

**CASE No. 2023-07**

***TE JOHN EVANS***

**v.**

***ARIZONA PRESBYTERY***

**DECISION ON APPEAL**

March 7, 2024

**I. SUMMARY OF THE FACTS**

04/13/20 TE Evans responding to an inquiry from TE Phil Kruis, wrote: “You seem to be asking what expectations I may have of Presbytery in light of the SJC decision<sup>1</sup>... I believe that Presbytery should note in the minutes that I am a TE in good standing, dissolve any pastoral relationship with the Covenant congregation pending their acting on my resignation (*BCO* 23-1) and list my status on the Presbytery rolls as ‘without call.’”

TE Kruis responded, “I think you may have answered my question and we may not need to interact over the phone. Our report on the SJC ruling will include that the Presbytery’s action of April 2019 was annulled and that you are a member in good standing. I don’t think any of us were aware that you had tendered your resignation at Covenant.<sup>2</sup> ... I do not think we need any more clarification.”

04/12/22 TE Mark Lauterbach, chairman of the AZP Shepherding Committee. emailed TE John Evans asking his status since he is without call and advising that “According to *BCO* 13-2 we can only keep your ordination for 3 years from dissolution of your last call.”

04/13/22 TE Evans responded, “My state of being without call began in August 2020, after the SJC annulled the AZP judgment and censure (thus restoring me to my office and, formally at least, to my pastoral charge) and I submitted to AZP my resignation from

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<sup>1</sup> See SJC Cases 2019-10 & 2019-12 in M48GA, pp. 771-779.

<sup>2</sup> In his email to TE Lauterbach, dated April 13, 2022, TE Evans said, “Richard will have a copy of my resignation, dated Aug 13 in his records.”

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the Covenant pastorate.” TE Evans also noted his previous correspondence with TE Phil Kruis, dated August 13, 2020.

- 06/12/22 TE Evans joined Bethel congregation of the Evangelical Presbyterian Church in England and Wales (EPCEW) in Cardiff.
- 07/21/22 TE Evans emailed AZP Stated Clerk RE Richard Wolfe to inform Presbytery that he had joined another church body, EPCEW, thereby withdrawing his membership in the PCA and requesting his name be erased from the roll of AZP (*BCO* 38-3(a)).
- 07/21/22 The Administrative Commission of AZP met and “MSC to approve the request from TE John Evans to withdraw his membership from the Arizona Presbytery, pending acknowledgment of his reception into new denomination.”
- 07/26/22 RE Wolfe, the AZP Stated Clerk emailed TE Falko Drijfhout of EPCEW asking for confirmation the TE Evans had “transferred into your denomination.”
- 07/27/22 TE Drijfhout responded “I have not heard anything about John Evans being affiliated to the EPCEW. He may have joined any of our congregations, but his credentials as minister (teaching elder) have not been transferred as far as I know.”
- 08/16/22 The AZP Stated Clerk emailed TE Evans requesting “...a copy of any document showing your reception into your denomination for our records for RPR.”
- 08/21/22 TE Evans responded, “I have informed Arizona Presbytery that I have withdrawn from the PCA... to affiliate with another branch of the visible church, that is all the provision requires to enable the Presbytery to take the three steps mentioned in the provision; no certificate is necessary for Presbytery to act.”

The Stated Clerk, RE Wolfe responded, “The Arizona Presbytery will acknowledge and act upon your withdrawal and affiliation with another branch of the visible church once you have provided me with documentation of your affiliation.”

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- 09/07/22 TE Drijfhout, stated clerk of EPCEW, responded to RE Wolfe's July 26 email, "I can now confirm that the Rev Dr John F. Evans is newly a member of our congregation in Cardiff, Bethel Church. He is employed by the Union School of Theology at Bridgend."
- 09/08/22 Rev Andrew Graham of Bethel Presbyterian Church, Cardiff, emailed RE Wolfe, "I can confirm that Revd Dr John Evans has been worshipping regularly with our congregation for six months, and as he reported to your presbytery, became a member of our church which is a church of the Evangelical Presbyterian Church in England and Wales (EPCEW) on 12 June 2022."
- 12/13/22 The Administrative Commission of AZP discussed "TE John Evans' request to be removed from the rolls of Presbytery. Presbytery will be notified of his request and vote on this request. We will also communicate to Presbytery and TE Evans that in keeping with *BCO* 38-3 by joining a local church rather than a presbytery, he has demitted his office."
- 01/19/23 At its Stated Meeting of January 19-20, 2023, AZP received a report stating that "Presbytery was notified in a letter dated July 21, 2022 that John Evans has affiliated with another branch of the visible church."

In response, AZP adopted the following motions: "...to begin the proceedings in [*BCO*] 34-10 for TE John Evans, inquiring into the dereliction of his call. The grounds for following *BCO* 34-10 are that John Evans has been without call for a prolonged period of time."

AZP minutes of the meeting also record: "The Stated Clerk was thereby ordered and empowered by the Presbytery to follow procedures in *BCO* 34-10, notifying TE Evans in writing of the actions taken and that at the next Stated meeting of presbytery the question of his being so dealt with is to be considered. An invitation of his attendance shall be properly extended."

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- 01/20/23 RE Wolfe, the AZP Stated Clerk emailed TE Evans, notifying him of Presbytery's actions and further added that Presbytery would consider, "... whether to divest you of your office as minister of the Gospel (Teaching Elder) as a result of a prolonged period without a call..."
- 01/23/23 TE Evans responded indicating his surprise at the 01/20/2023 email from Stated Clerk Wolfe stating: "As stated clerk you received my attached communication six months ago (July 21, 2022) informing AZP that I had withdrawn my membership from the PCA and affiliated with another branch of the Church, all under the provision of *BCO* 38-3(a)."
- TE Evans further noted: "You indicated last year (Aug 21) that you did not accept my letter and your office would not act on my letter unless I provided you with documentation of my affiliation. Drawing on expert counsel, I told you that no further documentation was necessary; my letter was adequate."
- 04/28/23 At its stated meeting of April 27-28 (with TE Evans not attending and having not submitted a statement) Presbytery adopted the following motions in sequence:
- 1) In accordance with *BCO* 13-2 and 34-10, we divest TE John Evans without censure due to his lack of call for a prolonged period of time, not exceeding three years. (28 for, 5 against, 5 abstain)
  - 2) In accordance with *BCO* 38-3, at his request, we acknowledge TE John Evans' new membership in a local church, record the irregularity, and remove his name from our rolls.
- 05/12/23 TE Evans appealed the action taken by AZP "To divest TE John Evans of his office without censure."
- 07/05/23 A panel consisting of RE John White, TE Rhett Dodson, TE Sean Lucas, TE Brad Evans (alt.). and RE Sam Duncan (alt) was appointed to hear the case.

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- 07/14/23 Panel held its Constituting Meeting and elected RE White as chairman and TE Dodson as secretary.
- 08/10/23 Panel met, found the case judicially in order and sets a hearing for August 17 to decide objections to the Record of the Case.
- 12/15/23 Panel hearing was held on the Case.

### II. STATEMENT OF THE ISSUE

Did Arizona Presbytery (AZP) err when, on April 28, 2023, it voted to “divest TE John Evans without censure due to his lack of call for a prolonged period of time, not exceeding three years” (*BCO* 34-10) despite TE Evans’ notification to AZP (on July 21, 2022) that since June 12, 2022 he had affiliated with the Evangelical Presbyterian Church in England and Wales?

### III. JUDGMENT

Yes. TE John Evans’ appeal of his divestiture is sustained and the action of AZP is reversed because, at the time of the action, TE Evans was no longer subject to the jurisdiction of AZP. (*BCO* 42-9 and *BCO* 38-3(a))

### IV. REASONING AND OPINION

Presbytery divested TE Evans of his office without censure (*BCO* 34–10) and then proceeded to remove his name from its rolls following the procedure of *BCO* 38–3a. The Presbytery proceeded to act under *BCO* 34-10 even though a) it failed to ascertain adequately whether the Appellant had “habitually failed to be engaged in the regular discharge of his official functions” and b) it failed to act on his “attempt to withdraw” from the PCA through his affiliation with another branch of the visible church or even investigate the nature of the denomination with which he affiliated.

Almost eighteen months had elapsed from the time the Appellant had resigned from his church to the first communication to him from the Presbytery’s representative. And yet, it is not clear from the record of the case that Presbytery ascertained whether “he was engaged in the regular discharge of his official functions.” By March 2022, however, the Appellant was in the

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United Kingdom, teaching at Union School of Theology, presumably as a way of exercising his official ministerial functions. It would have behooved Presbytery's representative to have asked more questions or even suggest that Presbytery move to investigate the situation.<sup>3</sup> However, Presbytery does not appear to ascertain adequately the issues of the Appellant's "regular discharge of his official functions."

Arizona Presbytery argues that Evans lacks standing to appeal the actions taken by the Presbytery. By arguing Evans lacks the standing to appeal, Presbytery engages in a circular argument. On the one hand, it claims jurisdiction over Evans to divest him of his office but argues he lacks standing to appeal said action. Standing and jurisdiction in this instance, however, must stand or fall together. To deny Evans standing to appeal the Presbytery's action would be to deny him a fundamental right to fairness in this matter. In the end, what Presbytery should have done regarding *BCO* 38–3a ultimately makes the question of standing moot. Per *BCO* 38–3a, Evans withdrew from the PCA on June 12, 2022 and, therefore, Presbytery had no authority to divest TE Evans.

More importantly, Presbytery should not have moved to divest TE Evans of his office because six months prior to instigating process per *BCO* 34–10, he had already removed himself from the Presbytery's jurisdiction by affiliating with another branch of the visible church (*BCO* 38-3.a). The provisions of *BCO* 38–3a are clear.

38-3. a. When a member or officer in the Presbyterian Church in America shall attempt to withdraw from the communion of this branch of the visible Church by affiliating with some other branch (*BCO* 2-2), if at the time of the attempt to withdraw he is in good standing, the irregularity shall be recorded, his new membership acknowledged, and his name removed from the roll. But if at the time of the attempt to withdraw there is a record of an investigation in process (*BCO* 31-2), or there are charges (*BCO* 32-3) concerning the member or minister, the

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<sup>3</sup> It should be noted that nowhere in the ROC was there evidence that the Presbytery cited the Appellant for "labor[ing] outside the geographical bounds of, or in a work not under the jurisdiction of his Presbytery" without "the full concurrence of and under circumstances agreeable to his Presbytery" (*BCO* 13-2). Perhaps the timeline was such that the Appellant had already decided to withdraw from the PCA when he accepted the call to labor in the United Kingdom; however, not communicating with the Presbytery exacerbated the conflict.

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court of original jurisdiction may retain his name on the roll and conduct the case, communicating the outcome upon completion of the proceedings to that member or minister. If the court does not conduct the case, his new membership shall be acknowledged, his name removed from the roll, and, at the request of the receiving branch, the matters under investigation or the charges shall be communicated to them.

On June 12, 2022, TE Evans joined Bethel congregation of the Evangelical Presbyterian Church of England and Wales (EPCEW). The following month, on July 21, 2022, he informed RE Wolfe, Stated Clerk of Presbytery, of this affiliation and his withdrawal from the PCA per *BCO* 38–3a. On that same date the Presbytery’s Administrative Commission met and adopted the motion “to approve the request of TE John Evans to withdraw his membership from Arizona Presbytery, pending acknowledgement of his reception into new denomination.” Presbytery’s motion contains two misunderstandings of *BCO* 38–3a. First, the procedure is not a request. It is an act by a member or officer by which he or she voluntarily withdraws membership from the PCA. The freedom of voluntary association or voluntary withdrawal is a right which PCA members and officers possess. Much was made in the Appellee’s brief and oral arguments that *BCO* 38–3a only addresses an *attempt* (emphasis added) to withdraw from the PCA and affiliate with another branch of the visible church. The act of withdrawal is styled an attempt in the *BCO* because at the time of withdrawal, the member or officer must be in good standing and must not be under a formal investigation or have charges filed against him or her. If those conditions are met, however, then the attempt at withdrawal is successful, and a court is required to 1) record the irregularity, 2) acknowledge the member or officer’s new membership, and 3) remove his or her name from the roll. No other action of the member, officer, or court is required.

The second misunderstanding on the part of Presbytery is in supposing that *BCO* 38–3a requires acknowledgement by the receiving body of the member or officer’s new membership. This is not the case. Despite this misunderstanding of *BCO* 38–3a, Presbytery did receive acknowledgement of TE Evans’ reception into membership in an EPCEW congregation but did not follow through on the recommendation of its Administrative Committee to acknowledge this reception.

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When TE Evans informed Presbytery that he had joined a congregation of the EPCEW, he was a member in good standing. No investigation was in process (*BCO* 31–2), and no charges had been filed against him (*BCO* 32–3). It was Presbytery’s responsibility to abide by the required steps of *BCO* 38–3a and 1) record the irregularity of TE Evans’ withdrawal, 2) acknowledge his membership in EPCEW, and 3) remove his name from the Presbytery roll. Presbytery failed to follow these required steps and instead, six months later, initiated process against TE Evans per *BCO* 34–10, and nine months after his withdrawal Presbytery divested him of his office.

The appellee also argued that Presbytery simply acted *explicitly* to divest TE Evans in light of his *implicit* divestiture by joining a local congregation outside the PCA. This argument reflects a fundamental and serious misunderstanding of the nature of ordination. Ordination to the Christian ministry is not the sole possession of the PCA or any other congregation or denomination. The PCA recognizes the legitimacy of ordination to the gospel ministry across denominations that uphold the fundamentals of evangelical religion. Ordained applicants coming from other denominations into the PCA do not have to be ordained again (*BCO* 13–6), and ministers in good standing who withdraw or transfer out of the PCA take their ordination credentials with them.

Because of these irregularities in the proceedings of the Presbytery in dealing with the Appellant, the SJC reverses in whole the proceedings of Arizona Presbytery with respect to the divesture of TE Evans. The SJC further instructs Presbytery to follow the provisions of *BCO* 38-3a with respect to TE Evans, to wit: 1) record the irregularity of TE Evans’ withdrawal, 2) acknowledge his membership in EPCEW, and 3) remove his name from the Presbytery roll.

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The SJC reviewed each part of the proposed decision and approved the final version of the Decision by vote of **22-0**, with two absent.

Bankson	<i>Concur</i>	S. Duncan	<i>Concur</i>	Maynard	<i>Concur</i>
Bise	<i>Concur</i>	Eggert	<i>Concur</i>	Neikirk	<i>Concur</i>
Carrell	<i>Concur</i>	Evans	Absent	Pickering	<i>Concur</i>
Coffin	<i>Concur</i>	Garner	<i>Concur</i>	Sartorius	<i>Concur</i>
Dodson	<i>Concur</i>	Greco	<i>Concur</i>	Ross	Absent
Donahoe	<i>Concur</i>	Kooistra	<i>Concur</i>	Waters	<i>Concur</i>
Dowling	<i>Concur</i>	Lee	<i>Concur</i>	White	<i>Concur</i>

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M. Duncan *Concur* Lucas *Concur* Wilson *Concur*

**CONCURRING OPINION**

Case No. 2023-07: *Appeal of TE John Evans v. Arizona Presbytery*  
TE Paul Bankson  
March 25, 2024

I concur with the decision of the Standing Judicial Commission (SJC) in this case that TE John Evans was, to quote the approved decision, “no longer subject to the jurisdiction of AZP. (*BCO* 42-9 and *BCO* 38-3(a)).” My concurring opinion is very simple—it is for this very reason that I believe the case should have been ruled judicially out of order at the outset and never brought before the SJC. The approved decision itself appears to indicate as much in the amends of the decision which instruct the Presbytery “to follow the provisions of *BCO* 38-3a with respect to TE Evans to wit: 1) record the irregularity of TE Evans’ withdrawal, 2) acknowledge his membership in the EPCEW, and 3) remove his name from the Presbytery roll.”

Regardless of whether Arizona Presbytery (AZP) did or did not acknowledge TE Evans’ withdrawal does not negate the reality that he indeed was a member of the EPCEW per *BCO* 38-3a as the record shows he was a member in good standing at the time he left the PCA and joined that body. Thus, TE Evans lacked any standing to file an appeal in the first place and AZP lacked any jurisdiction.

Respectfully submitted,

TE Paul Bankson

**CONCURRING OPINION**

Case No. 2023-07: *Appeal of TE Evans v. Arizona*  
RE Howie Donahoe  
March 15, 2024

I agree with the Decision that Presbytery erred. But I have a different concern. The Appeal should have been ruled administratively out of order for lack of standing.<sup>1</sup> The unanimous Decision found one Issue in this Case: *Did presbytery err on April 28, 2023, when it voted to divest the minister without censure?* But there was an administrative question for the SJC to answer first - Does the person have standing to file an appeal? More specifically: When did TE Evans cease being under the jurisdiction of Presbytery? It was either on June 12, 2022 (when he affiliated with EPCEW), or five weeks later, on July 21, 2022 (when he notified Presbytery he had done so). For the argument in this Concurring, it matters little which of those is correct. The Decision holds that on April 20, 2023: "TE Evans was no longer subject to the jurisdiction of AZP." But that also must mean he wasn't under PCA jurisdiction when he filed his Appeal to the SJC on May 12, 2023, and thus lacked standing to do so. He didn't gain standing by Presbytery's invalid action of April 20.

What could a minister do if a presbytery unconstitutionally "divests" him when he is no longer under its jurisdiction? He could send a *BCO* 40-5 letter to the PCA Stated Clerk alleging a "grossly unconstitutional proceeding" (which anyone can do, even a non-PCA-member). Or he could try to recruit someone with standing in that presbytery to file a *BCO* 43-1 complaint to presbytery seeking to have presbytery rescind the action. But if a person is no longer under PCA jurisdiction, regardless of reason, he cannot seek higher court review via complaint or appeal.

At the same time, I'll grant that *BCO* 38-3.a can be confusing when compared to the paragraph following it. *BCO* 38-3.a is automatic in a way that *BCO* 38-3.b probably isn't.

*BCO* 38-3.a. When a member or officer in the Presbyterian Church in America shall attempt to withdraw from the communion of this branch of the visible Church by affiliating

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<sup>1</sup> I was one of four SJC Officers that rendered a preliminary ruling that the matter was administratively in order. I regret that oversight.

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with some other branch (*BCO* 2-2), if at the time of the attempt to withdraw he is in good standing, the irregularity shall be recorded, his new membership acknowledged, and his name removed from the roll. But if at the time of the attempt to withdraw there is a record of an investigation in process (*BCO* 31-2), or there are charges (*BCO* 32-3) concerning the member or minister, the court of original jurisdiction may retain his name on the roll and conduct the case, communicating the outcome upon completion of the proceedings to that member or minister. If the court does not conduct the case, his new membership shall be acknowledged, his name removed from the roll, and, at the request of the receiving branch, the matters under investigation or the charges shall be communicated to them.

**38-3.b.** When a member or minister of the Presbyterian Church in America shall attempt to withdraw from the communion of this branch of the visible Church by affiliating with a body judged by the court of original jurisdiction as failing to maintain the Word and Sacraments in their fundamental integrity (*BCO* 2-2), that member or minister *shall be warned* of his danger, and if he *persists*, his name shall be erased from the roll, thereby, so far as the Presbyterian Church in America is concerned, he is deemed no longer to be a member in any body which rightly maintains the Word and Sacraments in their fundamental integrity, and if an officer, thereby withdrawing from him all authority to exercise his office as derived from this Church. When so acting the court shall make full record of the matter and shall notify the *offender* of its action. (emphasis added)

With reference to the facts in this present Case, the following is how *BCO* 38-3 probably would have been handled in a few presbyteries with which I'm familiar. After the presbytery clerk received a minister's July 12, 2022 notification, he would include it in his clerk's report at the next stated meeting. At that meeting, he would report that the minister communicated he had disaffiliated from the PCA on June 12, 2022, having affiliated with the XYZ Church. The clerk would report he administratively removed the minister from the rolls on June 12. There the matter would end unless some TE or RE commissioner made a motion like this: "Presbytery judges that the XYZ

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Church fails to maintain the Word and Sacraments in their fundamental integrity, and therefore, jurisdiction is retained to complete the process outlined in *BCO* 38.3.b.” I don't know how else to understand these two provisions of *BCO* 38-3.<sup>2</sup> Perhaps a clarifying *BCO* amendment is in order.

/s/ RE Howie Donahoe

### CONCURRING OPINION

Case No. 2023-07: *Appeal of TE Evans v. Arizona*

RE Jim Eggert

March 27, 2024

This case involves the standing and jurisdiction of Presbyteries over ministers who have attempted to withdraw from the denomination. I concur in the judgment, but wanted to clarify my reasons for doing so, since they are not precisely the same as those expressed in the Decision.

The Decision states that a minister’s “attempt at withdrawal is successful” if at the time of withdrawal, he is “in good standing” is not “under a formal investigation” nor has “charges filed against him.” In such cases, the Decision adds, “No other action of the member, officer, or court is required.” I do not agree with the Decision’s interpretation of the phrase “the attempt at withdrawal is successful” nor do I agree that “No other action of the member, officer, or court is required.” In my view, *BCO* 38-3.a withdrawals are not self-executing, but are subject to a continuing limited jurisdiction of the Presbytery to review the notice of withdrawal, the good standing of the member or

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<sup>2</sup> Here is an excerpt from the PCA Historical Center website: "The wording of the current PCA text dates to an amendment adopted in 1998 [*M26GA*, 26-17, Item 2, p. 57]. This amendment was the end result of efforts by the Committee on Constitutional Business to perfect the language of proposed amendments to *BCO* 38-3 that had first been presented in 1996 by Northeast Presbytery (Overture 6) and Potomac Presbytery (Overture 26)." Presbyteries had voted 38-6 in favor of the revisions to *BCO* 38-3.a and 38-3.b, which were enacted in 1998.

In 1998, the following italicized sentence in *BCO* 38-3.a was deleted, which was, at the time, the last sentence in that paragraph, which referenced (1) if an officer withdraws in good standing, or (2) if the court declines to prosecute: "... *In either case such removal from the roll shall thereby withdraw from him all authority to exercise his office as derived from this Church.*"

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minister, and to form a judgment concerning the doctrinal integrity of the body with which the minister has affiliated.

*BCO* 38-3. provides:

a. When a member or officer in the Presbyterian Church in America shall attempt to withdraw from the communion of this branch of the visible Church by affiliating with some other branch (*BCO* 2-2), if at the time of the attempt to withdraw he is in good standing, the irregularity shall be recorded, his new membership acknowledged, and his name removed from the roll. But if at the time of the attempt to withdraw there is a record of an investigation in process (*BCO* 31-2), or there are charges (*BCO* 32-3) concerning the member or minister, the court of original jurisdiction may retain his name on the roll and conduct the case...b. When a member or minister of the Presbyterian Church in America shall attempt to withdraw from the communion of this branch of the visible Church by affiliating with a body judged by the court of original jurisdiction as failing to maintain the Word and Sacraments in their fundamental integrity (*BCO* 2-2), that member or minister shall be warned of his danger, and if he persists, his name shall be erased from the roll, thereby, so far as the Presbyterian Church in America is concerned, he is deemed no longer to be a member in any body which rightly maintains the Word and Sacraments in their fundamental integrity, and if an officer, thereby withdrawing from him all authority to exercise his office as derived from this Church. When so acting the court shall make full record of the matter and shall notify the offender of its action.

In ordinary usage, an “attempt to withdraw” requires an affirmative communicative act. The verb “attempt” alternatively means: (1) *to make an effort to do, accomplish, solve, or effect* (Synonyms include “try, endeavor, essay, and strive” which mean “to make an effort to accomplish an end” and “stresses the initiation or beginning of an effort or (2) *the act or an instance of attempting, especially an unsuccessful effort.* (*Webster’s Ninth New Collegiate Dictionary*, 1991). For example, a minister who joins another denomination, but keeps it a secret from or does not notify his Presbytery of the same has not

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“attempted to withdraw ... by affiliating with some other branch.” The “attempt” is not realized unless and until the minister *communicates* his desire to withdraw to his Presbytery.

A *BCO* 38-3 “attempt to withdraw ... by affiliating with some other branch” entails the *possibility of failure*. If an “attempt to withdraw” were automatically realized without precondition and “no other action of the court is required” merely by virtue of a minister’s new affiliation (as the Decision seems to suggest), then every “attempt to withdraw” would be successful by definition. But the attempt cannot be successful by definition since we know, for example, from *BCO* 38-3 that an “attempt to withdraw” will *fail* if the minister is not “in good standing” at the time of the attempt.

*BCO* 38-3 is divided into two sections: (a) and (b). *BCO* 38-3.b prescribes that the Presbytery has an obligation to warn a minister attempting to withdraw if the Presbytery judges the new body as failing to maintain the Word and Sacraments in their fundamental integrity. This implies a continuing jurisdiction in the Presbytery over a minister for this limited purpose. A minister who has notified a Presbytery of his withdrawal, and the Presbytery assesses the new body as failing to maintain the Word and Sacraments in their fundamental integrity, the Presbytery is to warn him that “if he persists, his name shall be erased from the roll” and that “so far as the Presbyterian Church in America is concerned, he is deemed no longer to be a member in any body which rightly maintains the Word and Sacraments in their fundamental integrity.” In such a case, the Presbytery is also to advise him that it is “withdrawing from him all authority to exercise his office as derived from this Church.” Therefore, Presbyteries must have as much continuing jurisdiction over a withdrawing minister to make this evaluation and warning possible. Presbytery’s power to take action under *BCO* 38-3.b is not circumscribed, as the Decision seems to suppose, because his “attempt to withdraw” was already “successful” merely by virtue of notifying Presbytery of his new affiliation such that “no other action of the member, officer, or court is required.”

In short, the phrase “attempt to withdraw” implies the possibility of failure, contradicting any supposition that a minister’s new affiliation is so perfectly self-executing that it requires Presbytery to remove the minister from its rolls as a mere perfunctory administrative act. It is this possibility of the failure of the withdrawal that necessarily implies residual jurisdiction of Presbytery to review both the withdrawal and the new affiliation. The act of withdrawal is

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contingent upon Presbytery's satisfaction of the "good standing" of the minister at the "time of withdrawal" which should be understood as the time that Presbytery was provided notice of his new affiliation. The act of withdrawal is also contingent on Presbytery's residual power to warn the minister (and withdraw his credentials) if it concludes that he has affiliated with a body that fails to maintain the Word and Sacraments in their fundamental integrity.<sup>3</sup>

I disagree with the following passage from the Decision for similar reasons:

The second misunderstanding on the part of Presbytery is in supposing that *BCO* 38–3a requires acknowledgement by the receiving body of the member or officer's new membership. This is not the case. Despite this misunderstanding of *BCO* 38–3a, Presbytery did receive acknowledgement of TE Evans' reception into membership in an EPCEW congregation but did not follow through on the recommendation of its Administrative Committee to acknowledge this reception.

I understand this passage to suggest that a Presbytery cannot insist on receiving an acknowledgement of the new affiliation because the attempt to withdraw is automatically put into effect by the withdrawing member's *claim* of new affiliation. I disagree. Whether an acknowledgment is required or not should be left to the reasonable discretion of a Presbytery as the circumstances indicate. In my view, a court in these circumstances possesses inherent jurisdiction to evaluate to its reasonable satisfaction whether the claim of affiliation is true or false. Every court must have power to explore its own jurisdiction, otherwise the power of jurisdiction will be delegated to those outside of the Church courts. Such a rule would deprive the Church courts of any power to assess their own power, which would effectively abdicate ecclesiastical power to others, relying on subjective rather than objective standards of "affiliation."

Lastly, I want to be clear that, in my view, there is only a limited residual jurisdiction of the Presbytery in cases of disaffiliation. Assuming the member

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<sup>3</sup> Of course, Presbytery made no such finding regarding the Evangelical Presbyterian Church in England and Wales in this case, nor does the record indicate that it ever even entertained such a claim.

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is in good standing at the time of the notice of affiliation, this limited jurisdiction is only as much as is needed to remove him from the roll after fulfilling the court's obligations under *BCO* 38-3.a & b. The court's loss of jurisdiction is not automatic at an "attempt." Obviously, in such cases as here where the minister is in good standing and the Presbytery has received notification that he has affiliated with a body for which the Presbytery has expressed no doubt but that it upholds the Word and Sacraments in their fundamental integrity, then the Presbytery's jurisdiction is limited to removing his name from the rolls and noting the irregularity. Therefore, in this case, the *BCO* 38-3 conditions having been met, Presbytery had no jurisdiction to commence or continue divestiture proceedings under *BCO* 13-2 and should have removed the minister's name from its roll.