

**Permanent Judicial Commission  
Synod of the Northeast, Presbyterian Church (USA)**

**Decision and Order  
19 May 2015**

**Sylvia Kuzmak,**

**Appellant**

**Versus**

**Session of the First Presbyterian Church  
at Red Bank, New Jersey,**

**Appellee**

**Appeal Case SNE 2014-04  
Decision and Order**

The appeal by **Sylvia Kuzmak (Appellant) v. Session of the First Presbyterian Church at Red Bank, New Jersey (Session, Appellee)** against the Decision of the Permanent Judicial Commission of the Presbytery of Monmouth to dismiss the Appellant's Complaint was held on 19 May 2015 at the Holiday Inn & Suites in Latham, New York, with the undersigned members of the Permanent Judicial Commission of the Synod of the Northeast constituting a quorum. The Appellant Sylvia Kuzmak presented her statement. The Appellee's statement was presented by Kim Tsimbinos.

**Arrival Statement**

This hearing before the Permanent Judicial Commission of the Synod of the Northeast (this Commission or SPJC) pertains to the appeal filed by the Appellant and received by the Stated Clerk of the Synod on 30 June 2014 against the Decision of the Permanent Judicial Commission of the Presbytery of Monmouth dated 27 April 2014 in its case 2014-01 (Sylvia Kuzmak, Complainant, versus the Session of the First Presbyterian Church at Red Bank, New Jersey) to dismiss that case on the basis of the Preliminary Questions. The Preliminary Questions for the appeal were answered in the affirmative by the Executive Committee (EC) of the Commission. A motion filed by the Appellee on 8 January 2015 to dismiss the case was denied by the full Commission on 23 January 2015. During the same meeting, a second motion, to certify the record, filed by the Appellee on the same date as the motion to dismiss, was granted by the full Commission. Briefs were received from Appellant on 23 February 2015 and from Appellee on 4 April 2015. The Appellant submitted five motions to correct the record which were received by the Commission on 20 March 2015. The question before this Commission is a narrow one: based on the Complaint, did the PPJC rule correctly that the Complaint failed to state a claim upon which relief can be granted?

## **Appearances**

Sylvia Kuzmak, Appellant

Theresa Swenson, Kim Tsimbinos, and Herbert Bertine, members of the Committee of Counsel for the Appellee

## **History**

In this Appeal the Appellant, Sylvia Kuzmak, seeks to appeal the decision of the Permanent Judicial Commission of the Presbytery of Monmouth (PPJC) dated 9 April 2013 in the Remedial case Sylvia Kuzmak (Complainant) versus the Session of the First Presbyterian Church at Red Bank, New Jersey (Respondent). The Complaint alleged lapses in proper leadership, as mandated by the Constitution, by the Respondent. The PPJC's Executive Committee dismissed the Complaint, judging that it failed to state a claim upon which relief could be granted. The Complainant appealed this decision to the full Presbytery's Permanent Judicial Commission which affirmed the Executive Committee's decision. The Permanent Judicial Commission of the Synod of the Northeast has before it the Notice of Appeal, dated 30 June 2014, along with the original Complaint and the Decision of the Presbytery Permanent Judicial Commission. The Preliminary Questions were answered in the affirmative by the Executive Committee (EC) of the Commission. In part due to illness of the Stated Clerk of the Presbytery there was a prolonged debate over the Record in this case. The record was certified by the full Synod Permanent Judicial Commission (SPJC) on 23 January 2015, but a motion by the Appellee to dismiss the appeal was denied on that same occasion. The deadlines for briefs were set as 23 February 2015 for Appellant and 25 March 2015 for Appellee. The Appeal hearing was set for 19 May 2015. On 17 May 2014 the SPJC received from Appellant five pre-hearing motions to correct the record.

## **Pretrial Decision on Correcting the Record**

During pretrial deliberations the Commission considered the Appellant's request that the Record be corrected by the inclusion of additional documents. Considering that the record is largely irrelevant in relation to the matter on appeal – except for the original Complaint and the PPJC decision – the request for including additional documents into the Record is denied.

## **Specification of Errors**

The Appellant bases her appeal on four alleged errors in the Decision of the PJC of the Presbytery of Monmouth.

### **Error 1**

Error in constitutional interpretation of the fourth criterion to accept a remedial case (D-6.0305), namely: "the complaint states a claim upon which relief can be granted."

### **Error 2**

Injustice in the process or decision, due to PJC misunderstanding and misrepresentation of claims in the complaint.

### **Error 3**

Refusing a party reasonable opportunity to be heard or to obtain or present evidence.

#### **Error 4**

Injustice in the process or decision, due to the PJC failing to give the appellant an opportunity to know and to respond to their grounds for dismissal of the case (related to the criterion that the complaint state a claim upon which relief can be granted).

### **Decision**

Considering the record of this case, the briefs submitted, the statements presented, and the response to questions by members of the Commission, we present our findings on the alleged errors.

#### **ERROR ONE**

*Error in constitutional interpretation of the fourth criterion to accept a remedial case (D-6.0305), namely: "the complaint states a claim upon which relief can be granted."*

This specification of error is NOT SUSTAINED. For the purpose of this decision we assume the truth of the facts alleged in the complaint (*GAPJC 215-5 McKittrick v. Session, West End Presbyterian Church of Albany, NY*). The delinquencies noted in the complaint lack "sufficient specificity to indicate precisely the action that is the source of the complaint" (*GAPJC 209-4 Phillips vs. Presbytery of Southern Kansas*), and therefore do not qualify as claims on which relief can be granted. Although the complainant alleged several delinquencies, in that the Session failed to respond appropriately to specific communications, the substance of those communications regard alleged irregularities that are, in the present complaint, described only in a general way, with the exception of Delinquency 1. However, information provided in the complaint, which we have to assume to be true, shows that the Session did provide appropriate relief on that matter, such that no further relief can be granted.

#### **ERROR TWO**

*Injustice in the process or decision, due to PJC misunderstanding and misrepresentation of claims in the complaint.*

This specification of error is NOT SUSTAINED for the reasons provided under Error Four.

#### **ERROR THREE**

*Refusing a party reasonable opportunity to be heard or to obtain or present evidence.*

This specification of error is NOT SUSTAINED for the reasons provided under Error Four.

#### **ERROR FOUR**

*Injustice in the process or decision, due to the PJC failing to give the appellant an opportunity to know and to respond to their grounds for dismissal of the case (related to the criterion that the complaint state a claim upon which relief can be granted).*

This specification of error is NOT SUSTAINED.

The question before this Commission is whether the PPJC erred in dismissing the complaint on the basis of the fourth Preliminary Question. That determination needs to be made on the basis of the original complaint and the PPJC's decision. As to whether there were any procedural lapses, it is our judgment that the Appellant received a substantially fair and complete hearing. Consequently, no harm was caused during the PPJC proceedings; see also *Ling vs. Session, First Church, Bay Saint Louis*, GAPJC 208-8.

The decision by the PPJC to dismiss this Complaint is hereby sustained.

## **Further Comments**

The Complainant raises legitimate concerns regarding the governance of our congregations. However, the proper forum to address these is within the congregation, or, in the event that these efforts are unsuccessful, by enlisting the support of the presbytery's Committee On Ministry. Recognizing the importance of the issues raised regarding good governance, the Commission encourages all parties to engage in further conversation. The judicial process is able to settle only actual controversies about particular actions or omissions, not disputes regarding general practices or tendencies. A proper Remedial Complaint must evince a higher level of specificity: what was the irregular action (or inaction), when and where did it happen, and which individuals were involved?

## **Order**

It is ORDERED

- That the Stated Clerk of the Presbytery of Monmouth read this decision in its entirety into the minutes of the next stated meeting of the Presbytery and report to the Stated Clerk of the Synod of the Northeast the date upon which this was done; and,
- That the Clerk of the Session of the First Presbyterian Church at Red Bank, New Jersey, read this decision in its entirety into the minutes of the next stated meeting of the Session and report to the Stated Clerks of the Presbytery of Monmouth and of the Synod of the Northeast the date upon which this was done; and,
- That the Stated Clerk of the Synod of the Northeast read this decision in its entirety into the minutes of the next stated meeting of the Synod.

## **Absences**

The following members of the Commission did not take part in the proceedings: Teaching Elder Cheryl Ann Elfond, Teaching Elder Dorothy Pearman, and Ruling Elder Victor Petrigliano.

done, 19 May 2015, at Latham, New York

Attest



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David Baer, Moderator



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Arnold Rots, Clerk

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Leah Ntuala, Vice Moderator

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Jin Oh Bae

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Carol Dornbush

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Lloyd Johnson

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Nancie Merlino

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Natalie Miner

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Blair Moffett