

1 **OVERTURE 15** from the Southwest Florida Presbytery (to CCB, OC)
2 “Amend *BCO* 42-4 and 43-3 to Clarify the Deadline for Filings”
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4 **Summary:** The current rules are ambiguous concerning the time for filing an appeal or
5 complaint has lapsed. This proposal will simplify the question, both for parties and for
6 reviewing courts, by implementing a simple change, namely requiring courts to provide their
7 decision in writing to an affected person delivered in a prescribed mode. This change is apt to
8 both preserve the rights of parties and ease the burden of the courts.
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10 **Be it resolved** that *BCO* 42-4 and 43-3 be amended as follows (underlining for additions;
11 ~~striketrough~~ for deletions):
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13 **42-4.** Notice of appeal may be given the court before its adjournment. Written notice
14 of appeal, with supporting reasons, shall be filed by the appellant with both the clerk
15 of the lower court and the clerk of the higher court, within thirty (30) days of written
16 notification of the last court’s decision.
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18 Notification of the last court’s decision ~~shall be deemed to have occurred~~ occurs on
19 the day of mailing (if certified, registered or express mail of a national postal service
20 or any private service where verifying receipt is utilized), the day of hand delivery, or
21 the day of confirmed receipt in the case of e-mail or facsimile. Furthermore,
22 compliance with such requirements shall be deemed to have been fulfilled if a party
23 cannot be located after diligent inquiry or if a party refuses to accept delivery. No
24 attempt should be made to circularize the courts to which appeal is being made by
25 either party before the case is heard.
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27 **43-3.** If, after considering a complaint, the court alleged to be delinquent or in error is
28 of the opinion that it has not erred, and denies the complaint, the complainant may take
29 that complaint to the next higher court. If the lower court fails to consider the
30 complaint against it by or at its next stated meeting, provided that the complaint has
31 been filed with the clerk at least ten (10) days in advance, the complainant may take
32 that complaint to the next higher court. If the complaint is filed with less than ten (10)
33 days’ notice, the court may consider the complaint at a later meeting not more than 60
34 days later. Written notice thereof shall be filed with both the clerk of the lower court
35 and the clerk of the higher court within thirty (30) days of written notification of the
36 last court’s decision.
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38 Notification of the last court’s decision ~~shall be deemed to have occurred~~ occurs on
39 the day of mailing (if certified, registered or express mail of a national postal service
40 or any private service where verifying receipt is utilized), the day of hand delivery, or
41 the day of confirmed receipt in the case of e-mail or facsimile. Furthermore,
42 compliance with such requirements shall be deemed to have been fulfilled if a party
43 cannot be located after diligent inquiry or if a party refuses to accept delivery.
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1 **RATIONALE:**

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3 The existing language of *BCO* 42-4 is confusing, especially for unrepresented censured
4 individuals unfamiliar with Presbyterian polity. Navigating procedural complexities is
5 difficult, particularly in understanding the timing and process for appealing a censure. The
6 proposal aims to impose minimal burdens on church courts by requiring them to provide
7 censured persons with written notification of their decisions. We can see a recent example of
8 this in the case of *Paul Gozé v. Hills and Plains Presbytery* (SJC 2024-10) reported to the 52nd
9 General Assembly.

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11 Historically, the appeal period was measured from the court’s “rising” or adjournment—
12 meaning the conclusion of the court meeting. From 1973 to 1987, the time to file an appeal
13 increased gradually from a few days to thirty days based on the court’s meeting date. This
14 meant that for censures imposed in absentia, the appeal period could begin without the
15 censured person’s knowledge.

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17 In 2013, the General Assembly changed this by adopting a new standard: the appeal period
18 now begins upon “notification of the last court’s decision,” shifting from the date of the
19 meeting to this new standard, broadly following Pacific Northwest Presbytery’s overture
20 proposing that the 30-day clock start only when a person receives a copy of the court’s
21 decision, delivered by certified mail, hand delivery, or verified electronic means. Pacific
22 Northwest’s rationale was to provide a clear “bright line” marking when the appeal period
23 begins—protecting appellants who otherwise might be unaware of the decision.

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25 Yet, contrary to its original intent, the adoption and later interpretation of “notification” has
26 since caused confusion. Some interpret the in-person pronouncement of censure itself as
27 sufficient “notification” to trigger the 30-day appeal period, relieving the court of providing a
28 written decision of censure. Others believe that the appeal period does not begin until written
29 notice is provided. This ambiguity risks unrepresented persons unintentionally losing their
30 appeal rights and introduces unnecessary ambiguity into the higher courts’ evaluation of
31 timeliness.

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33 Policy considerations favor expressly requiring written notification. Trials and censures cause
34 stress and confusion; relying solely on oral pronouncements risks unfair forfeiture due to
35 misunderstandings. Courts’ failure to put decisions into writing increases the risk of
36 miscommunication or misapprehension.

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38 The burden of strict compliance with written notification rightly rests on a censuring court
39 because censures terminate individuals’ rights and privileges within the Church. The current
40 ambiguous language undermines the 2013 amendment’s purpose to create a clear starting
41 point for counting the thirty days for appeals. For example, if a verdict is delivered in writing
42 but the oral censure happens later, which marks the start of the appeal period? This confusion
43 obfuscates the intended “bright line.”

1 The proposed change would better protect individuals' rights, uphold graded ecclesiastical
2 review, and improve clarity about when appeal rights expire. It places reasonable
3 responsibility on church courts to reduce their decisions to writing and to deliver those
4 decisions via approved methods. This avoids confusion, mitigates risk of lost rights by mistake
5 or misunderstanding, and streamlines the higher courts' ability to assess the timeliness of
6 appeals.

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8 In sum, requiring timely and proper written notification advances fairness, accountability, and
9 transparency in church disciplinary appeals, especially benefiting those without legal
10 representation.

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13 *Adopted by the Southwest Florida Presbytery at its stated meeting, November 11, 2025*

14 *Attested by /s/ TE Freddy Fritz, Stated Clerk*