



JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH
 CONSEIL JUDICIAIRE DE L'ÉGLISE METHODISTE UNIE
 RECHTSHOF DER EVANGELISCH-METHODISTISCHEN KIRCHE
 CONSELHO JUDICIAL DA IGREJA METODISTA UNIDA
 CONSEJO DE LA JUDICATURA DE LA IGLESIA METODISTA UNIDA



Petition for Declaratory Decision


This form is to be used by the Secretary of the body authorized to petition the Judicial Council for a ruling in the nature of a declaratory decision as to the constitutionality, meaning, application, or effect of (please check one):

- The Book of Discipline 2016* or any portion thereof (§ 2610.1)
- any act or legislation of a General Conference (§ 2610.1)
- any proposed legislation (§ 2609.2)

Name of body authorized to make a Petition (§ 2610.2): Council of Bishops
 Date of session: 07/10/2020 (month/day/year) Location: Washington, D.C., USA
 Name of Secretary: Bishop Tracy Smith Malone
 Address: 100 Maryland Avenue City: Washington
 State/Province: D.C. ZIP/Postal Code 20002 Country: USA
 Phone: 202-547-6270 Fax: _____ E-mail: Bishopmalone@EOCUMC.com

To be reviewed (indicate paragraph number, title of legislation and/or act where applicable):

Book of Discipline: Paragraph 354, 357.3, 359, and 327.6
 Legislation: _____
 Act of General Conference: _____

Signature:  Date: 07/15/20
Secretary of the Conference/Body (month/day/year)

The following must be attached:

- Text of the written Petition for Declaratory Decision as originally presented
 - Minutes of proceedings (relevant portions only)
 - List of names and addresses of interested parties, including e-mail
 - Other relevant materials (e.g. conference rules, resolutions, policies, reports)
- Eight (8) hard copies must be submitted via USPS or other delivery service to:
 Secretary of the Judicial Council, 5556 N. Sheridan Road, #610, Chicago, IL 60640, USA
- Electronic copies in both Word and PDF (with security features disabled) must be submitted to:
 secretaryjudicialcouncil@gmail.com

IN THE JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH
IN RE: CLARIFICATION & CONDITIONAL STAY OF DECISION 1383

PETITION REQUESTING DECLARATORY DECISION

The Council of Bishops of the United Methodist Church ("COB") petitions the Judicial Council to make a declaratory decision clarifying Decision 1383 and to conditionally stay the decision pending legislative action by the General Conference.

Jurisdiction

The Judicial Council has jurisdiction to issue a declaratory decision pursuant to ¶ 2610.1 of the 2016 Book of Discipline. The COB is authorized to make this request pursuant to ¶ 2610.2(b). The COB voted to request this declaratory decision on July 10, 2020. A copy of the electronic vote of the COB meeting authorizing this petition is attached hereto as Exhibit A.

The request for a conditional stay of Decision 1383 pending legislative action by the General Conference is authorized by ¶ 2610.1, which gives the Judicial Council jurisdiction to determine the application of the legislation and its effect on the individuals and bodies charged with implementing it.

Interested Parties

The COB and the interested parties in Decision 1383 are interested parties in this matter.

Introduction

In Decision 1383, the Judicial Council stated as follows:

Absent specific provisions barring members of the Cabinet, Board of Ordained Ministry, Conference Relations Committee, and Administrative Review Committee from voting in the clergy session on recommendations for involuntary change of status, the entire regulatory scheme lacks safeguards to guarantee an impartial process carried out by an independent body. The provisions in *The Book of Discipline of The United Methodist Church, 2016* setting forth the administrative process leading to involuntary leave of absence (¶ 354), involuntary retirement (¶ 357.3), administrative location (¶ 359), and discontinuance from provisional

membership (§ 327.6) violate the guarantees of a fair and unbiased process in §§ 20 and 58 and are unconstitutional, null and void. The effect of this ruling shall be prospective and shall not affect pending administrative cases that were filed prior to this date.

At the time Decision 1383 was issued on November 1, 2019, the next session of the General Conference was scheduled for May of 2020, which would have provided an adequate timeframe for the General Conference to legislatively act to bring the Administrative Fair Process back into constitutionality before Clergy Sessions would need to make any final decisions on involuntary leave of absence (§ 354), involuntary retirement (§ 357.3), administrative location (§ 359), or discontinuance from provisional membership (§ 327.6). Due to the COVID-19 pandemic, the General Conference has been postponed to September of 2021, thus delaying the possibility of a legislative correction in response to Judicial Council Decision 1383 for two (2) annual conference years and clergy sessions. “As a part of the holy covenant that exists with the membership and organization of The United Methodist Church,” § 362.2 requires Administrative Fair Process in order to insure the “protection of the rights of individuals and for the protection of the Church in administrative hearings.” Upon a literal reading of the provision of Decision 1383 quoted above, the COB and bodies such as the conference relations committee, the board of ordained ministry, the administrative review committee, and the clergy session are unable to enact any process, make any decisions, or otherwise fulfill their responsibility to provide a process for the protection of individuals and the Church. Decision 1383 prevents bodies entrusted with ensuring fair process from completing their work related to involuntary changes of status. Given the delayed General Conference and the risk to individuals and to the Church that is before us without a fair process in place, the COB seeks clarification of the decision by petitioning the Judicial Council for a

declaratory decision on two questions. The COB also seeks a stay of Decision 1383 conditioned on the adoption of the following process for the clergy session:

Members of the Cabinet, Board of Ordained Ministry, Conference Relations Committee, and Administrative Review Committee shall not vote in the Clergy Session on recommendations for involuntary leave of absence (§ 354), involuntary retirement (§ 357.3), administrative location (§ 359), or involuntary discontinuance from provisional membership (§ 327.6).

Questions Presented

1. Does the language “[a]bsent specific provisions barring members of the Cabinet, Board of Ordained Ministry, Conference Relations Committee, and Administrative Review Committee from voting in the clergy session” in Decision 1383 allow an annual conference to adopt such provisions and thereby comply with the ruling of the decision in employing the administrative process provisions of §§ 354, 357.3, 359 and 327.6?

2. If an annual conference adopts the following provision, may it continue to employ the administrative process provisions of §§ 354, 357.3, 359 and 327.6: “Members of the Cabinet, Board of Ordained Ministry, Conference Relations Committee, and Administrative Review Committee shall not vote in the Clergy Session on recommendations for involuntary leave of absence (§ 354), involuntary retirement (§ 357.3), administrative location (§ 359), or involuntary discontinuance from provisional membership (§ 327.6)”?

WHEREFORE, the Council of Bishops petitions the Judicial Council for a declaratory decision regarding the questions presented herein and respectfully requests a conditional stay of Decision 1383 pending legislative action by the General Conference so long as an annual conference adopts the prophylactic provision set forth in Question 2.



BISHOP TRACY SMITH MALONE
SECRETARY
COUNCIL OF BISHOPS

Interested Parties from Decision 1383:

List of names and addresses of interested parties, including e-mail.

Robert F. Zilhaver
Connellsville District UMC
30 East Main St. Suite 202
Uniontown, PA 15401
connelsville.ds@wpaumc.org

John R. Wilson
The United Methodist Center,
1204 Freedom Road, PO Box 5002
Cranberry Township, PA 16066-0002
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Cynthia Moore-Koikoi, Resident Bishop of the Pittsburgh Area
The United Methodist Center
1204 Freedom Road, PO Box 5002
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umbishop@wpaumc.org

EXHIBIT A

**Minutes of The Council of Bishops
Recording of Electronic Vote**

On July 8, 2020, the Council of Bishops was asked to vote by electronic vote:

Electronic Vote Request

Sent: Wednesday, July 08, 2020 7:03 AM

To: COB <COB@umc-cob.org>

Subject: Request for Declaratory Decision on Decision 1383 - vote by July 10

Bishops:

Judicial Council Decision 1383 ruled that the administrative process for involuntary leave of absence, involuntary retirement, and administrative location is unconstitutional, null and void. As many of you know, this ruling has hindered, if not stopped, the work of bishops and boards of ordained ministry when an involuntary change of status is recommended. Our attorney Bill Waddell has recommended that the Council of Bishops seek clarification of that decision and that we request a stay pending action by the General Conference to address the decision. If approved by the Judicial Council, this would allow each annual conference to adopt a rule that would allow administrative processes to go forward. Please indicate your vote for or against submitting this request by **12 noon Eastern Time on July 10, 2020**. Attached is the PETITION REQUESTING DECLARATORY DECISION document.

Only resident bishops are required to vote. Respond by replying to this e-mail message. The COB office will tally the votes and report the results back to us.

Please vote by indicating Yes or No.

_____ Yes
_____ No

Bishop Cynthia Fierro Harvey
President - Council of Bishops
The United Methodist Church

Electronic Vote Result

On July 10, 2020 the Council of Bishops office tallied the electronic votes. The vote of resident bishops to request a declaratory decision was unanimous.



BISHOP TRACY SMITH MALONE
SECRETARY
COUNCIL OF BISHOPS