

**COMPLAINT OF STEPHEN P. ENGEL
VS.
EVANGEL PRESBYTERY
SJC 2007-04**

I. SUMMARY OF THE FACTS

1. During the month of January, 2006, Stephen P. Engel, a member of Redeemer PCA of Madison, AL, filed a pair of complaints against the Redeemer Session concerning certain policy decisions it had made with regard to qualifications for church officers (RROC pp. 78, 79, 89).
2. On February 11, 2006, the Redeemer Session denied the two complaints, and in two separate letters, communicated its actions to Mr. Engel (RROC pp. 81-85, 90).
3. On February 12, 2006, Mr. Engel filed two complaints with Evangel Presbytery against the Session's action in denying his two complaints (RROC pp. 77, 88).
4. On February 14, 2006, the Complaint Committee of Evangel Presbytery found one of the complaints out of order on the ground that it included charges that were not subject to the complaint procedure. The other complaint, the Complaint Committee judged to be in order and recommended its referral to a judicial commission for adjudication (RROC p. 92).
5. On February 18, 2006 the Session of Redeemer PCA sent a letter to Mr. Engel in which it challenged some of the statements he had made in his communications to Evangel Presbytery with regard to his complaints, admonished him for violating his membership vows, and then censured him as follows:

In view of this rebellion and the continuing manner in which you are breaking you vows, we now say:

Whereas, you, Steve Engel, a member of Redeemer Presbyterian Church, are convicted by sufficient proof of the sin of contentiousness and rebellion against the session, we the church, in the name and by the authority of the Lord Jesus Christ, do now declare you suspended from the Sacraments of the Church, until you give satisfactory evidence of repentance (RROC pp. 8-11).

6. On March 13, 2006 Mr. Engel filed an Appeal with Evangel Presbytery regarding the judgment of Redeemer Presbyterian Church Session in suspending him from the sacrament (RROC pp. 7-8)

7. On April 18, 2006, a judicial commission of Evangel Presbytery heard Mr. Engel's Complaint against the Redeemer Session with regard to its policy decisions for officer qualifications. The complaint was denied (RROC pp. 95, 96).
8. On June 30, 2006 the Redeemer Session sent an email to Mr. Engel in which it admitted errors in process in censuring him without trial or confession, and in misapplying *BCO* 42-6 and continuing to bar him from the sacrament. The Session apologized for its failure and mishandling of the situation, and explained that they were lifting their previous ban of him from the Lord's Supper. (RROC pp. 6, 7)
9. On August 8, 2006, Evangel Presbytery agreed with the recommendation of an investigative commission and ruled Mr. Engel's *Appeal* (March 13, 2006) to be a *Complaint* and then ruled it null and void on the ground that the Session had lifted its previous ban of him from the Lord's Supper (RROC pp. 101, 102, 108)
10. On September 1, 2006 Mr. Engel filed a Complaint with Evangel Presbytery against its August 8, 2006 decision to term his *Appeal* (March 13, 2006) a *Complaint* and to rule it null and void (RROC p. 5)
11. According to the record, an Evangel Presbytery committee to review Mr. Engel's September 1, 2006 Complaint [against Presbytery's August 8, 2006 finding that his March 13, 2006 Appeal was actually a Complaint and its judgment of the matter null and void because of the Session's lifting of the censure] recommended that the September 1, 2006 Complaint be "sustained" (Note: "sustained" is marked out and replaced by handwritten "found in order"), and that Mr. Engel's March 13, 2006 Appeal be heard in accordance with *BCO* 42 (Appeals). When the matter came before the Presbytery at its 112th Meeting, the minutes show that the Complaint (presumably the 9/1/06 Complaint) was found in order and a commission was appointed to hear the Complaint (RROC pp. 4, 140).
12. When the Commission reported its judgment to the Presbytery at its 113th Stated Meeting on February 13, 2007, it termed its action "DECISION OF THE EVANGEL PRESBYTERY COMMISSION CONCERNING THE APPEAL OF MR. STEPHEN P. ENGEL." The Commission found that the Session "had erred by issuing the censure without compliance with *BCO* 36" but added, "This commission can make no determination as to the merits or lack thereof given the lack of compliance with the due process requirements in the *BCO*" and made no finding as to the original charge against Mr. Engel (RROC 142).

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13. Evangel Presbytery adopted the Commission's judgment [Note: Evangel Presbytery minutes for its February 13, 2007 (113th Stated) refer to the Commission as "Commission Concerning Complaint against the Session of Redeemer PCA, Madison"] (RROC p. 141).
14. On February 26, 2007 Stephen P. Engel filed a Complaint with the SJC of the PCA against the action of Evangel Presbytery in connection with its ruling on his Appeal against Redeemer Presbyterian Church Session (RROC pp. 1, 2).

II. STATEMENT OF THE ISSUES

1. Did Evangel Presbytery err by determining not to declare the Complainant innocent or guilty of the sins for which he had been censured by his Session?
2. Did Evangel Presbytery err by failing to send back the Complaint with instructions for a hearing, according to the provisions of *BCO* 43-10?

III. JUDGMENT

1. No, the Presbytery had no record of the evidence from the lower court proceedings upon which to base a determination of guilt or innocence since the Session did not conduct a trial.
2. Yes, in view of the fact that the Session brought serious charges against the Complainant and moved directly to impose the censure of suspension from the Lord's Supper upon him without a trial or a confession of sin on his part, the Presbytery should have remanded the case to the Session, according to the provisions of *BCO* 42-9, with instructions either to initiate process in accordance with *BCO* Chapters 31-33, 35, and 36, or to formally dismiss all charges against the Complainant, in addition to having lifted the wrongly imposed censure.

According to the provisions of *BCO* 43-10, we therefore send this matter back to the Presbytery with instructions to rehear Mr. Engel's Complaint in view of our determination of error as set forth above.

IV. REASONING AND OPINION

This case arises out of an informal process by the Session of Redeemer Presbyterian Church (herein "Redeemer") to establish qualifications for church officers. The Complainant, a member in good standing of

Redeemer, and other argued in favor of not disqualifying single and divorced men for church office. The Session took a contrary position. After a period of several months of informal meetings with the Session regarding these issues, the Complainant filed a series of complaints against the Session. Therefore the Session issued a letter of censure (Censure Letter dated February 18, 2006) to the Complainant identifying specific instances when the Complainant inaccurately stated facts regarding the Session's actions in regard to these complaints and related matters. In the same letter, the Session: 1) declared that such behavior was evidence of the sin of contentiousness and rebellion against the Session and 2) suspended the Complainant from the Sacraments until he provided satisfactory evidence of repentance. No opportunity was afforded the Complainant to answer and defend himself against the charges brought against him.

The Complainant, according to the provisions of *BCO* 42, filed an appeal with Evangel Presbytery against the censuring action of his Session. Upon receipt of the appeal, the Presbytery unilaterally reclassified the appeal as a complaint and processed the matter under *BCO* 43. Before ruling on the matter, the Presbytery received a communication from the Session advising that it had rescinded the Complainant's suspension from the Sacraments and Presbytery then declared the Complaint "null and void."

The Complainant then filed a Complaint against the action of the Presbytery in unilaterally reclassifying the appeal as a Complaint and processing the matter under *BCO* Chapter 43. (herein the First Complaint). In considering the First Complaint, the Presbytery acknowledged its error and reconsidered the matter as an Appeal. Upon reconsideration, of the Appeal, the Presbytery determined that the Session erred by issuing the censure without compliance with *BCO* 36. The Presbytery made no determination as to the merits of the Session's charges against the Complainant since there was no record from the lower court upon which to make a determination of guilt or innocence.

The Complainant then filed a second Complaint against the Presbytery's ruling on reconsideration of the appeal (Second Complaint). This Second Complaint is now before us.

We determine that the Presbytery erred by unilaterally reclassifying the Appeal as a Complaint, which error the Presbytery recognized and corrected in response to the First Complaint. We further determine that the Presbytery erred by failing to remand the matter to the Session with

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instructions for the Session to conduct a trial on the charges in accordance with the *BCO* 36 or to withdraw the charges. Although the Session had rescinded its censure of suspension from the Lord's Supper, the charges of sinful contentiousness and rebellion against the Session were not withdrawn and therefore remain pending.

Complainant has requested this Court to make a determination of his guilt or innocence of the charges against him in the Letter of Censure. Just as the Presbytery was unable to render an opinion as to guilt or innocence because of lack of trial and record from the lower court, so we also are unable to render an opinion as to guilt or innocence. In this case, the Session must conduct a trial before that determination can be addressed by the higher court.

It should be noted that if the Session withdraws the charge or finds Complainant innocent, the Session should clearly communicate to the Complainant and to any in the congregation who may have been informed of the charges that such action has been taken.

The Complainant has accused the Session of taking the Lord's name in vain when it communicated his censure to the congregation. We find that the Session was using the language from *BCO* 36-5 in declaring the censure, and although the procedure used by the Session to reach its determination of guilt was deficient, we do not feel that the form of the declaration was a willful taking of the Lord's name in vain.

This opinion was written by RE John Tolson with the concurrence of panel members TE William Harrell and TE John McArthur.

The vote on the decision Case 2007-04 was:

TE Dominic A. Aquila, Concur	TE John M. McArthur Jr, Absent
TE Howell A. Burkhalter, Concur	RE J. Grant McCabe, Absent
TE Alton Craig Chapman, Absent	TE Charles E. McGowan, Concur
TE Stephen M. Clark, Concur	TE D. Steven Meyerhoff, Concur
RE M. C. (Cub) Culbertson, Concur	RE Frederick Neikirk, Concur
RE Perry Denniston, Concur	RE Steven T. O'Ban, Concur
RE J. Howard Donahoe, Concur	RE Calvin Poole, Disqualified
RE Samuel J. (Sam) Duncan, Concur	TE G. Dewey Roberts, Disqualified
TE Paul B. Fowler, Concur	TE Michael F. Ross, Concur
TE William W. Harrell Jr., Concur	RE Olin L. Stubbs, Concur
RE Thomas F. Leopard, Absent	RE John Tolson, Concur
TE William E. Lyle, Absent	RE John B. White Jr, Concur

17 concur, 2 disqualified and 5 absent