

**THE PERMANENT JUDICIAL COMMISSION
OF THE GENERAL ASSEMBLY
OF THE PRESBYTERIAN CHURCH (U.S.A.)**

Presbytery of the Highlands of New Jersey,
Appellant/Cross-Appellee

v.

The Rev. Ryan Irmer,
Appellee/Cross-Appellant

Decision and Order
Remedial Case 2024-02

Arrival Statement

This is an appeal to the General Assembly Permanent Judicial Commission (GAPJC or this Commission) filed by the Presbytery of the Highlands of New Jersey (Appellant or Presbytery) from a decision of the Permanent Judicial Commission of the Synod of the Northeast (SPJC) dated April 26, 2024.

A second appeal from the same SPJC decision (cross-appeal) was filed with the GAPJC by The Rev. Ryan Irmer (Appellee or Rev. Irmer). On June 20, 2024, the officers of the GAPJC issued a Preliminary Order dismissing the cross-appeal on the grounds that the cross-appeal was not timely filed. Rev. Irmer subsequently challenged the dismissal of the cross-appeal. The Presbytery objected to this challenge as untimely, but the officers of the GAPJC overruled that objection, finding that the challenge to the dismissal of the cross-appeal was timely.

In addition, the Presbytery requested a stay of portions of the SPJC decision, and on June 24, 2024, a stay was entered. Rev. Irmer challenged this stay.

Several issues were presented at a hearing of the GAPJC on October 18, 2024:

- a. Rev. Irmer's challenge to the dismissal of the cross-appeal;
- b. the merits of the Presbytery's appeal;
- c. the merits of Rev. Irmer's cross-appeal, to be considered if Rev. Irmer's challenge to the dismissal of the cross-appeal were to be sustained; and
- d. Rev. Irmer's challenge to the entry of the stay.

Jurisdictional Statement

This Commission finds that it has jurisdiction over the appeal, that Appellant has standing to file its appeal, that the appeal was timely filed, and that the appeal states one or more of the grounds for appeal set forth in the *Book of Order*, D-6.0202e.

This Commission finds that it has jurisdiction over the cross-appeal, that Appellee has standing to file his cross-appeal, and that the cross-appeal states one or more of the grounds for appeal set forth in the *Book of Order*, D-6.0202c. However, the timeliness of the cross-appeal was contested and subject to a hearing as described below.

Appearances

Ruling Elder Joe Martinoni, Ruling Elder Becky Moody, and The Rev. Stefanie Muntzel appeared as committee of counsel, with counsel Ruling Elder Tania M. Nemeth, on behalf of Appellant. The Rev. Ryan Irmer appeared as Appellee, with his counsel, The Rev. Robert Eyre. The Rev. Steven Shussett, Stated Clerk for the Presbytery of the Highlands of New Jersey, and The Rev. Nancy Talbot, Stated Clerk for the Synod of the Northeast, also were present. With the agreement of both parties, the parties and their counsel appeared for the hearing by videoconference.

History

Rev. Irmer was installed as the Pastor of Long Valley Presbyterian Church (LVPC) in May of 2021. Two years into his pastorate, Rev. Irmer and an elder from the LVPC session separately reached out to The Rev. Jeanne Redak, Presbytery Leader, seeking the Presbytery's assistance with conflict that had arisen between Rev. Irmer and certain members of the session. In response, the Presbytery's Committee on Ministry (COM) recommended that Rev. Irmer take a "paid leave of absence" beginning June 18, 2023, and extending at least through September 10, 2023. This leave was understood by both parties to be voluntary and had clearly stated terms. This recommendation was shared at a meeting of the LVPC session on June 1, where The Rev. David Young, representing the COM, was in attendance and moderated, at Rev. Irmer's invitation. The minutes of that meeting show that Rev. Young described the proposal as "administrative leave." The session agreed to the COM's plan, and the following Sunday Rev. Young addressed the congregation of LVPC and described the plan as "administrative leave," making clear that "the Leave did not come about in response to any form of misconduct, misappropriation of funds, or anything criminal."

Over two months into this leave, having met with a COM-assigned clergy coach (The Rev. Byron Leasure) and having attended the Clergy Program at the Davidson Center for the Professions at the COM's recommendation, Rev. Irmer met with the Care Team of the COM on August 23, 2023, and expressed his desire to return from his leave. Following this meeting, the Care Team and Rev. Leasure established "a process of reconciliation" requiring both Rev. Irmer and the session to exchange lists of three things that they and the other party must do to resolve the conflicts. Both the session and Rev. Irmer complied on September 23, 2023, and Rev. Irmer asked to meet with the session to discuss the lists.

LVPC's session met on October 4, moderated by Rev. Leasure, without notice to Rev. Irmer. At this meeting, session members discussed Rev. Irmer's list and voted to inform COM of their request to dissolve the pastoral relationship. Rev. Redak and Rev. Young sent Rev. Irmer a

letter on October 20, 2023, informing him that a congregational meeting would be held to vote on a request for the dissolution and a corresponding severance package. The letter offered Rev. Irmer two opportunities to share his “concerns about the process, the severance package, and moving forward.” On November 5, the congregational meeting was held, and the recommendation to request the Presbytery dissolve the pastoral relationship was passed. Rev. Irmer was excluded from this congregational meeting.

The COM met on November 7. Rev. Irmer was in attendance, invited to submit documentation, and given twenty minutes to speak. Rev. Irmer was not informed that an administrative leave pending a psychological evaluation was under consideration. After Rev. Irmer was excused from the meeting, the COM voted to: (1) dissolve the pastoral relationship between Rev. Irmer and LVPC, (2) approve the proposed severance, and (3) place Rev. Irmer on administrative leave pending a “Presbytery paid psychological evaluation, through Physis Associates, and a review by a team appointed by the COM.” Rev. Irmer was not aware of the COM’s decision until receiving a letter the next day detailing this decision. The letter explained that Physis Associates is the same group the Presbytery’s Commission on the Preparation for Ministry uses for candidates under care for ministry.

These actions of the COM were reported to the stated meeting of the Presbytery on November 14, 2023, a meeting from which Rev. Irmer was excluded as a condition of the imposed administrative leave. The actions were reported in the consent agenda, which was approved without comment.

On November 30, Rev. Irmer filed a remedial complaint with the Permanent Judicial Commission of the Synod of the Northeast, seeking a stay of enforcement of LVPC’s vote to request the dissolution of the pastoral relationship, the vote of the COM to dissolve the relationship, and the imposition of administrative leave. A stay of the imposition of administrative leave was entered on December 18. The Presbytery challenged the stay, and a hearing on that challenge was scheduled for March 8, 2024.

On January 31, 2024, Rev. Irmer filed a second complaint, alleging that continuing statements and actions by the Presbytery were interfering with his search for a new call, violating the stay, and thus seeking a more detailed and comprehensive stay of enforcement. A stay was entered on February 20, and the Presbytery challenged the stay. A hearing on March 8 addressed both stays and challenges, and on March 14 the SPJC combined the two stays into one and kept that stay in place throughout the proceeding.

The SPJC conducted a trial on April 16, 2024. In its decision and order, dated April 26, the SPJC sustained three of Rev. Irmer’s claims of irregularity: (1) that the COM acted erroneously in dissolving the pastoral relationship, per G-3.0109b, by exceeding its delegated authority; (2) that the COM lacked constitutional authority pursuant to D-7.0902 or otherwise to place Rev. Irmer on administrative leave or to impose conditions or restrictions on his functions as a pastor or his search for a new call; and (3) that the Presbytery acted unconstitutionally in denying Rev. Irmer access to the presbytery meeting on November 14. The decision ordered that the action of the November 14 presbytery meeting placing Rev. Irmer on administrative leave be vacated, and further prohibited the Presbytery from communicating that Rev. Irmer had been

placed on “Administrative Leave pending appropriate assessments,” “administrative leave,” or “leave.” The Presbytery was also ordered to allow Rev. Irmer to “participate in the process of transfer of membership to another presbytery as it would any other minister member of the presbytery.”

The Presbytery appealed the SPJC’s decision to this Commission on June 7, 2024, and sought a stay of enforcement of portions of the SPJC’s order. On June 11, Rev. Irmer filed a cross-appeal of the SPJC’s decision and order. The officers of this Commission accepted the Presbytery’s appeal on June 14. On June 20, the officers of this Commission issued an order dismissing Rev. Irmer’s cross-appeal as untimely. On June 24, the stay requested by the Presbytery was entered, specifying “those portions of the decision and order concerning the intent to, or effect of, restricting, inhibiting, limiting or otherwise interfering, directly or indirectly with the presbytery’s obligation and responsibility for care and oversight in requiring a psychological exam of Rev. Irmer prior to transfer to a new call in any presbytery.”

Rev. Irmer challenged the dismissal of the cross-appeal on July 19, and the Presbytery objected that this challenge was untimely. On July 25, Rev. Irmer challenged the stay of enforcement of portions of the SPJC’s order. In a Preliminary Order dated September 6, this Commission overruled the Presbytery’s objection to the timeliness of Rev. Irmer’s challenge to the dismissal of the cross-appeal and set a hearing date of October 18, 2024, for all of the remaining issues in the case, including: (1) the merits of the Presbytery’s appeal, (2) Rev. Irmer’s challenge to the entry of a stay, (3) Rev. Irmer’s challenge to the dismissal of the cross-appeal, and (4) if the second challenge was sustained, the merits of Rev. Irmer’s cross-appeal. This hearing occurred as scheduled. The GAPJC commissioners convened in person in Louisville, Kentucky, with the parties and their counsel participating by videoconference.

Introduction to Challenges and Appeal

Permanent judicial commissions have long-standing and broad authority to restate, group, consolidate, and summarize, but not omit, specifications of error presented in an appeal for purposes of clarity (*Book of Order*, D-6.1203). See *Lewellen v. Presbytery of Los Ranchos* (2017, 223-03). This Commission has restated the specification of error in the appeal.

First, this Decision considers the question of Rev. Irmer’s challenge to this Commission’s dismissal of his cross-appeal. Next, this Decision addresses alleged specifications of error in the appeal. Finally, this Decision concludes with Rev. Irmer’s challenge to the stay of enforcement issued by this Commission.

Appellee’s Challenge to the Dismissal of Cross-Appeal

Rev. Irmer raises two challenges to the dismissal of his cross-appeal. First, Rev. Irmer argues that the cross-appeal should be considered timely filed, because the SPJC decision was sent electronically without prior agreement of the parties, as required by D-5.0902c, and without any other additional method of delivery specified in D-4.0103b. Therefore, Rev. Irmer argues

that the date of receipt of electronic delivery ought to be considered either on the next business day, or, at the earliest, on the day after the electronic document was sent.

Second, Rev. Irmer argues that, even in the absence of a timely filed appeal of his own, under the definition of an appeal in a remedial case found in D-6.0101, when this Commission accepted the Presbytery's appeal, the entire case was transferred to this Commission for review. Rev. Irmer requests that this Commission consider his alleged specifications of error as a response to Appellant's appeal under this Commission's jurisdiction to "review...the proceedings and [issue] a decision to correct, modify, set aside, or reverse the decision" (*Book of Order*, D-6.0101).

Decision in Appellee's Challenge to the Dismissal of Cross-Appeal

D-4.0103b provides for the filing of documents in remedial cases "by United States Postal Service certified mail, return receipt requested; commercial courier, with delivery receipt requested; personal delivery; or electronically when so permitted [in Church Discipline]." D-4.0302 provides that communication beyond the filing of the remedial complaint may be handled electronically at the written agreement of both parties. D-5.0902c provides that decisions of permanent judicial commissions "shall immediately be delivered to the parties in accordance with D-4.0103b, or electronically, if agreed upon in advance by the parties."

Rev. Irmer argues that, even though he acknowledges that he had made extensive use of electronic filing throughout this case when it was before the SPJC, he had not explicitly agreed in advance to electronic distribution of the SPJC final decision. This Commission notes that electronic delivery poses unique challenges, including determining when a document is received by a party where the timing of that receipt is relevant to deadlines, such as under D-4.0103a. Without prior agreement and an agreed-upon means of acknowledging receipt, electronic communication could be disrupted, delayed, or sent to spam folders. The sharing of electronic communication among the parties without affirmative agreement for document delivery does not imply future agreement where required under Church Discipline.

This Commission strongly recommends that, at the initiation of proceedings, stated clerks and permanent judicial commissions request if all parties explicitly agree in writing to electronic distribution of documents, including final decisions.

In this case, however, Rev. Irmer acknowledged awareness of the SPJC decision in his email inbox after the close of business hours on Friday, April 26, 2024. Under these circumstances, this Commission finds that this satisfies the requirement for receipt and delivery under D-5.0905 and D-6.0201. This started the timing for applying D-4.0103a, which states:

In determining whether or not a document is timely filed, the day following the event giving rise to the time limit begins the count as day one (for example, the day following the date on which a council action is taken, or on which a party receives a decision). All seven days of every week are included in the count, including holidays, and the document shall be deemed timely filed if it is received by the

person or persons to whom it is required to be sent on or before the final day of the count. When the final date of the count falls on a weekend or holiday, the document shall be deemed timely filed if it is received on the next business day after the final day of the count.

Contrary to what Rev. Irmer argues, there is nothing in that language that allows for the date of initial receipt in electronic transmission to begin on the first business day following its delivery. Rather, D-4.0103a is explicit regarding when day one begins: the day following the event giving rise to the time limit.

Accordingly, this Commission finds that Rev. Irmer received the SPJC decision on April 26, 2024. Therefore, the cross-appeal, filed on June 11, 2024, was not timely filed according to D-6.0201. Thus, this Commission confirms the decision of its officers in its Preliminary Order that D-6.0601c has been answered in the negative.

Rev. Irmer also argues that, even if his cross-appeal was not timely, this Commission has discretion under D-6.0101 to address the additional issues raised in his notice of appeal and brief. This Commission notes that D-6.0101 and D-6.0803 do give judicial commissions discretion to address additional issues raised by an appellee when a case has been transferred to that permanent judicial commission on appeal. While those provisions provide the discretion to address additional issues, specifications of error are ordinarily required to be raised through the filing of a separate notice of appeal as described in D-6.01 and D-6.02, within the requirements of those provisions. This Commission declines to address these additional issues under D-6.0101 and D-6.0803.

D-6.0603 states that “If the permanent judicial commission determines the answer to any of the four preliminary questions has been answered in the negative, the commission shall dismiss the appeal.”

Therefore, the challenge to the Preliminary Order is not sustained, and the cross-appeal is dismissed.

Specification of Error in the Appeal

Specification of Error No. 1 (Appeal): The SPJC erred, as a matter of constitutional interpretation, by failing to address whether and to what extent the Presbytery has the authority to require Rev. Irmer to undergo a psychological evaluation to determine his fitness for ministry or prior to transfer to another presbytery.

This specification of error is sustained in part and not sustained in part. (See Decision below.)

Decision in the Appeal

This Commission sustains the specification of error only to the extent that the SPJC did not explicitly address the question of authority for the Presbytery to require psychological evaluations. None of the other issues before the SPJC were challenged on appeal.

In its decision, the SPJC addressed ten issues of constitutional interpretation as stipulated by the parties. The Presbytery centers its appeal on the second issue (Issue 2) addressed by the SPJC, which was sustained: “Complainant [Rev. Irmer] alleges that the COM lacked constitutional authority pursuant to D-7.0902 or otherwise to place Complainant on administrative leave or impose conditions or restrictions on his functions as pastor or his search for a new call.”

Since a psychological evaluation was the condition or restriction on Rev. Irmer’s search for a new call in Issue 2, this Commission agrees with the Presbytery that the SPJC should have addressed directly in its decision the question of whether and to what extent a presbytery has the authority to require a psychological evaluation of one of its minister members to assess continued fitness for ministry.

The question of a presbytery’s authority to require a psychological evaluation in this case is most closely addressed by an authoritative interpretation (AI) issued as Commissioners’ Resolution 97-1: *On Requesting a Study of Use of Psychological and Psychiatric Evaluations by Presbyteries and the Potential Tort Liability of Presbyteries for Acts of Minister Members* (Minutes, 1999, Part I, pp. 65, 706). This AI confirms, in section 12.017, that a presbytery may use a psychological evaluation for any minister member in their responsibility to nurture the covenant community of disciples of Christ: “The path permitting a presbytery to use psychological and psychiatric evaluations in supervising the work of ministers is less clear on the face of the *Book of Order*, nonetheless, it is entirely constitutional for presbyteries to use such evaluations when a presbytery deems them necessary.” Further, this Commission agrees with the Presbytery that a presbytery’s responsibility for oversight of minister members does not disappear once the pastoral relationship with a congregation has been dissolved. A presbytery has the authority, when exercised within constitutional boundaries, to require psychological evaluations of its minister members as needed.

Those boundaries include fundamental fairness and, when applicable, the specific delegation of a presbytery’s authority as required by *Book of Order*, G-3.0109. In its decision on Issue 2, the SPJC found that the COM’s action to place Rev. Irmer on administrative leave pending a psychological evaluation violated fundamental fairness because he was not given notice prior to the COM meeting that he might be placed on administrative leave. This prevented him from addressing that possibility effectively at the meeting. The SPJC also held that the COM’s action was unfair because the COM lacked an established, written policy on administrative leave at the time of its meeting on November 7, 2023, and it did not otherwise create or communicate a clear definition or parameters for the imposition of administrative leave and the attendant requirement of a psychological evaluation. Additionally, when the COM actions were reported to Presbytery, Rev. Irmer was barred from the meeting and not given the opportunity to speak or respond to the imposition of this restriction on his ministry. The SPJC

found this to be fundamentally unfair. This Commission agrees and finds that a presbytery should consider sufficient safeguards to ensure fundamental fairness for psychological evaluations as well as administrative leave.

Like any authority delegated by a council, the authority to require psychological evaluations must be exercised in accordance with G-3.0109 and as delineated in *John v. Presbytery of New York City* (2020, 225-05):

This Commission further advised that “in order to avoid misunderstanding,” a presbytery should “state with particularity in the order of appointment any limitations or restrictions on the powers delegated to the administrative commission.” G-3.0109 requires councils to “state specifically the scope of authority given to a commission... and any restrictions on its powers” (*Suarez-Valera v. Presbiterio del Noroeste* (2020, 225-02)).

Here, this Commission finds that the Presbytery did not specifically delegate authority to the COM to impose involuntary administrative leave or to impose a psychological evaluation as a part of such leave or otherwise.

This Commission strongly encourages presbyteries to develop clear guidelines for the careful use of psychological evaluations as a tool for exercising oversight of minister members. This should include, at minimum, written policies describing how the need for an evaluation is determined and how a minister is informed of that determination, as well as a process for the minister to respond to the proposed requirement. These guidelines should also reflect cultural diversity and address sensitivity to differing understandings of the seriousness of psychological evaluations (see *Park et al. v. Presbytery of San Fernando*, 2024, 226-03).

In conclusion, this Commission affirms the authority of presbyteries to require psychological examinations of its minister members as the presbyteries deem necessary. At the same time, such authority must be guided by standards of fundamental fairness and clearly delegated authority.

Note

Though the Presbytery maintains that its intent in imposing administrative leave on Rev. Irmer was not disciplinary, the action nonetheless had a negative impact, in part due to the traditional disciplinary context for administrative leave in the *Book of Order*. Historically, administrative leave has been available only during the investigation of an allegation of sexual abuse. D-7.0905, added in July 2023, states: “Nothing in this section shall preclude a presbytery from establishing its own rules for administrative leave or other restrictions on a minister’s service.” While this clause rightly references the importance of a presbytery following “its own [written] rules” when determining administrative leave, the fact that this is placed under section D-7.09, “ALLEGATIONS OF SEXUAL ABUSE,” and the historic restriction on administrative leave to cases of alleged sexual abuse, complicates a presbytery’s authority to utilize leave as a valid form of support for a minister who needs it.

Because this new constitutional revision appears to address the use of administrative leave outside the disciplinary process, this Commission suggests that a further corresponding amendment to the Form of Government would be helpful to define and clarify the scope and use of administrative leave beyond the provisions of Church Discipline.

Decision on the Challenge to the Stay of Enforcement

As noted above, Rev. Irmer has challenged this Commission's stay of portions of the SPJC order. The Decision on the appeal answers fully Rev. Irmer's challenge to the stay of enforcement. Accordingly, the stay is vacated and replaced by this Commission's Order set forth below.

Order

IT IS THEREFORE ORDERED that the decision issued on April 26, 2024, by the Permanent Judicial Commission of the Synod of the Northeast is affirmed.

IT IS FURTHER ORDERED that nothing in the decision of the Synod of the Northeast shall preclude the Presbytery of the Highlands of New Jersey from requiring a psychological evaluation when it deems it necessary for its minister members, including prior to dismissal of a member to another presbytery, in a way that is consistent with the *Book of Order* as set forth in this Decision. Any such determination and requirement shall be made by the Presbytery or a commission duly and explicitly delegated the responsibility, providing for fundamental fairness including notice and opportunity to be heard.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Northeast report this Decision to the Synod of the Northeast at the first meeting after receipt, that the Synod of the Northeast 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.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of the Highlands of New Jersey report this Decision to the Presbytery of the Highlands of New Jersey at the first meeting after receipt, that the Presbytery of the Highlands of New Jersey 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.

Absences and Non-Appearances

Commissioners Cindy Kohlmann and John Welch were absent and took no part in the hearing and deliberations. The commissioner positions from the Synod of Living Waters, the Synod of the Rocky Mountains, and Sínodo Presbiteriano de Boriquén en Puerto Rico were vacant.

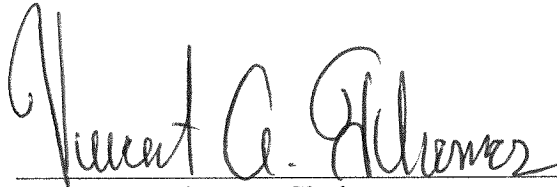
Certificates

We certify that the foregoing is a true and correct copy of the Decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Remedial Case 2024-02, *Presbytery of the Highlands of New Jersey, Appellant/Cross-Appellee, v. The Rev. Ryan Irmer, Appellee/Cross-Appellant*, made and announced at Louisville, Kentucky, this 20th day of October, 2024.

Dated this 20th day of October, 2024



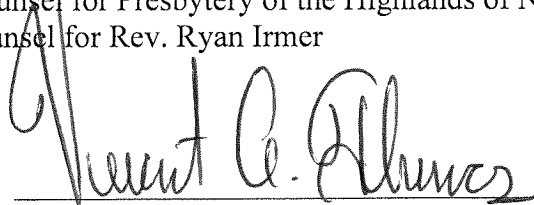
Scott Clark, Moderator
Permanent Judicial Commission of the General Assembly



Vincent A. Thomas, Clerk
Permanent Judicial Commission of the General Assembly

I certify that I did, on this 20th day of October, 2024, transmit in person a certified copy of the foregoing to Flor Vélez-Díaz for delivery to the following persons:

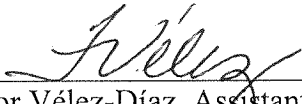
- Rev. Ryan Irmer, Appellee/Cross-Appellant
- Rev. Steve Shusset, Stated Clerk, Presbytery of the Highlands of New Jersey
- Rev. Nancy Talbot, Stated Clerk, Synod of the Northeast
- RE Tania Nemeth, counsel for Presbytery of the Highlands of New Jersey
- Rev. Robert Eyre, counsel for Rev. Ryan Irmer



Vincent A. Thomas, Clerk
Permanent Judicial Commission of the General Assembly

I certify that I received a certified copy of the foregoing, that it is a full and correct copy of the decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.), sitting during an interval between meetings of the General

Assembly, in Louisville, Kentucky, on October 20th, 2024, in Remedial Case 226-02 and that it is the final judgment of the General Assembly of the Presbyterian Church (U.S.A.) in the case.
Dated at Louisville, Kentucky, this 20th day of October, 2024.



Flor Vélez-Díaz, Assistant Stated Clerk
Manager of Judicial Process and Social Witness