REMEDIAL CASE 205-7

John F. VELDHUIZEN v.  
The Presbytery of SAN FRANCISCO

This is a remedial case which has come before the commission on appeal by John F. Veldhuizen, Minister, from a decision of the Permanent Judicial Commission of the Synod of the Pacific.

Pursuant to Book of Order, D-13.1200a, the General Assembly Permanent Judicial Commission finds that it has jurisdiction, that appellant has standing to appeal, that the appeal was properly and timely filed, and that the appeal is in order.

History

John Veldhuizen, a nonparish member of the Presbytery of San Francisco, has worshipped at the High Street Presbyterian Church since the late sixties. He was occasionally asked to moderate the session, perform weddings, conduct pastoral counseling sessions, and perform other pastoral functions for the congregation of the High Street Presbyterian Church. During the late eighties no installed pastor served the High Street Presbyterian Church.

In May 1987 appellee voted to dissolve the High Street Congregation. The session of High Street Presbyterian Church filed a complaint against the Presbytery of San Francisco. In September 1987 the committee on ministry and pensions of the Presbytery of San Francisco directed Mr. Veldhuizen to refrain from conversations with the High Street Church session. In November 1987 the Presbytery of San Francisco rescinded its motion to dissolve the High Street Presbyterian Church; the church withdrew its complaint; and the High Street Administrative Commission was formed by presbytery with certain enumerated powers over the ministries at the church, none of which speak to the authority to discipline nonparish ministers or find that they have renounced the jurisdiction of the church.

In July 1989 Mr. Veldhuizen and twelve elders of the High Street Presbyterian Church filed a complaint against the Presbytery of San Francisco. In November 1989 the High Street Administrative Commission alleged offenses had been committed by Mr. Veldhuizen. A special disciplinary committee was appointed by presbytery that same month to investigate the allegations. That committee has never met with Mr. Veldhuizen or informed him of the nature of the allegations, and has never reported the results of its investigation to presbytery.

In February 1990 the High Street Administrative Commission gave Mr. Veldhuizen notice to vacate the church premises where he had conducted a family counseling practice for some 20 years. The administrative commission cited concern about liability, even though the commission initially ordered Mr. Veldhuizen to obtain $500,000 liability insurance coverage, which he did. In March 1990, Mr. Veldhuizen filed a complaint with the stated clerk of the Synod of the Pacific, which was not conveyed to the synod PJC.

In April 1990 the High Street Administrative Commission gave Mr. Veldhuizen notice of a hearing to determine whether it should presume he had renounced the jurisdiction of the church by engaging in a work disapproved by the governing body (G-6.0502).

On May 5, 1990, the synod PJC heard testimony from Mr. Veldhuizen and the twelve High Street Church elders about the 1989 church complaint. The following day, on May 6, 1990, the High Street Administrative Commission met to determine whether Mr. Veldhuizen
persisted in a work disapproved by the governing body. Mr. Veldhuizen appeared and contested the jurisdiction of the High Street Administrative Commission over him.

On May 7, 1990, Mr. Veldhuizen filed a complaint with the stated clerk of the Synod of the Pacific protesting the alleged jurisdiction of the High Street Administrative Commission. This complaint also was not forwarded to the synod PJC. On May 8, 1990, the presbytery received the report of the High Street Administrative Commission that Mr. Veldhuizen had persisted in a work disapproved by the governing body and was presumed to have renounced the jurisdiction of the church. His name was removed from the rolls of presbytery.

On June 2, 1990, Mr. Veldhuizen filed a complaint with the stated clerk of the synod protesting the deletion of his name from the rolls of presbytery. He was told by the stated clerk that since he was no longer on the rolls of presbytery, he did not have standing to file a complaint. This third complaint was also not forwarded to the synod PJC.

In August 1990 the High Street Presbyterian Church appeal was filed with the stated clerk of the synod but was not conveyed to the synod PJC. In September 1990 Mr. Veldhuizen unsuccessfully queried the chair of the High Street Administrative Commission, attempting to identify the nature of the specific work disapproved of by the governing body. He was not given a specific response.

In March 1991 Mr. Veldhuizen petitioned the General Assembly Permanent Judicial Commission to assume original jurisdiction of his complaints alleging that the synod had failed to process his March and June 1990 complaints.

The General Assembly Permanent Judicial Commission by order dated May 13, 1991, directed the Synod of the Pacific PJC to obtain the June 2, 1990, complaint of Mr. Veldhuizen against the Presbytery of San Francisco and to proceed to the disposition of the case. The General Assembly Permanent Judicial Commission also directed the Presbytery of San Francisco to restore Mr. Veldhuizen to the membership roll of presbytery until the June 2, 1990, complaint and any appeal on it was decided.

The synod PJC proceeded to consider Mr. Veldhuizen's June 2, 1990, complaint as amended by his letter of June 4, 1991. The synod PJC held a pretrial conference in December 1991 at which the presbytery admitted that it, acting through its High Street Administrative Commission, erred in removing Mr. Veldhuizen from the rolls of presbytery on the basis that he was presumed to have renounced the jurisdiction of the church under G-6.0502.

The synod decided the case and issued an order on June 3, 1992, finding that the action of the High Street Administrative Commission was erroneous and that Mr. Veldhuizen must be restored to continuing membership in the Presbytery of San Francisco with all rights and privileges. The synod PJC denied the further claims for relief including money damages and attorneys fees, and ordered the records of the High Street Administrative Commission and the special disciplinary committee investigating Veldhuizen sealed for a period of five years.

Mr. Veldhuizen then filed a timely appeal to this commission.

Specifications of Error

This commission understands Mr. Veldhuizen to have submitted the following specifications of error:

(1) The synod PJC erred in denying Mr. Veldhuizen an opportunity to clear his name through an evidentiary trial even though the presbytery admitted error and restored Mr.
Veldhuizen to continuing membership in presbytery.

This specification of error is not sustained.

The finding by the synod PJC that the High Street Administrative Commission was without jurisdiction means that the allegations of engaging in a work disapproved by the governing body or of the renunciation of the jurisdiction of the church are unfounded and unsubstantiated and should be disregarded by the church community. Mr. Veldhuizen contends that the denial of a trial affords him no opportunity to address the misconceptions members of presbytery may have about his conduct. A remedial complaint is not the proper vehicle for vindication.

The adverse impact on a member of Christ's Church, the difficulty of trying to restore one's reputation and standing in the church community, are problems that every governing body should prayerfully consider when it uses or, as in this case, misuses the administrative processes of the church to curtail the rights of individuals. It is the hope and admonition of this commission that all members of the Presbytery of San Francisco would disregard allegations not properly established through the church disciplinary process with its rigorous safeguards.

(2) The synod PJC erred in failing to "be specific with regard to the fact of and the reasons for Veldhuizen's restoration to the roll of San Francisco Presbytery," including specification of the work disapproved.

This specification is not sustained.

Since the High Street Administrative Commission did not have the authority to determine that Mr. Veldhuizen had engaged in a work disapproved, the synod appropriately limited its order to that issue.

(3) The synod PJC erred in failing to include the activities of the special disciplinary committee in its review of the action of the High Street Administrative Commission's finding that Veldhuizen had renounced the jurisdiction of the church.

This specification is not sustained.

The synod appropriately concluded that issues concerning the special disciplinary committee were not properly before it.

D-7.1100 provides that "[n]o charges shall be filed later than three years from the time of the commission of the alleged offense, nor later than one year from the time preliminary procedure commenced which ever occurs first." At the hearing before this commission, counsel for presbytery admitted, and we concur, that presbytery is now foreclosed from taking action on any allegations presented to the special disciplinary committee. The failure of the special disciplinary committee to report within the one year time limit of D-7.1100 should be noted in the minutes of presbytery along with an admonition to members of presbytery that no negative inferences should be drawn therefrom. The failure of presbytery to act promptly as required by the Rules of Discipline to investigate allegations and find them to be without cause or proceed to file charges which can be tried and resolved is a failure of pastoral concern for its members and
an action disruptive to the peace and harmony of the church not to be tolerated.

(4) The synod PJC erred in failing to order the filing of complaints by Mr. Veldhuizen dated March 6, 1990 and May 7, 1990.

This specification of error is sustained.

This commission reiterates its position that all complaints filed with stated clerks shall be promptly transmitted to the appropriate body for resolution. These complaints like any other complaints should have been, and if they were not, should now be, transmitted to the synod PJC for disposition.

(5) The synod PJC erred in failing to order the presbytery to clarify the differences and limits of authority of administrative versus judicial commissions.

This specification of error is not sustained.

The Book of Order specifies the authority of administrative and judicial commissions. It is not the role of presbytery to circumscribe that authority.

(6) The synod PJC erred in failing to order money damages or a monthly pension to compensate Mr. Veldhuizen for his loss of reputation, professional standing and income.

This specification of error is not sustained.

D-1.0100 provides that "[c]hurch discipline is exercised within the context of pastoral care and oversight by means of administrative review and judicial process." D-1.0200 provides that "[a]dministrative review is the supervision of lower governing bodies by higher governing bodies within the whole system of government of the church for the maintenance of its peace, unity, and purity." G-1.0307 states "[t]hat all church power . . . is only ministerial and declarative." In recent years this commission has noted an increasing tendency to confuse the function of church discipline noted above with the establishment of civil liability and concomitant monetary damages. The synod did not err in finding that awarding civil tort-type damages would not maintain the peace, unity, and purity of the church or in its finding that an award of a monthly pension as compensation for administrative irregularities would be harmful to the sound administration of the pension fund.

(7) The synod PJC erred in failing to order mediation to resolve issues and clarify facts.

This specification of error is not sustained.

While mediation is a process that the committee on ministry may find useful in the fulfillment of its reconciliation function to "serve as an instrument of presbytery for promoting the peace and harmony of the churches, especially in . . . matters arising out of the relations between ministers and churches" (G-11.0502i), it was not error for the synod to fail to grant this relief.
(8) The synod PJC erred in failing to order payment of attorney's fees and other expenses incurred in obtaining remedial relief.

This specification of error is not sustained.

Under certain circumstances the legal fees and other expenses in a disciplinary case may be borne by the governing body in which the case originated (D-8.1000). The Book of Order does not impose a similar responsibility on governing bodies in remedial cases such as this one.

(9) The synod PJC erred in failing to find G-6.0502 unconstitutional.

This specification of error is not sustained.

No PJC has the authority to declare sections of the Book of Order unconstitutional.

Additional Issue

In its brief and at oral argument, presbytery argued the need for clarification of the appropriate membership category for Mr. Veldhuizen from either the synod PJC or this commission. This commission on May 13, 1991, ordered Mr. Veldhuizen to be restored to the rolls of presbytery. It was the intent of this commission that he be restored to the membership status he occupied prior to his erroneous removal.

Order

It is hereby ordered that:

(1) The records of the 1989 Special Disciplinary Committee investigating allegations against Mr. Veldhuizen be destroyed since they cannot at this time be used by anyone for any purpose;

(2) The stated clerk of the Presbytery of San Francisco spread in the permanent minutes of presbytery the notation that the special disciplinary committee investigating allegations against Mr. Veldhuizen failed to report within the one year time limit of D-7.1100, and that members of presbytery be admonished to draw no negative inferences from the investigation;

(3) The stated clerk of the synod is directed to transmit immediately the Veldhuizen complaints of March 6, 1990, and May 7, 1990, to the synod PJC for disposition.

(4) This decision and the attached letter be read aloud to the commissioners of the Presbytery of San Francisco at its next meeting by the stated clerk and its contents be spread in the permanent minutes.

Milton S. Carothers and Marcos Feliciano were not present and took no part in the proceedings. Harold Densmore voluntarily withdrew from the consideration of this case.

Letter to Presbytery of San Francisco
Brothers and Sisters in Christ:

The General Assembly Permanent Judicial Commission transmits herewith its opinion in Remedial Case 205-7, John Veldhuizen vs. Presbytery of San Francisco. Our Order requires that the decision and this letter be read to you.

The purpose of this letter is to share our hopes and prayers that as you continue with your work as the church in the world you will remember this guiding principle of the Book of Order:

"The church of Jesus Christ is the provisional demonstration of what God intends for all of humanity.
   a. [As such,] the Church is called to be a sign in and for the world of the new reality which God has made available to people in Jesus Christ.
   b. The new reality revealed in Jesus Christ is the new humanity, a new creation, a new beginning for human life in the world:
      (1) Sin is forgiven.
      (2) Reconciliation is accomplished.
      (3) The dividing walls of hostility are torn down.
   c. The church is the body of Christ, both in its corporate life and in the lives of its individual members, and is called to give shape and substance to this truth." (Book of Order, G-3.0200)

As with any case, this case has adversely affected the church and the individuals involved. It is over. As you deal with the residual effects of the case, you are reminded that

"[t]he Church is called to be Christ's faithful evangelist . . . demonstrating by the love of its members for one another and by the quality of its common life the new reality in Christ, . . . healing and reconciling and binding up wounds, . . . and sharing with Christ in the establishing of his just, peaceable and loving rule in the world." (Book of Order, G-3.0300)

In the furtherance of these principles, it is our prayerful hope that you will offer fellowship as well as membership to John Veldhuizen.

Yours in Christ,
The General Assembly Permanent Judicial Commission
November 2, 1992

Concurring Opinion of Joel Secrist

I concur specially to Remedial Case 205-7, Veldhuizen v. Presbytery of San Francisco.

When the General Assembly PJC is commissioned to interpret and apply the Constitution, bylaws, and Book of Order, we are to bring our informed judgment to bear in order to reach a fair solution of a problem. This is especially true when it comes to formulating remedies. There is need for flexibility in meeting a wide variety of situations.

We must be confined to interpretation and application of the Constitution, bylaws, and Book of Order; and, we must not sit to dispense our own brand of justice. However, our Book of Order fails to provide a clear and unequivocable guide to remedy power. Some cases before the General Assembly Permanent Judicial Commission require the achievement of justice in situations not contemplated by or not adequately cured by the Book of Order.

We must solve the equitability question and work out a satisfactory treatment of the problem. An exceedingly strong case can be made in support of compensatory damages to Mr.
Veldhuizen who has suffered financial loss because of misfeasance and malfeasance by the Presbytery of San Francisco, violating an inherent responsibility of fair and satisfactory treatment.

The *Book of Order* does not specifically authorize the General Assembly Permanent Judicial Commission to award damages. However, I submit that the authority of the General Assembly Permanent Judicial Commission to award damages is as truly and integrally a part of remedial authority as if it were written in the *Book of Order* in unmistakable English and boldface type.