

## General Court of Appeals

### Notice of Appeal

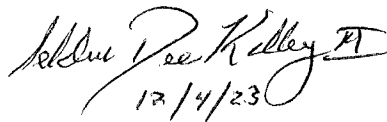
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Notice is hereby given that an appeal is taken from the decision on August 14, 2023, of the Regional Board of Discipline convened in San Diego, California, and the decision on November 20, 2023 of the Regional Court of Appeals convened via Zoom, in the case of Southern California District Advisory Board vs. Selden Dee Kelley III,

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Selden Dee Kelley III  
Appellant

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12/4/23

## Contents

### I. THE DECISIONS BEING APPEALED AND THE BASIS FOR APPEAL

### II. REGIONAL COURT OF APPEALS

#### A. The Inappropriately Limited Scope of the Issue Being Considered

#### B. The Inappropriately Limited Scope of the Appeals Hearing

##### 1. Inaccurate Representation of the DAB Regarding Appellant's Viewpoints & Essay

##### 2. Inaccurate Statements of the DAB Regarding DS Taylor's Statements & Allegant's Response

##### 3. Inaccurate Statements of the DAB Regarding Mediation, Reconciliation & Agreement

##### 4. Inaccurate Statements of the DAB Regarding Violations of Covenants & Vows

##### 5. Misrepresentation by the DAB of that which is Doctrine

##### 6. Miscellaneous Inaccuracies

#### C. A Question Asked at the Appeals Hearing

### III. THE AUTHORITY OF THE MANUAL

#### A. Conflict Resolution

#### B. Hearing Protocol

#### C. Court of Appeals

#### D. Doctrine

#### E. Superintendency

#### F. Disagreement Protected

### IV. CONCLUSION

## I. THE DECISIONS BEING APPEALED AND THE BASIS FOR APPEAL

This is an appeal of the decision by a Regional Board of Discipline, and a decision by a Regional Court of Appeals from a verdict of guilty against Selden Dee Kelley III.

The Southern California District Advisory Board charged Selden Dee Kelley III as follows:

Rev. Selden Dee Kelley III, in his published essay, “A Hope for Change” holds and teaches doctrine contrary to that of the Church of the Nazarene about human sexuality and marriage (Manual 606.1, Manual 31). He publicly advocates beliefs that are unorthodox (Manual 600) and out of harmony with the Church of the Nazarene’s doctrine, teaching, beliefs and practices.

The Regional Disciplinary Board found as follows:

Selden Dee Kelley III is found Guilty of the Charge and on that basis is required to surrender his credentials (Manual 538).

That decision was appealed on September 9, 2023. Subsequently the Regional Court of Appeals denied the appeal and found as follows:

We unanimously conclude that (i) there was no “substantial error prejudicial” to the right of the Appellant and (ii) “there was no error committed by any party that reasonably would affect the outcome” of the decision of the RBD. Even if we were to agree that there was an “error” committed in this process, given the pointed and narrow “issue” in this matter, we reject the arguments of the Appellant that any such error was “substantially prejudicial” to the Appellant or “would have reasonably affected the outcome” of the decision of the RBD. We find that (i) based on the evidence presented, the RBD’s conclusion that Appellant’s essay was “teaching” and that such “teaching” was “contrary to/out of harmony with” the “doctrine” of the Church of the Nazarene was a reasonable interpretation of those terms and, therefore, was not “substantial error,” (ii) notwithstanding the Appellant’s process arguments, the Appellant was not prevented from attempting to resolve this matter in an alternative manner up until the RBD issued its ruling, and (iii) the Appellant was given the opportunity to defend himself against the charge that was brought against him and to make his case for why such charge should be rejected. Accordingly, we affirm the decision of the RBD.

This appeal is based on the assertion that neither the District Advisory Board (DAB), the Regional Board of Discipline (RBD), nor the Regional Court of Appeals (RCA) have followed the Manual of the Church of the Nazarene in their process or decision making. Furthermore, the

result of not following the Manual produced errors that were substantially prejudicial to the appellant and errors that would have affected the outcome of the case.

In presenting this case I (the appellant) intend to show the ways in which the Regional Court of Appeals did not follow the Manual, the ways in which the Regional Board of Discipline did not follow the Manual and the ways in which the DAB did not follow the Manual. All of these constitute errors prejudicial to the appellant and merit a reversal of the verdict.

## II. REGIONAL COURT OF APPEALS

### A. The Inappropriately Limited Scope of the Issue Being Considered

In their 3-page verdict the RCA quoted Manual paragraph 607 as the mandate of their work. The portion emphasized by the RCA is as follows:

“...the court shall review the entire record of the case and all steps that have been taken therein. If the court discovers any substantial error prejudicial to the right of any person, it shall correct such error by ordering a new hearing to be conducted in a manner capable of giving relief to that person affected adversely by previous proceedings or decision.”

The RCA then quotes Judicial Manual J502 as the “Scope of Review.” The portion it emphasizes is,

“The Court of Appeals will evaluate whether error was committed by any party that reasonably would affect the outcome.”

The RCA then chooses to set aside the Manual mandate and establish their own parameters for review of the case. They decide that they will *only* consider the Charges leveled against the appellant, and the arguments related to those Charges. This they describe as the “issue.” That approach is a direct violation of the Manual. The scope is in the mandate of paragraph 607: The court shall review the entire record of the case and all steps taken therein. Thus the RCA chose to exclude errors of process or procedure. They chose to exclude errors that would have prevented a trial in the first place. They chose to exclude errors in following the Manual expectations concerning conflict resolution. They chose to exclude errors in evidentiary discovery. They chose to exclude errors in hearing procedures. They chose to exclude errors in definition of terms. They chose to exclude the right and privilege expressed in the Manual to disagree and seek change. They chose to exclude evidence of General Assembly records. They decided to limit their work, not to the prescribed scope described in the Manual, but to whether the essay under question was teaching, and whether that teaching was contrary to the doctrine of the church. In other words, the *way* they get to the conclusion they want doesn’t matter as long as they get to the conclusion they want. This strategy is essential to the verdict; otherwise the RCA would have to address the numerous and substantial errors in this case. This strategy cannot be upheld or endorsed because it undermines the entire system of judicial fairness.

Once again, Manual 607 states that "...the court shall review the entire record of the case and all steps that have been taken therein." The Manual rightfully cares about process and fair procedures, and requires due process. The RCA takes the same posture as the RBD, the DAB and the DS, that the only two questions to be answered are 1) did I write the essay? (which I admit), and 2) do I disagree with the Board of General Superintendents? (which I admit). All four entities contend that there is no need to consider the Manual mandate to precede all judicial action with efforts at reconciliation or agreement. No need to consider that the Manual indicates that judicial procedures are only acceptable after all other means have been exhausted. No need to consider the Manual statement that all matters of the Constitution can be changed. No need to consider the Articles of Faith regarding scripture and sin. No need to consider the Manuals' own distinction between doctrine and covenants. The RCA's explanation of its verdict appears to be a paraphrase of the false adage that the ends justify the means.

I realize that there are now four official bodies of the church, to whom I am accountable, to whom I have reported and all have asked that I be removed from ministry and any form of leadership (the DAB, the Investigative Committee, the RBD and the RCA). The message seems clear that disagreement with the church requires dismissal from the church. I am gratified that the local church does not feel that way. The local church longs for discussion, respects disagreement and engages in healthy dialogue. In order for them to engage this way, they must reject the culture's partisan competition and divisive rhetoric. They must cling to being united in lifting up Christ while respecting the diversity of thought on how to live out that calling. It's the local church that represents the body of Christ and I am grateful for the accountability I find there.

The Court of Appeals is charged with the task of upholding the integrity of the process. When they ignored errors, prejudicial actions and lack of due process, the RCA failed at their mandate, did violence to the Manual and undermined the confidence of many members of the general church in the fairness of the system. I agree that the *charges* against me concern my disagreement with the Board of General Superintendents (BGS) or the Manual. But the *case* is about how disagreement is handled by the church. There were hundreds of delegates at General Assembly, including the BGS, whose suggested changes to the Manual were rejected. My suggested changes have also been rejected. The delegates to General Assembly are rightfully applauded for their hard work. I have had my credentials removed. The Manual never suggests that the General Assembly is the only place for disagreement. Nor should this Court suggest it.

My appeal to the General Court is that you would rule in favor of fairness. That you would review the entire record of the case and all steps that have been taken therein. If the court discovers any substantial error prejudicial to the right of any person, it shall correct such error by ordering a new hearing to be conducted in a manner capable of giving relief to that person

affected adversely by previous proceedings or decision, or according to J502, reverse the finding of guilty.

### **B. The Inappropriately Limited Scope of the Appeals Hearing**

The DAB provided a 92-page response to my appeal to the RCA. In the response the DAB inserted new information that was not included in the hearing transcript or evidentiary materials. The oral presentation of each party at the Appeals hearing was limited to 10 minutes. So I had 10 minutes to both summarize my appeal and respond to the 92-page document of the DAB. (The DAB was then given 10 minutes, as well, to summarize their points.)

Because of the time limitation, I was not able to address the errors or contest the statements of the DAB, nor address the new “evidence” that was introduced. Since I am not under such constraints in this appeal, and because the accurateness of the record matters, I would like to address the DAB’s response to my appeal. Below is a listing of page numbers and lines in the DAB’s response to my Appeal to the RCA, followed by my argument or rebuttal. I contend that the lack of opportunity to address the new assertions and material presented by the DAB is an error worthy of reconsideration of the verdict of the RCA.

(Page numbers below represent the pagination of the DAB Response document)

#### **1. Inaccurate Representation by the DAB Regarding Appellant's Viewpoints & Essay**

The DAB misrepresents the appellant’s viewpoints, fabricates the appellant’s intent, and makes inaccurate statements about the essay. Here are several examples.

DAB statement (found on Page 2 / Lines 17-18 & Page 38 / Lines 31-32):

“Rev. Kelley states that he disagrees with the Church of the Nazarene’s teaching on human sexuality and marriage.”

Appellant Response: Not true. I assume the reference is to paragraph 31 of the Manual. My objection is to six words out of 19 paragraphs of the section on human sexuality. I agree with, and support, 98% of paragraph 31. I disagree with, but still abide by, this section. And I don’t believe disagreement on these six words meets the criteria for disciplinary action outlined in Manual 606.1.

DAB statement (found on Page 10 / Lines 35-37 & Page 31 / Lines 22-24):

“At the center of the call for dialogue is a call for approval to condone same-sex sexual intimacy... and for the freedom to solemnize and bless same-sex marriage ceremonies”.

Appellant Response: Not true. At the center of the call for dialogue is the desire that both sides of the dialogue be allowed to be stated. If both sides of the dialogue can't be stated, then it is not a dialogue. In the essay I state that "I disagree." I am not "calling" for anything other than the privilege to disagree in a civil and charitable way. The prosecution's case is that I, as an ordained elder, am not allowed to disagree with the Church I love and serve.

DAB statement (found on Page 11 / Lines 2-4 & Page 31 / Lines 39-41):

"Based on this evidence, it seems Rev. Kelley wrote and published "A Hope for Change" with the hope of changing this doctrinal stance of the Church of the Nazarene."

Appellant Response: Not true. What is left out of the quote is the criteria I state, which is that the church "make room for differing theological and interpretive approaches as long as those approaches exhibit Jesus' proclamation of love, holiness and justice." This is the boundary that keeps the discussion within our Articles of Faith, our doctrine, and allows us to disagree, and dialogue, on how we live out that doctrine.

DAB statement (found on Page 11 / Lines 8-10 & Page 32 / Lines 4-7):

"To the DAB, it was blatantly evident and tragically ironic that Rev. Kelley positioned himself as just such an authority through his attempts to use his pastoral and scholarly credentials to persuade..."

Appellant Response: I acknowledge that this is the DAB's opinion, but it is certainly not mine. I don't know that I am right and that those who disagree with me are wrong. I just find the arguments unpersuasive. So, no I am not an authority, in any way. But I have believed I was part of a church where it was okay to say "I find your arguments unpersuasive, and because of that, I believe we could collectively dig deeper." The call to dialogue is not because I think I have the answer, but because I think other viewpoints are worth considering. Parenthetically, the closing line in the essay that is referenced in lines 4-7 is, in part, a literary device to tie the conclusion to the introduction where I state that in today's "current climate, public discourse seems to be less about learning and more about winning." The real "tragic irony" is that a portion of my audience thinks my goal in the essay was to win an argument.

DAB statement (found on Page 57 / Lines 20-22):

"In his essay he teaches why his view should be embraced and why at minimum the Church should change and make room for himself and others to hold and practice this view."

Appellant Response: Not true. The essay is a call for dialogue and the hope that both sides of the dialogue be allowed to be stated. Again, if both sides of the dialogue can't be stated, then it is not a dialogue. In the essay I state that "I disagree." I am not "calling" for anything other than the privilege to disagree in a civil and charitable way. I hope that the church can "make room for differing theological and interpretive approaches as long as those approaches exhibit Jesus' proclamation of love, holiness and justice." This is the boundary that keeps the discussion within our Articles of Faith, our doctrine, and allows us to disagree and dialogue on how we live out that doctrine.

## **2. Inaccurate Statements of the DAB Regarding DS Taylor's Statements & Allegant's Response**

The DAB makes statements about DS Taylor's actions that have absolutely no basis in fact, and has provided zero evidence to support those false assertions. In addition, the DAB says things about the appellant that are simply not true, and has provided absolutely zero evidence to support such fabrication. Here are several examples.

DAB statement (found on Page 2 / Lines 37-39 & Page 39 / Lines 15-18):

"At the meeting DS Taylor raised the question of whether Rev. Kelley would consider removing the essay from publication, but Rev. Kelley was unwilling to pursue that option."

Appellant Response: Not true. Never during any meeting, in person, by phone or by text, did I turn down any offer of reconciliation, any offer of mediation, any offer of agreement, nor did I turn down any option that was offered to me other than the option of immediately surrendering my credential. The only two options ever offered to me were 1) surrender my credential immediately or 2) the judicial process will begin. Furthermore, absolutely no evidence has been introduced that this request was made.

DAB statement (found on Page 3 / Lines 24-30 & Page 40 / Lines 11-18):

"In response to DS Taylor's request to surrender his credential, Rev. Kelley asked what his other options were, besides attempting to pull the essay from publication or surrendering his credential. DS Taylor explained to Rev. Kelley the clergy discipline process prescribed by the Manual (Section 606-608.2). Rev. Kelley refused to take any steps towards withdrawing his essay from the book and he refused to surrender his credential. He rejected all mediation efforts by DS Taylor to come to an informal resolution (603.1)."

Appellant Response: Not true. I never asked what my other options were. I was never asked to pull the essay from the publication. DS Taylor DID explain the discipline process. However, I DID NOT refuse to take steps toward withdrawing my essay because I was never asked to do so. I did not reject ANY mediation efforts because none



were offered, and there is no evidence in the hearing transcript that mediation efforts were offered. The Advocate for the DAB cannot simply make up things and act as if they are facts. There is no evidence for this statement because it never happened.

DAB statement (found on Page 6 / Lines 23-24 & Page 43 / Lines 33-34):

“We had DS Taylor speak to Rev. Kelley a second and third time to request the voluntary surrender of his credential.”

Appellant Clarification: The DAB may have requested DS Taylor to ask a third time for the voluntary surrender of my credential, but I have no memory of that happening and have never been informed of the date of when it supposedly occurred. I memorialized in the hearing the two times DS Taylor asked for my credential; March 18 and 21, 2023. The third time we talked (by phone) was at my request. I was in an airport in Las Vegas and asked if he could tell me the timeline of the disciplinary process. He said he didn't know, but thought it would take 2 months. It was a brief conversation. This is also memorialized in the hearing transcript.

DAB statement (found on Page 6 / Lines 27-28 & Page 43 / Lines 38-39):

“When DS Taylor initially requested Rev. Kelley to pull the essay from publication, Rev. Kelley would not consider that option.”

Appellant Response: Not true. I was never requested to pull the essay from publication and I never refused doing so. Neither is there any evidence that indicates such a request was made. It's not true, no matter how many times the DAB Advocate states it.

DAB statement (found on Page 7 / Line 2 & Page 44 / Line 19-20 & Page 40 / Lines 32-34):

“Yet again, it appeared he was determined to go to trial.”

“The DAB believed that to publicize the matter, especially before the essay was published, would be to inadvertently cast a guilty vote on Rev. Kelley.”

Appellant Response: Not true. I wasn't determined to go to trial. The judicial process was the only option presented that allowed me to retain my credential. The DAB chose to press charges after the publication of the essay, having known about the essay before its publication, but did not seek reconciliation or agreement. It seems to me that the DAB was intent on going to trial, not me.

DAB statement (found on Page 39 / Lines 18-20 & Page 56 Lines 31-32):

“According to Rev. Kelley, the essay was in editor Tom Oord's hands, per Transcript 2:16:28, ‘and so we have to move forward.’ It was clear that Rev. Kelley was intent on going forward with the publication of his essay.”

“To quote Rev. Kelley’s testimony, ‘it’s now in Tom Oord’s hands, and so we have to move forward’ (Transcript 2:26:28).”

Appellant Response: Not true. The words, “the essay was in editor Tom Oord’s hands and so we have to move forward,” were spoken by DS Taylor, not by me. In the transcript I am quoting statements of DS Taylor that I reported to my wife immediately after my meeting with DS Taylor. So this has nothing to do with my intent.

DAB statement (found on Page 57 / Line 2):

“He never asked DS Taylor nor the DAB what he must do to avoid a hearing.”

Appellant Response: Not true. DS Taylor told me in the March 18th meeting that I could resign and surrender my credentials, and he would discuss with the church board a generous severance package, or the judicial process would begin and it would likely be messy. I had a clear choice that I could avoid a hearing (the judicial process) only by resigning. Furthermore, I was told that the offer of resignation was good for one day.

DAB statement (found on Page 57 / Lines 3-4):

“DS Taylor put forth two legitimate options and both were refused.”

Appellant Response: Not true. Where is the evidence that this happened? It doesn’t exist. I was presented the options of immediately surrendering my credentials or beginning the judiciary process. I want to keep my credentials so I chose the judiciary process.

DAB statement (found on Page 57 / Lines 9-11):

“One would reasonably expect that if Rev. Kelley sought to resolve this issue without going to trial, he would have reached out to DS Taylor or the DAB to discover what course of action he might take to avoid a trial.”

Appellant Response: Gross misrepresentation. I extended myself to three DAB members prior to the hearing, all of whom said they didn’t believe they were allowed, or should talk to me until after the judicial process was over. I reached out to the two presiding general superintendents (via email) for the possibility of another course of action and both said they had nothing to do with the process. I reached out to the General Secretary of the church (via email) and he also said he had nothing to do with the process. By their own admission in the DAB Appeal Response, the Accusers admitted that they did not pursue reconciliation or agreement.

### **3. Inaccurate Statements of the DAB Regarding Mediation, Reconciliation & Agreement**

The DAB creates a storyline of attempts by the DS or the DAB to engage in the process of conflict resolution prescribed by the Manual. The problem is that it is simply not true. The statements made have no foundation in fact, and there is no evidence presented in the hearing (or subsequently) that supports the DAB claims. Here are several examples.

DAB statement (found on Page 7 / Line 4 & Page 44 / Line 22):

“The DAB sought resolve with Rev. Kelley in informal ways prior to the trial...”

Appellant Response: There is no evidence that this happened, because it didn't happen. The prosecutor never lists what those “informal ways” might be.

DAB statement (found on Page 7 / Line 16 & Page 44 / Line 36):

“Some might argue that the DAB should have...”

Appellant Response: Irrelevant argument. The argument of the Defense is that those in conflict should seek reconciliation or resolution by agreement. Thus it is the District Superintendent who originally raised the issue, or the individuals who signed the Allegations, or the individuals who signed the Charges that should have sought reconciliation or agreement. I would assert that the DAB's role is simply to ensure this has taken place by the individuals who assert the conflict, which they did not do.

DAB statement (found on Page 7 / Line 32 & Page 45 / Line 7):

“The DAB prayed, waited, longed for Rev. Kelley to keep his ordination vow – to surrender his credential if he was not going to renounce his position. Rev. Kelley refused this option. The DAB prayed, waited, longed for Rev. Kelley to in some way walk back what he wrote. Instead, Rev. Kelley kept walking towards a hearing, never renouncing his position. What became evident to the DAB...”

Appellant Response: I don't understand. How did it become “evident” if I was never asked? Was I supposed to mystically discern that they were “praying, waiting and longing”? What kind of magical thinking is that?

DAB statement (found on Page 57 / Line 3):

“Mediation is a two-way street.”

Appellant Response: Mediation may be, but Reconciliation and Resolution by Agreement is to be initiated by those in conflict. I wasn't in conflict. I don't have anything against

my accusers. I don't want them to leave the district or the Church of the Nazarene. I have no charges against them. The DS and the accusers are the ones in conflict with me.

#### **4. Inaccurate Statements of the DAB Regarding Violations of Covenants & Vows**

The DAB contends that the appellant has transgressed the Covenants of the Church. Again, the statements are not true. This is a misrepresentation of the charges, and of the behavior and character of the appellant. Here are several examples.

DAB statement (found on Page 3 / Lines 5-7 & Page 39 / Lines 34-37):

“In their meeting on March 18, 2023, it was clear to DS Taylor that Rev. Kelley, via his soon-to-be-published essay, was transgressing against the Covenant of Christian Character and that Rev. Kelley should thus surrender his credential.”

Appellant Response: Not true. I have abided by the Covenant of Christian Character. I have never had same-sex relations. I have never performed a same-sex marriage ceremony. I have not inveighed against the church. I have tried to abide in hearty fellowship with the church. I am committed to its doctrines and usages and actively involved in its continuing witness and outreach.

Furthermore, Manual paragraph 26 says that “The provisions of this Constitution may be repealed or amended...” The essay I wrote implies that I believe that a provision of the Constitution should be repealed or amended. Until that happens I will continue to abide by the provisions of the Constitution. I am exercising my rights found within the Constitution, while adhering to the provisions and requirements of the Constitution.

DAB statement (found on Page 3 / Lines 9-10 & Page 39 / Lines 39-40):

“The second basis of the request for Rev. Kelley to surrender his credential was the ordination vow that all ministers in the Church of the Nazarene take at the time of their ordination.”

Appellant Response: I disagree with the assessment. In accordance with the ordination vow (lines 15-18), I believe I have conformed to the standards, doctrines, and government of said church. I do my best to support the church and its institutions. And, as I told DS Taylor, I would voluntarily surrender my credentials if I believed that this essay had violated my vow of membership in the church or my vow of ordination. But I don't believe that it does.

DAB statements (found on Page 56 / Lines 35-36):

“We likely will never know the precise words of that conversation, who said exactly what, and in what order.”

Appellant Response: No offer of reconciliation, mediation or agreement was made. DS Taylor, when asked at the hearing if he had sought agreement, didn't offer an answer adequate for the chairperson. So he was asked again if he offered a pathway of agreement. DS Taylor said he "ascertained" that Rev. Kelley was not open to agreement, but offered no explanation as to how he came to that conclusion. The prosecution has offered no evidence that any offer was made and thus has not met the burden of proof.

DAB statements (found on Page 79 / Lines 2-4):

"At his ordination the General Superintendent asked Rev. Kelley a question along the lines of, "If at some point in the future, you find yourself out of harmony with the church and its teachings, will you voluntarily surrender this credential?"

Appellant Response: I am not out of harmony. I have abided by the Covenant of Christian Character. I have never had same-sex relations. I have never performed a same-sex marriage ceremony. I have not inveighed against the church. I have tried to abide in hearty fellowship with the church. I am committed to its doctrines and usages and actively involved in its continuing witness and outreach.

##### **5. Misrepresentation by the DAB of that which is Doctrine**

DAB statement (found on Page 24 / Line 4-13):

The text provides an explanation of Resolution JUD 811 as quoted in the appeal - "...We value the idea of healthy discussion and debate in several theological concepts and understand the tension between providing room for dialogue and "promoting" doctrines out of harmony with the doctrinal statements of the Church of the Nazarene. (JUD-811 /page 5)"

This is followed by the DAB statement:

"This is irrelevant to the charge and the verdict as we are yet under the 2017-2021 Manual. Rev. Kelley was found guilty of teaching in his published essay that which is contrary to the doctrine of the Church. But even if this explanation of JUD-811 is allowed, let it be noted that a published teaching essay, such as Rev. Kelley's, is an act of promotion."

Appellant Response: Not true. Records of General Assembly are relevant because they are official Church proceedings that describe the importance of distinguishing between that which is "providing room for dialogue" and that which is "promoting doctrines." And the prosecution fails to make this distinction beyond a reasonable doubt.

DAB statement (found on Page 11 / Lines 17-19):

"The term "doctrine" is not to be narrowly restricted to the Articles of Faith. It is a broad term that includes what the Church of the Nazarene believes regarding living a holy life."

Appellant Response: I disagree for the reasons stated in the original appeal.

DAB statement (found on Page 12 / Lines 4-5 & Page 33 / Lines 9-10 & Page 66 / Lines 9-11):  
 “JUD 811a was not an appeal against the BGS Doctrinal Statement ruling, and thus the Doctrinal Statement ruling remains in effect.”

“The defeat of JUD-811a had no bearing on what the Church regards as doctrine. The March 29, 2023 BGS ruling (also referred to herein as the April 2023 Memorandum) was not appealed and overturned (318). Thus, the JUD-811a words that echoed the BGS ruling were superfluous.”

Appellant Response: Not true. JUD 811a was a specific appeal to make the BGS ruling part of the specific criteria for the judicial process. And it was voted down. That is absolutely relevant to this judicial process.

The text provides a statement about the essay in question. “The essay written by Rev. Kelley was not contrary to any doctrinal statements at the time the essay was written.” This is followed by a statement of the DAB (found on Page 75 / Lines 17-20):

“This statement is based on the very questionable assumption that prior to the March 29 BGS ruling Nazarene doctrine consisted only of the Articles of Faith.”

Appellant Response: The burden of proof is not on the defendant, it is on the prosecution. Here the prosecution admits that it is a “questionable assumption,” not a wrong assumption. The burden of proof has not been met “beyond a reasonable doubt.”

DAB statements (found on Page 75, line 38 to page 76, Line 2):

“It could be the BGS ruling arose because some Nazarenes were trying to improperly limit doctrine to the Articles of Faith in an effort to minimize the authority of the Covenants.”

Appellant Response: The phrase, “It could be” admits that the prosecutions assertion may not be true. And the burden of proof is not on the defense but on the prosecution.

DAB statements (found on Page 76 / Lines 9-12):

“Even if this argument is granted, the real issue is that Rev. Kelley continues to stand by what he wrote, knowing that the Covenants are indeed regarded as Church doctrine. The BGS ruling still stands, the Covenants are doctrine, and Rev. Kelley still stands by his essay. That is very problematic.”

Appellant Response: Resolution 811a would have included the BGS ruling in the judicial section of the Manual as it pertains to teaching contrary doctrine. The general assembly

voted it down. This is problematic for the prosecution as they try to prove that my disagreement with the BGS is prosecutable.

DAB statement (found on Page 76 / Lines 32-33):

“The issue is that Rev. Kelley knowingly now stands against the doctrine of the Church.”

Appellant Response: Not true. There are many reasons not to consider the statement on human sexuality as “doctrine.” The Manual itself distinguishes between doctrines in the Articles of Faith and statements like the one on human sexuality. In its language, the Manual separates “doctrine” from “practices,” “polity,” and the “Covenants.” For example:

- Paragraph 231.3: “...full acceptance of the doctrines, the Covenant of Christian Character and the Covenant of Christian Conduct, and the polity of the Church:...”
- Paragraph 28.1: “...the doctrines and covenants of the church may be known and...”
- Paragraphs 33, 113.11, 145, 146: “...the doctrines, polity, and practices of the Church of the Nazarene...”
- Forward: “...including doctrinal tenets of faith and time-tested standards of morality...”

This sample fits the longstanding practice of distinguishing doctrines from other concerns in the Manual.

## **6. Miscellaneous Inaccuracies**

DAB statement (found on Page 4 / Line 25 & Page 41 / Line 22-23):

“The complete lack of any form of censure on the part of SDFC and its church board...”

Appellant Response: Not true. The Advocate for the DAB makes assumptions and assertions that have no basis in fact, nor is there any evidence to support his repeated efforts to create a story line that isn’t true. The local church board put together a list of questions that required both written and verbal responses from Rev. Kelley (this list can be provided). In a meeting of all board members, every board member was given the opportunity to not only ask Rev. Kelley questions, but to censure as they saw fit.

DAB statement (found on Page 6 / Lines 35-36 & Page 44 / Lines 3-4):

“Rev. Kelley sought advice from editor Tom Oord, not DS Taylor. It appeared that Rev. Kelley was determined to go to trial.”

Appellant Response: Not true. I never sought advice from Tom Oord. I wasn't determined to go to trial. I chose to go to trial because that was the only option given to me other than immediately surrender my credentials.

DAB statement (found on Page 15 / Lines 15-30 & Page 86 / Lines 10-33): See text.

Appellant Response: I guess it's possible that overturning the verdict of the RBD *could* have cataclysmic, earth-shattering consequences as the prosecution contends. Far more likely is that reasonable minds would simply see it as an acknowledgement that due process was violated.

DAB statement (found on Page 46, Line 25 to Page 52, Line 4: These are the four letters from the elders who signed the Charges.

Appellant Response: I am grateful that these four took the time to clarify their intent. I trust them at their word. I did not intend to misrepresent their words to me and I acknowledge their desire that I no longer be part of the Church of the Nazarene.

DAB statements (found on Page 70, Line 35 to Page 71, Line 1):

"Furthermore, Rev. Kelley did respond to DS Taylor and attempted to rebut DS Taylor's answers to the Chair's questions."

Appellant Response: A rebuttal is very different from a cross-examination.

DAB statement (found on Page 82 / Lines 31-34):

"Furthermore, all those at General Assembly were following a prescribed process for bringing about change. Rev. Kelley departed from both the Church's doctrinal teaching and the Church's processes for change."

Appellant Response: Just to clarify, am I also being charged for not following a particular *process* for change?

DAB statement (found on Page 91, Line 40 to Page 92, Line 2):

"It is for these reasons that the Regional Board of Discipline found Rev. Kelley guilty of the charge and required the surrender of his credential. It is for these reasons that their verdict and prescribed discipline should be upheld."

Appellant Response: I don't know the reasons that the Regional Board of Discipline found me guilty. Neither does the DAB. Their reasons were not stated in their verdict.



So, it is pure speculation as to what those reasons might be. The purpose of the appeal is to determine if there is anything that was prejudicial in the judicial process toward either of the parties involved. After all of the prosecution's arguments, I hope it is clearly evident to the Appeals Board that the process was prejudicial against me.

- The prosecution provided no verifiable evidence of any effort on the part of the D.S., the DAB or the accusers to seek reconciliation.
- There is no evidence that the DS or DAB sought resolution by agreement.
- There was no presumption of innocence by the superintendency.
- There was no disclosure of all materials to the accused prior to the hearing.
- There was a failure in the hearing to make rulings on all objections.
- There was a failure to treat the DS and his testimony as that of a witness.
- There was a failure to meet the level of proof required by the Manual.
- The verdict requires an agreed upon definition of “doctrine” which was never proven beyond a reasonable doubt.
- And if the RBD based any of its verdict on the April 2023 BGS Memorandum, then it is a retroactive (ex post facto) ruling.

All of these, except for the last one, are explicitly required by the Manual. Any one of these should merit a concern for the injustice of the proceedings. Together they stand as a substantial argument to reverse the verdict of the Regional Board of Discipline and the Regional Court of Appeals.

As you can see, it was impossible for me to address all of these false statements, clarify all of the misrepresentations, and contest the assertion of items not found in evidence, in the 10 minutes allotted to me at the regional appeals hearing. This constraint, in itself, is a prejudicial error against me. The inability to defend myself against things that are not true is substantial enough to change the outcome of the verdict and to bring into question the fairness of the appeal verdict.

### **C. A Question Asked at the Appeals Hearing**

At the appeals hearing I stated that in regard to the subject matter of the essay in question, I simply disagree with six words regarding sexual immorality. I was asked what those six words are. They are words found in four paragraphs. They are “a woman and a man,” “defined,” and “same-sex.” Here is their context and the suggested language that I think better reflects our theology. Let me preface this list by stating again, that though I would like to see change, until

change happens, I am committed to abiding by the standards of the Covenants in the way I live. Furthermore, I contend that these sections of the Manual are not doctrinal issues. I further contend that they are incongruent with our Articles of Faith (i.e. our doctrine). And finally, it is important to note that these comments are not in the essay, and it is the essay, and the essay only, that is the basis for the charges and the subsequent verdict.

Manual p21.2: “By avoiding evil of every kind, including:...sexual immorality, such as premarital, extramarital or same-sex relations...”

*Suggested change: “...premarital, or extramarital relations...”*

Manual p31.5: “As defined in Genesis...”

*Suggested change: “As reflected in Genesis...”*

Manual p31.5: “A woman and a man publicly devote themselves to one another...”

*Suggested change: “Two people publicly devote themselves to one another...”*

Manual p31.8: “...for our sexuality to be lived out in the covenantal union between one woman and one man...”

*Suggested change: “...for our sexuality to be lived out in the covenantal union between two people...”*

Manual p31.9: “Because we believe that it is God’s intention for our sexuality to be lived out in the covenantal union between one woman and one man, we believe the practice of same-sex sexual intimacy is contrary to God’s will for human sexuality.”

*Suggested change: “Because we believe that it is God’s intention for our sexuality to be lived out in the covenantal union between two people, we believe the practice of pre-marital sexual intimacy is contrary to God’s will for human sexuality.”*

In my opinion, a far better approach than making a few editorial changes is to invite members of the Church of the Nazarene, who are part of the queer community, to have a voice in the process; “a seat at the table.” Let them teach us of the beautiful diversity of humanity. Let us learn of their perspective on God’s infinite love. Let us hear of their robust exegesis of scripture, their passion for Christ and their commitment to holiness. Let us listen and learn.

### III. THE AUTHORITY OF THE MANUAL

Generally speaking, the purpose of the appeals process is to determine if the law has been followed. In our church system, that which governs this case, the appeals process is to determine if the Manual and Judicial Manual have been followed, with the caveat that “the Manual is the

primary authority and should be followed” (J100). The Court of Appeals is charged with ensuring that the process is fair, the procedures outlined in the Manual are followed and that the rights of the participants are protected. Below are listed excerpts from the Manual and the Judicial Manual that have been violated. These violations constitute errors of a prejudicial nature and could all be reasonably assumed to affect the outcome of the trial, or, equally significant, have avoided a trial altogether.

#### **A. Conflict Resolution**

JM Note Page 3: “attempts at mediation should occur prior to moving into a formal process.”

Appellant Comments: There was no attempt at mediation and no evidence has been presented that shows there was.

JM Page 18: The Bill of Charges stipulates that the charges against a minister indicate that his or her conduct is “of such a serious character as to do violence to the laws, regulations and usages of our church in this respect.”

Appellant Comments: I am charged with writing an essay requesting dialogue on a difficult social issue. I state that I disagree with the BGS because I find their arguments unpersuasive. Making such a statement does not do violence to the laws, regulations and usages of the church.

The Manual outlines a process that is to be followed when there is a conflict in the church such as the one that led to this trial. The first step is stated in Manual paragraph 603.1. This is the “informal process.” It includes a period of discernment, a desire to live at peace, and prayer. That is followed by the following statement.

Manual p601.1: “Individuals in conflict should approach one another in humility with the hope of reconciliation.”

Appellant Comments: After the DS asked me to resign, he informed me that no allegations had been signed against me. From the time the DS asked me to resign (March 18) until I was informed that allegations had been made against me (May 19), nine weeks passed. I wasn’t in conflict, but apparently others were in conflict with me. The prosecution has stated that the DAB discerned, prayed and waited. The Manual instructs those in conflict to approach one another in humility with the hope of reconciliation. That didn’t happen. One accuser I had never met, and the other I had only interacted with at a few district functions. Neither one followed this step of the Manual. Nor did the DS or DAB require them to do so. I did not know they were in conflict with me until accusations had been filed and an Investigative Committee formed. I believe we could have avoided a trial all together if these two members of the clergy had followed the prescribed process of the Manual.

The next step outlined in the Manual is the “formal process,” the process of reconciliation. This is where the matter is arbitrated.

Manual p603.2: “The matter should be arbitrated with a representative group of mature and unbiased individuals in the church.”

Appellant Comments: The prosecution has stated that the DAB discerned, prayed and waited. The Manual instructs those in conflict to allow the matter to be arbitrated. That didn’t happen. The matter went directly to Formal Accusations and Investigative Committee. Neither accuser followed this step of the Manual. More importantly, neither the DS nor DAB required them to do so. Once again, I believe we could have avoided a trial all together if these two members of the clergy had followed the prescribed process of the Manual.

Next in the process of conflict resolution is the resolution of disciplinary matters by agreement. The Manual states that this step is not always possible, but it does state the following:

Manual p604: “In many situations, it is appropriate to resolve disciplinary matters by agreement. Efforts to resolve disciplinary matters by agreement are encouraged and should be pursued whenever practical.”

Appellant Comments: I contend that pursuing matters by agreement should have been pursued. I made myself available to 3 members of the DAB, all of whom said they shouldn’t or couldn’t talk with me until after the judicial process was over. I made contact with both jurisdictional general superintendents, both of whom said they had nothing to do with the disciplinary process. And I made contact with the General Secretary of the Church who said this was not within his area of responsibility. Conversely, neither the accusers, nor those who signed the formal charges ever reached out to me (by their own admission). Furthermore neither the DS nor the DAB required them to do so. According to the DAB’s response to my first appeal, the DAB was praying and waiting for me to repent. The Manual makes no statement that repentance is the prerequisite for a fair process.

## **B. Hearing Protocol**

J418 Page 14: “*Manual* paragraph 616.3 guarantees the right of the accused to confront and cross examine witnesses face-to-face, and this right must be upheld unless the accused consents to an alternate means of obtaining testimony.”

Appellant Comments: The trial hearing transcript shows that the DS functioned as a witness, not as a consultant, and the defense was not allowed to cross-examine. If his testimony is to be considered as evidence, then the Manual requires that he be placed under oath and that cross examination be allowed.

J418 Page 14: “The chairperson of the Board of Discipline shall rule on all objections, subject to appeal to the entire Board of Discipline.”

Appellant Comments: The trial hearing transcript shows that the chairperson did not rule on all objections. In its footnotes the RCA makes the strange ruling that the RBD was authorized to *not* rule on all objections because they were not bound by formal legal rules of evidence. So apparently the RBD and the RCA can pick and choose which portions of the Judicial Manual they are required to follow.

Manual p25.8: “All local churches, officers, ministers, and laypersons shall always have the right to a fair and orderly trial and the right to make an appeal.

Appellant Comments: The fairness of the trial is at issue here.

Manual p616: “The right to a fair and impartial hearing...”

Appellant Comments: I contend that I have been denied my right to a fair and impartial hearing, that there are errors that are prejudicial against me, errors that if corrected should certainly change the outcome of these proceedings. The evidence is clear that due process has been denied.

Manual p616: “...the prosecution shall have the burden of proving guilt to a moral certainty and beyond a reasonable doubt.”

Appellant Comments: This is the highest standard of proof. No verifiable evidence has been provided as to what is considered doctrine in our church Manual. In contrast the defense has provided verifiable evidence that is internal to the Manual itself. The Manual distinguishes between doctrine and Covenants. Additional evidence from the committee work at General Assembly has been provided that supports the assertion that there is no consistency across the denomination on what is considered doctrine. Until the ruling of the BGS has been upheld by the General Assembly, their ruling is simply an opinion because they are only given the authority to *interpret* that which is already doctrine, not *establish* what is doctrine. The burden of proof is on the prosecution, and they have failed to meet the burden of proof.

### **C. Court of Appeals**

J501 Page 16: “The issues reviewed by the Court of Appeals shall be limited to those issues raised by the appellant in the notice of appeal.”

Appellant Comments: The RCA chose to limit the “issues” to 1) was the essay “teaching,” and 2) if it was teaching, was it contrary to, or out of harmony with the doctrine of the Church of the Nazarene. In other words, they limited their review to the issues raised by the prosecution (DAB), not to the issues raised by the appellant as the

Judicial Manual requires. J501 states that they are to review the issues raised by the appellant, not simply the issues they choose to review.

J502 Page 16: “The Court of Appeals will evaluate whether error was committed by any party that reasonably would affect the outcome.”

Appellant Comments: The RCA did not deny that errors were committed. Instead they decided that the errors would not reasonably affect the outcome. I disagree and believe I show in this appeal how the errors would affect the outcome.

#### **D. Doctrine**

Manual p4: “We believe in the plenary inspiration of the Holy Scriptures...inerrantly revealing the will of God concerning us in all things necessary to our salvation...”

Appellant Comments: In accordance with this Article of Faith, I don’t believe that the issue of same-sex marriage is an issue of salvation, specifically when that marriage is founded on John 15:12-13.”

Manual p5.3: “We believe that actual or personal sin is a voluntary violation of a known law of God by a morally responsible person.”

Appellant Comments: I concur with this article of faith, but believe that what we currently know about scripture makes our prohibition of same-sex marriage unpersuasive when it comes to “a known law of God.” It is a particularly untenable position when a marriage is founded on John 15:12-13, Matt 22:37-40, John 13:34, I John 3:11, I Peter 3:8, etc.

Manual p5.3: “We believe that personal sin is primarily and essentially a violation of the law of love”.

Appellant Comments: If there is no violation of the law of love in the desire of two people to be married, then why should it be prohibited?

Manual p300: “The General Assembly is the supreme doctrine-formulating, lawmaking, and elective authority of the Church of the Nazarene, subject to the provisions of the Church Constitution.”

Appellant Comments: This current verdict appears to lean heavily on the April 2023 BGS Memorandum that declared the Covenants as essential “doctrines” of the Church of the Nazarene. In support of the BGS ruling, reference has been made by the DAB to the Manual, paragraph 318 which states that

“The Board of General Superintendents shall be the authority for interpretation of law and doctrine of the Church of the Nazarene, and meaning and force of provisions of the Manual, subject to an appeal to the General Assembly.”

The Manual is clear that the BGS is given the authority to *interpret* doctrine, not determine what *is* doctrine. Determination of doctrine is the role of the General Assembly. And the General Assembly has not yet determined that the Covenants are doctrine. The closest they have come to making a ruling took place this last general assembly when a resolution was voted on that would insert the language of the BGS memorandum into the judicial section of the Manual. The resolution was voted down. So there still remains no ruling from the General Assembly, which is the supreme doctrine-formulating authority, as to the relationship of Covenants to our doctrine. I contend that the April, 2023 BGS Memorandum was an unauthorized expansion of the BGS authority that is not acknowledged by the Manual, and so I disagreed with the BGS. My disagreement is both in their overreach of authority and in the actual decision they made. I also contend that the judicial process of the church is not authorized to give more authority to the BGS than is stated in the Manual. Only the General Assembly has the power to do that. Thus this verdict does violence to the Manual.

### **E. Superintendency**

Manual p22.2: “We are agreed on the necessity of a superintendency that shall complement and assist the local church in the fulfilling of its mission and objectives. The superintendency shall build morale, provide motivation...”

Appellant Comments: I implore you to ask the board of San Diego First Church if this process has accomplished any of that which is expected of the superintendency in Manual paragraph 22.2.

Manual p22.3: “We are agreed that authority given to superintendents shall not interfere with the independent action of a fully organized church. Each church shall enjoy the right to select its own pastor, subject to such approval as the General Assembly shall find wise to institute.”

Manual p25.8: “No local church shall be deprived of the right to call its pastor, subject to such approval as the General Assembly shall find wise to institute.”

Appellant Comments: I contend this matter should have been left with the local church to handle, with the superintendent providing guidance as needed.

### **F. Disagreement Protected**

Manual p26: “The provisions of this Constitution may be repealed or amended when concurred in by a two-thirds vote of the General Assembly members present and voting, and when ratified by not less than two-thirds of all the Phase 3 and Phase 2 district assemblies of the Church of the Nazarene.”

Manual p35: “The provisions of the Covenant of Christian Conduct may be repealed or amended when concurred in by a two-thirds vote of the members present and voting of a given General Assembly.”

Appellant Comments: According to the Manual, the provisions of its own Constitution are always subject to debate, revision, amendments or repeal. My essay asks for permission to participate in such debate. The current verdict deprives me of the privilege of participating in the very thing that paragraph 26 and 35 are intended to protect.

Manual p28.5: “Our leaders and pastors are expected to give strong emphasis in our periodicals and from our pulpits to such fundamental biblical truths as will develop the faculty of discrimination between the evil and the good.”

Appellant Comments: Manual paragraph 28.5 is at the heart of this particular case. The contention was made in my original appeal that the essay I wrote was not teaching. I certainly didn't think of it as teaching at the time I wrote it. However, the DAB made a very good case that writing an essay is a form of teaching. I think the RCA was reasonable in stating that they concurred with the DAB and the RBD that the essay was a form of teaching.

What all three entities got wrong, however, was what was being taught. The purpose of the essay was to encourage dialogue, to engage in critical thinking, to “develop the faculty of discrimination between the evil and the good.” Teaching rules and regulations is important as a child, but critical thinking and radical love is what we teach adults. It is disingenuous to simply state, as I have heard two generals superintendents state, that we have settled on our position regarding same-sex marriage, and now all we have to work on is our posture. That's simply a fancy paraphrase of the horrible expression, we must love the sinner and hate the sin. No person that I know of has EVER felt loved by that statement. It comes across as arrogant, demeaning and condescending.

The creation of a “litmus test” for Christianity that is anything other than the commandment to love, is counter to the Good News of Jesus Christ. What I teach in my essay is exactly what I am admonished to teach in Manual p28.5 which is the fundamental biblical truths that develop the faculty of discrimination. I don't ask anyone to agree with my conclusion that the General Superintendent memorandum is too prescriptive, but rather I invite everyone to engage in the dialogue and conversation regarding a theology of love and then trust that the Holy Spirit will lead people in the way they should go. What I did is part of my calling as a minister and leader in the church as articulated in the Manual. If what I did is also grounds for dismissal from the church, then something is wrong with the Manual.



#### IV. CONCLUSION

In summary, here are some key substantial issues that merit a reconsideration of the verdict.

1. Appellant has not been afforded due process.
  - a. There was no effort made toward the informal process of reconciliation, or the formal process of arbitration or agreement by those who filed allegations or those who filed charges. And neither the DS nor DAB required those individuals to do so (JM page 3, Manual paragraphs 603.1, 603.2 and 604).
  - b. The hearing did not comply with the stipulations of the Judicial Manual 418 page 14 and Manual paragraphs 25.8 and 616.
2. The Regional Court of Appeals did not follow their Manual mandate.
  - a. The RCA limited the scope of their work and were not in compliance with Judicial Manual 501 and 502.
  - b. The conclusion of the RCA and RBD that the essay dealt with “doctrine” was not founded on evidence, but on a BGS Memorandum that came out after the essay was published, regarding a ruling that is not supported by the Manual (paragraphs 300 and 318). In contrast the appellant has provided actual evidence that the Manual itself distinguishes between doctrine and covenants (paragraphs 231.3, 28.1, 33, 113.11 and Forward) and evidence from General Assembly resolution 811A that there is inconsistency across the denomination on defining what is doctrine. Thus the burden of proof has not been met.
3. And finally, the principles that disagreement is protected by the Manual (paragraphs 26 and 35), and teaching critical thinking (which is what the appellant was teaching in the essay) is encouraged by the Manual (paragraph 28.5).

I wrote an essay that I believe was born out of a desire to follow the lordship and leadership of Jesus. The statements contained within it are my attempt (subject to my very limited human understanding) to reflect the Kingdom of God and its preeminent principle of love.

The point of my essay was not that I am right and others are wrong. Not at all. I simply contend that the arguments regarding same-sex marriage are unpersuasive. I think our position as a church is inconsistent with our Articles of Faith and I believe further dialogue would help us better reflect God's Kingdom. I'm not asking for my credential because I think I know the right answer. I simply believe our current church answers are inadequate. If I was teaching anything in the essay, it was a call to dialogue and critical thinking. What is surprising is that I am being called to account for the one thing I said in the essay I wasn't attempting to do; get people to agree with my stance. That *could* happen when we have dialogue, but apparently we can't even have dialogue for fear that someone might change their perspective.

I have abided by our Covenants. I believe in our doctrine. And I want the best for our church. I know there are concerns about our future, but we can't be divided by divisive thinking. We are united in Christ. The lack of our uniformity is part of what makes us great. The places where we differ lead to greater conversation and a more robust posture.

The DAB has contended that if a candidate in the credentialing process said in an interview what I said in my essay, the interview would be over and the candidate dismissed. The DAB then asserted that I should be dismissed in a similar manner. I contend the opposite. We should review the interview protocol and reward candidates for critical thinking. That is what they are taught in the classroom of our educational institutions (thanks be to God), and we should celebrate that very thing in the credentialing process. We need more robust exegesis. We need more courage. We need more grace. And we need more love. And we have a wonderful theology of love, built upon the infilling of the Holy Spirit. And we've got a world to love. Oh how I wish that they would know we are Christians by our love. Instead I think they have come to know we are Christians by our judgments. May God help us reclaim the moniker of being people of extravagant, radical, transforming love.

For these reasons, and all the arguments provided in this appeal, I ask that you accept my appeal and reverse the verdict.

  
Selden Dee Kelley III