of the other four. Presbytery, according to the brief of the Respondent, judged the man to have “refused to appear.” This judgment was in error. The SJC reversed this judgment. As there were other grounds for the excommunication, the SJC was not annulling the censure. Presbytery was told that it may consider whether any change in the censure was necessary in light of this ruling.

Reasoning

The Complainants alleged five errors. 1) The Complainants contended that the Shepherding Committee (SC) was not empowered to render a judicial finding of guilt regarding contumacy. However, the Record did not indicate that the SC ever rendered such an official or final finding (although Presbytery did). 2) The Complainants cited *BCO* 34-4 and mistakenly contended that a convicted minister who is judged to be incorrigible and contumacious must first be suspended from the sacraments before being excommunicated. But *BCO* 34-4 did not directly apply to this case because 34-4 refers to an *accused* minister, not a *convicted* minister. 3) The Complainants asserted that *BCO* 27-3.c was violated because the Excommunication makes it “more difficult” to reclaim the man from his disobedience. However, *BCO* 27-3 is general and the phrase “keeping and reclaiming” is inexplicit. The SJC did not find evidence in the Record a violation of 27-3. 4) The Complainants contended that Excommunication was imposed prematurely, rightly asserting that *BCO* 30-4 requires a separate finding that a person, convicted of a gross crime or heresy, is also “incorrigible and contumacious.” The Complainants also asserted that, before a court can judge a person as being incorrigible and contumacious, the offender must have persisted in his impenitence despite the efforts of the court to bring him to repentance (*BCO* 34-4.b) However, this is a matter of discretion, and it is the censuring court which uses their judgment to determine when continued impenitence rises to the level of being incorrigible and contumacious. 5) The Complainants contend that an accused minister cannot be judged as being contumacious and incorrigible until and unless he has willfully disregarded two formal citations to appear. They rightly contended that Presbytery never officially cited the minister to appear. And, they contended, even if he had disregarded one citation, there was no second citation. But *BCO* 32-6 does not directly refer to someone who already been declared guilty (Cf., *BCO* 33-2, 33-3). It seems that

Presbytery based its judgment of being incorrigible and contumacious, to some degree, on its incorrect finding that the minister “refused” to appear. He was certainly absent, and it was recorded as “unexcused,” but that is different than contumaciously refusing to appear. The Record did not support Presbytery’s judgment that he refused to appear, so this part of the Complaint was sustained.

**Key Words** – contumacy, excommunication, infidelity, *BCO* 27-3, 30-4, 33, 34-4.b, 38-1

**2011-18    Ruff v. Nashville**

*M41GA*, 2013 Greenville, p. 566. Sustained 18-0.

**Summary**

The Complainant alleged that Nashville Presbytery (NP) erred in three ways: (1) it failed to comply with SJC directive in Case 2009-28, (2) it erred in receiving a confession via *BCO* 38-1 that was not a full statement of the facts, and (3) it erred in administering proper censure of TE.

**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?

**Judgment**

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

**Reasoning**

The Complainant argued that NP failed to comply with the SJC decision in Case 2009-28. He asserted, first, that NP, through its Committee on Judicial Business (CJB), failed to conduct an adequate *BCO* 31-2 investigation. Second, the Complainant asserted 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 appeared 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 demonstrated that NP, through its CJB, conducted an investigation, during the course of which TE Grant expressed a desire to confess sin as to matters identified in the ruling of the SJC. 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. Under *BCO* 38-1, the CJB recommended that NP hear TE Grant’s confession and apply the censure of admonition. NP adopted that recommendation. Although Presbytery had the right to employ *BCO* 38-1 in these proceedings, the confession of offense 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 ROC shows, however, that the confession made by TE Grant was almost entirely abstract and very little was 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” could not adequately conclude the matters raised in the *BCO* 31-2 investigation. Presbytery was directed to meet with TE Grant and find an agreeable amendment to the “confession” so that particular sins against particular people were acknowledged in accordance with *Confession of Faith* 15. Presbytery was directed to sponsor another meeting between TE Grant and Mr. Ruff and any others who Presbytery determined were offended in this matter.

Key Words – Case without process, confession, repentance, censure, *BCO* 31-2, 38-1

**2011-19    Testa v. Southern Florida**  
*M40GA*, 2012 Louisville, p. 522. AOO.

**2012-01    Sherfey v. James River**  
*M41GA*, 2013 Greenville, p. 570. JOO 13-5. D-Op. Obj.

**2012-02 Keating v. Warrior**

*M41GA, 2013 Greenville, p. 575. Sustained 18-0.*

**Summary**

The Complainant alleged that Warrior Presbytery (WP) erred procedurally when it divested him, without censure, after being without call for over 3 years.

**Issue**

Did Presbytery err when it divested TE Keating on January 17, 2011?

**Judgment**

Yes. Presbytery failed to comply with *BCO* 34-10 and therefore the Appeal was sustained on procedural grounds and the divestiture was voided. Mr. Keating remained a PCA minister in good standing. But Presbytery was not precluded from proceeding in accord with *BCO* 34-10 at another meeting. If Presbytery divested, TE Keating would have been entitled to Appeal. This Decision did not address the merits of any divestiture, but only the procedure followed by Presbytery.

**Reasoning**

Divesting a man of his ordination is a weighty action, even though it was “without censure” (*BCO* 34-10). The Record indicated that the Clerk appropriately attempted prior notification by sending a registered letter five weeks before the meeting (notifying TE Keating that his call would be discussed by WP), but the Record also indicated that Keating did not get the notification until just prior to the Presbytery meeting. In addition, and more importantly, the Minister was not “heard in his own defense.” It was a constitutional error to proceed to divestiture without first hearing from the Minister (unless it was clear that he was simply absenting himself in an attempt to avoid the matter). By acting on divestiture without first hearing a defense, Presbytery was effectively culpable of “hurrying to a decision before all the testimony was taken” (*BCO* 42-3).

**Key Words** – divestiture, without call, *BCO* 13-2, 34-10, 42-3

**2012-03 Appeal of Tarter v. Evangel**

*M42GA, 2014 Houston, p. 539. Sustained 15-0.*

Summary

A TE was laboring out of bounds in Ireland with an organization outside the jurisdiction of the PCA. Evangel Presbytery (EP) instructed him on his alleged actions to avoid accountability, but he declined their requests. Eventually EP indicted for failure to submit to Presbytery authority and found him guilty of two charges at trial and deposed him, which he appealed.

Issue

Did EP, at its meeting of February 14, 2012, err in approving the report and judgment of its Judicial Commission (JC) in the case of The PCA vs. TE Chuck Tarter (the Appellant)?

Judgment

Yes, and the case was remanded to EP for process consistent with the Reasoning and Opinion set forth herein, or for dismissal, whichever course may appear wiser to Presbytery.

Reasoning

The Appellant raised nine specifications of error on the part of EP's JC. In the first specification, the Appellant confused the JC's *judgment* after trial (that he failed to submit to the authority of EP) with a requirement that he comply, against his conscience, with the direction of EP's Church and Pastoral Care Committee (CPCC). The specification was not sustained. Second, the Appellant alleged that Preliminary Principles 1, 6 and 7 were violated in the JC's judgment that the Appellant failed to submit to the authority of the Presbytery, when he failed to comply with the direction of the CPCC to "regularly attend Greystones Presbyterian Church" and "restructure the board of directors of Gospel Friendships Outreach." This specification was sustained. Third, the Appellant alleged that *BCO* 15-1 was violated in the JC's judgment that the Appellant failed to submit to the authority of EP, when he failed to comply with the three cited directions of the CPCC specified on December 9, 2010. This specification was sustained. Four, the Appellant alleged that *BCO* 35-5 was violated in the JC's indictment, in that matters referred to as "Additional areas of concern" were taken as "charges" without being identified as such and were set forth with vague language, and that the Prosecution sought to sustain these "charges" in the examination of witnesses at trial. This specification was sustained. Five, the Appellant alleged that *BCO* 32-13, 35-5 and 32-8 were violated when the JC

allowed testimony from witnesses who reported the words of others not present to be heard and cross-examined. The ROC amply demonstrated that such testimony was permitted. This specification was sustained. The sixth specification of error alleged prejudice on the part of the JC (cf. *BCO* 42-3). This specification was not sustained. The seventh specification of error alleged that the JC violated *BCO* 35-7 by allowing testimony to be erased from the recording of the trial before it was transcribed. This specification was not sustained. The eighth specification of error repeated the allegation raised in the second part of specification two and is treated in that place. The ninth specification alleged that *BCO* 30, Preliminary Principle 7, *BCO* 34-5 and 42-3 were violated by the JC in its judgment and censure. This specification was sustained.

Key Words – divestiture, laboring out of bounds, hearsay, testimony, witnesses, *BCO* 15-1, 32-8, 32-13, 34-5, 35-5, 35-7, 42-3

**2012-04 Dunn v. Philadelphia Metro West**  
M41GA, 2013 Greenville, p. 582. AOO 19-0.

**2012-05 Hedman v. Pacific Northwest**  
M41GA, 2013 Greenville, p. 583. Not sustained 15-2. 2 C-Op. D-Op.

Summary

The Complainant alleged that Pacific Northwest Presbytery (PNW) erred by not convicting TE Leithart at trial because of his doctrinal views.

Issue

Did the Complainant demonstrate, based on the ROC, that the PNW violated the Constitution of the PCA when it concluded that the accused was not guilty of holding and teaching views that are in conflict with the system of doctrine taught in the Westminster Standards?

Judgment

No.

Reasoning

Bound by *RAO* 17-1, *BCO* 42-5, and 39-3.1, 2, 3, the SJC's review in this Case was constitutionally limited to the information developed in the Record dealing with this specific Case. Thus, nothing in the Decision

or Reasoning should be understood as rendering any judgment on any “school of thought” within or without the PCA. The SJC review could focus only on: (a) whether the Complainant demonstrated that the Presbytery committed procedural errors in its handling of this matter; (b) whether the Complainant demonstrated that Presbytery misunderstood TE Leithart’s views; and (c) whether the Complainant demonstrated that TE Leithart’s views were in conflict with the system of doctrine.

- (a) The Complainant raised no procedural concerns. Further, it was the conclusion of the SJC that Presbytery carefully complied with all the procedural steps required by the Rules of Discipline.
- (b) The Complainant alleged that Presbytery’s summaries of TE Leithart’s views did not accurately reflect his views at all points, and that this was particularly true when those views were considered as a whole. While the SJC was not persuaded by all the Respondent’s explanations of those issues, it was also not convinced that these examples were sufficiently clear or pervasive in the ROC as to constitute a “clear error on the part of the lower court” (*BCO* 39-3.2, 3).
- (c) The Complainant alleged that TE Leithart’s views struck at the fundamentals of the system of doctrine. While members of the SJC and the Presbytery did express concerns about some of TE Leithart’s formulations as they related to the Westminster Standards, Presbytery’s Commission concluded unanimously that the Prosecution did not prove TE Leithart’s guilt with regard to the five charges against him, and that his difference with the Standards amounted to semantic differences. The SJC did not find that the Complainant provided sufficient evidence that TE Leithart’s statements affirming his subscription to the Standards were incredible or that Presbytery’s decision in finding TE Leithart “not guilty” of the five charges was in error.

Finally, the SJC reiterated that nothing in this Decision should be construed as addressing (or thereby endorsing) in general TE Leithart’s views, writings, teachings or pronouncements. Our conclusion was simply that neither the Prosecution nor the Complainant proved that TE Leithart’s views, as articulated at the trial or otherwise contained in the ROC, violated the system of doctrine contained in the Westminster Standards.

Key Words – Federal Vision, acquittal, *BCO* 39-3.2, 3, 42-5

**2012-06    Bethel v. Southeast Alabama**  
*M41GA*, 2013 Greenville, p. 614. AOO 18-0.

**2012-07    Appeal of Mitchell v. Ascension**  
*M42GA, 2014 Houston, p. 544. Sustained 20-0.*

**Summary**

An RE, who was the former clerk of his Session, alleged that the Session of Westminster Presbyterian Church (WPC) erred in imposing an involuntary sabbatical. Ascension Presbytery (AP) sustained the Complaint and directed the Session to hold a reelection. The Session then instead charged the RE (with six specifications) and referred the trial to AP. The RE was then convicted of breaking the Fifth and Ninth Commandments and was indefinitely suspended from office.

**Issue**

1. Did the Presbytery err in sustaining Specification 2 of the Charges and Specifications?
2. Did the Presbytery err in sustaining Specification 6 of the Charges and Specifications?

**Judgment**

1. Yes, the judgment on Specification 2 was vacated and remanded to the Presbytery to consider if a new trial was warranted.
2. Yes, the judgment on Specification 6 was reversed, and the Specification was dismissed.

**Reasoning**

The WPC Session charged Mitchell “with a pattern of behavior that is repeated violations of the Ninth and Fifth Commandments and in doing so, are violations [of] the second, third, fourth, fifth, and sixth vows of ordination, against the peace, unity, and purity of the Church, and the honor and majesty of the Lord Jesus Christ, as the King and Head thereof.” These charges were followed by six specifications. The Trial Commission of AP voted not to sustain the first and third specifications. The votes not to sustain the fourth and fifth specifications were divided. Specifications 2 and 6 formed the basis of the Appeal. In Specification 2, Presbytery asserted that on or about January 24, 2011, Mitchell, in a closed Session meeting, did freely agree to submit to the recommendation of the Session that he take a “sabbatical” year in the calendar year 2011. However, on January 25, 2011, select members of the Session received an email from RE Mitchell indicating, among other things, that he had changed his mind regarding submitting to the

Session's request. In doing so, the Session alleged that Mitchell violated the Ninth and Fifth Commandments and the fifth ordination vow. In addition to a lack of evidence that Mitchell concurred in the sabbatical at the level required by *BCO* 24-7, the SJC was further troubled by the apparent view that an initial submission to the Session can never be modified without the Session's consent. Moreover, given the pivotal role of the email that the SJC had not been shown, and which the SJC believed the Trial Commission also never saw, the SJC was reluctant to draw any definitive conclusion as to Specification 2. Specification 6 asserted that, during the period January 1, 2009, to December 31, 2010, Mitchell failed to properly discharge his duties as Clerk of the Session in that the minutes of the Session of WPC were not properly prepared and presented to the Presbytery for review (*BCO* 40-1 through 40-4) and that proper citation for same was not brought to the attention of the Session. This would be a violation of the Fifth Commandment. Much of the trial testimony regarding this Specification, as well as the related portion of the Trial Commission's Report, extended well beyond the boundaries of this Specification. However, at trial TE Coppersmith, the executive pastor, confirmed what should have been obvious about the delinquency in submission of minutes for Presbytery review, that at "the end of the day, it's the Session's fault." In addition, it is important to point to another fact – that, despite the rhetoric of its Specification 6, the WPC Session never saw fit to replace Mitchell as its Clerk, but continued to reelect him to that office again and again. Consequently, the judgment on Specification 6 was reversed, and the Specification was dismissed.

Key Words – clerk, sabbatical, Session minutes, email, evidence, *BCO* 24-7, 40

### **2012-08    Sartorius et al. v. Siouxlands**

*M43GA*, 2015 Chattanooga, p. 528. Sustained in part 18-1. 3 C-Op.

#### Summary

The Complainant alleged that the Presbytery of Siouxlands (PS) procedurally erred in a doctrinal trial of a TE. The Complainant also alleged that PS erred in their verdict of "not guilty" to five charges. The SJC ruled that PS erred in procedure and instructed a new trial.

#### Issue

Did the PS err on September 22, 2011, in approving their Judicial Commission's (JC) recommended judgments?

Judgment

Yes. PS erred because its JC made serious procedural errors that undermined the legitimacy of the Judgments proposed. The disposition to be made of this Complaint is that PS is instructed to undertake a new trial of TE Lawrence according to the instructions that follow (*BCO* 43-9, -10).

Reasoning

Upon review of the ROC, it was clear that the JC erred by receiving what was essentially testimony from the defendant while at the same time allowing the defendant to decline to testify. In so doing the JC admitted testimony contrary to *BCO* 35-5. However, TE Lawrence did not simply plead “guilty or not,” but submitted a four-page “Defendant’s Plea” pleading not guilty to the charges and providing written testimony with respect to each charge as to why he was not guilty. The JC treated these statements as testimony, quoting from them in articulating the reasons for its decision. The court should not have admitted such exculpatory material from the defendant, written after Presbytery had voted to indict, unless he was waiving his right to decline to testify. The JC clearly erred in receiving the post-indictment exculpatory statements offered by TE Lawrence without also requiring that TE Lawrence to be subject to cross examination with respect to those statements. The SJC ordered a new trial with eight instructions listed.

Key Words – Federal Vision, self-incrimination, *BCO* 35-5, 43-9, 43-10

**2012-09    Bennett v. Missouri**

*M41GA*, 2013 Greenville, p. 615. AOO 15-2.

**2012-10    PCA v. Korean Capital**

*M41GA*, 2013 Greenville, p. 616. Satisfactory 20-0. After repeated failures to respond to GA regarding exceptions of substance in past annual records, Korean Capital Presbytery (KCP) was cited to appear before the SJC. KCP responded, and the SJC found the responses satisfactory.

**2013-01    Dunn and Pesnell v. Philadelphia Metro West**

*M42GA*, 2014 Houston, p. 554. Not sustained 18-0. See also Case 2012-04.

Summary

Philadelphia Metro West Presbytery (PMWP) investigated allegations against a church planting minister relating to pastoral authority, confidentiality, and pastoral counseling ethics, but found insufficient reason to indict. A Complaint was then filed. A PMWP Commission recommended sustaining the Complaint and indicting the TE. Eventually, TEs Dunn and Pesnell filed a Complaint against this action to indict.

Issue

Did Presbytery err on November 17, 2012, when it adopted the recommendation from its Complaint Commission (first made in November 2011) to institute process and proceed towards a trial?

Judgment

No, and the adopted recommendation from the Complaint Commission to institute process and proceed to trial stands. The SJC noted, however, that the adopted recommendation may be subject to subsequent parliamentary procedure for its final disposition.

Reasoning

The issue was raised as to whether or not biblical discipline, particularly the admonitions of Matthew 18:15-16, were satisfied before the PMWP voted to proceed to trial. However, the ROC does show that some of the aggrieved believed they had confronted TE Swavely on a number of occasions, and the ROC also provides evidence that the second step of Matthew 18 was followed in at least one instance. The Complaint also argued, 1) that the statute of limitations had expired in this matter, 2) that a trial was not in order because the court had been circularized, 3) that *BCO* 43-9 was not followed, PMWP's own directions to the FCC were not followed, and a reasonable presumption of guilt was never established, and 4) that the role of attorney David Wiedis in drafting the Complaint of April 15, 2011, violated *BCO* 32-19. For these alleged errors, the SJC found, 1) that it is unclear in the *BCO*, contrary to the belief of the Complainants, that potential offenses are only doctrinal or scandalous (thus determining possible statutes of limitations), 2) that a court of the Church may dismiss a Complaint based on the court being circularized to this extent or in this fashion if it believes that a fair trial has not been jeopardized, 3) that the Presbytery has considerable latitude and authority to judge whether or not an investigation has been thorough enough, and 4) that no evidence was provided that Dave Wiedis acted in

this case as a professional attorney “as such.” The SJC concluded that the PMWP had the authority, based on the work of its commission, to proceed to trial.

Key Words – church plant, abuse of authority, breach of confidentiality, *BCO* 29-1, 29-2, 31-2, 32-19, 32-20, 43-8, 43-9

**2013-02 Jackson v. Northwest Georgia**

*M42GA*, 2014 Houston, p. 500. AOO.

**2013-03 Marshall v. Pacific**

*M43GA*, 2015 Chattanooga, p. 548. JOO 13-3. C-Op. D-Op.

**2013-04 Session of Hope Community v. Central Carolina**

*M42GA*, 2014 Houston, p. 560. Sustained 19-0. C-Op.

Summary

The Complainants alleged that Central Carolina Presbytery (CCP) erred by adopting a Bylaw essentially disallowing multi-site churches by requiring each site to particularize within 5 years.

Issue

Did CCP err on November 27, 2012, when it adopted a provision of Appendix 2 “Church Planting” of the “Manual of CCP,” to wit: Paragraph 2.e. Recognizing the validity of the temporary form of government that multi-sites use, CCP does, however, require the multi-site Session to eventually particularize a site and will review that question with the Session and the site pastor after no more than five years through the Missions Committee.

Judgment

Yes. CCP erred, and the requirement for particularization of a “multi-site” church was annulled, and that provision was stricken from the Presbytery Manual.

Reasoning

Presbytery erred in adopting in its Manual a mandate requiring a Session to take steps to particularize one of its worship sites as a new church.

This requirement to particularize infringed on the province of ordering the time and place of worship specifically recognized by the *BCO* to reside with the Session. While a Presbytery does have the power to devise measures for the enlargement of the church within its bounds, (*BCO* 13-9g), that general power cannot be construed so as to vitiate responsibilities specifically vested in the Session by *BCO* 12-5e. It was important to note, however, that both parties acknowledged that the decision with respect to the location of the second worship site vis-a-vis other congregations in the Presbytery is subject to Presbytery review under *BCO* 13-9(g). Finally, however, it is important to recognize the narrow scope of this decision. In Presbytery's rationale for its denial of the Complaint, in its written brief, and in oral argument at the Panel hearing, Presbytery raised a number of serious and plausible biblical, theological, and polity concerns with respect to a multi-site structure. These concerns included potential confusion with respect to the definition of the church, the replacement of Presbyterian with a quasi-episcopal form of governance, the potential denial of the rights of members in relation to the election of their officers, the potential loss of any real shepherding capacity by the officers, and the potential erosion of the jurisdiction of the Presbytery with respect to the churches under its care. These concerns with respect to the multi-site structure could not be addressed in this decision. However, nothing in this decision should be understood to dismiss such serious concerns, nor prohibit those who share them from seeking remedies through appropriate Constitutional means.

Key Words – multi-site church, church plant, particularization, bylaw, *BCO* 12-5; *BCO* 13-9

**2013-05    Hahn v. Philadelphia Metro West**  
*M42GA*, 2014 Houston, p. 500. AOO.

**2013-06    Appeal of Gonzales v. Great Lakes**  
*M43GA*, 2015 Chattanooga, p. 555. Sustained 15-0. C-Op.

Summary

A TE alleged that Great Lakes Presbytery (GLP) erred in divesting him from office without censure per *BCO* 34-10.

Issues

1. Did GLP err at its May 4, 2013 Stated Meeting by “receiving improper . . . evidence” (*BCO* 42-3) as evidences for a *BCO* 34-10 divestiture?
2. Did GLP err at its May 4, 2013 Stated Meeting by “... divest[ing] TE Steve Gonzales from office . . . without delay” without following the process required in *BCO* 34-10?
3. Did GLP err at its May 4, 2013 Stated Meeting by in failing to “... appoint a committee of 3 presbyters to meet with TE Gonzales with the view to dealing with issues that will lead to the place of full confidence”?
4. Did GLP err at its May 4, 2013 Stated Meeting by insisting that TE Gonzales “demit for not having his household in order” when there was no trial to prove this public accusation?
5. Did GLP err at its May 4, 2013 Stated Meeting by not assigning TE Gonzales “to membership in some particular church...” pursuant to *BCO* 46-8?

Judgment

1. Any Judgment on this Specification was rendered moot because of the error identified in Specification No. 2.
2. Yes.
3. Any Judgment on this Specification was rendered moot because of the error identified in Specification No. 2.
4. Any Judgment on this Specification was rendered moot because of the error identified in Specification No. 2.
5. Any Judgment on this Specification was rendered moot because of the error identified in Specification No. 2.

Reasoning

Application of *BCO* 34-10 requires that Presbytery take several discrete steps and make several factual findings. The SJC included Four Steps in the full report, beginning with Step One that Presbytery must record that the minister in question is “habitually fail[ing] to be engaged in the regular discharge of his official functions,” either because *BCO* 13-2 applies or for some other reason that would need to be set forth by Presbytery. The SJC’s examination of the ROC revealed that GLP failed to follow these steps properly. The ROC showed that much of the discussion leading up to the Presbytery’s recommendations focused on whether TE Gonzales was humble and submissive, not on whether he was failing to perform his duties or on his reasons for failing to do so. It

is not reasonable to expect that each of the conclusions in Steps One through Three outlined in the full report would be examined, debated and proved on the record at the first stated meeting in the *BCO* 34-10 process. Rather, the structure of *BCO* 34-10 suggests that the most that can be determined at the first meeting is that it appears to Presbytery without hearing from the minister that Steps One through Three are satisfied. After all, the *BCO* requirement that the minister be heard in his own defense only applies by its terms to the second *BCO* 34-10 meeting, although nothing in *BCO* 34-10 suggests that the minister would or should be prohibited from speaking (assuming he is present) in the first *BCO* 34-10 meeting. This bifurcated structure suggests its own rationale: to give the minister in question and the presbyters of the Presbytery the opportunity to pray, prepare and reflect on the matter at hand before the second *BCO* 34-10 meeting. The weightiness of a divestiture of a TE, even without censure, fully justifies this precautionary approach. Nevertheless, it would appear that the Presbytery should at least make a preliminary determination in the first *BCO* 34-10 meeting that all of the elements of Steps One through Three are satisfied before proceeding with Step Four. The SJC did not rule out the possibility of a Presbytery making summary findings without extensive evidence in the record at the first *BCO* 34-10 meeting, and then backing up those findings in the record at the second *BCO* 34-10 meeting.

Key Words – without call, divestiture, without censure, *BCO* 13-2, 34-10

**2013-07      Session of First Presbyterian North Port v. Southwest Florida**

*M42GA*, 2014 Houston, p. 566. Sustained 20-0. See also Case 2013-11.

Summary

The Session of First Presbyterian North Port (FPCNP) alleged that Southwest Florida Presbytery (SWFP) erred by remanding a Complaint from a communicant member (CM) to the Session after Presbytery had already (rightfully) declared it administratively out of order. The Session also alleged that Presbytery erred by “directing” the Session to do something, apart from due process of *BCO* 40-5, 6.

Issues

1. Did Presbytery err on September 8, 2012, when it remanded the matter raised by the CM’s Complaint to the FPCNP Session, after it had

- declared that Complaint administratively out of order?
2. Did Presbytery err when it exercised authority over the FPCNP Session under *BCO* 40-4 by “directing” and “instructing” the FPCNP Session apart from the due process required in *BCO* 40-5 and 6?

Judgment

1. Yes.
2. Yes.

Reasoning

The CM’s original Complaint was out of order. *BCO* 43-2 (as then in effect) required that she file her Complaint with the FPCNP Session “with the clerk of the court within thirty (30) days following the meeting of the court.” Her Complaint was not timely filed and therefore did not meet the requirement of *BCO* 43-2. Almost five months elapsed between the time the civil trespass order was secured by the FPCNP Session and the time of her Complaint. Both the FPCNP Session and the Clerk of Presbytery had previously, within the 30-day time limit of *BCO* 43-2, informed her of her right to complain. For whatever reason, she chose not to file a Complaint until well after the time limit had expired. Her Complaint, therefore, was out of order, and should not have been considered by the FPCNP Session. Similarly, Presbytery should not have considered the CM’s Presbytery Complaint. In fact, Presbytery did not. It ruled her Complaint to Presbytery out of order. That should have concluded the matter at this level. There was no other matter for Presbytery to carry forward, annul, or send back. Finally, the SJC also reiterated that the CM remained a member of FPC, as no ecclesiastical or formal disciplinary action had been taken by the FPCNP Session. Any civil action taken by the FPCNP Session (including the Session’s no trespass order) did not change the CM’s membership standing.

Key Words – trespass, civil action, emotional instability, mental health, *BCO* 40-4, 40-5, 40-6, 43-2

**2013-08 Jackson v. Northwest Georgia**

*M43GA*, 2015 Chattanooga, p. 568. AOO 17-0. The SJC found the above-named Complaint AOO (*OMSJC* 9.1.a.), as upon further examination of the ROC it was clear that the Complainant did not have standing to file a Complaint with Northwest Georgia Presbytery (NWGP) in this matter (*BCO* 43-1).

**2013-09      Appeal of Marshall v. Pacific**

*M42GA*, 2014 Houston, p. 500. Withdrawn as prematurely filed.

**2013-10      Appeal of Latimer v. Chicago Metro**

*M43GA*, 2015 Chattanooga, p. 572. Sustained 18-0. 2 C-Op.

Summary

A TE alleged that Chicago Metro Presbytery (CMP) erred by convicting him of pursuing a divorce without biblical grounds, and that CMP also erred by deposing him.

Issue

Shall the Appeal be sustained?

Judgment

Yes. Specifications 1, 2 and 3 were sustained in part. Specifications 4, 5, and 6 were not sustained.

After prevailing in an Appeal, an Appellant's status would normally be restored automatically to that which he held on the day of the trial. In this Case, the trial was 5/22/12 and on that day he was still serving a one-year definite suspension from office, but with only one day remaining. Therefore, since the one-year definite suspension expired on 5/23/12 (eleven months ago), the Appellant was a member of CMP, without call.

Reasoning

Presbytery was focused on the following question, prior to indictment and at trial: "*Did TE Latimer have biblical grounds for divorce?*" Presbytery rightly answered: No. But that was not the most pertinent question. The most pertinent question, and the one on which the SJC's judgment to sustain in part rested, was: *Did TE Latimer sin on June 27, 2012, when he filed a divorce petition with the State of Illinois?* The SJC did not find so and ruled that Presbytery clearly erred in judging that he sinned in doing so. There was no indication in the record that TE Latimer ever had "grounds to divorce" his wife. But whether his June 27, 2012, filing constituted sin turned not on whether he had grounds to divorce, but on whether his filing, combined with other evidence in the record, could reasonably be read to indicate an intent on his part to divorce. In other words, was his true objective to get divorced, or was the divorce

filings intended for other purposes entirely, such as the “protection of his children,” as he argued? It did not matter whether the filing was a wise or well-advised means to achieve his objective, or whether the children needed protecting, none of which the SJC could evaluate. What mattered was whether TE Latimer’s intentions in filing were sinful. We found no conclusive evidence in the record that TE Latimer’s intentions were sinful, and Presbytery clearly erred in finding otherwise.

The primary evidence cited by Presbytery to oppose this conclusion was the fact that TE Latimer never withdrew his divorce filing. But no conclusion on his intent to divorce could be drawn from this fact because of his wife’s counter-filing for divorce 12 days after his initial filing. Her counter-filing changed the circumstances, and the record did not speak to what TE Latimer’s rights and responsibilities were in the divorce proceedings after her counter-filing. In potential and actual divorce proceedings, *both* spouses (including the guilty spouse) have rights with respect to the civil magistrate in resolving issues related to child custody, property, finances, alimony, child support, visitation, etc.

In this decision, the SJC was not in any way criticizing Mrs. Latimer’s behavior or her decisions. Nor was the SJC agreeing or disagreeing with the Appellant’s contention that his June 27, 2012, filing was “required to protect the children” or his contention that a *divorce* petition was his only legal recourse. However, the record provided no conclusive evidence that TE Latimer filed for divorce immediately seeking a dissolution of the marriage or that TE Latimer had any intentions in the filing other than seeking what he believed was best for his children. Under the specific facts of this case, particularly the absence of evidence that his intentions were other than those he stated, to utilize civil process for such a purpose was not, of itself, sin.

Finally, care should be exercised in referring to this decision as persuasive precedent, for the outcomes of divorce cases so often rest upon their unique facts.

**Key Words** – divorce, civil courts, custody, infidelity

**2013-11      Appeal of Session of First Presbyterian North Port v. Southwest Florida**

*M42GA*, 2014 Houston, p. 573. Sustained 20-0. See also Case 2013-07.

Summary

The Session of First Presbyterian North Port, Florida (FPCNP) alleged that Southwest Florida Presbytery (SWFP) erred when the Presbytery convicted the Session of sin for not complying with a Presbytery directive.

Issue

Did Presbytery err, at its September 14, 2013 meeting, in approving the report and judgment of its Judicial Commission in the case of The PCA vs. The Session of FPCNP?

Judgment

Yes. The judgment was reversed.

Reasoning

As the SJC held in Case 2013-07, Presbytery alleged that it had the authority to direct the FPCNP Session to initiate process under the provisions of review and control for the “important delinquency or grossly unconstitutional proceedings” of the FPCNP Session (*BCO* 40-5). Presbytery cited the statements of members of the FPCNP Session that erroneously described the communicant member (see Case 2013-07) as not “a member of our church,” as grounds to act under *BCO* 40-5. Even if the SJC granted that the Presbytery had received a credible report, it did not follow the steps of *BCO* 40-4 that require: [t]he 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 Appeal was sustained, the judgment against the FPCNP Session was reversed in whole, and the charges and specifications were dismissed. Finally, the SJC noted that this decision did not find fault with the legitimate concern that Presbytery sought to address. Rather, the SJC’s concern was that Presbytery failed to follow the steps required by *BCO* 40-5. Had it done so, there would have at least been an opportunity to settle this matter without the need for further process and censure.

Key Words – Session on trial, civil courts, church safety, *BCO* 40-4, 40-5

**2013-12      Appeal of Marshal v. Pacific**

*M43GA*, 2015 Chattanooga, p. 585. Sustained 18-0. C-Op.

### Summary and Reasoning

The Appellant alleged that Pacific Presbytery (PP) erred in verdict in a judicial case. Since PP failed to send up a material part of the ROC, the Appellant was sustained. (Recording device failed at trial.) As the lower court failed to send up a material part of the ROC, itself of injury to the Appellant, which failure cannot be remedied, the judgment from which the Appeal had been taken was suspended indefinitely, and as such, the case was dismissed. PP was rebuked and urged to take greater care to preserve, transcribe, and transmit all testimony in any subsequent judicial proceedings (*BCO* 42-7).

Key Words – recording device, evidence, Record of the Case, *BCO* 42-7

### **2014-01 Aven and Dively v. Ohio Valley**

*M44GA*, 2016 Mobile, p. 499. Neither sustained nor denied 15-0. 3 C-Op.

#### Summary

A TE notified Ohio Valley Presbytery (OVP) that his view had changed on Larger Catechism (LC) 177. OVP adopted a recommendation from its Credentials Committee and judged the minister's difference as being "more than semantic, but neither striking at the vitals of religion nor hostile to our system of doctrine." Two TEs filed a Complaint against that judgment, and Presbytery declined to sustain it. The two TEs then filed a Complaint with the SJC.

#### Issue

Should the Complaint be sustained, which alleges that Presbytery erred on May 20, 2014, when it granted an exception to TE Hickey's stated difference as to LC 177, with respect to limiting participation in the Lord's Supper to those "such as are of years and ability to examine themselves," as being more than semantic but neither striking at the vitals of religion nor hostile to our system of doctrine?

#### Judgment

The Complaint was neither sustained nor denied. The Commission could not render judgment because the ROC was insufficient regarding this minister's *particular expression* of his view. Therefore, the Commission sent the matter back to OVP to hear further from TE Hickey regarding his stated difference in order to create a more comprehensive Record.

### Reasoning

The question before OVP and this Commission was not simply whether or not paedocommunion is an allowable exception, but whether this particular formulation of that confessional difference, as developed in TE Hickey's reasoning, is allowable, or whether it "strikes at the vitals of religion" or is "hostile to the system of doctrine." Apart from his statement of difference, certain statements in TE Hickey's rationale required further explanation for the ROC. It was not clear from the ROC how Presbytery understood these statements, or whether Presbytery required or received such further explanation. The ROC was insufficient in the following six respects: 1) the ROC did not indicate whether certain statements in the minister's "rationale" meant he believes all covenant children have some degree of faith, or what he believes is the nature of "infant faith" with respect to the child's capacity for spiritual discernment; 2) the ROC did not indicate whether Presbytery judged this minister's confessional difference to only pertain to LC 177, or whether it logically results in a difference with other sections; 3) if the stated difference did result in differences with other sections, what were the implications of that for the nature of the exception?; 4) the ROC did not make clear whether the minister reached his position solely on his view that "covenant children were included in the sacred meals of the covenant community" simply on the basis of their being covenant children and his exegesis of 1 Corinthians 11:27-29, or whether there are additional theological reasons for his particular difference (*e.g.*, the child's personal discerning faith, as distinguished from the representational faith of the child's parents); 5) if the minister's reasons were based upon the exegesis of 1 Corinthians 11:27-29, then the ROC did not indicate how the minister exegetes that passage or related Standards (possible examples being LC 170, 171, 172, 173, 174, and 177 (where it is the only text cited)); 6) the ROC did not indicate how the stated difference affects the minister's approval of the PCA's form of government and discipline as being in conformity with the general rules of biblical polity (*BCO* 21-5.3), given the *BCO*'s frequently expressed distinction between communicant and non-communicant members. The SJC concluded that the ROC before us was insufficient to allow us to reach a determination on this case. Accordingly, we remanded this case to the Presbytery to hear further from TE Hickey regarding his change in view.

Key Words – paedocommunion, Record, Westminster LC, *BCO* 21-5.3

**2015-01 Sanfacon v. Philadelphia**

*M44GA*, 2016 Mobile, p. 512. AOO. This ruling was based on the fact that the original Complaint was not timely filed, and therefore this ruling voided every action taken on the Complaint(s) by the lower courts.

**2015-02 Gearhart v. Chicago Metro**

*M44GA*, 2016 Mobile, p. 513. AOO. The TE who would have had standing to file did not notify the PCA Clerk's office within the 30-day window required by *BCO 43-3*.

**2015-03 Flesher and Weekly v. Metro Atlanta**

*M44GA*, 2016 Mobile, p. 514. Moot 21-0. The issues raised in this Complaint were adjudicated in Appeal 2015-08. See Case 2016-14.

**2015-04 Thompson v. South Florida**

*M44GA*, 2016 Mobile, p. 514. AOO 22-0. C-Op. The objections raised in the Complaint ought to have been raised by a defendant during the process with the court of original jurisdiction, or thereafter, if not satisfied, by an Appellant on appeal.

**2015-05 Application of John B. Thompson to cite Granada Presbyterian Church**

*M44GA*, 2016 Mobile, p. 518. AOO 21-0. This matter was already on the Docket of South Florida Presbytery's August 11, 2015, Stated Meeting.

**2015-06 PCA v. South Florida**

*M44GA*, 2016 Mobile, p. 519. Satisfactory 18-0. Following a citation from the 43<sup>rd</sup> GA, the SJC reported to the 44<sup>th</sup> GA that South Florida Presbytery (SFP) responded to the citation. The SJC took the following actions: 1) that the minutes of the Presbytery's executive session of April 21, 2009, be approved (with an exception of substance); and 2) that, except as noted, the SJC found all the responses of SFP to be satisfactory.

**2015-07 Thompson v. South Florida**

*M44GA*, 2016 Mobile, p. 521. AOO 21-0. The next Stated Meeting of South Florida Presbytery was August 11, 2015, and it had not yet considered the Complaint.

**2015-08 Hardie v. Metro Atlanta**

M44GA, 2016 Mobile, p. 522. Not sustained 20-1.

Summary

Metropolitan Atlanta Presbytery (MAP) appointed a Commission in response to a request submitted by the Session of Grace North Atlanta (GNA). After receiving that Commission's report, MAP appointed a Judicial Commission (JC), appointed a prosecutor and suspended the Appellant, without censure, from all official functions while he was under process. At trial, the Appellant was found guilty of three charges and indefinitely suspended. The Appellant filed an appeal citing numerous irregularities in the proceedings and prosecution of the case.

Issue

Shall the specifications of error raised by the Appellant be sustained?

Judgment

No. The Appeal was denied.

Reasoning

The Appellant alleged seventeen specifications of error under six categories. None of the seventeen specifications were sustained by the SJC. In Category One (Irregularities in the Proceedings of the Presbytery), the Appellant alleged that: (a) Presbytery erred in how it formed its JC; (b) the indictment was improperly drawn and the citation was improperly signed; (c) Presbytery erred in allowing RE Bob Edwards to serve as a member of the JC; (d) the Commission received advice from the Presbytery's Parliamentarian; (e) the Commission allowed two witnesses to join the Prosecution team after they had testified. In Category Two (Receiving Improper Evidence), the Appellant alleged that: (a) the JC allowed Prosecution witnesses to be asked questions that were not specific to the questions listed in the charges; (b) witnesses could not testify to specifics since the indictment itself was not specific regarding when alleged offenses occurred; (c) the Commission allowed witnesses to present other than firsthand, eyewitness testimony that was based on hearsay; (d) the Commission allowed emails and written statements as documentary evidence from a number of individuals who declined to testify; (e) the Commission allowed testimony from individuals that should not have been allowed to testify under provisions of *BCO* 31-8. In Category Three (Refusal of

Reasonable Indulgence), the Appellant alleged that: (a) the Court repeatedly changed the date for the beginning of the trial such that it affected the Appellant's ability to inform its witnesses when they could be expected to be called to testify; (b) the Commission directed the Appellant to present and conclude his case on May 30, 2015. In Category Four (Manifestation of Prejudice in the Case), the Appellant alleged that: (a) manifestation of prejudice was evidenced by beginning the judicial process in an unconstitutional manner, the improper drafting and lack of proper approval of an indictment, the unconstitutional interference of persons in the judicial process, the Court being deferential to the prosecution, failing to heed the concerns of the Appellant and the development of factual findings without corroborative evidence, the use of hearsay and the testimony of witnesses not supported by other witnesses; (b) the court manifested prejudice on January 24, 2015, when it suspended TE Hardie under the provisions of *BCO* 31-10; (c) the Court manifested prejudice when it stated its intent to invoke the provisions of *BCO* 42-6 and to continue the suspension from all official duties of office before the Appellant gave notice of appeal. In Category Five (Hurrying a Decision before All Testimony Was Taken), the Appellant alleged that: (a) the Court gave great latitude to the Prosecution to present its case and then informed the Defense that it had to complete its case in a short period of time. In Category Six (Mistake and Injustice in the Judgment), the Appellant alleged that: (a) in addition to the suspension imposed on January 24, 2015, the censure of Indefinite Suspension from Office was not commensurate with the offenses.

Key Words – strong presumption of guilt, censure, suspension, congregational reconciliation, *BCO* 31-2, 31-8, 31-10, 42-6

#### **2015-09    Bumgarner v. Mississippi Valley**

*M44GA*, 2016 Mobile, p. 537. AOO 19-0. C-Op. This judicial case was declared AOO and dismissed pursuant to OMSJC 9.2(d). See *BCO* 40-3. Further, the claimant stated on November 1, 2012, upon withdrawing a Complaint on this matter: "Please consider this my official request to withdraw my Complaint...I understand that once my Complaint is withdrawn it cannot be resubmitted."

#### **2015-10    Thompson v. South Florida**

*M44GA*, 2016 Mobile, p. 539. AOO 22-0. This judicial case, in which a Complaint was filed, was dismissed pursuant to OMSJC 9.2(d).

**2015-11    Thompson v. South Florida**

*M44GA*, 2016 Mobile, p. 539. Sustained 22-0.

**Summary**

A member of Granada Presbyterian Church (and a PCA RE not actively serving on a Session) was indicted for violating his membership and ordination vows for allegedly inappropriate emails. Although he pled not guilty, a week prior to trial he changed his plea and proposed handling the matter as a *BCO* 38-1 case without process and proposed a 23-page “full statement of the facts.” The Session Commission then proposed a different two-page statement but an agreement was not reached on the 38-1 statement. Prior to the trial, the Complainant was convicted of contumacy and the censure of excommunication was imposed. His subsequent Complaint to the Session and South Florida Presbytery (SFP) was denied.

**Issue**

Did the Session Judicial Commission (JC) initially err in reaching its June 28, 2015, pre-trial judgment that Mr. Thompson was guilty of contumacy for alleged disregard of two citations or alleged refusal to cooperate with lawful proceedings?

Thereafter, did the Presbytery err on August 11, 2015, in denying a Complaint (*BCO* 43-3) against the Session’s actions regarding the Judgment of Guilt and Censure of excommunication on June 28, 2015, July 2, 2015, and July 16, 2016?

**Judgment**

Yes. The Session’s judicial commission procedurally erred, and subsequently the Session and Presbytery erred in not sustaining the Complaint. Therefore, the SJC annulled the judgment of guilt for contumacy under *BCO* 32-6 and thus the censure of excommunication. This Judgment also annulled the Session’s actions on July 2 and 16, and the Presbytery action on August 11. This placed the matter back to where it was on June 26, 2015, and the Complainant was restored to the status of being a member of Granada PCA under indictment with judicial process pending.

**Reasoning**

The SJC was not expressing any opinion on whether the Complainant could have been convicted at trial for contumacy. The SJC was simply saying that the Complainant’s behavior was not the immediately

censurable kind envisioned in *BCO* 32-6.b. For him to be censured for the subjective kind of contumacy, it would have had to be proven at trial or confessed. While the Record demonstrated that the accused was challenging to deal with, the behavior in the Record did not demonstrate the type of “refusing to cooperate with lawful proceedings” that would be immediately censurable as *BCO* 32-6.b. Second, for a matter to be a *BCO* 38-1 case without process, the accused and the court must mutually approve a written statement (confession). Both must agree it is a full statement of the facts. If agreement cannot be reached, there cannot be a *BCO* 38-1 case without process. In this case, because the statements of the commission and the Complainant were so different, they should have proceeded to the trial scheduled for a week later.

**Key Words** – excommunication, contumacy, emails, *BCO* 32-6, 38-1

**2015-12    Wills v. Metro Atlanta**

*M44GA*, 2016 Mobile, p. 554. AOO 18-3. See Case 2016-14.

**Summary**

Metro Atlanta Presbytery (MAP) met at a Called Meeting and decided to dissolve Grace North Atlanta (GNA) as an affiliate of MAP and the PCA. The Complainant filed a Complaint against this action, which MAP found AOO.

**Issue**

Is Complaint 2015-12 properly before the SJC?

**Judgment**

No. The Complaint was AOO.

**Reasoning**

This Complaint was against the action taken by MAP on September 15, 2015. However, MAP had not had the opportunity to respond to the Complaint regarding their action (*BCO* 43-2). The Complainant was instructed that, if he desired to pursue this Complaint, he needed to file this Complaint with MAP within 30 days of notification of this Decision.

**Key Words** – dissolving relationship with church, signature, *BCO* 43-2

**2015-13 Barnes v. Heartland**

M45GA, 2017 Greensboro, p. 478. Sustained 18-4. C-Op. D-Op.

**Summary**

When TE Geoff Smith (member of a Presbytery of the OPC) contacted TE Anthony Felich, Chairman of the Candidates and Credentials (CC) Committee of Heartland Presbytery (HP) regarding transferring his credentials, TE Smith stated differences to the Westminster Standards. HP allowed an exception, judging that TE Smith's views were "more than semantic but not out of accord...." The Complainant filed a Complaint with Presbytery. After a hearing regarding corrections to the minutes, an SJC Panel Hearing was held.

**Issue**

Did HP clearly err on August 8, 2015, at its 80<sup>th</sup> Meeting when it granted an exception judging TE Geoff Smith's stated differences with *WCF 19* as "more than semantic but not out of accord with any fundamental of our system of doctrine," because Presbytery failed to consider critical evidence in examining TE Smith's stated differences and thus failed to develop a sufficient record on which to judge them?

**Judgment**

Yes, and this matter was remanded to HP for action consistent with this Decision.

**Reasoning**

The Complainant made it clear that the issue in this case was not whether Presbytery made a proper determination with regard to its evaluation of TE Smith's differences. Rather, the Complaint dealt with an antecedent matter; that is, whether HP sufficiently explored TE Smith's views, and, in turn, whether Presbytery had a sufficient basis for reaching any conclusion on TE Smith's stated differences. The SJC found that there was indeed no evidence in the Record to indicate that the members of HP were given key information regarding the existence of TE Smith's longer paper (from 2003) about his theological views, not just his answers to HP's questions. Prior to the August meeting of HP, the Record also did not show that members of HP were made aware of the actions of Smith's OPC Presbytery (OPCUS) regarding his views, in particular that OPCUS stated that his views "do not stand within the system of doctrine contained within the Westminster Standards."

Similarly, there was no evidence that the CC Committee formally reported these matters to Presbytery at or before the November meeting at which Presbytery considered the Complaint, nor that Presbytery had any discussion of this information. Given the gravity of the actions of OPCUS and the content of TE Smith's views, those were critical and fatal omissions. The Complaint was sustained, and the matter was remanded to HP with instructions to ensure that obviously germane and important documentation with respect to the question of whether TE Smith are "out of accord with any fundamental of our system of doctrine" was included in the minutes of Presbytery.

**Key Words** – transfer of credentials, exceptions, law, *BCO* 21-4, 40-2

**2016-01 Aven v. Ohio Valley**

*M45GA*, 2017 Greensboro, p. 496. Not sustained 16-6. C-Op. D-Op.

**Summary**

TE Charles Hickey notified Ohio Valley Presbytery (OVP) that his view had changed on Larger Catechism 177. P adopted a recommendation from its Credentials Committee (CC) and judged TE Hickey's difference as being "more than semantic, but neither striking at the vitals of religion nor hostile to our system of doctrine." The Complainant filed a Complaint against this judgment, which Presbytery denied. The SJC heard this Complaint (2014-01) but declined either to sustain or decline because of an insufficient Record. After the case was sent back to Presbytery, TE Hickey submitted additional material on his view. The Complainant complained that Presbytery failed adequately to comply with the Judgment of Case 2014-01, which Presbytery denied.

**Issue**

Did Presbytery fail to comply with the directive from the SJC's Decision in Case 2014-01 to "hear further" from the minister regarding his view?

**Judgment**

No.

**Reasoning**

The Complainant seemed to argue as though the SJC had sustained his original Complaint in Case 2014-01, had annulled Presbytery's action on

judging the minister's difference, and had remanded for a reexamination. But that was not the case. Rev. Aven's four-page Complaint, which Presbytery denied in January 2016, frequently used the verbs "examine," "reexamine," and "investigate," as well as nouns "reexamination" and "directive." But the SJC Decision in Case 2014-01 never used any of those words in its Judgment or Reasoning. The SJC merely observed that, "...certain statements in TE Hickey's [original] rationale require further explanation in the Record" and "we remand this case to the Presbytery *to hear further from* TE Hickey regarding his change in view." Presbytery did "hear further" from the minister in numerous written documents. The Complainant further contended that the SJC "directed" Presbytery to procure answers from TE Hickey on the five areas delineated in the SJC Decision 2014-01. Respondents asserted that there was no such directing, but even if there was, TE Hickey addressed each of the five areas, at least in some degree. Thus, the Complaint was denied.

Key Words – Lord's Supper, change in view, Larger Catechism 177

**2016-02      Robertstad v. North Texas**  
*M45GA*, 2017 Greensboro, p. 509. AOO 21-0. C-Op.

**2016-03      Thompson v. South Florida**  
*M44GA*, 2016 Mobile, p. 498. Withdrawn.

**2016-04      Thompson v. South Florida**  
*M44GA*, 2016 Mobile, p. 498. Withdrawn.

**2016-05      Troxell v. Presbytery of the Southwest**  
*M45GA*, 2017 Greensboro, p. 514. Sustained in part 22-0. C-Op.

Summary

The Presbytery of the Southwest (PSW) voted to form a small committee to shepherd a TE during a crisis. The TE later resigned. After the TE's divorce, he presented a motion to Presbytery for an "ecclesiastical divorce." PSW formed a committee to investigate the matters surrounding

his divorce, after which Presbytery instituted process against the TE. TE Thomas Troxell (the Complainant) filed a Complaint with Presbytery, which was denied.

Issues

1. Did PSW err when it charged the TE with failing to manage his household well, arising from events which occurred more than 12 months prior to the process being commenced?
2. Did PSW err when the Moderator allowed members of PSW to discuss potential charges and make assertions of the guilt of the TE and his fitness for ministry?
3. Did PSW err when the TE was questioned on the floor of Presbytery at the September 24, 2015, Stated Meeting?
4. Did PSW err when the Moderator declared that the TE was no longer in good standing at the September 24, 2015, Stated Meeting?
5. Did PSW err when it charged the TE with lack of submission to the government and discipline of the church in violation of the Rules of Discipline in the *BCO*?

Judgment

1. Yes. The action taken by PSW to institute process with regard to Charge 1 was annulled.
2. No.
3. No.
4. Yes. However, this error was not of such a nature to annul the other actions taken by PSW. The TE was considered to be in good standing. The PSW did suspend his official functions through proper process at the January 2016 meeting of PSW. That suspension remained in effect.
5. No. There was no constitutional reason to prevent this Charge from being adjudicated.

Reasoning

For Issue One, *BCO* 32-20 establishes a standard for timeliness in dealing with offenses while allowing the court the ability to deal with allegations of sin when they become flagrant. However, the Record before the SJC did not indicate that the offense in question did recently become flagrant. The Record showed that PSW voted to institute process in September 2015 for an offense that occurred in June 2014; the fifteen-month delay did not meet the standard specified in *BCO* 32-20. Our constitution simply does not permit a Presbytery to institute process after a delay of this length in the absence of scandal or a new or flagrant offense. For Issue Two, there was nothing in the ROC to indicate that the

Moderator of PSW erred in allowing discussions regarding the TE. Discussion about potential charges, evidence, reports, etc. are necessary for the court to conduct the duties assigned to the court by the *BCO*. For Issue Three, the Complainant claimed that, based on *BCO* 35-1, PSW erred in permitting a member to ask questions of the accused on the floor of Presbytery. However, *BCO* 35-1 deals with testimony taken during trial and is not applicable to inquiries being made outside of a trial. For Issue Four, the effect of the declaration that the TE was “not in good standing” was to remove certain rights that are afforded to members that are in good standing (see *BCO* 13-13, 14-2, 19-1, 24-7, 43-1, etc.). Although the ROC showed that the TE’s defense was not harmed by this, the removal of rights without process is contrary to “The Rules of Discipline” in the *BCO*. For Issue Five, the SJC found nothing in the Record to indicate that Presbytery had erred when it charged the TE with a lack of submission. This charge addressed an offense that occurred within one year of the initiation of process; therefore, the charge was not barred by *BCO* 32-20. Without addressing the guilt or innocence of the TE, the SJC found no constitutional reason to prevent this charge from being adjudicated.

Key Words – member in good standing, divorce, ecclesiastical divorce, submission, *BCO* 32-20, 35-1

**2016-06 Avery v. Nashville**  
*M46GA*, 2018 Atlanta, p. 500. Abandoned.

**2016-07 Avery and Lewelling v. Nashville**  
*M45GA*, 2017 Greensboro, p. 523. JOO 21-0.

**2016-08 Doty v. Nashville**  
*M45GA*, 2017 Greensboro, p. 524. JOO. 11-9. D-Op. While the case was originally filed as a “Complaint” with Nashville Presbytery, the “Complaint” did not meet the requirements of a Complaint as defined in *BCO* 43-1.

**2016-09 Fordice v. Pacific Northwest**  
*M45GA*, 2017 Greensboro, p. 532. Sustained 20-0.

### Summary

Issues arising within Evergreen Presbyterian Church (EPC) between 2012 and 2015 led to accusations against its pastor, TE Nathan Lewis, being brought to Pacific Northwest Presbytery (PNP). Presbytery decided not to recommend indictment of TE Lewis. The Complainant then brought “formal accusation” to Presbytery against TE Lewis citing *BCO* 34-1. An Investigative Committee (IC) of PNP then recommended process and a three-fold indictment. TE Lewis requested to handle the matter as a *BCO* 38-1 case without process. Although the PNP SJC recommended the censure of admonition, Presbytery adopted a substitute motion to accept TE Lewis’s “statement of repentance” and “judge the matter closed.” The Complainant filed a Complaint with Presbytery, which was denied. The Complainant was then brought before the SJC.

### Issue

Did PNP err on May 20, 2016, when it denied the Complaint in light of its having accepted TE Lewis’s statement of facts and related confession of guilt?

### Judgment

Yes. The Complaint was sustained, and the case was remanded to PNP for further action consistent with this Decision.

### Reasoning

The Complainant framed his Complaint under three specific issues: (1) an alleged “failure to institute process, as required by the *BCO*,” (2) an alleged “failure to record a full statement of facts,” and (3) an alleged acceptance of “an unrelated confession.” For Issue One, the Complainant cited *BCO* 31-2 and OMSJC 16.5 in contending that a court must institute process upon a finding of a “strong presumption of guilt.” The Complainant failed to recognize that Section 16 of the OMSJC applies only where the SJC exercises original jurisdiction over a case, which did not take place here. What PNP did was to turn a would-be recommendation of process into a case without process, before process itself had actually begun. Although the thrust of *BCO* 38-1 appears to contemplate a would-be accused coming forward to confess sin before it is actually charged or otherwise made known, *BCO* 38-1 has never been limited to those circumstances. PNP’s use of *BCO* 38-1 instead of proceeding to trial was not, by itself, an error. For Issue Two, *BCO* 38-1 requires a “full” statement of the facts. To satisfy this requirement, the approved

statement of facts must fairly meet the alleged offenses. In this case, the proffered statement offered no adequate explanation for how the alleged offenses were subsumed into the three alleged violations of vows; which of the allegations were admitted and which were denied; and which, if any, could not be proved or prosecuted. In this case, PNP clearly erred in approving a statement of facts under *BCO* 38-1 that was not full as to the underlying alleged offenses. For Issue Three, the IC's investigation and Report revealed that the allegations were meritorious at least to some extent and probably throughout. However, hardly any of those allegations were addressed in the Statement or in the Confession. Numerous facts admitted bore little relationship to the substance of the Complaint. The Confession also tended to avoid specific accusations, and TE Lewis never actually admitted to a violation of his vows. Accordingly, PNP's denial of the Complaint was annulled, and the case was remanded to Presbytery.

Key Words – confession, censure of admonition, case without process, *BCO* 38-1

**2016-10    In re Korean Northwest**

*M46GA*, 2018 Atlanta, p. 500. Korean Northwest Presbytery responded to the SJC that it had amended and adopted its response to the exceptions in its meeting of April 24-25, 2017. A motion to accept the amended and corrected responses of KNWP was approved 19-1.

**2016-11    Frazier v. Nashville**

*M46GA*, 2018 Atlanta, p. 500. Not sustained 20-0. 2 C-Op.

Summary

Rev. Chuck Williams, a minister and chaplain from the PCA's Central Florida Presbytery, filed accusations with Nashville Presbytery (NP) against Rev. Scott Sauls, accusing him of "infidelity to the Gospel" for alleged views and teaching related to homosexuality. NP's standing Committee on Judicial Business considered the accusations and recommended that Presbytery find there was insufficient reason to indict (i.e., no "strong presumption of guilt," *BCO* 31-2). Presbytery adopted the Committee's recommendation. Rev. Frazier, a member of NP, filed a Complaint against that decision. Presbytery denied his Complaint and he carried it to the SJC.

Issue

Did NP err at its 87th Stated Meeting on April 12, 2016, in its determination that there was insufficient evidence to raise a strong presumption of guilt with respect to the reports brought before it against the teachings of TE Scott Sauls?

Judgment

No. The Complaint was denied.

Reasoning

The ROC provided sufficient evidence that NP fulfilled its investigatory duties under *BCO* 31-2 in the particular circumstances presented in this case. Further, the 147-page ROC did not demonstrate that NP erred in its exercise of judgment when it declined to proceed to charges against the TE.

Key Words – homosexuality, same-sex attraction, blog, *BCO* 31-2

**2016-12    Harwell et al. v. Nashville**

*M45GA*, 2017 Greensboro, p. 542. JOO 22-0.

**2016-13    Daniels et al. v. Nashville**

*M46GA*, 2018 Atlanta, p. 523. Moot. D-Op.

**2016-14    Wills v. Metro Atlanta**

*M45GA*, 2017 Greensboro, p. 543. Not sustained 20-0.

Summary

After internal conflicts at Grace North Atlanta (GNA), Metropolitan Atlanta Presbytery (MAP) formed a commission to “investigate, discern and help all work through disorder that has come to the surface.” After a Presbytery commission recommended that Presbytery institute process against the pastor of GNA (TE John Hardie), two of the four REs at GNA filed a Complaint (eventually Case 2015-03). Two REs then proposed a congregational meeting to dissolve the call of the other two REs. Presbytery adopted four motions, including the direction to the Session of GNA not to hold the proposed congregational meeting and that

Presbytery erect a commission to visit GNA church. The congregational meeting at GNA occurred nevertheless on May 17, 2015. After being cited to appear at a Called Meeting of MAP, two of GNA's REs attended and spoke while two REs (those who proposed the congregational meeting) refused and instead sent a 17-page response. MAP adopted the recommendation of its commission investigating GNA to dissolve GNA as an affiliate of MAP and the PCA. After a series of Complaints being ruled OOO, the Complainant brought his Complaint before Presbytery, which was denied. The Complainant then filed a Complaint with the SJC.

Issue

1. Did MAP violate any procedural requirements of the *BCO* by dissolving GNA church without that church's consent?
2. Did MAP clearly err, in a matter of discretion and judgment, when it dissolved GNA as a PCA church?

Judgment

1. No.
2. No.

Therefore, the Complaint was denied.

Reasoning

For Issue One, the Complainant contended that a Presbytery must always follow full and formal judicial process prior to dissolving a congregation without its consent – i.e., formal *BCO* 31-2 investigation, a vote finding of a strong presumption of guilt, appointment of a prosecutor, indictment, arraignment, trial (if necessary), conviction, censure, and completed appeal (if chosen). He asserted that *BCO* 40-6 must always be followed prior to any such dissolution. On the other hand, Presbytery (through its representative) contended that *BCO* 40-6 does not necessarily apply to the dissolution authority given to a Presbytery in *BCO* 13-9. MAP interpreted this constitutional question correctly, and the SJC we found no error of constitutional interpretation regarding Issue One. For Issue Two, although the *BCO* does not mandate a procedure a Presbytery must follow before dissolving a church without a church's consent, that does not mean the procedure used is unimportant or unreviewable. It still needs to be prudent and reasonable, based on the facts of the situation. And because the decision to dissolve is a matter of discretion and judgment, the SJC "should not reverse such a judgment by a lower court, unless there is clear error on the part of the lower court."

The ROC did not demonstrate clear error. However, it would be a gross misunderstanding of this Decision if someone concluded that a Presbytery could, without sufficient justification, dissolve a church. It cannot.

Key Words – dissolution of a church, congregational meeting, Session clerk, minutes, *BCO* 13-9, 31-2, 40-6

**2016-15    Appeal of Bachmann v. Nashville**

*M46GA*, 2018 Atlanta, p. 526. Sustained 21-0.

Summary

Following tensions at Covenant Presbyterian Church (CPC), TE Bachmann submitted a “formal request to retire from the ministry of CPC, contingent on a suitable financial arrangement.” Subsequent discord led the Session of CPC to request that the Nashville Presbytery (NP) Shepherding Committee (SC) assist the church in all matters relating to the discord. NP voted to commence process against TE Bachmann and found him not guilty on one charge (Charge A) and guilty on one charge (Charge B). At a meeting of NP the overview, verdicts and censure recommended by the Judicial Commission (JC) were agreed to by secret ballot and apparently without debate, but NP proceeded to act on the JC’s Judgment by first allowing a division of the question on the verdict, and then by acting separately on the JC’s recommended censure, allowing both debate and amendment.

Issue

Did NP, at its meeting of September 12, 2016, err in amending the judgment of its JC and subsequently approving the amended judgment?

Judgment

Yes, and the SJC rendered the decision that should have been rendered (*BCO* 42-9) as set forth below.

Reasoning

The Appellant alleged a number of errors arising from the investigation process, the indictment, the evidence admitted and procedures employed at trial. An important fact is that, after the JC had entered its recommended verdict, and before that verdict was made the judgment of NP, the Appellant confessed to the offense of which he was found guilty by the JC. The Appellant then contended on appeal that his written post-

trial confession was offered as part of a negotiated plea agreement in exchange for a lesser censure or admonition. However, a confession after trial is categorically distinct from a proffered confession under *BCO* 38-1. Our constitution does not reference or recognize a conditional plea of guilt or negotiated plea bargain based on a confession after a trial. In fact, the JC's minutes indicated that its moderator reminded the Appellant specifically that the JC could not compel NP to take any particular action in response to the Appellant's confession. Having been so warned, the Appellant was under no obligation to confess. Having made a sincere and truthful confession, the Appellant could not then retract that confession and challenge on appeal the process leading to the verdict to which he unconditionally confessed.

Second, in its report on this case, the JC of NP properly described the procedure set forth in *BCO* 15-3 for Presbytery's consideration of the JC's recommendation: "In accordance with *BCO* 15-3 this entire Judgment [which included an Overview, Recommended Verdict and Recommended Censure] shall be submitted to the NP without debate and upon its approval shall be entered on the minutes of Presbytery as the action." However, contrary to *BCO* 15-3, and the JC's advice, NP proceeded to act on the JC's Judgment by first allowing a division of the question on the verdict, and then by acting separately on the JC's recommended censure, allowing both debate and amendment. The ROC evidenced clear error (*BCO* 39-3.4) on the part of NP with respect to the provisions of *BCO* 15-3 in acting on the JC's report. Accordingly, this specification of error was sustained.

To resolve this Appeal, the SJC was convinced that the wisest and most just course of action was to render the decision that should have been rendered: to enter the judgment and censure recommended by the JC. Therefore, the judgment and censure of the JC entered on September 6, 2016, and recommended to NP was made the judgment of the SJC. The case was remanded to the NP, and the judgment of the Commission was entered as the judgment of NP.

Key Words – post-trial confession, censure, retirement, resignation, *BCO* 15-3, 39-3.4

**2016-16    Sartorius et al. v. Siouxlands**

*M46GA*, 2018 Atlanta, p. 536. Not sustained 22-1. C-Op.

Summary

After the SJC remanded Case against TE Lawrence back to Presbytery of Siouxlands (PS) for retrial, a new trial was conducted before the full

Presbytery with 16 judges (8 TEs and 8 REs), who rendered ‘not guilty’ verdicts on each of the five charges. TE Sartorius filed a Complaint against the acquittals, which Presbytery then denied. TE Sartorius then carried to Complaint before the SJC.

Issue

Has the Complainant shown that PS failed in its duty to condemn erroneous opinions in this case by finding TE Lawrence not guilty at trial?

Judgment

No. The Complaint was denied.

Reasoning

A Complaint, with respect to the verdict in a judicial case, clearly cannot provoke a retrial of the case at the level of the superior court. The Complainant had the burden to show, from the ROC, how Presbytery had erred in its proceedings or verdict. That burden was not met in this case. In this Decision, the SJC did not comment on what may be the Defendant’s *actual* views in relation to the Constitution itself. The Court simply ruled that the Complainant did not demonstrate error on the part of the trial court.

Key Words – Federal Vision, retrial, *BCO* 43

**2016-17 Webster et al. v. Heritage**

*M46GA*, 2018 Atlanta, p. 566. Not sustained 20-0.

Summary

Heritage Presbytery (HP) appointed an Ad Interim Committee “to address the continuing discord” at New Covenant Church (NCPC). In an Addendum to the Committee’s Concluding Report, it was reported that a former member of the NCPC Session had submitted a written complaint (Ullrey Complaint) citing the Session for acting out of accord with the PCA’s Constitution, which requires that Ruling Elders subscribe to the Westminster Standards. The Concluding Report and Addendum were read to HP in executive session, but the Committee did not have time to meet between the Addendum preparation and the Presbytery meeting to approve in a physical meeting the Addendum and its

implications. HP did not take a position on the Ullrey Note but cautioned the Session of NCPC about the dangers of allowing a man to stand for election to an office who as a result of this complaint may ultimately be found unqualified for church office. Two REs filed a Complaint against this action, which was denied by Presbytery.

Issue

Did HP err at the September 10, 2016, Stated Meeting when they passed the motion referred to in the Summary of the Facts. “That HP, (while not taking a position on the complained about action as the complaint [clerk’s note: of RE Ullrey] is not presently properly before us as the complaint being properly submitted first to the court alleged to be in error and that court has not yet responded) does nonetheless caution the Session of NCPC about the dangers of allowing a man who as a result of this complaint may ultimately be found unqualified for church office (as he may be judged out of accord with a fundamental of our System of Doctrine) to stand for election to that office or be ordained to that office. The Presbytery suggests it would be more expedient to await the outcome and proper judicial resolution of this complaint, before electing and ordaining this candidate to office. Therefore the Presbytery requests the NCPC Session to postpone the candidate’s consideration, election, or ordination until the complaint is finally resolved.”

Judgment

No.

Reasoning

In this case, HP did not “act for” the Session, nor did it “require” the Session to take any action. Presbytery provided advice. The fact that the Session chose to heed Presbytery’s advice did not make it any less advice. Further, Presbytery clearly realized that the Ullrey Complaint was not properly before Presbytery. While the knowledge of that Complaint may have colored the thinking of some presbyters, it is clear that Presbytery did not act on the Complaint, but properly recognized that it needed to be taken up first by the Session. The only issue before the SJC was whether Presbytery exceeded its authority in giving advice to the Session as it was considering the Complaint and its process of officer examination. For the reasons noted above, the SJC concluded that the advice and counsel provided by HP to the Session of NCPC did not

impinge on the authority of the lower court, did not interfere with the prerogatives of the Session and Congregation in electing officers, and did not violate the provisions of the Constitution.

Key Words – infant baptism, advice, office, Ruling Elder, views

**2017-01 Dailey v. Heritage**

*M46GA*, 2018 Atlanta, p. 571. Sustained 17-5. D-Op.

Summary

After a member of New Covenant Presbyterian Church (NCPC) was removed from the Worship Team, she filed a Complaint with the Session listing six specifications of error. The Session concluded that the Complaint did not meet the criteria for a Complaint as defined by *BCO* 43-1. After the member sent a letter to Heritage Presbytery (HP), Presbytery considered the matter at the November 12, 2016, Stated Meeting, and gave the Moderator authority to appoint a commission to hear the Complaint. An RE filed a Complaint against this action, which was denied by Presbytery.

Issue

Did HP err on November 12, 2016, when it upheld its Moderator's ruling that Mrs. Hubbard's document was administratively in order as a Complaint arriving via *BCO* 43-3?

Judgment

Yes. The RE's Complaint was sustained and any and all actions taken by HP in adjudicating the issues raised in the Document after November 12, 2016, were annulled.

Reasoning

In an explanatory note in the minutes from the HP meeting of November 12, 2016, HP justified their action as follows: "as the lower court had refused to adjudicate the matters complained of, had not responded to affirm or deny her specifications of error, the higher court on notice of complaint through its commission now act as the court of first jurisdiction." This was an incorrect interpretation of the Constitution. *BCO* 43-3 specifies only two situations where a Complaint can be taken from a lower court to a higher court: 1) if the court that is alleged to be

delinquent denies the Complaint, or 2) if the lower court fails to consider the Complaint against it by the next stated meeting. In this case, neither situation existed. To preserve the rights of the lower court, and in conformity with our Constitution, the proper course would have been for an individual to have filed a Complaint with the Session against the Session's action on the communication from Mrs. Hubbard. Such a Complaint would have allowed the matter to be dealt with under *BCO* 43-2 and thereby, would provide a clear record of the Session's action.

Key Words – Constitution, complaint, *BCO* 43-3

**2017-02    Charles Postles et al. v. Heritage**  
*M46GA*, 2018 Atlanta, p. 582. Not sustained 16-5.

Summary

An Ad Interim Committee of Heritage Presbytery (HP) was charged to investigate the health of the relationship between the pastor and congregation of New Covenant Presbyterian Church (NCPC). The Committee, convinced that there was a strong presumption of the TE's guilt, recommended that HP bring charges against the TE for breaking his ordination vows, and that HP appoint a prosecutor to prepare the indictment against the TE. HP then passed a motion charging the TE with violation of Ordination Vow 6 and 7 and calling for a prosecutor to be appointed by the Moderator to investigate the offenses charged and, if necessary, to prepare the indictment to be served on the accused. Two REs then filed a Complaint against this action, which was denied by Presbytery.

Issue

Did HP err at the November 12, 2016, Stated Meeting when, acting upon the recommendation of a committee, they charged a TE with offenses and appointed a prosecutor to investigate the charges and if necessary prepare an indictment?

Judgment

No.

Reasoning

The Complainant alleged that the investigation was a violation because "the Ad Interim Committee was not appointed to conduct an investigation that envisioned any form of judicial action or process."

However, the ROC clearly demonstrated that the Committee was given instructions by HP to conduct an investigation. The SJC found no requirement in the Constitution that a committee must be given special or specific instruction before the committee can make a recommendation that includes a recommendation of judicial action or process. The Complainant also alleged that HP followed a process that was a clear violation of the Constitution when HP acted upon the recommendation of the Committee and instituted process against the TE. In support of the allegation of error, the Complainant offered three alleged violations of the Constitution: a) there was no written committee report; b) the approach was contrary to the steps outlined in *BCO* 31-2; and c) the imprecise, non-*BCO* language used. However, the SJC concluded that: a) we could find no Constitutional requirement for a written report; b) the steps outlined in *BCO* 31-2 call for an investigation, the establishment of a strong presumption of guilt, and the appointment of a prosecutor, and the ROC demonstrated that HP followed these steps; and c) while it may have been more precise to use the words “appoint a prosecutor to prepare the indictment and to conduct the case” (*BCO* 31-2), there was no clear violation of the Constitution in the language used by HP.

Key Words – ordination vows, *BCO* 31-2

**2017-03 Daniels et al. v. Nashville**  
*M46GA*, 2018 Atlanta, p. 499. OOO.

**2017-04 BCO 40-5 report of RE John B. Thompson**  
*M46GA*, 2018 Atlanta, p. 499. Withdrawn.

**2017-05 BCO 40-5 report of TE James Bachmann**  
*M46GA*, 2018 Atlanta, p. 499. OOO.

**2017-06 Request for Reference from Blue Ridge Presbytery**  
*M46GA*, 2018 Atlanta, p. 587. Blue Ridge Presbytery (BRP) requested a Reference for the SJC to hear and decide this Complaint (*BCO* 41-3). The ROC prepared and presented by BRP did not affirmatively demonstrate any bias on the part of the entire Presbytery or any action of the Complainant that would require all presbyters to disqualify

themselves from hearing the Complaint. The ROC did not demonstrate any very serious division, any constitutional questions, or any “new, delicate or difficult issues” presented by the Complaint to warrant reference as contemplated by *BCO* 41-2. For these reasons, the request for reference was denied. BRP was instructed to hear and decide the Complaint.

**2017-07    Clement v. Blue Ridge**

*M46GA*, 2018 Atlanta, p. 587. The Complaint in 2017-07 was answered with reference to the SJC’s decision in 2017-06.

**2017-08    BCO 40-5 report of RE John B. Thompson**

*M46GA*, 2018 Atlanta, p. 499. OOO.

**2017-09    BCO 40-5 report of RE John B. Thompson**

*M46GA*, 2018 Atlanta, p. 499. OOO.

**2017-10    In re Korean Eastern Presbytery**

*M46GA*, 2018 Atlanta, p. 588. The Commission recognized that Korean Eastern Presbytery complied with the citation from the Commission; that the Presbytery provided the necessary materials under *BCO* 40-1; and that the Commission referred these materials to the Committee for Review of Presbytery Records for review. The Commission approved these actions.

**2017-11    In re Korean Southwest Presbytery**

*M46GA*, 2018 Atlanta, p. 588. The Commission voted unanimously to accept the responses from Korean Southwest Presbytery, which have been approved by KSWP, as complying with the Standing Judicial Commission citation and to note that those responses have been forwarded to the Review of Presbytery Records Committee.

**2017-12    In re Platte Valley Presbytery**

*M46GA*, 2018 Atlanta, p. 589. The Commission voted unanimously to accept the responses from Platte Valley Presbytery, which have been

approved by PVP, as complying with the Standing Judicial Commission citation and to note that those responses along with the minutes requested have been forwarded to the Review of Presbytery Records Committee.

**2017-13    Tripp v. Ohio Valley**

*M46GA*, 2018 Atlanta, p. 499. Withdrawn.