DAVID L. EVANS  
Complainant/Appellant  

v.  

Remedial Case 207-4  

PRESBYTERY OF LAKE MICHIGAN  
Respondent/Appellee  

This is a remedial case which has come before this commission on appeals by David L. Evans against the Presbytery of Lake Michigan, and by the Presbytery of Lake Michigan against Evans from a decision of the Permanent Judicial Commission of the Synod of The Covenant.

The Permanent Judicial Commission finds that it has jurisdiction, that the appellants have standing to appeal, that the appeals were properly and timely filed, and that the appeals are in order (Book of Order, D-13.1200a).

History

Evans had been pastor of the First Presbyterian Church of Lansing, Michigan, for a number of years. He was married and his wife was a member of his congregation. Accusations of adultery between Evans and another member of his congregation were made by two of the church's elders. Presbytery had recently adopted the General Assembly's recommended Policy on Sexual Misconduct as its own. In January, 1993, a clergy sexual misconduct response team, hereafter "the response team," was formed by presbytery and interviews were conducted with members of the church. The response team also met with the session. Under pressure from the response team, Evans requested and was granted leave of absence by the session. The response team filed a written accusation that caused presbytery to create a special disciplinary committee.
Evans admitted his adultery to the special disciplinary committee. With the active participation of Evans and his counsel, Evans and the special disciplinary committee negotiated a termination and temporary exclusion agreement, hereafter "the agreement." Both Evans and his counsel signed the agreement on March 3, 1993.

The permanent judicial commission of the presbytery approved the agreement and incorporated the same into its judgment in the disciplinary case against Evans on March 13, 1993. The permanent judicial commission reported its decision to the Presbytery of Lake Michigan on March 20, 1993. Evans received a written copy of the decision on March 29, 1993, and did not appeal.

Evans filed a complaint against the Presbytery of Lake Michigan with the Synod of the Covenant on April 20, 1993. A request of the presbytery to dismiss for jurisdictional defects was overruled by the synod permanent judicial commission. The synod permanent judicial commission decision was made on March 4, 1994. Timely notices of appeal were filed by both parties with this commission.

**Specifications of Error**

Evans has made one specification of error in his appeal. The presbytery raises nine specifications of error.

Presbytery's specifications of errors numbers (1) through (8) and Evans' specification of error number (1).

These specifications are moot by our holding on presbytery's Specification Number 9.

Presbytery's specification of error (9):

In its March 4, 1994, decision and its subsequent clarifying order, the synod erred in remanding this matter to the presbytery permanent judicial commission and ordering that the
proceeding "be reviewed in accordance with the rulings contained in this decision and re-opened at the time in the procedure prior to the involvement of the special disciplinary committee."

This specification is sustained.

The judgment of the presbytery permanent judicial commission in the disciplinary case against Evans was not appealed. That judgment was based on the agreement. We hold it is improper to attack a final decision in a disciplinary case through a separate remedial proceeding.

Further Finding

A response team under a policy on sexual misconduct must act in accord with the constitutional requirements of the Book of Order. A sexual misconduct response team must not usurp the functions of a special disciplinary committee. A response team needs to be pastorally supportive and in no manner prosecutorial. The record shows the response team here improperly assumed powers reserved only to the presbytery. Presbytery conceded that Evans was strongly pressured by the response team into requesting a leave of absence. Moreover, a meeting of the session at the behest of the response team was improperly called and Evans was improperly excluded as moderator and participating member. The rights of an accused under the Book of Order in a context of alleged sexual misconduct should not be abridged. Exigency is no exception.

Order

It is therefore ordered that the decision of the Synod of the Covenant Permanent Judicial Commission be set aside.

It is further ordered that the stated clerk of the Presbytery of Lake Michigan, report this decision to the presbytery at its first meeting after receipt, that the presbytery enter the full decision upon its minutes, and that an excerpt from those minutes showing entry of the decision
be sent to the Stated Clerk of the General Assembly; and that the stated clerk of the Synod of the Covenant report this decision to the synod at its first meeting after receipt, that the synod enter the full decision upon its minutes, and that an excerpt from those minutes showing entry of the decision be sent to the Stated Clerk of the General Assembly. (Book of Order, D-8.1900)

Robert Hotchkiss and Owen Panner, members of the Commission, were not present and took no part in the proceedings.