

SUBJECT TO FINAL EDITING

THE JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

MEMORANDUM NO. 1394

In Re: Request from the Desert Southwest Annual Conference for a Declaratory Decision on the Constitutionality, Meaning, Application, or Effect of ¶¶ 362.1.e.1 and 413.3.d.i. Regarding Separation of Powers, and Whether Those Paragraphs Violate the Provisions of ¶49 or Violate the Provisions of ¶51. Furthermore, if indeed not Constitutional, then Whether the Words, “as having no basis in law or fact.” Ought to Be Stricken from ¶¶ 362.1.e.1 and 413.3.d.i.

STATEMENT OF FACTS

During the 35th Session of the Desert Southwest Annual Conference on Friday, June 14, 2019, Plenary Session 4 a clergy member, submitted a petition for a Declaratory Decision from the Judicial Council on the Constitutionality of *The Book of Discipline of The United Methodist Church* [hereinafter *The Discipline*] ¶¶ 362.1.e.1 and 413.3.d.i. The clergy person shared a brief explanation of reasoning of the legislation.

During plenary session 6, which was held on Saturday, June 15 the clergy person presented the petition and moved for the approval of the petition. The conference discussed the petition at their tables. The vote was taken, the Conference Secretary then shared the results of the ballot, that the petition had been approved.

The Conference Secretary of Desert Southwest Conference filed according to ¶ 2610.1 requesting that a Petition for Declaratory Decision be rendered for *The Discipline* ¶¶ 362.1.e.1 and 413.3.d.i on July 9, 2019.

The clergy person submitted a brief as an interested party per ¶ 2608.1, citing ¶ 49 of the Constitution and *The Discipline* ¶¶ 362.1.e.1 and 413.3.d.i on August 19, 2019.

JURISDICTION

For the Judicial Council to find jurisdiction, JCD 1160 states that the matter “from an Annual Conference must be germane to the regular business, consideration, or discussion of the Annual Conference and must have direct and tangible effect on the work of the Annual Conference session.” This rationale has “never been reversed or modified.”

There is nothing in the record before us that demonstrates that the matter was germane to the regular business of the Annual Conference, nor was the Bishop asked to make a ruling on its constitutionality. Additionally, JCD 1160 states, “our lodestar principle has been that we may not

assume jurisdiction to render a declaratory decision unless jurisdiction has been clearly vested in the Judicial Council . . . Our long-standing policy is to construe our jurisdiction strictly and with restraint.”

JCD 33, 301, and 452, states that it would be beyond the authority of the Judicial Council to find that the matter is in the regular business of the Annual Conference and therefore giving the Judicial Council jurisdiction.

DIGEST

The Judicial Council has no jurisdiction.

Lidia Romao Gulele was absent.

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

Luan-Vu Tran recused and did not participate in this decision.

Angela Brown, second clergy alternate, participated in this decision.

November 1, 2019