

MINUTE OF THE APPEAL HEARING BEFORE THE JUDICIAL COMMISSION

IN THE MATTER OF AN APPEAL AGAINST A DECISION OF THE PRESBYTERIAL COMMISSION GIVEN ON 11 AUGUST 2017

HELD AT 121 GEORGE STREET, EDINBURGH
ON FRIDAY 23 FEBRUARY 2018 AT 10AM

Sederunt: Ms Morag Ross QC, Convener of the Judicial
Commission
The Very Rev Bill Hewitt, Vice-Convener of the
Judicial Commission

Ms Laura Dunlop QC, Procurator

The Rev Dr George J Whyte, Principal Clerk
Ms Christine Paterson, Acting Depute Clerk

And eleven members of the Judicial Commission
("the Commission") as per the signed Sederunt
sheet

For the Appellant:

Mr David Wilson, Ennova Law

For the Special Committee of Presbytery:

Mr Ronald Mackay, Burness Paull
The Rev Alan Reid, Convener of the Special
Committee
Mr Richard Henderson, Member of the Special
Committee
The Rev Val Ott, Member of the Special
Committee

Observer: Mrs Jennifer Hamilton, Depute
Solicitor

The Hearing was opened with prayer. Introductions were
made.

The Convener explained her intention to deal with the appeal
in various stages, with a decision given at each stage. The
appeal proceeded in the following stages:

- Ground 1 of the appeal
- Competency challenge to Ground 2 of the appeal
- Ground 2 of the appeal (substantive issues)
- Ground 3 of the appeal

In terms of Rule 8 of the Rules of Procedure set out in
Schedule 2 to the Appeals Act (Act 1 2014) ("the Act"), the
following steps were taken in respect of each stage of the
appeal:

- each Party made comment supplementary to their
Written Argument and Supplementary Note, and was
given the opportunity to make response to the Written
Argument and Supplementary Note lodged by the other
Party;
- each Party answered questions put to them by members
of the Commission; and
- the appropriate Party was given the last word.

After each stage of appeal, the Parties were removed and the
Commission discussed its decision. The Parties were then
recalled and the decision of the Commission for that stage,
including a brief oral summary of the main reasons for the
decision at that stage, was given by the Convener.

The decision of the Commission at each respective stage of
the appeal was as follows:

Ground 1

With some reservations, the Commission agreed that this
ground of appeal was competent but decided not to uphold it
substantively.

Ground 2 – competency challenge

The Commission's decision was to repel the competency
challenge and to allow the Appellant's solicitor to present his
substantive arguments on that ground.

Ground 2 – substantive issues

The Commission’s decision was not to uphold the second ground of appeal.

Ground 3

The Commission’s decision was to uphold the third ground of appeal. The Commission was satisfied that the appropriate sanction for the Appellant was not removal of status and the Commission instead substituted a censure of suspension without limit of time, subject to a minimum period of suspension of three years from 11 August 2017.

At each stage of the appeal and for each ground the Convener confirmed that the decision of the Commission was unanimous.

The Convener confirmed that written reasons for the Commission’s decision will follow within twenty one days.

The Convener thanked everyone present for their submissions, their questions and their attendance. The Convener noted the profound consequences of this matter for the individuals and the congregations involved and asked that all present remember those persons in their prayers.

The Hearing was closed at 4pm with the saying of the Grace.