

1 **OVERTURE 54** from the Hills and Plains Presbytery (to CCB, OC)
2 “Amend *BCO* 42-2 to Clarify that a Person Judged Contumacious has the Right of
3 Complaint Not Appeal”
4

5 **Be it resolved** that *BCO* 42-2 be amended as follows (underlining for additions, ~~strikethrough~~
6 for deletions):
7

8 **42-2.** The only parties entitled to an appeal are those who have submitted to a regular
9 trial, those appealing a censure in a *BCO* 38-1 case without process, and those
10 appealing a *BCO* 34-10 divestiture without censure. If the court has dealt with the party
11 as contumacious, the party may not appeal but may complain against the court.
12

13 So that the amended passage would read:
14

15 **42-2.** The only parties entitled to an appeal are those who have submitted to a regular
16 trial, those appealing a censure in a *BCO* 38-1 case without process, and those
17 appealing a *BCO* 34-10 divestiture without censure. If the court has dealt with the party
18 as contumacious, the party may not appeal but may complain against the court.
19

20 **RATIONALE:**

21 This addition to the Rules of Discipline is necessary, beneficial, and good.
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23 In a recent case, an initial panel of the Standing Judicial Commission was assigned a *BCO* 43
24 complaint from an accused whose Session found him contumacious. The accused complained
25 to the Session first, then raised the complaint to the Presbytery, and ultimately to the General
26 Assembly. The SJC panel, however, in an unprecedented action in the history of the SJC,
27 interpreted the complaint as a *BCO* 42 appeal and reheard the case, though no formal judgment
28 (*BCO* 32-15) was ever made on the original indictment. This addition is necessary to clarify
29 that an entire case cannot be reheard by an appellate court if the trial has not been completed
30 in the court of original jurisdiction, due to the original court’s determination that the accused
31 has been contumacious (*BCO* 32-6 and 34-3).
32

33 It is beneficial because it clarifies the narrow definition of an appeal found in *BCO* 42-1: “the
34 transfer to a higher court of a judicial case on which judgment has been rendered in a lower
35 court...” in harmony with the explanation of “judgment” at the end of a trial in *BCO* 32-15,
36 while still preserving the right of the accused to demonstrate to an appellate court that the
37 court of original jurisdiction erred in its finding of contumacy. It preserves the right and
38 responsibility of courts of first resort to maintain order during a trial, and if an appellate court
39 deems its determination of contumacy to be unfounded, to continue the trial as the court of
40 original jurisdiction without having the case removed from them. It also preserves the
41 grassroots nature and graded court system of our ecclesiology by preventing a higher court
42 from reinterpreting and retrying a case in which lower courts have not had the opportunity to
43 fulfill their duties of exercising discipline and oversight.
44

1 Finally, the proposed change is good because it is simple and clear, and in keeping with the
2 best historical interpretation of our Rules of Discipline. It will serve to clarify our rules and
3 preserve the peace and purity of the PCA.

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6 *Adopted by the Hills and Plains Presbytery at its stated meeting, February 10, 2026*

7 *Attested by TE Aaron Raines, Stated Clerk*