

SUBJECT TO FINAL EDITING

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

### **MEMORANDUM 1439**

(Docket No. 1021-18)

IN RE: Review of a Bishop's Ruling on Questions Raised During the 2021 Regular Session of the North Texas Annual Conference Concerning Parliamentary Procedures.

#### STATEMENT OF FACTS

During the 2021 session of the North Texas Annual Conference that was held virtually, Legislative Item No. 17 was presented but ruled out of order by the bishop. That resolution requested \$150,000 for the North Texas Delegation to General Conference to be able to hire staff, including staff already employed or elected by the North Texas Annual Conference to perform work and functions for the Annual Conference. The budget for the North Texas Annual Conference had already been voted, set, and approved earlier in the day. Bishop McKee's parliamentary ruling was as follows:

So, we're at item number 17. I am going to rule this out of order. And this motion is being pulled; I am removing it; it's out of order. This already exists in the fabric of the Annual Conference, and you've elected those persons to do this job, CF&A, Trustees, The Board of Pensions, and the Core Leadership Team. Ok, we have concluded that business at this time.

A few moments after the bishop made his parliamentary ruling, a clergy member made the following statement on the Q&A: "I challenge the ruling of the chairperson regarding the ruling out of order."

After the clergy member's statement appeared on the Q&A, a lay member made a motion on the Q&A as follows: "I'd like to motion to vote to overturn the decision of the chair related to legislative item number 17."

The motion to overturn the parliamentary ruling was voted on and defeated by a wide margin.

At the time the clergy person made his statement there was some confusion as to whether it was a properly formulated request for decision of law.

On July 14, 2021, Bishop Michael McKee rendered his Decision of Law. On June 15, 2021, Bishop McKee made a parliamentary ruling that a proposed resolution was out of order at Annual Conference. In the alternative, if the Judicial Council does not agree that Bishop McKee's ruling was a parliamentary ruling, a Decision of Law is not appropriate or required because no question was asked to which the bishop could respond. (See BOD ¶ 2609.6) In the alternative, if the Judicial Council believes that a question was asked that required a Bishop's Decision of Law, the Bishop's Decision of Law is that the resolution is out of order because it violates Judicial Council Decisions 1225 and 1245. The Judicial Council has no jurisdiction over parliamentary rulings. (See Judicial Council Decisions 98, 1130, 1131 and Memorandum Nos. 979 and 1295.)

Bishop McKee's ruling that the resolution was out of order was a parliamentary ruling. As such, the Judicial Council has no jurisdiction to review the parliamentary ruling. (See Judicial Council Memorandum No. 979.) If, however, the Judicial Council believes that Rev. Baughman posed a Question of Law which the Bishop was bound to answer by rendering a Decision of Law, Bishop McKee shows the following.

1. A Delegation to General Conference has no powers assigned to it under the Book of Discipline (BOD) other than to vote at General Conference. For the Delegation to create powers via a resolution is out of order and outside of the BOD.

2. The budget of the North Texas Annual Conference had been moved, voted, approved, and set by the North Texas Annual Conference prior to consideration of Legislative Item No. 17 containing the resolution in question. No motions to amend the budget came forward. No amount of money had been pulled out and set aside for the Delegation to General Conference by the Council of Finance and Administration.

3. The resolution in question was and is moot. The budget had been set. At this point, the business of the North Texas Annual Conference is concluded and has been concluded since June 15, 2021. There is no means to consider the resolution.

4. In 2011, the North Texas Annual Conference adopted an amendment to its standing rules to allow Annual Conference functions provided for in the BOD to be restructured and carried out in ways not provided by the BOD. The Judicial Council ruled that such re-allocation or reorganization of functions and duties did not fulfill disciplinary requirements. Subsequently, the North Texas Annual Conference successfully returned the structure, functions, and duties of the Annual Conference to those outlined and specified under the BOD, which the Judicial Council upheld in 2013. (See Judicial Council Decisions 1225 and 1245). The resolution which is the subject of this writing sought to provide an alternate structure of Annual Conference duties that is outside of the BOD. The resolution asked for \$150,000 to be provided to the North Texas Delegation to General Conference to hire its own attorneys, consultants, and other hired staff that would report to a sub-committee as determined by the Delegation to General Conference. The Delegation to General Conference is not a separate entity. The Delegation represents the Annual Conference. The BOD gives the Delegation to Annual Conference no authority as would be implemented to it via the resolution in question. Likewise, there is no corollary or structures for this type of parallel activity in the BOD, and the Annual Conference already has within it the staff and functions requested in the resolution. The Annual Conference has an elected Chancellor (attorney); Council on Finance and Administration, Trustees, Core Leadership Team, Board of Pensions (consultants); and Director of Connectional Resources (staff) to support the Delegation to General Conference. For these reasons, the resolution was out of order.

5. The parliamentary ruling of Bishop McKee that the resolution in question was out of order was appealed by Jessica Vittorio via a motion to overturn. The Annual Conference body upheld Bishop McKee's ruling. (See Pages 6 and 7 of the minutes of June 15, 2021 business session attached as Exhibit B.)

Bishop McKee ruled the resolution which was the subject of Legislative Item #17 out of order. It was a parliamentary ruling. The Judicial Council does not affirm or overturn

parliamentary rulings of bishops. The Judicial Council has specifically held that it does not have jurisdiction over such matters.

Furthermore, Rev. Baughman's challenge was not a question as is required by ¶2609.6 to precede a Bishop's Decision of Law. When a motion to overturn the bishop's ruling was considered by the body of the Annual Conference, it failed. Bishop McKee's parliamentary ruling was affirmed. Therefore, the Judicial Council should rule this matter out of order and uphold Bishop McKee's ruling.

Finally, if the Judicial Council takes jurisdiction of this matter and renders a decision on the merits of Rev. Baughman's challenge, Bishop McKee's ruling should be upheld. For the reasons stated above, the resolution in question violates the Book of Discipline and previous rulings of the Judicial Council.

It is settled precedent that the Judicial Council has no jurisdiction on a parliamentary matter or verbal ruling made on the conference floor during a session. There is no disciplinary authority for the Judicial Council to assume jurisdiction of a parliamentary ruling by a presiding bishop. Memoranda 898, 941, 1117, 1187, 1205, and 1356.

In a landmark ruling in 1997, the Judicial Council stated, among other things, that "[w]hen the bishop determines that the question presented is not a properly presented 'question of law,' the bishop shall state the rationale in the ruling without further substantive commentary." JCD 799, *aff'd*, JCD 867, 927, 1372. More recently, this Council held that "[a]dding 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." JCD 1372, *aff'd*, JCD 1405.

Although he correctly determined that the request was not a proper Question of Law, Bishop McKee also added a paragraph at the end outlining a substantive ruling for the event that "the Judicial Council takes jurisdiction of this matter and renders a decision on the merits of Rev. Baughman's challenge."

## **Digest**

The Judicial Council has no jurisdiction to review a parliamentary ruling by a bishop.

March 28, 2022

## **Concurrence**

I concur with the holding of the majority, but my analysis is predicated upon the line of cases that specifically provides that the Judicial Council has no jurisdiction to review a presiding bishop's ruling on a parliamentary matter. The line of cases stemming from 799 concern those requests for a ruling of law which are improper when the request is made of a Bishop and as such presiding bishops are constrained to advising that it is impermissible for a bishop to issue a substantive ruling in response to the question posed. Given the subject matter of those questions, bishops are advised to say nothing more. Therefore, my analysis relies on the line of cases that focuses on the Judicial Council's lack of jurisdiction to review a bishop's ruling when the ruling is of a parliamentary nature rather than a ruling on a matter of church law.

Beth Capen

March 28, 2022