

MINUTES OF THE GENERAL ASSEMBLY

The SJC finds that the above-named Complaint is Administratively Out of Order, and cannot be put in order, because Mr. Benyola is no longer a member of any congregation of the PCA, and thus lacks standing in this case.

This Decision was recommended by the SJC Officers, and the SJC approved the Decision by a vote of 23-0 on a roll call vote, with one absent..

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|------------------------|---------------|---------------------|---------------|------------------------|---------------|
| Bankson | <i>Concur</i> | Eggert ^R | <i>Concur</i> | Neikirk ^R | <i>Concur</i> |
| Bise ^R | <i>Concur</i> | Ellis | <i>Concur</i> | Pickering ^R | <i>Concur</i> |
| Carrell ^R | <i>Concur</i> | Garner | Absent | Ross | <i>Concur</i> |
| Coffin | <i>Concur</i> | Greco | <i>Concur</i> | Sartorius | <i>Concur</i> |
| Donahoe ^R | <i>Concur</i> | Kooistra | <i>Concur</i> | Terrell ^R | <i>Concur</i> |
| Dowling ^R | <i>Concur</i> | Lee | <i>Concur</i> | Waters | <i>Concur</i> |
| M. Duncan ^R | <i>Concur</i> | Lucas | <i>Concur</i> | White ^R | <i>Concur</i> |
| S. Duncan ^R | <i>Concur</i> | McGowan | <i>Concur</i> | Wilson ^R | <i>Concur</i> |

CASE No. 2022-10

PRESBYTERIAN CHURCH IN AMERICA

v.

TE DANIEL HERRON

DECISION ON TRIAL

April 5, 2023

SUMMARY OF THE CASE

This Case came to the SJC from Central Indiana Presbytery (“CIP”) as a *BCO* 41 Reference (request) for the conduct of a trial. The SJC accepted the Reference at its June 2, 2022 meeting, stipulating the Presbytery would be responsible for the prosecution. Following discussions with the parties and disposition of various pretrial motions, the SJC Chairman assessed which SJC

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members would be available for a week-long trial in Indianapolis and appointed a three-judge panel with two alternates (the “Panel”) to try the Case.

The CIP Prosecutor presented a twelve-page indictment dated May 20, 2022, containing seven charges, each elaborated with numerous specifications (11 of which were deleted, and five amended, by the Prosecutor at trial). A 42-hour trial was held November 15-19, 2022 hosted at Eunhye Korean Presbyterian Church (PCA) in Indianapolis, Indiana. The prosecution presented testimony from 18 witnesses (nine via live videoconference) and the defense presented testimony from 24, including the Accused (four via live videoconference). A total of 640 exhibits were presented by the parties and the trial transcript totaled 1,966 pages. The Panel filed its proposed preliminary verdict with the SJC and at the SJC's Stated Meeting on March 2, 2023, by vote of 22-0, the SJC adopted the preliminary verdict. On April 5, 2023, by vote of 22-0, the SJC adopted the final decision contained herein.

I. SUMMARY OF FACTS

2012 - 2018

- 2012 TE Dan Herron moved to Bloomington, IN to plant a PCA church ("Hope"). CIP appointed him as an evangelist without a temporary Session.
- 1/2016 Kara Million and husband Chris Baker began attending Hope. Baker began a 3-year internship at Hope.
- 2017 Abigail & Josh Harris started attending Hope; became members about a year later.
- 12/31/18 Chris Baker ceased employment at Hope, and there was a dispute about final pay.

2019

- 7/2/19 Kara Million, Ph.D. & Abigail Harris, former Hope members, sent an 11-page letter to CIP accusing TE Herron of sexual harassment and bullying.

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- 8/15/19 Herron met with group of CIP REs and TEs who interviewed him regarding the allegations. The group declined to provide him with identities of the accusers, contexts, or details of the allegations.
- 9/13/19 CIP appointed a non-judicial investigatory commission ("IC") to begin a *BCO* 31-2 investigation. At the insistence of the accusers, the IC decided not to disclose to TE Herron their identities or the contexts of their allegations.

2020

- 1/20 The IC submitted a report to CIP's Church Planting & Outreach team (CPO): "The Commission does not believe there is a 'strong presumption of guilt of the party involved' (*BCO* 31-2) with regard to the accusations of sexual harassment, intimidation, and bullying, or that the TE is guilty of an offense as defined in *BCO* 29 (no violation of divine law, heresies, or immoralities)." They also reported: "It is the judgment of the commission that there is enough weight to the allegations that pastoral, corrective measures are in order."
- 2/14/20 The IC presented its report to CIP.
- 2/27/20 TE Steven Marusich (a member of CIP) filed a Complaint with CIP alleging four errors at 2/14 meeting:
- (1) CIP erred in not finding a "strong presumption of guilt" against the accused.
 - (2) CIP's Commission erred by exceeding its mandate and taking up business not referred to it.
 - (3) CIP's Commission erred by not submitting a full record of its proceedings to the court appointing it; and
 - (4) CIP's Commission erred in not delivering the full report of their findings to the Presbytery, the accused's court of original jurisdiction.
- Spring 2020 IC members met with the accusers to communicate the IC report. The accusers declined the IC's proposal for reconciliation.

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- 7/10/20 CIP met to address the Marusich Complaint. CIP sustained items (2) and (3) and denied items (1) and (4). A Committee was appointed to amend the IC Report.
- 7/20/20 TE Marusich carried his Complaint regarding items (1) and (4) to the SJC. The Case was designated as Case 2020-04 and later assigned to an SJC Panel on 9/17/20.
- 10/5/20 Four CIP members learned the accusers had obtained TE Herron's 18-page letter of defense submitted in confidence to the original IC and given to CIP presbyters in executive session on 2/20/20.
- 11/17/20 The SJC Panel held the Hearing on Case 2020-04: *Marusich v. CIP*.
- 12/1/20 The Panel's proposed decision for Case 2020-04 was sent to the parties. The CIP moderator called a meeting to determine how CIP might proceed, based on the Panel's proposed decision. (The SJC did not render a final decision in the Case until two months later, on 2/4/21.)
- 12/9/20 Kara Million published an article on the website of Christians for Biblical Equality International (CBE). It became *one of the Top 15 CBE Writing Contest winners for 2020*. The article was the first of several actions by the three original accusers and others (and media organizations on social media, print media, and podcasts) that communicated accusations regarding TE Herron, members of Hope PCA, members of the original IC, CIP, the PCA, and the SJC. Among the content used in these actions included accusers' interpretation of content from TE Herron's 18-page response submitted in confidence to the original commission.²³

2021

²³ The other content included many Twitter and Facebook posts, two blogs: one from the CBE and another from the Wartburg Watch, two articles and updates from media outlets Indiana Daily Student and the Roys Report, and five different podcasts published by "Faith & Feminism," Tears of Eden's "Uncertain" podcasts, and "The Real Women of Church Ministry."

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- 1/8/21 CIP Called Meeting. Three motions were adopted in executive session:
1. To rescind the original commission report received at the February 2020 stated meeting. Approved 23-0.
 2. To dismiss with thanks the committee that was formed at the July 2020 stated meeting “to amend the full report of the commission to reflect those parts of the [Marusich] complaint that were sustained by presbytery.” Approved by a voice vote.
 3. Pending the acceptance of the Panel decision by the full SJC, per BCO 41-2 *we refer the case back to the SJC for it to conduct the case with process*. Out of concern for the spiritual and emotional wellbeing of those involved, we ask the SJC to please expedite this process. Approved 18-5-2. (Emphasis added.)
- 1/11/21 The Search Team, Session, and senior staff of Hunt Valley PCA (Cockeysville, MD;) invited TE Herron to officially candidate as the next Senior Pastor. Herron received an offer letter contingent on a congregational vote.
- 2/4/21 SJC sustained Complaint 2020-04 *Marusich v. CIP* and SJC's Reasoning is below.

The SJC disposes of the complaint (*BCO 43-9*) by sending the matter back to the lower court with instructions to take it up again (*BCO 43-10*). To that end, CIP should appoint a *committee* to investigate reports concerning the TE according to *BCO 31-2*. Such committee may refer to or adopt any papers contained in the Record of the Case in Judicial Case 2020-04, as well as pursue whatever other lines of investigation may be prudent. The committee’s report to Presbytery shall include a narrative of the evidence gathered in the committee’s investigation, and a recommendation with respect to a finding a (*sic*) strong presumption of the guilt of the party in question. Presbytery shall consider the report under regular orders (i.e., the report may be discussed, but not amended; the

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recommendation shall be subject to the ordinary rules governing a main motion) at the next stated meeting of the court, or at a special meeting called beforehand for that purpose. This Decision applies to the specifics of this Case and does not establish a principle for how every *BCO* 31-2 investigation must be conducted. (*M48GA*, p. 803)

- 2/10/21 TE Marusich filed charges against TE Herron, alleging violations of the 5th and 7th Commandments, *BCO* 21-4.1a, and violations of ordination vows.
- 2/12/21 CIP Stated Meeting. CIP considered the charges brought by TE Marusich and voted to move to trial (27-0-1). First day of trial was set for three weeks later - 3/5/21.
- 2/18/21 TE Dawkins, Brice, Marusich & REs Barber, Wynkoop, and Fisher request a called CIP meeting for 03/05/21, to precede the start of the trial on the same day. Prior to this meeting, a series of social media posts going back to December 2020 were posted by one of the accusers. Also, certain highly sensitive and privileged executive session materials were posted on social media.
- 3/5/21 CIP Called Meeting & Trial Day 1 (scheduled) - A letter from TE Marusich was read in which he communicated his desire to “rescind” his charges against TE Herron. The charges were rescinded by vote of 25-6-1. CIP then adopted a motion to rescind its action of going to trial against TE Herron, by vote of 25-5-2. CIP also decided, by a vote of 24-6-2, to form a new Investigating *Committee*

to consider evidence of a strong presumption of guilt of a chargeable offense with regard to allegations against the Christian character of TE Dan Herron, concerning accusations of sexual harassment and intimidation pursuant to *BCO* 31-2, and Bylaws, IV and in accordance with the directive of the Standing Judicial Commission in case 2020-04, and to direct Central Indiana

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Presbytery to enter into an Engagement Agreement with GRACE contingent on a guilty verdict after a trial with process. The 31-2 Investigative Committee shall have at least five members, and we prefer two of those members be attorneys.

The following were approved for the new investigative committee: TE Holowell (convener), TE McKay, TE Holroyd, RE Longbottom (attorney), RE Atkins (attorney), and RE Brumbaugh. The Moderator and Clerk were directed to appoint two female advisory members to the committee who are members of CIP churches.

- 3/6/21 The original accusers and others began social media posts and letter writing regarding Hunt Valley Church ("HVC"), discovering TE Herron had been invited to candidate.
- 3/8/21 TE Herron submitted letter of withdrawal to HVC as a candidate for Senior Pastor.
- 3/29/21 *Faith & Feminism* released podcast of interview with Kara Million & Abigail Harris entitled "Standing up to Pastoral Abuse" with allegations against TE Herron.
- 5/6/21 The *Indiana Daily Student* (IDS) published article entitled "Former members of Hope Presbyterian Church in Bloomington allege abuse, cover-up," in which Million, Harris, and Baker communicated accusations against TE Herron.
- 5/7/21 The *Real Women of Church Ministry* podcast released a discussion between the hosts entitled "On the Road to GA: Presbytery investigations and factions within factions," where they communicated accusations against TE Herron, asserting they were fact.
- 5/12/21 The *Roys Report* published article, "Former Members of Indiana Church Accuse Pastor of Sexual Abuse and Presbytery of Covering it Up" in which Million, Harris, and Baker communicated accusations against TE Herron and CIP.

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- 5/14/21 CIP Stated Meeting. The *BCO* 31-2 Committee appointed nine weeks prior presented a four-page report indicating it believed there was a strong presumption of guilt on six charges, and recommended CIP adopt that finding and commence judicial process. CIP adopted that recommendation and approved a motion to suspend TE Herron from office (*BCO* 31-10) and to publicly distribute an official statement that included information about the charges, suspension, and eventual trial of TE Herron. CIP declared that the statement was “releaseable [sic] to all TE’s and RE’s of CIP and releaseable [sic] to the public upon request.” The Clerk emailed TE Herron the results of the meeting.
- 5/16/21 Information about CIP's 5/14 actions appeared on social media.
- 5/18/21 The *Uncertain* podcast by Tears of Eden released Part 1 of an interview with Million and Harris entitled “Wicked Pastor of the Midwest Part 1: Flying Monkeys,” where accusations were made against TE Herron and members of Hope Church.
- 5/20/21 TE Herron requested minutes of CIP's 05/14 Stated Meeting and a copy of the report from the *BCO* 31-2 Committee's investigation. Clerk Reed denied the request.
- 5/25/21 The *Uncertain* podcast by Tears of Eden released Part 2 podcast of an interview with Million and Harris entitled “Wicked Pastor of the Midwest Part 2: Lions, Tigers, and Bears,” where accusations were made against TE Herron.
- 6/2/21 The *Uncertain* podcast by Tears of Eden released Part 3 of an interview with Million and Harris entitled, “Wicked Pastor of the Midwest: Behind the Curtain,” where accusations were made against TE Herron.
- 6/10/21 Date on Cease & Desist letters to Kara Million, Abigail Harris, and Chris Baker from TE Herron via legal counsel. Letters were served on 6/13.

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6/18/21 TE Herron, along with TEs O'Bannon, Kirk, J. Jones and RE Tanneberger filed a Complaint with CIP against its action taken on 05/14.

6/22/21 CIP Called Meeting. CIP adopted a motion to direct a Statement to TE Herron regarding the Cease & Desist letters. The CIP Statement was emailed to TE Herron by CIP Clerk TE Reed the next day, and contained the following:

We are concerned that the cease and desist letter interferes with the CIP's ability to obtain witness testimony at the upcoming ecclesiastical trial. In your legal counselor's letter he states, "The purpose of this letter is to direct you to refrain immediately, and cease and desist, in any and all defamatory communications, on social media, or otherwise, concerning Mr. Herron."

We ask you to instruct your legal counselor to send a follow-up letter to all recipients of the original cease and desist letter specifying that the CIP trial is excluded from the scope of the cease and desist letter. We ask that this letter be received by those individuals by July 8, 2021.

We are not seeking to infringe on your right to pursue civil litigation where appropriate; instead, we are seeking to preserve the integrity of the ecclesiastical process.

6/24/21 CIP "first meeting" of the court [*BCO* 32-3] in the judicial process of TE Herron, which CIP initiated at its 5/14 Stated Meeting. TE Herron was present and participating over Zoom. A motion was made that CIP refer the present case of *CIP v. Herron* to the SJC with request for its trial and decision by the higher court, per *BCO* 41-3. Moderator ruled the motion out of order, stating it was disallowed at the "first meeting of the court."

CIP adopted TE Holroyd's motion that "items 1-6 serve as the charges reduced to writing." Motion was adopted to "order the indictment drawn by the Prosecutor and a copy served on the accused by the clerk by July 1, 2021." Motion was adopted to

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"allow the prosecutor to consult with the non-court members of the investigating committee in the creation of his indictment. Approved 20-1-2." Initial list of witnesses included: "RE Matthew Brittingham, TE Chris Manley, Colin Elliott, Sadie Elliott, Chris Baker, Abigail Harris, and Kara Million."

TE Josh Hollowell was appointed Prosecutor and women from the BCO 31-2 investigating committee were assigned as assistants. Later, TE Herron was informed that RE Dan Barber had volunteered to be an Assistant Prosecutor.

- 6/27/21 Kara Million and Abigail Harris were served with a civil defamation lawsuit in Monroe County, IN for defamation of character against Daniel Herron.
- 7/1/21 CIP Clerk Reed sent TE Herron the indictment and the citation to appear and plead at the second meeting of the Court.
- 7/2/21 The date Indiana's two-year statute of limitations was to expire on defamation claim against Million & Harris in the 7/2/19 foundational document of alleged defamation.
- 7/3/21 Author Jennifer Greenberg tweeted accusations and hashtagged "#PCAGA" that "...sexual predators like pastor Dan Herron is suing his victims for talking about what he did to them." Greenberg shared CIP's 6/22 Statement sent to TE Herron. Greenberg associated accusers' allegations as "crimes", asserted that TE Herron was a "pervert", that the accusers were "victims", that Herron's filing of lawsuits was "an apparent attempt to shut them up", and that the accusers were victims who needed "physical protection". Greenberg communicated she had "involved law enforcement" and had become "involved in advising" the accusers.
- 7/7/21 CIP Called Meeting to consider the *Herron et al.* Complaint 1 against actions from CIP's 5/14/21 Stated Meeting. CIP denied all parts of the Complaint.
- 7/12/21 CIP Called Meeting to discuss Presbytery's response to the civil defamation lawsuits filed by TE Herron. Assistant Prosecutor RE Barber motioned for the Presbytery to write a letter of demand to TE

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Herron. Discussion and debate were postponed until a meeting called for 7/15.

7/13/21 TE Herron carried Complaint 1 to the SJC, and it was styled as Case 2021-06 and assigned to the Panel that heard Case 2020-04 *Marusich v. CIP*.

7/15/21 CIP's second meeting of the court [BCO 32-3]. Herron pleaded not guilty to all charges. Per instructions from CIP, Clerk Reed sent a letter to TE Herron with CIP's Statement, which included the following:

On June 23, 2021, Central Indiana Presbytery asked you to protect the integrity of the ecclesiastical process against potential infringement from the civil courts. You declined in an email message to the Stated Clerk on July 1, 2021, writing, in part, “The letters themselves fully communicate purpose and motive. Therefore, we will not be sending out any further communication regarding this subject to those individuals.”

This notice today, July 15, 2021, serves as formal warning, according to BCO 31-7 and Matthew 18, that you have infringed upon the integrity of Central Indiana Presbytery’s ecclesiastical proceedings by initiating a civil lawsuit against two sisters in Christ for following the process laid out in our Book of Church Order and writing a letter of complaint to presbytery on July 2, 2019—an ecclesiastical process which you vowed to uphold as a PCA Teaching Elder—and by threatening them with punitive financial damages if they testify in agreement with said letter as witnesses.

Central Indiana Presbytery directs you to withdraw your civil lawsuit or amend it by withdrawing Exhibit A numbers 9, 10, 11, 18, 19, 20, 29, 34, 35, 37, 39, 42, 43, 44, 45, 47, and 48 within the next ten days.

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If you decline to withdraw your lawsuit within the next ten days, as directed, you will be deemed to be interfering with valid testimony within an ecclesiastical process. BCO 35-1 states, "All persons of proper age and intelligence are competent witnesses, except such as do not believe in the existence of God, or a future state of rewards and punishments. ... It belongs to the court to judge the degree of credibility to be attached to all evidence." You are required by your vows to adhere to the BCO and cooperate with all lawful proceedings of Central Indiana Presbytery.

We urge you to repent and withdraw this lawsuit as directed with the next ten days.

7/20/21 CIP Clerk informed presbyters of dates of the upcoming Herron trial: August 11-14.

7/25/21 Herron emailed CIP Clerk and Moderator the following response to CIP's 7/15 letter regarding the defamation suit.

Truth is a complete defense to defamation. No witness should feel intimidated or "interfered with" concerning the providing of truthful testimony to the CIP. I hereby warrant and confirm that all witnesses have complete immunity from any civil court action for giving truthful testimony. I am advised by my civil legal counsel that I would be legally prejudiced if I now withdrew my civil lawsuit. It is unreasonable and unfair for the CIP to make such a demand. Indeed, the current CIP directive to prejudice my legal rights appears unlawful and in violation of our own Constitution, thus I am obliged not to comply.

I twice offered to dismiss the lawsuit without prejudice immediately if the defendants would enter into a tolling agreement. I believe this would benefit all parties, but the CIP has rejected this offer without explanation.

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Consequently, for all the reasons set forth above, I must respectfully decline the CIP directive.

- 7/29/21 TE Herron submitted Complaint 2 to Clerk Reed against CIP's 7/15 action directing him to withdraw the defamation suit, which included reasons why he declined to do so. (The core content of Complaint 2 was later also represented in Complaint 4.)
- 7/30/21 CIP Called Meeting. By vote of 12-8, CIP ruled TE Herron guilty of contumacy for not withdrawing his defamation suit, suspended him from the sacraments, and cancelled his trial that was scheduled for August 11. CIP then issued public communications regarding its interpretations of TE Herron's actions, CIP's contumacy judgment, and the censures.
- 8/3/21 TE Herron emailed CIP Clerk and Moderator his response to CIP's actions of 7/30.
- 8/27/21 TE Herron submitted Complaint 3 to CIP Clerk TE Reed.
- 9/10/21 CIP Stated Meeting. Herron Complaint 2 was sustained by a voice vote and CIP rescinded the finding of contumacy and the suspension from the sacraments. Complaint 3 was sustained in part and denied in part.
- undated After CIP's 9/10 meeting, 18 TEs from other PCA presbyteries signed a letter to CIP asking it to reconsider its actions, contending that 1 Corinthians 6 was being violated.
- 09/2021 TE Marusich filed a Complaint with CIP against its actions of 9/10, including CIP's decision to rescind the contumacy ruling.
- 9/23/21 RE Barber filed three other Complaints with CIP against its actions of 9/10, and proposed CIP "should reverse its action of sustaining the complaints [Herron 2 and parts of Herron 3] and reinstate the finding of contumacy." Five TEs and five REs joined the Complaint: TEs McKay, Brice, Hollowell, Brobst, and Marusich and REs Barber, Wynkoop, Brown, Nagelkirk, and Fisher.

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- 9/26/21 TE Reed communicated to the parties the trial would be delayed again due to the need to find a new trial moderator, the submission of four new complaints the adjudication of which would affect whether there even was a trial, a called meeting request, and the submission of correspondences from various people regarding CIP's 9/10 actions.
- 10/8/21 Herron carried part of his Complaint 2 to the SJC (i.e., the parts not sustained by CIP on 9/10), and it was styled as Case 2021-14, *Herron et al v. CIP*. The Complaint alleged six errors. The Case was assigned to the same five-member SJC Panel.
- 10/21/21 CIP Called Meeting at Redeemer PCA, Indianapolis to consider second Marusich Complaint and three Complaints from RE Barber et al. The Complaints were heard and were sustained in part and denied in part. CIP reversed its 9/10 decision and rescinded its 9/10 rescission of its 7/30 contumacy judgment against TE Herron. The contumacy judgment was reinstated, and the censures of indefinite suspension from office and suspension from the sacraments were imposed. It's unclear how this affected CIP's 7/30 decision cancelling the trial.
- 11/-/21 In weeks following the reinstatement of the contumacy judgment, an informal group of CIP presbyters met together with TE Herron on several occasions. The group recommended TE Herron consider amending his civil lawsuit since this was what the contumacy issue had been based upon since 7/15/21. While TE Herron continued to affirm his prior position on CIP's assessment of the lawsuit, he amended the suit by removing all content referring to the original ecclesiastical complaint/accusations to CIP and reiterated his desire to move to a trial.
- 11/12/21 CIP Stated Meeting. TE Anderson shared with CIP that TE Herron had amended his civil lawsuit. CIP formed a committee to continue meeting with TE Herron regarding his continued attempts to submit to the CIP.

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- 11/17/21 TE Herron and his RE counsel (member of a CIP church) met with this “contumacy” committee to discuss a way forward through the CIP contumacy judgment to proceed to an ecclesiastical trial.
- 11/17/21 Record of the Case received by the PCA Clerk's office for *Herron 2*, Case 2021-14.
- 11/23/21 Case 2021-06 *Herron v. CIP* assigned to the original Panel in 2020-04 Marusich.
- 11/24/21 RE Barber, along with RE Fisher & TEs Marusich, Hollowell, & McKay carry part of their Complaint to the SJC, and it is styled as Case 2021-15: *Barber et al. v. CIP*.
- 12/19/21 TE Herron filed Complaint 4 with CIP against its 10/21 reinstatements of the contumacy finding and the censures of indefinite suspension from office and suspension from the sacraments. (Complaint 4 was not carried to the SJC, possibly due to the final two paragraphs in the SJC's 6/2/22 Decision in Case 2021-06 *Herron 1*. See below.)
- 12/21/21 Two members added to the SJC Panel for Case 2021-14 (*Herron 2*).

2022

- 1/12/22 Herron Complaint 3 carried to SJC and became Case 2022-02 *Herron et al. v. CIP*.
- 3/21/22 SJC Panel conducted Hearing in Case 2021-06 *Herron 1 v. CIP*
- 4/4/22 SJC Panel rendered a preliminary decision on Case 2021-06 *Herron 1 v. CIP*.
- 5/20/22 Date of the CIP indictment document with seven charges.
- 5/23/22 CIP adopted a motion to Refer the trial to the SJC, with RE Barber as the Prosecutor, along with a commitment of funds.

6/2/22 SJC Called Meeting. Below is an excerpt from the SJC Decision in Case 2021-06 *Herron I v. CIP*.

- A. Did CIP err [on 5/14/21] when they proceeded to process after hearing the report of the Investigative Committee [IC 2]? *NO*
- B. Did CIP err when they suspended TE Dan Herron per *BCO 31-10*?*NO*
- C. Did CIP err when they restricted TE Herron from receiving the report of the *BCO 31-2* Investigative Committee and the minutes and attachments from meetings of CIP?*YES*
- D. Did CIP err when they approved and issued a public statement that communicated the decision made by CIP on May 14, 2021?*NO*

The four pages of SJC Reasoning concluded with the following.

Amends - The SJC instructs the Presbytery to proceed to a trial, given that Presbytery found a strong presumption of guilt on certain allegations on May 14, 2021, and the SJC has declined to sustain the Complaint against those findings. Absent a confession or the dismissal of all charges, Presbytery does not have the option to decline to institute process. ...

The Record indicates Presbytery adopted the motion below on January 8, 2021, by a vote of 18-5-2, which read: “Pending the acceptance of the panel decision by the full SJC [in Case No. 2020-04 *Marusich v. CIP*], per *BCO 41-2* we refer the case [trial] back to the SJC for it to conduct the case with process. Out of concern for the spiritual and emotional wellbeing of those involved, we ask the SJC to please expedite this process.”

If Presbytery had filed that Reference, things would have been far simpler. In addition to this present Complaint, there have been three others filed with regard to this matter (one prior and two pending), and this matter has been in various levels of

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adjudication since 2019. The Records of these Cases total over 2,500 pages. The Record and the Hearing on this present Case indicated countless pages of comments and accusations have regularly appeared on social media and in the Bloomington press. Indeed, the entire Record of the Case for the previously decided SJC Case 2020-04 has appeared on a social media platform - including Presbytery executive session minutes. The peace and purity of the Church has been disrupted as the resolution of these issues has been delayed.

Finally, the SJC temporarily suspends all decisions relating to censures against TE Herron until after the completion of the judicial process growing out of Presbytery's BCO 31-2 findings of 05/14/2021.

The SJC notes it has postponed consideration of all pending (i.e., Case Nos. 2021-14, 2021-15, & 2022-02) and future Complaints on any matter related to TE Daniel Herron or related judicial matters until the completion of the judicial process growing out of Presbytery's BCO 31-2 findings of 05/14/2021 and the adjudication of any subsequent appeal.

- 6/2/22 At the same meeting in which the SJC decided Case 2021-06 (*Herron 1*), the SJC accepted the *BCO* 41 Reference from CIP wherein CIP requested SJC to conduct a trial of TE Herron, with certain provisions (e.g., CIP to supply the prosecutor and the indictment). The SJC Chairman appointed a Trial Arrangements Committee ("TAC").
- 6/21/22 Overtures 38, 39, & 40 (from Chesapeake, N. CA, and N. New England) requested the 49th GA to assume original jurisdiction over TE Herron. Referred to SJC.
- 7/5/22 TAC and SJC Officers approved a letter to Parties in the yet-to-be scheduled trial.
- 8/15/22 SJC Called Meeting. SJC approved the TAC-proposed 10-point Trial Procedures.

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- 8/29/22 Civil deposition of Kara Million, Ph.D. in Baltimore (approximately 410 pages with 50-page Index, plus Exhibits). Prosecutor Barber was also present.
- 8/31/22 Civil deposition of Mrs. Abigail Harris in Bloomington, IN (approximately 210 pages with 32-page Index, plus Exhibits). Prosecutor Barber was also present.
- 10/4/22 TAC adopts answers to 37 Pre-Trial Motions (28 prosecution & 9 defense).
- 10/21/22 SJC adopts TAC recommendations on Pre-Trial Motions (amending some) and amends previous decision on trial format, deciding to conduct the trial in Indiana using a Panel of three, with two alternates. All was communicated to the parties.
- 10/27/22 Defense emailed another pre-trial motion to the Panel seeking to add the depositions of Million and Harris as Exhibits.
- 11/15/22 Five-day trial commenced in Indianapolis. SJC Panel was RE Pickering (trial moderator), TE Greco, RE Donahoe, RE Dowling (alternate), and TE Lee (alternate). The trial lasted 42 hours, with 42 witnesses - 18 prosecution, 24 defense (including the Accused) - and hundreds of exhibits. It adjourned on 11/19/22. The Panel agreed to permit some of the witnesses listed by the prosecution to testify by live videoconference in a manner by which the witnesses would not be able to see the Accused and for such witnesses to be cross examined only by defense counsel. Kara Million was listed by the prosecution as such a witness, but she did not appear at trial. As a result, the transcript of her deposition in the civil defamation lawsuit was admitted into the trial record by stipulation of the prosecution and the defense.

2023

- 1/6/23 The 1,966-page trial transcript was delivered to the SJC Trial Panel.

MINUTES OF THE GENERAL ASSEMBLY

- 2/13/23 The Panel adopted a proposed decision in the Case and filed it with the SJC.
- 3/2/23 SJC Stated Meeting. The SJC adopted a Preliminary Verdict in the Case.
- 3/27/23 The Prosecutor filed a Supplemental Brief.
- 4/5/23 The SJC considered the Prosecutor's Supplemental Brief and finalized the Verdict.

II. STATEMENT OF THE ISSUES

Below are the seven charges from CIP's May 20, 2022 indictment:

1. Failing to use discretion, chastity, and modesty with regard to sexuality, both during the course of his official duties as Pastor and elsewhere.
2. Belittling, demeaning, neglecting, provoking, quarrelling with, intimidating, domineering, lying about, and refusing to be reconciled with both employees and congregation members under his charge during the course of his official duties as Pastor.
3. Lying, slandering, giving false evidence, scoffing, flattering, and otherwise distorting the truth in conversations, ecclesiastical and civil proceedings, oral and written testimony, and elsewhere.
4. Initiating a civil lawsuit against two sisters in Christ, threatening them with punitive financial damages if they testify in ecclesiastical court in accordance with their previously submitted testimony, which resulted in interference with the exercise of jurisdiction of the Central Indiana Presbytery.
5. Refusing to comply with a lawful directive of presbytery given for the preservation of the peace, purity, and unity of the church within an ecclesiastical discipline process; that is, contumacy, according to Ordination Vow Four (BCO 21-5), which requires ministers to “promise subjection to your brethren in the Lord.”

6. Holding and expounding views in conflict with the Westminster Standards, and failing, of his own initiative, to make known his change in views since the assumption of his ordination vows, according to Ordination Vow 2 (BCO 21-5), which requires ministers to sincerely receive and adopt the Westminster Standards and to voluntarily notify the presbytery of any changes in their views.
7. Failing to maintain a life that is above reproach so as to be open to such numerous charges and specifications, and thus no longer meeting the requirements for an officer or minister in the Presbyterian Church in America.

III. JUDGMENTS/VERDICTS

1. As to Charge 1: Failing to use discretion, chastity, and modesty with regard to sexuality, both during the course of his official duties as Pastor and elsewhere. Not Guilty
2. As to Charge 2: Belittling, demeaning, neglecting, provoking, quarrelling with, intimidating, domineering, lying about, and refusing to be reconciled with both employees and congregation members under his charge during the course of his official duties as Pastor. Not Guilty.
3. As to Charge 3: Lying, slandering, giving false evidence, scoffing, flattering, and otherwise distorting the truth in conversations, ecclesiastical and civil proceedings, oral and written testimony, and elsewhere. Not Guilty.
4. As to Charge 4: Initiating a civil lawsuit against two sisters in Christ, threatening them with punitive financial damages if they testify in ecclesiastical court in accordance with their previously submitted testimony, which resulted in interference with the exercise of jurisdiction of the Central Indiana Presbytery. Not Guilty.
5. As to Charge 5: Refusing to comply with a lawful directive of presbytery given for the preservation of the peace, purity, and unity of the church within an ecclesiastical discipline

process; that is, contumacy, according to Ordination Vow Four (BCO 21-5), which requires ministers to “promise subjection to your brethren in the Lord.” Not Guilty.

6. As to Charge 6: Holding and expounding views in conflict with the Westminster Standards, and failing, of his own initiative, to make known his change in views since the assumption of his ordination vows, according to Ordination Vow 2 (BCO 21-5), which requires ministers to sincerely receive and adopt the Westminster Standards and to voluntarily notify the presbytery of any changes in their views. Not Guilty.
7. As to Charge 7: Failing to maintain a life that is above reproach so as to be open to such numerous charges and specifications, and thus no longer meeting the requirements for an officer or minister in the Presbyterian Church in America. Not Guilty.

IV. REASONING

At trial, the Panel was presented a twelve-page indictment, containing seven charges, each elaborated with numerous specifications (11 of which were deleted, and five amended, by the Prosecutor at trial). A 42-hour trial was held over five days in Indianapolis, Indiana. The prosecution presented testimony from 18 witnesses (nine via live videoconference) and the defense presented testimony from 24, including the Accused (four via live videoconference). A total of 640 exhibits were presented by the parties, all producing a trial transcript totaling 1,966 pages.

It was the Panel’s judgment that no charge in the indictment was credibly sustained by the testimony of witnesses, evidentiary exhibits, or arguments set forth by the prosecution.

A. Charges 1, 2, 3, and 7

The Standing Judicial Commission accepted and exercised original jurisdiction in this case (*BCO* 41-3 and *OMSJC* Section 12). So, the SJC’s Panel operated as the finder of fact and not as a court of review, which is the

ordinary function of the SJC. In performing its duties, the Panel considered the oral testimony of 42 witnesses who collectively produced a transcript of 1,966 pages, while reviewing 640 items of documentary and video evidence offered as Exhibits. The Panel noted that some of the evidence was ambiguous and subject to different interpretations. Witnesses for each side sometimes testified to identical or substantially similar events, but with different conclusions.

Where unambiguous digital or documentary evidence existed, however, it strongly supported the arguments of the Accused, providing objective proof against these specific allegations of sin. This fact affected the Panel's assessment of the credibility to ascribe to testimony for which there was no tangible evidence or for which there were no third-party witnesses. After carefully examining all the evidence, the Panel unanimously agreed that the prosecution did not meet its burden of proof in this case.

B. Charge 4

Charge 4 is categorically different from the previous Charges in that it pertains to a civil defamation lawsuit filed by TE Herron against two of his accusers who were posting on the internet and giving interviews about their allegations and experiences with TE Herron, and from TE Herron's attendant interactions with Central Indiana Presbytery. The finding of "not guilty" on this Charge requires elaboration, especially since the fact that TE Herron filed a civil lawsuit against two accusers is not disputed, and since this finding requires Constitutional interpretation.

Charge 4 concerns a civil defamation lawsuit filed by TE Herron. There was no dispute that a lawsuit was filed. The Charge rests on a particular interpretation and application of 1 Corinthians 6:1-8:

¹When one of you has a grievance against another, does he dare go to law before the unrighteous instead of the saints? ²Or do you not know that the saints will judge the world? And if the world is to be judged by you, are you incompetent to try trivial cases? ³Do you not know that we are to judge angels? How much more, then, matters pertaining to this life! ⁴So if you have

such cases, why do you lay them before those who have no standing in the church? ⁵I say this to your shame. Can it be that there is no one among you wise enough to settle a dispute between the brothers, ⁶but brother goes to law against brother, and that before unbelievers? ⁷To have lawsuits at all with one another is already a defeat for you. Why not rather suffer wrong? Why not rather be defrauded? ⁸But you yourselves wrong and defraud—even your own brothers! (ESV)

Some contend 1 Corinthians 6:1-8 prohibits one Christian from ever suing another in civil court, regardless of the circumstances. Others contend the passage has a more limited application and context is important.

1. Westminster Standards

It does not seem any verses from 1 Corinthians 6:1-8 are referenced in the Westminster Confession of Faith or Shorter Catechism, but verses from that passage are referenced six times in the Larger Catechism - LC 90, 113, 141 (twice), 142, and 151. The only references directly related to lawsuits are in LC 141 and 142, which describe things required and prohibited by the 8th Commandment (“You shall not steal.” Ex 20:15; ESV). LC 141 teaches the 8th Commandment requires “avoiding unnecessary lawsuits” and LC 142 teaches “vexatious lawsuits” violate the same.

Q 141. What are the duties required in the eighth commandment?

- A. The duties required in the eighth commandment are, truth, faithfulness, and justice in contracts and commerce between man and man; rendering to everyone his due; restitution of goods unlawfully detained from the right owners thereof; giving and lending freely, according to our abilities, and the necessities of others; moderation of our judgments, wills, and affections concerning worldly goods; a provident care and study to get, keep, use, and dispose these things which are necessary and convenient for the sustentation of our nature, and suitable to our condition; a lawful calling, and diligence in it; frugality; **avoiding unnecessary lawsuits**, and suretyship, or other like engagements; and an endeavor, by all just and lawful means, to procure, preserve, and further the

wealth and outward estate of others, as well as our own.
(Emphasis added.)

Q. 142. What are the sins forbidden in the eighth commandment?

A. The sins forbidden in the eighth commandment, besides the neglect of the duties required, are, theft, robbery, man-stealing, and receiving anything that is stolen; fraudulent dealing, false weights and measures, removing landmarks, injustice and unfaithfulness in contracts between man and man, or in matters of trust; oppression, extortion, usury, bribery, **vexatious lawsuits**, unjust enclosures and depredation; engrossing commodities to enhance the price; unlawful callings, and all other unjust or sinful ways of taking or withholding from our neighbor what belongs to him, or of enriching ourselves; covetousness; inordinate prizing and affecting worldly goods; distrustful and distracting cares and studies in getting, keeping, and using them; envying at the prosperity of others; as likewise idleness, prodigality, wasteful gaming; and all other ways whereby we do unduly prejudice our own outward estate, and defrauding ourselves of the due use and comfort of that estate which God hath given us. (Emphasis added.)

Even though the indictment cites LC 141 and 142, the prosecution did not demonstrate how the defamation lawsuit was either “unnecessary” or “vexatious.” Only one prosecution witness testified on the 1 Corinthians 6 matter, and he did not offer a constitutional interpretation of those adjectives that would warrant a finding of guilt on the Charges related to the lawsuit. No documents were entered into evidence regarding those adjectives.

However, one historical perspective is provided by Thomas Ridgeley (1667-1734), who was a Calvinist minister in London. Ridgeley wrote, *A Body of Divinity*, a 1,300 page commentary on the Westminster Larger Catechism, in 1731. Below are his comments on “Litigiousness” from his commentary section on LC 141 and 142.

A person may be said to break this [8th] commandment, by engaging in unjust and vexatious lawsuits. It is to be owned, however, that going to law is not, at all times, unjust. For it is

sometimes a relief against oppression; and it is agreeable to the law of nature for every one to defend his just rights. On this account, God appointed judges to determine causes, to whom the people were to have recourse, that they might 'show them the sentence of judgment.' Yet we must conclude lawsuits to be in some cases oppressive. They are so when the rich make use of the law to prevent or prolong the payment of their debts, or to take away the rights of the poor, who, as they suppose, will rather suffer injuries than attempt to defend themselves. Lawsuits are oppressive also when bribes are either given or taken, with a design to pervert justice. We may add, that the person who pleads an unrighteous cause, concealing the known truth, perverting the sense of the law, or alleging that for law or fact which he knows not to be so; and the judge who passes sentence against his conscience, respecting the person of the rich, and brow-beating the poor; are confederates in oppression, while their methods of proceeding are, beyond dispute, a breach of this commandment.²⁴

Another helpful source for understanding the meaning of "vexatious lawsuits" is the American Puritan, Samuel Willard (1640-1707), from his *Complete Body of Divinity* (probably the most extensive commentary on the Shorter Catechism ever published). The excerpt below is from Sermon 204, preached in 1705, which was part of his exposition of the Eighth Commandment. (Shorter Catechism Q 75: What is forbidden in the Eighth Commandment?)

6. By vexatious lawsuits. Doubtless civil laws are good and necessary; and men are sometimes forced to recover their own by law, or else they would wrong themselves and families. And this ariseth from the iniquity of mankind, whereas if all men were honest, it might be prevented. This forwardness to bring everything to civil courts, which might be ended in a more charitable way, is what the Apostle sharply reproves in them (1 Cor. 6). For men to take the advantage of the law

²⁴ In 1695 Ridgely became assistant pastor to Thomas Gouge (son of William Gouge, the chairman of the committee assigned to draft the WCF). Ridgely then succeeded Thomas Gouge in that pastorate after his death in 1699 and served the Three Cranes Independent Church in London for 40 years.

against their neighbours, when their [neighbor's] cause in honesty and conscience is just and good, is oppression and robbery under a pretext of justice. For men to draw out suits, by unreasonable non-suits [baseless], and any other tricks of a like nature, to impoverish their neighbours, is of the same stamp. For attorneys to use tricks to perswade their clients to contention, and protract, and blind, or entangle causes for their own advantage, is a scandal, which such as so do, can never wipe off. For persons, by bribes and friends, to draw such as, concerned in judgment, to have respect of persons so to favour their cause, which in equity would go against them, is also a plain violation of this precept. Thus, may men sin against this precept in their gettings of the things of this life.²⁵ [Changes made in capitalization.]

Two other confessional sections are pertinent. Westminster Confession of Faith 23:3 teaches that civil magistrates have a duty to protect the "good name of all their people," and Westminster Larger Catechism 144 teaches that some of the duties required by the Ninth Commandment are the "preserving and promoting" of our own "good name" as well as "love and care of our own good name and defending it when need requireth." These sections don't limit our attempts to protect our good name to ecclesiastical courts only.

WCF 23:3 ... It is the *duty of civil magistrates to protect the person and good name of all their people*, in such an effectual manner as that no person be suffered, either upon pretense of religion or infidelity, to offer any indignity, violence, abuse, or injury to any other person whatsoever. (Emphasis added.)

Q 144. What are the duties required in the ninth commandment?

²⁵ Samuel Willard was minister at Groton from 1663-76, and then pastor of Third Church, Boston until his death in 1707. He was also acting president of Harvard University from 1701. In 1726, his *Compleat Body of Divinity in Two Hundred and Fifty Expository Lectures on the Assembly's Shorter Catechism* was published. (See p. 718, Sermon 204 preached in 1705); Early English Books Online Text Creation Partnership, 2011, <https://quod.lib.umich.edu/e/evans/N02384.0001.001/1:6.204?rgn=div2;view=fulltext>; accessed 2/25/23.

- A. The *duties* required in the ninth commandment are, *the preserving and promoting of truth* between man and man, and *the good name of our neighbor, as well as our own*: appearing and standing for the truth; and from the heart, sincerely, freely, clearly, and fully, speaking the truth, and only the truth, in matters of judgment and justice, and in all other things whatsoever; a charitable esteem of our neighbors; loving, desiring, and rejoicing in their good name; sorrowing for, and covering of their infirmities; freely acknowledging of their gifts and graces, defending their innocence; a ready receiving of good report, and unwillingness to admit of an evil report, concerning them; discouraging tale-bearers, flatterers, and slanderers; *love and care of our own good name, and defending it when need requireth*; keeping of lawful promises; study and practicing of whatsoever things are true, honest, lovely, and of good report. (Emphasis added.)

2. First Corinthians 6

The indictment listed three commentaries on 1 Corinthians as supporting Charge 4 - John Calvin (1546), Gordon Fee (NICNT 1987), and Anthony Thiselton (NIGTC, 2000). However, no excerpts were entered at trial as prosecution Exhibits. It was the defense that entered Calvin's commentary as an exhibit. Below are excerpts from Calvin on 1 Cor. 6:1-8.

For my own part, my answer is simply this – having a little before given permission to have recourse to arbiters, he has in this shown, with sufficient clearness, that *Christians are not prohibited from prosecuting their rights moderately, and without any breach of love.* ... Let us therefore bear in mind that *Paul does not condemn law-suits on the ground of its being a wrong thing in itself* to maintain a good cause by having recourse to a magistrate, but because it is almost invariably accompanied with corrupt dispositions; as, for example, violence, desire for revenge, enmities, obstinacy, and the like. I acknowledge, then, that a Christian man is altogether prohibited from revenge, so that he must not exercise it, either

by himself, or by means of the magistrate, nor even desire it. If, therefore, a Christian man wishes to prosecute his rights at law, so as not to offend God, he must, above all things, take heed that he does not bring into court any desire of revenge, any corrupt affection of the mind, or anger, or, in fine, any other poison. In this matter love will be the best regulator.²⁶ (Emphasis added.)

The prosecution did not seem to consider motive to be much of a factor in the application of 1 Corinthians 6. The defense argued persuasively that TE Herron was *responding* to the social media, podcast, and published accusations of him rather than initiating something out of the blue. The SJC has considered motive as being an issue in some other cases. In SJC Case 2013-10: *Appeal of TE Stuart Latimer v. Chicago Metro*, the SJC unanimously (18-0) sustained the appeal even though the TE filed for divorce first, and without biblical justification for his divorce. The SJC based its decision on its judgment that his intent was to temporarily get the state of Illinois to prevent his wife from taking the children to Alabama, at least for a period. (M43GA, 2015, p. 572). Here is an excerpt from the Reasoning.

There is no indication in the record that TE Latimer ever had “grounds to divorce” his wife. But whether his June 27, 2012, filing constituted sin turns not on whether he had grounds to divorce, but on whether his filing, combined with other evidence in the record, can reasonably be read to indicate an intent on his part to divorce. In other words, was his true objective to get divorced, or was the divorce filing intended for other purposes entirely, such as the protection of his children, as he argued? It doesn’t matter whether the filing was a wise or well-advised means to achieve his objective, or whether the children needed protecting, none of which the

²⁶ The prosecution's witness was familiar with Calvin's view and testified as follows: “[Calvin] seems to think that Paul does not condemn lawsuits between Christians on grounds that they're wrong in themselves, though Paul does so condemn them. He wants to say -- Calvin wants to say that the problem is with the internal motivation of the lawsuit that the lawsuit has to be brought without anger, without revenge, without greed. ... Calvin thinks the issue is the motivation and then says that rarely, if ever, could this be brought with the right motivation.” (Transcript 565-66)

SJC can evaluate. What matters is whether TE Latimer's intentions in filing were sinful. We find no conclusive evidence in the record that TE Latimer's intentions were sinful, and Presbytery clearly erred in finding otherwise. (Decision, p. 578)²⁷

The defense demonstrated that TE Herron tried to stop the public accusations against him with a Cease and Desist letter first (6/10/21). And the defense demonstrated he would not have filed a defamation lawsuit if the statute of limitations on that matter was long enough to allow the Church to conduct his trial and render a verdict. The defense argued that was the intent of TE Herron's proposal to CIP to offer tolling agreements to the defendants in his lawsuit, which CIP declined.²⁸ The defense also demonstrated TE Herron was willing to amend the lawsuit as instructed (or suggested) by CIP (or some CIP members). That is what triggered CIP's 9/10 removal of its 7/30 contumacy verdict and suspension from the Lord's Supper.

The prosecution's witness testified that 1 Corinthians 6 did not apply to a Christian who might charge another Christian with a crime, and it would be biblically permissible to go to the state court for such things. We note that while defamation is not a criminal offense in Indiana, at least thirteen other states have criminal libel/slander/defamation laws still on the books. It would seem odd for the PCA to rule TE Herron would have a biblical right to charge the defamation defendants with a crime if they had been in one of those thirteen states but could not file anything regarding alleged defamation with the state of Indiana.²⁹

When cross-examining the prosecution's witness on 1 Corinthians 6, the defense questioned whether the two primary accusers should be considered as members of any church, given that both testified under oath they were not attending any church, and had not been for a long time.³⁰ The prosecution did not provide a persuasive response to that important question.

²⁷ The following 12 current SJC members concurred with the *Latimer* Decision: Bise, Carrell, Coffin, Donahoe, S. Duncan, Greco, McGowan, Neikirk, Pickering, Terrell, White, and Wilson.

²⁸ A tolling agreement is an agreement to suspend a right to claim that litigation should be dismissed due to the expiration of a statute of limitations.

²⁹ https://en.wikipedia.org/wiki/United_States_defamation_law

³⁰ One testified at trial under oath and the other in a deposition under oath.

Most commentaries on 1 Corinthians note several things were present in the Corinthian context which were not present in the Herron suit. For example, commentators note it was ordinarily only the wealthy who initiated the lawsuits addressed in 1 Corinthians 6, and these lawsuits were usually related to money (which might be why the Larger Catechism cites 1 Corinthians 6:1-8 in the section on the 8th Commandment). In addition, the Roman civil courts were relatively corrupt, with rich plaintiffs often bribing judges. Verses 7 and 8 use the term “defrauded” which seems to imply financial matters, and probably references the wealthier plaintiffs. Many translations of 1 Corinthians 6:2 indicate the matter was “trivial,” (ESV, NIV, RSV). The defense demonstrated the word “trivial” did not reasonably apply to TE Herron losing his job and his reputation due to the leaking of confidential information from CIP executive sessions, the many things publicized by the defamation defendants, and the interference with his call to another PCA church.

The Apostle Paul also contends the Corinthian church could easily and quickly render a decision on the 1 Corinthians 6 type (trivial) dispute, which sadly proved not to be the case in CIP. Presumably, this was one of the main reasons the SJC accepted the referenced trial, years after the initial accusations were made. In addition, Paul's comments seem to assume both parties are under the same church jurisdiction.³¹ Granted, there is some question about when PCA jurisdiction over the defamation defendants ceased, but it seems CIP had little influence on them at some point prior to the Cease and Desist letter or the defamation suit.

3. Other Kinds of Lawsuits

Troubling questions could be raised if 1 Corinthians 6:1-8 is understood as disallowing all civil lawsuits between Christians. For example, unless a contract between Christian A and Christian B contains a clause stipulating that some ecclesiastical body will render a binding arbitration decision for all disputes, the threat of going to the civil magistrate is always implicit in any contract. The PCA and PCA Agencies have involved civil magistrates to settle various matters with people who were not regarded as unbelievers. If civil

³¹ See commentaries by Fee (1987), Winter (1994), Blomberg (1995), Thiselton (2000), Garland (2003), Ciampa & Rosner (2010), Hays (2011), Riddlebarger (2013), Oropeza (2017), and Brookins (2020).

lawsuits between believers are *always* unbiblical, then the following would presumably be prohibited for a Christian if the other party is also a Christian:

1. Civil divorce lawsuit where the plaintiff has biblical grounds
2. Lawsuit for child custody, child support, or visitation rights
3. Filing for an injunction or a restraining order against an abuser
4. Professional malpractice lawsuit
5. Wrongful termination lawsuit
6. Personal injury lawsuit
7. Sexual harassment lawsuit against church officers (not involving criminal offense)
8. Civil lawsuit for damage against child abusers
9. Filing for a protection order for elder abuse, stalking, etc.
10. Churches seeking a no trespassing order from a civil court

4. Summary

Given the analysis above, we cannot conclude that *all* civil lawsuits filed by Christians against other Christians are sinful. Thus, in a case such as the one before us, the burden of proof is on the prosecution to demonstrate that the particular lawsuit in question was sinful, whether because of the context of the lawsuit or its content. The prosecution did not meet that burden in this Case.

C. Charge 5

Charge 5 contends TE Herron should be found guilty of contumacy for “refusing to comply with a lawful directive of presbytery” and that his non-compliance violated his fourth ordination vow. However, whether the directive was lawful depends on whether the defamation lawsuit in this instance was sinful. As was shown in the discussion of Charge 4, that was not proven at trial.

In February 2020, the SJC rendered a 16-0 Decision in Case 2019-06: *PCA v. Mississippi Valley Presbytery* (M48GA, 2021, pp. 701-719). The Session of a

church in Mississippi Valley Presbytery had charged a woman with “failing to submit to the government and discipline of the church” because she declined to comply with the Session's directive that she cease pursuing a divorce. She and the Session disagreed as to whether she had biblical grounds for divorce. A trial was never scheduled, and one month after the arraignment, the Session approved a letter telling her she would be removed from the church roll if she continued pursuing the divorce, because doing so would indicate “she has no intention of fulfilling her vows to submit to the authority of the Session.” She was removed from the rolls and sent a BCO 40-5 letter to Presbytery, but Presbytery ruled the Session had not erred, and she carried the matter to the SJC. The SJC forwarded this matter to RPR, which recommended GA refer the case to the SJC. SJC ruled Presbytery erred in this matter, and below was part of the SJC Reasoning.

A member's responsibility is to seriously and respectfully consider the counsel. But there may be instances where a Session advises it regards something as sinful, without the member sinning by not following the advice. (The person's underlying action may be sinful, but his response to the advice is not, in and of itself, sinful.) This might include Session advice on how the Lord's Day should be observed, whether parents should use books with depictions of Jesus, whether parents should baptize their infants (WCF 28:5), whether tithing is morally obligated, the permissible use of tobacco or alcohol, appropriate clothing standards, “undue delay of marriage” (WLC139), “*avoiding unnecessary lawsuits*” (WLC 141), or what constitutes “prejudicing the good name of our neighbor” (WLC 145). And if a Session believed an indictment was warranted in any such situation, the indictment should allege the underlying sin, not the person's decision declining to follow Session counsel. (Emphasis added.)

D. Charge 6

This Charge alleged TE Herron held views in conflict with the Westminster Standards regarding lawsuits and that he violated his second ordination vow by failing to notify CIP of his alleged change in views on two other matters. Four of the five Specifications related to the lawsuit, which was addressed above under Charge 4. The other Specification was related to an alleged non-

reporting of a change in theological views on the Sabbath and the 2nd Commandment, but the Prosecutor deleted it at trial.

E. Conclusion

The SJC affirms and adopts the Panel's Findings, Decision, and Judgments/Verdicts, and thereby removes all censures and administrative suspensions imposed on TE Herron by CIP and restores him to good standing as a minister in Central Indiana Presbytery and the PCA.

The SJC further notes the following for the edification of the broader church:

The Panel took special precautions to provide a safe and shielded forum for witnesses, as requested by the prosecution, by carefully crafting a trial procedure that included accommodation for testimony via teleconference, stringent limitations on some defense cross examinations (including a prohibition on questioning by the Accused for some witnesses), and other evidentiary controls to ensure that the trial process was especially accessible for reluctant witnesses, protective of alleged victims, and fair to all parties. Some requests for protections that were granted exceeded those set forth in the 2022-2023 pending amendments to *BCO* 32-13, 35-1, and 35-5. These standards were carefully crafted by the Panel, and they were made known to and agreed upon by the parties and their representatives prior to trial, and the parties were responsible to notify their witnesses of these adjustments and accommodations. The Panel conducted the trial in accordance with those adjusted procedures to accommodate the needs and concerns of the witnesses while balancing the Accused's rights to a fair trial.

This case underscores the wisdom of the provisions of our Constitution and the ongoing need for each court of the Church to apply these provisions carefully, especially when facing the sensitive and challenging issues of our day, for the well-being of the Church, and her members, and the glory of God.

The Trial Panel's decision was drafted and unanimously approved by the Panel. The SJC adopted some amendments, and a preliminary verdict was adopted by vote of 22-0 on March 2, 2023, with one member recused and one absent. The SJC approved this Final Decision by vote of 22-0 on the following roll call vote. Ruling Elders indicated by ^R.

APPENDIX T

| | | | | | |
|------------------------|---------------|---------------------|------------------|------------------------|---------------|
| Bankson | <i>Concur</i> | Eggert ^R | <i>Concur</i> | Neikirk ^R | <i>Concur</i> |
| Bise ^R | <i>Concur</i> | Ellis | <i>Concur</i> | Pickering ^R | <i>Concur</i> |
| Carrell ^R | <i>Concur</i> | Garner | <i>Concur</i> | Ross | <i>Concur</i> |
| Coffin | <i>Concur</i> | Greco | <i>Concur</i> | Sartorius | <i>Concur</i> |
| Donahoe ^R | <i>Concur</i> | Kooistra | <i>Concur</i> | Terrell ^R | <i>Concur</i> |
| Dowling ^R | <i>Concur</i> | Lee | <i>Concur</i> | Waters | <i>Concur</i> |
| M. Duncan ^R | <i>Concur</i> | Lucas | <i>Not Qual.</i> | White ^R | <i>Concur</i> |
| S. Duncan ^R | <i>Concur</i> | McGowan | <i>Recused</i> | Wilson ^R | <i>Concur</i> |

TE Lucas reported he was not qualified because he was absent from the SJC's March 2, 2023 meeting at which the preliminary verdict was discussed and adopted.

TE McGowan recused from all parts of this Case and provided the following reason for his voluntary recusal: "With reference to all matters before the Standing Judicial Commission related to the judicial matter in Central Indiana Presbytery v. Herron, I am recusing myself for the following reason (SJCM 6.2.e). My decision is grounded in my professional relationship with Mr. Herron which began in March 2020 when he responded positively to my request that he allow himself to be considered by a PCA Pastor Search Committee (PSC) for which I was a consultant in connection with their search for a Senior Pastor of their church. Several months later, when I and the PSC discovered, through a conversation with him, that his Presbytery was being asked to take disciplinary action against him, I suggested that he withdraw his name from consideration by the PSC. He agreed that this would be the proper thing for him to do. I have not had an ongoing relationship with him since he withdrew his name from consideration."