

MINUTES OF THE GENERAL ASSEMBLY

CASE Nos. 2023-15 & 2023-17

MR. TOM TURNER

v.

SOUTH FLORIDA PRESBYTERY

RULING ON COMPLAINTS

March 7, 2024

South Florida Presbytery ruled these Complaints administratively out of order for lack of standing. Likewise, the SJC rules these Complaints are administratively out of order due to lack of standing and cannot be put in order. Mr. Turner is no longer a member of the PCA because Cross Community Church, where he is a member, disaffiliated from the PCA at a congregational meeting on February 12, 2023.

Ten days prior to that meeting, their pastor (then and still) TE Tommy Boland notified South Florida Presbytery that he had left the PCA and affiliated with Stevens Valley Church in Nashville, TN (pastored by a man who left the PCA in October 2016).

The Minutes of the February 12, 2023 congregational meeting of Cross Community include these excerpts:

Pastor Boland then presented to the congregation a recommendation and motion from the Session that the Church withdraw from membership in the PCA. ... Ballots were then distributed for voting by members and collected for counting. The tabulated vote was 55 in favor, and 4 against, passing by a majority.

A second motion was introduced by RE Tom Turner wherein the congregation authorizes the session to proceed with withdrawal at an appropriate date in the future, to allow for completion of outstanding business and implementation of appropriate changes to Articles of Incorporation, By-Laws and other actions deemed necessary to properly define out [*sic?*] structure an organization moving forward. This was approved by a majority voice vote.

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The second motion was out of order because it purported to approve a contingent action, with respect to the Congregation's vote to disaffiliate from the PCA. Therefore, the first motion is the effectual action of the congregation, and the requirements of *BCO* 25-11 were met with the adoption of the first motion. We note that no action of Presbytery was required because the Congregation had already disaffiliated.

The SJC reviewed the Officer's proposed ruling and approved the final version of the Ruling by vote of **19-2**, with one not qualified and two absent.

Bankson	<i>Concur</i>	S. Duncan	<i>Concur</i>	Maynard	<i>Concur</i>
Bise	<i>Dissent</i>	Eggert	<i>Concur</i>	Neikirk	<i>Dissent</i>
Carrell	<i>Concur</i>	Evans	<i>Absent</i>	Pickering	<i>Concur</i>
Coffin	<i>Concur</i>	Garner	<i>Not Qualified</i>	Sartorius	<i>Concur</i>
Dodson	<i>Concur</i>	Greco	<i>Concur</i>	Ross	<i>Absent</i>
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>

DISSENTING OPINION

Case Nos. 2023-15 & 2023-17: *RE Turner v. South Florida*
REs John Bise and Frederick Neikirk
March 27, 2024

We respectfully disagree with our brothers on the Standing Judicial Commission in the decision to rule these cases administratively out of order (“AOO”) due to lack of standing. The decision was predicated on the determination that when Cross Community Church (“CCC”) voted on February 12, 2023 to withdraw from membership in the PCA, the action was effective immediately, thereby rendering out of order a second resolution of the congregation. The second resolution provided that CCC “...authorizes the session to proceed with withdrawal at an appropriate date in the future, to allow for completion of outstanding business and implementation of appropriate changes [to various corporate documents] ... and other actions deemed necessary....” Summarily, it is our view that the two resolutions in question were intertwined in such a way that the AOO ruling denies access to the Courts of the Church to a censured party, in this instance CCC, acting through RE Turner.

RE Tom Turner had complained to the South Florida Presbytery (“SFP”) against an action of SFP’s Judicial Commission (“SFPJC”). This action was taken on July 19, 2023 and followed a two-year series of communications and judicial activities surrounding TE Tommy Boland, the pastor of CCC, allegations of sexual misconduct within the church and of the CCC Session failing to take appropriate actions in response to those allegations, and related items. Notably, TE Boland had first refused or failed to appear before SFPJC, then was suspended from the office of teaching elder by SFPJC which appointed a commission to enforce its judgement. TE Boland then communicated to SFPJC that he had previously withdrawn from membership in the PCA by affiliating with the Stephens Valley Church, an independent body. SFPJC later cited the Session of CCC to appear before it “in accordance with *BCO* 40-5” to answer for its actions in permitting TE Boland to continue preaching at CCC. Although SFPJC cited the CCC Session to appear on multiple occasions, the Session had refused to appear, asserting that the actions and censure against TE Boland were not lawful. At the meeting on July 19, 2023, SFPJC voted “to depose TE Boland from his pastoral office in accordance with *BCO* 34-4b and recognize his transfer of church membership

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(under suspension) to the Stephens Valley Church in Nashville, TN.” SFPJC’s minutes also record “A second motion was made to dissolve the relationship of the Cross Community Church with the Presbyterian Church in America for its repeated defiance of any action of SFP, in accordance with *BCO* 40-5 and 40-6 in censuring a delinquent court according to the rules provided for process against individuals, so far as they may be applicable.”

On July 20, 2023 RE Turner filed two complaints with SFP. The first asserted that the SFPJC erred when it deposed TE Boland. The second argued that SFPJC erred in dissolving the relationship of CCC and SFP in that SFPJC did not have the authority to take that action. On July 27, 2023 the Administrative Committee of SFP notified RE Turner that his complaints were out of order in that his church was no longer a member of SFP. On that same date the Stated Clerk of SFP notified the Stated Clerk of the General Assembly that CCC was no longer a part of SFP or the PCA. On August 8, 2023 SFPJC reported its actions to Presbytery. There is, however, no evidence in the Record that either SFPJC or SFP ever acted to confirm or adopt the July 27, 2023 decision of Presbytery’s Administrative Committee.

Historically, the courts of the PCA have held that any party who has been censured has the right to be heard via appeal or complaint regarding the censure decision and the process that led to that decision. This case should be no different.

The decision of the SJC states:

The second motion was out of order because it purported to approve a contingent action, with respect to the Congregation’s vote to disaffiliate from the PCA. Therefore, the first motion is the effectual action of the congregation, and the requirements of BCO 25-11 were met with the adoption of the first motion. We note that no action of Presbytery was required because the Congregation had already disaffiliated.

We see no reason the congregation of CCC should be denied the latitude to affect the disaffiliation based on timing determined by its Session. Whether the determinative aspect was corporate documentation or the desire to complete the judicial process in pending cases, such an authorization is not

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unreasonable, though admittedly in this instance the timing had become protracted.

The actions of CCC's Session and of TE Boland were understandably frustrating to the Presbytery. Neither was cooperative with SFPJC's attempt to inquire into serious allegations of misconduct and each allegedly withheld material information. Further, both appear to have defied instructions from SFP. Nevertheless, there were available paths open to the Session, TE Boland, and to SFP. CCC's Session or TE Boland could have requested reference of the cases to the SJC. SFP could have drawn charges against the CCC Session and the church, cited the Session to appear, and proceeded to trial or to a judgement of contumacy in the event of continued refusal to appear. Any of these would have been more consistent with our polity than the denial of access resulting from the AOO ruling, and each would have made it more likely that the allegations against TE Boland and the Session would have been adjudicated so as either to vindicate or appropriately censure the Session, based on findings of the Court.

Among prior SJC cases supporting the access to Courts of the Church by parties disputing a censure against them is SJC Case 2013-07: *Session of FPC North Port v. Southwest Florida Presbytery*. That case revolved around the right of an individual to complain against a lack of judicial process prior to her removal from church rolls. In the final decision of that case, the SJC wrote,

In Presbyterian polity in general, and specifically in the polity of the Presbyterian Church in America, the actions of a court (whether of a Session or a Presbytery) are not beyond review and possible correction. As the Westminster Confession of Faith states: "All synods or councils, since the apostles' times, whether general or particular, may err" (WCF 31.3). In accordance with our Book of Church Order, when a communing member of the Church who is subject to the jurisdiction of a court believes that court has erred, the member has a right to file a complaint against an act or decision of the court (BCO 43-1).

We believe that RE Turner and CCC had the same right to complain as did the individual communing member in 2013-07.

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Another helpful case is SJC Case 2019-06, *PCA v. Presbytery of the Mississippi Valley* in which a key issue was the right of a person removed from the membership roll to object to a session's assertion of no intention to submit to the government and discipline of the church. In this case, the SJC ruled that the Petitioner should have been afforded the right to process.

[T]he Session should have afforded the Petitioner her constitutional privileges and processes described in BCO 38-4 before deciding to remove her name from the roll.

We see Case 2019-06 as analogous with respect to the right of one to process when censured.

In sum, we believe that CCC should have been afforded a hearing and formal process before being removed from membership. Such a course would have been more in keeping with the polity of the PCA and the precedents of this Commission, and, more important, would have made it more likely that the cause of Christ and His Church would have been vindicated and any evils appropriately called to account.

Finally, we must emphasize that our dissent takes no position on the validity of the underlying issues in the case. Whether TE Boland or the Session were justified in any or all of their actions is not before us. Our point is simply to assert that RE Turner should have had access to the courts of the Church to complain against the removal imposed on CCC.

/s/ RE John R. Bise

/s/ RE Frederick Neikirk