

DECISION 1262

IN RE: Review of a Bishop's Decision of Law in the Desert Southwest Annual Conference Regarding a Resolution Entitled "Marriage Equality Resolution"

DIGEST

The Bishop's decision of Law is modified. An annual conference may express an aspiration or a prophetic appeal for a change in Church Law. But an annual conference may not negate, ignore, or violate the provisions of the *Discipline*. In its first "Resolved" section, the "Marriage Equality Resolution" by the Desert Southwest Annual Conference expresses an aspiration. In its second "Resolved" section, the action ignores Church Law and encourages a violation of Church Law. In its third "Resolved" section, the Resolution declares that the annual conference and its local churches will offer some limited forms of support for those who violate Church Law. The decision of Law by the Bishop neglects to recognize the factors where the Resolution may ignore Church Law, negate Church Law, or affirm a violation of Church Law.

The Bishop's decision of Law is modified to acknowledge these deficiencies. The first "Resolved" portion of the "Marriage Equality Resolution" is within Church Law. The second "Resolved" section is null and void and of no effect. The third "Resolved" section is within Church Law to the extent that its definition of supporting someone "spiritually, emotionally and prayerfully" is understood not to ignore, negate, or violate Church Law.

STATEMENT OF FACTS

At the 2013 session of the Desert Southwest Annual Conference, a "Marriage Equality Resolution" was adopted. The text of the resolution reads as follows:

WHEREAS, the recent SCOTUS ruling makes Marriage Equality legal in California, and,
WHEREAS, Our Annual Conference consist of part of California, and
WHEREAS, the continuing denial of full access to all the rights and privileges in the United Methodist Church is causing deep spiritual harm to our LGBT brothers and sisters and is a threat to us all; and
WHEREAS, our membership vows call us "to resist evil, injustice and oppression in whatever forms they present themselves"; and
WHEREAS, we are called to be obedient to the whole of church Law which calls the church to be in ministry with all people, including lesbian, gay, bisexual, transgender, and queer (LGBTQ) persons.

WHEREAS, the opening section of The Book of Discipline, which reminds us of serious flaws and shortcomings manifest in the larger history of Methodism. Shortcomings specifically listed include our previous accommodation of racial segregation by establishing a race-based Central Jurisdiction, and our extended denial of ordination rights and prominent leadership roles for women, and

WHEREAS, the “Social Principles” of The United Methodist Church (Part IV) strongly endorses the Universal Declaration of Human Rights with emphasis on respect for the inherent dignity of all persons. Explicitly cited are the full rights of racial, ethnic, and religious minorities; and the rights of children, young people, the aging, women, men, immigrants, and persons with disabilities. The list concludes by declaring the full human rights of all persons without regard to their sexual orientations, a reference that suggests rational and experiential grounds for endorsing the rights of same-sex couples to marry, and

WHEREAS, It is in the context of these traditions that we must address current shortcomings in United Methodist polity, in particular, forty-one years of prejudicial language portraying the life practices of gay and lesbian persons as “incompatible with Christian teaching,” a standard that has excluded them from ordination, from marriage, and in some cases even from church membership (Judicial Council Ruling 1032). These exclusionary principles are prominent components of the “chargeable offenses” assigned to the “Judicial Administration” (chapter 7, par. 2702). Such unjust rules, combined with the prosecution of clergy who refuse to uphold them, are themselves incompatible with United Methodist visions of inclusiveness, which call of “Open Hearts, Open Minds, and Open Doors.”

WHEREAS, The Desert Southwest Annual Conference is part of the Larger Western Jurisdiction, which adopted the “Statement of Gospel Obedience” that states the denomination is in error in its stance on the practice of homosexuality and urged United Methodists to operate as if that position does not exist.

WHEREAS, at last years (sic) Annual Conference we resolved that the Desert Southwest Conference reaffirm its commitment to and work for the full civil and ecclesiastical rights and privileges of all persons including LGBT persons and that the Desert Southwest Conference of the United Methodist Church work together to build a fully inclusive church. We commit to be in ministry with all people, regardless of their economic status, race, age, ethnicity, gender, sexuality, disability, or immigration status, therefore let it be

RESOLVED that the Desert Southwest Annual Conference and the United Methodist Churches of the Desert Southwest Annual Conference make a public statement supporting and upholding Marriage Equality. Let it further be

RESOLVED that the Desert Southwest Annual Conference and the United

Methodist Churches of the Desert Southwest Annual Conference will support our clergy who take the bold and faithful stand to minister to all equally and include all in the life of the church, which includes but is not limited to, conducting ceremonies which celebrate homosexual unions; or performing same-sex wedding ceremonies where it is civically legal to do so. Let it further be

RESOLVED, that the Desert Southwest Annual Conference and the United Methodist Churches of the Desert Southwest Annual Conference, will support (spiritually, emotionally and prayerfully) clergy who are brought up on charges for conducting ceremonies which celebrate homosexual unions; or performing same-sex wedding ceremonies.

After the annual conference approved the resolution, a clergy member submitted a request for a decision of Law. The specific request was submitted as follows:

I rise to seek a decision or ruling of Law on the Marriage Equality Resolution. My question is Does this resolution comply with the requirements of our covenant, the Book of Discipline and the decision of our Judicial Council? The basis of my question is Decision 1220 made on October 27, 2012 by our Judicial Council.

In response to the request for a decision of Law, Bishop Robert T. Hoshibata said that a vote had to be taken in order to determine if the annual conference wanted to have him make such a decision. The results of the vote showed that 26% of the conference favored having the Bishop make a decision of Law, 63% opposed it, and 10% abstained. The Bishop announced that, because more than one-fifth of the conference voted to seek such a decision, he would make a ruling in thirty days from the date of the action.

Bishop Hoshibata delivered his decision of Law in a timely manner. The text of his decision of Law itself reads as follows:

The Resolution invites the members of the annual conference to participate in the ministry of the annual conference, and makes a case that this participation will strengthen the ministry of the annual conference. The Resolution upholds the right of an annual conference to make public statements that announce its support of, or opposition to, a proposition or idea and thereby publicly declare a point of view; and the Resolution calls upon each person in covenant with one another as disciples of Jesus Christ, to offer support through spiritual care, emotional nurture, and prayer, as that person undergoes the process of facing formal complaints or charges in the church's response to formal complaints for such actions. The Resolution does not legally negate,

ignore, or violate the *Discipline* and is in concert with the provisions of Judicial Council Decision 1220. The Resolution is not out of order.

The Bishop offered a brief in support of his decision. A clergy member of the Desert Southwest Annual Conference also submitted a brief.

JURISDICTION

The Judicial Council has jurisdiction under ¶¶ 51 and 56.3 of the Constitution of The United Methodist Church and under ¶ 2609.6 of *2012 Discipline*, as interpreted by Judicial Council Decision 1244.

ANALYSIS AND RATIONALE

Both the legislative history of the “Marriage Equality Resolution” and the text of the Bishop’s decision of Law involve complex considerations.

The “Marriage Equality Resolution,” according to the documents filed in this matter with the Judicial Council, was presented to the annual conference in at least three different versions. For its work, the Judicial Council must rely solely on the minutes of the annual conference to discern what the conference actually adopted. The minutes for June 30, 2013, include the full text of the resolution that the annual conference approved, so that is the official record of the conference action. The minutes also show that the clergy member asked, “[D]oes this resolution comply with the requirements of our covenant, the Book of Discipline and the decision of our Judicial Council?”

The Bishop’s decision of Law addresses the authority of an annual conference “to make public statements” and “to offer support through spiritual care, emotional nurture, and prayer” as discussed in the Resolution. But his decision of Law ignores the specific reference in the “Marriage Equality Resolution” to a list of chargeable offenses in ¶ 2702 of the *2012 Discipline*. Therefore, the Bishop’s decision of Law ignores Church Law on a significant and relevant issue for the “Marriage Equality Resolution,” namely the fact that the legislation identifies one of the chargeable offenses as “conducting ceremonies which celebrate homosexual unions; or performing same sex wedding ceremonies.” (¶ 2702.1b)

Therefore, the Bishop’s decision of Law fails to address an essential aspect of the Resolution that has an important relationship to Church Law. That makes it an important consideration for the Judicial Council, especially because the role of the Judicial Council in reviewing decisions of Law is narrowly limited. As Decision 1220 states, “the Judicial Council is authorized only to pass upon the decisions of Law made by bishops as matters of church Law.”

Moreover, as Decision 1220 also makes clear, any decision of Law by a bishop is a matter that requires careful attention from the Judicial Council. The bishop's decision is "authoritative" in the specific case prior to its review by the Judicial Council and, after review by the Judicial Council, a bishop's decision "shall become the Law of the Church to the extent that it is affirmed by the council." (See ¶ 2609.6) So a bishop, in a decision of Law, can make Church Law. And the Judicial Council has a responsibility to examine whether, in so doing, a bishop's decision of Law may ignore, negate, or violate Church Law. (See Decisions 96, 232, 544, 886, 1044, 1111.)

For this case, an important precedent was established in Judicial Council Decision 1111, which states, "An annual conference may not negate, ignore, or violate provisions of the Discipline with which they disagree, even when the disagreements are based on conscientious objections to the provisions."

The text of the "Marriage Equality Resolution" adopted by the Desert Southwest Annual Conference includes three statements that are labeled "Resolved."

In its first "Resolved" section, the Resolution urges the adoption of a statement that affirms and upholds marriage equality. This is a legitimate appeal as an aspiration in form and content.

In its second "Resolved" section, the Resolution declares that the conference and the churches of the annual conference

will support our clergy who take the bold and faithful stand to minister to all equally and include all in the life of the church, which includes but is not limited to, conducting ceremonies which celebrate homosexual unions; or performing same-sex wedding ceremonies where it is civically legal to do so.

This portion of the Resolution does not define "support." Yet it clearly expresses some intention and encouragement for ignoring Church Law, violating Church Law, or both. The *Discipline* is clear (¶ 2702) that conducting such ceremonies, regardless of the statute that happens to be in place in a civil jurisdiction, is a violation of Church Law and a chargeable offense for clergy. Hence, this portion of the Resolution is a summons either to ignore or to violate Church Law. The Bishop's decision of Law does not address the issue of ignoring or violating the Law of the Church.

In its third "Resolved" section, the "Marriage Equality Resolution" states that the conference and the churches of the annual conference

will support (spiritually, emotionally, and prayerfully) clergy who are brought up on charges for conducting ceremonies which celebrate homosexual unions; or performing same-sex wedding ceremonies.

In this section, the annual conference does offer some definitions for the term “support.” But the text of the Resolution as adopted by the conference does not clearly state whether supporting someone “spiritually, emotionally, and prayerfully” while that person faces charges for violating Church Law is to be understood as limiting the support to those specific forms. The Bishop’s decision of Law rules that those forms of “support” do not violate or ignore Church Law. But his decision of Law does not clarify whether the “support” is understood as exclusively limited to those actions, or whether those actions are illustrative of other possible “support” actions. Therefore, the Bishop’s decision of Law opens the possibility that “support” could include other acts besides the three that are named in the Resolution. Some other acts could involve ignoring or violating or negating Church Law.

Judicial Council Decision 1111 is careful to say that an annual conference “may not negate, ignore, or violate” the provisions of the *Discipline*, no matter how vigorously or conscientiously the conference disagrees with the Church Law. If an annual conference action either negates or ignores or violates the Law of The United Methodist Church, it breaches the covenant that binds the Church together.

The Judicial Council has authority only to “pass upon and affirm, modify, or reverse decisions of Law made by bishops” in accordance with the Constitution and the *Discipline* (See ¶ 2609.6) In this case, the Bishop’s decision of Law endorses an action by the annual conference that, at least in part, either ignores Church Law, or supports the violation of Church Law, or both. Such a decision of Law could itself become Church Law unless the Judicial Council modifies it.

DECISION

The Bishop’s decision of Law is modified. An annual conference may express an aspiration or a prophetic appeal for a change in Church Law. But an annual conference may not negate, ignore, or violate the provisions of the *Discipline*. In its first “Resolved” section, the “Marriage Equality Resolution” by the Desert Southwest Annual Conference expresses an aspiration. In its second “Resolved” section, the action ignores Church Law and encourages a violation of Church Law. In its third “Resolved” section, the Resolution declares that the annual conference and its local churches will offer some limited forms of support for those who violate church Law. The decision of Law by the Bishop neglects to recognize the factors where the Resolution may ignore Church Law, negate Church Law, or affirm a violation of Church Law.

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Ruben Reyes was absent.

Beth Capen was absent.

Sandra Lutz, first lay alternate, participated in this decision.

Randall Miller, third lay alternate, participated in this decision.

William B. Lawrence, President

F. Belton Joyner, Jr., Secretary

April 26, 2014