

## JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

### DECISION 1252

***IN RE: Review of a Bishop's Decision of Law in the New England Annual Conference Regarding Setting the Agenda for an Annual Conference in Light of Judicial Council Decisions 367 and 876 and ¶ 605.2***

#### DIGEST

The Bishop's decision of law is affirmed. A bishop presiding at an annual conference does not have to answer moot and hypothetical questions, nor does the Judicial Council have authority to review parliamentary rulings.

#### STATEMENT OF FACTS

On June 13, 2013, at a regular business session of the New England Annual Conference, a lay member made a statement and asked the bishop for two related decisions of law. The statement and questions were as follows:

"Bishop ..., pursuant to ¶51 and ¶2609.6 in the Book of Discipline, I am requesting a ruling of law.

Judicial Council Decisions 367 and 876 state in part, 'Any organizational structure in an Annual Conference dealing with legislative matters must protect: the rights of the Annual Conference to receive and act on all proposals brought to it...and the rights of individual members of the conference to be informed on and to participate fully in all legislative decisions.'

In addition, ¶605.4 and ¶605.5, direct that 'the business of annual conference shall include receiving and acting upon reports...' that come from a variety of sources.

Before this body, we have 33 action items, including #101-120, 201-209, and 301-304.

¶605.2 authorizes the Annual Conference to adopt an agenda in order to expedite the transaction of its business.

My questions are this:

1) When setting the agenda pursuant to ¶605.2, and in light of the principles expressed in Judicial Council Decision 367 and 876, do action items, specifically including resolutions focused on social issues such as #207 and #208, have the same standing as business items as reports do under ¶605.4 and ¶605.5?

2) As business/action items, must they thus be given precedence, along with other business items mandated in ¶605, over other agenda items during the Annual Conference session that are not covered under ¶605 and thus are not mandatory?"

In addition to the request being made from the floor of the conference during a regular business session, the questions were presented to the Bishop in written form.

At the morning session of June 14, 2013, the Conference Secretary re-read the questions to the Conference and indicated that the Bishop's response would be printed in the conference journal and would be reviewed by the Judicial Council.

At the afternoon session of June 14, 2013, the lay member asked the annual conference to authorize a Judicial Council review of any ruling the bishop might make. The Daily Proceedings records that the request to appeal the questions and subsequent ruling to the Judicial Council was "adopted by a majority vote."

In a timely way, on July 8, 2013, the Bishop filed his ruling. He also submitted a brief supporting those rulings. The bishop's decision was: "New England Annual Conference does not require decisions of law by the presiding Bishop because the requests related to no issue before the Annual Conference and they appear to be asking for a clarification of a Parliamentary procedure, not an issue of law."

The conference secretary provided Daily Proceeding for the entire session of the annual conference. The lay member who raised the questions filed a brief, offering rebuttal to the Bishop's ruling.

### **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**

Judicial Council Decision 1214 restates long-standing Judicial Council principles:

The Judicial Council has frequently and clearly included certain principles that relate to bishops' decisions of law. The longstanding jurisprudence of the Judicial Council has been that requests for decisions of law shall be germane to the regular business, consideration, or discussions of the annual conference and shall state the connection to the specific action taken, or proposed to be taken, during the conference session. Especially notable is the language in two decisions, namely 33 and 799. With regard to a request for a bishop's decision of law, Decision 33 says that "...any such request should be based upon some action taken or proposed to be taken by such Conference, wherein under the specific facts in each case some doubt may have arisen as to the legality of the action taken or proposed." ... Decision 33 also says, It is not the duty of the presiding Bishop to rule upon any hypothetical question which may be propounded, nor to answer requests for information which involve no legal matter.

The questions did not reflect any action that the Annual Conference had taken or proposed to take. The lay member was anticipating what the Annual Conference might do, but there was no action that the Annual Conference took or proposed to take. There was nothing of legal inquiry before the Annual Conference. Thus, the questions are both moot and hypothetical

In the questions at hand, the lay member raised parliamentary issues regarding the agenda, but posed his inquiries as questions of law. In Decision 1117, the Judicial Council stated: "There is no disciplinary authority for the Judicial Council to assume jurisdiction of a parliamentary ruling

by a presiding bishop.” The Bishop correctly notes that the inquiries ask for a parliamentary interpretation of the agenda set by the Annual Conference. The Judicial Council cannot consider parliamentary questions.

The Daily Proceedings report that the Annual Conference voted to refer the decision of law to the Judicial Council. This was an irrelevant action in that all decisions of law by a bishop presiding at an annual conference session are referred to the Judicial Council for review. See Judicial Council Decision 1244.

The Bishop’s ruling indicated that “New England Annual Conference does not require decisions of law by the presiding bishop...” It is not within the authority of an annual conference to require or not to require decisions of law by the presiding bishop. The Constitution (see ¶¶ 51 and 56.3) directs that these decisions of law be made and submitted to the Judicial Council for review.

#### DECISION

The bishop’s decision of law is affirmed. A bishop presiding at an annual conference does not have to answer moot and hypothetical questions, nor does the Judicial Council have authority to review parliamentary rulings.

Dennis Blackwell was absent.

Timothy K. Bruster, first clergy alternate, participated in this decision.

October 26, 2013

## DISSENT

Our conclusion is that the questions should be remanded to the bishop for a substantive ruling.

The Judicial Council should retain jurisdiction.

The first question to be explored is whether the matter at hand is a question of parliamentary procedure or whether it is an issue of law. We agree with the controlling opinion that the consistent jurisprudence of the Judicial Council is that it does not have jurisdiction over parliamentary matters. In Decision 1117, Judicial Council stated: . “There is no disciplinary authority for the Judicial Council to assume jurisdiction of a parliamentary ruling by a presiding bishop.

Decision 999 held that the Judicial Council does not have jurisdiction to review parliamentary rulings of episcopal leaders made during annual conference sessions. See Decisions 898, 941, 943, and 953. In order for a request to be a parliamentary ruling, the chair must rule on the request in the parliamentary session affording the opportunity for an appeal of the chair’s ruling to the body.”

Nevertheless, nothing in the record of the annual conference suggests that the matter was presented as or received as a parliamentary question. At no point did the presiding bishop call the question out of order. If the questions were for parliamentary clarification, the Bishop should have offered those clarifications while the Annual Conference was in session. The failure to do so denied the body an opportunity to appeal the chair’s clarification. The questions were stated as questions of law and were handled that way in the session of Annual Conference.

In order to be an issue of law, the questions must be germane to the business of the annual conference. In Decision 1214, the Judicial Council stated: “The Judicial Council has frequently and clearly included certain principles that relate to bishops’ decisions of law. The longstanding jurisprudence of the Judicial Council has been that requests for decisions of law shall be germane to the regular business, consideration, or discussions of the annual conference and shall state the connection to the specific action taken, or proposed to be taken, during the conference session.”

The questions that were raised related to the Annual Conference action of setting an agenda. The Daily Proceedings for June 13, 2013, show that the requests for decisions of law followed immediately upon adoption of the agenda. They relate to a specific action taken by the annual conference during a regular business session of the annual conference: the adoption of the agenda. The questions related to specific disciplinary paragraphs and related to the business of the annual conference. They were not moot and hypothetical.

Accordingly, the two questions should be remanded to the bishop for a substantive ruling.

F. Belton Joyner, Jr.

Ruben Reyes

October 26, 2013