

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1386

In Re: Request from the Council of Bishops for a Declaratory decision on the Constitutionality, Meaning, Application or Effect of ¶ 2553 (Petition) 90066, as amended) Particularly as it Relates to the Effective Date of the Legislation.

THE DIGEST

This case will be re-docketed for additional briefs and re-argument at the next session of the Judicial Council.

STATEMENT OF FACTS

At some point after the close of the 2019 General Conference,¹ the Commission on the General Conference (the “*Commission*”) undertook an extensive investigation² of complaints that certain delegates used phony/fraudulent credentials when they voted on the motion to substitute the Minority Report for Petition 90066 as filed (DCA page 521). It concluded that four persons used these credentials. The motion to substitute passed by two votes, and since it was not possible to determine how the offending delegates voted, the vote failed pursuant to Rule 45 of Robert’s Rules of Order³ and was null and void. It followed, according to the Commission that the vote on the subsequent motion to approve the Petition as amended by the Minority Report (DCA page 523) was likewise null and void in spite of the fact that it passed by 30 votes. The Commission determined that notwithstanding ¶ 2610.2c of *The Book of Discipline of The United Methodist Church, 2016*⁴, [hereinafter *The Discipline*] it did not have the right to petition the Judicial Council, and it voted to request that the Council of Bishops (the “*COB*”) consider

¹Possibly on March 14, 2019 which would have been 14 days after the conclusion of General Conference.

²The Commission hired LBMC, a large CPA firm located in Nashville, Chattanooga and Knoxville, and an outside law firm, Bass Berry & Sims. LBMC looked at the available information on every GC delegate. It is alleged that it reviewed extensive documentation including voting lists, attendance lists, attendance forms, visa information, delegate Cards and travel reimbursement forms; conducted interviews with staff personnel and others; and reviewed all communications and documents it received containing allegations relating to the General Conference. We do not have any information before us as to what work the outside law firm may have performed.

³Rule 43 provides that A[i]n any parliamentary situation not covered by the Plan of Organization and Rules of Order, the General Conference shall be governed in its action by the current version of Robert’s Rules of Order, *Supplemental Authority*. Rule 45 of Robert’s Rules provides that in the case of invalid ballots that might affect the result of a vote, the entire ballot is rendered null and void.

⁴This section allows “any body created or authorized by the General Conference on matter relating to or affecting the work of such body” to file a petition for a declaratory decision. The Commission was created by the General Conference and it clearly thought its request to the COB was related to or affected its work.

asking the Judicial Council to issue a declaratory decision affirming the null and void conclusion of the Commission. The COB accomplished this request by filing a Motion and Brief in Support which sought to add the invalid vote issue to its preexisting declaratory decision petition on the effective date of ¶ 2553. The Council grants the portion of the COB Motion which seeks to add the vote irregularity to its case on the effective date question (Docket 1019-4) but denies the request to waive our Rules of Procedure and the decide the case at this Session.

During oral argument on October 30, 2019 the representatives of the COB (Bishop Kenneth Carter and its attorney William F. Waddell Jr.) were unable to tell us how much was paid to the CPA's and lawyers,⁵ the location in *The Discipline* or the Plan of Organization and Rules of Order of any authority on the part of the Commission to carry out its investigation after the close of the General Conference, where we could find a copy of the audit prepared by LBMC or any advice given by the outside law firm, exactly what was the nature of the alleged voting irregularities found by LBMC, and the place in *The Discipline* or the Plan where we could find any authority on the part of the Commission to declare legislation passed by the General Conference to be null and void. Their reason for their inability to answer these questions was because of the absence of any representative at the oral argument from the Commission on the General Conference. We found this to be particularly curious in light of the fact that the COB brought us their petition at the request of the Commission. They finally did concede that as of August 16, 2019 (when the COB voted to send us their petition for a declaratory decision) a total of two bishops had actually seen the LBMC audit.

The case was orally argued on October 30, 2019 in Evanston, Illinois by Bishop Kenneth H. Carter, Jr. and Mr. William F. Waddell Jr., Esq. on behalf of the Council of Bishops. Rev. Thomas Lambrecht submitted an *amicus* brief and was granted privilege to speak at the oral hearing.

JURISDICTION

The Judicial Council has jurisdiction pursuant to ¶¶ 2610.1 and 2610.2(b) of *The Discipline*.

ANALYSIS AND RATIONALE

The vote fraud question was brought to us as a motion to suspend our rules and add it to a preexisting petition on the effective date of ¶ 2553. Because of the unusual means of getting the issue before us, there were no briefs filed by any Interested Party or other persons. Because of our inability to get the information requested during oral argument, it would be in the best interests of the Church, the COB and all Interested Persons to re-schedule the case for rehearing so that parties other than the COB and the Commission who might oppose the position urged by those bodies could file briefs and participate in re-argument. And, if a representative of the Commission will consent to attend oral argument the next time, we might be able to get answers

⁵The COB representatives were unable to tell us why it was thought necessary to hire outside, expensive lawyers rather than using the able attorneys in the General Counsel's office.

to the questions put to the COB representatives.

DECISION

This case will be re-docketed for additional briefs and re-argument at the next session of the Judicial Council.

Lidia Romao Gulele was absent.

Warren Plowden, first lay alternate, participated in this decision.

November 1, 2019