



THE PERMANENT JUDICIAL COMMISSION of THE EVANGELICAL PRESBYTERIAN CHURCH

**SESSION OF BEVERLY HEIGHTS CHURCH, et al. v.
PRESBYTERY OF THE ALLEGHENIES I**

OPINION OF THE COMMISSION

[September 5, 2024]

On January 27, 2024, the session of Beverly Heights Church in Pittsburgh, Pennsylvania, and its Teaching Elder Nate Devlin (jointly, the “Complainant”) filed a complaint against the Presbytery of the Alleghenies (the “Respondent”).¹ The complaint alleged: (1) that the Respondent’s reception from a presbytery administrative commission (the “Administrative Commission”) of contempt charges against the Complainant violated section 5-10 of the *Book of Government*; (2) that the Respondent never held a formal conversation with the Complainant under Matthew 18 or Galatians 6:1 prior to receiving the charges; and (3) that the Respondent did not take measures to ensure that only commissioners voted on the charges, which vote was held by Zoom.

The vote to receive contempt charges against the Complainant took place on December 28, 2023 (the “Contempt Charges”), after the Complainant purportedly failed to comply with certain actions and recommendations of the Administrative Commission relating to the Complainant’s leadership of Beverly Heights Church (the “Actions and Recommendations”).²

¹ This is the first of two complaints filed by the Complainant against the Respondent. In its second complaint, filed on June 22, 2024 (“BHC v. POA II”), the Complainant asked this commission to overrule what it characterized as “an unconstitutional order for a financial review” of the finances of Beverly Heights Church. The Complainant also requested that this commission admonish the Respondent and stay its action until the complaint was finally decided. We dismissed BHC v. POA II for reasons stated in an order dated August 1, 2024.

² See Part I *infra* [detailing Actions and Recommendations].

On March 22, 2024, we ordered the Complainant to provide a more definite statement of the grounds on which relief may be granted and to state with particularity the relief being requested. The Complainant filed its more definite statement on April 20, 2024.

Having determined that the complaint stated grounds on which relief *may* be granted, we issued a further order on April 24, 2024. The order required the Respondent to answer the complaint, specifying all defenses on which it relies, and to provide the record of the case.³ We also included a stay order proscribing the Respondent from taking any further action pursuant to the Contempt Charges (the “Stay Order”).

The Respondent filed its response on May 21, 2024, together with the record of the case. It supplemented the record on May 22, 2024. The Respondent’s filings opposed the complaint in its entirety.

Believing the record to be incomplete or incorrect as filed, the Complainant filed a proposed supplement on May 29, 2024. The Respondent then filed a response to the Complainant’s proposed supplement on May 31, 2024.

We have considered each filing from both parties and believe the record to be complete.⁴ The primary issue in this case remains whether reception of the Contempt Charges violated section 5-10A of the *Book of Government*. That section states:

The Church Session shall notify the Presbytery of its desire to be dismissed. Once a Church Session has notified Presbytery of its desire under this section, Presbytery shall take no action to dismiss, dissolve or divide the local church and its elders until all proceedings under this section 5-10 are fully completed. This provision shall not be construed to prohibit the Presbytery from reasonable means of access to the Session or church members in order to present its position. Nor shall this provision be construed to prohibit the presbytery from taking action under the *Book of Discipline* on matters unrelated to the request for dismissal.

If we determine that the Respondent has violated G.5-10A, the Complainant asks that we take one or more of the following steps:

1. Remand the reception of the Contempt Charges to the Presbytery of the Alleghenies, directing that the Contempt Charges be rescinded pursuant to the General Assembly’s authority to exercise review and control under the minutes-review process in *Book of Government* section 20-4B.7.b.⁵

³ D.14-8B.2.

⁴ The record being sufficient, we have elected not to have oral argument or to send questions to the parties. See D.14-8E-H.

⁵ G.20-4B.7.b allows the General Assembly to “remand[] to the lower court what may be contrary to the Constitution and to see that all lawful injunctions are followed” as part of an annual review of minutes. This commission does not conduct the annual minutes review process, however. When that process does occur, it may address any identified irregularities, provided it does so in a manner consistent with this opinion.

2. Dissolve the Administrative Commission under *Book of Government* section 21-1C.1.d, which states “the authority of an Administrative Commission may be limited by actions of the General Assembly.” Alternatively, the Complainant argues that we could direct the Respondent to dissolve the Administrative Commission under *Book of Government* section 20-4B.7.b.
3. Refer the constitutionality of discipline during a dismissal process under G.5-10 to a “national vote” of the General Assembly. In particular, the Complainant “seeks an interpretation of [*Book of Government* section] 5-10, as to: whether it is constitutionally lawful to charge a member of a local church Session with contempt on a matter related to the request of dismissal while engaged in the [dismissal] process before all proceedings under [*Book of Government* section] 5-10 are completed.”⁶
4. Remand the Actions and Recommendations to the Respondent with instructions to rescind them as “procedurally irregular and a clear violation of the EPC constitution.” Again, the Complainant cites the General Assembly’s minutes-review authority as the basis for the requested order.⁷

Because we do not sustain the complaint, we decline to grant the relief requested. After reviewing salient facts from the record in Part I of this opinion, we will set forth our legal analysis in Part II and then conclude in Part III with orders for the parties.

Part I. Findings of Fact

A. The Actions and Recommendations

This case has an extensive factual history. After three Ruling Elders from Beverly Heights Church presented various allegations against the Complainant, the Respondent established a Judicial Investigative Committee in March 2023.⁸ Subsequent mediation among the parties under *Book of Discipline* section 7-5 failed, and the Judicial Investigative Committee recommended that an administrative commission be established.⁹

The Respondent formed the Administrative Commission on August 1, 2023, “to address reports of disorder and disunity as well as to evaluate leadership regarding ‘nurture

⁶ The Complainant alleged that Stated Clerk Dean Weaver, Teaching Elder, had a conflict of interest that prevented him from ruling provisionally in this matter under G.21-3D.1. No provisional opinion has issued, however.

⁷ G. 20-4B.7.b.

⁸ D.7-1C.

⁹ The Judicial Investigative Committee report stated, “We have concluded that there are not grounds for discipline under the [*Book of Discipline*]. The charges presented do not fall under the offenses of contempt, heresy, or immorality which would warrant judicial proceedings. However, there is clearly disunity and disarray within Beverly Heights Church. We recommend that the leadership of Beverly Heights Church be evaluated regarding maintaining the purity, unity, and nurturing of its members.”

of members' [G.4-4] and 'life and character of officers' [G.9-3] at Beverly Heights Presbyterian Church." The Administrative Commission was given "the full authority of the Presbytery to enact whatever actions it deems necessary within the scope of our constitution in order to restore the peace and purity of the church and bring reconciliation where possible among the people of God."

After the Administrative Commission conducted a thorough investigation, it promulgated the Actions and Recommendations, which the Respondent then received on September 16, 2023. The Actions and Recommendations were intended to address six areas of concern. *First*, the Administrative Commission determined that significant division existed at Beverly Heights Church, having one group supporting leadership and the other opposed. *Second*, those who opposed leadership presented experiences amounting to what the Administrative Commission characterized as "a significant pattern of non-pastoral, manipulative, or even abusive behavior." In particular, opponents allegedly received "'relentless' pushback" and "disparagement, at length" outside of their presence, which "created an atmosphere where people were less likely to share ideas or concerns which might not align with TE Devlin." *Third*, the commission identified polity concerns, including "trust and power issues" between members of the congregation's Policy Committee having responsibility for review of Teaching Elder Devlin, a perception of an overly close "alignment" among members of the Session and Teaching Elder Devlin, and a failure to fill all vacant Session seats at a 2023 congregational meeting (nominations were not invited from the floor). *Fourth*, the commission found issues with communication and membership management, some members having contended they were "moved to 'inactive' status improperly..." and the Session having acknowledged removing some members from electronic distribution lists when it became known they were worshipping elsewhere. *Fifth*, the commission learned of member concerns regarding the influence at Beverly Heights Church of the so-called "Federal Vision," which, as a movement, purports to restore a more scripturally faithful view of covenant theology and soteriology but, according to its critics, conflicts with the Westminster Standards in various ways.¹⁰ After asking about specific preaching or teaching that might be heretical, the commission was given "nothing of consequence." *Sixth*, the commission heard concerns regarding drops in attendance, membership, and giving at Beverly Heights Church.¹¹

According to the Respondent, "numerous follow-up communications showed that the Session and Pastor Devlin had no intention of following the Actions and Recommendations ... with the exception of providing active membership rolls and a list of members inactivated or removed since January 2022."

¹⁰ See, for example, https://opc.org/nh.html?article_id=478. In this case, the member concerns related to the alleged influence of Federal Vision proponent Peter Leithart and the Theopolis Institute, of which Dr. Leithart is president, and which planned to hold a symposium at Beverly Heights Church in October 2023. Although the symposium was not held, certain Beverly Heights staff previously attended a different Theopolis Institute event.

¹¹ On this final point, the Complainant asserted in BHC v. POA II that these declines have a variety of causes, including, without limitation, the pandemic's impact on the church and malicious behavior by some who oppose leadership.

Teaching Elder Devlin emailed his resignation to the congregation on October 9, 2023, at the same time the Session of Beverly Heights Church informed the Respondent that it wished to seek dismissal under section 5-10 of the *Book of Government*. The congregational meeting to receive Pastor Devlin's resignation was delayed, and the resignation was subsequently withdrawn.

B. The Complaint

For its part, the Complainant alleges numerous procedural irregularities by the Respondent. Without limitation, these include: (1) "irregular" formation of the Administrative Commission, as the Judicial investigation Committee's report was not presented to the presbytery at its August 1, 2023 meeting; (2) failure to specifically state powers/functions given to the Administrative Commission when appointed;¹² (3) the public reading of the Actions and Recommendations at the September 16, 2023 meeting, which amounted to "achiev[ing] disciplinary ends through administrative means;" (4) the improper exclusion of over 20 "new" members and inclusion of 20 "former" members from a planned February 4, 2024 congregational meeting in violation of Proverbs 20:10 (requiring "equal weights and measures") and Westminster Larger Catechism 130 (condemning the "sins of superiors"); (5) requiring an apology from the Beverly Heights Session for excluding from an October 29, 2023 congregational meeting certain members who were, in fact, not excluded; and (6) violations of the rights of local churches guaranteed by our constitution, including those set out in chapter 6 of the *Book of Government*.

Despite the breadth of its concerns, the Complainant has filed only one timely complaint against the Respondent, which complaint is the subject of this litigation. *Book of Discipline* section 14-6 requires that a complaint "shall be filed with the next higher court no later than thirty (30) days after the date of the lower court action or decision made the basis of the complaint." In this case, the Complainant did not file complaints within thirty (30) days of the Respondent's formation of the Administrative Commission, the reception and reading of the Actions and Recommendations, or any other action of the Respondent before December 28, 2023. Consequently, we decline to evaluate the Respondent's actions prior to its reception of the Contempt Charges against the Complainant. Put simply, the Complainant's concerns over those prior actions are time barred.¹³

We do agree with the Complainant, however, that its decision to seek dismissal from the Evangelical Presbyterian Church is related to the Respondent's reception of the Actions and Recommendations. In fact, it is clear from the record that the Actions and Recommendations are the proximate, "but for" cause of the Complainant's seeking of dismissal under *Book of Government* section 5-10.

¹² The Complainant alleges that Stated Clerk Dean Weaver, who is a member of the Respondent, encouraged the broad grant of authority in violation of G.21-1A.2 [stating that "[t]he appointing court shall state specifically the powers and duration granted to a commission"].

¹³ Although our review of the prior actions is time-barred, these actions may be subject to review during the presbytery minutes-review process. See G.20-4B.7.

Part II. Legal Analysis

A. The Alleged Violation of Book of Government Section 5-10

The question before us, then, is whether the Respondent's reception of the Contempt Charges on December 28, 2023, amounts to a violation of G.5-10, which prohibits a presbytery from taking any action "to dismiss, dissolve or divide the local church and its elders until all proceedings under this section 5-10 are fully completed."¹⁴ Notwithstanding the prohibition, the text explicitly states that it is not a violation of section 5-10 to take action under the *Book of Discipline* "on matters *unrelated* to the request for dismissal" (emphasis added).¹⁵

But what if a presbytery seeks to take action under the *Book of Discipline* on matters *related* to the request for dismissal? Reading the text logically, we hold, as a matter of church law, that a presbytery is entitled to act under the *Book of Discipline* on matters related to the request for dismissal *as long as* that action does not amount to dismissing, dissolving, or dividing the local church and its elders prior to completion of proceedings under section 5-10.

As noted above, the Respondent's Actions and Recommendations are related to the request for dismissal. They are, in fact, the very reason that the Complainant has sought dismissal. Therefore, although the Respondent is entitled to take disciplinary action against the Complainant pursuant to the Contempt Charges, the Respondent may do so *only* to the extent it does not dismiss, dissolve, or divide Beverly Heights Church and its elders, including Teaching Elder Devlin, prior to completion of the dismissal process.

Chapter 11 of the *Book of Discipline* sets out various sanctions that may be applied in disciplinary matters. These sanctions include admonition, suspension, removal from office, and excommunication. Of the listed sanctions, only admonition can be applied without violating section 5-10 when the disciplined party is seeking dismissal, if the sanction is applied in a matter that is related to the request for dismissal.

Thus, although we do not sustain the complaint, we read the *Book of Discipline* as prohibiting the entry of any sanction in this case other than admonishment, because the discipline would be applied in a matter that is related to the request for dismissal (i.e., failure to comply with all but one of the Actions and Recommendations).

In contrast, if a presbytery seeks to impose sanctions for a matter that is *unrelated* to a request for dismissal, the full range of disciplinary sanctions are available. Merely initiating a dismissal process is not enough to shield ruling or teaching elders from disciplinary sanctions in matters that are unrelated to the request for dismissal.¹⁶

¹⁴ G.5-10A.

¹⁵ Ibid.

¹⁶ If the Respondent were to charge the Complainant with contempt for behavior that is not related to the request for dismissal, and if the Complainant were to be found guilty after trial pursuant to the *Book of*

B. The Alleged Failure to Have Matthew 18 or Galatians 6:1 Conversation

The Complainant has also alleged that the Respondent violated Matthew 18, Galatians 6:1, and *Book of Discipline* section 1-6. In particular, it indicated that no members of the Beverly Heights Church Session or Teaching Elder Devlin could recall having a Matthew 18 or Galatians 6:1 conversation with the Administrative Commission. The Complainant apparently brought the claimed absence of one-on-one conversations identifying fault to the Respondent's attention at its meeting on December 28, 2023.

The Respondent disagrees with this allegation. It asserts that it complied with the scriptural and constitutional mandate by presenting and reading the Actions and Recommendations on September 16, 2023, by videoconferencing with the Beverly Heights Church Session and Teaching Elder Devlin on September 19, 2023, and by emailing the Respondent on October 3, 2023, and November 30, 2023.

When a member of Christ's Church has a dispute with another member, does the aggrieved party have an obligation to notify the alleged wrongdoer regarding the existence and scope of the claimed offenses? Without doubt, yes. But in its notice must the aggrieved party state expressly, "This is a conversation under Matthew 18 and Galatians 6?" We do not believe so.

Moreover, chapter 5 of the *Book of Discipline* distinguishes between public and private offenses.¹⁷ In this case, the offenses brought to and addressed by the Administrative Commission were not private. As the Respondent has stated, "Since the Session acted as a group, the [Administrative Commission] addressed correspondence to the Session as a group, not as individuals, including specific invitations to repentance."

The record indicates that the Complainant was put on notice regarding alleged offenses. We do not sustain the Complainant's charge that the Respondent violated Matthew 18 and Galatians 6:1 or *Book of Discipline* section 1-6.¹⁸

C. The Alleged Failure to Ensure Only Commissioners Voted on Contempt Charges

Finally, the Complainant asserts that the Respondent did not ensure that only commissioners voted to receive the Contempt Charges in December 2023. For its part, the Respondent claims it was stated "as a point of order" that only commissioners were entitled

Discipline, any sanction listed in Chapter 11 could be imposed. A ruling or teaching elder may be suspended from office or excommunicated, for example, in a disciplinary matter *unrelated* to a request for dismissal under section 5-10, even if the imposed sanction has the effect of dismissing, dissolving, or dividing the applicable church and its elders.

¹⁷ See D.5-3 [stating "[p]ublic offenses are those that are known to more than a few persons"].

¹⁸ D.1-6 states, "When a charge of personal offense is brought before any court of the church, the party bringing the charge must include a certified statement detailing how the principles outlined in Matthew 18:15 and Galatians 6:1 have been met." The Actions and Recommendations are not themselves a disciplinary charge. Even if we were to construe them as such, we find that the requirements of Matthew 18 and Galatians 6 have been met in this case.

to vote. The ballot was then taken by voice vote, per usual practice.¹⁹ Because there is no evidence in the record that any non-commissioners voted, or that any such votes affected the outcome, this allegation fails.

Part III. Conclusion and Final Orders

For the reasons stated above, we do not sustain the complaint. The Stay Order is lifted, and the matter is remanded to the Presbytery of the Alleghenies for any further proceedings consistent with this opinion, including Part II.A.

Any continued disciplinary proceedings with respect to the Contempt Charges may take place concurrently with the dismissal process. Nevertheless, the Respondent must bear in mind that the Actions and Recommendations are the reason that the Complainant has initiated the dismissal process under section 5-10 of the *Book of Government*. While the dismissal process is ongoing, the only sanction that may be entered against the Session of Beverly Heights Church or Teaching Elder Devlin, upon a guilty verdict relating to the Contempt Charges, is admonishment. Entering any sanction other than admonishment in this matter would constitute an impermissible action to dismiss, dissolve, or divide the church and its elders in violation of the constitution of the Evangelical Presbyterian Church.²⁰

Finally, the parties in this matter are encouraged to seek a godly resolution to their disputes. The reputation of the Lord Jesus Christ is of paramount importance.²¹

¹⁹ See *Robert's Rules of Order Revised*, Fourth Edition, Article VIII, 46.

²⁰ See G.5-10A. As noted above, however, G.5-10A would permit sanctions of suspension, removal from office, and excommunication in a different disciplinary proceeding that is “unrelated to the request for dismissal.”

²¹ See, e.g., Matthew 5:25 & 1 Corinthians 6:1-7.