

SUBJECT TO FINAL EDITING

## **JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH**

### **DECISION NO. 1372**

IN RE: Review of a Bishop's Decision of Law in the Greater New Jersey Annual Conference concerning if it is permissible to schedule "Church Superconferences" at locations other than the involved local churches.

#### **DIGEST OF CASE**

A question of law, to be proper, must be germane to the regular business or discussion, substantively connected to a specific action taken, or raised during the deliberation of an Annual Conference. The request for decision of law concerning "Church Superconferences" submitted by a lay member at the 2018 session of the Greater New Jersey Annual Conference did not meet those criteria to be properly before the bishop.

A decision of law cannot contain an alternative disposition based on a hypothetical scenario. If a bishop determines that a question of law is not proper, the bishop shall state the rationale in the ruling without further substantive commentary. The Decision of Law of Bishop John Schol is affirmed in part and reversed in part.

#### **STATEMENT OF FACTS**

On May 21, 2018, during the plenary session of the Greater New Jersey Annual Conference, a lay member submitted the following question of law:

I am requesting a Decision of Law regarding the "Church Superconferences" on the Conference calendar at the end of the Pre-Conference journal and paragraph 246.4 of The Book of Discipline of the United Methodist Church, 2016 edition which states:

4. the district superintendent shall fix the time of meetings of the charge conference. The Charge conference shall determine the place of meeting.

In light of this provision of the Discipline and the fact that there have been NO votes by charge/church conferences to locate their conferences anywhere but at their own local church, while including district programs funding, is it permissible to schedule "Church Superconferences" at other locations?

Within thirty days, on June 18, 2018, Bishop John Schol issued his Decision of Law, which states in relevant parts:

The request is moot and hypothetical because charge or church conferences or "Superconferences" were not part of the agenda, business, legislation or discussion of the annual conference session. Also while a calendar of key dates was published as part of the pre-conference journal, it was informational and not

germane to the regular business, considerations or discussions of the annual conference session and was included in the pre-conference journal along with other advertisements, Ocean Grove speakers and dates, general information about the conference web address and office address, award recipients and other printed material that were not listed in the agenda or discussed during annual conference session. Additionally, Mr. Pogue raises a concern about locations of "Superconferences" and locations were not listed for church conferences or any of the activities listed on the calendar. "The Judicial Council has repeatedly held that questions of law must be germane to the regular business, considerations or discussion of the Annual Conference. The question must state the connection to a specific action taken or to be taken or it must be raised during the deliberation of a specific issue or matter upon which the conference takes action. Questions that do not meet these criteria are moot and hypothetical and shall not be decided. Decisions 33, 396, 651, 746, 747, 762, 763, 799, and 903." -Judicial Council Decision 1001.

However, if the Judicial Council determines that there is a connection to the business of the annual conference session and that I should rule on this request for a Decision of Law and that it was therefore not moot and hypothetical, then I rule that Par. 246.10 directs the answer to the Question of Law by stating: "A joint charge conference for two or more pastoral charges may be held at the same time and place, as the district superintendent may determine.

Both Bishop John Schol and Mr. Creed S. Pogue [hereinafter Petitioner] filed briefs as Interested Parties. Initially docketed for the October 2018 meeting, this case was deferred to the 2019 February Special Session of the Judicial Council.

## **JURISDICTION**

The Judicial Council has jurisdiction pursuant to *The Book of Discipline of the United Methodist Church, 2016* [hereinafter *The Discipline*], ¶¶ 51, 56.3, and 2609.6.

## **ANALYSIS AND RATIONALE**

In JCD 799, the Judicial Council established specific criteria for determining when a request for decision of law is proper in the "Guidelines for Bishop's Rulings on Questions of Law." Based on those guidelines, we formulated in JCD 1329 the following three-prong test for determining the appropriateness of questions of law:

...we must determine if a Question of Law is (a) "germane to the regular business, consideration, or discussion of the Annual Conference" and (b) "state[s] the connection to a specific action taken," or (c) is "raised during the deliberation of a specific issue of a matter upon which the conference takes action.

*First*, nothing in the record indicates that Petitioner's request was germane to the business, consideration, or discussion of the Annual Conference. Neither the official Conference Calendar

nor the proceedings of the Annual Conference contain references to “Church Superconferences” or ¶ 246.4 of *The Discipline*.<sup>1</sup>

*Second*, Petitioner did not state in his written request how his concern is connected to a specific action taken by the Annual Conference. Particularly, there is no showing of a substantive link between “the [alleged] fact that there have been NO votes by charge/church conferences to locate their conferences anywhere but at their own local church”<sup>2</sup> and previous or subsequent conference actions recorded in the minutes.

*Third*, although Petitioner attempted to rectify this shortcoming *ex post facto* by supplying the rationale in his Brief to the Judicial Council,<sup>3</sup> he did not raise it from the floor of the plenary session, as pointed out in the Reply Brief of the Bishop and the Dean of Cabinet.<sup>4</sup> Consequently, Petitioner’s Question of Law fails to meet all three elements of this test.

Although he determined that it was not a proper Question of Law, Bishop Schol added a paragraph at the end outlining a substantive ruling in the event that “the Judicial Council determines that there is a connection to the business of the annual conference session and that I should rule on this request for a Decision of Law.” Decision of Law, *supra*. Adding a substantive part to a ruling contradicts the determination that a request is not proper. A decision of law, or any part thereof, cannot contain an alternative disposition based on a hypothetical scenario to avoid being overturned by the Judicial Council. Bishop Schol’s Decision of Law is affirmed, *except* for the last paragraph beginning with “However, if the Judicial Council determines...”

## RULING

A question of law, to be proper, must be germane to the regular business or discussion, substantively connected to a specific action taken, or raised during the deliberation of an Annual Conference. The request for decision of law concerning “Church Superconferences” submitted by a lay member at the 2018 session of the Greater New Jersey Annual Conference did not meet those criteria to be properly before the bishop.

A decision of law cannot contain an alternative disposition based on a hypothetical scenario. If a bishop determines that a question of law is not proper, the bishop shall state the rationale in the ruling without further substantive commentary. The Decision of Law of Bishop John Schol is affirmed in part and reversed in part.

February 21, 2019

Dennis Blackwell recused himself and did not participate in any of the proceedings related to this decision.

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

Beth Capen participated in discussion.

Kent Fulton, second lay alternate, was seated and voting when the decision was adopted.

Ruben Reyes was absent.

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<sup>1</sup> Appendix II & III, Decision of Law of Bishop John School, pp. 6-13.

<sup>2</sup> Request for Decision of Law submitted by Petitioner.

<sup>3</sup> Brief of Petitioner, p. 2.

<sup>4</sup> Reply Brief of Bishop John Schol and Rev. Myrna Bethke, p. 1 (asserting “that Mr. Pogue in his question of law did not verbally state from the floor of annual conference or in his written question the connection with any item before the annual conference which is required and stated in numerous other Judicial Council decisions.”).

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