

1 SUBJECT TO FINAL EDITING

2
3 **THE JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH**

4
5 **MEMORANDUM 1448**

6 (Docket 0552-1)

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8 In Re: Question concerning the legality of an Annual Conference Resolution which declares that the
9 Bulgaria-Romania Provisional Annual Conference, part of the Central and Southern Europe
10 Central Conference, “withdraws from and severs all ties, legal or otherwise, with The United
11 Methodist Church as of 1 May 2022 and immediately becomes an annual conference of the
12 Global Methodist Church This resolution is not made on the basis of ¶ 572 of the Discipline
13 of The United Methodist Church.”

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16 **STATEMENT OF FACTS**

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18 At the April 1, 2022 session of the Bulgaria-Romania Provisional Annual Conference, the
19 presiding bishop announced that the first item of business on the agenda was a resolution for the Annual
20 Conference to leave the United Methodist Church. The resolution was read by a district superintendent
21 who was one of its proponents.

22
23 The bishop then responded as follows:

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25 The resolution that is under consideration has been brought before the Annual
26 Conference of the United Methodist Church. As such, we are under the jurisdiction of the
27 Discipline of the United Methodist Church. In the discussions that were had prior to this
28 session after I received this resolution, I shared with your superintendents that I do not
29 see a legal basis in the Discipline for the acceptance of such a resolution. I shared with
30 them that the only legal grounds that I see for an Annual Conference to leave the United
31 Methodist Church are found in Article 572 of the Discipline. This is the only legal
32 possibility for leaving the United Methodist Church. And because this is the only option,
33 I have to rule that this decision is out of order.

34
35 When a bishop determines that something is out of order because it is a violation
36 of the Discipline, it cannot be considered by the Annual Conference. Then those who
37 have submitted such a resolution have the right and opportunity to declare on what
38 grounds they have brought their resolution. **Then it becomes a question of law. I**
39 **declare this resolution to be out of order because it violates the Discipline.** You are
40 free to challenge it and say on what grounds you oppose it. (Meeting Minutes, 01 April
41 2022; emphasis added)

42
43 After a motion to appeal the bishop’s ruling and a second, discussion continued among the
44 delegates and the bishop as to whether his ruling was “parliamentary” and could thus be overridden by
45 the body. No less than six times during this discussion, the bishop stated that the question of voting on
46 the withdrawal resolution was a question of law. However, he went ahead and let them vote to “refute”
47 his out of order ruling and proceed with the resolution of withdrawal. The vote was 35 for and zero
48 against.

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50 After stating that he would report the question of voting on the withdrawal resolution to the
51 Judicial Council, the bishop removed himself as presiding officer. The delegates then voted to approve
52 confirmation of the election of a temporary president, and proceeded to elect one of the district
53 superintendents as the temporary chair.

54
55 The temporary chair stated that we have a basis on which to vote on withdrawal citing JCD 1366.
56 After considerable additional discussion, he called for a vote on the withdrawal resolution which was
57 adopted 35 for, and zero against. [The action taken here preceded our decision in JCD 1444.]

58
59 The district superintendent stepped aside as presiding officer; the bishop returned to his place at
60 the table, and after a coffee break, continued the work of the Annual Conference.

61
62 On April 8, 2022, the bishop issued his ruling on a question of law which he framed as follows:

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64 The resolutions submitted for voting at the Provisional Annual Conference are all
65 premised on whether there is authority in the *Book of Discipline* for such actions. These
66 are not parliamentary questions. Notwithstanding that the maker of the motion to adopt
67 the resolutions sought to avoid asking any question of law, the resolutions presented
68 questions of law under the *Discipline* within the meaning of Paragraph 51 of the 2016
69 *Book of Discipline*, and I am obligated to issue a ruling on such questions pursuant to
70 Paragraph 51 regardless of whether a formal request for a decision of law is made,
71 particularly in the context of a proposed separation of the annual conference from the
72 UMC. Therefore, I state the questions of law as follows:

73
74 (1) May an annual conference – or a provisional annual conference – in a central
75 conference of the United Methodist Church separate from the UMC if it has not complied
76 with Paragraph 572?

77
78 (2) Do Paragraph 33 and Decision 1366 authorize an annual conference – or a provisional
79 annual conference – in a central conference to separate from the UMC other than by
80 complying with Paragraph 572 if the General Conference has not enacted any legislation
81 to prescribe the process and requirements for the separation?

82
83 (3) May an annual conference – or a provisional annual conference – continue any
84 consideration of these matters and elect a new chairperson for voting on these matters
85 before a decision of law is reviewed by the Judicial Council?

86
87 The Bishop then framed his rulings as follows:

88
89 (1) I rule that an annual conference – or a provisional annual conference – in a central
90 conference does not have authority to separate from the United Methodist Church unless
91 it complies with Paragraph 572 of the 2016 *Book of Discipline*. Here, the Provisional
92 Annual Conference Bulgaria – Romania has not complied with Paragraph 572 and the
93 resolution to separate, and all other actions taken pursuant to that resolution were out of
94 order as unauthorized and are void and of no force or effect.

95
96 (2) I further rule that Paragraph 33 of the 2016 Book of Discipline and Decision 1366 do
97 not authorize an annual conference to separate from the UMC other than by complying
98 with Paragraph 572. **Even if Paragraph 33 as interpreted by Decision 1366 were to**

99 **provide some general authority for an annual conference of the UMC to separate**
100 **from the denomination, that authority may only be exercised to effectuate a**
101 **separation pursuant to legislation enacted by the General Conference that sets forth**
102 **the process and requirements for separation.** Since the General Conference has not
103 enacted that legislation – except paragraph 572 –, there is not authority for the actions
104 taken regarding separation and related matters by the Provisional Annual Conference
105 Bulgaria – — Romania and those actions were out of order as unauthorized and are void
106 and of no force or effect.

107
108 (3) Because the annual conference had no authority to enact the resolution to separate and
109 any other actions related to separation thereafter, I further rule that it was out of order to
110 continue any consideration of these matters after my ruling a decision of law and until
111 such decision of law is reviewed by the Judicial Council. Pursuant to Paragraph 51, my
112 episcopal ruling was authoritative for that annual conference subject to review by the
113 Judicial Council The action of the annual conference was contrary to the order of
114 Paragraph 51 and any further consideration of the matters was therefore also contrary to
115 the order of the Discipline. The delegates had no authority to elect another presiding
116 officer nor to continue consideration of the unauthorized matters.

117 118 119 **DIGEST**

120
121 The Judicial Council lacks jurisdiction. The Judicial Council’s jurisdiction is limited to those
122 provisions contained in ¶ 2609 and ¶ 2610 of the 2016 *Book of Discipline* and may only rule pursuant to
123 those paragraphs. Here, there was no question of law properly and duly submitted to the presiding
124 Bishop upon which he could issue a ruling of law, nor was there a request for a declaratory decision that
125 was adopted by the Annual Conference. As such, the submission is not properly before us.

126
127 August 22, 2022

128 129 130 131 **Concurring Opinion**

132
133 The doctrine *stare decisis* (“let the decision stand”) holds that courts should look to past decisions for
134 guidance and answer questions of law in accordance with precedent. Consequently, when the Judicial
135 Council decides an issue, the ruling sets precedent for future cases presenting identical or similar
136 questions. *See* ¶ 2611. *Stare decisis* requires here that the Judicial Council adhere to its long-standing
137 jurisprudence by holding that “there was no question of law properly and duly submitted to the presiding
138 Bishop upon which he could issue a ruling of law” at the session of the Bulgaria-Albania Provisional
139 Annual Conference. JCD 799, *aff’d*, JCD 867, 927, 1372, 1434. It is *stare decisis* that compels us to join
140 the majority opinion.

141
142 That being said, we are deeply troubled by the actions of said annual conference, which, in our
143 view, are nothing short of a blatant circumvention of Church law, particularly JCD 1444, in which the
144 Judicial Council emphatically stated:

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Decision 1366 cannot be construed as creating a self-executing right for an annual conference to separate because the Judicial Council has no legislative authority. There is no basis in Church law for any annual conference to adopt stopgap policies, pass resolutions, take a vote, or act unilaterally for the purpose of removing itself from The United Methodist Church. Absent General Conference legislation, any vote and actions taken by an annual conference to separate are unconstitutional, null and void, and of no legal force or effect.

There was no doubt in our mind that the members and leaders of that conference knew exactly what they were doing. They deliberately sought to avoid raising a question of law to prevent the merits of the case from being adjudicated by the Judicial Council on ‘jurisdictional grounds.’ Their strategy was to use a legal technicality to engineer an outcome they could not have accomplished otherwise. We are equally concerned that this could inspire copycats in the future.

In passing, we also note that Bishop Patrick Streiff could have invoked ¶ 2609.4, which would have allowed the Judicial Council to “hear and determine the legality of any action taken by...any body created or authorized by a jurisdictional or central conference, upon appeal by...a majority of the bishops of the jurisdictional or central conference wherein the action was taken.” This process would not require a question of law to be properly submitted by a member of an annual conference. All it would take is **an appeal by a majority of the college of bishops** to the Judicial Council. Since he is the sole episcopal leader in his central conference, Bishop Streiff would meet the majority-vote threshold and have standing to bring this case to the Judicial Council.

Luan-Vu “Lui” Tran
Deanell Reece Tacha
Øyvind Helliesen
N. Oswald Tweh
August 22, 2022

Concurring Opinion

I concur with the holding of the majority and write separately regarding the need to be cognizant of the Disciplinary provisions that govern the relationship of Central Conference, and Annual Conferences outside of the United States, to The United Methodist Church. In Decision 1444 I wrote separately to address these issues and hereby set it forth once more.

The United Methodist Church in the United States, and its predecessor bodies, has a long history of building institutions and churches in many regions of the world. Our apportionment dollars and special giving enabled these efforts through the Board of Global Ministries. The Discipline also evidences the recognition that once a regional body has grown strong and self-sufficient, it may desire to

188 exist under its own authority rather than perceiving itself as being controlled by a denomination which is
189 administered by agencies located in the United States. When that occurs, the Discipline sets forth an
190 explicit process that permits the regional church to become autonomous. The process for becoming
191 autonomous is a process of engagement. It also entails procedures to make certain that sufficient
192 resources and structures are in place so as to ensure the on-going Methodist mission and ministry of the
193 former United Methodist region once it become autonomous.

194

195 Becoming an autonomous Methodist Church requires a process of dedicated engagement
196 wherein all stakeholders must be in support of the regional church assuming full governing authority.
197 The process of becoming autonomous is *not* “disaffiliation” wherein a regional body simply leaves the
198 denomination and takes the assets that were provided through apportionment dollars and special giving
199 and moves into the future without any conditions or accountability. Nor is it akin to the process that was
200 made available to local church by the 2019 Special Session of General Conference. It is significantly
201 different in virtually all aspects.

202

203 Every *Discipline*, since the predecessor denominations’ merger in 1968, has contained a section
204 that specifies the steps and process for regional United Methodist Conferences outside of the United
205 States to become autonomous. Given the continued recitation of the dictum in 1366, I believe that it is
206 important to understand the nature of “becoming autonomous” so as to distinguish it from
207 “disaffiliation.”

208

209 Our current *Discipline* provides:

210

211 Becoming An Autonomous Methodist,
212 Affiliated Autonomous Methodist,
213 or Affiliated United Church from Central Conferences

214

215 ¶ 572. When conferences outside the United States that are parts of The United
216 Methodist Church desire to become an autonomous Methodist, affiliated autonomous
217 Methodist, or affiliated united church, approval shall first be secured from the central
218 conference involved and this decision be ratified by the annual conferences within the
219 central conference by two-thirds majority of the aggregate votes cast by the annual
220 conferences.

221

222 1. The conference shall prepare a historical record with reasons why affiliation
223 and/or autonomy is requested and shall consult with the Standing Committee on Central
224 Conference Matters (¶ 2201) on proceedings for affiliation and/or autonomy.

225

226 2. The Standing Committee on Central Conference Matters and the conferences
227 involved shall mutually agree on the confession of faith and the constitution of the new
228 church. These shall be prepared with care and shall be approved by the conferences.

229 3. Preparation of its Discipline is the responsibility of the conference(s) desiring
230 affiliation and/or autonomy.

231
232 4. Upon recommendation of the Standing Committee on Central Conference
233 Matters, when all disciplinary requirements for affiliated and/or autonomous relationship
234 have been met, the General Conference through an enabling act shall approve of and
235 grant permission for the conference(s) involved to become an autonomous Methodist,
236 affiliated autonomous Methodist, or affiliated united church.

237
238 5. Then the central conference involved shall meet, declare the present
239 relationship between The United Methodist Church and the conference(s) involved
240 dissolved, and reorganize as an autonomous Methodist, affiliated autonomous Methodist,
241 or affiliated united church in accordance with the enabling act granted by the General
242 Conference. The Standing Committee on Central Conference Matters shall assist in this
243 process and, when the plans are consummated, report to the Council of Bishops. The
244 proclamation of affiliated and/or autonomous status shall then be signed by the president
245 of the Council of Bishops and the secretary of the General Conference.

246
247 6. A plan of cooperation shall be developed in accordance with ¶ 571.4.

248
249 *[2016 Book of Discipline of The United Methodist Church]*

250
251 It is critical that we remain cognizant of the difference between a Central Conference, or an
252 Annual Conference within a Central Conference, becoming “autonomous” and a local church becoming
253 “disaffiliated.” The Central Conference, or Annual Conference located outside of the boundaries of the
254 Jurisdictional Conferences, seeking autonomy is governed by the processes that are referenced in ¶ 572,
255 whereas a local church seeking disaffiliation is governed by the provisions contained in ¶ 2553.
256 Paragraph 572 contains the applicable church law which governs and controls in Central Conferences.
257 There is no other method or means contained in the Discipline nor its Errata because there is not now,
258 nor has there ever been, a process of “disaffiliation” of an annual conference from the denomination,
259 particularly given that the concept of disaffiliation is inconsistent with our polity of connectionalism.

260 Beth Capen
261 August 22, 2022
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Dissenting Opinion

I join the majority's disposition of this case but on the ground that the Bulgaria-Romania Provisional Annual Conference has departed the United Methodist Church, not to be heard from again, and we therefore do not have jurisdiction because of mootness. However, the majority holds that "there was no question of law properly and duly submitted to the presiding bishop upon which he could issue a ruling of law..." and that the Council therefore lacks jurisdiction.

I am nevertheless of the opinion that in cases with this factual scenario, (i) a proper question of law has been present to the presiding bishop, and (ii) we should take jurisdiction under ¶ 51 and ¶ 2609.6 of *The Discipline* and rule on the merits.

¶ 51. Article VII of the *Discipline* provides that presiding bishops in an annual conference "...shall decide all questions of law coming before the bishop in the regular business of a session, provided that such questions be presented in writing and that the decisions shall be recorded in the journal of the conference." ¶ 2609.6 provides that the Judicial Council shall have jurisdiction to pass upon and affirm, modify or reverse such rulings upon questions of law "...submitted to [bishops] in writing in the regular business of a session...." (emphasis added).

The majority misreads ¶ 2609.6 and ignores the **plain language** of ¶ 51 that the presiding bishop "shall decide all questions of law coming before the bishop in the regular business session...." The question of law as to whether an annual conference can just up and willy-nilly withdraw from the denomination was submitted to him as required by ¶ 2609.6), in writing, in the form of the first agenda item, the withdrawal resolution, and his decision is in writing and was made a part of the official minutes. There is nothing in *The Discipline* which requires that there must be a request for a ruling of law from the floor that can only be made by a delegate. Any such rule is judge-made law which is wrong and which I would not follow and, if necessary, overrule. (Emphasis added).

With respect to the merits of the case, the delegates arrived at the April 1, 2022, session of the Bulgaria-Romania Provisional Annual Conference "loaded for bear," the district superintendents having presented the bishop with the withdrawal motion two weeks earlier at a cabinet meeting. Notwithstanding the facts that the bishop told them during the session that (i) an annual conference in a central conference could only withdraw by following the process set forth in ¶ 572 and (ii) JCD 1366 did not solve their problem because even though ¶ 33 gives an annual conference the right to vote to withdraw, it must be done pursuant to legislation enacted by the General Conference that sets forth the process and requirements for separation, the delegates went forward anyway and adopted their withdrawal motion.

In this portion of his ruling the bishop said:

Even if Paragraph 33 as interpreted by Decision 1366 were to provide some general authority for an annual conference of the UMC to separate from the denomination, that authority may only be exercised to effectuate a separation pursuant to legislation enacted by the General Conference that sets forth the process and requirements for separation. (Meeting Minutes 01 April 2022)¹

¹ The presiding bishop's ruling of law was issued on April 8, 2022.

311 He obviously anticipated our decision in JCD 1444 wherein we held that:

312 Decision 1366 cannot be construed as creating a self-executing right for an annual
313 conference to separate because the Judicial Council has no legislative authority. There is
314 no basis in Church law for any annual conference to adopt stopgap policies, pass
315 resolutions, take a vote, or act unilaterally for the purpose of removing itself from The
316 United Methodist Church. Absent General Conference legislation, any vote and actions
317 taken by an annual conference to separate are unconstitutional, null and void, and of no
318 legal force or effect.²

319
320 I would therefore hold that the action of the Bulgaria-Romania Provisional Annual Conference
321 was a violation of church law and unconstitutional which rendered it null, void, and of no legal force or
322 effect.

323
324 W. Warren Plowden Jr.

325 August 22,2022

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² Our decision in JCD 1444 was issued thirty-two days later on May 10, 2022.