

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1414

IN RE: Review of a Bishop's Ruling on a Matter of Law in the Greater New Jersey Annual Conference Concerning Initial Steps Being Taken in the Implementation of Provisions Set Forth in the "Way Forward Report" Prior to the Matter Being Deliberated and Decided by Formal Action of the Annual Conference and Without the Annual Conference's Approval and Authorization

DIGEST

No action was taken concerning the report called The Way Forward and the request for a ruling of law is moot and hypothetical. The bishop's Decision of Law is affirmed.

STATEMENT OF FACTS

At the March 2019 Greater New Jersey Annual Conference Special Session, held to review the actions of the 2019 Special Session of the General Conference, a team was created called the GNJ Way Forward Team which was formed to help GNJAC move forward in light of the tension and confusion which was permeating the United Methodist Church. The team gave a report at the May 2019 Annual Conference and provided updates to the conference after each of their meetings. A Special Session of the Annual Conference was held on October 26, 2019 to hear about the team's work. The Way Forward Team presented a written report in the pre-conference journal and an oral report at the Special Session. No action was taken whatsoever concerning the report itself except for 10 recommendations from the team which were presented for vote by the Annual Conference. These were discussed, two items were amended, and the members of the Conference voted approval. The 10 recommendations that was approved was:

1. Continue to resource congregational leaders to make disciples and grow vital congregations to transform the world.
2. Shepherd all congregations into the future recognizing our diversity of culture, ethnicity and belief.
3. Create sacred space for congregations to thrive in their context.

4. Seek to eliminate harm to the people in our communities and congregations.
5. Care for youth in our congregations and in our communities, who face discrimination, hatred and harm because of their sexuality and gender identity. Death by suicide is significantly higher among LGBTQ youth than among their heterosexual and cisgender counterparts. The Team calls all congregations to be sensitive and alert to the needs of youth in our congregations and community and to use the resources for LGBTQ youth found at gnjumc.org/protecting-children-and-youth/end-harm-to-youth.
6. Make available trained facilitators to assist interested congregations with conversations about ministry with LGBTQ persons and to develop covenants about ministry with the LGBTQ community as well as other missional commitments that empower contextual ministries of justice, mercy and peace.
7. Honor congregational covenants, particularly the cabinet when making appointments and working with congregations.
8. Engage someone to coordinate and resource the covenanting process for congregations.
9. Make training and coaching available, particularly in congregations where there are differences concerning human sexuality, so that each person can see that others matter just like they do.
10. Provide a web page for congregations to communicate that they are a welcoming congregation who affirms the full inclusion of LGBTQ people so that people from the community, especially LGBTQ people, can locate a congregation to worship with and participate in ministry.

Just before the conclusion of the conference, a pastoral member submitted the following questions of law for a ruling by the Bishop who received it and indicated he would rule within 30 days.

Can the provisions of the Greater New Jersey Way Forward Report, as presented to or modified by this special session of the Greater New Jersey Annual Conference, which have not been nor will be voted on at this special session be implemented without those provisions having been affirmed by the vote of delegates to a meeting of the Greater New Jersey Annual Conference? See paragraph 604 of the Book of Discipline.

On November 22, 2019 Bishop Schol issued the following Decision of Law:

The Greater New Jersey (GNJ) Way Forward Team report was shared with the Special Session of the Greater New Jersey Annual Conference (GNJAC), through the pre-conference journal and orally at the conference. The report itself was not adopted, approved, rejected, received nor modified by the Annual Conference. It was simply presented as a report and so there was no action that was or could be taken as to whether the report negated, ignored

and/or violated The Book of Discipline (2016) as amended at the February 2019 Special Session of the General Conference. All parts of the GNJ Way Forward report which were not acted on, in order to be implemented must be affirmed by members of GNJAC at a duly called conference session.

Jurisdiction

The Judicial Council has jurisdiction under ¶ 2609.6 of the *2016 Discipline*.

Analysis and Rationale

In order to be implemented, any item in a report that has been presented to the members of an annual conference at its session, must be specifically voted upon. In the situation herein, the only part of the GNJ Way Forward report which was presented for a vote was the 10 recommended items which, after modification, were approved. Nothing else in the report was approved for implementation. The question of law is moot and hypothetical.

Decision

No action was taken concerning the report called The Way Forward and the request for a ruling of law is moot and hypothetical. The bishop's Decision of Law is affirmed.

Dennis Blackwell recused himself and did not participate in any of the proceedings related to this decision.

May 5, 2021

Dissenting Opinion

I must dissent from the majority's holding. The majority affirms the bishop's ruling while simultaneously rejecting and modifying the bishop's ruling.

The question posed is **whether the proposals contained in the report** (that was presented to the special session of the annual conference for informational purposes and was not subject to the action of the special session of annual conference) **could be implemented prior to the report being acted upon by the annual conference.**

The presiding bishop provides a direct answer to the question: “All parts of the GNJ Way Forward report which were not acted on, in order to be implemented **must be affirmed by members of GNJAC at a duly called conference session.**”

I do note that this question appears to be quasi-parliamentary, or as stated in Memorandum 546, a question of parliamentary interpretation. The inherent issue in the inquiry is a concern which appears to be shared by others who also submitted questions of law at the conclusion of the annual conference special session. This issue is evidenced in the response of the presiding bishop when he prefaces this question’s answer with the sentence: “It was simply presented as a report and so there was no action that was or could be taken as to whether the report negated, ignored and / or violated *The Book of Discipline* (2016) as amended at the February 2019 Special Session of the General Conference.”

However, my dissent is premised upon the inconsistencies within the majority’s analysis and decision. They have two separate holdings which cannot coexist.

In the analysis the first sentence is from the bishop’s answer, although it is not a direct quote and it differs from the bishop’s statement. The majority set forth: “any item in a report...must be specifically voted upon.” It’s helpful to note that action on a report by an annual conference can take various forms. There may be circumstances which warrant an annual conference voting upon each individual item separately, but there are many situations wherein an Annual Conference may also vote to adopt a report as a whole or by sections. In any event, in the first sentence of the analysis the majority appears to affirm the presiding bishop’s response to the question by somewhat restating the essential element of the answer.

In order to be implemented, any item in a report that has been presented to the members of an annual conference at its session, must be specifically voted upon.

However, the second and third sentences of the analysis appear non-responsive to the immediate question of whether the un-adopted provisions of the report can be implemented without first being subject to action and approval by the annual conference.

In the situation herein, the only part of the GNJ Way Forward report which was presented for a vote was the 10 recommended items which, after modification, were approved. Nothing else in the report was approved for implementation.

The last sentence of the analysis [The question of law is moot and hypothetical] is confusing because the majority has affirmed the bishop's ruling that the report cannot be implemented without the prior approval of the annual conference during a duly called session. Stating in the very next sentence that the question of law is moot and hypothetical is not what the bishop ruled nor is it contained in the episcopal ruling that the majority affirmed in the preceding sentences. Holding that "the question of law is moot and hypothetical" is contrary to the bishop's ruling on this particular question and is in direct conflict with the majority decision's second sentence, "The bishop's Decision of Law is affirmed." These two particular holdings cannot coexist.

Without consistency or clarity in the analysis and decision, I must respectfully dissent. I further dissent because I believe the release and publication of this decision was premature.

Beth Capen
J. Kabamba Kiboko joins this Dissent

May 5, 2021