

Decisions of Panel

Names of Parties:

Plaintiffs **Matthew Williams, Elder, KingsWay Community Church**

Defendant **Gene Emerson, Senior Pastor, KingsWay Community Church**

Panel Names: **Moderator** **Steve Teter**
 Panel Member **Eric Holter**
 Panel Member **Adam Campbell**

Hearing Date: **November 12, 2015**

Time Commenced/Ended: **9:00am to 7:00pm**

Place: **KingsWay Community Church Office, 14111 Sovereign Grace Drive, Midlothian, VA 23114**

Witnesses that were present:

Dave Beckner, Lieutenant Virginia State Police, Member KingsWay
Gary Stergar, Member KingsWay
Josh Krugar, Member/ Pastor in Training, KingsWay
Tim Emerson, Son of Defendant, Former Member of KingsWay
Liz Emerson, Wife of Defendant, Member of KingsWay

Advisors that were present:

For the Plaintiff: Chris Deloglos
For the Defendant: Bob Donohue

We, the Panel members, having been selected in accordance with the current *Book of Church Order for Sovereign Grace Churches*, and having heard the proofs and allegations of the Parties, decide on the issues attached as follows:

ISSUES TO BE DECIDED

1. On what basis does this Panel have the authority to act in this manner?
2. Should Gene Emerson be disciplined as an elder of Kingsway Community Church?

In order to address this issue, the following sub-issues must be addressed:

- On what basis does this Panel find justifiable reasons according to the Bible and/or the church's bylaws for action to discipline Gene Emerson?
- Has Matthew Williams, as the plaintiff, and Gene Emerson, as the defendant, made every reasonable effort to handle the situation face-to-face over a sufficient period of time, as required in the BCO 22.5.1?
- Has this Panel properly followed the church's procedures in its actions to discipline Gene Emerson?

Decision of Panel

3. If a decision is made to discipline Gene Emerson, which form(s) of discipline should the Panel exercise?
 - Private rebuke?
 - Public rebuke?
 - Removal from office and revocation of ordination?
 - Excommunication
4. Should this Panel decide to remove Gene Emerson as an ordained elder in Sovereign Grace and provide opportunity to apply for restoration as an elder again, what would be the specific requirements and time period to apply for restoration?

SUMMARY OF DECISIONS ON THE ISSUES

1. This Panel has decided that it has the authority to act in this matter
2. This Panel decided that Gene Emerson should be disciplined as an elder of KingsWay Community Church. In reaching this decision this Panel made decisions on the sub-issues as follows:
 - a. This Panel found justifiable reasons according to the Bible and/or the church's bylaws and the BCO for an action to discipline Gene Emerson.
 - b. This Panel determined that elders Matthew Williams, as plaintiff, and Gene Emerson, as defendant, made adequate efforts to handle the situation face-to-face over a sufficient period of time, as required in the BCO 24.5.1.
 - c. This Panel determined that it has properly followed the church's procedures in its actions to discipline Gene Emerson.

3. The decision was made to discipline Gene Emerson in following ways:
 - a. Public Rebuke.
 - b. Removal from office, and revocation of ordination.
 - c. Excommunication. NOTE: This decision will only be enacted following a process of appeal from the church, according to Mt. 18:17, and a lack of repentance in response that process. If Gene does repent, this Panel will reconvene in order to confirm that his repentance responds appropriately to the charges decided by this Panel. (See below for details on this decision.)
4. This Panel decided to remove Gene Emerson as an ordained elder in Sovereign Grace, and that a pathway for restoration is not recommended.

BASIS FOR DECISIONS

1. On what basis does this Panel have the authority to act in this manner?

In deciding this issue, the Panel noted the following facts:

- (1) Gene Emerson is an elder in a Sovereign Grace church. Accordingly, this Panel has authority to act in matters involving ordained and serving in a Sovereign Grace church.
- (2) KingsWay Community Church has only two elders, one of whom is the defendant, the other is the plaintiff. Accordingly, there are no other elders from KingsWay to hear this case.
- (3) BEO-22.1.2 states, "If, after recusals, no member of the local eldership is available to serve on a Panel, then the Regional Review Committee shall assume jurisdiction."
- (4) BCO-25.2.6 states, "The Judicial Review Committee will serve as the original adjudicating body for the trial of an accused elder in the case where a local eldership is too small to adequately deal with the matter (cf.BCO-22.1.2)."
- (5) Since there were no elders from KingsWay Community Church that could serve on the case, the Regional Judicial Committee appointed this Panel according to the provisions of the BCO to serve on this case.

Thus, this Panel decided that it has authority to act in this manner.

2. Should Gene Emerson be disciplined as an elder of KingsWay Church?

In order to address this issue the following sub-issues were addressed:

- a. On what basis does this Panel find justifiable reasons according to the Bible and/or the church's bylaws for action to discipline Gene Emerson?

This Panel notes the following facts that it learned through testimony:

Concerning the charge: **Sexual immorality of a criminal nature: propositioning a prostitute.**

We find Gene guilty of this charge. This Panel heard testimony and evidence that confirmed this charge including:

(1) Gene was convicted in a Virginia criminal court in July 2015. After reviewing many of the facts of the case we found no reasons to believe that Gene's conviction was an error on the part of the court.

(2) Multiple police testimonies show that Gene met a woman through the adult escort section of the website backpage.com. This website makes unambiguous offers of sexual services.

(3) Gene's text messages to an undercover officer posing a prostitute, and her responses, made it clear that what was being offered did *not include* a professional therapeutic massage. The evidence demonstrated that Gene was responding to an offer for physical interaction with a prostitute, which may have included a 30 minute body rub (as his texts mention), but that more was clearly going to be available. Gene continued to pursue this opportunity with that information.

(4) The use of a pseudonym throughout this exchange also demonstrates an awareness of the illicit nature of this transaction.

(5) Gene's initial words upon entering the room, before the officer made any explicit sexual offers, indicated that he was not interacting with her as a mere professional masseuse. His initial words upon entering the room indicate a mutual exchange of some kind was anticipated.

(6) There was graphic talk of sexual activity between Gene and the officer once inside the hotel room.

These activities are behaviors that violate basic qualifications for elder including: 1) Being above reproach 2) Self-controlled in sexual purity 3) Respectable among those he counsels, both inside and outside the church.

The defendant failed to meet the biblical qualifications of an elder, relating to the above areas such as: 1 Timothy 3:2, 7, Titus 1:7-8, James 3:1.

Gene's conviction has brought scandal to Kingsway Community Church.

1) BCO 21.3 "When discipline involves judicial action against an elder, discipline is for the purpose of publicly rebuking sin, eradicating scandal, protecting the doctrinal and ethical purity of the body; restoring the offender, and defending the reputation of Jesus Christ."

The defendant's convicted criminal offense constitute a breach of the qualifications stipulated in the BCO for the office of elder. BCO 24.1 "The nature of the sin or offense includes any gross or scandalous failure to comply with the moral requirements laid out for leaders in Scripture...Therefore grounds for removal are patterns of sinful and impenitent behavior, not isolated events. Exceptions to this include behavior that is automatically disqualifying with a single occurrence (e.g. sexual immorality). Furthermore, any sins that would lead to church discipline (1 Cor. 5:11; Titus 3:10) can also be sufficient grounds for removal from office. These include but are not limited to financial impropriety, convicted criminal activity."

Concerning the charge: Lying to the elders and members of Kingsway Community Church.

We find Gene guilty of this charge. This Panel heard testimony and evidence that confirmed this charge including:

(1) When Gene acknowledged to the elders that he had been arrested, when he recounted the results of the trial, and when he publically offered his resignation to the church, Gene's statements included many false assertions and false denials.

(2) After his arrest Gene informed the elders and leadership team of KingsWay Community Church that he was only seeking a therapeutic

massage, was not tempted sexually in any way, and that this was essentially a misunderstanding. He failed to address his use of backpage, his use of a pseudonym, or the sexually explicit nature of the conversation. However, after the police report was publicly posted, he acknowledged to Josh Krugar (part of the leadership team) that he had been tempted sexually when the opportunity presented itself.

(3) During the churchwide family meeting Gene presented the situation a miscarriage of the legal system and that his role as largely of being a victim of a series of unfortunate circumstances. The reason for his resignation was solely related to a formal criminal conviction, not his actual guilt. There was no acknowledgement of sexually immorality of a criminal nature at that meeting. Rather there was an emphatic defense of his morality with his only guilt being poor judgement. Given the facts of the case, this was a false assertion.

(4). During the same family meeting he said "I have done absolutely nothing immoral or illegal." Given that the court's verdict was correct, and given the numerous facts surrounding the case, this statement is misleading, false, and constitutes a lie to cover up the true nature of the event.

(5) Gene continues to make false assertions and denials in the face of hard evidence. These statements confuse and misdirect issues and bring harm to Gene, and those around him. The section on forms of discipline below provide further explanation of the destructive effects of false assertions.

b. Has Matthew Williams as plaintiff, and Gene Emerson, as defendant, made every reasonable effort to handle this situation face-to-face over a sufficient period of time, as required in the BCO 24.5.1?

(1) Both plaintiff and defendant communicated that the defendant contacted them and they met shortly after the defendant's arrest to discuss the situation.

(2) Both plaintiff and defendant communicated that other leaders were included, shortly after the initial meeting, to discuss what took place and to help bring about proper understanding and responses.

(3) As the situation unfolded additional meetings and phone calls took place in order to reach a mutual agreement regarding what took place and necessary responses.

We believe that adequate efforts were made by the plaintiff and defendant to handle this situation though failure to involve the JRC earlier in the process contributed to difficulties, misunderstandings, and disagreements that might have been avoided.

c. Has the Panel properly followed the church's procedures in its actions to discipline Gene Emerson?

(1) The Panel reviewed the church's procedures in this action.

(2) Neither party has raised concerns to the Panel that it had not followed the church's procedures.

This Panel determined that it has properly followed the church's procedures in its actions to discipline Gene Emerson.

3. If a decision is made to discipline Gene Emerson, which form(s) of discipline should the Panel exercise?

- Private rebuke?
- Public rebuke?
- Removal from office and revocation of ordination?
- Excommunication?

This Panel has found the defendant guilty of the charges. We have decided that the following forms of discipline are necessary based on the facts we learned through testimony:

(1) **Public rebuke.** 1 Timothy 5:20, "As for those who persist in sin, rebuke them in the presence of all, so that the rest may stand in fear." Since Gene was an elder, sins of this nature require public rebuke. With respect to the requirement of "persisting in sin" our BCO rightly notes that there are some sins that are disqualifying and require public rebuke even when there is only one instance. "Therefore grounds for removal are patterns of sinful and impenitent behavior, not isolated events. *Exceptions to this include* behavior that is automatically disqualifying with a single occurrence (e.g., sexual immorality) (BCO 24.1). Additionally, as our summary of facts has shown, Gene continues to make false statements in order to cover up the true nature of his sin.

(2) **Removal from office and revocation of ordination.** Our guilty verdict requires removal from office and revocation of ordination. (See the following section for our decision not to provide detailed conditions, or a fixed date, for a restoration hearing at this time.)

(3) **Excommunication.** On the two charges that Gene has been found guilty of we do not see evidence of repentance. While he confesses many other sins that may have contributed to the sins he's charged with, ownership of having pursued illicit sexual involvement with a prostitute, and ownership of having deceived the elders and the church, have not been clearly confessed to date. Indeed, he denies having memory or knowledge of the nature of these actions and statements. Gene acknowledges that he has *effectively* solicited and that he *effectively* lied (that his actions and statements had those effects) but he denies knowledge or clarity about these events and therefore says he cannot own or confess the **intentional** nature of these charges.

Repentance from *sexual immorality of a criminal nature: propositioning a prostitute* - must include confession of having sought a prostitute, and having responded favorably to her offers of sexual activity for money.

Repentance from *lying to the elders and members of Kingsway Community Church* - must include a confession of having lied to the elders in order to cover up the sin of having sought out a prostitute and having lied to the church in order to cover up the nature of his sin in his public resignation.

We find that Gene's current repentance is insufficient to the charges he's been found guilty of because while he acknowledges other sins, he denies all intentionality relating to the sins he's been charged with.

Therefore the church needs to move forward with the process of excommunication. This would included offering the church an opportunity to appeal to Gene to repent. If, after an appropriate period of time for the church to appeal to him, Gene remains unrepentant, the elders should finalize the excommunication. Should Gene respond to the appeals, this Panel will reconvene in order to hear Gene's confession and evaluate whether his repentance meets the standards outlined in this decision.

A note on calling a member to repentance when he denies knowledge of his intentions with respect to the sins he is charged with.

Gene's claim of having no memory of the key indicting elements presented into evidence, that make the intentional nature of his sins clearest, makes it hard to hold him to standards of repentance that require him to confess intentionality in committing these sins.

Adding to this difficulty is the evidence this Panel heard, from both parties, that support a context of significant psychological distress, confusion, and spiritual darkness preceding and following his first sin of going to a prostitute. Such conditions do not excuse this behavior, but they can help to explain how someone with an exemplary moral history could fall into such a sin.*

Nevertheless, we believe the objective evidence indicates Gene's guilt, including his intentionality of sin, as described in the charges. The extent to which memory loss, confusion, and despair may have contributed to his actions, and to how much he can recall today, must be left for the Lord, Gene, and his counselors to process. Since we cannot discern the condition of Gene's mind speculating on what he knows or does not know is unwise.

The church, as they make their appeals to Gene, will need to wait upon the Lord to bring clarity to Gene's mind, and lead him into full repentance. It would be most helpful to those closest to him to focus on his current, ongoing, specific denials of his intentionality since these denials are objectively incompatible with his claim to have no memory of these key moments. Either he knows and remembers the facts, in order to make such definitive claims, or he does not remember them, and therefore cannot make definitive statements about what he did or did not desire, or what he did or did not intend to do. He cannot claim to have no memory of the key moments, yet also make absolute denials about his desires and intentions at those same key moments. Such denials are spurious at best, and are possibly evidence of willful self-deception. Such self-deception can cause him to continue to lie to others in an effort to deny the evidence against him.

We cannot know Gene's internal motives, we can only judge his outward actions and words. But if Gene claims to have no memory of where, for example, he found the ad for a massage, or if he denies that he had any sexual intention when entering the hotel that day, he is making definitive statements (denials) which, according to his own testimony, he cannot know to be true. At best he can only claim ignorance due to lack of memory. Helping Gene to avoid such definitive assertions and denials may help him recognize the objective nature of the evidence against him and to more fully own his actions.

To reiterate, we're not saying that his assertion--that he does not remember--is necessarily false. But we are saying that definitive exonerating statements cannot arise out of such ignorance, especially

when there is reliable evidence to the contrary. Doing so invites confusion and opens one to deception. Deceptions of this kind, even if grounded in spiritual, physical, and emotional causes, are harmful. Making, hearing, and believing such false statements not only harm Gene, but also those closest to him. Under these kinds of circumstances his closest friends should be helping him to scrutinize his statements and carefully discern when he is slipping into denials and affirmations when he has no clear memory. Under such mental fog they should help him hold fast to the clear evidence that is available.

Gene should recognize that these denials have a ripple effect that impacts the reputation of others. For example, believing his statements could lead those who hear them to mischaracterize a local judge. Additionally, in Gene's testimony, he began to discredit a police officer's report. Denials, against clear evidence, and denials of the testimony of others, when false, implicitly calls such testimony into question. It implicitly charges the one testifying with being a false witness. This does harm to the reputation of others and draws those who hear his denials into confusion.

**We would want to note that the cumulative testimony regarding Gene's life, by both parties, and all witnesses, is consistent in two important and pertinent areas: 1) Gene has no prior history of illicit sexual behavior whatsoever. 2) Gene was experiencing ongoing and increasing depression accompanied by decreasing mental acumen before and after his initial sin.*

Gene's wife testified that there have been no issues of sexual immorality in any way throughout the many years of their marriage. Matthew Williams also has communicated that to his knowledge the area of sexual immorality has never been called into question. There is no evidence, charge or testimony that would indicate that this event is not a singular occurrence.

4. Should this Panel decide to remove Gene Emerson as an ordained elder in Sovereign Grace and provide opportunity for him to apply for restoration as an elder again, what would be the specific requirements and time period to apply for restoration?

BCO 24.9.1 requires that this Panel provide a set of detailed conditions that the defendant can meet, within a specified time frame, in order to be considered for reinstatement. These conditions would form the sub issues for that future restoration hearing (see Rules of Procedure issue statement 41.17).

However, the BCO also gives this Panel discretion over the timing of such a hearing. In this case, given the nature of the sins, and the lack of repentance at this time, we cannot form such a list of conditions. One obvious prerequisite for such a list would start with repenting and being restored to

the church. We feel that setting a date, or listing detailed conditions at this time would be premature, arbitrary and potentially provocative to the church.

This decision does not preclude the defendant from exercising his right to request such a hearing. But we feel it is best to leave such a possibility to a future time, after repentance, and when, if possible, trust has been restored and Gene's public reputation has been healed.

We would also note the following reasons why this decision is in the best interest of the defendant.

(1) The immediate needs in his life include finding other employment to provide for his family financially.

(2) Gene needs to prioritize his mental, emotional and spiritual health in the months ahead without distractions regarding possible future pastoral reinstatement.

(3) Gene needs additional time to care for and receive care from his wife and family.

(4) Trust has been broken between Gene and those he has led within Kingsway Community Church. Could that trust ever be regained? It seems to us that, even with clear recognition and repentance, the time needed to regain their trust would take years rather than months, if it were to be sufficiently regained at all.

(5) Gene has damaged his reputation with outsiders due to his actions. Because of the public and scandalous nature of Gene's failures we question whether he could again fulfill the requirement of eldership to be "above reproach" and "well thought of by outsiders."

(6) Gene is not a young man. He is sixty years old. We think it is prudent for him to spend his remaining years faithfully serving the Lord where he is able rather than longing for something that may not occur. For these reasons, we do not believe reinstatement to pastoral ministry is a realistic possibility for Gene.

However, though we do not feel pastoral ministry is a realistic goal for Gene in the future, we do believe through repentance, restoration and redeployment, Gene can experience many more years of fruitful labor to the glory of God, for the good of others, and for the building of Christ's church. Historically, Gene has exhibited a deep love for God's church, and God's people. This has been lived out in many ways not only through his position as

an elder, but also through his love and care for those around him. In addition Gene has demonstrated significant gifts in administration, leadership, and hospitality along with abilities in other areas such as personal care and counseling.

While we recognize that the above recommendation is discouraging, the gospel gives very good news to all, even in difficult situations such as this. While restoration to position of pastoral ministry may not be possible, restoration to future productive service is not only possible but probable as he responds to the good news of the gospel. The great news of the gospel is that, for those who confess and repent of their sins, forgiveness is immediate and complete.

As one continues to respond and follow Christ, fruitful service is the natural outflow of the new life that is experienced. Our desire for Gene, and our expectation, is that, as he continues to respond to Christ in the years ahead, he will also experience many more years of effective service to the church and those around him. This is our hope. This is our prayer.

PROCESS FOR APPEAL

Within 30 days after receiving a copy of the decision, either party may request that the decision be reconsidered in an appeal. The procedures and rules for requesting a reconsideration of this decision can be found in the current *Book of Church Order for the Sovereign Grace Churches*, which states in part:

BCO-25.2.6: The Judicial Review Committee will serve as the original adjudicating body for the trial of an accused elder in the case where a local eldership is too small to adequately deal with the matter (cf.BCO-22.1.2). In such a case, the Sovereign Grace Court of Appeal would handle any further appeal.

BCO-24.11: Appeals. Either the plaintiff or the defendant may appeal the Panel's judgment to the Regional Judicial Review Committee within 30 days. The plaintiff or defendant may further appeal the decision of the Regional Judicial Review Committee to the Sovereign Grace Court of Appeal within 30 days.

BCO-26.2.1: In any case where the Regional Judicial Review Committee has assumed original jurisdiction and conducted a trial (see e.g. BCO-22.1.2), when not enough local elders are available to constitute a Panel, the Sovereign Grace Court of Appeal must hear the case if it is appealed. The Sovereign Grace Court of Appeals may not decline to hear the case.

This concludes the decision of this Panel.

Panel

Panel names:

Moderator **Stephen F. Teter** _____

Panel Member **Eric Holter** _____

Panel Member **Adam Campbell** _____