

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1385

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.

**DIGEST OF CASE**

The effective date of ¶ 2553 is immediately upon the close of the 2019 Special Session of the General Conference (the “*Special General Conference*”).

**STATEMENT OF FACTS**

The Council of Bishops filed a petition for a declaratory decision which requests that we determine the effective date of ¶ 2553. That Section originated with Petition 90066 which was known as the Taylor Petition (ADCA p. 205). The Petition begins as follows:

Amend, effective the close of the 2019 Conference,<sup>1</sup> Chapter Six, Church Property, by adding a new Section VIII Disaffiliation of Local Churches over Issues Related to Human Sexuality, then by adding a new ¶ 2553 as follows:

The Petition was brought forward on Tuesday Afternoon, February 26, 2019 by Joe Harris who had served as the presiding officer of the Committee of the Whole (DCA p. 515):

JOSEPH HARRIS: Item is DCA 386, Calendar Item 19, Petition 90066, ADCA 205, Disaffiliation: Taylor. New paragraph 2553. There will be a minority report by Beth Ann Cook. (DCA p. 516).

The Minority Report provides as follows:

Adopt Petition #90066 (ADCA) p. 205) with the following changes:

1. Delete what is printed in section 2553.5 in its entirety. [This should read 2553.3, as was corrected verbally by the maker of the motion] in its entirety.
2. In the section listed as 2553.5, the first sentence, replace “the resident bishop” with “the board [sic] of trustees.”
3. Delete the first sentence 2553.5g.
4. Change the final sentence section 2553.5g, by replacing it with the following: “Payment shall occur prior to the effective date of the departure”
5. Delete the entirety of what is printed as sub-section 2553.5c, and re-number the rest accordingly.

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<sup>1</sup>Section 511 of The Discipline provides that legislation adopted by the General Conference shall become effective on January 1 of the following year “unless otherwise specified.”

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. 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 Book of Discipline of the United Methodist Church, 2016*.

### ANALYSIS AND RATIONALE

The petition for a declaratory decision by the Council of Bishops raised the question of the effective date of ¶ 2553 as adopted by the Special General Conference.

None of the changes in Petition 90066, as amended by the Minority Report, related to, changed or even mentioned the prefatory language of Petition 90066 about its effective date.

There was no discussion of the effective date in the debate on the substitution of the Minority Report (DCA p. 521) or the debate on the passage/approval of the Minority Report which had become the main motion. (DCA p. 523). The body clearly understood that only those specific changes in the Minority Report were before it. The prefatory language remained unchanged before the General Conference. The effective date of ¶ 2553 is the close of the Special General Conference.

### RULING

The effective date of ¶ 2553 is immediately upon the close of the Special General Conference.

Lidia Romao Gulele was absent.

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

### DISSENTING OPION

I respectfully dissent from the majority opinion. Neither the original petition 90066, nor the substituted minority report, set forth an alternative effective date [date when the adopted legislation goes into effect] within the body of the new paragraphs to be inserted into the Discipline; the only reference to an alternative date was in the petition's preface. The Disciplinary paragraphs that provide for the effective date of adopted legislation are as follows:

**¶ 508. Legislation Effective Date**—All legislation of the General Conference of The United Methodist Church shall become effective January 1 following the session of the General Conference at which it is enacted, unless otherwise specified (¶ 543.17). [2016 Discipline p. 367 and Errata]

**¶ 543.17 In a central conference or provisional central conference** using a language other than English, legislation passed by a General Conference shall

not take effect until twelve months after the close of that General Conference in order to afford the necessary time to make adaptations and to publish a translation of the legislation that has been enacted, the translation to be approved by the resident bishop or bishops of the central conference. This provision, however, shall not exclude the election of delegates to the General Conference by annual conferences within the territory of central conferences or provisional central conferences. [2016 Discipline p. 388]

When a variance from the above effective date is sought, then the alternative date is generally set forth within the body of that sentence or paragraph that is to be inserted into the discipline. The General Conference delegates are voting on the content of the amended language, not on the rationale which follows the legislation nor on the preface material that precedes the proposed Disciplinary language. For example, Petition 20325, adopted by the 2012 General Conference, included the following paragraph in the body of the legislation:

¶442. In pursuit of its ecumenical and inter-religious responsibilities the Council of Bishops shall create an Office of Christian Unity and Inter-religious Relationships (OCUIR) **effective upon adjournment of General Conference 2012** [emphases added]. The purpose of the OCUIR will be to deepen and expand the ecumenical and inter-religious ministries of the United Methodist Church.

It is for these reasons that I believe that the voting delegates of the General Conference did not adopt an alternative effective date for ¶ 2553.

Beth Capen

November 1, 2019