

CASE No. 2023-10

RE JOHN MARTINEZ & RE JESSE COOK

v.

PACIFIC PRESBYTERY

DECISION ON COMPLAINT

March 7, 2024

CASE SUMMARY

This Case initially arose from a divided vote of the Session of Valley Presbyterian Church ("VPC") on the question of whether doxologies would be permitted at the close of the weekly worship service (in addition to allowing benedictions). In July 2022, the Session adopted a policy disallowing doxologies at the close of worship. REs Riedinger and Shaw, members of VPC, filed a complaint with the Session against that decision. The Complaint was denied, they carried it to Presbytery, and Presbytery sustained the Complaint in January 2023, ruling the Session erred in adopting that policy. Thereafter, two of the Church's other elders, REs Martinez and Cook, who had been its commissioners to the January 2023 meeting when Presbytery sustained the Reidinger/Shaw Complaint, filed two Complaints with Presbytery - (the "Doxology Complaint" and the "Visitation Complaint.") They contended (1) Presbytery erred by sustaining the Reidinger/Shaw Complaint and ruling the Session erred in adopting the no-doxologies-for-closing-worship policy, and (2) Presbytery erred by tasking its Shepherding Committee to "follow-up" with the Session on the matter. Presbytery sustained the Martinez/Cook Doxology Complaint, reversing its prior ruling, now allowing the no-doxologies-for-closing-worship policy. But Presbytery denied their Visitation Complaint and they carried it to the SJC. The SJC sustained that Complaint in part and denied it in part.

I. SUMMARY OF THE FACTS

07/11/22 Stated Meeting of the Session of Valley Presbyterian Church, North Hills, CA. ("VPC") In a divided vote, the Session adopted the following: "To have God's blessings as formal benedictions to conclude the service and not doxologies."

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- 08/09/22 REs Jack Riedinger and Larry Shaw (members of the Session) filed a Complaint with Session regarding its decision of July 11. (The "Riedinger/Shaw Complaint") It was cosigned by TE Ron Svendsen, Senior Pastor of VPC. ¹
- 09/08/22 Session Stated Meeting. Denied the Riedinger/Shaw Complaint.
- 10/06/22 Riedinger and Shaw carried their Complaint to Pacific Presbytery. ("Presbytery") It was cosigned by TE Svendsen.
- 01/19/23 Nine days before the Presbytery meeting, Presbytery Clerk TE Heard distributed the Riedinger/Shaw Complaint and the Session's response to Presbytery members.
- 01/28/23 Presbytery Stated Meeting. Presbytery sustained the Riedinger/Shaw Complaint, ruling "the Valley Session erred in restricting the end of public worship services to formal benedictions and not using doxologies." Presbytery also adopted the following motion:
- The Shepherding Committee is tasked with following up with the Valley Presbyterian Church Session.
- 03/12/23 REs Martinez and Cook, who were VPC Commissioners to that January 28 Presbytery meeting, filed a Complaint with Presbytery ("Complaint 1") against its sustaining of the Riedinger/Shaw Complaint. Presbytery sustained Martinez/Cook Complaint 1 thereby reversing its decision in the Riedinger/Shaw Complaint. This allowed the Session to continue with its no-doxologies-for-closing-worship policy.
- 03/13/23 Session Stated Meeting. TE Myers and RE Hoard, representing the Shepherding Committee, were seated at the meeting, and their visit was docketed as Item 3. At the Panel Hearing, REs Martinez

¹ We note that a Teaching Elder does not have the right to file a complaint against an action of a Session because, as a member of Presbytery (*BCO* 13-1), he is not subject to the jurisdiction of the Session (*BCO* 43-1). However, as the complaint was made by two Ruling Elders who were members of the Congregation, the complaint was valid.

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and Cook indicated they were unaware that Shepherding Committee members would attend the Session meeting until a few days prior, after seeing the docket prepared by TE Svendsen.

Martinez and Cook filed a second Complaint with Presbytery ("Complaint 2") asking Presbytery to reverse its previous decision which "tasked" the Shepherding Committee "with following up with the Valley Presbyterian Church Session." Below are excerpts from that part of Martinez/Cook Complaint 2:

Pursuant [*sic*] BCO 11-4 and 13-9, the [Presbytery] has acted beyond its power and jurisdiction by sending delegates from Presbytery's shepherding committee to "follow[ing] up" with the VPC session.

BCO 13-9 contains no express provision, which meaning is clear and undebatable, as would permit a presbytery to require the receiving of a presbytery committee's visit without a request by a specific problem in the session or congregation. (Footnote: Morton H. Smith, *Commentary on The PCA Book of Church Order*; Page 93. Constitutional Inquiry, 1982, p. 107, 10-77. Digest, I, P.261.)

[P]ursuant [*sic*] BCO 13-9 section f, there are no reports of evils that have arisen in VPC.

05/02/23 Presbytery Stated Meeting. Presbytery sustained Martinez/Cook Complaint 1, thereby reversing its January 2023 decision that had sustained the Riedinger/Shaw Complaint against the Session's July 2022 decision disallowing doxologies. Thus, Presbytery now allowed the Session to disallow doxologies.

Presbytery denied Martinez/Cook Complaint 2, which left in place its January 2023 decision, i.e., "The Shepherding Committee is tasked with following up with the Valley Presbyterian Church Session."

Presbytery minutes contained the following:

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"Notation, with this decision, the court, in reflection upon the action taken at the January 28, 2023, Stated Meeting directing the Shepherding Committee to follow up with the Valley Presbyterian Session, emphasized that the motion passed on that day was brought in light of TE Ron Svendsen's previous personal request (off the floor) to the Shepherding Committee for assistance, and his agreement to receive it when assistance from the committee was proffered at presbytery. Hence, the presbytery, TE Alex Watlington had argued, was not in violation [*sic*] BCO 11-4 or 13-9."

05/11/23 Session Stated Meeting. According to Complainants' Brief, the "Session requested that all communications on this matter pass through the Clerk of the VPC Session in light of the fact that TE Svendsen was the chair of the Shepherding Committee and was the only one speaking to the Shepherding Committee."

05/30/23 REs Martinez & Cook carried their Complaint 2 to the SJC. Below is an excerpt from the cover letter dated May 17, 2023.

Complainants contend that Pacific Presbytery erred when it acted to send the Shepherding Committee, of Pacific Presbytery, without the request of the Session Valley Presbyterian Church (*BCO* 13-9). Furthermore, the committee was tasked to follow up with the Session of Valley Presbyterian Church, however with no clear intention. The sending of the Shepherding Committee, of the Pacific Presbytery, had no bases [*sic*] to follow up and conduct an inquiry.

09/22/23 Panel Hearing via videoconference. Panel included TE Bankson, RE Carrell and RE Donahoe with TE Kooistra and TE Pickering as alternates. Complainants Martinez and Cook were present, as were Presbytery's Representatives TE Myers and TE Watlington. Prior to the Hearing, the Complainants filed an 11-page

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Preliminary Brief and Presbytery Representative filed a one-page Preliminary Brief.

09/26/23 Panel members Bankson, Donahoe and Pickering adopted Proposed Decision.

II. STATEMENT OF THE ISSUES

1. Did Presbytery misinterpret the *BCO* and thereby err on January 28, 2023 when it adopted a motion "tasking [its] Shepherding Committee to follow up with the Valley Presbyterian Church Session"?
2. Did Presbytery clearly err in not providing more specific direction of the Shepherding Committee and the Session when it simply tasked the Committee to "follow-up"?

III. JUDGMENT

1. No. Therefore, this part of the Complaint is denied.
2. Yes. Therefore, this part of the Complaint is sustained.

IV. REASONING AND OPINION

BCO 39-3.1 stipulates: "A higher court, reviewing a lower court, should limit itself to the issues raised by the parties to the case in the original (lower) court." Therefore, this Decision does not touch the matter of benedictions vs. doxologies. Nor does it touch the matter of who has final authority over the parts of the weekly Sunday worship service. Those were not issues raised by the Martinez/Cook Complaint, presumably because Presbytery sustained their other Complaint on those matters on May 2, 2023.

Standard of Review - Complainants contend the primary issue is a matter of constitutional interpretation and therefore the SJC should not feel obligated to give "great deference" to Presbytery's decision per *BCO* 39-3.4. However, Issue 1 involves constitutional interpretation *and* a matter of judgment and discretion, so both *BCO* 39-3.3 and 3.4 apply to that part. Issue 2 is a question of judgment and discretion, so *BCO* 39-3.3 applies.

Issue 1 - Impermissible Visitation?

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The Complainants contend this case presents a constitutional issue for which no deference to the lower court's decision is required because Presbytery violated the *BCO*:

Pursuant *BCO* 11-4 and 13-9, the Pacific Presbytery has acted beyond its power and jurisdiction by sending delegates from Presbytery's shepherding committee to "follow[ing] up" with the VPC session. [ROC 4:26]

The Complaint contends the task assigned to the Shepherding Committee is not something envisioned in the general jurisdictional paragraph of *BCO* 11-4, nor is it a presbytery power delineated in *BCO* 13-9:

BCO 11-4. For the orderly and efficient dispatch of ecclesiastical business, it is necessary that the sphere of action of each court should be distinctly defined. The Session exercises jurisdiction over a single church, the Presbytery over what is common to the ministers, Sessions, and churches within a prescribed district, and the General Assembly over such matters as concern the whole Church. The jurisdiction of these courts is limited by the express provisions of the Constitution.

Every court has the right to resolve questions of doctrine and discipline seriously and reasonably proposed, and in general to maintain truth and righteousness, condemning erroneous opinions and practices which tend to the injury of the peace, purity, or progress of the Church. Although each court exercises exclusive original jurisdiction over all matters especially belonging to it, the lower courts are subject to the review and control of the higher courts, in regular gradation. These courts are not separate and independent tribunals, but they have a mutual relation, and every act of jurisdiction is the act of the whole Church performed by it through the appropriate organ.

BCO 13-9. The Presbytery has power to receive and [settle the] issue [in] appeals, complaints, and references brought before it in an orderly manner. In cases in which the Session

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cannot exercise its authority, it shall have power to assume original jurisdiction. It has power: ...

- f. ... to visit churches for the purpose of inquiring into and redressing the evils that may have arisen in them; to unite or divide churches, at the request of the members thereof; ...
- g. ... in general, to order whatever pertains to the spiritual welfare of the churches under its care.

The lower court answered the constitutional question correctly; its decision presumes that presbyteries may visit sessions in at least some circumstances. Whether a visit was justified in this circumstance is a question of judgment and discretion, on which we must defer to Presbytery's judgment if it can be reasonably supported by the record.

Complainants maintain that a GA decision from 38 years ago is dispositive and should settle this matter - *Complaint of TE Preg et al. v. Missouri*. (M13GA, pp. 127-30) However, while that case involved the issue of presbytery visitation, facts were substantively different from our present case. In 1985, Missouri Presbytery enacted a standing rule tasking its Committee on Care of the Churches to "conduct yearly visits to each church including at least one visit with the session for discussion of the welfare of the church, such discussion to follow an outline made in advance to the session. Visits to deacons meetings, congregational meetings, worship services, etc. are also encouraged."

Westminster Reformed Presbyterian Church, pastored then by TE Mike Preg, complained against that provision. Below are excerpts from the Statement of the Issue, the Judgment, and the Explanatory Opinion of the GA's ad hoc Judicial Commission. All emphasis is added.

At the heart of the issue is whether a higher court has taken action affecting a lower court in areas not expressly authorized by the *BCO*. The question in the complaint is whether the presbytery may *require* a visit by a presbytery committee on pastoral concern to a session and a congregation *against the wishes of the session and in the absence of any evident problem*.

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The Commission voted (16-0) to sustain the complaint and to instruct the presbytery by its normal process to bring its Standing Rules and procedures into conformity with *BCO*, as interpreted by this ruling. Grounds: *BCO* 11-4 clearly limits the authority of the higher court to specific areas listed in the *BCO*.

In the opinion of the Commission, *BCO* 13-9 contains no express provision, which meaning is clear and undebatable, as would permit a presbytery to require the receiving of a presbytery's committee's visit *without a request by or a specific problem* in the session or congregation in question.²

The decision in *Preg v. Missouri* established that mandatory visitation *without cause* is outside the powers of a presbytery. But the question of whether a presbytery has cause, or whether a matter rises to the level of something warranting an unrequested visit, is a matter of discretion and judgment.

What might justify a presbytery in visiting a session meeting uninvited? Neither the decision in *Preg* nor *BCO* 13.9.f require a presbytery to obtain permission to "visit" a church if the presbytery deems some "evil" has arisen. But the *BCO* does not define the verb "visit" or the noun "evil." The word "evil" only appears in this one place in the constitutional portion of the *BCO*.³ Complainants grant that an uninvited visitation can occur "for the purpose of inquiring into and redressing the evils that may have arisen in" a church. (*BCO* 13-9.f). But they argue that no such "evil" had arisen in their church, and Presbytery's Brief admits the nature of the visit was *not* to investigate reports of evil.

Presbytery's Brief and its oral argument at the Hearing contend the visit was permissible via *BCO* 13-9.f, which it states a presbytery has the power "to unite ... churches, at the request of the members thereof." That provision is an odd one to cite, unless perhaps the Presbytery was interpreting "unite" to mean something like "help unify." That Presbytery interpretation is implied when its Brief notes that because "the VPC moderator asked for help in dealing with division, the presbytery sought to help bring unity amongst the VPC session

² In 1985, there was no SJC. Ad hoc judicial commissions were formed for each separate case, onsite at GA, and comprised of eight TE and eight RE commissioners.

³ Also appears in *BCO* 52-2, but that paragraph is not part of the Constitution.

and her church.” However, as F.P. Ramsey observes in his commentary on this same text in the PCUS Book of 1879, that provision refers to the power of *uniting two churches* into a single church.

Despite Presbytery’s failure to emphasize it in its Brief or at oral argument, the Record does contain a reasonable justification for Presbytery to have made a visit to the VPC Session. Along with two REs, the 28-year Senior Pastor of VPC co-signed a complaint to Presbytery regarding a Session decision about an element of the worship service, and the associate pastor and two ruling elders opposed it! It was neither unreasonable nor a "clear error" for presbyters to conclude the "peace" and "spiritual welfare" of VPC might be at risk in such circumstances. It is possible, of course, that the parties were not antagonistic towards each other, and that they sought to use the *BCO*’s complaint mechanism merely to resolve a matter of conscience between them. Support for this interpretation may be found in the initial complaint filed against the Session’s decision and in some of the statements made at oral argument. However, it was still reasonable for Presbytery to send representatives to VPC’s Session to verify whether such was the case, and it would have been uncharitable and a violation of VPC’s obligation to submit to Presbytery’s review and control to turn away those representatives. For these reasons, we defer to Presbytery’s judgment that the decision to send the Shepherding Committee to the VPC Session did not violate the *BCO* in this instance.

Issue 2 – The Question of “Follow up”

It is unclear what presbyters might have expected when the Shepherding Committee was tasked to "follow up." It is understandable why some might have understood that vaguely worded instruction differently. Indeed, its ambiguity has presented a challenge for us in deciding Issue 1; was the visit compulsory, or not? If it was compulsory, what were the grounds supporting it? If it wasn’t compulsory, why wasn’t that made clear to the VPC Session? The Complainants, and perhaps other members of the VPC Session, perceived the visit as an uninvited and unwarranted investigation, while Presbytery’s Representatives deny it was an investigation at all and stated in oral argument in response to a question from the Panel that the visit was not even compulsory.

In its Brief, Presbytery's Representatives contend the "follow-up" was not an investigation, but rather, "the shepherding committee was simply sent to

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extend care and counsel at the request of one of her members." However, that request came only from TE Svendsen, who was the Shepherding Committee Chairman, the Senior Pastor of VPC (and therefore the moderator of the VPC Session), and one of the three men who co-signed a Complaint to Presbytery against the Session's decision to disallow doxologies at the close of worship. (Presbytery sustained the Riedinger/Shaw Complaint on January 28, 2023 and later reversed that decision when it sustained the first Martinez/Cook Complaint on May 2, 2023.) In short, TE Svendsen was more than just "one of her members," and it should have been clear that he represented one side of a contentious issue among the VPC Session members and therefore should not be understood to represent the entire Session in making his request unless he had been formally asked to do so by the VPC Session.

Nothing prohibited the Shepherding Committee from communicating with the Session *through the Session's clerk*. But, even so, the Shepherding Committee only communicated with the Pastor/Shepherding Committee Chairman/Complainant. As we concluded above in our discussion of Issue 1, the Presbytery may have had the constitutional power to "visit," doing so with just a few days' notice and no effort at seeking an invitation was a clear error of judgment. This matter might never have arisen if the Shepherding Committee had communicated directly to the Session's clerk and not just to the Pastor. If there was a problematic division in the Session, this communication decision exacerbated it. On the other hand, the Session could have communicated directly with the Shepherding Committee to seek clarification, or even to request that the Shepherding Committee not visit.

Finally, this case demonstrates the consequences of adopting unclear motions. Robert's Rules stipulate the chair has responsibility to ensure motions are clear:

[Before stating the question] the chair must be confident that all members understand it. (RONR (12th ed.) 4:15.e)

In principle, the chair must state the question on a motion immediately after it has been made and seconded, unless he is obliged to rule the motion is not in order or unless, in his opinion, the wording is not clear. (RONR (12th ed.) 4:16)

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If a motion is offered in a wording that is not clear or that requires smoothing ... it is the duty of the chair to see that the motion is put in suitable form - preserving the content to the satisfaction of the mover - *before* the question is stated. ... The chair - either on his own initiative or at the secretary's request - can require any main motion, amendment, or instructions to a committee to be in writing before he states the question. (RONR (12th ed.) 4:18)⁴

For these reasons, we conclude that Presbytery erred in in a matter of judgment by sending its Shepherding Committee on a “following up” mission without clearer instructions regarding its objectives.

Conclusion

We do not sustain the Complainants' contention that the *BCO* was violated. At the same time, we find that Presbytery made clear errors of judgment in omissions and communications that contributed to this Complaint coming to the SJC.

The Proposed Decision was drafted by the Panel together. 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.

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| 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> |
| M. Duncan | <i>Concur</i> | Lucas | <i>Concur</i> | Wilson | <i>Concur</i> |

⁴ See also RONR sections 47:14 through 47:19: "Suggestions for inexperienced presiding officers."