

**PERMANENT JUDICIAL COMMISSION  
OF THE SYNOD OF THE COVENANT  
PRESBYTERIAN CHURCH (U.S.A.)**

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Rev. Tiffany L. Komasara McCafferty,	)	
Complainant	)	<b>Preliminary Examination of Papers</b>
	)	<b>and Order for Dismissal</b>
v.	)	
	)	<b>Remedial Case 222-02</b>
The Presbytery of Lake Michigan,	)	
Respondent	)	

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**Arrival and Jurisdictional Statement**

This remedial case comes before the Permanent Judicial Commission of the Synod of the Covenant from the remedial “First Amended Complaint” of Rev. Tiffany L. Komasara McCafferty (*hereinafter* Complainant) against The Presbytery of Lake Michigan (*hereinafter* Respondent) filed with Synod of the Covenant on June 1, 2022.

Complainant also filed on June 1, 2022 another document entitled “Complaint” seeking to bring a remedial action against both Respondent and the Session of The First Presbyterian Church of Paw Paw, Michigan, signed by the Complainant on an earlier date but received by the Synod of the Covenant on the same date as the “First Amended Complaint.” This earlier Complaint was, apart from the title and respondents listed, identical to the “First Amended Complaint.” This Commission interprets Complainant’s “First Amended Complaint” to have replaced her earlier “Complaint.”

Complainant is a minister member of the Respondent Presbytery and the Respondent Presbytery is a member of the Synod of the Covenant, therefore this Commission has jurisdiction over the “Amended Complaint.”

This Council notes that the Session of The First Presbyterian Church of Paw Paw Michigan is subject to the jurisdiction of its superior council, the Presbytery of Lake Michigan. Absent a referral, this Council lacks jurisdiction over that congregation even if Complainant wished to bring a remedial action against that party.

**Constitutional Requirements for a Remedial Action**

D-6.0305 requires as a preliminary matter upon receipt of a remedial complaint:

Upon receiving the papers specified in D-6.0304, the moderator

and the clerk of the permanent judicial commission of the body that will try the case shall promptly examine the papers to determine whether

- a. the council has jurisdiction;
- b. the complainant has standing to file the case;
- c. the complaint was timely filed; and
- d. the complaint states a claim upon which relief can be granted.

If the permanent judicial commission determines that any point listed in D-6.0305 has been answered in the negative, the permanent judicial commission shall dismiss the case. D-6.0306(c).

As noted above, this Commission has jurisdiction to hear this matter. The parties do not dispute that the Complainant possesses standing to bring this complaint pursuant to D-6.0202(1). The remainder of this decision will consider the final two preliminary questions of D-6.0305: whether the complaint was timely filed and whether the complaint states a claim for which relief can be granted.

#### **Issue One: Was the Complaint Timely Filed?**

D-6.0202(a) defines the time period during which a remedial complaint may be timely filed:

In the instance of a complaint against a presbytery, a synod, or by a council against another council at the same level, a complaint of an irregularity shall be filed within ninety days after the alleged irregularity has occurred; and a complaint of a delinquency shall be filed within ninety days after failure or refusal of respondent to cure the alleged delinquency at its next meeting, provided that a written request to do so has been made prior to said meeting.

The First Amended Complaint was filed on June 1, 2022. The relevant ninety-day period would have commenced on March 3, 2022. Any alleged irregularity or delinquency that is timely filed must have occurred on or between those dates. All other allegations of irregularities or delinquencies raised in the Complaint fall outside this ninety-day period and may not be considered pursuant to D-6.0305 and D-6.0202(a).

When determining preliminary questions pursuant to D.6.0305, judicial commissions are required to assume the truth of the facts as alleged in the complaint. *Hope, et al. v. Presbytery of San Francisco*, 2003, 216-6; *Wolfe v. Presbytery of Winnebago*, 2008, 219-04; *Lewellen v. Presbytery of Los Ranchos*, 2016, 223-03. The Complaint nowhere alleges that a request to cure any alleged delinquency has ever been filed pursuant to D-6.0202(a).

While not explicitly alleged by the Complaint, the only action allegedly committed by Respondent council within the requisite time period was the March 12, 2022 approval of the Agreement for Dissolution Of The Pastoral Bond Without Subsequent Call upon the recommendation of the Administrative Commission assigned to address the relationship between the Complainant and The First Presbyterian Church of Paw Paw, Michigan. This action is the sole potential alleged irregularity that falls within the requisite ninety-day time period for consideration. While the recommendation by the Administrative Commission occurred on February 22, 2022 and therefore outside the ninety-day time period, this Commission notes that the ninety day time period to commence a remedial action commences on the date that an Administrative Commission reports its actions to its originating council. *Brian John v. Presbytery of New York City*, 2021, 225-05.

Nowhere in the Complaint or the attached supporting affidavit or exhibits does the Complainant allege or suggest that the March 12, 2022 approval of the Agreement for Dissolution Of The Pastoral Bond Without Subsequent Call by Respondent council constituted a delinquency or irregularity by Respondent council. To the contrary, Complainant alleges that she agreed to accept the proposed Agreement for Dissolution Of The Pastoral Bond Without Subsequent Call prepared by the Complainant and the Session of the First Presbyterian Church of Paw Paw, Michigan with recommended changes made by the Respondent council. Complainant Affidavit ¶ 19. Because the Complaint has failed to allege any delinquency or irregularity within the required time period for a complaint, the Complaint fails to state a timely complaint as required by D-6.0305 and D-6.0202(a) and must therefore be dismissed pursuant to D-6.0306(c).

**Issue Two: Has the Complaint stated a claim upon which relief can be granted?**

It is appropriate to dismiss a case for “failure to state a claim upon which relief can be granted” pursuant to D-6.0305(d) if, assuming all the facts alleged in the complaint to be true, no constitutional irregularity or delinquency occurred for which it could grant relief. *David Jones v. Mission Presbytery*, 2019, 224-05; *Daniel McKittrick v. Session of West End Presbyterian Church of Albany*, 2003, 215-5; *Hope, et al. v. Presbytery of San Francisco*, 2003, 216-6; *Dixie Lewellen v. Presbytery of Los Ranchos*, 2017, 223-03.

An irregularity or a delinquency of a council as required by D-2.0202(a) is defined in a remedial case as an “erroneous decision or action” of that council. *Harry Hoyt v. The Presbytery of East Iowa*, 2020, 224-08. A council has the authority to act or not act in matters within its discretion. A delinquency or irregularity may arise when a council fails to act when it is required to act under the Constitution or when it acts in a manner prohibited by the Constitution. However, a council does not commit a delinquency or irregularity when it refrains from exercising its power in discretionary matters, nor does a council commit a delinquency when it exercises its best judgment in a manner other than a member might wish. *Montreat vs. General Assembly Council, Minutes*, 2002, p. 346. *Vern Buck v. Session of the Morrow Presbyterian Church*, 2014, 222-0. Where there is

no constitutional requirement to act, there can be no delinquency. *Edmunds v. Presbytery of Cape Fear*, 1984, 196-3.

When determining the preliminary question of whether a complaint has stated a claim upon which relief can be granted, judicial commissions are required to assume the truth of the facts as alleged in a complaint. *Hope, et al. v. Presbytery of San Francisco*, 2003, 216-6; *Wolfe v. Presbytery of Winnebago*, 2008, 219-04; *Lewellen v. Presbytery of Los Ranchos*, 2016, 223-03. However, assuming the truth of all the alleged facts is not the same as accepting the accuracy of a complainant's constitutional interpretation. *David Jones v. Mission Presbytery*, 2019, 224-05.

The Constitution gives wide discretionary latitude to presbyteries in their oversight and support of pastoral relationships with congregations under G-2.0504, G-2.0904, G-3.0301(a and c), and G-3.0307. A remedial complaint against a presbytery must allege an actual constitutional error and not mere violation of its own policies or rules or an ill-considered discretionary action. *Hope, et al. v. Presbytery of San Francisco*, 2004, 217-1; *David Jones v. Mission Presbytery*, 2019, 224-05. This Commission rules on violations of the requirements of the Book of Order rather than those of internal Presbytery policy and rules. *Ibid.*

Complainant alleges many issues with the membership and leadership of the First Presbyterian Church of Paw Paw, Michigan. Insofar as that congregation is not a party to this Complaint, none of those allegations are relevant to determining whether the Complaint has stated a complaint upon which relief can be granted.

Complainant suggests that Respondent failed to meet various subjective and discretionary standards in investigating and remedying issues between Respondent and The First Presbyterian Church of Paw Paw, Michigan. However, the only actual action by the Respondent council mentioned by the Complainant was its concurrence with Agreement for Dissolution Of The Pastoral Bond Without Subsequent Call prepared by the Complainant and the Session of The First Presbyterian Church of Paw Paw, Michigan to which the Complainant agreed and about which, Complainant raises no issue.

Complainant implicitly alleges that at some point in the past in some fashion, the Committee on Ministry of the Respondent presbytery did not meet some discretionary or Presbytery policy standard to investigate or intervene in the relationship between Respondent and the The First Presbyterian Church of Paw Paw, Michigan. Presbyteries have broad discretionary authority to facilitate relationships between ministers of the Word and Sacrament and member congregations. G-3.0307. It is not role of this Commission to second guess discretionary and necessarily contextual decisions of presbyteries and their committees in performing this important work. Nor is the role of this Commission to interpret or enforce presbyteries' internal rules, policies, and procedures absent a Constitutional violation that may require it. Complainant has

nowhere alleged that Respondent has violated the Constitution. Most favorably interpreted, the Complaint only alleges violations of discretionary standards and the Respondent's own internal policies. Because the Complaint does not allege Constitutional violations by either the Respondent or its committees, this Commission need not consider whether actions by various committees of the Respondent presbytery constitute an action by the Respondent council. Absent any allegation of a Constitutionally defined infirmity or delinquency, the Complaint fails to state a claim for which a claim of relief can be granted.

### Finding

Upon examination of the Complaint and all supporting papers as required by D-6.0305 this Commission finds that it has jurisdiction over this matter and that the Complainant has standing to bring the Complaint. However, this Commission finds that it was not timely filed in that no irregularity or discrepancy is alleged by the Complaint to have occurred within the requisite time period. Moreover, this Commission finds that the Complaint, assuming all facts as alleged by Complainant, fails to state a claim upon which relief can be granted. Because two of the requirements of D-6.0305 have not been met, this Commission is required to dismiss this case pursuant to D-6.0306(c).

### Order

IT IS THEREFORE ORDERED pursuant to the requirements of D-6.0305 and D-6.0306(c), the Complaint is hereby dismissed.

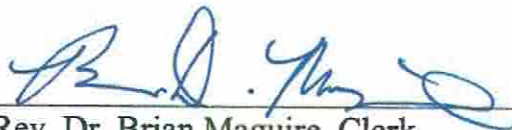
### Certificates

We certify that the foregoing is a true and correct copy of the Finding of the Permanent Judicial Commission of the Synod of the Covenant in Remedial Case 222-02, *Rev. Tiffany L. Komasara McCafferty v. The Presbytery of Lake Michigan*, Dated this 26<sup>th</sup> day of July, 2022.



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Dr. Patricia Brown, Moderator  
Synod of the Covenant, Permanent Judicial Commission



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Rev. Dr. Brian Maguire, Clerk  
Synod of the Covenant, Permanent Judicial Commission