

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1489

IN RE: Review of a Bishop’s Ruling on Questions Raised during the Upper New York Annual Conference as to Whether the Annual Conference has the Legal Authority, under the Discipline and in keeping with Judicial Council Decisions, to Direct the Removal and Transfer of over Ten Million Dollars from the Conference Board of Pension and Health Benefits — for the Payment of Legal Fees, Litigation Expenses, and Settlement Payouts Resulting Primarily from Boy Scouts of America, et al, Lawsuits — and if said Conference action is permitted, Whether the Conference Board of Pensions and Health Benefits Approval and Consent is also Required in that Process.

DIGEST

The ruling of Bishop Burgos-Núñez, that the questions of law are moot, is affirmed.

STATEMENT OF FACTS

During the morning plenary of the 14th session of the Upper New York Annual Conference, a resolution entitled “*Request to Allocate the Cost of Child Victims Act Legal Fees and Settlement Costs*” (the “CFA Resolution”), was presented for the consideration of the Annual Conference by the Council on Finance and Administration (the “CFA”). The resolution sought to use “unrestricted” monies in three funds, the Trustee Fund, the General Fund, and the Pension/Health Fund to pay, among other obligations, the Annual Conference’s portion of the Boy Scout settlement in the amount of \$1,250,000 (the “CVA Cases”).

During the discussion and debate on the CFA Resolution, an elder moved an amendment by substitution:

I move that the Conference Leadership Team be tasked with providing a comprehensive examination of every feasible funding source (i.e. sale of conference property, temporary changes in the church sale proceeds formula, etc.) for payment of the CVA cases (settlements and legal fees) to be reported back with recommendations to this body no later than Annual Conference 2024. In the meantime, the sources of any funds spent in the next year on resolution of CVA cases must be tracked and understood that such funds may be restored by the Annual Conference.

After further discussion, the body adopted the amendment by substitution.

An elder was then recognized who asked for a ruling of law from the Presiding Bishop:

Pursuant to ¶¶ 51 and 2609.6, I rise to request a ruling of law on two questions pertaining to the just adopted resolution, “Request to Allocate the Cost of the Child Victims Act Legal Fees and Settlement Costs.”

This resolution sought to provide authority to reallocate up to approximately \$11.1 [million] from the Upper New York Annual Conference (UNYAC) pension and health benefits program funds. The UNYAC pension and health benefits program has an approximate position of \$30.1 [million] in unrestricted assets against \$38.1 [million] in combined unfunded pension liability and retiree healthcare liability.

The two questions had to do with the legality of spending pension funds to pay for the Boy Scout settlement and whether such expenditure had to be approved by the Annual Conference Board of Pensions and Health Benefits.

In his ruling, Bishop Héctor Burgos-Núñez held that “the question of law is dismissed as moot and hypothetical based on the precedents set by the Judicial Council on decisions 33 (1946), 396 (1975), 799 (1997), and 1329 (2016).”

Jurisdiction

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

Analysis and Rationale

If a substitute motion prevails, it becomes the main motion. See Rule 28 of the General Conference Rules of Order, 2019. The question of law was not raised during the deliberations on the CFA Resolution. Rather, it came after adoption of the motion to amend by substitute, which had the effect of deleting the CFA Resolution.

Paragraph 51 provides that a proper request for a decision of law, must “com[e] before the bishop in the regular business of a session. . . .” The request in this case was too late. The matter had moved on and the only question before the house at that point was the substitute motion. The question was therefore irrelevant to the amendment by substitution adopted by the body in as much as the fiscal allocation of Pension funds was not moving forward and further study of it was mandated. See JCD 396.

Decision

The ruling of Bishop Burgos-Núñez, that the questions of law are moot, is affirmed.

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