

THE PERMANENT JUDICIAL COMMISSION
OF THE GENERAL ASSEMBLY
OF THE PRESBYTERIAN CHURCH (U.S.A.)

Randall Bush, Wayne Peck, and the Session of)
East Liberty Presbyterian Church,)
Complainants-Appellants,)

v.

) DECISION AND ORDER

Presbytery of Pittsburgh,) Remedial Case 218-10
Respondent-Appellee.

Headnotes

1. **No Departures from “Fidelity and Chastity” Requirement:** Candidates and examining bodies must follow G-6.0108 in reaching determinations as to whether the candidates for ordination and/or installation have departed from essentials of Reformed faith and polity. Such determinations do not rest on distinguishing “belief” and “behavior,” and do not permit departure from the “fidelity and chastity” requirement found in G-6.0106b.
2. **Examinations of Candidates:** Ordaining and installing bodies must examine candidates for ordination and/or installation individually. The examining body is best suited to make decisions about the candidate’s fitness for office, and factual determinations by examining bodies are entitled to deference by higher governing bodies in any review process.
3. **Statements of “Essentials of Reformed Faith and Polity”:** Attempts by governing bodies that ordain and install officers to adopt resolutions, statements or policies that paraphrase or restate provisions of the Book of Order and/or declare them as “essentials of Reformed faith and polity” are confusing and unnecessary; and are themselves an obstruction to constitutional governance in violation of G-6.0108a.

Arrival Statement

This remedial case comes before the General Assembly Permanent Judicial Commission (GAPJC) on appeal filed by the Complainants/Appellants, Randall Bush, Wayne Peck, and the Session of East Liberty Presbyterian Church, from a Decision of the Permanent Judicial Commission of the Synod of the Trinity (SPJC) dated May 16, 2007.

Jurisdictional Statement

This Commission finds that it has jurisdiction, that Complainants/Appellants have standing to appeal, the appeal was properly and timely filed, and the appeal states one or more grounds for appeal under D-8.0105.

Appearances

Randall Bush, Wayne Peck, and the Session of East Liberty Presbyterian Church (Bush, et al.) were represented by Stephen Paschall and Randall Bush. The Presbytery of Pittsburgh (Presbytery) was represented by Susan Dobbins.

History

The 217th General Assembly adopted, with amendment, the recommendations of the Theological Task Force on Peace, Unity, and Purity of the Church (PUP Task Force). The fifth and final of those recommendations sets forth an authoritative interpretation of G-6.0108 (Authoritative Interpretation) which is thereby binding on the church. The Authoritative Interpretation (which is recommendation 5 of the PUP Report) states¹:

- a. The Book of Confessions and the Form of Government of the Book of Order set forth the scriptural and constitutional standards for ordination and installation.
- b. These standards are determined by the whole church, after the careful study of Scripture and theology, solely by the constitutional process of approval by the General Assembly with the approval of the presbyteries. These standards may be interpreted by the General Assembly and its Permanent Judicial Commission.
- c. Ordaining and installing bodies, acting as corporate expressions of the church, have the responsibility to determine their membership by applying these standards to those elected to office. These determinations include:
 - (1) Whether a candidate being examined for ordination and/or installation as elder, deacon, or minister of Word and Sacrament has departed from scriptural and constitutional standards for fitness for office,
 - (2) Whether any departure constitutes a failure to adhere to the essentials of Reformed faith and polity under G-6.0108 of the Book of Order, thus barring the candidate from ordination and/or installation.
- d. Whether the examination and ordination and installation decision comply with the Constitution of the PC(USA), and whether the ordaining/installing body has conducted its examination reasonably, responsibly, prayerfully, and deliberately in deciding to ordain a candidate for church office is subject to review by higher governing bodies.
- e. All parties should endeavor to outdo one another in honoring one another's decisions, according the presumption of wisdom to ordaining/installing bodies in examining candidates and to the General

¹ The remainder of the PUP report (including the rationale for recommendation 5) was received, but not adopted, by the General Assembly, and therefore has no binding effect on the church.

Assembly, with presbyteries' approval, in setting standards. 217th General Assembly (2006) (Minutes, pp.514-515).

Following this action by the General Assembly, several sessions in the Presbytery proposed a resolution (Resolution) to the Presbytery seeking to "clarify" the Authoritative Interpretation. The Resolution states:

In its discernment of the essentials of Reformed polity and for the sake of the peace, unity, and purity of the church, Pittsburgh Presbytery [Resolution, part 1]:

Adopts the principle that compliance with the standards for ordination approved by the Presbyterian Church (USA) in the Book of Order is an essential of Reformed polity. Therefore, any departure from the standards of ordination expressed in the Book of Order will bar a candidate from ordination and/or installation by this governing body. Provisions of the Book of Order are signified as being standards by use of the term "shall," "is/are to be," "requirement" or equivalent expression [Resolution, part 2]; and

Resolves that no exceptions to the requirement that all Ministers of Word and Sacrament must "live either in fidelity within the covenant of marriage between a man and a woman or in chastity in singleness" (Book of Order, G-6.0106b) will be allowed within the jurisdiction of this Presbytery [Resolution, part 3]; and

Resolves that Ministers of Word and Sacrament shall be prohibited from conducting same-sex marriages within the jurisdiction of this Presbytery [Resolution, part 4].

The Resolution was first reviewed by the Presbytery Council at a meeting on August 22, 2006. A motion was made to refer the Resolution to the Presbytery's Committee on Ministry. The motion failed, and the decision was made to present the Resolution to the full Presbytery at the September meeting, with a final vote scheduled for the October Presbytery meeting. The Resolution was read and debated at the September 7, 2006 Presbytery meeting. Again a motion to refer to the Committees on Ministry and Preparation for Ministry failed, and further action was deferred to the October meeting. The Resolution was again considered at the Presbytery meeting of October 12, 2006. At the conclusion of debate, following prayer, the Resolution was adopted on a paper ballot vote of 148 to 105.

On November 22, 2006, Bush, et al., filed a "Complaint of an Irregularity and a Request for Stay of Enforcement" with the Synod of the Trinity. SPJC issued a Stay of Enforcement on November 26, 2006. Trial before the SPJC was held on May 14 and 15, 2007, and the SPJC Decision and Order was issued on May 16, 2007. The SPJC

sustained the first three irregularities alleged in the Complaint, but struck only part 2 of the Resolution.

By notice dated June 29, 2007, received July 5, 2007, Bush, et al., appealed to this Commission. Bush, et al., did not appeal from the final Order of the SPJC, but alleged irregularities in the SPJC Decision, contending that the SPJC erred in constitutional interpretation.

GAPJC issued a Preliminary Order on July 30, 2007, and the matter was set for a hearing on February 8, 2008. On October 12, 2007, counsel for the Presbytery filed a “Motion for Dismissal, or in the Alternative, Substitution of Real Party in Interest” (Motion). The Motion alleged that the Appellants had prevailed before the SPJC and therefore the Presbytery had no further interest or obligation in the matter. On October 22, 2007, the GAPJC Executive Committee amended its Order for Hearing, stating that the Motion would be heard at the February session of the GAPJC. On November 11, 2007, the full GAPJC reconsidered the Order for Hearing, denied the Motion, and revised the briefing schedule on the main matter. The appeal was heard by the GAPJC on February 8, 2008.

Specifications of Error and Decision

Specification of Error No. 1. The SPJC erred in constitutional interpretation by failing to place faith and practice (belief and behavior) on an “equal footing.”

This specification of error is not sustained.

The Authoritative Interpretation includes a rationale section which was not adopted by the General Assembly. The rationale describes G-6.0106b as a “manner of life standard” and states that the Authoritative Interpretation “requires ordaining and installing bodies to examine carefully both the doctrinal views and the manner of life of those elected to office.” It is up to the examining body to determine whether a candidate’s actions and beliefs, including with respect to G-6.0106b, are a serious departure from the essentials of Reformed faith and polity, or are such that they infringe on the rights and views of others, or would obstruct the constitutional governance of the church (G-6.0108a). The PUP Task Force Report in its rationale for the Authoritative Interpretation stated: “Section G-6.0108 puts ‘faith and polity’ – belief and behavior – on an equal footing, as they were in 1729, when scruples were permitted in matters of ‘doctrine, discipline and government.’ ” (Minutes of the 217th General Assembly (2006), pg. 516) The rationale for the Authoritative Interpretation recognizes that faith encompasses behavior in that faith is demonstrated by action.

As finally adopted by the General Assembly, the Authoritative Interpretation does not equate “polity” with “behavior.” Nevertheless, the church has required those who aspire to ordained office to conform their actions, though not necessarily their beliefs or opinions, to certain standards, in those contexts in which the church has deemed conformity to be necessary or essential. Section G-6.0106b contains a provision where conformity is required by church officers “to live either in fidelity within the covenant of

marriage between a man and a woman (W-4.9001), or in chastity in singleness.” The church has decided to single out this particular manner of life standard and require churchwide conformity to it for all ordained church officers. Therefore, the specific “fidelity and chastity” standard in G-6.0106b stands in contrast to the provisions of G-6.0106a, including those concerning faith, discipleship, belief and manner of life in the church and the world, and also the remainder of G-6.0106b. The candidate and examining body must follow G-6.0108 in reaching a determination as to whether the candidate for office has departed from essentials of Reformed faith and polity, but that determination **does not rest on distinguishing “belief” and “behavior,” and does not permit departure from the “fidelity and chastity” requirement found in G-6.0106b.** Accordingly that portion of SPJC decision that stated: “no presbytery may grant an exception to any mandatory church wide behavioral ordination standard,” was correct. We agree with the SPJC that, “Under our polity, violations of behavioral standards are to be addressed through repentance and reconciliation, not by exception or exemption. The freedom of conscience granted in G-6.0108 allows candidates to express disagreement with the wording or meaning of provisions of the constitution, but does not permit disobedience to those behavioral standards.” The fidelity and chastity provision may only be changed by a constitutional amendment. Until that occurs, individual candidates, officers, examining and governing bodies must adhere to it.

Specification of Error No. 2. The SPJC erred in constitutional interpretation by establishing mandates of the Book of Order as “Essentials” of Reformed polity.

This specification of error is sustained in part and not sustained in part.

The Authoritative Interpretation correctly states that the standards for ordination of officers in the Presbyterian Church (U.S.A.) are set forth in the Book of Confessions and the Form of Government. Section “b” of the Authoritative Interpretation states that “these standards are determined by the whole church, after the careful study of Scripture and theology, solely by the constitutional process of approval by the General Assembly with the approval of the presbyteries” (emphasis added). The constitutional process for amending ordination standards (or any other provision of the Constitution) is defined in Chapter 18 of the Form of Government. While the General Assembly and the GAPJC may interpret these standards, the Authoritative Interpretation did not (and constitutionally could not) change any ordination standard, including the requirements set forth in G-6.0106b. Similarly, no lower governing body can constitutionally define, diminish, augment or modify standards for ordination and installation of church officers.²

Although G-1.0301 permits broad freedom of conscience for members of the church, “in becoming a candidate or officer of the Presbyterian Church (U.S.A.) one chooses to exercise freedom of conscience within certain bounds” (G-6.0108b). G-6.0108a defines the limits of this freedom of conscience for ordained church officers. It first states the requirement that all church officers adhere to the essentials of Reformed

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faith and polity as expressed in the Book of Confessions and the Form of Government.³ It next assures freedom of conscience, but only with respect to the interpretation of Scripture. Even then, freedom of conscience is permitted only to the extent that it (a) is not a serious departure from the essential standards of Reformed faith and polity, (b) does not infringe on the rights and views of others, and (c) does not obstruct the constitutional governance of the church.

Ordaining bodies have the right and responsibility to determine whether or not any “scruples” declared by candidates for ordination and/or installation constitute serious departures from our system of doctrine, government, or discipline; to what extent the rights and views of others might be infringed upon by those departures; and whether those departures obstruct the constitutional governance of the church. At the same time, attempts by governing bodies that ordain and install officers to adopt resolutions, statements or policies that paraphrase or restate provisions of the Book of Order and/or declare them as “essentials of Reformed faith and polity” are confusing and unnecessary. G-6.0108a sets forth standards that apply to the whole church. These standards are binding on and must be followed by all governing bodies, church officers and candidates for church office. Adopting statements about mandatory provisions of the Book of Order for ordination and installation of officers falsely implies that other governing bodies might not be similarly bound; that is, that they might choose to restate or interpret the provisions differently, fail to adopt such statements, or possess some flexibility with respect to such provisions. Restatements of the Book of Order, in whatever form they are adopted, are themselves an obstruction to the same standard of constitutional governance no less than attempts to depart from mandatory provisions.

The Presbytery’s resolution would define the “essentials” of Reformed faith and polity by restating the Presbytery’s intention to enforce mandatory provisions of the Book of Order, when it has no authority to do otherwise. At the same time, declaring “essentials” outside of the context of the examination of a candidate for ordained office is inappropriate. As was stated in the 1927 Report of the Special Commission of 1925 (Swearingen Commission Report) Presbyterian Church in the United States of America Minutes, 1927, pp. 78-79:

One fact often overlooked is that by the act of 1729, the decision as to essential and necessary articles was to be in specific cases. It was no general authority that might be stated in exact language and applied rigidly to every case without distinction. It was an authority somewhat undefined, to be invoked in each particular instance. . . . It was clearly the intention that this decision as to essential and necessary articles was to be made after the candidate had been presented and had declared his [or her] beliefs and stated his [or her] motives personally, and after the examining body...had full opportunity to judge the man himself [or woman herself] as well as abstract questions of doctrine.

This section of the Book of Order refers only to the Form of Government, failing to recognize that standards for ordination of officers are now found in the Directory for Worship. This is an apparent oversight that should be addressed by the General Assembly.

For these reasons, the Resolution is unconstitutional and in error. It is not permissible for a presbytery or a session to define “essentials of Reformed faith and polity” outside of the examination of any candidate for office. Such a determination must be made only in the context of a specific examination of an individual candidate.

It would be an obstruction of constitutional governance to permit examining bodies to ignore or waive a specific standard that has been adopted by the whole church, such as the “fidelity and chastity” portion of G-6.0106b, or any other similarly specific provision. On the other hand, the broad reference in G-6.0106b to “any practice which the confessions call sin” puts the responsibility first on the candidate and then on the examining body to determine whether a departure is a failure to adhere to the essentials of Reformed faith and polity and the remainder of G-6.0108(a) with respect to freedom of conscience. The ordaining body must examine the candidate individually. The examining body is best suited to make decisions about the candidate’s fitness for office, and factual determinations by examining bodies are entitled to deference by higher governing bodies in any review process.

The SPJC’s treatment of part 3 of the Presbytery’s Resolution is unclear. This Commission concludes that since SPJC did not explicitly “void” part 3 of the Resolution (as it did part 2 of the Resolution), part 3 of the Resolution was not invalidated by SPJC’s Decision.

The SPJC correctly stated that the fidelity and chastity provision of G-6.0106b is a mandatory standard that cannot be waived. To the extent that the SPJC Decision appears to leave in force part 3 of the Resolution, Specification of Error 2 is sustained. Presbyteries do not have the authority to restate or define such standards.

Similarly, we note that part 4 of the Resolution appears to suffer from the same infirmity as part 3 of the Resolution; however, that issue was not briefed or argued to this Commission. Thus, the GAPJC makes no decision as to part 4 of the Resolution. We note, additionally, that if the Presbytery’s intent was to provide a “summary of civil law intended to advise new clergy about the legal context of their ministry,” as suggested in the SPJC Decision, it was an improper attempt by an ecclesiastical body to give civil legal advice.

Order

IT IS THEREFORE ORDERED that all portions of the resolution adopted by the Presbytery of Pittsburgh on October 12, 2006, which were before this Commission are void.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of Pittsburgh report this Decision to the Presbytery at its first meeting after receipt, that the Presbytery 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 General Assembly.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Trinity report this Decision to the Synod at its first meeting after receipt, that the Synod 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 General Assembly.

Certificate

We certify that the foregoing is a true and correct copy of the decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Remedial Case 218-10, Randall Bush, Wayne Peck, and the Session of East Liberty Presbyterian Church, Complainants/Appellants, v. Presbytery of Pittsburgh, Respondent/Appellee, made and announced at Louisville, Kentucky, on February 11, 2008.

Dated this 11th day of February, 2008.

Wendy G. Warner, Moderator
Permanent Judicial Commission of the General Assembly

Ernest E. Cutting, Clerk
Permanent Judicial Commission of the General Assembly

I certify that I did transmit a certified copy of the foregoing to the following persons by UPS Next Day Air, directing C. Laurie Griffith to deposit it in the mail at Louisville, Kentucky, on February 11, 2008.

Stephen Paschall, Counsel for Appellant

Susan Dobbins, Counsel for Appellee

Jay Lewis, Stated Clerk, Presbytery of Pittsburgh

Lesley Shoup, Stated Clerk, Synod of the Trinity

General Assembly Permanent Judicial Commission (regular mail)

I further certify that I did transmit a certified copy of the foregoing to the Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.) by delivering it in person to C. Laurie Griffith, on February 11, 2008.

Ernest E. Cutting, Clerk
Permanent Judicial Commission of the General Assembly

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 General

Assembly of the Presbyterian Church (U.S.A.), sitting during an interval between meetings of the General Assembly at Louisville, Kentucky, on February 11, 2008, in Remedial Case 218-10, Randall Bush, Wayne Peck, and the Session of East Liberty Presbyterian Church, Complainants/Appellants, v. Presbytery of Pittsburgh, Respondent/Appellee, and that it is the final judgment of the General Assembly of the Presbyterian Church (U.S.A.) in the case.

Dated at Louisville, Kentucky, on February 11, 2008.

C. Laurie Griffith
Manager of Judicial Process and Social Witness

¹ The remainder of the PUP report (including the rationale for recommendation 5) was received, but not adopted, by the General Assembly, and therefore has no binding effect on the church.

² Governing bodies may impose other requirements on church officers, after ordination and installation, such as requirements to abide by ethics or sexual misconduct policies.

³ This section of the Book of Order refers only to the Form of Government, failing to recognize that standards for ordination of officers are now found in the Directory for Worship. This is an apparent oversight that should be addressed by the General Assembly.