

SPECIAL COMMISSION RE APPEAL NO. 1, 2015**RECOMMENDATIONS**

There are no recommendations.

REPORT

To the Venerable, the 142nd General Assembly:

PREAMBLE

At a meeting on September 20, 2005, the Presbytery of Brampton suspended the Rev. Edward S. Dowdles from “exercising the office of Christian Ministry, or any part thereof”, with the following conditions: “that before he resumes his duties, Mr. Dowdles is to undertake counselling by a person acceptable to him and to the court and that reports be made to the Business Committee; that Mr. Dowdles is to undertake psychological testing with the report being submitted to the Business Committee; and that Mr. Dowdles is not to be at or near Heart Lake Presbyterian Church during the time of his suspension for any reason.” Mr. Dowdles agreed to abide by the court’s ruling. At a subsequent meeting, on November 21, 2006, the presbytery approved the following recommendation: “That E. Dowdles remain under suspension until he takes a course in anger management and a course in providing pastoral care. That before the suspension is lifted, E. Dowdles provide a satisfactory psychological report as to his fitness for ministry to the Ministry Committee of Presbytery, and that E. Dowdles undertake a program in financial management and repay all outstanding money to Heart Lake Presbyterian Church and to the members and adherents of Heart Lake Presbyterian Church under the authority of the Pastoral Guidance Committee.” Mr. Dowdles appealed the presbytery’s decision to the General Assembly. On October 4, 2007 a Special Commission of the 134th General Assembly dismissed Mr. Dowdles’ appeal.

In 2013 new concerns arose about Mr. Dowdles interfering in the life of Heart Lake Presbyterian Church in contravention of the conditions of his suspension. On February 25, 2014, the presbytery appointed an *ad hoc* team to investigate these concerns and determine whether there were sufficient grounds for an allegation or allegations to be laid. On June 24, 2014, the *ad hoc* team reported to the presbytery with a recommendation that charges be laid against Mr. Dowdles. A commission of the presbytery was appointed on October 28, 2014, to conduct a trial. On March 13, 2015, a trial was held to consider the following charges against Mr. Dowdles:

1. That Mr. Dowdles is contumacious in his disregard for the authority of the Presbytery of Brampton in that he has not only failed to comply with the terms of his suspension, but continues to flaunt those conditions, and that,
2. Mr. Dowdles is in contempt of his ordination vows, namely: that he refuses to accept the government of the Church by Sessions, Presbyteries, Synods, and General Assemblies; and that by his actions he refuses to submit himself to the lawful oversight of the Presbytery; that his actions are divisive and not conducive to the peace and unity of Christ; and that he is conducting himself in both his private and public life in a manner that is unbecoming a Minister of Word and Sacraments.

In its decision, the presbytery commission found Mr. Dowdles guilty of both charges; its judgment was a censure of deposition. Mr. Dowdles appealed the decision and censure of the presbytery commission to the General Assembly. Mr. Dowdles’ appeal was based on the following grounds:

1. That the Presbytery of Brampton did not follow proper procedure for a disciplinary case regarding how the charges were laid for the trial of March 13, 2015 (Book of Forms sections 351, 353, 354.1, 358.2, 364.7 and 410).
2. That there was an injustice in the process of reaching the decision of deposition.
3. That deposition from the Ministry of Word and Sacrament by the Presbytery of Brampton for scandalous behaviour was unduly harsh and unfounded.
4. That the Presbytery of Brampton had shown no pastoral care to Mr. Dowdles since 2006 (Book of Forms section 434).
5. That there was new evidence that warranted a new trial (Book of Forms section 377).

In June of 2015, the 141st General Assembly named a Special Commission to deal with Appeal No. 1 against the actions and censure of the Presbytery of Brampton against Mr. Dowdles.

TERMS OF REFERENCE

1. The Special Commission is established under the authority of the Book of Forms section 290 having all the powers of the General Assembly within its terms of reference.
2. The appellant shall be made aware that the judgment of the Commission is final and must be obeyed (Book of Forms section 290.4).
3. The procedures and actions of the Commission shall be consistent with the laws of The Presbyterian Church in Canada, in particular, legislation giving the procedures for appeal (Book of Forms sections 393–405) and the principles of procedural fairness. The work of the Commission shall be conducted in the spirit of grace, relying on the strength of God in Christ.
4. The Commission shall be given authority to call for, confirm and examine the judicial record (Book of Forms section 378) and any other records it deems to be relevant.
5. The Commission shall be empowered to call before it, by citation, witness on behalf of the appellant and the respondent presbytery.
6. The Commission shall meet expeditiously and, after its review and judgment, bring the matter to a conclusion with due regard for the best interests of all concerned, and for the peace and harmony of the church of Jesus Christ.
7. Expenses shall be reimbursed by the General Assembly on a reasonable basis for the Commission and its work.
8. The Commission shall report its actions to the 2016 General Assembly, and shall use, insofar as is possible and appropriate, the following framework: Preamble, Terms of Reference, Membership, Procedures, Findings, Analysis, Decision and Pastoral Comment.

MEMBERSHIP

Members of the commission were: the Rev. Duncan Cameron (convener), Ms. Lynda Forbes, Ms. Linda Herron, Dr. Myung-Sae Kim, and the Rev. Tim Purvis, with the Rev. Stephen Kendall (Principal Clerk) and the Rev. Donald Muir (Deputy Clerk) of the General Assembly Office as consultants.

PROCEDURES

The Special Commission met at 50 Wynford Dr., Toronto, Ontario, on September 29, 2015, December 1, 2015 and January 6, 2016. During those meetings the commission reviewed documents received from the appellant, Mr. Dowdles and the respondent, the Presbytery of Brampton. Further information was requested, the judicial record established and a hearing date and venue chosen.

The appellant and respondent were advised that the appeal had been deemed in order and that the commission would hear the appeal. The appellant and respondent were cited to attend a hearing on February 20, 2016 at 10:00 am at Glenbrook Presbyterian Church in Mississauga, Ontario. Both parties were also invited to provide the names and addresses of witnesses they would like the commission to cite. The commission determined which witnesses to cite and they were duly cited to appear at the hearing.

Present at the hearing, in addition to the members of the commission and the consultants, were the following: the appellant, the Rev. Edward Dowdles, the appellant's advisor, the Rev. Peter Barrow; the Presbytery of Brampton representative, the Rev. Sean Foster, and the following witnesses:

Requested by the appellant:

Young Suk Cho, Olive Lofts, Sean Foster, Reuben St. Louis and Geoff Ross.

Requested by the respondent:

Young Suk Cho (also requested by the appellant) and Mary O'Brien.

The following witnesses did not appear:

Renee Heikamp, Lee Janoshak, Maureen Kelly and Claudia Russell-Placencia.

The hearing was conducted as follows:

Opening Prayer
Record of those present
Affirmation of the issuance of citations
Welcome, introductions and explanations

Administration of oaths to the parties
Opening statement by appellant
Opening statement by respondent
Opportunity for questions for commission by appellant and respondent
The witnesses were called forward in the order in which they are listed above.

Testimony was provided by each witness according to the following method:

Administration of oath
Questions by the calling party
Opportunity for cross-examination
Questions by the commission
Dismissal of witness

Final statement by respondent
Final statement by appellant
Closing prayer

The commission reconvened on February 29, 2016 at 12:00 pm at 50 Wynford Dr., Toronto, Ontario to deliberate, reach a decision and begin to prepare its report. The report was submitted to the General Assembly Office on March 11, 2016. The commission rendered its judgment to the parties within Glenbrook Presbyterian Church, Mississauga on March 21, 2016 at 2:00 pm.

FINDINGS

With respect to the first ground of the appeal, the commission found that the Presbytery of Brampton had indeed failed to follow proper procedure in the laying of the charges against Mr. Dowdles.

Section 351 of the Book of Forms requires that a written copy of any allegation be presented to the alleged offender when a disciplinary case is initiated. The commission found that the actions of the presbytery commencing in February, 2014, resulting in the new charges against Mr. Dowdles, were the result of new allegations, and therefore required that section 351 be followed. There is no evidence that a written copy of the allegations against Mr. Dowdles was provided to him when the investigation was initiated.

Section 353 requires that the investigating committee in a disciplinary case meet with the accused prior to arriving at any conclusion regarding the laying of charges. The commission found no indication that the presbytery investigating committee met with Mr. Dowdles before presenting its report to the presbytery with its recommendation that charges be laid.

Section 354.1 requires that a charge be prepared in writing and be accompanied by a summary of evidence and a list of witnesses to be called in support of the charge. Sections 358.2 and 410 both require that a certified copy of the charge, with the list of witnesses and documents to be produced in evidence must accompany the first citation of the accused. There is no evidence that a summary of evidence, a list of witnesses, or a list of documents accompanied the citation of January 13, 2015. There is evidence that arrangements were made with Mr. Dowdles roughly one month later for lists of witnesses and summaries of evidence to be exchanged.

Section 364.7 was not found to be relevant.

In addition to the sections cited in the appeal, the Presbytery of Brampton made reference in its verdict to section 350 which states “Before initiating a disciplinary case, it is the duty of the accuser to meet with the alleged offender to seek resolution of the issue (Matthew 18:15–17). It is only after such efforts have failed that an allegation may be brought to the court. The accuser must inform the alleged offender of the intention to file an allegation and of the nature of the allegation.” The Presbytery of Brampton in its verdict contends that section 350 did not apply as the charges related to the censure that started in 2005. While it may be true that the charges were related to the censure, they were nevertheless new charges. The commission therefore finds that section 350 did apply and that the presbytery had an obligation to meet with Mr. Dowdles before the allegation was filed. The first ground of the appeal was therefore upheld.

With respect to the second ground of the appeal, that there was an injustice in the process of reaching the decision of deposition, Mr. Dowdles notes, first, that he was confronted with written and pictorial evidence at his trial which

had not been presented to him in advance; second, that the Rev. Michael Marsden, in his role as prosecutor, was in a conflict of interest given the other roles he had played in the presbytery's dealings with Mr. Dowdles; and, third, that witnesses who Mr. Dowdles had asked to be cited were not contacted in sufficient time for them to appear. The commission found, with regard to the first matter raised by Mr. Dowdles, that there was conflicting testimony about whether documentary evidence was presented at the trial which Mr. Dowdles had not previously seen. Second, section 355 of the Book of Forms prohibits an accuser from also serving as a prosecutor, and Mr. Marsden, according to the presbytery's own documents, acted in both roles. This situation seems to have arisen because various complainants were not willing to make formal allegations against Mr. Dowdles, resulting in Mr. Marsden acting as accuser on behalf of the presbytery. This irregularity alone calls the justice of the proceedings into question. Third, the commission found that the presbytery made reasonable efforts to contact the witnesses requested by Mr. Dowdles. The second ground of the appeal was therefore upheld.

With respect to the third ground of the appeal, that the sentence of deposition for scandalous behavior was unduly harsh and unfounded, the commission found that Mr. Dowdles has, by his actions, brought the ministry of the gospel into ill repute. The testimony of witnesses and the commission's direct experience of Mr. Dowdles point to an inability to govern himself and his language. By his own admission, Mr. Dowdles has been guilty of misappropriating church funds and of breaching the conditions of his suspension by being on the premises of Heart Lake Presbyterian Church. Further, his requests to individuals and congregations for funds, whether for himself or for others, have at times been aggressive and have inappropriately made use of his status as a minister, his past connection to Heart Lake Presbyterian Church, and/or his connection to The Presbyterian Church in Canada. Mr. Dowdles was already under suspension for some of these offences; the next level of censure was deposition. The commission therefore found that the sentence of deposition was neither unduly harsh nor unfounded. The third ground of the appeal was dismissed.

With respect to the fourth ground of the appeal, that the Presbytery of Brampton has shown no pastoral care for Mr. Dowdles since 2006, the commission found that while section 434 requires that pastoral care be extended to all those who are the subjects of church censure, it does not, according to section 395, constitute grounds for appeal. The fourth ground of the appeal was dismissed.

With respect to the fifth ground of the appeal, that there were grounds for a new trial based on new evidence (Book of Forms section 377), the commission was not satisfied that the evidence Mr. Dowdles wished to present to the presbytery was newly discovered or material to the charges that Mr. Dowdles was facing at his trial of March 13, 2015. The fifth ground for the appeal was dismissed.

ANALYSIS

Through the course of these proceedings, it became apparent that the last decade has been a long and painful period, for Mr. Dowdles, for Heart Lake Presbyterian Church, and for the Presbytery of Brampton, and that many other individuals have been touched by that pain.

It must be acknowledged that much of Mr. Dowdles' pain originates from his unwillingness to humbly and promptly abide by the rulings of the various courts of the church. Mr. Dowdles has consistently set himself up as the interpreter and arbiter of the presbytery's past judgments against him. During the hearing he repeatedly made statements suggesting that he had "met and completed" various conditions which the presbytery had set for him, that in his mind these conditions no longer applied and that he no longer had to abide by them. Yet in his own defense documents he demonstrated an understanding that the censure he is under, and the accompanying conditions, may only be lifted by a decision of presbytery; and in his testimony Mr. Dowdles admitted that no such decision had ever been made. For instance, Mr. Dowdles insisted the condition "not to be at or near Heart Lake Presbyterian Church" no longer applied after new conditions were imposed on his suspension in 2006, even though the presbytery never made a formal decision to lift the original condition. Mr. Dowdles also argued the condition was simply not clear and so he could not be faulted for not abiding by the presbytery's unstated intent that he cease his involvement in the life of the congregation and its people. In his defense documents, however, Mr. Dowdles demonstrated his awareness that in 2006 the presbytery found that he was not then complying with the spirit of this condition by "continued meeting with members of the congregation". The commission recognizes that Mr. Dowdles has made some effort to fulfill some of the conditions for lifting his suspension by taking mandated courses and counseling; yet he appears to have done so without prior consultation with the presbytery about whether the courses and counseling were appropriate to fulfill the presbytery's conditions. The commission also wondered why Mr. Dowdles chose not to submit directly to the clerk of the presbytery of Brampton material he claimed would have fulfilled the presbytery's conditions – even though he clearly understood that correspondence to the presbytery must be

submitted to the clerk of presbytery to be properly received, and even though he had this material for many years. The commission understands from where the charge of being “contumacious in his disregard for the authority of the Presbytery” arises.

Based on our direct experience of Mr. Dowdles, the commission also noted a distinct lack of awareness on his part about the impact his words and actions have on the people with whom he interacts. This was borne out in the testimony of witnesses and in Mr. Dowdles’ response to that testimony, and explains much of why Mr. Dowdles has sometimes felt that the criticisms of his behaviour were unmerited or “subjective”; he simply does not see the fear, frustration or pain that his behavior creates. What the commission witnessed certainly raised concerns about Mr. Dowdles’ ability to function in pastoral ministry. The commission understands the frustration experienced by the presbytery in dealing with Mr. Dowdles, as well as their conviction – as evidenced in the charges, verdict and censure of deposition – that he is currently unfit to exercise the office of Christian ministry. However, it also seems that this frustration has led to a pastoral and procedural fatigue on the part of presbytery which has resulted in two legitimate grounds for an appeal. In particular, there appears to have been a marked tendency on the part of the presbytery to deal with Mr. Dowdles procedurally without dealing with him personally or pastorally in the lead-up to the trial of March, 2015. In other words, Mr. Dowdles was offered no opportunity to take part in the preliminary stages of the judicial process, and specifically those stages which are intended to help resolve any issues and bring about a reconciliation between parties. It is incumbent on the church to follow the judicial processes we have laid out for ourselves, especially in that we claim both a biblical warrant and a gospel aim for these processes. In these most recent proceedings, the Presbytery of Brampton appears to have lost sight of that. In this case, given the long history of the presbytery’s dealings with Mr. Dowdles, the commission suggests that this matter might better have been dealt with by means of reference to a higher court (Book of Forms sections 86–90).

In the course of our discussions, and at the hearing, the commission understandably had reason to consider the various grounds meriting a censure of deposition. The commission notes that the two sections of the Book of Forms which deal with deposition, 252 and 373, are not consistent in terms of the grounds which are cited. Section 252 indicates that deposition follows from the teaching of corrupt doctrine, a scandalous life, being given to schism, or being “altogether insufficient to execute” one’s charge. Section 373 limits the grounds to heresy or gross immorality. The commission would suggest that these sections should be examined by the Clerks of Assembly with a view towards obtaining consistency between them.

DECISION AND JUDGMENT

It is the decision and judgment of this commission that notwithstanding that three substantive grounds for the appeal were dismissed, the Appeal of the Rev. Edward Dowdles against the actions and decisions of the Presbytery of Brampton be sustained on the grounds that there were irregularities in procedure going all the way back to the complaints that were made against Mr. Dowdles; in particular, the failure by the presbytery to follow the church’s own judicial process ignored the biblical imperative of Matthew 18 to meet with a brother or sister who sins against us. The appeal is also upheld on the grounds that there was an injustice created when, among other reasons, the roles of complainant, accuser, and prosecutor became confused in the process which the presbytery followed.

The effect of this decision, however, is not simply to rescind the censure of deposition, but to confirm that Mr. Dowdles remains under suspension from the exercise of the office of Christian Ministry.

As well, given the difficulty Mr. Dowdles has experienced in understanding what the presbytery has required of him, the commission imposes the following conditions as part of Mr. Dowdles suspension:

1. While under suspension, Mr. Dowdles is forbidden to exercise the office of Christian Ministry, or any part thereof, including but not limited to leading worship and preaching, the administration of the sacraments, officiating at weddings and funerals, pastoral visitation, pastoral counseling, and chaplaincy, without the express, prior permission of the Presbytery of Brampton, such permission to be sought by means of written correspondence directed to the clerk of presbytery;
2. While under suspension, Mr. Dowdles is to have no contact in any form, either in person or by means of any kind of written or verbal communication (including but not limited to telephone calls, letters, e-mail, text messages and social media) with the current members or adherents of Heart Lake Presbyterian Church, nor be at or near its premises (“at” meaning “on the church property” and “near” meaning “close enough to the church property to be visible to anyone on the church property”);
3. Mr. Dowdles is not to approach any former members or adherents of Heart Lake Presbyterian Church for the purpose of soliciting money, either for himself or for any third party, whether an individual or organization;

4. Mr. Dowdles is not to represent himself as being associated in any way with Heart Lake Presbyterian Church, nor as a minister in good standing of The Presbyterian Church in Canada.

In addition, before Mr. Dowdles' suspension may be lifted by the Presbytery of Brampton, he will:

1. repay all funds owing to the Heart Lake Presbyterian Church and its current and former members and adherents, the amount to be repaid to be determined through further conversation with the Presbytery of Brampton but to be no less than the \$18,451.30 which Mr. Dowdles has himself acknowledged as being owed; and, after fulfilling this condition in its entirety, as well as any other remaining conditions in the 2005 and 2006 censures to the satisfaction of the Presbytery of Brampton, he will then
2. provide to the Presbytery of Brampton a current report of his psychological fitness for ministry, with the psychologist who will oversee this evaluation to be chosen through prior arrangement with the presbytery (Mr. Dowdles and the presbytery are advised to contact the national office concerning assistance with the funding of this evaluation).

PASTORAL COMMENT

The report of the Special Commission re Appeal No. 1, 2007 expressed the hope that, setting aside the frustrations which the presbytery was experiencing even then, the presbytery might offer to Mr. Dowdles its continued pastoral support. The current commission wishes to acknowledge that the presbytery has indeed extended to Mr. Dowdles some expressions of pastoral concern, namely that they helped to cover the cost of various courses and counseling he was required to take as a condition of having his suspension lifted, that they allowed him at no cost to stay in the manse for a considerable length of time, and that they passed a motion in February 2007 appointing someone to provide pastoral care for Mr. Dowdles. However, these efforts have still fallen short of the restorative care envisioned by the church, most particularly in that the individual appointed to care for Mr. Dowdles in 2007 was not informed of this decision and only became aware of it some years after. It is our hope that the presbytery might renew its involvement in Mr. Dowdles' life.

Mr. Dowdles, for his part, has failed to demonstrate the kind of remorse and readiness to comply with the judgments of the presbytery which might have led to his restoration. He has also left in his wake a series of troubled, frustrated and even fearful people. In addition, the congregation of Heart Lake Presbyterian Church, which he worked so hard to grow, is still feeling the weight of Mr. Dowdles past misdeeds and present interference. It is our hope and prayer that Mr. Dowdles will recognize that he has for far too long been "kicking against the goads" to his own detriment, and that, if he is serious about serving his Lord, it is time to place himself on a path of repentance.

Duncan Cameron
Commission Moderator