

CASE NO. 2020-14
TE AARON MYERS
V.
ILLIANA PRESBYTERY
DECISION ON APPEAL
October 21, 2021

I. SUMMARY OF THE FACTS

- 03/12/20 At a meeting of the Session of Providence Presbyterian Church (PPC), Edwardsville, Illinois, following a history of difficulties in the marriage of Danielle Myers (Mrs. Myers) and TE Aaron Myers (TE Myers) spanning at least two years, TE Myers was asked to resign from his pastoral charge. He complied.
- 03/13/20 Six of the ruling elders of Providence Presbyterian Church wrote to the Stated Clerk of Illiana Presbytery bringing a recommendation of charges against TE Myers with respect to his treatment of Mrs. Myers.
- 03/15/20 A letter to the congregation from the Session was read by RE Rodgers informing them of TE Myers' resignation.
- 03/19/20 Mrs. Myers wrote to the Session complaining about alleged inaccuracies in the Session's announcement to the congregation and asking that they publicly correct the matter with respect to the congregation.
- TE Myers rescinded his resignation.
- 03/22/20 The Session denied Mrs. Myers request of 3/19.
- 05/23/20 At a stated meeting, Illiana Presbytery appointed a commission to investigate reports concerning TE Myers according to *BCO* 31-2.
- 05/25/20 Mrs. Myers wrote to the Investigative Commission to say that she would not meet or speak with them, and that she intended to exercise her rights under *BCO* 35-2.

APPENDIX T

- 06/03/20 Mrs. Myers wrote to the Investigative Commission saying, “I reverse my decision to follow *BCO* 35-2 to not testify against my husband. I also do not stand by the letters dated March 28, 2020, May 22, 2020 or May 25, 2020 that were signed by me. All three were written under duress and with pressure and coercion from Aaron.”
- 06/26/20 TE Myers informed the Presbytery Investigative Commission that he would not meet with them (*BCO* 35-1) and why.
- 06/29/20 The Commission to Investigate decided that there was sufficient evidence to raise a strong presumption of guilt regarding the allegations brought by the six elders of Providence Presbyterian Church (PPC) and recommended Illiana Presbytery institute process.
- 07/16/20 TE Myers signed a severance agreement delivered by REs Lollar and Cope and then used profanity regarding Mrs. Myers, in the presence of neighbors and children. TE Myers asked the two elders for forgiveness that night via text.
- 07/21/20 A six-member Judicial Commission was appointed by Illiana Presbytery in response to Presbytery's Investigative Commission's report to Presbytery. TE Myers declared that he would not testify.
- 07/30/20 The Commission suspended TE Myers from the duties of his office pending the conclusion of the trial (*BCO* 31-10).
- 09/25/20 Following several weeks of disputes and decisions regarding the language of the indictment, the Commission issued an amended indictment of three charges: 1. maltreatment of his wife; 2. fits of anger; and 3. sexual immorality (use of pornography), and citation to appear for arraignment.
- 10/08/20 The Defense counsel entered a plea of not guilty as received in writing from the Defendant. A new trial date was set for 10/24/20.
- 10/24/20 The Trial was held. In the trial proceedings, charge 3. sexual immorality (use of pornography) and related specifications, were dropped according to a ruling by the Moderator.

MINUTES OF THE GENERAL ASSEMBLY

- 10/31/20 After Commission deliberation, the Defendant was unanimously found guilty of the charge of “maltreatment of his wife” and the charge of “fits of anger”.
- 11/05/20 The Commission considered and decided upon a censure to recommend to Presbytery, to wit, “indefinite suspension from office”.
- 11/21/20 Illiana Presbytery heard the report of the Commission decision that TE Aaron Myers was guilty of the charge of maltreatment of his wife and the charge of having fits of anger and unanimously adopted the Commission’s recommended censure as amended to include suspension from the Sacraments (*BCO* 36-5).
- 12/02/20 TE Myers filed his Appeal with the SJC (received 01/06/21).
- 02/27/21 Appellant submitted alleged new evidence to the Panel that he contended had an important bearing on the case (*BCO* 35-14). In light of the alleged new evidence, Appellant requested the SJC to set aside the judgment and censure in the case and remand the case to Illiana Presbytery for a new trial (*BCO* 42-9).
- 04/29/21 Without objection, the Panel found that the statement of Mrs. Danielle Myers submitted by Appellant as new evidence was not new evidence that had an important bearing on the case, and thus declined to receive it.
- 08/10/21 The Panel (Chairman RE Steve Dowling, TE David Coffin, RE John Pickering, and Alternates TE Charles McGowan and RE John White) conducted the hearing.

II. STATEMENT OF THE ISSUE

At its meeting on November 21, 2020, did Illiana Presbytery err in approving its Judicial Commission’s decision that TE Aaron Myers was guilty of the charge of maltreatment of his wife and the charge of having fits of anger?

III. JUDGMENT

No. The decision of Illiana Presbytery is upheld in whole. None of the Appellant's Specifications of Error are sustained.

IV. REASONING

With respect to the guilty verdict Appellant raises four specifications of error on the part of Illiana Presbytery (IP). In a first specification of error,¹⁵ Appellant alleges that IP erred in allowing witnesses to the charges who were not eyewitnesses to the offenses alleged. In addition to the testimony of Appellant's wife, the Judicial Commission (JC) allowed certain Ruling Elders of the congregation to testify that Appellant himself had confessed to the truth of the allegations. Appellant argued that such testimony was "hearsay" and, as such, prohibited as evidence.

This specification of error is not sustained.

A Minute Explanatory. *The Book of Church Order (BCO)* sets forth standards for both the competence and the credibility of witnesses. As to competence:

All persons of proper age and intelligence are competent witnesses, except such as do not believe in the existence of God, or a future state of rewards and punishments. . . . Either party has the right to challenge a witness whom he believes to be incompetent, and the court shall examine and decide upon his competency. . . . (*BCO* 35-1)

The Record shows that the JC acted in accordance with this provision in admitting witnesses and in responding to challenges. The *BCO* does not require that witnesses be eyewitness. Further, the *BCO* does not forbid "hearsay" evidence.

As to credibility:

¹⁵ The indefinite article is used throughout with respect to specifications because the rather diffuse and repetitive character of the Appeal made it difficult to succinctly identify specifications of error. It is the Court's opinion that the following does justice to the Appellant's submission. Future appellants are herein encouraged to consult with *BCO* Appendix G, Suggested Forms for Judicial Business, V. Appeal.

It belongs to the court to judge the degree of credibility to be attached to all evidence. (*BCO* 35-1)

The Record shows that the JC judged as credible the testimony of Ruling Elders testifying that Appellant himself had confessed to the offenses alleged. Here it is instructive to note that in courts that do have a rule on the inadmissibility of hearsay statements, a well-established exception to the rule is made in the case of testimony with respect to statements made against penal interest, i.e., a statement made by a defendant is admissible as evidence if it is inculpatory.¹⁶ The credibility of such testimony is found in the commonsense belief that people do not rashly or falsely make statements against penal interest. The JC found the testimony credible. Apart from a showing of “clear error,” the SJC must defer to the judgment of the lower court in this matter (*BCO* 39-3.3). No such showing is set forth in the Record.

A second specification alleges that IP erred in allowing only one witness to establish a charge, contrary to *BCO* 35-3, “The testimony of more than one witness shall be necessary in order to establish any charge; yet if, in addition to the testimony of one witness, corroborative evidence be produced, the offense may be considered to be proved.”

This specification of error is not sustained.

A Minute Explanatory. This specification depends upon the cogency of the first, and as the first has not been sustained, the second fails with it. According to our reading of the Record each charge was established by at least two witnesses.

A third specification of error alleges that IP erred in allowing charge 2, “fits of anger”, which charge violated the provisions of *BCO* 32-20, i.e., “Process, in case of scandal, shall commence within the space of one year after the offense was committed, unless it has recently become flagrant. . . .” Appellant contends that charges were received by the court of original jurisdiction over a year after the alleged offense took place.

This specification of error is not sustained.

¹⁶ Notice, on the other hand, statements that are *exculpatory* are typically excluded, unless corroborating circumstances clearly indicate the trustworthiness of the statement.

A Minute Explanatory. The facts, in this specification, are not in dispute; rather the question has to do with the meaning of *BCO* 32-20. In his concurring opinion to SJC 2019-08, RE J. Howard Donahoe provided an able exposition of the *BCO* provision at issue. He argued that according to the text “the date of an alleged offense is not material unless the offense is a ‘case of scandal.’” RE Donahoe thus asks, “what constitutes a case of scandal?” For an answer he turned to an historic and highly regarded exposition of the *BCO* by F.P Ramsay:

The principle is that, if the Church neglects to commence process against scandal (which is any flagrant public offence or practice bringing disgrace on the Church) within a year, she is debarred from thereafter doing it. This is not to shield the offender, but to incite to the prompt prosecution of such offences. Offences not so serious or scandalous the Church may bear with the longer while seeking to prevent scandal; but for no consideration is the Church to tolerate such offences as are scandalous.¹⁷

RE Donahoe soundly concluded that the first sentence of *BCO* 32-20 does not shelter an offender in any way, but rather, it is simply meant to “spur the court to prosecute a particular offense—something that is actually bringing public disgrace on the Church. . . . For an offense to be a ‘case of scandal’ it would need to be an offense that is known to the broader public and, unless adjudicated promptly, would bring public disgrace on the Church. . . .”

According to the ROC, the alleged offense brought before the JC of IP was not a “public offence or practice bringing disgrace on the Church,” a “scandal” “known to the broader public.” Therefore the one-year requirement of *BCO* 32-20 did not, in this case, prohibit IP from hearing and adjudicating the case.

Finally, a fourth specification of error alleges that IP erred in employing judicial process with respect to the allegations concerning TE Myers, to the neglect of pastoral care and marriage counseling.

This specification of error is not sustained.

¹⁷ F.P. Ramsay, *An Exposition of the Form of Government and the Rules of Discipline of the Presbyterian Church in the United States* (Richmond: The Presbyterian Committee of Publication, 1898), p. 207.

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A Minute Explanatory. Apart from a showing of “clear error,” the SJC must defer to the judgment of the 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 (*BCO* 39-3.3). No such showing is contained in the Record.

However, the Record does show that judicial process took place only after reasonable attempts at pastoral care had been made at both the local and presbytery level. Early on members of the Session had urged the Appellant to pursue marital counseling. Pastoral help was sought by Session members from a respected mentor. Counseling was arranged through another minister of the Presbytery, apparently to no avail. The Record shows that IP took up judicial process, not to resolve a pastoral matter, but because, after investigation, IP concluded that there was a strong presumption of guilt that the Appellant had committed grievous offenses against his wife that required disciplinary action.

The Panel Decision was drafted by TE David Coffin and RE John Pickering and amended and unanimously approved by the Panel. The SJC amended and approved the decision on the following roll call vote:

<i>Bankson Concur</i>	<i>M. Duncan Concur</i>	<i>Neikirk Concur</i>
<i>Bise Concur</i>	<i>S. Duncan Concur</i>	<i>Nusbaum Concur</i>
<i>Cannata Concur</i>	<i>Ellis Concur</i>	<i>Pickering Concur</i>
<i>Carrell Concur</i>	<i>Greco Concur</i>	<i>Ross Concur</i>
<i>Chapell Concur</i>	<i>Kooistra Concur</i>	<i>Terrell Concur</i>
<i>Coffin Concur</i>	<i>Lee Concur</i>	<i>Waters Concur</i>
<i>Donahoe Concur</i>	<i>Lucas Absent</i>	<i>White Absent</i>
<i>Dowling Concur</i>	<i>McGowan Concur</i>	<i>Wilson Concur</i>

(22-0-0)

CASE NO. 2021-01
MR. STUART MICHELSON
V.
NORTHWEST GEORGIA PRESBYTERY
DECISION ON COMPLAINT
October 21, 2021

The SJC finds the case is administratively out of order as prematurely filed. Presbytery had not completed its hearing on the Complaint as of the date the