

part of its grounds for denying the complaint of TE Jones gives the appearance that Presbytery is supportive of views such as those noted above, and it reinforces the concern that Presbytery has failed to meet its Constitutional obligations as noted above. It is for these reasons that the complaint is sustained and the judgment noted above is entered.

This opinion was written by TE Howell Burkhalter, TE Paul Fowler, TE Stephen Clark, TE Dewey Roberts, RE Frederick Neikirk, RE Steven O’Ban and RE Tom Leopard, October 19, 2007

The vote on SJC 2007-08 was:

TE Dominic A. Aquila, Concur  
TE Howell A. Burkhalter, Concur  
TE Alton Craig Chapman, Concur  
TE Stephen M. Clark, Concur  
RE M. C. (Cub) Culbertson, Concur  
RE Perry Denniston, Concur  
RE J. Howard Donahoe, Recused  
RE Samuel J. (Sam) Duncan, Concur  
TE Paul B. Fowler, Concur  
TE William W. Harrell Jr., Concur  
RE Thomas F. Leopard, Concur  
TE William R. (Bill) Lyle, Concur  
22– Concur; 1 -Absent; 1 –Recused

TE John M. McArthur Jr., Concur  
RE J. Grant McCabe, Absent  
TE Charles E. McGowan, Concur  
TE D. Steven Meyerhoff, Concur  
RE Frederick (Jay) Neikirk, Concur  
RE Steven T. O’Ban, Concur  
RE Calvin Poole, Concur  
TE G. Dewey Roberts, Concur  
TE Michael F. Ross, Concur  
RE Olin L. Stubbs, Concur  
RE John Tolson, Concur  
RE John B. White Jr., Concur

**COMPLAINT OF TE JOHN GRADY  
VS.  
SOUTHWEST FLORIDA PRESBYTERY  
SJC 2007-12**

**I. SUMMARY OF THE FACTS**

1. On May 8, 2007, The Southwest Florida Presbytery (hereafter SWFP), at their regular stated meeting, received a report of the Shepherding Committee regarding TE John Grady and approved a motion that this report be read into the minutes. This report included allegations of improper conduct on the part of TE Grady. Based upon the report, SWFP approved the following four actions recommended by the committee:

## MINUTES OF THE GENERAL ASSEMBLY

- a. That TE Grady resign from the ministry of Faith Presbyterian Church and place himself under the oversight of the Shepherding Committee.
  - b. That the Presbytery request a congregational meeting of Faith/Sarasota take place to formally ask the Presbytery to establish a commission of elders to serve as their session.
  - c. That the Presbytery give the Shepherding Committee temporary status of a Commission only in this exceptional circumstance where the congregation finds itself without Ruling Elders.
  - d. That the portion of this report regarding TE John Grady and Faith/Sarasota be read into the minutes of the Presbytery, and that this report be read to Faith/Sarasota by a member of the Shepherding Committee and that the Shepherding Committee be available to the church to answer questions.
2. On June 1, 2008, TE Grady submitted a complaint to SWFP opposing the court's actions of May 8, 2007, particularly the reading into the minutes of the text of the Shepherding Committee report.
  3. On September 7, 2007, at their stated meeting of SWFP, the stated clerk reported receipt of TE Grady's Complaint. A Judicial Committee was appointed to consider the complaint and to present its recommendations later in the meeting. The committee recommended that the complaint be denied, and the recommendation was carried. No reasons for this recommendation or for its approval are recorded in the minutes.

## II. STATEMENT OF THE ISSUES

Did Southwest Florida Presbytery err when it read into its minutes of the May 8, 2007, stated meeting the Shepherding Committee's report which contained a finding of "sins and errors" concerning TE Grady?

## III JUDGMENT

Yes.

Southwest Florida Presbytery erred by reading into the minutes of its May 8, 2007, stated meeting the report of the Shepherding Committee which contained a finding of "sins and errors" based on unsubstantiated and unproven opinions about TE Grady in violation of his due process. Therefore, SWFP is directed to expunge the Shepherding Committee's report from their minutes for May 8, 2007.

#### IV. REASONING AND OPINION

In this particular case, the actions of SWFP on May 8, 2007 effectively imposed the censure of admonition without due process (*BCO* 30-2).

We recognize that a committee of Presbytery may reach, without judicial process, an opinion that a teaching elder has engaged in “sins and errors” (see for example *BCO* 31-2), and we recognize that such an opinion may even be included in the minutes of Presbytery as the opinion of the committee. However, in this case Presbytery appeared to adopt or endorse the findings of the committee by “concur[ring]” in the recommendation of the committee, “effectively making it the recommendation of presbytery as a whole.” Further, Presbytery directed that the committee report be read to the teaching elder’s congregation. In so making the committee’s recommendation the action of Presbytery and in making the report public, without making clear that Presbytery had not adopted the portions of the report alleging sin by the teaching elder, Presbytery has effectively admonished the teaching elder without due process.

Statement of Facts written by RE Perry Denniston.

Statement of Issues and Judgment written by RE M.C. Culbertson.

Reasoning and Opinion was edited and approved by the entire Standing Judicial Commission.

Each section of the Decision in Case 2007-12 having been approved *seriatim*, the Secretary called the roll.

The vote on the decision Case was:

TE Dominic A. Aquila, Disqualified  
TE Howell A. Burkhalter, Dissent  
TE Alton Craig Chapman, Absent  
TE Stephen M. Clark, Concur  
RE M. C. (Cub) Culbertson, Concur  
RE Perry Denniston, Concur  
RE J. Howard Donahoe, Dissent  
RE Samuel J. (Sam) Duncan, Concur  
TE Paul B. Fowler, Absent  
TE William W. Harrell Jr., Absent  
RE Thomas F. Leopard, Absent  
TE William E. Lyle, Absent

TE John M. McArthur Jr., Absent  
RE J. Grant McCabe, Absent  
TE Charles E. McGowan, Concur  
TE D. Steven Meyerhoff, Concur  
RE Frederick Neikirk, Concur  
RE Steven T. O’Ban, Absent  
RE Calvin Poole, Concur  
TE G. Dewey Roberts, Concur  
TE Michael F. Ross, Absent  
RE Olin L. Stubbs, Concur  
RE John Tolson, Concur  
RE John B. White Jr, Concur

12 concur, 2 dissent, 1 disqualified and 9 absent

**CONCURRING OPINION  
COMPLAINT OF TE JOHN GRADY  
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SOUTHWEST FLORIDA PRESBYTERY  
SJC 2007-12**

I concur in the result reached by the majority, based on the Issue, as stated in the Majority Opinion, but believe that the Issue, as framed and expanded by the Standing Judicial Commission in the Majority Opinion, goes beyond that stated by the parties.

TE Grady complained that Southwest Florida Presbytery erred in deciding that "the portion of this report (from the Shepherding Committee) regarding TE John Grady and Faith PCA be read into the minutes of Presbytery." Southwest Florida Presbytery did not err in merely recording the Shepherding Committee Report in the Minutes.

In my view, if the Standing Judicial Commission had used the issue, as proposed by TE Grady, then the Judgment would be different, in that the Judgment should have been that the Presbytery did not err by including the Shepherding Committee Report in the Minutes.

*BCO* 39-3(1) states that "a higher court, reviewing a lower court, should limit itself to the issues raised by the parties to the case in the original (lower) court."

Accordingly, in my opinion, the Standing Judicial Commission expanded the Issue to include a finding that the Shepherding Report "contained a finding of 'sins and errors' concerning TE Grady," and thereby seems to be in conflict with *BCO* 39-3(1).

/s/ Samuel J. Duncan

**PRESBYTERIAN CHURCH IN AMERICA  
VS.  
LOUISIANA PRESBYTERY  
SJC 2007-14**

**I. SUMMARY OF THE FACTS**

1. In case 2006-2, Part 2, the Standing Judicial Commission found that Louisiana Presbytery failed to reach a decision consistent with the Constitution of the Presbyterian church in America when it found "no strong presumption of guilt in any of the charges contained [in the