

1 **OVERTURE 21** from Central Indiana Presbytery (to CCB, OC)  
2 “Change the Prohibition Against ‘Interlocutory Appeal’ by Complaint in *BCO* 43-1”  
3

4 **Resolved** that the *Book of Church Order (BCO)* 43 be amended as follows (deletions are  
5 denoted throughout by ~~strikethroughs~~, additions are underlined):  
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7 “**43-1.** A complaint is a written representation made against some act or decision of a court of  
8 the Church. It is the right of any communing member of the Church in good standing to make  
9 complaint against any action of a court to whose jurisdiction he is subject, except that no  
10 complaint is allowable in a judicial case ~~in which an appeal is pending~~ after process has  
11 commenced. If a complaint is filed after process has commenced, adjudication shall be  
12 delayed until after the judicial case has been completed, or, if an appeal is filed, after it has  
13 been fully adjudicated or withdrawn.”  
14

15 so that the final text would read:

16  
17 “**43-1.** A complaint is a written representation made against some act or decision of a court of  
18 the Church. It is the right of any communing member of the Church in good standing to make  
19 complaint against any action of a court to whose jurisdiction he is subject, except that no  
20 complaint is allowable in a judicial case after process has commenced. If a complaint is filed  
21 after process has commenced, adjudication shall be delayed until after the judicial case has  
22 been completed, or, if an appeal is filed, after it has been fully adjudicated or withdrawn.”  
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## 24 **RATIONALE**

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26 The SJC noted in a recent decision that lack of clarity within the *BCO* can create “procedural  
27 confusion:”  
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29 . . . procedural confusion has come from allowing people to file *BCO* 43-1 complaints  
30 against some aspect of the judicial process *after* the court has found a strong  
31 presumption of guilt, and thus, after process has commenced. Allowing and  
32 adjudicating such pre-trial *BCO* 43-1 complaints could significantly delay a trial,  
33 especially if adjudication of each complaint needs to wait for the next meeting of  
34 presbytery, or wait for an SJC decision. For example, an accused person might seek to  
35 file complaints against:  
36

- 37 1. the investigative procedures (as in this Case)
- 38 2. the appointment of a particular prosecutor
- 39 3. the wording of the indictment
- 40 4. the appointment of a particular member of the trial commission
- 41 5. the date of the trial
- 42 6. any pre-trial rulings of the trial court (allowable defense counsel, witness  
43 citations, length of briefs, scheduled length of trial, length of closing  
44 arguments, etc.)  
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1           Allowing such pre-trial *BCO* 43-1 complaints could also ping-pong matters  
2 indefinitely. For example, an accused person might file a *BCO* 43-1 complaint against  
3 the appointment of a particular prosecutor. If Presbytery sustains it, then some other  
4 presbyter might file a *BCO* 43-1 complaint against that decision. And either of those  
5 complainants might take their complaint to the SJC. Theoretically, the matter might  
6 never get to trial if objections are handled as *BCO* 43-1 complaints rather than as  
7 objections the trial court addresses via *BCO* 32-14. (Case 2021-06, *M49GA*, p. 975).  
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9           This codifies this and previous SJC interpretations (Case 2013-03: Complaint of G. Rick  
10 Marshall vs. Pacific Presbytery. *M42GA*, p. 548); Case 2015-04: *Thompson v. S. FL*, *M44GA*,  
11 p. 515) that there is no provision for “appeal by complaint” when a case is actively being  
12 adjudicated. This proposal adopts a version of the recommendation from a concurring opinion  
13 in SJC Case 2021-06 on this matter.  
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15           *Adopted by Central Indiana Presbytery on February 9, 2024*

16           *Attested by /s/ TE Taylor Bradbury, Stated Clerk*