

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1455

[Docket No. 1022-19]

IN RE: Review of a Bishop's Ruling on a Question of Law in the West Ohio Annual Conference Regarding Whether Certain Sections of its Legislation Related to Disaffiliation, Violate Portions of the Book of Discipline including ¶ 2548.2 and ¶ 2553?

DIGEST

The decision of Bishop Gregory V. Palmer is affirmed.

STATEMENT OF FACTS

On Saturday, June 4, 2022, at the West Ohio Annual Conference's virtual annual conference, Reverend John Edgar submitted the following Question of Law:

In keeping with Paragraph 51, Article VII and Paragraph 2609.6 of the Book of Discipline, I request that presiding Bishop Palmer decide the following question of law:

Do any sections of Recommendation 8 violate portions of the Book of Discipline including Paragraphs 2548.2 and 2553?

The pertinent parts of Recommendation 8 state:

1. The Global Methodist Church be designated by the West Ohio Annual Conference as "another evangelical denomination" under Paragraph 2548.2.
2. Congregations separating to join one of the denominations represented in the Pan-Methodist Commission or other evangelical church be permitted, at their sole discretion, to choose Paragraph 2548.2 as their preferred path of separation.
3. Congregations disaffiliating to an independent status be required to use the provisions of Paragraph 2553.
4. Any required payments for unfunded pension liability shall be based on Wespath calculations of the aggregate unfunded liability of the Annual

Conference. Allocation of a proportional share of that liability to the local church shall be determined using the West Ohio Conference apportionment formula applied to the aggregate unfunded liability in like manner that the apportionment formula is applied to the annual total amount apportioned in the West Ohio Conference. The liability shall include unfunded obligations related to The United Methodist Church's pre-1982 pension plan, the Ministerial Pension Plan, and/or the Clergy Retirement Security Program.

5. The Bishop of the West Ohio Area be urged to convene one or more Special Sessions of the Annual Conference for the purpose of considering disaffiliations prior to the next regularly scheduled Annual Conference.

On June 29, 2022, Bishop Palmer issued his Decision of Law, which reads in relevant parts:

Although the Conference in the past has expressed an openness to exploring paragraph 2548.2 as a mechanism for disaffiliation, the Council of Bishops has continued to examine the history, text and purpose of 2548.2 to discern whether it in fact presents a viable path of disaffiliation. This examination has yielded a number of questions and uncertainties, including whether the provision could be used to facilitate an *en masse* schism to a nascent movement that has not been recognized as an evangelical denomination by the United Methodist Church. These and many other questions about the purpose and application of paragraph 2548.2 caused the Council of Bishops to request from the Judicial Council an expedited Declaratory Decision on a number of questions in connection with paragraph 2548.2. (Docket 0522-2.)

As I have continued to examine the matter, including the history and intent behind paragraph 2548.2 as set forth in the Declaration of Lawrence E. Hillis, which was attached as Exhibit C to the Council of Bishop's request for a declaratory decision and which is attached hereto as Exhibit A, as well as the arguments in the Council of Bishop's Opening Brief, which is attached hereto as Exhibit B, I conclude that paragraph 2548.2 is not a mechanism for disaffiliation or schism.

With the above in mind, I now turn to Reverend Edgar's question of law, which asks: "Do any sections of Recommendation 8 violate portions of the Book of Discipline including Paragraphs 2548.2 and 2553?" I note at the outset that Recommendation 8 makes every effort to be aspirational in nature by encouraging the Annual Conference to recognize paragraph 2548.2 as a mechanism of disaffiliation or schism and begin the process of implementing a pathway to those ends. Although Annual Conferences are free to adopt aspirational legislation, such legislation cannot attempt to negate, ignore, or contradict the *Discipline*. (JCD 1052, 1262.) Because I have concluded that paragraph 2548.2 of the *Discipline* is not a mechanism for disaffiliation or schism, I must therefore further conclude that Recommendation 8 is out of order. By encouraging the Annual Conference to recognize and use paragraph 2548.2 as mechanism for disaffiliation or

schism, it encourages actions that negate, ignore, or contradict the *Discipline*. Accordingly, it is out of order.

Having decided that Recommendation 8 violates paragraph 2548.2 of the *Discipline*, I conclude that the question of whether it also violates paragraph 2553 is moot. However, to the extent that the question is not moot, I would hold that Recommendation 8 does not violate paragraph 2553, as paragraphs 2548.2 and 2553 concern different subject matters and do not overlap, much less conflict.

Jurisdiction

The Judicial Council has jurisdiction under ¶ 2609.6 of *The 2016 Book of Discipline* [hereinafter *The Discipline*].

Analysis and Rationale

The Judicial Council affirms the bishop's decision ruling that "[by] encouraging the Annual Conference to recognize and use ¶ 2548.2 as mechanism for disaffiliation or schism, it encourages actions that negate, ignore, or contradict *The Discipline*. Accordingly, it is out of order." Judicial Council Decision 1449 was issued thereafter. The bishop's holding is consistent with that decision. Any further ruling on Recommendation 8 is moot. *See* JCD 1456.

Decision

The decision of Bishop Gregory V. Palmer is affirmed.

Kabamba Kiboko recused herself and did not participate in any of the proceedings related to this decision.

February 28, 2023

Separate Opinion

I concur with my colleagues regarding some aspects of the Bishop's ruling, but I note that the Digest needs to indicate the major issues that were ruled upon by the Bishop and further indicate those aspects upon which the Judicial Council specifically agrees and affirms as a matter of church law.

The specific issues that the Judicial Council is affirming in its review of a Bishop's ruling on a question of law ought to be set forth in the Digest so that those institutions and publications [especially hardcopy print publications], which quote and rely exclusively upon the Digest to provide a **concise statement of the issues** decided by the Judicial Council in each Decision or Memorandum, are able to continue to alert their respective readers or members of potential changes in the interpretation or application of church law. If a Digest states only that the Judicial Council affirms the ruling of the Bishop "**for the reason set forth therein**" then those institutions and publications which have heretofore relied upon our Digest, will no longer be in a position to immediately provide a meaningful alert to their respective readers or members concerning such decisions or memorandums that have just been released by the Judicial Council.

Additionally, episcopal rulings contain many nuanced statements that can be interpreted in a variety of ways and thereby risk resulting in polity which could be misapplied by others. General Conference has tasked the Judicial Council, exclusively, with the responsibility of articulating those major aspects of each episcopal ruling and relating each aspect to the Disciplinary principles, polity, and former Decisions which provide the predicate for determining that the Bishop is correct or incorrect concerning that aspect of his or her ruling. The denomination is relying upon the Judicial Council to identify the key points in an episcopal ruling, and affirm, modify or reverse those key points, in whole or in part, and thereby reconcile the multiple rulings that are issued each year and ensure that our church law is not subject to more than one interpretation.

Beth Capen
February 28, 2023