

## JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

### DECISION 1298

**IN RE: A Request from the Burundi and East Africa Annual Conferences Regarding the Action of the General Council on Finance and Administration in Reducing the Bishop's Salary, Housing, and Office Allowances**

#### DIGEST

The General Council on Finance and Administration (GCFA) is devoid of power to reduce, on ground of pending audit accountabilities, an effective or active bishop's **salary** as last determined by the General Conference, without the bishop's consent. A salary is a bishop's basic financial entitlement which cannot be curtailed save by judicial or administrative fair process. GCFA is not the forum for that process, but, initially, the relevant College of Bishops is.

A bishop's **housing** costs and allowance, as well as **office** expenses, have a different situation. Per approval by the 2012 General Conference of Report No. 5 of the Financial Commitment Book, the housing allowance of each bishop is set by GCFA in accordance with ¶ 543.4 of the *2008 Discipline*. The office expenses are also set by GCFA.

There is no rule requiring the GCFA to consult the College of Bishops before setting up an audit requirement for compliance by a bishop even during the pendency of a complaint against the latter. GCFA and College of Bishops have separate independent functions and processes. There is no violation of ¶ 19 of the Restrictive Rules as the GCFA did not do away with the episcopacy or destroy the plan of itinerant general superintendency. It was merely exercising, though partly flawed, its function to protect the Church funds.

The salary of Bishop Daniel Wandabula should be fully restored by GCFA from 2013 to 2015 and until the next General Conference. The Judicial Council retains jurisdiction of this case as it orders the GCFA to report to it a detailed full compliance with this decision no later than May 31, 2015.

Nothing here precludes an amicable settlement by the parties concerned as the better or faster solution in the interest of the service.

#### STATEMENT OF FACTS

The Rev. Daniel Wandabula was first elected to the episcopacy in 2006 and consecrated at the Africa Central Conference. He was re-elected bishop for life in 2012. He is the current Resident Bishop of the Burundi and East Africa Annual Conferences, East Africa Episcopal Area, of The United Methodist Church covering the countries of Kenya, Uganda, Rwanda, South Sudan, Ethiopia and Burundi. He reports that since 2006 the local churches have grown in

numbers from 306 to 505, while membership grew from 172,725 to 400,865. He has undertaken several projects, from some of which arose controversies. The General Board of Global Ministries (GBGM) and GCFA conducted audits, and they determined that he had huge unexplained accountabilities. Although he disputes many of those findings, the GBGM and GCFA, among others took actions against him, the latest of which is now the subject of this petition.

At a combined session of the East Africa Annual Conference (EAAC) and Burundi Annual Conference on August 26-29, 2014, at Humble United Methodist School, Mukono, Uganda, a “Unanimous Resolution” was passed, tasking its Committee on Episcopacy (COE) to petition the Judicial Council for a declaratory decision on the action of the GCFA to drastically cut off the episcopal support and to reduce the Resident Bishop’s salary from 100% (2012) to 10% (2013-2014) and then 0% (2015) , giving the Bishop only \$4,288 support for 2015 for medical insurance and pension. The GCFA Board of Directors’ actions were conveyed to Bishop Daniel Wandabula via letters dated November 24 and December 19, 2014.

GCFA states in its brief that in its December 2013 letters to the Bishop, the support it determined for the East Africa Episcopal Area for each of 2013 and 2014 was \$12,000 for salary (from \$66,810 in 2012), \$16,000 for housing, and \$81,700 for office. After its November 2014 meeting, it set the Bishop’s 2015 salary at an amount covering his monthly health plan and pension. The COE concedes that the GCFA has the mandate to recommend to the General Conference (GC) at every quadrennial session the amount to be fixed as Bishop’s salary and expenses from the Episcopal Fund and to effect the same upon approval of its recommendation (¶ 818.2 and ¶ 818.3).

The petitioners rely on the following GCFA letters to Bishop Wandabula:

- a) Letter dated December 20, 2010, stating that the total episcopal support approved was \$146,880 for year 2011.
- b) Letter dated January 9, 2012, stating that the total episcopal support was \$148,059 for 2012.
- c) Letter dated December 3, 2013, stating that the total episcopal support was \$98,730 for 2014.
- d) Letter dated November 24, 2014, stating that the Bishop’s salary for 2015 was set at a monthly amount equal to his monthly health plan and pension contributions. The letter also states that the relevant housing and episcopal allowances have been set by GCFA at zero dollars (\$0) for 2015.
- e) Letter dated December 19, 2014, stating that the total episcopal support for 2015 was approved at \$4,288.

In the face of these fund reductions, five issues were initially raised in the petition dated December 30, 2014. However, in its brief dated January 24, 2015, the COE of Burundi and EAAC expanded to nine items their requests for declaratory decisions, to wit:

1. Does ¶ 818 of the BoD, 2012 provide for the salary and expenses of effective Bishops as from the date of consecration/effective date in office and for the support of retired bishops, surviving spouses and minor children of deceased bishops?
2. If the answer to requested Decision No.1 is in the affirmative, then was the Bishop Daniel Wandabula elected, consecrated and assigned an Episcopal Area, therefore became an effective bishop and entitled to a salary and Episcopal and Office support as an effective bishop by virtue of ¶ 818.1 BoD?
3. Do ¶¶ 543.4 and 818 of the 2012 BoD permit the General Council on Finance and Administration to set a bishop's annual salary and Episcopal Allowances at less than 100% of the amount fixed by the General Conference as the bishop's salary and Episcopal support or as fixed by the formula determined by the General Conference who have the primary role to set the salary?
4. Do ¶¶ 543.4 and 818 of the 2012 BoD permit the General Council on Finance and Administration to condition payment of 100% of the annual salary of a bishop and Episcopal support on compliance with any condition such as audit requirements of either the General Council on Finance and Administration or the General Board of Global Ministries and is this precondition on salary determinant arrived at and expressed during the General Conference or with anybody of the Church?
5. If the answer to requested Decision No.4 is affirmative, how is the requirement of compliance with a condition established by the General Council on Finance and Administration affected by the failure of the General Council on Finance and Administration to consult with the Council of Bishops before establishing the requirement?
6. Does the authority to require compliance with a condition established by the General Council on Finance and Administration before a bishop receives 100% of his salary violate ¶ 19 of the Restrictive Rules of the 2012 BoD?
7. Do ¶¶ 543.4 and 818 of the 2012 BoD permit the General Council on Finance and Administration to set a bishop's annual salary at less than 100% of the amount fixed by the General Conference as the bishop's salary or as fixed by the formula determined by the General Conference based upon the pendency of a complaint against that bishop that has not been processed pursuant to ¶ 2704.1 and not been processed pursuant to ¶ 2704.1 and has not been decided by a trial committee pursuant to ¶ 2712 BoD?
8. If the answer to requested Decision No.7 is affirmative, does that authority to set a bishop's and Episcopal support or as fixed by the formula determined by the General

Conference before a complaint is processed pursuant to ¶ 2704.1 and has not been decided by a trial court pursuant to ¶ 2712 violate ¶ 19 of the Restrictive Rules as outlined in the BoD?

9. If the answer to requested Decision No.8 is in the affirmative and the GCFA's decision is quashed; can the Resident Bishop Daniel Wandabula be entitled to and or be paid all his Episcopal salary and allowance support arrears and such other relief, declaration orders, and remedies as may be just and proper premises considered.

### **JURISDICTION**

The Judicial Council has jurisdiction under ¶ 2610.

### **ANALYSIS AND RATIONALE**

Paragraph 2609.5 refers to the power of the Judicial Council to “determine the legality of any action taken by any body created or authorized by a General Conference,” like GCFA, on a matter affecting an annual conference upon appeal by two-thirds of members “present and voting.” GCFA claims that EAAC and Burundi AC have approximately 1000 lay and clergy membership. The 180 signatures in the “Unanimous Resolution” represent less than 20% of potential members, but they were the ones from 41 districts able to attend and vote, considering the poverty, language diversity, distance and difficulty of transportation in the Episcopal Area covering Burundi, Uganda, Kenya, Rwanda, South Sudan and Ethiopia. Paragraph 2610.2(j) pertains to bodies authorized to make petition to the Judicial Council for declaratory decisions, including “any annual conference on matters relating to annual conferences or the work therein.” Reducing episcopal support for housing and office (rentals and staff) expenses, let alone the Bishop's salary, naturally affect the work in said two annual conferences over which he presides

Essentially, the questions imbedded in both the five issues raised in the petition and the nine questions in the COE brief can be compressed as follow:

- I. In between quadrennial sessions of the General Conference, does the GCFA have the power to reduce an episcopal area resident bishop's salary and episcopal support for housing and office, on the ground of audit accountabilities or non-compliance with its audit requirements of GCFA and GBGM?
- II. Pending resolution of a complaint filed with the College of Bishops against a bishop for chargeable offenses arising from financial audit, can the GCFA validly reduce said salary and episcopal support?
- III. Is the GCFA required to consult with the relevant College of Bishops before establishing an audit requirement for compliance by a bishop?
- IV. Is there a violation of ¶ 19 of the Restrictive Rules of the *Discipline*?

- V. What is the relief, if any, if such reduction of salary and episcopal support is found invalid, in whole or in part?

I

The specific provision in the *2012 Discipline* on bishop's salaries is ¶ 818.4. It mandates that the treasurer of the GCFA "**shall remit monthly to each effective bishop one-twelfth of the annual salary as determined by the General Conference, less deductions or reductions from the salary as each bishop may authorize.**" (Emphasis added). Without the bishop's consent the salary cannot be reduced. Neither can it be reduced due to audit accountabilities, which are contested, or for failure to comply with auditing requirements. GCFA reliance on ¶ 806.13(c) is misplaced as it relates to withholding of funds from an entity, not salary due to a bishop.

We appreciate the zeal of the GCFA in safeguarding Church funds but nowhere in the *Discipline* is any clear authority granted to it in reducing, suspending, much less cutting off a bishop's salary. A salary is the basic entitlement of an office holder in church law as in civil law, which cannot be curtailed without fair or due process in a judicial or administrative proceeding. GCFA is not the forum for such proceeding but initially the relevant College of Bishops is.

With respect to a bishop's housing allowance and office expenses, the situation is different, in light of GCFA's uncontroverted submission that in 2012, Report No. 5 of the Financial Commitment Book was adopted by the GC, stating that "amounts set for office expenses are to be applied towards the operation of the episcopal office," and asking central conferences to assume greater cost in the support of their bishops with a minimum level of ten percent. The operational expense of an annual conference is not financed by the Episcopal Fund. Under ¶ 818.1, the Episcopal Fund is intended to "provide for the salary and expenses of effective bishops." Thus, an annual conference bears its own expense for operations, programs, and missions.

Said Report No. 5 likewise provides that the annual conferences constituting the episcopal area shall be responsible for funds for housing in which the bishop resides. The housing allowance of each bishop shall be recommended by the Episcopal Services Committee and set by GCFA in accordance with ¶ 543.4 of the *2008 Discipline*.

Distinct also is the action of GBGM to withhold funding of EAAC and EAAC projects until its audit requirements are met. GBGM sources its funds from donations intended for specific projects and missions. There should be a proper accounting for said money. The GBGM action is justified.

## II

Even a bishop who is suspended continues to receive salary, housing, and benefits (¶ 413.3a). With more reason should a bishop against whom a complaint is pending, without being suspended, be entitled to continue receiving his salary and benefits.

We take note that on March 1, 2013, GCFA and GBGM filed a complaint with Bishop Eben Nhiwatiwa, President of the Africa Central Conference College of Bishops (ACC COB), charging Bishop Wandabula with offenses including disobedience to the order and discipline of the Church, immorality, and crime. On September 7, 2013, Bishop Nhiwatiwa informed GCFA and GBGM that the supervising response process had been completed without reaching any resolution. On November 6, 2014, GCFA received communication that Bishop Nhiwatiwa had turned over the complaint to a committee on investigation. This is the proper remedy that should be pursued to its conclusion. And, with due respect, we call on that committee and the ACC College of Bishops to expedite the proper disposition of the matter. Meantime, the reduction of Bishop Wandabula's salary and benefits cannot be sustained because of the lack of legal or disciplinary basis.

## III

There is no disciplinary rule requiring the GCFA to seek prior consultation with the relevant College of Bishops before setting up an audit requirement for compliance by a bishop. This is true even during the pendency of a complaint against the bishop in the College of Bishops. The two are endowed with separate, independent functions and processes (¶¶ 413, 806, 807, 818, 2712, and related provisions).

## IV

Paragraph 19, Article III of the Restrictive Rules states that the GC shall not change or alter any part or rule of our government so as to do away with episcopacy or destroy the plan of our itinerant general superintendency. Given our preceding discussion, it will take a strained interpretation to find that GCFA has violated this rule.

## V

Having reached our conclusion that the salary reduction is invalid, Bishop Wandabula is due full restoration of his salary by GCFA from 2013 to 2015 and until the next General Conference. His housing and office expenses for 2013 to 2015 should also be restored, per Report No. 5 as approved by the 2012 General Conference.

## DECISION

The General Council on Finance and Administration (GCFA) is devoid of power to reduce, on ground of pending audit accountabilities, an effective or active bishop's **salary** as last determined by the General Conference, without the bishop's consent. A salary is a bishop's basic financial entitlement which cannot be curtailed save by judicial or administrative fair process. GCFA is not the forum for that process, but, initially, the relevant College of Bishops is.

A bishop's **housing** costs and allowance, as well as **office** expenses, have a different situation. Per approval by the 2012 General Conference of Report No. 5 of the Financial Commitment Book, the housing allowance of each bishop is set by GCFA in accordance with ¶ 543.4 of the *2008 Discipline*. The office expenses are also set by GCFA.

There is no rule requiring the GCFA to consult the College of Bishops before setting up an audit requirement for compliance by a bishop even during the pendency of a complaint against the latter. GCFA and College of Bishops have separate independent functions and processes. There is no violation of ¶ 19 of the Restrictive Rules as the GCFA did not do away with the episcopacy or destroy the plan of itinerant general superintendency. It was merely exercising, though partly flawed, its function to protect the Church funds.

The salary of Bishop Daniel Wandabula should be fully restored by GCFA from 2013 to 2015 and until the next General Conference. The Judicial Council retains jurisdiction of this case as it orders the GCFA to report to it a detailed full compliance with this decision no later than May 31, 2015.

Nothing here precludes an amicable settlement by the parties concerned as the better or faster solution in the interest of the service.

Beth Capen was absent.

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

Dennis Blackwell was absent.

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

April 18, 2015

## DISSENTING OPINION

With respect for the dedicated and deliberative work of the Judicial Council on this matter, I dissent from this Decision.

The petition comes from two annual conferences meeting jointly, and it seems to arise from their common concern about justice for their Bishop. Although the two annual

conferences do not use the phrase “declaratory decision” in their petition, the substance of their submission is tantamount to a request that the Judicial Council declare an action by the General Council on Finance and Administration to be unlawful.

However, that is the legal problem with this matter, and that is what gives rise to my dissent. Who is authorized to ask the Judicial Council to make such a declaration or a declaratory decision? And on what matters may the authorized bodies ask the Judicial Council to make a declaration about legality or constitutionality?

The *Discipline* is very precise and very clear about the nature of a request for a declaratory decision. Two provisions in church law have been cited as authorizing an annual conference to ask the Judicial Council for such a ruling. One is in ¶ 2609.5. The other is in ¶ 2610.2j.

Paragraph 2609.5 prescribes some matters that the Judicial Council is required to address.

The Judicial Council shall hear and determine the legality of any action taken by any body created or authorized by a General Conference or any body created or authorized by the jurisdictional or central conference on a matter affecting an annual conference or a provisional annual conference, upon appeal by two-thirds of the members of the annual or provisional annual conference present and voting.

Paragraph 2610.2 lists (in subsection *j*) the annual conference as one of the bodies in the church that is authorized to petition the Judicial Council for a declaratory decision. Specifically, however, the authorization is limited in this provision of church law.

The following bodies in The United Methodist Church are hereby authorized to make such petitions to the Judicial Council for declaratory decisions...(*j*) any annual conference on matters relating to annual conferences or the work therein.

The salient point regarding the authorization is that the matter at hand or the matter of the petition must affect the annual conference submitting the petition, or annual conferences, or the work therein.

Judicial Council Decision 463 makes clear

that in order for the Judicial Council to have jurisdiction, two facts must exist. 1) The question must involve the constitutionality, meaning, application or effect of the Discipline or any portion thereof. This petition does not. 2) It must relate to the Annual Conferences or the work therein.



At issue in this specific case is the payment of salary and benefits to a bishop. The question is whether the General Council on Finance and Administration has authority to reduce the salary of an active bishop. The facts in the case clearly show that the action of the annual conference, in voting to submit this petition, was approved by more than two-thirds of the members present and voting, as required in ¶ 2609.5. But taking a vote, even by a super majority, is not in itself sufficient to confer jurisdiction. And raising a question that involves constitutionality, meaning, application, or effect of the *Discipline* is also not enough to confer jurisdiction. Another criterion must be met, according to Decision 463: “It must relate to the Annual Conferences or the work therein.”

In The United Methodist Church, annual conferences and bishops are separate constitutional bodies. There are important constitutional issues involving separations of powers that must be honored by the Judicial Council. (See Decisions 1251, 1096, 1092, 1064, 942, 872)

What we have before us is a request from an annual conference (actually from the two annual conferences in an Episcopal Area meeting jointly) about an action by GCFA to reduce the salary paid to the bishop who is assigned to the Area. It is not a matter that involves annual conference programming, budgets for the work of annual conferences, or the work of boards and committees mandated by the *Discipline*. There have been other questions raised in other settings about the role of this particular bishop funding some of the programs of the annual conferences under his episcopal leadership, but none of those matters is at issue in this case. All that is involved here is a reduction in compensation and benefits to the bishop. That is neither a matter of the annual conference nor a matter involving the work of the annual conferences.

Instead, if there might be an issue about whether GCFA has authority to reduce the salary of a bishop, then it should be a matter of concern for the Council of Bishops to discuss within its membership and possibly bring to the Judicial Council. Indeed, the *Discipline* provides for such a remedy.

In ¶ 2610.2(b) the *Discipline* authorizes the Council of Bishops to petition the Judicial Council for declaratory decisions. Whether GCFA has the authority to reduce the salary of a bishop is a profoundly important question for church law to address. But it is not within the authority of an annual conference to raise such a question. The Council of Bishops may do so. One might argue that, as a body, they should be eager to do so, since the outcome could potentially have an impact on them all.

William B. Lawrence

April 18, 2015

## DISSENTING OPINION

Paragraph 810.1 identifies the Episcopal Fund as one of the general funds held “in trust” by the General Council on Finance and Administration. GCFA is “accountable to The United Methodist Church through the General Conference in all matters relating to the receiving, disbursing and reporting of such funds . . . ” (¶ 806) and as such functions in a fiduciary capacity.

Because ¶ 806.13 describes how that trust is to be exercised, including the possibility of withholding funds, we believe the action of the General Council on Finance and Administration is in keeping with church law and its fiduciary duty.

The Judicial Council is not a fact finding body (*See* Decisions 1113, 1130, 1162, and 1174). Thus, the Judicial Council is not authorized to determine the accuracy and completeness of the financial records of the East Africa Annual Conference or to the perspicacity of audits conducted by GCFA and GBGM.

F. Belton Joyner Jr.

W. Warren Plowden Jr.

Timothy K. Bruster

April 18, 2015