

## DECISION 1273

### **IN RE: *Review of a Bishop's Decision of Law in the Indiana Annual Conference Regarding the Transitional Leave of Absence of an Elder in Light of ¶ 425***

#### DIGEST

The Bishop's decision of law is reversed. First, the request for a decision of law was an improper one and should have been ruled improper by the bishop; questions about fair process cannot be addressed through requests for decisions of law. Second, the decision of law delivered by the bishop gave an incorrect statement of church law, which cannot be allowed to stand; leave of absence is not an appointment, but rather it is a category of conference relationship, which can only be granted through the proper procedures as they are set forth in the *Discipline*.

#### STATEMENT OF FACTS

During the Clergy Session of the Indiana Annual Conference on May 29, 2014, the Board of Ordained Ministry presented its report. One item on which the conference took action, under the rubric of "Conference Relations," was to approve a recommendation from the board that an elder in full connection be granted "Transitional Leave" retroactively for a period beginning July 31, 2013. In a subsequent action, the Clergy Session approved a recommendation from the board for that same elder in full connection to "come off of Transitional Leave" retroactively, effective December 31, 2013.

Following these actions, an elder in full connection moved that the annual conference reimburse him "for compensation lost while not under appointment August 1, 2013, to December 31, 2013." His motion also requested benefits and pension credit for the same period. The record of the Clergy Session shows that a motion to refer the matter to the Executive Committee of the Board of Ordained Ministry was offered and discussed, but it was not approved. The record also shows that the main motion, namely a request for compensation and benefits, was not approved.

After the discussion and the votes on these matters, a clergy member submitted the following request for a decision of law by the Bishop:

Was Rev. Michael Heinbaugh properly appointed from August 1, 2013 to December 31, 2013 as required in Paragraph 425 of the Book of Discipline and did he receive compensation in accordance with ¶425 of the Book of Discipline and Annual Conference Policies?

Bishop Michael J. Coyner read his decision of law into the record of the plenary session of the annual conference on May 30, 2014. The Bishop ruled that

Michael Heinbaugh was appointed to a Transitional Leave of Absence in the interim between the 2013 and 2014 Sessions of the Indiana Conference. The Executive Committee of the Board of Ordained Ministry acted upon a recommendation from the Cabinet for Rev. Heinbaugh to be appointed to Transitional Leave when his appointment to Decatur St. Mark's church ended on July 31, 2013. There were no formal complaints involved, just a church which demanded a change of appointment, and in a meeting on August 26, 2013 with myself and my Executive Assistant Dr. Cindy Reynolds, Rev. Heinbaugh declined to accept the only other available appointment— indicating his preference for something closer to the geography of his sons because he was going through a divorce. After the Cabinet secured a new pastoral appointment for Rev. Heinbaugh which met those geographic request, effective January 1, 2014, the Executive Committee voted to return him from Transitional Leave to receive that pastoral appointment. Those actions of the Executive Committee were confirmed by the Clergy Session on May 29, 2014 after a thorough discussion including the consideration of several different actions which were not approved.

Therefore, my ruling is that Michael Heinbaugh's appointment from August 1, 2013, through December 31, 2013, was to

Transitional Leave. Being appointed to any kind of Leave of Absence is an appointment, not a change of status, so Paragraph 425 was not violated.

In delivering the decision of law, the Bishop cited the “different actions which were not approved,” thereby noting the relationship between the request for the decision of law and the action taken by the Clergy Session of the Annual Conference. During the debate and discussion on that motion, the Bishop—according to the official Minutes of the Clergy Session—said “that there were no chargeable offenses or censures involved in the reasons the congregation requested that Michael be removed as their pastor.”

The Bishop submitted the decision of law to the Judicial Council in a timely manner. The Rev. Mark Dicken and The Rev. Michael Heinbaugh submitted a brief.

### **JURISDICTION**

The Judicial Council has jurisdiction under ¶¶ 51 and 56.3 of the Constitution and ¶ 2609.6 of the *2012 Discipline* as modified by Decision 1244.

### **ANALYSIS AND RATIONALE**

When the Judicial Council passes upon a Bishop’s decision of law, the Council acts with the authority that is established by the Constitution (¶ 51) and fulfills responsibilities that are defined in church law (¶ 2609). The language in the Constitution and in church law is consistent. “All decisions of law made by each bishop shall be reported...to the Judicial Council, which shall affirm, modify, or reverse them.” In fulfilling this authority and these responsibilities, the Judicial Council is guided by principles that remain precedents from previous decisions of the Council. Among them is the determination in Decision 799, which said

A so-called "question of law", though properly presented, must relate to the business, consideration or discussion of the conference session.

An earlier statement of the same principle, in Decision 33, determined the legitimacy of requests for decisions of law,

...which requests should be based upon some action taken or proposed to be taken, wherein under the specific facts in each case some doubt may have arisen as to the legality of the action taken or proposed.

In this instance, the Clergy Session of the annual conference took actions that approved retroactively both the beginning and the end of a “transitional leave” for a full member of the conference.

However, in order to qualify as a proper request for a decision of law by the Bishop, the request must also satisfy other tests that are the law of the Church. The Judicial Council in Decision 799 determined that “The bishop has no authority to make substantive rulings on judicial or administrative matters.” The Judicial Council added, “Questions involving the supervisory function of the district superintendent ... are improper and should be so ruled.” In two related Decisions, 1088 and 1092, the Council noted the following:

Questions as to fair process, judicial process, and administrative process ought to be dealt with through the appropriate manner and bodies set forth in the Discipline. It is only by vote of an authorized body for a declaratory decision [from the Judicial Council] that the matter might be addressed by the Judicial Council on the merits.

An annual conference may vote to request that the Judicial Council to issue a declaratory decision, but an individual may not circumvent that process merely by requesting that the presiding bishop make a decision of law in order to trigger an automatic review by the Judicial Council. Further, problems arising out of the appointment-making process are not permissible questions of law to be submitted to a bishop for a substantive ruling, but rather they must be ruled to be improper.

Hence, in this instant case, the request for a decision of law by the Bishop met some of the criteria but not all of the criteria to be a proper request for a decision of law. And the Bishop should have issued a decision of law that the request was improper.

Second, however, in choosing to deliver a substantive ruling, the Bishop then made errors of church law in the decision. Within church law, the category known as “Transitional Leave” is a specific form of voluntary leave of absence. But there is no evidence in the record that The Rev. Heinbaugh had ever requested a leave of absence in general or a transitional leave in particular. Indeed, the contrary appears to be the case, for The Rev. Heinbaugh has asserted in his brief that he

...made no such request and did not receive any written notice that the Board of Ordained Ministry had received or acted on any written request by Bishop Coyner or any other agent of the conference to place him on transitional leave.

The General Conference, in 2012, amended ¶ 354 of the *Discipline* and granted authority to the bishop, altering the nature of “Transitional Leave” as a strictly voluntary leave of absence and allowing a bishop to place a clergy member on “Transitional Leave” if a suitable “missional” appointment had not been identified for the clergy member. But that action of the General Conference was declared unconstitutional by Decision 1226, and the language of the *2008 Discipline* on “Transitional Leave” was restored.

In this instant case, the procedure that was followed by the Bishop, the annual conference Board of Ordained Ministry, and the Clergy Session would have been legitimate if the action of the 2012 General Conference had remained church law. However, before they ever went into effect, those legislative changes in regard to “Transitional Leave” were voided by Decision 1226.

“Transitional Leave” remains as one of the reasons that a clergy member may request a voluntary leave of absence. In this case, the clergy member

did not make such a request, and no other person or office in the Church has the authority to request it.

This is clearly contrary to Part VI, Chapter Two, Section XVI of the *Discipline*, which places a “Voluntary Leave of Absence” under the heading for “Changes of Conference Relationship.” The Bishop’s decision of law is in error when it asserts that a leave of absence is an appointment. It is, instead, a lawfully approved form of absence from the obligation to receive and accept an appointment.

The Judicial Council has previously addressed the problems of extra-legal maneuvers to avoid granting an appointment to a clergy member in good standing. Decision 702 declared:

The prohibition of an appointment must be exercised in compliance with the rights of all persons who are in full membership.

In addition, Decision 459 warned:

It would be a drastic limitation on the historic security of appointment if, between sessions of the Annual Conference, the bishop, district superintendents and executive committee of the Board of Ordained Ministry could deprive a minister of his [or her] right to appointment by putting him [or her] on involuntary leave.

A clergy member of the annual conference who feels that she/he has been improperly or wrongly placed on involuntary leave of absence, including transitional leave, or who feels wrongly left without an appointment, has recourse through proper procedures in the *Discipline*. But requesting a decision of law is an improper procedure. And a Bishop who chooses to make a substantive ruling in responding to an improper request for a decision of law should not compound the error by stating the law of the Church inaccurately.

## **DECISION**

The Bishop's decision of law is reversed. First, the request for a decision of law was an improper one and should have been ruled improper by the bishop; questions about fair process cannot be addressed through requests for decisions of law. Second, the decision of law delivered by the bishop gave an incorrect statement of church law, which cannot be allowed to stand; leave of absence is not an appointment, but rather it is a category of conference relationship, which can only be granted through the proper procedures as they are set forth in the *Discipline*.

Kabamba Kiboko was absent.

Timothy K. Bruster, first clergy alternate, took part in this decision.

William B. Lawrence, President

F. Belton Joyner, Jr., Secretary

October 25, 2014