

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1483

[Docket Nos. 0423-07 & 0423-09]

IN RE: Review of a Bishop’s Ruling on Questions of Law Concerning the Legality of the Resolution “Queer Delegates’ Call to Center Justice and Empowerment for LGBTQIA+ People in The UMC” Adopted by the South Central Jurisdictional Conference.

IN RE: Review of a Bishop’s Ruling on Questions of Law Concerning the Legality of the Resolution “Queer Delegates’ Call to Center Justice and Empowerment for LGBTQIA+ People in The UMC” Adopted by the North Central Jurisdictional Conference.

DIGEST

Jurisdictional conferences may adopt resolutions that are aspirational in nature, and express their ideals and opinions so long as they do not attempt to negate, ignore, or contradict the *Discipline*. Paragraphs 1 and 3-6 of the Resolution “Queer Delegates’ Call to Center Justice and Empowerment for LGBTQIA+ People in The UMC” are aspirational; Paragraph 2 of the Resolution is a prescriptive statement because it was meant to be a call to action that runs counter to the *Discipline*. The decisions of law of Bishop Cynthia Fierro Harvey and Bishop Frank J. Beard are partially affirmed and partially reversed.

STATEMENT OF FACTS

On November 3-4, 2022, during the session of the North Central Jurisdictional Conference [hereinafter NCJC] and South Central Jurisdictional Conference [hereinafter SCJC], the resolution, entitled “Queer Delegates’ Call to Center Justice and Empowerment for LGBTQIA” [hereinafter Resolution], was presented to the body of both conferences for consideration. After discussion, the resolution was approved. The six relevant paragraphs of the Resolution read:

Therefore be it resolved that the 2022 [NCJC and SCJS, respectively] of The United Methodist Church:

1. Supports and amplifies the queer delegates' call to justice and empowerment for the LGBTQIA+ community in our Jurisdiction, within and beyond our churches and agencies;
2. Affirms the spirit of the abeyance or moratorium as proposed to the General Conference, as referenced above, until changes can be made in The United Methodist Book of Discipline.
3. Implores our member Annual Conferences to either not pursue or resolve in an appropriately timely fashion through a non-punitive, just resolution process any complaints against clergy regarding their sexual orientation or clergy who officiate weddings of LGBTQIA+ persons;
4. Urges that as a Jurisdiction we either not pursue or resolve in an appropriately timely fashion through a non-punitive, just resolution process any complaints against Bishops regarding their sexual orientation or those who officiate weddings of LGBTQIA+ persons;
5. Supports the election of episcopal leaders who commit to upholding this resolution and who will further justice for and empowerment of LGBTQIA+ people in the annual conferences where they serve;
6. Commits to a future of The United Methodist Church where LGBTQIA+ people will be protected, affirmed, and empowered in the life and ministry of the church in our Jurisdiction, including as laity, ordained clergy, in the episcopacy, and on boards and agencies.

Following the vote, lay delegates in both NCJC and SCJC submitted the following identically worded Question of Law:

In accordance with Paragraphs 51 and 2609.6 of the United Methodist Book of Discipline and in light of Paragraphs 16, 27, 304, 341, 361, 362, 525, 635, 2701-2719, Judicial Council Decision #886, 1201, 1292, 1340, 1343, 1344, and 1403, and other relevant church law, I respectfully ask and request a decision on the following questions of law about the resolution recently adopted by the North Central Jurisdictional Conference on “Queer Delegates’ Call to Center Justice and Empowerment for LGBTQIA People in the UMC”:

- Do any of the numbered provisions at the end of the resolution impermissibly negate, ignore, violate, encourage actions that are contrary to, or discourage the enforcement of Discipline Paragraphs 304.1-3, 341.6, 362, 635, 2701, 2702, 2704, 2711, or other relevant church law? And if so, is such a provision null, void, and of no effect?
- Does the resolution’s affirmation of “abeyance” (in what is printed as item #2) contradict the Book of Discipline’s requirements for complaints held in abeyance as outlined in Paragraph 362.1.g? And if so, is this resolution or any section of it null, void, and of no effect?
- Does the passage of this resolution overrule, limit, or restrict the rights or obligations of bishops, district superintendents, counsels for the church, committees on investigation, trial courts, boards of ordained ministry, or district committees on

ministry to fully comply with and uphold Paragraphs 304.1-3, 341.6, 361, 362, 635, 2701, 2702, 2704, 2706, and 2711 of the Book of Discipline? And if so, is this resolution null, void, and of no effect?

On December 2, 2022, Bishop Cynthia Fierro Harvey, presiding at the session of SCJC in question, issued her ruling, which reads in relevant parts:

For the reasons stated below, I rule that paragraphs 1, 2 and 5 of the resolution in question are proper and do not violate the Discipline. I rule that portions of paragraphs 3 and 4 of the resolution that implore or urge conferences or persons not to pursue complaints are improper and therefore are null, void and of no force and effect, with the remaining portions of those paragraphs being proper.

In Decision 886, the Judicial Council stated as follows:

The Discipline is the law of the Church which regulates every phase of the life and work of the Church. As such, annual conferences may not legally negate, ignore, or violate provisions of the Discipline with which they disagree, even when the disagreements are based upon conscientious objections to those provisions.

The foregoing standard has also been applied to resolutions passed by jurisdictional conferences. See, e.g., Decision 1340. In Decision 1398, the Judicial Council characterized this standard as follows based on Decision 96: “All actions of a jurisdictional or annual conference must be faithful to and consistent with The Discipline.” A helpful summary of various decisions applying the standard is found in Decision 1255.

In subsequent decisions, the Judicial Council has further clarified Decision 886 and similar decisions related to whether a resolution is proper. See, e.g., Decisions 1044, 1052, 1111, 1220, 1255, 1340, 1389, 1392, 1395, 1406, 1435. These decisions all turn on the specific language of the resolutions at issue and are decided on a case-by-case basis. Thus, notwithstanding that there have been many decisions related to resolutions dealing with human sexuality and related provisions of the Discipline, the SCJ resolution in question must be examined based on its language with guidance as to how similar language has been interpreted by the Judicial Council.

In Decision 1392, the Judicial Council noted that it had previously ruled in Decision 1340 that a resolution “is considered aspirational as long as it is not ‘prescriptive’” that is, does not demand or encourage actions that are contrary to Church law.” Decision 1340’s actual language, citing Decisions 1262 and 1292, was as follows: “In addition to not being allowed to directly negate, ignore or violate the Discipline, the Judicial Council has held that annual conferences may not encourage other entities to violate Church law, or discourage the enforcement of Church law. An aspirational resolution “does not require further actions of the ... conference.” Decision 1395. Yet, “[a]spirational statements are future oriented.” Decision 1406. Continuing in Decision 1406, the Judicial Council stated:

To adopt a future-oriented statement looking toward a United Methodist Church that includes LGBTIA people in its full life and membership and in which resources are not spent on church trials, investigations, or bringing charges against clergy based on sexual orientation, gender identity, and/or gender expression or related actions in ways perhaps currently precluded by The Discipline, that does not in any way negate or encourage the negation of the current Discipline, is the very essence of an aspirational statement.

None of the provisions of the resolution in question demands, or binds the jurisdictional conference to, action that is contrary to Church law. The issue, therefore, is whether the SCJ resolution encourages a violation of Church law or discourages the enforcement of that law.

Turning to the resolution in question, my rulings regarding specific paragraphs are as follows:

1. [Text of resolution omitted]

This paragraph is aspirational in nature. Expressing support for persons and amplifying such persons' call to justice and empowerment for the LGBTQIA+ community in the SCJ does not require any further action of the jurisdictional conference and properly expresses a hope for a new more inclusive future in the UMC. Decisions 1220, 1389, 1399, 1406.

2. [Text of resolution omitted]

If this paragraph required action by the jurisdictional conference or any other body, it would be encouraging violation of the Discipline and discouraging affirmative requirements the Discipline's church process, which has held to be improper in whatever form an abeyance or moratorium or use of resources for the judicial process has taken. See, e.g., Decisions 1340, 1389, 1435. However, the language of paragraph 2 of the resolution merely "[a]ffirms the spicity [*sic.*] of the abeyance or moratorium" and is therefore supportive of an existing state of affairs in the UMC in certain areas, aspirational in nature, and proper.

3. [Text of resolution omitted]

Urging the appropriate bodies within an annual conference, including its episcopal leaders and those who are a part of the judicial process to seek a just resolution is consistent with the Discipline, particularly paragraphs 362.1 ("A just resolution is one that focuses on repairing any harm to people and communities, achieving real accountability by making things right in so far as possible and bringing healing to all the parties.") and 2701 ("[t]he judicial process shall have as its purpose a just resolution of judicial complaints ..."). However, imploring such persons to "not pursue" complaints is improper and violates the Discipline and decisions of the Judicial Council, including Decisions 1399 and 1435. Therefore, that part of paragraph 3 of the resolution that implores annual conferences not to pursue complaints against clergy regarding their sexual orientation or clergy who officiate weddings of LGBTQIA+ persons is null, void and of no effect.

4. [Text of resolution omitted]

The ruling regarding paragraph 3 above applies equally here. That part of paragraph 4 that urges a jurisdiction not to pursue complaints against bishops regarding their sexual orientation or those who officiate weddings of LGBTQIA+ persons is improper, null, void and of no effect.

5. [Text of resolution omitted]

This paragraph is aspirational in nature as it supports the election of persons who commit to upholding the point of view expressed in the resolution but requires no further action of the jurisdictional conference or the persons who are elected bishops. In fact, it expresses support for certain persons but has no binding effect on anyone or any body of the church. Therefore, it is proper.

On December 5, 2022, Bishop Frank J. Beard, presiding at the session of NCJC in question, issued his ruling, which reads in relevant parts:

In Decision 886, the Judicial Council stated as follows:

The Discipline is the law of the Church which regulates every phase of the life and work of the Church. As such, annual conferences may not legally negate, ignore, or violate provisions of the Discipline with which they disagree, even when the disagreements are based upon conscientious objections to those provisions.

The foregoing standard has also been applied to resolutions passed by jurisdictional conferences. See, e.g., Decision 1340. In Decision 1398, the Judicial Council characterized this standard as follows based on Decision 96: “All actions of a jurisdictional or annual conference must be faithful to and consistent with The Discipline.”

QUESTION ONE:

[Text of question omitted]

The numbered provisions of the resolutions presented to and adopted by the NCJ jurisdictional conference entitled, “Queer delegates call to center justice and empowerment for LGBTQIA+ people in the UMC,” while presented to the conference delegates as “aspirational,” do impermissibly negate, ignore, violate, encourage actions that are contrary to, or discourage the enforcement of the Book of Discipline and therefore are null, void, and of no effect.

QUESTION TWO:

[Text of question omitted]

The resolution’s call for “abeyance” does contradict the Book of Discipline’s requirement for complaints held in abeyance as outlined in paragraph 362.1g and therefore is null, void, and of no effect.

QUESTION THREE:

[Text of question omitted]

The passage of this resolution does overrule, limit, or restrict the rights or obligations of bishops, district superintendents, counsels for the church, committees on investigation, trial courts, boards of ordained ministry, or district committees on ministry to fully comply with and uphold the Book of Discipline, and therefore passage of this resolution is null, void, and of no effect?

An abeyance or moratorium was proposed to the General Conference, but the General Conference Session was not held, and delegates were not able to adopt or reject the proposal by the authors of the Protocol of Reconciliation and Grace through Separation, the only provision for abeyance or moratorium are those outlined in our current 2016 Book of Discipline. Imploring such persons to “not pursue” complaints is improper and violates the Discipline and decisions of the Judicial Council, including Decisions 1399 and 1435. Therefore, that part of paragraph 3 of the resolution that implores annual conferences not to pursue complaints against clergy regarding their sexual orientation or clergy who officiate weddings of LGBTQIA+ persons is null, void and of no effect.

The part of paragraph 4 that urges a jurisdiction not to pursue complaints against bishops regarding their sexual orientation or those who officiate weddings of LGBTQIA+ persons is improper, null, void and of no effect.

Jurisdiction

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

Analysis and Rationale

This case presents us with the unique factual circumstance in which bishops from two different jurisdictional conferences ruled on the same Question of Law regarding an identical resolution but came to differing results. While Bishop Beard ruled the entire Resolution null and void (Docket No. 0423-09), Bishop Harvey upheld it, except for portions of paragraphs 3 and 4 (Docket No. 0423-07). For the sake of clarity and consistency, Docket Nos. 0423-07 and 0423-09 are combined in this decision.

The Judicial Council consistently held that an “annual conference may adopt a resolution on human sexuality that is aspirational in nature; however, an annual conference may not negate, ignore or violate the *Discipline*, even when the disagreements are based upon conscientious objections to those provisions.” JCD 1120. *See also* JCD 1044, 1052, 1111. This right was later extended to jurisdictional conferences. In JCD 1340, we held that jurisdictional conferences are free to adopt resolutions that are aspirational in nature and to express their ideals and opinions so long as they do not attempt to negate, ignore, or contradict the *Discipline*. In determining

whether a conference resolution is proper under Church law, the Judicial Council distinguishes between *aspirational* and *prescriptive* language. Aspirational statements are future oriented. They look to and express a yearning for something new or different. It is permissible for a conference to publicly endorse moral-ethical principles or take a theological stance in the hope that they become reality someday. “By their very nature, aspirational statements express a hope for a United Methodist Church different from the current church as defined by the *Discipline*.” JCD 1406. While they are free to adopt resolutions with aspirational content, conferences are prohibited from passing resolutions that are prescriptive in nature. A resolution is prescriptive if it “was meant to be a call to action that runs counter to the *Discipline*.” JCD 1468, quoting JCD 1340.

Paragraphs 1 and 3 – 6 of the Resolution consist of statements containing words like ‘support,’ ‘implore,’ ‘urge’ and ‘commit’ that express a particular viewpoint regarding the inclusion, treatment, and role of LGBTQIA+ persons in the Church. These declarations are forward-looking and non-directive expressions of hope for the future direction of The United Methodist Church and, therefore, aspirational in nature. Specifically, paragraphs 3 and 4 (*imploring* and *urging* annual conferences and the jurisdiction to not pursue or resolve in an appropriately timely fashion any complaints against clergy and bishops) do not create the obligation to refrain from filing complaints or to dismiss charges related to LGBTQIA+ persons because bishops and district superintendents are still bound by Church law. In JCD 1469, we held that “the terms ‘urge’ and ‘implore’ are ambiguous and undefined and, therefore, can be reasonably construed to be aspirational statements advocating an inclusive vision of the Church.”

Paragraph 2 of the Resolution, which “[a]ffirms the spirit of the abeyance or moratorium as proposed to the General Conference,” encourages and expresses support for an action that runs counter to Church law. In JCD 1340, the Judicial Council also held that jurisdictional conferences “may not pass resolutions that encourage a violation of Church law or discourage the enforcement of Church law.” The *Discipline* mentions the term ‘abeyance’ only in ¶ 362.1(g):

g) A complaint may be held in abeyance with the approval of the Board of Ordained Ministry if civil authorities are involved or their involvement is imminent on matters covered by the complaint. The status of complaints held in abeyance shall be reviewed at a minimum of every 90 days by the bishop and the executive committee of the Board of Ordained Ministry to ensure that the involvement of civil authorities is still a valid impediment for proceeding with the resolution of a complaint. Abeyance of a complaint may be terminated by either the bishop or the Board of Ordained Ministry. The time in which a complaint is held in abeyance shall not count toward the statute of limitations. A clergyperson shall continue to hold his or her current status while a complaint is held in abeyance.

It is only in the context of ongoing or imminent civil or criminal proceedings that *abeyance* can be contemplated. Therefore, Paragraph 2 is a prescriptive statement that directly affirms the abeyance or moratorium and constitutes a call to action that runs counter to the *Discipline*.

Consequently, Paragraphs 1 and 3-6 of the Resolution are aspirational, and Paragraph 2 is prescriptive in nature. Bishop Harvey's decision is partially affirmed and partially reversed. Bishop Beard is partially affirmed and partially reversed.

Decision

Jurisdictional conferences may adopt resolutions that are aspirational in nature, and express their ideals and opinions so long as they do not attempt to negate, ignore, or contradict the *Discipline*. Paragraphs 1 and 3-6 of the Resolution "Queer Delegates' Call to Center Justice and Empowerment for LGBTQIA+ People in The UMC" are aspirational; Paragraph 2 of the Resolution is a prescriptive statement because it was meant to be a call to action that runs counter to the *Discipline*. The decisions of law of Bishop Cynthia Fierro Harvey and Bishop Frank J. Beard are partially affirmed and partially reversed.

April 25, 2023

Concur in Part and Dissent in Part

I concur with my colleagues on some aspects of the Resolution, but not on others. Taking all paragraphs together as a whole, the overall message may result in the violation of the *Discipline*. As a whole, it has a clear message: a call to negate, ignore, and violate provisions of the *Discipline*.

Kabamba Kiboko
Dennis Blackwell

April 25, 2023