

MINUTES OF THE GENERAL ASSEMBLY

- 2013-06 Appeal: TE Stephen Gonzales vs. Great Lakes Presbytery
2013-07 Complaint: Session of First Presbyterian Church of North Port vs. Southwest Florida Presbytery
2013-08 Complaint of RE Warren Jackson vs. Northwest Georgia Presbytery
2013-09 Appeal: Mr. G. Rick Marshall vs. Pacific Presbytery
2013-10 Appeal: TE Stuart Latimer vs. Chicago Metro Presbytery
2013-11 Appeal: Session of First Presbyterian Church of North Port vs. Southwest Florida Presbytery
2013-12 Appeal: Mr. G. Rick Marshall vs. Pacific Presbytery

In addition to these Cases, Overtures 20, 21 and 22 to the 41st General Assembly were referred to the Standing Judicial Commission. The SJC response to those overtures appears in section IV.

Of these Cases 2013-02 and 2013-05 were found to be Administratively Out of Order; Case 2013-09 was withdrawn as prematurely filed; Case 2011-16 was a duplicate of Case 2011-15; Case 2012-08 after numerous delays was heard by the full Commission on March 6 and is currently under deliberation; Cases 2013-03, 2013-06, 2013-08, 2013-10 and 2013-12 are currently with panels and have not been finalized by the full Commission. The SJC has completed its work on Cases 2011-11, 2011-12, 2011-14, 2011-15, 2012-03, 2012-07, 2013-01, 2013-04, 2013-07 and 2013-11.

The report on those cases follows.

III. REPORT OF THE CASES

CASES 2011-11, 2011-12, 2011-15 and 2011-16 (identical to Case 2011-15) STEVEN HAHN VS. PHILADELPHIA METRO WEST PRESBYTERY

I. SUMMARY OF THE FACTS

Cases 2011-11, 2011-12, and 2011-15 all arise out of substantially the same set of facts (Case 2011-16 is a duplicate of 2011-15). Steven Hahn (“**Hahn**”) filed a complaint on December 30, 2010, with the Session of Christ the King Presbyterian Church (“**CTKPC**”) styled as a “Complaint

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to the Session of CTKPC, Conshohocken, PA against TE Eric Huber and RE Rex Anderson regarding the Resolution to the Complaint of Lisa Ridenour.” (“**Session Complaint I**”). Session Complaint I was further expanded with eight additional items on January 18, 2011. Hahn filed a series of complaints with Philadelphia Metro West Presbytery (“**PMWP**”) as a result of the denial of Session Complaint I by the CTKPC Session. Upon denial of those Complaints by PMWP, Hahn complains to the Standing Judicial Commission. The matters surrounding Session Complaint I are Case 2011-11.

During the course of the matters of Case 2011-11, the PMWP Judicial Commission initiated judicial process against Hahn, bringing charges, filing an indictment, and appointing a prosecutor. Hahn was found guilty of the charges, and appealed that guilty verdict. That Appeal is Case 2011-12.

After having been convicted of the charges brought against him by PMWP, but during the Appeal of that conviction, Hahn filed a Complaint with PWMP for its failure to indict RE Ridenour, Lisa Ridenour, and TE Huber of various charges that Hahn brought against them. The matters surrounding this are Case 2011-15 (and 2011-6, which is a duplicate).

May/June 2010 Hahn, in a private conversation with RE Glen Ridenour, accused RE Ridenour of “hacking” Hahn’s computer. RE Ridenour reported this conversation to RE Rex Anderson, the other ruling elder at Christ the King Presbyterian Church (“**CTKPC**”) at the time.

May/June 2010 Hahn withdrew from singing in the CTKPC choir.

May/June 2010 Hahn, on at least five occasions, walked out of the CTKPC worship service, immediately prior to Pastoral Intern Tommy Keene beginning his sermon.

7/18/10 At a congregational meeting of CTKPC for the purpose of interviewing TE Eric Huber, a candidate for the pastorate of CTKPC, Hahn asked TE Huber several questions, including: (1) “As a pastor what would you think about and would you tolerate a group of people within the church spreading false rumors about someone or gossiping about someone?” (2) “What would you think about speakers in public settings using code words to convey negative subliminal messages about a person?”

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and (3) “What would you think of a church officer who has committed criminal actions and not been disciplined?”

- December 2010 At a congregational meeting of CTKPC for the purpose of approving ruling elder candidates, Hahn asked ruling elder candidates Tyson and DeLeece the question: “If you as an elder were to commit a crime, would you step down from your office permanently?”
- 12/19/10 Hahn attempted to meet privately with Lisa Ridenour after the worship service at CTKPC. Lisa Ridenour stated to Hahn that she was afraid to meet with him in private. Later that day, Hahn telephoned Lisa Ridenour at her home to speak with her. Lisa Ridenour informed Hahn: “You are not to come near me. If you come within 200 feet of me or my family I will call the police.”
- 12/23/10 Hahn went to the West Norriton Police Department (“**WNP**D”), in his words, “to find out what was needed of him to obey [her demand].” He further stated, “Lisa regarded me as the harasser, and not the other way around.” The responding WNPD police officer afterwards informed Lisa Ridenour that he was concerned about Hahn’s mental state and advised her to contact the Conshohocken Borough Police Department (“**CBP**D”) and attempt to get a protection from abuse order against Hahn out of concern for her own safety. Lisa Ridenour, accompanied by TE Huber, then went to the CBPD and filed a harassment complaint against Hahn. The CBPD contacted the WNPD and confirmed the information presented by Lisa Ridenour.
- 12/23/10 TE Huber was advised by the CBPD reporting officer that if he and the other pastors feel uncomfortable with Hahn’s presence, that the best course of action may be to advise Hahn that he is no longer welcome to worship there. Subsequently, TE Huber and RE Anderson in a telephone conversation with Hahn, informed Hahn that the police recommended that Hahn not attend church. Hahn confirmed that he had been given the same

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- instruction by the CBPD. Hahn agreed to meet with TE Huber and RE Anderson on December 29, 2010.
- 12/26/10 Hahn was not present at the worship service of CTKPC. RE Ridenour and Lisa Ridenour were not present either.
- 12/29/10 A meeting is held with TE Huber, RE Anderson, Hahn, and David Ludlum, in which Hahn was informed of the CTKPC Session's decision not to allow Hahn to come to church until he had received a psychiatric evaluation.
- 12/30/10 Hahn filed Session Complaint I with the CTKPC Session against TE Eric Huber and RE Rex Anderson regarding the Resolution to the Complaint of Lisa Ridenour. Among the actions complained against are: "The reason I am not permitted to attend worship at Christ the King Presbyterian Church was not satisfactorily established."
- 1/11/11 The CTKPC Session responded in writing to Hahn denying Session Complaint I.
- 1/18/11 Hahn filed a Complaint with the CTKPC Session against TE Huber and RE Anderson regarding "Issues Concerning the Resolution to the Complaint of Lisa Ridenour." (**"Session Complaint II"**).
- 1/19/11 The CTKPC Session sent a response to Hahn regarding Session Complaint II, in which it stated that it would not "consider the specific matters raised in your second complaint since they do not relate to actions taken by the session."
- 1/29/11 Hahn filed his first Complaint with the Philadelphia Metro West Presbytery ("**PMWP**") against the actions and delinquencies of TE Huber and RE Anderson in connection with "Issues Concerning the Resolution to the Complaint of Lisa Ridenour." ("**Presbytery Complaint I**") Among the actions complained against are: "The reason I am not permitted to attend worship at Christ the King Presbyterian Church was not satisfactorily established."
- 2/2/11 The CTKPC Session asked the PMWP to assume jurisdiction over these [Hahn related] matters. The

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CTKPC Session sent a notification to Hahn that “it would be best to handle all of these matters through the Presbytery.”

- 2/9/11 Hahn filed a second Complaint with the PMWP against TE Huber and RE Anderson regarding the “Harassment and Filing of a False Report to Police.” (“**Presbytery Complaint II**”).
- 2/10/11 Hahn filed a third Complaint with the CTKPC Session against the Session regarding the “Responses by the Session to the Second Complaint Involving Harassment and Filing a False Report to the Police.” (“**Session Complaint III**”).
- 2/11/11 Hahn filed a fourth Complaint (multiple versions) with the CTKPC Session against TE Huber and RE Anderson and against the Session (variously titled) “in connection with Harassment and Filing a False Report to the Police.” (“**Session Complaint IV**”).
- 2/12-15/11 Hahn filed a fifth Complaint (multiple versions) with the CTKPC Session against TE Huber, RE Ridenour, and RE Anderson in connection with “Requesting Under False Pretenses the Police to Stand By to Perform an Arrest.” (“**Session Complaint V**”).
- 2/15/11 Hahn filed a sixth Complaint with the CTKPC Session against the actions of RE Ridenour and RE Anderson in connection with Violations of the Ninth Commandment (“**Session Complaint VI**”).
- 2/15/11 Hahn filed a third Complaint with the PMWP against the actions of TE Huber regarding “Additional Violations of the Ninth Commandment.” (“**Presbytery Complaint III**”).
- 2/15/11 Hahn filed another Complaint with the CTKPC Session against the actions of RE Glen Ridenour and RE Anderson regarding “Violations of the Ninth Commandment.”
- 3/7/11 Hahn filed a fourth Complaint with the PMWP against the actions of RE Ridenour and RE Anderson regarding

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“Violations of the Ninth Commandment.” (“**Presbytery Complaint IV**”).

3/19/11 PMWP formed a Judicial Commission (“**PMWP Judicial Commission**”) to receive Presbytery Complaint I, Presbytery Complaint II, Presbytery Complaint III, and Presbytery Complaint IV (collectively, the “**Hahn Presbytery Complaints**”).

3/30/11 The PMWP Judicial Commission acted to receive the Hahn Presbytery Complaints.

4/26/11 The PMWP Judicial Commission determined the Hahn Presbytery Complaints were in order and proceeded to a hearing.

5/11/11 The CTKPC Session requested that the PMWP bring formal charges against Hahn for his “bitter spirit and accusations against the session and pastor of Christ the King.”

6/1/11 Hahn filed a Complaint to the PMWP Judicial Commission against its actions regarding the perfecting of the record of the case.

6/2/11 The PMWP Judicial Commission responded to Hahn by denying his Complaint against its actions regarding the perfecting of the record of the case.

6/4/11 The PMWP Judicial Commission delivers the following charges against Hahn via FedEx:

Charge 1 – Violations of the 9th Commandment (Deuteronomy 5:20) and 1 Timothy 5:19, by the making of false and unsubstantiated accusations against the Elders of Christ the King Presbyterian Church, PCA.

Charge 2 – Violations of the 5th Commandment (Deuteronomy 5:16), Hebrews 13:17, and 1 Peter 5:5 by failing to give proper obedience and respect to the Elders in the church and others of authority through hostility, contumacy regarding counsel given to him by the Session of Christ the King Presbyterian Church,

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PCA, refusal to submit to their authority, and failure to keep his membership vows.

Charge 3 – Violations of the 2 (Leviticus 19:18 and Matthew 22:39) and 1 Thessalonians. 5:12-13 through a bitter and malignant spirit toward the Session of Christ the King Presbyterian Church, PCA.

- 6/14/11 Hahn filed charges with the PMWP Judicial Commission against RE Ridenour and his wife, Lisa Ridenour (the “**Ridenour Charges**”).
- 6/18/11 Hahn filed charges with the PMWP Judicial Commission against TE Huber (the “**Huber Charges**”).
- 6/20/11 Hahn objected to the PMWP Judicial Commission regarding the charges and specifications by the PMWP against him.
- 6/21/11 The PMWP Judicial Commission held a “Pleading Meeting” in which objections by Hahn regarding the indictments were denied; Hahn pled not guilty to all three charges.
- 6/22/11 Hahn complained against the PMWP Judicial Commission’s denial of his objections. (the “**Objection Complaint**”).
- 6/30/11 The PMWP Judicial Commission rejected the Objection Complaint by Hahn and communicated the same to him in writing.
- 7/9/11 The PMWP Judicial Commission held a hearing and admonished Hahn for his behavior in using speculative language (*e.g.* “may have”) in a complaint against an individual or body. The PMWP Judicial Commission denied the Presbytery Complaints.
- 8/17-18/11 The PMWP Judicial Commission held a trial in the matter of *PMWP vs. Hahn* and found Hahn guilty on three charges and rendered a judgment of the censure of indefinite suspension from the sacraments of the Church.

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- 9/5/11 Hahn complained to the PMWP Judicial Commission regarding its handling of his complaints.
- 9/14/11 The PMWP Judicial Commission denied the institution of process and appointment of a prosecutor and dismissed all three sets of charges against TE Huber, RE Ridenour, and Lisa Ridenour. The PMWP Judicial Commission further determined it had not erred its decision from the 7/9/11 hearing.
- 9/19/11 The PMWP Judicial Commission sent a notification to Hahn of its 9/14/11 decision that it had not erred in its decisions and that it had answered adequately all his Complaints.
- 9/17/11 PMWP sustained the 7/9/11 decision of the PMWP Judicial Commission denying the Presbytery Complaints.
- 9/19/11 The PMWP Judicial Commission met with Hahn to communicate the verdict and judgment of the Commission in the matter of (1) *PMWP vs. Hahn*; (2) the Commission's response to Hahn's Complaints against TE Huber, RE Ridenour and Lisa Ridenour; and (3) the denial of Hahn's Complaint against the Commission.
- 9/19/11 The PMWP Judicial Commission responded to Hahn regarding the Ridenour Charges and the Huber Charges by denying "the institution of process and appointment of a prosecutor and hereby dismiss all three sets of charges against the named individuals."
- 9/30/11 Hahn filed a Complaint with the PMWP Judicial Commission against the Commission's "actions and delinquencies . . . in the matter of the decision of the Judicial Commission to deny institution of process and appointment of a prosecutor pertaining to the charges against Lisa Ridenour, Glen Ridenour, and Eric Huber" (the "**Charges Complaint**").
- 10/14/11 Hahn filed a Complaint with the PCA Stated Clerk against the PMWP Judicial Commission regarding its "actions and delinquencies . . . in the matter of the complaints of Steven M. Hahn against the CTKPC

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Session, in connection with the final report of the Judicial Commission.”

- 10/14/11 Hahn filed an Appeal with the PCA Stated Clerk regarding the “judgment of the PMWP Judicial Commission in the case of Steven Matthew Hahn.” This is the matter of Case 2011-12.
- 10/25/11 The PMWP Judicial Commission responded to Hahn regarding his 9/30/11 Charges Complaint by stating that “we do not believe we have erred in our decision to deny institution of process and appointment of a prosecutor in the charges you brought against members of CTKPC – Lisa Ridenour, Glen Ridenour, and Eric Huber.”
- 11/1/11 Hahn filed a Complaint with the PCA Stated Clerk against the PMWP Judicial Commission regarding “their decision to deny institution of process and appointment of a prosecutor pertaining to charges against Lisa Ridenour, Glen Ridenour, and Eric Huber,” that is, PWMP’s denial of the Charges Complaint. This is the matter of Case 2011-15.
- 7/9/11 The PMWP Judicial Commission held a hearing and admonished Hahn for his behavior in using speculative language (*e.g.* “may have”) in a complaint against an individual or body. The PMWP Judicial Commission denied the Presbytery Complaints.
- 8/17-18/11 The PMWP Judicial Commission held a trial in the matter of *PMWP vs. Hahn* and found Hahn guilty on three charges and rendered a judgment of the censure of indefinite suspension from the sacraments of the Church.
- 9/5/11 Hahn complained to the PMWP Judicial Commission regarding its handling of his complaints.
- 9/14/11 The PMWP Judicial Commission denied the institution of process and appointment of a prosecutor and dismissed all three sets of charges against TE Huber, RE Ridenour, and Lisa Ridenour. The PMWP Judicial

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Commission further determined it had not erred in its decision from the 7/9/11 hearing.

- 9/19/11 The PMWP Judicial Commission sent a notification to Hahn of its 9/14/11 decision that it had not erred in its decisions and that it had answered adequately all his Complaints.
- 9/17/11 PMWP sustained the 7/9/11 decision of the PMWP Judicial Commission denying the Presbytery Complaints.
- 9/19/11 The PMWP Judicial Commission met with Hahn to

II. STATEMENT OF THE ISSUE FOR CASE 2011-11

Did Philadelphia Metro West Presbytery err on September 17, 2011, when it found that the CTKPC Session did not unlawfully prohibit Hahn from attending worship?

III. JUDGMENT FOR CASE 2011-11

No.

IV. REASONING AND OPINION FOR CASE 2011-11

The central issue in this Case is whether PMWP erred in finding that the CTKPC Session did not unlawfully prohibit the Complainant from attending worship at CTKPC for the period of time until Hahn had undergone a psychiatric evaluation for the purpose of determining whether it was safe for others for the Complainant to attend worship. Throughout the myriad of documentary filings made by the Complainant, a variety of “complaints” are raised, including, for example, certain matters such as “the plan of resolution was never satisfactorily established.” These “complaints,” however, are not “a written representation against **some act or decision** of a court of the Church” (*BCO* 43-1, emphasis added). It is clear, however, that in Session Complaint I which was carried to PMWP in Presbytery Complaint I, and which was then carried to the SJC in the form of the Complaint at hand, that the Complainant complained against the action of the CTKPC Session in not permitting him to attend worship.

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The first incident that revealed difficulty between Hahn and the congregation of CTKPC occurred in late Spring 2010. At that time, Hahn, in a private conversation with RE Ridenour, accused RE Ridenour of “hacking” his (Hahn’s) computer which was located inside Hahn’s home. Further, Hahn informed RE Ridenour that he (Hahn) had witnesses; had spoken to others about this alleged act; and, had a lawyer – presumably to press charges. RE Ridenour testified that he felt threatened.

Secondly, Hahn had a practice for a period of time prior to July 2010 of walking out of the CTKPC worship service just prior to the sermon when Tommy Keene was preaching because Hahn “did not care for the preaching.” Later in July, during a congregational meeting in which TE Huber was being interviewed for the pastorate of CTKPC, Hahn asked several questions that caused concern among the members of the Session, including: “As a pastor what would you think about and would you tolerate a group of people within the church spreading false rumors about someone or gossiping about someone?” and “What would you think of a church officer who has committed criminal actions and not been disciplined?” Then in December, at another congregational meeting, this time in which ruling elder candidates were being questioned, Hahn asked a similar question about criminal actions by an elder.

Thirdly, just prior to a worship service on December 19, 2010, Hahn confronted Lisa Ridenour (the choir director and wife of RE Glen Ridenour), about “some concerns Hahn had.” Lisa Ridenour declined to engage in the requested conversation about the “concerns,” and as a result Hahn telephoned Lisa Ridenour later that day to pursue the matter. During that phone conversation, Lisa Ridenour told Hahn that he was not to “come within 200 feet of her or her children.” Hahn reacted to this demand of Lisa Ridenour by going to the WNPDP on Dec. 23, 2010, “to find out what was needed of him to obey [her demand].” The WNPDP officer contacted Lisa Ridenour about his conversation with Hahn, and related to her and to TE Huber his recommendation that Hahn not attend church at CTKPC.

These events culminated in a meeting between representatives of the CTKPC Session (TE Huber and RE Anderson), Hahn, and a third party (David Ludlum), in which the Session informed Hahn of its decision not to allow Hahn to attend church *until a psychiatric evaluation had taken place*. (Emphasis added.) This “decision” by the Session was not a

formal act of discipline. Hahn was not barred from the sacraments (which he could have partaken of in another congregation until the psychiatric evaluation), from attending another church, or even from transferring to another PCA congregation. The action of the Session was pastoral and informal (not involving formal process) as a result of their observations of Hahn's behavior and consultation with a Christian psychologist. The psychologist advised the Session that it would be "difficult to predict [Hahn's] future actions" and in "this kind of a case that [they] would be wise to seek psychiatric consultation so that [they] would know what [they were] dealing with and how to proceed." The psychologist further advised the Session that Hahn "should be barred from church attendance until [they] have a psychiatric report and that [they] should not discuss details of the accusations because...that would just give [Hahn] credence in [his] mind and would just lead into a morass of discussion."

The CTKPC Session denied the Session Complaint I and determined that Session Complaint II was out of order ("[the] matters raised in your second complaint . . . do not relate to actions taken by the session"). As a result of those actions by the Session, the Complainant carried the complaints to Presbytery. The Complainant filed four further complaints with the Session (Session Complaints III, IV, V, and VI), which the PMWP took jurisdiction over upon the formal request of the CTKPC Session. In its actions, PMWP showed the appropriate deference to a lower court with respect to facts that involve matters of "matters of discretion and judgment which can only be addressed by a court with familiar acquaintance of the events and parties" (*BCO* 39-3.3).

Similarly, as we review the decisions of PMWP with respect to the Hahn Presbytery Complaints, the appropriate standard of review is one of "great deference to a lower court." The standard is clearly spelled out in *BCO* 39-3.3:

a higher court should ordinarily exhibit great deference to a lower court regarding those matters of discretion and judgment which can only be addressed by a court *with familiar acquaintance of the events and parties*. Such matters of discretion and judgment would include, but not be limited to: the moral character of candidates for sacred office, the appropriate censure to impose after a disciplinary trial, or judgment about the *comparative*

credibility of conflicting witnesses. Therefore, a higher court should not reverse such a judgment by a lower court, unless there is clear error on the part of the lower court. (Emphasis added.)

We find in this Case that PMWP did not err when it found that the CTKPC Session did not unlawfully prohibit the Complainant from attending worship at CTKPC until he had received a psychiatric evaluation. PMWP showed the appropriate standard of deference to the lower court (the CTKPC Session) because that court had particular experience and knowledge with respect to the persons involved and the facts. We cannot say, as a matter of appellate review, that there was clear error on the part of either PMWP or the CTKPC Session in their respective judgments about the credibility of the various witnesses (including the Ridenours and the Complainant) or the discretion and judgments made by the courts.

Further, we find that the action taken by the CTKPC in prohibiting the Complainant from worship at CTKPC was not a judicial action, as it: (a) did not apply in general to the Complainant's worshipping with a PCA congregation (or any congregation other than CTKPC for that matter); (b) no judicial judgment or censure was pronounced against the Complainant; and (c) the action was a matter of pastoral guidance and wisdom by the CTKPC Session for the safety and protection of the CTKPC congregation and the Complainant.

In much the same way that a Session might advise someone who may have a potentially dangerous physical disease (*e.g.* tuberculosis) to absent himself from worship until such time as he could produce assurances from a medical professional that he would not present a danger to the congregation, the CTKPC Session advised the Complainant that he should absent himself from worshipping with the CTKPC congregation until he could produce assurances from a medical professional (in this case, a psychiatrist) that he would not present a danger to the congregation. Nothing in the record indicates that after having produced such assurances from a medical professional, that the Complainant would have been prohibited from attending worship at CTKPC. Indeed, all the evidence in the record indicates that upon receiving such assurances, the Session would have allowed the Complainant to attend worship. The fact that the Complainant refused to meet with a medical professional is the cause for the lack of resolution in

this Case. The CTKPC Session was performing its duty to protect the safety of the congregation, as best as it knew how in the light of the circumstances and facts as they appeared to them. We do not believe that there was any clear error in their decision.

The Complaint is denied.

The Summary of Facts was written by RE Terrell and TE Greco. The Statement of the Issue, Judgment, and Reasoning and Opinion were written by TE Fred Greco.

V. STATEMENT OF THE ISSUE FOR CASE 2011-12

Did Philadelphia Metro West Presbytery err in finding Hahn guilty of violations of the 9th Commandment, violations of the 5th Commandment, and violations of the 2nd Great Commandment?

VI. JUDGMENT FOR CASE 2011-12

No.

VII. REASONING AND OPINION FOR CASE 2011-12

Appellant Hahn alleges that were irregularities and other errors in the trial & judgment by the PMWP in which he was found guilty of:

(1) Violations of the 9th Commandment (Deuteronomy 5:20) and 1 Timothy 5:19, by the making of false and unsubstantiated accusations against the Elders of Christ the King Presbyterian Church, PCA, (2) Violations of the 5th Commandment (Deuteronomy 5:16), Hebrews 13:17, and 1 Peter 5:5 by failing to give proper obedience and respect to the Elders in the church and others of authority through hostility, contumacy regarding counsel given to him by the Session of Christ the King Presbyterian Church, PCA, refusal to submit to their authority, and failure to keep his membership vows, and (3) Violations of the 2nd Great Commandment to love your neighbor as yourself (Leviticus 19:18 and Matthew 22:39) and 1 Thessalonians. 5:12-13 through a bitter and

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malignant spirit toward the Session of Christ the King
Presbyterian Church, PCA.

Those alleged errors include discrepancies between Session minutes and police reports, the refusal of PWMP to grant the Appellant his requested amendment to the charges against him, “hurrying to a decision,” and the “manifestation of prejudice in the case.”

The charges against the Appellant arise out of the circumstances related to the Appellant’s interaction with the CTKPC Session, TE Huber, and various individuals in the CTKPC congregation (most notably RE Ridenour and Lisa Ridenour). After an extensive period of interaction and meetings with the Appellant, including: (1) the filing of six complaints by the Appellant with the CTKPC Session; (2) the filing of four complaints by the Appellant with PMWP; and (3) receiving a request by the CTKPC Session that PMWP bring formal charges against the Appellant for his “bitter spirit and accusations against the session and pastor of Christ the King,” PMWP issued an indictment and charges against the Appellant. Shortly after the indictment was drawn up and the charges made, the Appellant filed charges against RE Ridenour, Lisa Ridenour, and TE Huber.

After a trial was held by the PWMP Judicial Commission, in which the Appellant was afforded representation, a unanimous guilty verdict was rendered. The judgment of the PMWP Judicial Commission was approved by PMWP on 9/17/11. The trial was conducted over the course of more than seven hours and the transcript of the same runs approximately 140 pages long.

Once again, as we review the decisions of PMWP with respect to the Appeal, the appropriate standard of review is one of "great deference to a lower court." The standard is clearly spelled out in *BCO 39-3.3*:

a higher court should ordinarily exhibit great deference to a lower court regarding those matters of discretion and judgment which can only be addressed by a court with familiar acquaintance of the events and parties. Such matters of discretion and judgment would include, but not be limited to: the moral character of candidates for sacred office, *the appropriate censure to impose after a disciplinary trial, or judgment about the*

comparative credibility of conflicting witnesses.
Therefore, a higher court should not reverse such a judgment by a lower court, unless there is clear error on the part of the lower court. (Emphasis added.)

PMWP had a great deal of familiarity with the facts and persons in the Case. The PMWP Judicial Commission received numerous complaints, requests, and charges against other individuals from the Appellant. The trial was held over several hours, with numerous witnesses (for both the prosecution and the defense) testifying, and the Appellant being given the opportunity to directly and cross-examine examine witnesses.

Although there may have been evidence contrary to the judgment rendered by PWMP, we cannot hold as a matter of law that there is clear error on the part of PWMP in rendering its judgment.

The Appeal is denied.

The Summary of Facts was written by RE Terrell and TE Greco. The Statement of the Issue, Judgment, and Reasoning and Opinion were written by TE Fred Greco.

VIII. STATEMENT OF THE ISSUE FOR CASE 2011-15

Did Philadelphia Metro West Presbytery err on September 17, 2011, in denying the institution of process against Lisa Ridenour, RE Ridenour, and TE Huber?

IX. JUDGMENT FOR CASE 2011-15

No.

X. REASONING AND OPINION FOR CASE 2011-15

Hahn, after more than six months of discussions with, and accusations of, Lisa Ridenour, RE Ridenour, and TE Huber, and after the CTKPC Session formally requested that PMWP bring formal charges against the Complainant for his “bitter spirit and accusations against the session and pastor of Christ the King,” brought formal charges against Lisa Ridenour, RE Ridenour, and TE Huber. PMWP declined to appoint a prosecutor and commence process against Lisa Ridenour, RE Ridenour,

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and TE Huber. Hahn filed a complaint on September 30, 2011 with PMWP for its failure to institute process. On October 18, 2011, PMWP denied that complaint, citing as its grounds the Hahn's "attitude and actions throughout the hearing and trial process this year" as manifesting "the character traits described in *BCO 31-8*."

Although in general *BCO 32-2* requires that a court commence process upon the filing of charges, the court is afforded some discretion according to *BCO 31-8*, which states:

Great caution ought to be exercised in receiving accusations from any person who is known to indulge a malignant spirit towards the accused; who is not of good character; who is himself under censure or process; who is deeply interested in any respect in the conviction of the accused; or who is known to be litigious, rash or highly imprudent.

In this Case, PWMP specifically found that the language of *BCO 31-8* applied to the Complainant and his charges. Additionally, PMWP found, after it had "read the entirety of the documents and heard the testimony of the participants" that there was "insufficient evidence to indicate a strong presumption of guilt" on the part of any of Lisa Ridenour, RE Ridenour, and TE Huber. The SJC is required to defer to the lower court in such judgments apart from a showing of clear error (*BCO 39-3*). The Record of the Case provides no such showing.

The Summary of Facts was written by RE Terrell and TE Greco. The Statement of the Issue, Judgment, and Reasoning and Opinion were written by TE Fred Greco.

The Decisions in Cases 2011-11, 2011-12, 2011-15 and 2011-16 were adopted by a vote of 18 Concurring, 0 Dissenting, 0 Recused, 0 Abstaining, 6 Absent.

The three decisions were then adopted as a package as shown below.

Barker Absent	Donahoe <i>Concur</i>	McGowan Absent
Bise <i>Concur</i>	Duncan <i>Concur</i>	Meyerhoff <i>Concur</i>
Burkhalter <i>Concur</i>	Fowler <i>Concur</i>	Neikirk <i>Concur</i>
Burnett <i>Concur</i>	Greco <i>Concur</i>	Nusbaum <i>Concur</i>
Cannata <i>Concur</i>	Gunn <i>Concur</i>	Pickering <i>Concur</i>
Carrell <i>Concur</i>	Haigler Absent	Terrell <i>Concur</i>
Chapell <i>Concur</i>	Kooistra <i>Concur</i>	White Absent
Coffin <i>Concur</i>	Lyle Absent	Wilson Absent

Concurring Opinion
Case 2011-15 - Hahn vs. Philadelphia Metro Presbytery
RE Howard Donahoe

I agree with the Judgment in this case, but a Concurring Opinion is warranted because of one part of the Court's Reasoning (underlined below):

Although in general BCO 32-2 requires that a court commence process upon the filing of charges, the court is afforded some discretion according to BCO 31-8, which states . . .

The underlined also appears in a previous SJC decision (*Lyons v. Western Carolina*) and this wording could easily be misunderstood. Here's how BCO 32-2 reads:

Process against an offender shall not be commenced unless some person or persons undertake to make out the charge; or unless the court finds it necessary, for the honor of religion, itself to take the step provided for in BCO 31-2.

To "commence process" means to order an indictment and appoint a prosecutor to prepare the indictment and prepare for the arraignment and possible trial (i.e., the second part of BCO 31-2). But it would be wrong to imply a court is required - even in general - to do this simply because an individual "files charges." Other factors need to be evaluated before a court commences process (including the three factors mentioned in the *Lyons* Case).

While this *Hahn* Case was narrowly (and rightly) decided on BCO 31-8, the underlined statement raises the question: "What prerogative *does* a court have when allegations are presented to it?" I contend a court has greater prerogative than what might be implied by the underlined statement. A court must consider several factors. And it always has the right and the responsibility to exercise its discretion and judgment in deciding whether to order an indictment, appoint a prosecutor, and begin proceeding to a trial. Granted, this discretion and judgment is always subject to review later by the higher court via, for example, BCO 43 (Complaints), BCO 40-5 (allegation of an important delinquency or grossly unconstitutional proceeding of the lower court), and perhaps BCO 33-1 & 34-1 (assumption of original jurisdiction for "refusing to act" in doctrinal case or case of public scandal).

In one sense, this freedom reflects the same principle observed by the civil magistrate. Not all accusations presented by an individual to a police officer, or by a police detective to a district attorney, or even by a grand jury to a DA, will automatically result in a criminal indictment.

Alleging an Offense vs. Filing Charges

The *BCO* doesn't explain how a person "undertakes to make out the charge" (*BCO* 32-2). Is there a substantial difference between someone who alleges an offense and someone who files charges? I don't think so. Sometimes an allegation is made with supporting evidence, but sometimes not. But regardless, an allegation from an individual is simply that – an allegation. It doesn't matter much if he says he's "filing charges." The court is the only entity that officially files charges, in the sense of an issuing an indictment. (*BCO* Appendix G is a sample form for a court's indictment. There's no sample form for an individual "filing charges.")

An offended brother has a right to "tell it to the Church" per Matthew 18:17 (after complying with vss. 15-16). But telling and demanding prosecution are not the same things. The Church is required to listen to the telling, and inquire, but it doesn't have to indict. In the PCA, an indictment is always and *only* in the name of and on behalf of the Church – *not* the individual. The person making the allegation is not even a party in the case – even if he's the offended person:

BCO 31-3. The original and only parties in a case of process are the accuser and the accused.

The accuser is always the PCA, whose honor and purity are to be maintained.

BCO 31-4. Every indictment shall begin: "In the name of the PCA," and shall conclude, "against the peace, unity and purity of the Church, and the honor and majesty of the Lord Jesus Christ, as the King and Head thereof." In every case the Church is the injured and accusing party, against the accused.

Judicial History

There's a mixed judicial history in the PCA on a court's prerogative when it receives "charges." It was answered one way 20 years ago (rightly) in two

cases where the SJC judgments were unanimous and were adopted by the 21st General Assembly in Columbia, SC (a procedure in place in 1993).

Case 91-06: *Sandra Lovelace v. Northeast Presbytery*, M21GA, 1993 pp. 185-193.

Case 92-07: *William Conrad, et al v. Central Carolina Presbytery*, M21GA, 1993 pp. 218-193.

In *Lovelace*, Presbytery upheld the dismissal of charges against two ruling elders, and the SJC and the General Assembly adopted a Judgment rightly declaring:

Yes, a court has the prerogative of not adjudicating a case once charges have been placed before it. A court has the duty to investigate the allegations to determine if a trial is necessary (*BCO* 31-2).

In *Conrad*, the SJC and GA adopted a similar Judgment after the Presbytery declined to indict on allegations made against a minister. The Decision also declared a court may refuse to allow the person who brought the original accusation to demand being a voluntary prosecutor.

But more recently, the SJC has reasoned somewhat differently in two cases involving charges against ministers.

In *Lee v. Korean Eastern Presbytery* (Case 2010-26), TE Lee filed charges against two other ministers in the Presbytery, but Presbytery declined to indict. The SJC sustained Lee's Complaint and wrote the following as the conclusion to its Reasoning:

In sum, once a Presbytery receives, from one who had the right to file charges, properly drawn charges against one or more teaching elder members of Presbytery, the Presbytery must proceed to accept and adjudicate those charges under the provisions of *BCO* chapter 32 unless it can show that one or more of the situations spelled out in *BCO* 29-1, 32-20, 34-2 and 31-8 applies. But if a Presbytery determines to dismiss charges on the basis of the above provisions, the burden of proof is clearly on the Presbytery. It may constitutionally dismiss such charges only with reasoning that is documented in the record and subject to review by the

higher court (see *BCO* 40-2 and 43-1).

In *Lyons v. Western Carolina* (Case 2010-16), a man “filed charges” against a minister, but Presbytery declined to indict. The issue in this case was somewhat more complicated than in *Lee*. While the SJC did not find Presbytery erred in declining to indict, it did rule Presbytery erred in ruling Lyons’ subsequent Complaint administratively out of order. SJC wrote the following in its Reasoning (the first line of which was repeated in the present *Hahn* Case):

Although in general *BCO* 32-2 requires that a court commence process upon the filing of charges, the Court has some discretion with respect to three categories. First, according to *BCO* 31-8, the Court may decline because the accuser “is known to indulge a malignant spirit towards the accused; who is not of good character; who is himself under Censure or Process; who is deeply interested in any respect in the conviction of the accused; or who is known to be litigious, rash or highly imprudent.” (See Case 2010-04 *Sartorius, et al vs. Siouxlands Presbytery* and Case 2009-22 *McNeil vs. Chesapeake Presbytery*) Second, *BCO* 34-2 instructs that “charges ought not to be received” against a Minister on “slight grounds.” Finally, *BCO* 32-20 establishes a limitation on the filing of charges outside of a space of one year.

[SJC’s Reasoning in *Lyons* did not refer to *BCO* 29-1, as it had in the *Lee*, which says an offense must be something that can be “proved to be such from Scripture.” Perhaps it was assumed.]

A Charge: Sufficient vs. Necessary Condition

In the interpretation and application of *BCO* 32-2, there may be confusion between what’s a *sufficient* condition and a what’s a *necessary* one. *BCO* 32-2 is best understood as stipulating a charge is a necessary condition, that is, the accused must know what he is being accused of. Even the SJC’s Reasoning in *Lee* and *Lyons* seems to agree that a charge filed by an individual is not a sufficient condition because the SJC stipulates four *BCO* requirements that must also be met before commencing process:

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- BCO 29-1* Nothing, therefore, ought to be considered by any court as an offense, or admitted as a matter of accusation, which cannot be proved to be such from Scripture.
- BCO 31-8* Great caution ought to be exercised in receiving accusations from any person who is known to indulge a malignant spirit towards the accused; who is not of good character; who is himself under censure or process; who is deeply interested in any respect in the conviction of the accused; or who is known to be litigious, rash or highly imprudent.
- BCO 32-20* Process, in case of scandal, shall commence within the space of one year after the offense was committed, unless it has recently become flagrant.
- BCO 34-2* As no minister ought, on account of his office, to be screened in his sin, or slightly censured, so scandalous charges ought not to be received against him on slight grounds.

Let's call them the *SAYS* standards – Scripture, Accuser, Year, and Slight [grounds]. The Reasoning in *Lee* (and perhaps less directly in *Hahn*) seems to imply any charge from an individual must be prosecuted if the four *SAYS* standards are met. But there are additional factors. For example, a court should consider whether *BCO 31-5* has been followed:

An injured party shall not become a prosecutor of personal offenses without having tried the means of reconciliation and of reclaiming the offender, required by Christ. (Matt 18:15-16)

And every court has the freedom to seek informal and private interaction with an alleged offender “before instituting actual process.” *BCO 31-7* seems to encourage this:

When the prosecution is instituted by the court, the previous steps required by our Lord in the case of personal offenses are not necessary. There are many cases, however, in which it will promote the interests of religion to send a committee to converse in a private manner with the offender, and endeavor to bring him to a sense of his guilt, before

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instituting actual process.

But in addition to *SAYS*, and *BCO* 31-5 and 31-7, there other matters a court should consider before it proceeds to formal indictment and prosecution at trial. Below are just a few examples we'll call the *WEEP* standards.

- Is a trial really warranted?
 - Will the ends of discipline be promoted in a trial?
 - Is there enough preliminary evidence to support an indictment?
 - Is it likely the allegation will be provable at trial?
1. The court might not believe the alleged offense warrants a formal trial. This is a subjective judgment and a matter of discretion. For example, say a 14-year-old communing member alleges his 16-year-old brother violated Scripture by hitting him. The older brother is not willing to confess to the alleged offense, but there's a strong presumption of guilt because two Session members observed the incident. The younger brother "files charges," cites the *Lee Case*, accurately claims he meets the *SAYS* standards, and contends the Session is obligated to institute formal judicial process against his older brother. The Session reports to the younger accuser that while there clearly appears to be a strong presumption of guilt, the alleged offense simply does not warrant a formal indictment and full trial. The Session appropriately confronts the unrepentant older brother, but it sees insufficient warrant for a formal indictment and trial.

Additionally, it may be reasonable to consider things like a Session's size when deciding whether to proceed to formal process. If a Session only has one TE and one RE, formal process will be challenging and could monopolize the Session's time and energy. And with a two-man Session, if one needs to be the prosecutor, a Session trial is probably not possible (though a Reference to Presbytery would be).

2. When considering an indictment, it's fair for a Session or Presbytery to ask: Will the ends of discipline be promoted by a formal indictment and trial in this particular instance? It's possible the several "ends" in *BCO* 27-3 could be more easily and/or more sufficiently achieved without going to a formal trial.

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The exercise of discipline is highly important and necessary. In its proper usage discipline maintains:

- a. the glory of God,
- b. the purity of His Church,
- c. the keeping and reclaiming of disobedient sinners.

Discipline is for the purpose of godliness (1 Tim 4:7); therefore, it demands a self-examination under Scripture.

Its ends, so far as it involves judicial action, are
the rebuke of offenses,
the removal of scandal,
the vindication of the honor of Christ,
the promotion of the purity and general
edification of the Church,
and the spiritual good of offenders themselves.

3. The court might consider the preliminary evidence insufficient to support the accusation/charge. It would not be prudent to order an indictment until and unless it believes otherwise. While additional evidence might later change the court's mind, absent that, the court is within its rights to decline to prosecute.

It seems this understanding was approvingly mentioned by the SJC in the present *Hahn* Case. In its Reasoning, the SJC states:

“Additionally, [the Presbytery] found, after it had “read the entirety of the documents and heard the testimony of the participants” that there was “insufficient evidence to indicate a strong presumption of guilt” on the part of any of [the 3 persons accused by Mr. Hahn].”

And this understanding is reflected in SJC Manual, Chapter 16: Procedures for Assuming Original Jurisdiction over a Minister (*BCO* 34-1). Even if two *Presbyteries* file charges against a minister in another Presbytery, *and* the SJC determines it's a doctrinal case or case of public scandal, *and* the SJC determines the original Presbytery “refused to act,” the SJC *still* must determine there is a strong presumption of guilt before commencing process.

OMSJC 16.1b. If the case is determined to be in order, the [SJC] panel shall conduct an investigation of

allegations against the minister under the provisions of *BCO* 31-2.

OMSJC 16.4 If the SJC's final judgment is that the above investigation does not raise "a strong presumption of the guilt of the party involved," (*BCO* 31-2) the SJC shall dismiss the case and advise the parties to the case.

4. The court might legitimately doubt the charge can actually be proven at trial. This doubt could result from various reasons: inadequate or unavailable evidence, insufficient or questionable witnesses, etc. For example, if someone charges a man with an offense related to his marriage, and his wife is not willing to testify, and the court does not believe the offense could be proven at trial without her testimony, it would probably not be prudent to conduct a trial.

These examples simply illustrate a court can and should exercise discretion and judgment in areas additional to the *SAYS* standards when deciding whether and when to commence formal process.

Historical & Contemporary Views

This freedom to exercise discretion and judgment echoes that expressed over a century ago by F.P. Ramsay in his *Exposition of the Book of Church Order* (1898, p. 193-194, on VI-2). <http://pcahistory.org/bco/rod/32/02.html>

Ramsay is broadly regarded as one of the most eminent exegetes of Presbyterian polity. Below are his comments on the same paragraph as our *BCO* 32-2:

173 - II. Process against an offender shall not be commenced unless some person or persons undertake to make out the charge; or unless the court finds it necessary, for the honour of religion, itself to take the step provided for in Chapter V., section II.

Ramsay: Since an offence is anything in principle or practice contrary to the Word of God, who of us is not an offender? Were it a duty to prosecute every offender, the Church would have no time or strength for anything else. Process shall not commence unless one of two conditions

is fulfilled. The one of these conditions is, that some person or persons volunteer to prosecute in spite of the warning in 169 and after complying (if an injured party or one privy to a private offence) with 165; and even then the court may decline to allow process to commence, either from objection to the voluntary prosecutor (168), or because the thing charged is not an offence, or the evidence proposed is seen to be inadequate, or because the ends of discipline will not be promoted in the circumstances. The other of these conditions is that the court shall find it necessary, for the honor of religion, to take the step provided for in 162. (Emphasis added).

Here's an excerpt from Morton Smith's commentary on *BCO* 32-2 (echoing Ramsay):

. . . Even [if someone files charges], the Court may decline to prosecute, for any one of the following reasons:

1. objection to the voluntary prosecutor and his motivations 31-8;
2. the thing charged is not an offense;
3. the evidence proposed is inadequate;
4. the ends of discipline will not be promoted in these circumstances.

Other Denominations

This understanding of a court's freedom is also reflected in the rules of other Presbyterian denominations, perhaps more clearly than in ours. Granted, these don't govern the PCA, but it would be odd if an important aspect of our disciplinary procedures were fundamentally different than theirs. Take the OPC for example (underlining added):

OPC Book of Discipline, Chapter 3 – Steps in Judicial Process
http://opc.org/BCO/BD.html#Chapter_III

- 7a. If a charge in the form prescribed in this chapter, Section 3, is presented to the judicatory of jurisdiction by an individual or individuals, the judicatory shall proceed to conduct a preliminary investigation to determine whether judicial process shall be instituted. A committee may be appointed for this purpose, but its findings shall always be reviewed by the judicatory.

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- 7b. The judicatory, or the committee, shall consider
- (1) the form of the charge;
 - (2) the form and relevancy of the specifications;
 - (3) the competency of the witnesses named in the specifications;
 - (4) the apparent authenticity, admissibility, and relevancy of any documents, records, and recordings adduced in support of the charge and specifications;
 - (5) whether the specifications, if true, would support the charge; and
 - (6) also, whether the charge, if proved true, would constitute an offense serious enough to warrant a trial.

An offense which is serious enough to warrant a trial is:

- (1) an offense in the area of conduct and practice which seriously disturbs the peace, purity, and/or unity of the church, or
- (2) an offense in the area of doctrine for the non-ordained member which would constitute a denial of a credible profession of faith as reflected in his membership vows, or
- (3) an offense in the area of doctrine for the ordained officer which would constitute a violation of the system of doctrine contained in the Holy Scriptures as that system of doctrine is set forth in our Confession of Faith and Catechisms.

See also:

ARP Book of Discipline, V. Part A, paragraphs 4 & 5

<http://www.arsynod.org/downloads/Book%20of%20discipline.pdf>

RPCNA Book of Discipline, Chapter 2: Instituting Judicial Process (esp. paragraphs 2.1 and 2.2) <http://reformedpresbyterian.org/downloads/constitution2010.pdf>

EPC Book of Discipline, Chapter 6 (esp. 6-1.B)

<http://www.epc.org/resources/download-epc-documents/>

RCA *BCO*, Chapter 2, Part 1, Article 4, Section 4 – Procedure for Bringing a Charge <http://images.rca.org/docs/bco/2011BCO-Discipline.pdf>

PCUSA Book of Discipline, Chapter 10, paragraphs D-10.0103 and 10.0201 <http://index.pcusa.org/NXT/gateway.dll?f=templates&fn=default.htm&vid=pcdocs:10.1048/Enu>

Relative Value of Formal Process

Perhaps this also raises the question of how a Session may communicate its opinion/ judgment when it believes a member has sinned or is sinning. While a Session cannot impose the formal censures of Admonition, Suspension, or Excommunication apart from a confession or formal process, it's always free to tell a member if it believes he has sinned. In certain instances and with appropriate discretion, a Session could adopt and deliver a letter to a member officially communicating its judgment about that person's behavior. It doesn't need a trial to call something a sin, even formally. A Session might use this approach, for instance, when officially expressing its opinion on the relative culpabilities in a marriage demise, in circumstances where formal judicial process might not be prudent or might not be the best way to achieve the ends of *BCO* 27-3.

Some people seem to think a formal trial is usually a helpful and productive approach and a great way to resolve disputes and allegations. I wonder. Trials are difficult. They cost money. They take time. They sometimes drain the energy out of a Session and its minister. And to be done well it requires a good prosecutor - and it's rare for a TE to have that skill, and even rarer for him to have that experience, and almost unknown for him to have the time. Granted, a large church might have an RE attorney on Session, but it's less likely with a smaller Session. A trial often means a failure of shepherding, a failure of mediation, a failure of informal discipline, and a failure of communication. And in the end, a trial often fails to resolve the matter and often leaves broken relationships in its wake. I'm not saying trials are bad, only that they're rarely the wonderfully-effective, peace-restoring, truth-vindicating things many seem to imagine them to be.

Conclusion

We should recognize and appreciate courts have the freedom and responsibility to exercise discretion and judgment in deciding whether and when to commence formal process. This exercise is subject to appellate

review, of course, but it shouldn't be restricted - even in general - without compelling reasons or explicit constitutional directive.

CASE 2011-14
COMPLAINT OF RE DUDLEY REESE AND TE NIEL BECH
VS.
PHILADELPHIA PRESBYTERY

I. SUMMARY OF THE FACTS

04/16/09 The SJC ruled in Cases 2008-1 and 2008-10 that Philadelphia Presbytery did not err when it licensed and later ordained TE Jason Hsu who, during the course of his examinations, stated that he believes the office of Deacon can also be held by women. TE Hsu also affirmed, among other things, that he would not ordain women to the office of Deacon; that he would feel more comfortable with a "Mercy Team" comprised of men and women who are not ordained; but that if the Session of the Church that calls him desires to ordain men as Deacons, he would submit to that. (M37GA176, 178)

In denying these Complaints the SJC stated the following: "We are required to give great deference to the judgment of Presbytery on matters of discretion and judgment best addressed by the court with familiar acquaintance with the events and parties (*BCO* 39-3.3). In the absence of clear evidence that the candidate intends to ordain women to the office of deacon, or that he does not intend to encourage his congregation to nominate qualified men to the office, or that he will refuse to ordain qualified men to the office of deacon when women may not also be ordained, we are required to defer to Presbytery's judgment on this area of inquiry." (M37GA185)

Earlier in its opinion the SJC stated: "[I]f a member of a Presbytery, who during his examination for ordination promised to follow the *BCO* in spite of a personal reservation, subsequently acts in contradiction to the