Presbyterian Church in America

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November 30, 2011

TE Sean F. Sawyers, Complainant
4000 Alt. Rd.
Wildwood, MO 63025

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1230 Big Bend Road
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Redeemer PC
101 Grace Lane
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TE Stephen Estock, Respondent
Kirk of the Hills PC
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Old Orchard Church
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TE David R. Stain, Stated Clerk
1008 Balsawood Dr.
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DATE: November 30, 2011

FROM: L. Roy Taylor
Stated Clerk, PCA

SUBJECT: PROPOSED DECISION IN CASE 2011-06

Gentlemen:
In accordance with the *Manual of the Standing Judicial Commission* Section 17.5, I am enclosing the Proposed Decision in the above captioned case.

Please note that *SJC Manual* 17.5, states the following:

> "Proposed and recommended judgments of a Judicial Panel are not binding on the parties, but the Stated Clerk shall mail the parties a copy of the panel's proposed decision and inform the parties of their right to request a rehearing before the full Standing Judicial Commission. If any party desires a rehearing by the full Commission, such request must be filed with the Stated Clerk within 14 days after receipt of said Panel's proposed and recommended decision. Said party filing such a request for rehearing may attach a brief giving such party's reasons and arguments for this request. Such brief must comply with the requirement of Sections 8.3-8.4 of this Manual as it relates to supplemental briefs."

In connection with this matter, you are requested to inform the Office of the Stated Clerk, if any member of the Standing Judicial Commission, either directly or through an intermediary, has given any advice or counsel (a statement reasonably expected to affect the outcome of this matter) to you or if you have reason to believe another party has in any manner received advice or counsel from any member of the Standing Judicial Commission

You should further be advised of the method for computing time as delineated in *SJC Manual* 18.9 and 18.10.

Your Servant in Christ,

L. Roy Taylor
Stated Clerk, PCA

Prl
Enclosure: Proposed Decision
Cc: Mr. E. C. Burnett, Chairman, SJC
Mr. John White, V. Chairman, SJC
Rev. Fred Greco, Secretary, SJC
Mr. Terry Jones, Assistant Secretary, SJC

JUDICIAL CASE 2011-6
PRELIMINARY DECISION OF THE PANEL
Complaint of TE Sean F. Sawyers, et. al
Vs.
Missouri Presbytery

Summary of the Facts:

07-20-04 Missouri Presbytery (MOP) formed a study committee "to address and establish the parameters of orthodoxy with reference to the following issues: the federalist vision, the new perspective, new thinking on the sacraments, and any other related issues deemed germane by the committee.

01-18-06 MOP received and adopted the report of the study committee, which divided its report into these major sections, with overviews, affirmations and denials, and suggested questions for examination – 1) The Nature of the Covenant and Election; 2) Justification, 3) Union with Christ, 4) The Sacraments.

June 2007 The 35th PCA General Assembly heard the report of the ad interim committee on Federal Vision, New Perspective, and Auburn Avenue Theologies which concluded with nine Declarations regarding their findings, and with five Recommendations for the Assembly. The Assembly approved the five recommendations.

2007 "A Joint Federal Vision Profession" was produced and signed by its advocates that sought to affirm what they held in common with reference to issues that were part of the controversy over Federal Vision.

03-26-10 The Stated Clerk of MOP received a "Letter of Concern" (LOC), [letter dated 03/22/10], from 29 elders in the PCA, bringing attention to reports that TE Jeffrey Meyers is teaching Federal Vision theology contrary to the standards, and requesting that MOP proceed to a BCO 31-2 investigation into these alleged views:

1. He denies the bi-covenantal structure of the Standards.
2. He rejects the idea that Christ's merits are imputed to us.
3. He affirms that baptism effects a saving, covenantal union with Christ.
4. He affirms that this saving union occurs with all the baptized.
5. He denies that all who are saved will ultimately end up in heaven.
6. He rejects justification by faith alone.

04-20-10 MOP formed an Investigative Committee (MIC) to investigate the allegations against TE Meyers' theological views. The committee was then divided into two sub-committees: one investigating TE Meyers' theological views, and one investigating TE Meyers' contention that he was aggrieved by the LOC allegations against him.

01-08-11 At a called meeting, MOP heard the report of MIC and determined that there was insufficient evidence to raise a strong presumption of guilt regarding the teachings of TE Meyers in the doctrines listed by the LOC.

01-18-11 At a stated meeting, MOP received a complaint from TE's Jay Bennett and Joseph E. Rolison, dated 01-16-11, against MOP's action "in determining that there was insufficient evidence to raise a strong presumption of guilt in the teachings of TE Jeffrey Meyers". In response, MOP formed a Complaint Review Committee to study the complaint and report back to MOP.

04-19-11 MOP heard the report of the Complaint Review Committee (CRCR), and approved the recommendation of the committee that the complaint be denied.

05-13-11 TE's Sean F. Sawyers, Timothy Herrera, Joseph E Rolison, Charles Kuykendall, Jay Bennett, and RE's Richard Albert, Larry Valentine, Rick Jensen, Mark Saeger, Martin Jones complained against the action of MOP in determining that there was insufficient evidence to raise a strong presumption of guilt in the teaching and views of TE Meyers.

10-19-11 Upon finding the complaint judicially in order and upon further agreement on the ROC, the SJC panel heard the complaint on October 18th, 2011.

Statement of the Issue:
Did MOP err in failing to find a strong presumption of guilt that TE Jeffrey Meyers holds views contrary to the Westminster Standards (*BCO* 34-5) when it conducted its *BCO* 31-2 investigation of his views and writings?

The Judgment:
Yes, and the matter is remanded to MOP to institute process according to *BCO* 31-2.

The Reasoning and Opinion:
At its stated meeting of April 20, 2010, Missouri Presbytery (MOP) received and acted upon a Letter of Concern (LOC) which included an attached "statement of evidence for six allegations

against TE Jeffrey Meyers" [*Meyers Investigative Committee Report*, ROC p. 49, line 9] by erecting an investigative committee per BCO 31-2. At its called meeting of January 8, 2011, MOP heard the Meyers Investigative Committee Report and determined that there was insufficient evidence to raise a strong presumption of guilt in the teachings and views of TE Jeffrey Meyers (in the areas of covenant theology, the necessity of Christ's perfect obedience/imputation of Christ's righteousness, baptism, the perseverance of the saints, and justification by faith alone), and additionally determined that the reports regarding the heterodoxy of his views in these areas were false [*Minutes of Called Meeting 01-08-11 of MOP*, ROC pp. 468-469].

Complainants maintain that MOP erred by determining that there was insufficient evidence to raise a strong presumption of guilt in the teachings and views of TE Meyers in spite of the fact that the "investigation uncovered clear and unambiguous evidence that the reports were true" [ROC p. 1], and correspondingly in their failure to institute process against TE Meyers per BCO 31-2.

Respondents maintain that the Complainants do not truly understand the views of TE Meyers and that they made unfounded inferences and assumptions about his former statements. They further argue that the charge that TE Meyers holds views that oppose the Westminster Standards remains unproven [*Respondents' Brief*, p. 10]. Respondents note that one must prove that there is a 'strong' presumption of guilt, and that proof is not there. The term 'strong' sets the bar high, they argue, in terms of the requirement for finding a presumption of guilt [*Respondents' Brief*, p. 1, ROC p. 50]. Respondents further insist that we must not violate "the judgment of charity and the full measure of forbearance" [ROC p. 303; cf. ROC pp. 51-55] when viewing TE Meyers' statements. This approach – setting the bar high together with the judgment of charity – principially guided their entire investigative process.

In order to insure that our Constitution is not amended, violated, or disregarded in judicial process, any review of the judicial proceedings of a lower court by a higher court must be guided by the principles set forth in BCO 39-3. While Respondents recognize the principle articulated in BCO 39-3 (4):

> *The higher court does have the power and obligation of judicial review, which cannot be satisfied by always deferring to the findings of a lower court. Therefore, a higher court should not consider itself obliged to exhibit the same deference to a lower court when the issues being reviewed involve the interpretation of the Constitution of the Church. Regarding such issues, the higher court has the duty and authority to interpret and apply the Constitution of the Church according to its best abilities and understanding, regardless of the opinion of the lower court.*

they nevertheless maintain that "*judgments* as to whether a man's theological views are confessionally sound" [*Respondents' Brief*, p. 2] should be included in the list found in the principle articulated in BCO 39-3 (3):

> *A higher court should ordinarily exhibit great deference to a lower court regarding those matters of discretion and judgment which can only be addressed by a court with familiar acquaintance of the events and parties. Such matters of discretion and judgment would include, but not be limited to: the moral character of candidates for sacred office, the appropriate censure to impose after a disciplinary trial, or judgment about the comparative credibility of conflicting witnesses. Therefore, a higher court should not reverse such a judgment by a lower court, unless there is clear error on the part of the lower court.*

While this court certainly recognizes our duty to exhibit great deference to a lower court regarding those matters of discretion and judgment which can only be addressed by a court with familiar acquaintance of the events and parties, we also recognize our duty when the issues being reviewed involve the interpretation of the Constitution of the Church. As the higher court, in this case, we are obligated to interpret and apply the Constitution of the Church according to our best abilities and understanding, regardless of the opinion of the lower court.

The Record clearly shows some significant disparity between statements made by TE Meyers at different times and in different contexts. Various statements by TE Meyers written in blogs from 2002 to 2004 certainly seem to corroborate the allegations made in the LOC and raised by the Complainants (such as, the need to "*redo a great deal of the Westminster standards*" and that "*the whole bi-polar covenant of works/grace schema has got to go*" [ROC p. 410]; or that "*Baptism seals to our children all the promises of God in Christ. They are forgiven, justified, adopted, etc. by means of their baptism into the church.*" [ROC p. 380]). In 2007 TE Meyers signed the Joint Federal Vision Profession which was written in response to the General Assembly's Ad Interim Report on Federal Vision. The JFVP clearly states that *"this statement represents the views of those who drafted it, contributed to it, and signed it"* [ROC p. 502]. TE Meyers affirms that he even helped compose the affirmations and denials in the JFVP regarding baptism [ROC p. 157]. In more recent statements made to the investigative committees of MOP, TE Meyers sought to clarify and counter what he had written earlier, confessing to the "*sin of overstatement*" [ROC p. 115]. However, a number of TE Meyers' more recent statements appear to confirm some of the major allegations of the LOC, for example his views on imputation (that the merit of Christ's 'active works' of obedience were not transferred to us [ROC pp. 61, 97, 110, 141, 152]), the efficacy of baptism (that baptism seals to all those baptized all the promises of God [ROC pp. 162-164, 314]), and one's covenantal union with Christ (that there is a "mystical, real union" between Christ and all baptized members [ROC pp. 159-160]), and that there is some form of "new life" that many non-elect enjoy [ROC p. 66]. All such statements are explained and qualified in some way by TE Meyers and the MOP investigative committees; nevertheless, not always conclusively.

The Complainants argue that earlier statements that are clearly contrary to the Standards were never specifically retracted by TE Meyers. They were explained and qualified, but not retracted. TE Meyers confessed that he has had "*to retract positions that I promoted like a bulldog in the past*" [ROC p. 372]. When asked by the SJC Panel whether the Respondents ever asked TE Meyers to identify which positions he had to retract, the Respondents in oral argument at the panel hearing replied that they failed to ask him that question.

The Record in this matter suggests that there are aspects of the teachings of TE Meyers that are in conflict with our Standards. These teachings could reasonably be deemed to be injurious to the peace and purity of the church (BCO 13-9(f)). Further, the Record shows that Complainants and Respondents acknowledge the same with the questions/concerns raised throughout the investigative process, although Respondents chose to "believe that this controversy over his views and teaching is, essentially, a re-presentation of old intramural disputes within the Reformed camp and must be seen—and relativized—as such." [*Complaint Review Committee Report*, ROC p. 335, line 22ff]. However, given the many and varied conflicting statements and writings attributed to and acknowledged by TE Meyers as his own regarding the doctrinal issues raised that at best are confusing and at worst do not appear to be in conformity with our Standards, this court cannot defer to the lower court's "relativized" judgment. While TE Meyers clearly states on the Record that he does not believe he holds any views that are contradictory to the Westminster Standards, given the evidence presented in the Record, without formal judicial process MOP does not have the authority to render a definitive judgment as to whether his teachings strike at the vitals of religion or were industriously spread (BCO 34-5 & 6). Therefore, without the completion of judicial process, MOP could not declare that the reports are false and that his teachings are not contrary to the Westminster Standards.

This case demonstrates the need for our courts to address directly specific issues and situations as they arise, rather than adopting broad *in thesi* statements in hopes that, by doing so, the disputes or disagreements within the Church will be resolved. No charge can be brought, or discipline imposed, based solely on such an *in thesi* statement or a pastoral letter. Nor can a Presbytery find no strong presumption of guilt on concerns raised of a minister's views based on his having participated in the formation of and approval of such an *in thesi* statement, as evidenced in the Record as support for the denial of the complaint by the MOP Complaint Review Committee [ROC pp.278-279]. Doing so is clear error.

In cases where the views, beliefs, and practices of men (or courts) are called into question, it might actually be a better approach for the party who is concerned about these views, beliefs, and practices to make such inquiries as are necessary and practical (cf. Matthew 18:15) to ascertain exactly what these views, beliefs, and practices are; then, assuming they are believed to be contrary to Scripture or our Constitution, formally file a "charge" pursuant to BCO 32-2 and 32-

3. This procedure not only removes the difficulty in determining the question of whether or not a "strong" presumption of guilt exists (BCO 31-2), but also allows a court to try directly the issue raised in the "charge" (BCO 32-3). Furthermore, this procedure will require an accurate record of the questions and answers given in both direct and cross-examination, in that all testimony shall be recorded and become a part of the Record, should any person desire further review of the lower court's decision (BCO 35-7). This approach would avoid the error of misunderstanding that an accused is to be presumed innocent until a BCO 31-2 investigation "should prove him guilty" [ROC p. 278]. An accused is presumed innocent until he confesses his guilt or he is proven guilty via a properly conducted trial with all of its benefits of due process. Major inconsistencies of doctrine should be adjudicated. This process would allow for the accused to be exonerated, if the allegations raised against him are found to be in error; or otherwise to be found guilty of the charges.

Based on the reasoning and opinion above, this matter is remanded to MOP to institute process according to *BCO* 31-2.

[This Preliminary Decision was written by various members of the Panel.]