

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION 1294

IN RE: Review of a Bishop's Decision of Law in the Arkansas Annual Conference Regarding Limitation of Years of Service of Cabinet Members Who Are Not District Superintendents in Light of ¶ 418

DIGEST

The Bishop's decision of law is modified. The modification deletes all of the Bishop's ruling except for the portion that finds it inappropriate because it was not an item related to any business undertaken during the 2014 annual conference, but was legislation addressed in a previous annual conference session.

STATEMENT OF FACTS

At the June 21, 2014, session of the Arkansas Annual Conference, a clergy member made a request of the presiding bishop for a ruling of law on two issues:

1. Regarding the Arkansas conference practice of non-district superintendents participating in the making of appointments; and,
2. On the matter of limitations of years of service for those serving in the Appointive Cabinet.

On June 27, 2014, the Bishop ruled as follows:

**Request for Ruling of Law #2
The Arkansas Annual Conference**

During the June 21, 2014, session of the Arkansas Annual Conference, Rev. David Orr made the following request:

I request a ruling of church law on the matter of limitations on years of service for those serving on the Appointive Cabinet. Specifically, does Par 418 of the 2012 Book of Discipline apply to non-district superintendents serving on the Appointive Cabinet?

Bishop Gary Mueller issued the following ruling as a decision of law:

It might be appropriate to declare this request for a ruling of law as inappropriately moot and hypothetical because it relates to a term “the Appointive Cabinet,” that does not exist in, and is not defined by, *The Book of Discipline*. Further, since the request relates to “non-district superintendents” and ¶418 applies only to district superintendents, it appears that the question does not concern an issue of law under *The Book of Discipline* and is therefore improper for that reason also. Finally, it might be inappropriate because it was not an item related to any business undertaken during the 2014 annual conference, but legislation addressed in a previous annual conference session. See Judicial Council decisions 1214, 1086, 799 and 33.

Nevertheless, I will address the request in a substantive manner.

¶ 418 limits the tenure of a district superintendent and, therefore, limits his or her membership in the cabinet as a district superintendent. Neither this, nor any other paragraph in *The Book of Discipline*, states that those serving in the cabinet and are not district superintendents are bound by ¶ 418.

Therefore, I rule that ¶ 418 is not binding on non-district superintendents who serve in a consultative fashion in cabinet meetings that address the making of appointments.

The records forwarded to the Judicial Council consisted of the following:

1. The Bishop’s Report on the Decision of Law in the Arkansas Annual Conference;
2. The Bishop’s ruling of Law;
3. Excerpts from Structure and Rules (2013 Journal); and.
4. Agenda and Minutes of the 2014 Arkansas Annual Conference

The Judicial Council originally considered this matter at its October 2014 session. The records forwarded to the Judicial Council did not indicate that the request for a decision of law was properly presented, i.e., that the Conference was discussing, considering, or conducting business relating to the issues presented in the questions. Also, the records submitted showed no indication that the question of law was submitted in writing during the 2014 session of the Arkansas Annual Conference. Hence, the records were insufficient.

Therefore, the Judicial Council deferred the matter to the April 2015 docket and requested the Secretary of the Arkansas Annual Conference to supply the missing records.

The Secretary complied with this request and has forwarded the following additional documents to the Judicial Council:

1. The agenda for the 2014 Arkansas Annual Conference as printed in the pre-conference journal, available to the annual conference on March 15, 2014;
2. A copy of the daily proceedings (the minutes of the Annual Conference); and,
3. Written requests for ruling of law as presented by Reverend David Orr.

The Rev. David P. Orr, who had previously filed a brief in 2014, filed an additional brief.

JURISDICTION

The Judicial Council has jurisdiction under ¶¶51 and 56.3 of the Constitution and ¶ 2609.6 of the *2012 Discipline* as modified by Decision 1244.

ANALYSIS AND RATIONALE

Paragraph 51. Article VII of the Constitution states as follows:

A bishop presiding over an annual, central or jurisdictional conference shall decide all questions of law coming before the bishop in the regular business of a session, provided that such questions be presented in writing and that the decisions be recorded in the journal of the conference.

Such an episcopal decision shall not be authoritative except for the pending case until it shall have been passed upon by the Judicial Council. All decisions of law made by each bishop shall be reported in writing annually, with a syllabus of same, to the judicial Council, which shall affirm, modify, or reverse them.

Paragraph 56.3 of the Constitution gives the Judicial Council the authority “to pass upon decisions of law made by bishops in annual conferences.”

Paragraph 2609.6 of the *2012 Discipline*, as modified by Decision 1244, gives the Judicial Council the authority to “pass upon and affirm, modify, or reverse the decisions of law

made by bishops in central, district, annual and jurisdictional conferences upon questions of law submitted to them in writing in the regular business of a session...”

In a long line of decisions, the Judicial Council has held that for a bishop’s decision of law to be reviewed by the Judicial Council it must relate to the business, consideration, or discussion of the conference session. 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 should not be decided. *See Decisions 33, 396, 651, 746, 747, 762, 763, 799, 903, 1042, and Memorandum 927.*

We note that the question of law was properly presented in writing on June 21, 2014, during that day’s session of the Conference as follows:

Rule of Law #2

Bishop Mueller:

I request a ruling of church law on the matter of limitations on years of service for those serving on the Appointive Cabinet. Specifically, does Par 418 of the 2012 Book of Discipline apply to non-district superintendents serving on the Appointive Cabinet?

Rationale

Par 418 sets limitations on years of service for district superintendents (normal term of six years, extended up to eight years at the discretion of the bishop; no more than eight years in any consecutive eleven years; and, no elder shall serve as DS more than fourteen years). If non-district superintendents are serving on the cabinet to participate in the making of appointments, should their terms of service not rightly be limited by the rules of par 418?

I respectfully submit this request for ruling.

The Bishop in his ruling initially determined that the request for a ruling of law could be termed inappropriately moot and hypothetical; however, the Bishop took the precaution of addressing the substantive matter.

The issue to be determined by the Judicial Council is whether the subject matter of the question of law related to the business, consideration, or discussion of the conference session and was raised during the deliberation of the specific issue or matter stated therein -- matter of limitations on years of service for those serving on the Appointive Cabinet -- and is therefore a proper question of law requiring a decision of law by the Bishop.

A review of the 2014 Daily Proceedings showed that there is no indication that the issue of limitation of years of service for those serving in the appointive cabinet was discussed during the annual conference proceedings. The question raised did not pertain to any matter before the 2014 annual conference. Nor did it relate to any business under consideration or discussion of the conference session. A review of the Daily Proceedings for Saturday Morning, June 21, 2014, reveals that the request for the ruling of law was made immediately after the presentation and discussion of the Report of the Board of Pension and Benefits. The Judicial Council has repeatedly noted that questions of law must relate to actual situations and must set forth the circumstances or acts upon which a specific ruling may be rendered.

The Judicial Council modifies the ruling of the Bishop. The Judicial Council maintains that in keeping with Decision 873, it would have been better if the Bishop had chosen not to comment on the question posed by the clergy member since it was clearly an improper request for a decision of law. As was stated in said decision, in choosing to answer the question raised by the clergy member as an accommodation to him, and in an effort to be responsive to an inquiry of a conference member, the Bishop confused the issue of whether the question was indeed an improper question. The Bishop was not required to answer the request for a ruling of law in a substantive way. The Judicial Council has held that once a bishop determines that a question of law is improper because it does not relate to the business, consideration, or discussions of the conference session, the bishop shall state the rationale in the ruling without further substantive commentary.

DECISION

The Bishop's decision of law is modified. The modification deletes all of the Bishop's ruling except for the portion that finds it inappropriate because it was not an item related to any business undertaken during the 2014 annual conference, but was legislation addressed in a previous annual conference session.

Beth Capen was absent.

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

April 18, 2015