

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1490

IN RE: Review of a Bishop’s Ruling on Questions Raised During the North Carolina Annual Conference Relating to ¶¶ 2549 and 2553 and the Annual Conference’s Adoption of the “Resolution for Closure of Fifth Avenue United Methodist Church.”

DIGEST

The rulings of law on the five questions presented to the bishop are affirmed. Paragraph 2549.3(b) and ¶ 2553 are not in conflict, and until a local church is disaffiliated, the provisions of ¶ 2549.3(b) remain available in appropriate circumstances. In light of the annual conference’s formal approval of the local church closure, the question of whether a local church’s intent to initiate, or the initiation of, the process of disaffiliation under ¶ 2553 can be considered an exigent circumstance under ¶ 2549.3(b), is in fact moot and represents a hypothetical question. The appropriate forum for a local church to challenge an exigent circumstances and interim closure determination under ¶ 2549.3(b) is at the next meeting of the annual conference when formal closure is before that body for consideration; that challenge may be considered in debate and the annual conference shall then decide whether to approve or disapprove formal closure. The bishop and district superintendent do not violate ¶ 414.2 and ¶ 419.4 when they inform a local church of interim closure under ¶ 2549.3(b). The interim closure of Fifth Avenue United Methodist Church and the vesting of the church’s property in the annual conference board of trustees under ¶ 2549.3(b), and that congregation’s interim and final closure, did not violate the plain reading of ¶¶ 414.2, 419.4, 2549.3(b), or 2553 of the *Book of Discipline*.

STATEMENT OF FACTS

Fifth Avenue United Methodist Church was founded in 1847, and is located near downtown Wilmington, North Carolina (hereinafter, “Fifth Avenue”). In January 2023, the leadership of Fifth Avenue formally inquired about disaffiliation. In February 2023, Fifth Avenue’s church council requested that the district superintendent schedule a church conference to vote on disaffiliation as contemplated by ¶ 2553.3. On March 24, 2023, a resolution for interim church closure of Fifth Avenue was adopted by Bishop Connie Mitchell Shelton, all of the district superintendents of the North Carolina Annual Conference, and all members of the Harbor District Board of Church Location and Building.

The district superintendent scheduled a meeting with Fifth Avenue membership on March 26, 2023, but instead of discussing disaffiliation, the local church membership was informed by the bishop and the district superintendent of the interim closure and transfer of the Fifth Avenue property to the annual conference board of trustees.

On June 15, 2023, during the afternoon plenary session of the meeting of the North Carolina annual conference, a clergy member requested a bishop's decision of law on five questions now before the Judicial Council. The presiding bishop responded to these questions on July 7, 2023.

On June 16, 2023, the morning plenary session of the meeting of the lay and clergy members of the North Carolina annual conference considered a motion to approve formal closure of Fifth Avenue. Following debate in the form of three speakers in favor and three against, the annual conference members voted to approve Fifth Avenue's formal closure.

Below are the five questions of law and the bishop's responses to each of those questions:

1. Does the initiation of the disaffiliation process by a local church under ¶ 2553 prevent the bishop, district superintendents, and district board of church location from declaring exigent circumstances for that church under ¶ 2549.3(b)? That is, which takes precedence – the local church's limited right to disaffiliate under ¶ 2553 or the ability to declare exigent circumstances and seize church property under ¶ 2549.3(b)?

Bishop's Decision of Law: The bishop found that "The *Book of Discipline* plainly establishes that the existence of exigent circumstances allows the bishop, the Cabinet, and the appropriate district committee of church location and building to act at any time, regardless of what other circumstances or options a local church is addressing."

2. Can the local church's intent to initiate, or initiation of, the process of disaffiliation under ¶ 2553 be considered an exigent circumstance under ¶ 2549.3(b)?

Bishop's Decision of Law: The bishop found that the "question is moot and hypothetical as the annual conference delegates were tasked with deciding whether to close the church, not whether the interim decision to declare exigent circumstances was correct."

3. Where title to local church property vests in the conference board of trustees under ¶ 2549.3(b), because of a declaration of exigent circumstances, does due process require that the local church be given the opportunity to challenge the declaration of exigent circumstances in an appropriate forum?

Bishop's Decision of Law: The bishop found that "supporters of the [Fifth Avenue] Church exercised the opportunity at annual conference to present arguments that assembled delegates should vote against formally closing the church. The church also had the opportunity to challenge the declaration of exigent circumstances by working with a supporter to request the present ruling of law, which is subject to review by the Judicial Council."

4. Did the bishop violate ¶ 414.2, and the district superintendent violate ¶ 419.4, by the way they announced exigent circumstances at, and seized the property of, Fifth Avenue United Methodist Church under ¶ 2549.3(b)? If so, does such a violation render the declaration of exigent circumstances null and void?

Bishop's Decision of Law: The bishop found that: 1) as to the bishop, ¶ 414.2 required the bishop “build relationships with people of local congregations and to strengthen the local church. Relationship building has been at the heart of my work since I began my ministry here in January 2023, including several visits to Wilmington and the Harbor District”, and 2) as to the district superintendent, ¶ 419.4 requires a district superintendent to “establish working relationships” and to “seek to form creative and effective connections with the local congregations on his or her district” and that “is precisely what the current district superintendent, and her predecessors, have been attempting through contact with this local church. There is no violation of Pars. 414.2 or 419.4.”

5. Does the seizure of Fifth Avenue United Methodist Church's property under ¶ 2549.3(b) and that congregation's closure violate the plain reading of ¶¶ 414.2, 419.4, 2549.3(b), and 2553 of the *Book of Discipline*?

Bishop's Decision of Law: The bishop found that the “actions of the NC annual conference are completely consistent with all disciplinary mandates, including to spread the Gospel and strengthen our witness. There is no violation of the cited paragraphs.”

Jurisdiction

The Judicial Council has jurisdiction pursuant to ¶ 2609.6 of the *2016 Book of Discipline* (hereinafter, the *Discipline*).

Analysis and Rationale

In Judicial Council Decision 1379, we held that ¶ 2553's “constitutionality, meaning, application, and effect should not be determined in isolation.” We further determined that, once codified, ¶ 2553 “must be construed in relation to other pertinent disciplinary paragraphs.” Paragraph 2549.3(b) and ¶ 2553 are not in conflict, and until a local church is disaffiliated, the provisions of ¶ 2549.3(b) remain available and applicable in appropriate circumstances. Nothing in the text of ¶ 2553 or in our prior decisions suggests or implies that ¶ 2553 suspends the operation of ¶ 2549.3 of the *Discipline*.

Paragraph 2553 by its terms grants a “limited right, under the provisions of this paragraph, to disaffiliate from the denomination...” The right of a local church to disaffiliate is not just limited as to time (¶ 2553.2), but it is also limited in that local churches going through the disaffiliation process remain subject to supervisory and other provisions of the *Discipline*

including ¶ 2549. Paragraph 2553 grants the limited right to disaffiliate, but disaffiliation is not effective absent satisfaction of the requirements of the relevant annual conference board of trustees' approved disaffiliation agreement and the consent of the annual conference itself (JCD 1379; *Discipline* ¶ 2529.1(b)(3)). Unless and until disaffiliated, a local church remains a United Methodist Church, subject to the requirements of the *Discipline*.

Stated another way, even though a local church has already initiated the disaffiliation process, there is nothing in ¶ 2553 that precludes that church from deciding to close without completing that process, either at the recommendation of the district superintendent or on its own (¶¶ 2549.1; 2549.2). Likewise, initiation of the disaffiliation process under ¶ 2553 is no impediment to an interim closure under the provisions of ¶ 2549.3(b).

The question of whether an exigent circumstances determination under ¶ 2549.3(b) may include the disaffiliation status of a local church is moot and a hypothetical in this instance because of the annual conference's approval of formal closure at the subsequent meeting of the North Carolina annual conference. The annual conference has made the determination that Fifth Avenue should be formally closed, and it is not appropriate for the Judicial Council to second guess that judgment.

The use of ¶ 2549.3(b) has built-in safeguards; it requires the bishop, a majority of the district superintendents, **and** the appropriate district board of church location and building, all consent to interim closure provided that all three, in their sole discretion, declare that exigent circumstances exist requiring the immediate protection of the church property. In this instance, all three adopted a written "Resolution for Closure of the Fifth Avenue United Methodist Church", signed by the bishop, every district superintendent, and the members of the Harbor District Board of Church Location.

It is the annual conference that makes the formal decision to close a local church (¶¶ 2549.2(c); 2549.3(b)), and it is the annual conference that must consent to a local church severing its ties with the United Methodist Church (¶ 2529.1(b)(3)). In requiring that the annual conference members approve the formal closure of that local church, ¶ 2549.3(b) leaves open the possibility that the annual conference could reject formal closure, and an implicit part of the consideration of that question includes whether interim closure was appropriate. In this instance, the recommendation for formal closure of Fifth Avenue was made on June 16, 2023, and, after hearing from three persons in favor of closure and three against, the annual conference voted to approve the formal closure of Fifth Avenue.

Despite unsubstantiated assertions by the interested party on the influence of a bishop with respect to both of these safeguards, these requirements are intended to protect against overreach, and if they are followed, then the requirements of the *Discipline* have been satisfied.

Fifth Avenue has been afforded all process that it is due under United Methodist polity. The appropriate forum for a challenge to the exigent circumstances and interim closure determinations was at the meeting of the North Carolina annual conference on June 16, 2023, and that challenge was in fact considered in debate, but did not prevail at the annual conference.

The bishop's determinations that 1) the bishop did not violate ¶ 414.2; and 2) the district superintendent did not violate ¶ 419.4, are well founded. Fulfilling these respective responsibilities does not mean that the decisions made in that process will always please or directly benefit those affected. To find otherwise would mean that ¶ 2549.3(b) could never be invoked without violation of ¶ 414.2 and ¶ 419.4 because of the high likelihood that some might disagree or be displeased with that judgment; such a result is unsupported by either the provisions of the *Discipline* or the past decisions of the Judicial Council.

Finally, the interim and final closure of Fifth Avenue and the vesting of the church's property and assets in the annual conference board of trustees under ¶ 2549.3(b) did not violate the provisions of ¶¶ 414.2, 419.4, 2549.3(b), and 2553 of the *Discipline*, for the reasons stated above.

Decision

The rulings of law on the five questions presented to the bishop are affirmed. Paragraph 2549.3(b) and ¶ 2553 are not in conflict, and until a local church is disaffiliated, the provisions of ¶ 2549.3(b) remain available in appropriate circumstances. In light of the annual conference's formal approval of the local church closure, the question of whether a local church's intent to initiate, or the initiation of, the process of disaffiliation under ¶ 2553 can be considered an exigent circumstance under ¶ 2549.3(b), is in fact moot and represents a hypothetical question. The appropriate forum for a local church to challenge an exigent circumstances and interim closure determination under ¶ 2549.3(b) is at the next meeting of the annual conference when formal closure is before that body for consideration; that challenge may be considered in debate and the annual conference shall then decide whether to approve or disapprove formal closure. The bishop and district superintendent do not violate ¶ 414.2 and ¶ 419.4 when they inform a local church of interim closure under ¶ 2549.3(b). The interim closure of Fifth Avenue United Methodist Church and the vesting of the church's property in the annual conference board of trustees under ¶ 2549.3(b), and that congregation's interim and final closure, did not violate the plain reading of ¶¶ 414.2, 419.4, 2549.3(b), or 2553 of the *Book of Discipline*.

Deanell Tacha was absent. Kent Fulton, lay alternate, participated in this decision.
Luan-Vu Tran was absent. Timothy Bruster, clergy alternate, participated in this decision.

November 7, 2023