

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION 1311

IN RE: Review of a Bishop's Decision of Law in the California-Pacific Annual Conference Regarding the Authority of the Bishop to Establish a Task Force and Regarding the Constitutionality of ¶ 414.1 and ¶ 415.1

DIGEST

The Bishop's decisions of law are reversed in part and affirmed in part. The Bishop does not have the authority to create a task force, nor select its members, nor chair such a group that reports directly to the annual conference. The recommendations of the Rules and Structure Task Force are null and void, but this decision is modified so that the enacted changes by the annual conference in 2015 will be reviewed in a process established by the California-Pacific Annual Conference in order to report back to the Annual Conference in 2017 with any additional changes or recommendations. The recommendations of the Congregational Loan Program Task Force were brought to the Annual Conference by a motion from the Council on Financial Resources and are allowed to stand. The decision of the Bishop on Questions 4 and 5 is affirmed. The Secretary of the California-Pacific Annual Conference is reminded that all questions of law and the Bishop's decisions must appear in the Conference Journal.

STATEMENT OF FACTS

On June 20, 2015, during the 31st Session of the California-Pacific Annual Conference, a lay member requested in writing an episcopal decision of law regarding the authority of the bishop to establish task forces that report to the annual conference session for legislative action and requesting a ruling on the constitutionality of ¶¶ 414.1 and 415.1. The five questions of law arose from action taken by the 2015 Annual Conference session to accept the reports of two task forces established by the Bishop who selected members and convened the meetings of these task groups. The Bishop and conference staff on the task forces had voice but no vote. The task forces were charged to bring reports and legislation to the 2015 session of the annual conference. One task force looked at the Rules and Structure of the conference. The second task force looked at the Congregational Loan Program. The questions as presented asked:

1. Was the Rules and Structure Task Force properly established and constituted? Does the Bishop have the authority under ¶ 414.1, ¶ 415.2 or any other part of the *Discipline* to establish a

task force without legislative action by the annual conference to bring recommendations to the annual conference or does such action violate Judicial Council Decision 1257? Does the Bishop have the authority under ¶ 414.1, ¶ 415.2 or any other part of the *Discipline* to select all the members of a task force between sessions of the annual conference in a way which does not follow the rules of the annual conference on how to fill vacancies between sessions of the annual conference or does such action violate Judicial Council Decision 1257? May the Bishop appoint himself/herself to serve as the chair of the task force either with or without vote or does this violate Judicial Council Decision 1023?

2. If the Rules and Structure Task Force was improperly established and constituted, are all actions of the 2015 annual conference based upon its recommendations invalid so that the rules and structures remain unchanged by these actions?

3. Since the Congregational Loan Task Force was established and constituted in the same way as the Rules and Structure Task Force, was it also improperly established and constituted? And if it was improperly established and constituted, are all actions of the 2015 annual conference based upon its recommendations invalid so that the rules and structures remain unchanged by these actions?

4. Is the part of ¶ 414.1 which gives the bishop the responsibility "to lead and oversee the spiritual and temporal affairs of The United Methodist Church" unconstitutional? Does ¶ 414.1 violate ¶ 47 of the Constitution by giving an individual bishop the responsibility reserved to the Council of Bishops in the Constitution to "plan for the general oversight and promotion of the temporal and spiritual interests of the entire church"? Does ¶ 414.1 violate the constitutional separation of powers in the Judicial Council Decisions such as 827 and 831 by giving the bishop the authority over matters which are part of the legislative branch, not the executive branch?

5. Is the part of ¶ 415.2 which gives the bishop the duty "to provide general oversight for the fiscal and program operations of the annual conference(s)" unconstitutional? Does ¶ 415.2 violate ¶ 47 of the Constitution by giving an individual bishop the responsibility reserved in the Constitution to the Council of Bishops to "plan for the general oversight and promotion of the temporal and spiritual interests of the entire church"? Does ¶ 415.2 violate the constitutional separation of powers in the Judicial Council Decisions

such as 827 and 831 by giving the bishop authority over fiscal and program operations of the annual conference which are part of the legislative branch, not the executive branch?

Before issuing her decisions, the Bishop provided the Judicial Council with an extensive background narrative and documentation regarding the financial situation faced by the California-Pacific Annual Conference when she arrived in 2012. During the next two years the Annual Conference administrative agencies took steps recommended by the General Council of Finance and Administration (GCFA) to rectify this financial and administrative crisis. Detailed reports on the work were made to the annual conference sessions in 2013 and 2014. It did not appear that specific legislative action was required of the annual conference to implement the administrative changes carried out.

In the episcopal address in 2014, the Bishop, as a result of the administrative assessments undertaken in the previous two years, announced she would be creating the two additional task forces (Rules and Structure and Congregational Loan Program) that would be bringing recommendations to the Annual Conference in 2015 for action as needed. The Bishop constituted both of these task forces in August 2014 by inviting people to serve and laying out the scope of the work and indicating that they would bring any recommendations and changes to the 2015 session of the Annual Conference. The Task Force on Rules and Structure and the Task Force for the Congregational Loan Program both brought legislative recommendations to the annual conference session. The recommendations from the Congregational Loan Program Task Force came to the Annual Conference with the review and recommendation of the Council on Financial Resources. The Rules and Structure Task Force report was presented directly to the Annual Conference session by members of the Task Group without the recommendation of any established conference group. Both reports were accepted by action of the Annual Conference session.

With this background in mind, the bishop made the following decisions:

On Questions 1, 2 and 3: According to Par. 401 of *The Book of Discipline of The United Methodist Church 2012*, the bishop has "...responsibility for ordering the life of the Church." Disciplinary Par. 414.1 gives bishops the specific responsibility "To lead and oversee the spiritual and temporal affairs of The United Methodist Church...." Furthermore, disciplinary Par. 415.2 gives bishops the Presidential Duty of providing "general oversight for the fiscal and program operations of the annual conference,"

which may “include special inquiry into the work of agencies to ensure that the annual conference and general church policies and procedures are followed.”

Par. 33, Article II of the Constitution of The United Methodist Church clearly states that “The annual conference is the basic body in the Church.....” and “...shall discharge such duties and exercise such powers as the General Conference under the Constitution may determine.” In addition, Judicial Council ruling 831 states that an annual conference cannot delegate its authority to a committee.

The bishop acted within the responsibilities and authority given to bishops in The United Methodist Church. The Rules and Structure and the Congregational Loan Program Task Forces were organized and functioned in ways that did not violate the authority and power granted to the annual conference as the basic body of the Church. The annual conference did not delegate its authority to the bishop or the task forces in question assuming all decision-making authority and power over the recommendations brought forth to it by the task forces.

Therefore, these questions are not appropriate requests for a decision of law as defined by *Par. 2609.6 of The Book of Discipline of The United Methodist Church 2012*, and therefore moot.

Questions 4 and 5 address the constitutionality of giving a bishop the responsibility “to lead and oversee the spiritual and temporal affairs of The United Methodist Church,” and the duty “to provide general oversight for the fiscal and program operations of the annual conference” as per Par 414.4 and Par. 415.2. of the *Book of Discipline of The United Methodist Church 2012*, respectively. As per Par. 16.5 of The Constitution of The United Methodist Church, only the General Conference has the authority “to define and fix the powers, duties, and privileges of the episcopacy.....,” rendering these questions inappropriate requests for a decision of law as defined by Par. 2609.6 of *The Book of Discipline of The United Methodist Church 2012*, and therefore moot.

Minutes of the 2015 Annual Conference session and supporting material were included. An *amicus curiae* brief was also filed.

JURISDICTION

The Judicial Council has jurisdiction under ¶¶ 51 and 56.3 of the Constitution of The United Methodist Church and under ¶ 2609 of the *2012 Discipline* as modified by Judicial Council Decision 1244.

ANALYSIS AND RATIONALE

Judicial Council Decision 1304 also dealt with issues arising out the 2015 Annual Conference Session of the California-Pacific Annual Conference where Rules Items 15-15 and 15-16 were passed. While dealing with the same Annual Conference action, the first three questions asked in this request for a Bishop's Decision of Law are of different substance and nature from some of those dealt with in Decision 1304.

In a careful review of the background material presented by the Bishop and in the decision of the Bishop, she interprets her authority in establishing the two task forces as devolving from the *2012 Discipline* ¶¶ 401, 414.1 and 415.2. She named her authority to establish the task forces especially in ¶ 415.2 that gives bishops responsibility of providing "general oversight for the fiscal and program operations of the annual conference," which may "include special inquiry into the work of agencies to ensure that the annual conference and general church policies and procedures are followed."

There is no indication that the 2014 Annual Conference session took action to authorize the work of either of the two proposed task groups or request they report back to any specific agency of the Annual Conference so that group could make a recommendation for legislative changes. The initiative to establish the task forces was made by the Bishop and articulated in her episcopal address to the Annual Conference. The letters of invitation provided by the Bishop indicate the selection of the members was at the initiative of the Bishop rather than by consultation with or approval of the conference nominating committee. She indicated in the material presented that she would be convener/facilitator of the task forces, but without vote, but with voice.

The *2012 Discipline* does not mention the use of task forces by a bishop to deal with issues affecting the annual conference. The Bishop in this instant case justifies her actions on the basis of ¶ 415.2. Judicial Council Decision 831 is clear about the role and the authority of the bishop when it states "bishops have historically exercised authority through the appointment process, worship and persuasion . . . , nor do we give him or her a vote. Our polity has balanced executive, legislative and judicial authority. . ." It is a long-standing principle that bishops, who are not members of the annual conference, may not bring or initiate legislation to the annual conference. Decision 831 also indicates that an annual conference cannot delegate its authority to a committee. (*See also* Decisions 22, 1023, 1257)

The *Discipline* is unclear and does not delineate the scope of the words “special inquiry” as found in ¶ 415.2. It does seem that the bishop could initiate a task force to explore particular issues within the annual conference to “ensure that the annual conference and general church policies and procedures are followed.” These task groups would then report directly to the bishop within the authority the bishop holds to conduct the inquiry. However, the *Discipline* does not give the bishop authority to bring specific recommendations directly to the annual conference. Oversight always operates within the constitutional constraints placed on the bishop. Bishops have no power to initiate legislation that may be brought to the conference for approval. (JD 831)

As a result of the work done in 2013 and 2014, administrative systems were changed and improved to deal with the fiscal accountability issues as recommended by GCFA. As the Bishop looked at broader systems issues in the annual conference, she determined two other areas that needed more attention: Rules and Structure and the Congregational Loan Program. In the case of the Congregational Loan Program Task Force, this task force brought its recommendations to the Council on Financial Resources that reviewed the recommendations at a meeting on March 21, 2014, and brought a motion to the annual conference to accept the recommendations of the Congregational Loan Task Force.

The situation with the Rules and Structure Task Force is less clear. This task force was also established as a result of the assessment the Bishop made as the administrative and fiscal systems came under review. Her rationale in setting up this task force again is found in ¶ 415.2 as a “special inquiry into the work of agencies to ensure that the annual conference and general church policies and procedures are followed.” The work of this task force was charged in part by the Bishop to “update our rules and structure so that they align with our mission and vision in clear and helpful ways.” This charge goes beyond the Bishop’s authority to make “special inquiry” as that authority is specifically given by General Conference in ¶ 608 to the annual conference to align the mission and vision of the conference, especially as found in ¶ 608.1 and ¶ 608.4.

However, this task force brought their recommendations for change directly to the Annual Conference without the endorsement of the Navigation Essential Ministries Team or the Systems Assessment Committee. According to the rules of the Annual Conference, the Systems Assessment Committee can only make recommendations to the group requesting review. In this case the group would be the Rules and Structure Task Force, not the Annual Conference.

The minutes of the Navigation Essential Ministries Team (NavEMT) for April 27, 2015, indicate that, after extensive discussion of the Rules and Structure Task Force report, a member attempted to move that the NavEMT recommend to the Annual Conference that action on

Rules Item 15-15 be postponed. The minutes report that the Bishop ruled this motion out of order. As rationale for this action, the Bishop stated that because the Bishop appointed the task force, the NavEMT did not have the authority to recommend to the Annual Conference that the adoption of task force's recommendations be delayed. The NavEMT did take action to add to the new Connectional Table the first elected Lay and Clergy delegate to General/Jurisdictional conference. The Bishop indicated this amendment would be made in the Task Force report. There is no indication in the record that the NavEMT made a recommendation to the Annual Conference on Rule Items 15-15 or 15-16.

This being said, there is no clear directive in the *Discipline* that a bishop may set up a separate task force that will report directly to the annual conference or suggest specific legislation for action. This is outside the authority of the bishop as evidenced by previously cited judicial decisions and the silence of the *Discipline*.

Question 1. The Bishop's decision of law is reversed. The bishop may not create a task force of the annual conference that reports directly to the annual conference, nor select the members, nor chair/facilitate/convene such a group even though the bishop is on the task force without vote. This does not preclude the bishop from making nominations to groups specifically authorized by the annual conference or by the *Discipline*.

Question 2. The Bishop's decision of law on this question is reversed. There is no record that any conference group received the recommendations of the Rules and Structure Task Force and joined with this Task Force in bringing these recommendations to the annual conference. Since there was no legally constituted body that brought Rules Item 15-15 and 15-16 to the Annual Conference their adoption is null and void. However, these rules were implemented following the vote of the Annual Conference and the conference groups have functioned under the changes for almost a year. This decision is modified so that there is no significant disruption in the life of the Annual Conference. The 2016 Annual Conference session is authorized to take the steps necessary to complete a review of the new structure and rules established by Rules Items 15-15 and 15-16 and report back to the Annual Conference in 2017 with any recommended adaptations or changes needed to meet disciplinary and Annual Conference concerns.

Question 3. The Bishop's decision of law is reversed. The Congregational Loan Program Task Force was also improperly constituted and established as described above. However, the Council on Financial Resources independently adopted the recommendations of the Task Force as the body to which the Congregational Loan Committee reports and brought these recommendations to the Annual Conference for approval. Thus, the Judicial Council rules that

Rules Item 15-17 is allowed to stand because the recommendations also came from the Council on Financial Resources.

Questions 4 and 5. These questions of constitutionality are similar to questions raised in Judicial Decision 1304. As decided in Judicial Decision 1304, these two questions are not proper questions for a decision of law. They are requests for a declaratory decision presented as requests for an episcopal decision of law and therefore moot and hypothetical. The Bishop's decision of law is affirmed.

DECISION

The Bishop's decisions of law are reversed in part and affirmed in part. The Bishop does not have the authority to create a task force, nor select its members, nor chair such a group that reports directly to the annual conference. The recommendations of the Rules and Structure Task Force are null and void, but this decision is modified so that the enacted changes by the annual conference in 2015 will be reviewed in a process established by the California-Pacific Annual Conference in order to report back to the Annual Conference in 2017 with any additional changes or recommendations. The recommendations of the Congregational Loan Program Task Force were brought to the Annual Conference by a motion from the Council on Financial Resources and are allowed to stand. The decision of the Bishop on Questions 4 and 5 is affirmed. The Secretary of the California-Pacific Annual Conference is reminded that all questions of law and the Bishop's decisions must appear in the Conference Journal.

F. Belton Joyner, Jr., Secretary

William B. Lawrence, President

May 9, 2016

DISSENTING OPINION

I respectfully dissent in part as I vote to affirm the whole Bishops' ruling under review in this instance.

This case is inextricably linked to JCD 1304 (October 24, 2015) pertaining to Rules Change 15-15 of the California-Pacific Annual Conference (CAL-PAC), where we affirmed the Decision of Law by the same Bishop, determining that the four-fold questions challenging said Rules were improper, moot and hypothetical. Consequently, the approval of said Rules is valid as explained in a Concurrence.

Our Decision here (1311) reversing in part the Bishop's ruling undermines our unanimous Decision in 1304. Rules Change 15-15 was duly recommended by the Rules and Structures Task Force and approved by the Annual Conference. Now that approval which we already countenanced in 1304 is allowed to be unsettled by a collateral attack.

The first, fourth and fifth sets of questions here, as reproduced in the Statement of Facts, are identical and similar in nature to the second fold of questions which we decided in 1304, pertinent portions of which are: Does ¶414.1 which gives an individual bishop the responsibility "to lead and oversee the spiritual and temporal affairs of The United Methodist Church" violate ¶47 of the Constitution which reserves the responsibility to "plan for the general oversight and promotion of the temporal and spiritual interests of the entire church" to the Council of Bishops, not an individual bishop?

Does ¶415.2 which gives an individual bishop the responsibility “to provide general oversight for the fiscal and program operations of the annual conference(s)” violate ¶47 of the Constitution?

Ostensibly posed as a request for a bishop’s decision of law under ¶2609.6, they are essentially for a declaratory decision under ¶2610. Both inquire on the scope of authority of the bishop under ¶414.1 and ¶415.2 and suggest violations of ¶47 of the Constitution.

Our unanimous ruling in 1304 with a concurring opinion, affirmed the bishop’s decision that the questions presented were improper. Some were actually requests for declaratory decision which cannot be permitted because ¶2610.2 requires an annual conference, not a mere member, to make such a petition.

On the second multi-layered questions there, we noted that “it questions a number of disciplinary paragraphs pertaining to the authority given to individual bishops in light of the authority given to the collective body of the Council of Bishops, raising the issue along the way of whether these disciplinary paragraphs violate ¶47 of the Constitution of The United Methodist Church.” Said Question 2 likewise addressed concerns pertaining to actions of the General Conference that are not under the judicial power of a bishop which are defined and limited to questions of law coming before the bishop in the regular business of a session of an annual (central or jurisdictional) conference as per Constitution ¶51, and is therefore moot. The same analysis and rationale set forth in 1304 apply to Questions 1, 4 and 5 before us. This is

conceded in the amicus curiae brief filed in this case which recommends affirmance of the bishop's ruling of inappropriateness as regards the last two questions.

Given the result of this scrutiny that the probe on the application and constitutionality of ¶¶414.1 and 415.2 as basis to seek a declaration that the establishment of the Task Forces of CAL-PAC is improper and redundant, it follows that the second and third queries to invalidate the actions of the 2015 Annual Conference based on the recommendations of said Task Forces are likewise inappropriate, moot and hypothetical.

I, therefore, vote to affirm in full, as in JCD 1304, the Bishop's decision of law. The (second) request for episcopal ruling is similarly improper as it is essentially for declaratory decision which a mere member of an annual conference cannot make. It is the Annual Conference itself which is authorized to make a petition for the declaratory decision (¶2610.2j). Likewise, questions on the constitutionality, application, meaning or effect of Disciplinary provisions are beyond the power of a bishop to decide. Such power resides exclusively in the Judicial Council (¶2610.1). Besides, three of the questions are redundant having been resolved in JCD 1304, while two others are moot and hypothetical.

Ruben T. Reyes

May 9, 2016