

SUBJECT TO FINAL EDITING

## JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

### DECISION NO. 1337

IN RE: Review of a Bishop's Decision of Law in the Illinois Great Rivers Annual Conference concerning whether the Conference Board of Ordained Ministry and the Cabinet have the authority to change the trial court's penalty by adding additional requirements and timelines that are not a part of the trial court's decision.

### DIGEST

Questions as to fair process, judicial process, and administrative process must be addressed in the appropriate manner and through the specific bodies set forth in *The Book of Discipline 2012*. An annual conference may vote to request the Judicial Council to issue a Declaratory Decision, but an individual may not circumvent that process by merely requesting the presiding bishop for a Decision of Law so as to trigger an automatic review by the Judicial Council; to do so undermines the procedures and safeguards set forth in *The Book of Discipline 2012*. Issues arising from the penalty phase of a trial and one's return to full relationship are likewise not permissible questions of law to be submitted to a bishop for a substantive ruling and they must be ruled as improper. The decision of the bishop is thus reversed.

### STATEMENT OF FACTS

During the clergy session of the 2016 regular session of the Illinois Great Rivers Annual Conference an elder made a request for a decision of law concerning the continuation of suspension of a clergy member who had been so suspended since the disposition of his trial on December 13, 2013, pursuant to ¶ 2711.3 of *The Book of Discipline 2012* [hereinafter *The Discipline*]. The questions and the response from the presiding bishop are as follows:

Question:

Does the Board of Ordained Ministry and the Cabinet have the authority to not accept the documentation requested in the Trial Court's penalty?

Response of the presiding bishop: They do not.

Bishop's Comment:

BOOM and the Cabinet did accept the documentation from Howard Bell [the clergy member on suspension]. In both independent hearings, documents received and reports on Howard Bell were used as the basis for the review. (See reports from BOOM and the Cabinet).

Second Question:

And does the Board of Ordained Ministry and the Cabinet have the authority to change the Trial Court's penalty by adding additional requirements and timelines that are not a part of the Trial Court's decision? (Specifically, they have changed the suspension from 2 to 5 years, by stating that they (Cabinet and BOOM) will only hear one request and it must be made after February 1, 2018.

Response of the presiding bishop:

Bell's allegations are not correct. Neither BOOM nor the Cabinet added additional requirements or time to Bell's penalty. On the Trial Penalty Form, Bell's penalty was set at a "minimum of two years or a maximum of five years." (Howard has had a copy of the form since 2013). However, the BOOM and the Cabinet did recommend that Howard Bell do some long term psychotherapy and do another psychological assessment after December 1, 2017. Neither was a requirement (See follow-up letter to Howard Bell from BOOM and the Cabinet).

## JURISDICTION

The Judicial Council has jurisdiction under ¶¶ 51, 56.3, and 2609.6 of *The Discipline* as modified by Judicial Council Decision [hereinafter JCD] 1244.

## ANALYSIS AND RATIONALE

The questions presented to the bishop seek a ruling on procedural and substantive matters related to judicial and administrative processes. Bishops have no authority to make substantive rulings in such circumstances (*See* JCD 799, 867, 1064, 1092, 1166, 1167, 1188, 1314).

In JCD 799 the Judicial Council reiterated the limitations on the scope and subject matter of a Decision of Law made by an annual conference's presiding bishop. The Judicial Council emphasized in JCD 799 that:

The bishop has no authority to make substantive rulings on judicial or administrative matters. Such matters are limited to the purview of the judicial or administrative bodies such as Committee on Investigation, Trial Court, Committee on Appeals or Judicial Council. The constitution (¶ 18) and the *1996 Discipline* (¶¶ 358, 2623, and 2626-2628) have placed the authority to resolve such questions in these bodies. To do otherwise would violate the principle of separation and balance of powers between the legislative, executive and judicial branches as set forth in the Constitution. [emphasis added]

...

Questions involving the supervisory function of the district superintendent under the Discipline under ¶ 520 (¶ 421 1996 Discipline) are improper and should be so ruled.

In Memorandum 1166 the Judicial Council reiterated the controlling rule:

Questions as to fair process, judicial process, and administrative process must be addressed in the appropriate manner and through the specific bodies set forth in the *Discipline*. In no event may an individual bring those delineated issues to the Judicial Council as a review of a Bishop's ruling on a question of law; to do so

circumvents the process set forth in the *Discipline* and also violates the principle of the separation and balance of powers. It is only by vote of an authorized body for a declaratory decision that the matter might be addressed by the Council on the merits. [emphasis added]

In JCD 1092 the Judicial Council noted:

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. We trust that annual conferences will be frugal and prudent in their use of such processes.

Questions as to fair process, judicial process, and administrative process must be addressed in the appropriate manner and through the specific bodies set forth in *The Discipline*. An annual conference may vote to request the Judicial Council to issue a Declaratory Decision, but an individual may not circumvent that process by merely requesting the presiding bishop for a Decision of Law so as to trigger an automatic review by the Judicial Council; to do so undermines the procedures and safeguards set forth in *The Discipline*. Issues arising from the penalty phase of a trial and one's return to full relationship are likewise not permissible questions of law to be submitted to a bishop for a substantive ruling they must be ruled as improper. The decision of the bishop is thus reversed.

## **DECISION**

Questions as to fair process, judicial process, and administrative process must be addressed in the appropriate manner and through the specific bodies set forth in *The Discipline*. An annual conference may vote to request the Judicial Council to issue a Declaratory Decision, but an individual may not circumvent that process by merely requesting the presiding bishop for a Decision of Law so as to trigger an automatic review by the Judicial Council; to do so undermines the procedures and safeguards set forth in *The Discipline*. Issues arising from the penalty phase of a trial and one's return to full relationship are likewise not permissible questions of law to be submitted to a bishop for a substantive ruling and they must be ruled as improper. The decision of the bishop is thus reversed.

Deanell Reece Tacha was absent.

First lay alternate Warren Plowden participated in this decision.