

**PERMANENT JUDICIAL COMMISSION
OF THE SYNOD OF LIVING WATERS
PRESBYTERIAN CHURCH (U.S.A.)**

Patrick Handlson,)
	Complainant,)
v.)
)
Presbytery of Middle Tennessee,)
	Respondent.)

DECISION AND ORDER

SLW2018-02

Arrival Statement

This is a remedial case of original jurisdiction which is before the Permanent Judicial Commission of the Synod of Living Waters (SPJC or Commission) on a Complaint received on March 5, 2018, by Patrick Handlson (Complainant) against the Presbytery of Middle Tennessee (Presbytery). The trial of the case was held on January 10, 2019, at First Presbyterian Church in Franklin, Tennessee.

Jurisdictional Statement

In its Preliminary Order dated April 24, 2018, the officers of the SPJC found that this Commission has jurisdiction, that the Complainant has standing to file the Complaint, that the Complaint was timely filed, and that two of the three alleged irregularities state claims upon which relief can be granted, and the matter was accepted for trial on those two alleged irregularities.

Appearances

The Complainant was present and was represented by E. J. Mackie, Neal Lloyd, and Jamie Lloyd. The Respondent was represented by George V. Crawford III, Hunter Brush, and Terry Epling.

History

The Complaint arises from actions taken at a meeting of the Presbytery on February 3, 2018, at which a motion from the Committee on Ministry (COM) of the Presbytery to restore the Complainant, who is a minister member of the Presbytery currently under the censure of temporary exclusion, was not approved.

Subsequent to its disapproval of the COM's motion, the Presbytery considered, debated and approved a second motion that Complainant could, subject to certain conditions, "renew his request for reinstatement every 24 months..." Those conditions were as follows:

- that he can show continued work toward healing and health through things like counseling, getting a support group, participating in a church;
- that he continue to abide by the restrictions placed upon him through his guilty plea and abide by the Presbytery's Former Pastor Policy;

- that he submit written reports of his work toward healing and health every six months to the Presbytery's Committee on Ministry; and
- that there be no more incidents of misconduct on his part.

And that if Mr. Handlson desires for this body to reconsider the decision that has been made today, his request will come through the Stated Clerk of the Presbytery; and all of the documents provided at this meeting, including the victim's impact statement, as well as any other documents that the Committee on Ministry believes are important for this council to consider, will be included in the packet from the Presbytery prior to the meeting.

The Complainant, who had been present and was heard prior to the vote on the COM's motion, was not present when this second motion was offered, debated and adopted.

As stated above, the Complaint alleged three irregularities at the meeting, the first of which was that the Presbytery was irregular in "rejecting the recommendation of the Committee on Ministry." The officers' Preliminary Order which excluded this alleged irregularity on the grounds that even if true, this would not violate the constitution, was not challenged, and therefore that ruling is final.

The two alleged irregularities accepted for trial were that the Presbytery erred in "imposing new censures" following its vote on the COM recommendation, and that it further erred in "excluding [the Complainant] from the Presbytery's deliberation" on the matter.

A pre-trial conference was held on August 21, 2018, at which the parties were asked to create a joint stipulation of facts, and while each party submitted separate statements of facts that were substantially identical, they did not reach agreement on a single material fact, requiring at least some additional time for the trial of the case.

A briefing schedule was also set at the pre-trial conference, and a trial date was set subsequently.

Decision

In rendering this decision, the SPJC is mindful of the admonitions and instructions found in the preamble to the Rules of Discipline. This body and our purposes are unique. Our exercise of authority in Church Discipline is God given and is not intended to punish, but rather to focus on the healing and restorative nature of our faith.

God is honored by a commission like this when it seeks justice for all involved. Correction and restraint from wrongdoing will inevitably bring participants to repentance and restoration. Our duties are further broadened when we must assure not only the parties to the process, but also the larger community of faith, that the causes of discord and division have been effectively removed. Justice here is a gem with many facets.

The SPJC's actions in all regards are intended to build and strengthen the Church and are not punitive to either Mr. Handlson or the Presbytery of Middle Tennessee.

In this case, the constitution provides in D-12.0104h that "a person under the censure of temporary exclusion shall apply in writing to the council...for restoration upon the expiration of the time of exclusion or completion of the supervised rehabilitation pronounced." Clearly, the time "pronounced" in the censure was six months. When, at its meeting, the Presbytery began its further instruction on the matter of the Complainant's process of restoration by stating that he could only renew his request "every

24 months,” the Presbytery was in violation of this constitutional provision. Furthermore, adding such a requirement without the Complainant being given an opportunity to speak to it was a violation of the requirements of due process.

The General Assembly’s Permanent Judicial Commission in *Muskingum v. Hauser* (GAPJC 222-06) has ruled that “a presbytery has no authority to amend a censure. Insofar as the judicial process requires ongoing enforcement of a censure, that authority rests with the presbytery.” We conclude that the “conditions” approved by the Presbytery at its February 3, 2018, meeting, however, fall in the category of its “ongoing enforcement of a censure,” and are therefore enforceable.

Therefore, while the Complainant’s due process rights were violated by his exclusion from the meeting (where he had in fact earlier been given the opportunity not only to address the Presbytery but also to answer questions from other members), that is only true to the extent that the new 24-month requirement was added, and therefore the violation is rendered moot by the invalidation of that requirement.

We note that we reject the Complainant’s argument that no vote is necessary, and that the matters of restoration and honorable retirement cannot constitutionally be combined into a single vote. The Complainant’s welcome back into the communion through restoration is not his decision alone, which is why a communal process of some sort is warranted. Ultimately, he will not be restored until a majority of the Presbytery is willing to do so. That said, while the wording of the original censure is inartful in its implementation of both a definite time period *and* a supervised rehabilitation process (when the Rules of Discipline call for one or the other), the exclusion was clearly intended to be temporary, not permanent, and the Presbytery’s leadership is urged to help the Presbytery move forward in a manner that gives effect to the censure’s intent.

Order

IT IS THEREFORE ORDERED that the actions of the Presbytery of Middle Tennessee at its meeting on February 3, 2018, related to Patrick Handlson are reversed in part and affirmed in part, and the 24-month requirement before he may renew his request for reinstatement is invalidated.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of Middle Tennessee report this decision to the Presbytery of Middle Tennessee at its first meeting after receipt, that the Presbytery of Middle Tennessee enter the full decision upon its minutes, and that an excerpt from those minutes showing entry of the decision be sent to the Stated Clerk of the Synod of Living Waters.

Absences and Non-Appearances

Commissioner Christi Scott was recused and took no part in the deliberations or decisions. Commissioners Anne Chesnut, Jonathan Wallace, Chip Herndon, and David Maxwell were absent and took no part in the deliberations or decisions.

Certificate

We certify that the foregoing is a true and correct copy of the decision of the Permanent Judicial Commission of the Synod of Living Waters of the Presbyterian Church (U.S.A.) in Remedial Case SLW2018-02, *Patrick Handlson v. Presbytery of Middle Tennessee*, made and announced at Franklin, TN, this 10th day of January, 2019.

Dated this 10th day of January, 2019.

Mac Forsyth, Moderator
Permanent Judicial Commission of the Synod of Living Waters

Gregory A. Goodwiller, Clerk
Permanent Judicial Commission of the Synod of Living Waters

I certify that I did transmit a certified copy of the foregoing to the following persons by Certified US Mail, directing Terry Newland to deposit it in the mail at Franklin, TN on or before the 11th day of January, 2019.

E. J. Mackie, Counsel for Complainant
George V. Crawford III, Counsel for Respondent
Stated Clerk, Presbytery of Middle Tennessee

Gregory A. Goodwiller, Clerk
Permanent Judicial Commission of the Synod of Living Waters

I certify that I received a certified copy of the foregoing, that it is a full and correct copy of the decision of the Permanent Judicial Commission of the Synod of Living Waters of the Presbyterian Church (U.S.A.), sitting during an interval between meetings of the Synod, in Franklin, TN, in Remedial Case SLW2018-02, Patrick Handlson v. Presbytery of Middle Tennessee, and that it is the final judgment of the Synod of Living Waters in the case.

Dated at Franklin, TN, on January 10th, 2019.

Terry Newland
Stated Clerk, Synod of Living Waters