

2. COMPLAINT, CASE 97-3

BRUCE NICKOLEY
VS.
ROCKY MOUNTAIN PRESBYTERY

This case was determined to be out of order per SJC Manual 10.1. The following finding was unanimously approved by the full Standing Judicial Commission: "The Chairman and Secretary determined that the case was administratively out of order in that the matter about which the complaint was lodged was also the subject of an appeal. BCO 43-1 provides, '...no complaint is allowable in a judicial case in which an appeal is taken.' In the matter at hand, to wit, the Rocky Mountain Presbytery action dissolving the relationship between itself and Evergreen Church, an appeal was granted to Evergreen Church and hearing of the appeal was docketed for the January 22 – 24, 1997, meeting of Presbytery."

3. APPEAL, CASE 97-4

MRS. NANCY A. CONRAD, et al.
VS.
CENTRAL CAROLINA PRESBYTERY

I. Summary of the Facts

1. On January 27, 1996, Central Carolina Presbytery (CCP) sustained a complaint brought by the complainants, finding, among other things, that "although the Session of PPC may have had grounds to remove members from the roll, they failed to take the required action to remove them..." and, as a result, the Session of Prosperity Presbyterian Church (PPC) was in error when it dropped certain names from the membership roll (ROC 8b).
2. The Session of Prosperity Presbyterian Church was informed of Central Carolina Presbytery's decision to sustain the complaint. On May 16, 1996, the following actions were taken:
 - (a) the Session of PPC approved the language of a letter to be sent out to *Conrad, et al.* acknowledging the procedural error on its part in their prior action of removing the names of *Conrad, et al.* from the rolls of PPC (ROC p. 4-5).
 - (b) the Session of PPC noted that the previous action in removing the names of certain members of PPC from the membership rolls is "null and void" (ROC p. 9). The CCP nullified the action because the clerk of PPC Session had acted apart from the Session of PPC taking any action to remove the names.
 - (c) the Session of PPC then voted to remove from the membership of PPC the names of *Conrad, et al.* (ROC p. 3-5).

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- (d) the Session of PPC sent copies of “the preceding actions taken to this date regarding church rolls” to the Clerk of CCP (ROC p. 5).
- (e) the Session of PPC approved sending the letter of notification to *Conrad, et al.*, informing them of the actions of the Session of PPC on May 16, 1996 (ROC p. 9).
- 3. On June 12, 1996, *Conrad, et al.* brought a complaint to the Session of PPC against the “delinquency of the Session of PPC and their actions” in removing the names of *Conrad, et al.* from the rolls of PPC, maintaining that such action was “in defiance of the judicial decision rendered by the CCP at its January 1996 stated meeting...” (ROC p. 6).
- 4. The complaint of *Conrad, et al.* was denied by the Session of PPC on June 27, 1996 (ROC p. 11).
- 5. On July 22, 1996, *Conrad, et al.* brought their complaint to the CCP and sought relief from the May 16, 1996, action of the Session of PPC in removing the names of *Conrad, et al.* from the rolls of PPC (ROC p. 10).
- 6. On January 25-26, 1997, the CCP erected a Judicial Commission and heard the complaint. The CCP sustained the commission’s recommendation to deny the complaint (ROC p. 12).
- 7. A complaint was lodged with the Stated Clerk of the PCA, requesting that the SJC hear the case (ROC p. 1). The present case, 97-4, was filed on February 7, 1997, and referred to a panel which adjudicated the case on November 13, 1997, in Charlotte, NC.

II. Statement of the Issue

Did the Central Carolina Presbytery act unconstitutionally on January 25-26, 1997, in denying the complaint of July 22, 1996?

III. Judgment in the Case

No. The CCP did not act unconstitutionally in denying the complaint of June 27, 1996.

IV. Reasoning and Opinion

Based on the ROC, the complainants did not demonstrate any unconstitutional procedure or violations of the PCA *Book of Church Order* committed by the Central Carolina Presbytery. The various actions taken by the parties were open to differing opinions and various interpretations, thus resulting in disagreement among the parties. In their oral argument, the Complainants desired to introduce material from previous cases which they believed had a direct bearing on the case. Nevertheless, the panel was limited in the scope of its consideration to those facts properly before us in the Record of the Case. On that basis, the panel’s finding is that no violation of the constitution was demonstrated by the evidence in the case.

This preliminary judgment was written by Jim Smith with the concurrence of TE David Hall and RE Ed Robeson.

V. **Vote on Decision**

Approved by SJC: 21 Concurring, 0 Dissenting, 1 Recused and 2 Absent.

4. **APPEAL, CASE 97-6**

**E. L. FITZSIMMONS
VS.
EVANGEL PRESBYTERY**

I. **Summary of the Facts**

The appellant, Mr. Edward L. Fitzsimmons, was a member of the Presbyterian Reformed Church of Pleasant Grove, Alabama. He was also an ordained deacon in that church. For some period of time prior to May, 1996, Mr. Fitzsimmons openly expressed disagreement with the Session, primarily centering around the handling of the missions budget and what Mr. Fitzsimmons considered to be the Session's breach of duty in failing to make required expenditures from that fund in 1995, and failure to make a proper accounting of that fund to the congregation. He openly charged the Session with mishandling the church's finances.

After numerous discussions with Mr. Fitzsimmons, by May, 1996, the Session had reached the point of initiating formal disciplinary steps against him. On June 19, 1996, the Session charged Mr. Fitzsimmons with "bearing false witness against his neighbor... against the peace, unity and purity of the Church... [t]hat beginning August 1995 and continuing to the present time, the said Edward L. Fitzsimmons did falsely accuse the Session members of the Presbyterian Reformed Church of Pleasant Grove, Alabama (both corporately and individually) of improprieties regarding the use of church monies in written letters sent to various parties" (ROC 104, 105). By letter accompanying the indictment, also dated June 19, 1996, Mr. Fitzsimmons was notified that he was temporarily suspended from the Lord's Table until "the charge against you can be examined" (ROC 103). He was cited to appear for trial, before the Session, on July 13, 1996 (ROC 106).

Trial was begun on July 13, but Mr. Fitzsimmons did not appear. The Session appointed counsel for Mr. Fitzsimmons, and continued the trial proceedings to July 26, 1996 (ROC 49). It is unclear from the record as to whether Mr. Fitzsimmons got actual written notice of this second trial date, or not. In any event, the Session proceeded to trial on the charges against Mr. Fitzsimmons again on July 26, finding him guilty as charged (ROC 52, 53). The censure was excommunication.

Mr. Fitzsimmons appealed the ruling of the Session by written notice to Evangel Presbytery on August 6, 1996 (ROC 3, 4). The grounds for the appeal were essentially as set forth above as the grounds for this appeal to the Standing Judicial Commission. Evangel Presbytery received a written response to this appeal from the Session of Presbyterian Reformed Church dated September 4, 1996 (ROC 6-12). On the same date, the Session filed its record of the case in accordance with *BCO* 42-5 (ROC 23-106).

At its regular meeting on September 24, 1996, Evangel Presbytery appointed a committee to determine whether the appeal was in order (ROC 109). The appeal was