

MINUTES OF THE GENERAL ASSEMBLY

disqualify someone for leadership in the church (1 Cor 6:9-11, 1 Tim 3:1-7, Titus 1:6-9; 2 Pet 1:3-11) (p. 31)

Conclusion

While appreciating our dissenting brothers' zeal for truth, and their evident desire to promote the peace and purity of the Church, we believe, as we have shown above, that their Dissent does not accurately reflect either the Record in this Case or the ruling and opinion of the SJC. Unfortunately, it is likely that as these inaccuracies are spread in the Church, people will follow the dissenters in drawing conclusions about the SJC's ruling and its understanding of sexual ethics that are neither accurate nor fairly adduced from the Decision. It is for this reason that we find it necessary to provide this Answer.

**CASE NO. 2021-12
COMPLAINT OF
CHRISTIAN MICHELSON AND STUART MICHELSON
v.
NORTHWEST GEORGIA PRESBYTERY
February 1, 2022**

The Complaint is not judicially in order, and the defect cannot be cured within the Rules of Discipline of the *BCO*; therefore, the case is dismissed. *OMSJC* 10.5-6.

RATIONALE

The Complaint as presented to the Session does not identify any act of that court alleged to be in error, thus failing to meet the standard set forth in *BCO* 43-1, "A complaint is a written representation made *against some act or decision of a court* of the Church. It is the right of any communing member of the Church in good standing to make complaint *against any action of a court* to whose jurisdiction he is subject. . ." (emphasis added). (See also *BCO* 43-10, "The higher court has power, in its discretion, *to annul the whole or any part of the action of a lower court against which complaint* has been made. . ." (emphasis added.) According to the ROC, the only act of the Midway Session with respect to the congregation meeting in question is that of the Session meeting of July 8, 2020: The act of calling a congregational meeting (ROC 217). That action is not objected to in the Complaint. Further, the congregational meeting of July 19, 2020 (ROC 226-252), afforded the

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Congregation the opportunity to change any of the acts that the Complaint alleges to be erroneous:

[the] change the call of three Assistant Pastors to the role of Associate Pastor through a stand vote that was conducted without the recommendation of a pulpit committee (violating *BCO* 20-2), without ballots (violating *BCO* 20-4), as a slate (violating *BCO* 20-4), with no abstentions counted (violating *BCO* 20-4), and with a significant minority opposed (violating *BCO* 20-5). . . .” (p. 1, lines 13-17).

It was the Congregation that acted to call without a pulpit committee; it was the congregation that decided to place an all-or-none election slate, and so on. Any one of these acts could have been rejected by majority vote of the Congregation, and the Session would have been powerless to order it otherwise. But a congregation meeting is not a court of the Church, and the *BCO* has no provision that allows a Complaint against congregational actions.

This decision does not mean, however, that there is no redress should a congregation take an action that violates the Constitution of the Presbyterian Church in America. There are at least three possible ways by which an alleged unconstitutional action of a Congregation could be dealt with by the higher courts.

First, one with standing could complain against the action of the Congregation at the point a court of the Church sought to implement the alleged unconstitutional decision. Thus, for example, if a Congregation elected a man to their Session who had not been trained or examined by Session per *BCO* 24-1 the Session’s action to install the man would be subject to Complaint. Similarly, if a Congregation voted to call a pastor in a way that violated the Constitution, the action of the Presbytery in approving the call would be subject to complaint by one who had standing.

Second, Presbytery could take note of a Constitutional deficiency in a congregational meeting in their review of the records of the Session (note *BCO* 25-5, last sentence and *BCO* 13-9(b)).

Third, under *BCO* 13-9.f, the Presbytery has power, “. . . to visit churches for the purpose of inquiring into and redressing the evils that may have arisen in them. . . .” Thus, any Constitutional irregularity at a congregational meeting, credibly brought to the attention of Presbytery, may be investigated, and upon a finding of error, may be redressed by the Presbytery.

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None of these possible responses was before us in this Complaint. The Complaint before us is focused directly on the actions of the congregational meeting themselves, and, as has been noted, there is no basis in our Constitution for a complaint against the actions of a Congregation *per se*.

This decision was unanimously approved by the Panel and amended and approved by the SJC on the following roll call vote:

Bankson <i>Not qual.</i>	M. Duncan <i>Concur</i>	Neikirk <i>Concur</i>
Bise <i>Dissent</i>	S. Duncan <i>Concur</i>	Nusbaum <i>Dissent</i>
Cannata <i>Concur</i>	Ellis <i>Concur</i>	Pickering <i>Dissent</i>
Carrell <i>Not qual.</i>	Greco <i>Concur</i>	Ross <i>Dissent</i>
Chapell <i>Not qual.</i>	Kooistra <i>Concur</i>	Terrell <i>Concur</i>
Coffin <i>Concur</i>	Lee <i>Concur</i>	Waters <i>Concur</i>
Donahoe <i>Dissent</i>	Lucas <i>Concur</i>	White <i>Dissent</i>
Dowling <i>Dissent</i>	McGowan <i>Not voting</i>	Wilson <i>Dissent</i>
(12-8-1)		

**Dissenting Opinion
of RE Jack Wilson**

BCO 43-1 provides, “A complaint is a written representation made against some act or decision of a court of the Church.”

The Commission determined that the Complaint was judicially out of order for failing to identify an act of the lower court (in this case a local session). We believe the Complaint did identify an act or decision of the Session and complain against that act. For this reason, we respectfully dissent.

The Complainants alleged that their Session erred by calling a congregational meeting for stated purposes which were arguably at odds with the Constitution. They complain, “...against the actions of the Session...in connection with their [*sic*] recommendation of July 9, 2020 that the congregation...approve the transition of three assistant pastors to the status of associate pastor simultaneously...” (ROC 268). This action, according to the motion Session adopted at a called meeting the day before, proposed that the congregation consent to the election of pastoral candidates via a procedure that the Complainants contended was in conflict with *BCO* 20-2. No congregational meeting was called by the Session to elect a pulpit committee. The Complainants further alleged that the election was improperly conducted without ballots (which are prescribed in *BCO* 20-4).

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The portion of the Complaint quoted above identifies an action or decision of the lower court, namely the calling of a congregational meeting at which the Session would recommend procedures which were alleged to be at odds with the Book of Church Order. We find this part of the Complaint sufficient to identify an “act” or “decision” under *BCO* 43-1. In our view, this allegation was sufficient to present a justiciable issue.

We note that the Complainants also present a number of issues regarding the actions of the congregation which may not be justiciable. We recognize, like the majority, that the *BCO* does not currently contain any express provision for complaint against the act of a congregation. That fact does not impair the viability of the complaint against the act or decision to call the meeting with the purposes and parameters stated by the Session. We express no opinion on the merits of the Complaint or whether the Record of the Case, as compiled to this point, would support or prove the allegations of the Complaint. We simply believe at least one justiciable issue was presented in the Complaint. We would have found the Complaint judicially in order and assigned it to a panel for adjudication.

This dissenting opinion was written by RE Jack Wilson and joined by RE John Bise, RE Steve Dowling, RE E.J. Nusbaum, RE John Pickering, TE Michael Ross, and RE John White.

**CASE NO. 2020-02
In the Matter of
BCO 34-1 Requests to Assume Original Jurisdiction
March 3, 2022**

The SJC answers the *BCO* 34-1 requests from Central Georgia, Southeast Alabama, and Savannah River Presbyteries (2020 Overtures 2, 4 and 25), by reference to the SJC’s October 21, 2021, Decision in Case 2020-12: *TE Ryan Speck v. Missouri Presbytery* and the SJC’s March 3, 2022, Decision in Case 2020-05: *TE Ryan Speck v. Missouri Presbytery*. RE Mel Duncan requested that his negative vote be recorded.