

SUBJECT TO FINAL EDITING

## JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

### MEMORANDUM NO. 1466

[Docket No. 1022-09]

**IN RE: Request for Declaratory Decisions from the Virginia Annual Conference as follows:**

- 1. On the Meaning, Effect and Application of Par. 362.1(e) and Par. 2701.5 and Par. 2704.2 and Par. 2706.5, in determining if, and under what circumstances, the supervisory process can be extended beyond the 90-day limit of Par. 362.1(e), as well as what role a bishop has in facilitating a timely resolution of a complaint, as well as what role a bishop has in bringing about a just resolution after the matter has been referred to the counsel for the church as a judicial complaint, and whether the complainant and respondent and counsel for the church may reach a just resolution without the bishop's involvement.**
- 2. On the Meaning, Effect, and Application of Par. 362.1, in determining the permissibility of a bishop, having received a signed written complaint, to solicit a second complaint on the same matter from a different complainant, as well as whether the complaint may be continued even after the original complainant withdraws that complaint.**
- 3. On the Meaning, Effect and Application of Par, 362.1, in determining the proper course for remediation when the process outlined in the Book of Discipline is not followed, and whether the annual conference may have some way to intervene along the lines of Judicial Council Memorandum 1189, which states in part, "In instances where appropriate process was not observed, the annual conference should consider taking appropriate steps to resolve any deviation from disciplinary process."**

#### STATEMENT OF FACTS

On June 17, 2022, during the plenary session of the Virginia Annual Conference [hereinafter Petitioner], a clergy member made the following motion to submit a Petition for Declaratory Decision to the Judicial Council:

I move that the Virginia Annual Conference petition the Judicial Council for the following declaratory decisions:

Request for a Declaratory Decision from the Virginia Annual Conference on the Meaning, Effect and Application of Par. 362.1(e) and Par. 2701.5 and Par. 2704.2 and Par. 2706.5, in determining if, and under what circumstances, the supervisory process can be extended beyond the 90-day limit of Par. 362.1(e), as well as what role a bishop has in facilitating a timely resolution of a complaint, as well as what role a bishop has in bringing about a just resolution after the matter has been

referred to the counsel for the church as a judicial complaint, and whether the complainant and respondent and counsel for the church may reach a just resolution without the bishop's involvement.

Request for a Declaratory Decision from the Virginia Annual Conference on the Meaning, Effect, and Application of Par. 362.1, in determining the permissibility of a bishop, having received a signed written complaint, to solicit a second complaint on the same matter from a different complainant, as well as whether the complaint may be continued even after the original complainant withdraws that complaint.

Request for a Declaratory Decision from the Virginia Annual Conference on the Meaning, Effect and Application of Par, 362.1, in determining the proper course for remediation when the process outlined in the Book of Discipline is not followed, and whether the annual conference may have some way to intervene along the lines of Judicial Council Memorandum 1189, which states in part, "In instances where appropriate process was not observed, the annual conference should consider taking appropriate steps to resolve any deviation from disciplinary process."

The presiding bishop ruled the motion out of order. After attempts by several members to appeal the chair's ruling, the bishop consulted with her chancellor and parliamentarian and then allowed the motion to be voted on. The motion to request a declaratory decision was approved.

The record submitted shows that the detailed issues posed by the petition arose out of complaints filed against a clergy person in 2019 and that this was still an open and pending judicial matter.

#### DIGEST

In Memorandum 1336, the Judicial Council declined jurisdiction to review a case brought by a clergy person who sought to appeal, by means of a request for declaratory decision, the decision of the Board of Ordained Ministry implementing the penalties imposed by a Trial Court. We ruled that the "Judicial Council has no jurisdiction to consider a judicial matter submitted as a Petition for Declaratory Decision under ¶ 2610.2(j)." Memorandum 1336 [emphasis added].

In the present case, Petitioner is asking us, by way of a request for declaratory decision, to review an open and pending complaint, which at the time of filing was still in the supervisory

response process. Given the judicial and pending nature of the request, the Judicial Council declines jurisdiction in this case.

March 7, 2023

### **Dissenting Opinion**

A well-informed application of the long line of Judicial Council decisions requires the opposite result from the majority opinion. Memorandum 1336 did not accurately reflect Judicial Council precedents. There are many, many decisions bearing on this issue and a thorough understanding of them and their application would not result in the above ruling.

Beth Capen  
Kabamba Kiboko  
Lidia Gulele  
March 7, 2023