

CASE No. 2021-11

TE BRIAN PARK et al.

v.

KOREAN CENTRAL PRESBYTERY

DECISION ON COMPLAINT

June 2, 2022

SUMMARY OF THE CASE

This case came to the SJC on a Complaint initially filed by nine Teaching Elders within the Korean Central Presbytery (“KCP”), seven of whom later brought it to the higher court. The case began when Presbytery named an investigative committee to examine allegations of misconduct by a Teaching Elder that had begun many years before – in 2001. The TE was laboring out of bounds as the senior pastor of an independent church, Covenant Fellowship Church (“CFC”) in Champaign-Urbana, Illinois. The committee recommended that Presbytery appoint a prosecutor to draw an indictment regarding the Teaching Elder’s conduct. In the same meeting, however, before any indictment was prepared, the Presbytery voted to administer a censure of definite suspension from office. The Complainants allege errors in the process. The matter was adjudicated by the SJC.

I. SUMMARY OF THE FACTS

- 08/28/20 Thirteen individuals identifying as former members of CFC submitted a letter to KCP alleging that the senior Teaching Elder/Pastor Joshua Min Chung engaged in improper conduct toward a female member in 2001 and failed to disclose his conduct.
- 10/13/20 KCP formed an Ad-Interim Committee to investigate the allegations against the Teaching Elder
- 04/13/21 The Ad-Interim Committee reported its work and findings in a written report with a number of supporting exhibits and appendices. It recommended that KCP indict the Teaching Elder for his 2001 actions and subsequent conduct. KCP adopted the

MINUTES OF THE GENERAL ASSEMBLY

recommendation and appointed a prosecutor. In the same Zoom meeting, however, during its second day, prior to the preparation of any indictment, KCP's minutes record the following action:

"The Presbytery decided to rule as follows... Sexual harassment is unacceptable for Christians. In particular, the sin is aggravated because it is about what the pastor did to a member of his congregation. For such an offense, a certain period of suspension from the office seems appropriate. However, the leadership of CFC suspended his ministry for more than a year. Although this discipline did not comply with the BCO, it is sufficient in its content. Regarding recovery, the pastor reconciled with his victim, and regarding his relationship with God, he recognized his sin before God and relies on the blood of Christ. We judge that his relationship with God is restored as we consider the grace of God. We remind him to abide by the BCO, and we believe that he should return to ministry."

- 06/5/21 Nine Complainants filed a Complaint against KCP's action of April 14, 2021.
- 07/13/21 KCP met to consider the Complaint. A motion to rescind KCP's action of April 14, 2021 was defeated, falling one vote short of the two-thirds vote required by KCP's rules.
- 07/15/21 KCP issued a written statement indicating that its decision not to rescind its prior action effectively denied the Complaint. In offering a rationale for its action, KCP (and the Complainants) failed to recognize that it had denied the Complaint despite a vote that indicated a majority would have sustained the Complaint, which is all that is required to sustain a complaint.
- 08/09/21 Seven Complainants carried the Complaint to the General Assembly.
- 02/16/22 The Panel conducted the hearing with members TE Paul Bankson, (Chairman), RE Sam Duncan, and RE Jack Wilson (Secretary) in attendance. RE Dan Carrell and TE Fred Greco (alternates) were

APPENDIX T

also present. TEs Jooho Yoon and Brian Park presented for the Complainants, and TE Kukhun Lee represented KCP.

II. STATEMENT OF THE ISSUE

Did Korean Central Presbytery err in the manner in which it administered its censure to the Teaching Elder?

III. JUDGMENT

Yes. The Complaint is sustained, and the action of the lower court is annulled. The matter before the lower court is moot, as there can be no reasonable hope of just proceedings concerning an event twenty one years past and with no cooperating victim. The Complainants' brief virtually acknowledged the same, citing a former CFC lay leader and attorney by profession:

"In my mind there is a version that the victim told Sue Lee right after it happened. That's the version that Sue later told Janet. I think there is another version that was communicated to you during your investigation. And there are discrepancies. I don't think anyone is lying. I think it is a product of it happening such a long time ago; the victim wanting it dropped and maybe subconsciously or intentionally minimizing parts so that people will have an easier time letting it go. I experienced this when I prosecuted domestic violence cases."

IV. REASONING AND OPINION

BCO 32-3 provides in relevant part:

When a charge is laid before the Session or Presbytery, it shall be reduced to writing, and ***nothing shall be done at the first meeting of the court*** (emphasis supplied), unless by consent of parties, except:

1. to appoint a prosecutor,
2. to order the indictment drawn and a copy, along with names of witnesses then known to support it, served on the accused, and

MINUTES OF THE GENERAL ASSEMBLY

3. to cite the accused to appear and be heard at another meeting which shall not be sooner than ten days after such citation.

At the second meeting of the court the charges shall be read to the accused, if present, and he shall be called upon to say whether he be guilty or not. *If the accused confesses, the court may deal with him according to its discretion. . . .*
(Emphasis supplied.)

In its first meeting, the Presbytery erred by moving more quickly and summarily than the *BCO* prescribes. Presbytery acted to appoint a prosecutor; however, before the indictment could be drawn, on the same day Presbytery summarily administered a censure. Although Presbytery may have been intending to treat the case as one without process under *BCO* 38-1, its minutes of April 13-14, 2021, do not include any confession on the part of the Teaching Elder or reflect that a confession was offered or received, nor is there any reference to an agreement on a statement of facts.

The Record of the Case includes a three-page statement from the Teaching Elder responding to the findings of the Ad-Interim Committee; however, nothing in the Record of the Case (including the minutes of KCP) indicates that the statement was distributed to voting presbyters or considered in the administration of the censure. While the parties indicate some dialogue or interaction occurred between the Presbytery's decision to appoint a prosecutor and its decision to impose a censure of definite suspension from office, the minutes are silent as to the nature and substance of that interaction.

The above-quoted *BCO* provisions wisely provide for a measured process in a disciplinary matter. The time and consideration required for each step in the process allow for careful analysis and action by the prosecutor, the accused, and the court. Such deliberation is suitable to the weighty circumstances and consequences associated with disciplinary cases.

Once process is formally commenced, if discipline is then to be imposed without a trial, it is essential that the prosecutor, the accused member, and the court understand the scope of the matters being confessed and adjudicated. *BCO* 32-3 contemplates the accused making a confession to particular charges from an indictment. Without charges there can be no specific confession. In proceeding to administer a censure in the absence of charges and a specific

APPENDIX T

confession based on a statement of facts, Presbytery acted prematurely and erred.

As quoted above, Presbytery's own ruling on April 14, 2021, admitted its discipline did not comply with the *BCO*. Besides the *BCO*-related procedural error noted above, it also committed procedural errors in the conduct of the April meeting. Having agreed to accept the recommendations of the Ad-Interim Committee and appoint a prosecutor, it later adopted the statement quoted above. But the minutes reveal no motion to rescind the acceptance of the recommendations, let alone a two-thirds vote to rescind.

Further, in stating that "the leadership of CFC suspended his ministry for more than a year," KCP was relying on a suspension imposed not by a PCA church, but by pastors within an independent church, and the scope of the suspended ministry was never defined. Discipline is a matter for the church court to which a person is subject; in this case, the Teaching Elder in question was a member of KCP, not CFC. Neither CFC nor its staff had any authority to impose any disciplinary action of any kind. *BCO* 30-1 clearly indicates that censures are to "be inflicted by church courts" and then proceeds to describe Constitutional censures as "admonition, suspension from the Sacraments, excommunication, suspension from office, and deposition from office." KCP did not act in a Constitutional manner when it counted the actions of CFC (vague as they were) as a proper censure under *BCO* 30.

This decision in no way comments on the merits of the allegations. This decision does not mean that charges concerning events that occurred twenty one years ago are always not adjudicable.

The Panel decision was originally written by RE Jack Wilson, RE Dan Carrell, and TE Fred Greco and edited and approved by the Panel 3-0. The Panel's decision was modified and approved by the SJC by vote of 17-1-1 on the following roll call vote. Ruling Elders indicated by an ^R.

Bankson	Concur	M. Duncan ^R	Concur	Neikirk ^R	Concur
Bise ^R	Concur	S. Duncan ^R	Concur	Nusbaum ^R	Concur
Cannata	Concur	Ellis	Concur	Pickering ^R	Absent
Carrell ^R	Abstain	Greco	Concur	Ross	Dissent
-- vacant	---	Kooistra	Concur	Terrell ^R	Concur
Coffin	Concur	Lee	Absent	Waters	Concur

MINUTES OF THE GENERAL ASSEMBLY

Donahoe R	<i>Concur</i>	Lucas	Absent	White R	<i>Concur</i>
Dowling R	<i>Concur</i>	McGowan	Absent	Wilson R	<i>Concur</i>

CONCURRING OPINION

Case 2021-11: TE Park et al. v. Korean Central Presbytery

RE Jack Wilson

Joined by TE Paul Bankson, RE John Bise, RE Sam Duncan, and TE Fred Greco. RE Dan Carrell abstained from the vote but agrees with the views expressed in this Concurring Opinion.

We concur in the Commission's Judgment that the Complaint be sustained. The Panel which heard the case proposed to send the case back to Presbytery for further action. For the reasons which follow, we believe the case should have been returned to the lower court for further action. We disagree with the Commission's decision to terminate the case at this time.

The initial allegations against the Teaching Elder stem from events which occurred more than twenty years ago. The incident was not widely known for many years. We acknowledge that prosecuting a case arising from events in the distant past may be extraordinarily difficult. The Record of the Case indicates that the victim may not wish to testify or participate in the case. The passage of time could present challenges in proving multiple aspects of the case. The accused could raise a number of defenses. While these circumstances may make prosecution *difficult*, we do not believe it to be *impossible*.

In addition, the Record of the Case includes other claims and potential offenses (the facts of which are disputed) which could have formed the basis for other charges regarding the Teaching Elder's subsequent conduct in interacting with church members, with his fellow pastors, with Presbytery, and with his wife. Some of those interactions occurred well after the initial events. Some of them are alleged by the Complainants to be ongoing. We believe any offenses occurring, recurring, or continuing after the date of the SJC's decision could form the basis for further investigation and subsequent charges.

APPENDIX T

In view of these other potential offenses and the procedural errors identified in the decision, we preferred to return the case to the lower court where Presbytery could have completed the process it initiated, with its appointed Prosecutor drafting an indictment. If the accused confessed to the indictment or any part of it, Presbytery could have administered a censure for the matters confessed in accordance with *BCO* 32-3. If the accused pled not guilty, then the case could have proceeded to trial. In the alternative, the accused and Presbytery (if it chose to do so in the exercise of its discretion) could have engaged in the process described in *BCO* 38-1 to attempt to resolve the matters. We believe the Commission erred in its decision to end the case without requiring follow up action in the lower court.

CONCURRING OPINION *Case 2021-11: Park et al. v. Korean Central Presbytery*

RE Howie Donahoe

While I agreed with the final disposition of this Case, I disagreed with the Statement of the Issue and the Judgment, which ruled Presbytery erred “in the manner in which it administered its censure to the Teaching Elder.” I disagreed because Presbytery did not administer any censure. The Decision further mischaracterized Presbytery’s action by using phrases like those below. (All emphasis added.)

- “Presbytery voted to *administer* a censure of definite suspension” (p. 1)
- “Presbytery summarily *administered* a censure” (p. 3)
- “considered in the *administration* of the censure” (p. 3)
- “decision to *impose* a censure of definite suspension from office” (p. 3)
- “in proceeding to *administer* a censure in the absence of charges” (p. 4)

Presbytery did not “administer” anything. It simply recognized, and regarded as sufficient, a suspension of duties previously imposed by the non-PCA church. And that was Presbytery’s prerogative. At its April 2021 meeting, Presbytery exercised its discretion and judgment (shown below), on a matter that could best “be addressed by a court with familiar acquaintance of the events and parties,” and thus SJC should afford the “great deference” of *BCO* 39-3.3.

MINUTES OF THE GENERAL ASSEMBLY

Sexual harassment is unacceptable for Christians. In particular, the sin is aggravated because it is about what the pastor did to a member of his congregation. For such an offense, a certain period of suspension from the office seems appropriate. However, the leadership of [the non-PCA church] suspended his ministry for more than a year. Although this discipline did not comply with the BCO, it is sufficient in its content. Regarding recovery, the pastor reconciled with his victim, and regarding his relationship with God, he recognized his sin before God and relies on the blood of Christ. We judge that his relationship with God is restored as we consider the grace of God.

In addition, the Decision indicates the victim wanted the matter “dropped.” In addition, the Record indicated the woman communicated in Oct. 2019: “I adamantly requested the incident [of 18 years prior] to be private and continue to do so. Any rendition of the incident from other sources are not directly from me, so are a misrepresentation of the story and false. Again, I absolutely requested the incident to be completely private and continue to do so.” The recent Report of the GA’s Ad Interim Committee on Domestic Abuse and Sexual Assault encourages the following: “In addition, an abuse victim will struggle to convey their own desires. Church members and leaders help victims by encouraging them to communicate their thoughts *and make their own decisions.*” (AIC Report, p. 2401. Emphasis added.)⁷

DISSENTING OPINION

Case 2021-11: TE Park et al. v. Korean Central Presbytery

TE Michael F. Ross

I dissent in the judgment rendered by the SJC on June 2, 2022, in Case 2021-11, in declaring the matter before the Korean Central Presbytery (KCP) moot, and in effect removing any opportunity for remedy to the lower court. My

⁷ In AIC Report, see esp.: “Responding to an Adult Sexual Abuse Disclosure or Discovery,” pp. 2393-2408.

APPENDIX T

reasons are simple and straight-forward, and are explained in the following paragraphs.

The majority decision rested upon an erroneous assumption: "...as there can be no reasonable hope of just proceedings concerning an event twenty-one years past and with no cooperating victim." The justification for this erroneous assumption, as stated in the summary of the facts, rests on the opinion of a former member and lay leader of Covenant Fellowship Church (CFC), albeit an attorney. The SJC seems to have ignored the fact that thirteen former members of CFC brought allegations against the TE accused of improper conduct toward a female member (ROC 9-14) and that the accused TE admitted his guilt before the Korean Central Presbytery (KCP) via their Ad Hoc Investigative Committee. He wrote: "I grieve and acknowledge my guilt before God and before you, the Korean Central Presbytery. I will submit to the discipline of their court. All I ask for are fairness and clarity." (ROC 489) Additionally, the SJC stated: "This decision does not mean that charges concerning events that occurred twenty-one years ago are always not adjudicable."

Indeed, our *Book of Church Order (BCO)* clearly deals with incidents that occurred long ago.

32-20. Process, in case of scandal, shall commence within the space of one year after the offense was committed, unless it has recently become flagrant. When, however, a church member shall commit an offense, after removing to a place far distant from his former residence, and where his connection with the church is unknown, in consequence of which process cannot be instituted within the time above specified, the recent discovery of the church membership of the individual shall be considered as equivalent to the offense itself having recently become flagrant. The same principle, in like circumstances, shall also apply to ministers.

The clock for this complaint did not begin with the sexual misconduct in 2001, but with the June 5, 2021 complaint against KCP's ignoring the allegations of several witnesses, the misapplication of old discipline administered by a non-PCA church, and KCP's errors in following *BCO* 31-2. There is nothing in the

remedy sought by the Complainants that could justify the ruling that “there can be no reasonable hope of just proceedings” in this case.

Quite the opposite. By sustaining the complaint, as the SJC panel originally did, and remanding it back to KCP “for action consistent with this decision,” there were several viable options open to KCP to administer justice, remove the public scandal of this affair, and act to reclaim and restore a fallen brother in Christ. All the options are quite “reasonable.” Each option offers a proper application of due process.

- Option 1: The SJC could have referred the matter back to Presbytery on the following grounds: That the matter was not properly before the SJC in the first place. (In the SJC’s “summary of the facts” it was noted that KCP did in fact sustain the original complaint, and only by a mistaken count of the vote was the complaint denied and subsequently brought before the SJC. [Page 1, lines 22-26])
- Option 2: Presbytery could have revisited the proposal to accept the act of discipline by CFC, adding to it a measure of accountability, counseling and assistance in helping the guilty TE to restore and renew his marriage, ministry and reputation.
- Option 3: In light of the events thus transpired, Presbytery could have applied the compassion and wisdom of the pastoral approach set forth in *BCO* 34-6:

34-6. If the Presbytery find on trial that the matter complained of amounts to no more than such acts of infirmity as may be amended, so that little or nothing remains to hinder the minister's usefulness, it shall take all prudent measures to remove the scandal.

It could have thus gone on record in declaring the improper conduct to be serious sin and moved to aid a penitent brother regain a measure of renewal.

- Option 4: Presbytery could have acted upon the guilty plea of the TE, offered to its Ad Hoc Investigative Committee. They could have then instituted the process outlined in *BCO* 32-3 by charging the offender,

receiving his guilty statement and applying appropriate discipline “according to its discretion.” (*BCO* 32-3)

- Option 5: The Presbytery could have reversed its decision, appointed a prosecutor, prepared an indictment, and proceeded to trial. The fact that they failed to do this the first time does not mean there can be no “reasonable” remedy afforded to all the parties involved. The SJC often remands cases to Presbyteries in order for them to do properly what they initially failed to do.

The SJC’s concern that the female, who was mistreated twenty-one years ago, would not be willing to come forth for trial is not of vital concern in this case. She need not appear as a witness; the TE has already confessed his sin against her. The *BCO* 31-2 process can move forward on the basis of the TE’s confession. (*BCO* 31-3) The guilty TE has stated, in writing, “I will submit to the discipline of the court.” (ROC 489) Thus, at the very least *BCO* 34-7 applies to this case.

34-7. When a minister, pending a trial, shall make confession, if the matter be base and flagitious, such as drunkenness, uncleanness, or crimes of a greater nature, however penitent he may appear to the satisfaction of all, the court shall without delay impose definite suspension or depose him from the ministry.

It should also be kept in mind that in the original complaint to KCP the complainants included an appendix of eight allegations. Six of these allegations need not involve the corroborating witness of the offended female. Nevertheless, they were serious enough to warrant investigation and proper action on the part of KCP.

I disagree that this case is somehow “moot.” *Webster’s New World College Dictionary: Third Edition* defines the word *moot*: “(1) subject or open for discussion or debate; debatable; (2) not worthy of consideration or discussion because it has been resolved or no longer needs to be resolved.” There is no debate on the guilt of the accused TE nor of the nature and severity of his offenses. The only debate is over the actions of KCP within the last year. Additionally, this case has not been resolved, and certainly is not in the category of something that “does not need to be resolved.”

MINUTES OF THE GENERAL ASSEMBLY

The PCA is deeply concerned about the epidemic of sexual assault and physical abuse of women and children in our American society and its rising pattern in the PCA, as is evidenced by the report of the PCA's study committee on domestic abuse and sexual assault. The SJC's own case-load gives portent of an increasing number of sexual misconduct cases coming before the SJC. The SJC's concluding statement that, "This decision in no way comments on the merits of the allegation. This decision does not mean that charges concerning events that occurred twenty-one years ago are always not adjudicable.", indicates the SJC's concern for the protection of its members from any form of sexual misconduct or abuse. This concluding statement reinforces the SJC's commitment to the pursuit of justice in cases of abuse that come before it.

I remain convinced that the SJC was simply attempting to follow due process in this case, something the SJC always attempts to do in all its caseload. I am also certain that each and every SJC member cares deeply about the protection of all PCA members from violence, abuse and any form of injustice. My dissent is in no way intended to impugn either the motives or the character of my fellow judges. But I am also concerned that this decision could leave the SJC and the PCA open to unfair accusation that we found technical grounds for sweeping this vital issue under the rug. Even now the SJC is involved in another case of alleged sexual conduct by a TE, in which the PCA is being charged, on social media, with this untrue accusation. Thus, I am concerned about the honor and good name of both the SJC and the PCA.

While attempting to follow due process, the SJC arrived at a final decision that was too narrow to afford KCP opportunity to bring proper closure to this matter. I believe the panel's original decision to remand the case back to KCP was the proper, wise, and prudent course of action, and would have avoided any unjust accusation that the SJC did not take seriously the issues set forth in this case. For these reasons, I most respectfully dissent.

**SJC ANSWER
TO DISSENTING OPINION**
Case 2021-11: TE Park et al. v. Korean Central Presbytery
October 22, 2022

This Answer addresses the Dissent's assertion below.

The [SJC] decision rested upon an erroneous assumption: "...as there can be no reasonable hope of just proceedings concerning an event twenty-one years past and with no cooperating victim." The justification for this erroneous assumption, as stated in the summary of the facts, rests on the opinion of a former member and lay leader of Covenant Fellowship Church [non-PCA], albeit an attorney.

It is not accurate to contend the SJC's Judgment rests solely on the opinion of a third-party. The woman explicitly asked that this matter not be pursued. For example, below are two of her emails in the Record.

"From the beginning, [the minister] has honored my wishes to keep the situation totally private, respected my desire to restore our relationship, and move forward. I'm very saddened to hear that the story has surfaced into a distorted truth of full out lies which only bring further unnecessary damage. No one had my permission to share what turned into a gross misinterpretation of the truth. Again, I chose privacy and now ask you to also respect my desire." (September 28, 2019, Record p. 322)

"I adamantly requested the incident to be private and continue to do so. Any rendition of the incident from other sources are not directly from me, so, are a misrepresentation of the story and false. Again, I absolutely requested the incident to be completely private and continue to do so." (October 8, 2019, Record p. 330)

The Record indicates the woman clearly wanted the two-decades-old matter dropped. The Complaint did not demonstrate her explicit wishes ever changed. Therefore, the Dissent's concern that "this decision could leave the SJC and the PCA open to unfair accusation that we found technical grounds for sweeping this vital issue under the rug" is without reasonable basis.