

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION 1257

IN RE: Review of a Bishop's Decision of Law in the Greater New Jersey Annual Conference Regarding the Authority of the Primary Task Team Between Sessions of the Annual Conference to Approve and Implement a Disaster Response Plan and Budget, to Approve and Implement "A Future with Hope" Corporation, and to Elect a Board of Directors for "A Future with Hope."

DIGEST

The ruling of law by the Bishop on Question 2 from the Greater New Jersey Annual Conference is not affirmed. The Primary Task Team, Conference Council on Finance and Administration and conference leadership including the Bishop and Cabinet had no authority to take actions to set forth a disaster response plan and budget including the establishment of the nonprofit corporation *A Future with Hope, Inc.*, and to elect a Board of Directors on its own without prior Annual Conference approval. The campaign plan is legal as it was approved by the Annual Conference on a motion from the Conference Council on Finance and Administration.

To rule that *A Future with Hope* corporation is null, void and without effect is impractical and probably impossible as it is a now a separately incorporated entity meeting a great humanitarian need. However, this ruling serves as a pronouncement to the Greater New Jersey Annual Conference to be cognizant of the importance of maintaining the role of the Annual Conference in decision-making and in monitoring the future structure and strategic decisions of the Annual Conference and the actions of the conference entities between the sessions of the annual conference.

STATEMENT OF FACTS

During the 2013 Session of the Greater New Jersey Annual Conference, May 30 - June 1, 2013, the conference approved a strategic ministry plan and the ministry for the Superstorm Sandy. As part of the strategy, the conference approved *A Future with Hope* Mission Fund Campaign to raise \$12 million, \$7 million of which was for Superstorm Sandy Relief, and elected a board of directors for the nonprofit corporation, *A Future with Hope, Inc.* Mr. John Bishop was elected President of the Board of Directors of *A Future with Hope Corporation*. By virtue of serving on the General Council on Finance and Administration of The United Methodist Church he is a member of the Greater New Jersey Annual Conference Council on Finance and Administration and also serves as its president.

On Friday, May 31, 2013, a clergy member of the Annual Conference submitted in writing four questions of law to the presiding bishop. The Conference Secretary read

these four questions into the record. They related to items discussed during the Annual Conference session.

Initially, the bishop did not submit these questions to the Judicial Council for deliberation because of his understanding that ¶ 2609.6 of the *2012 Discipline* mandated support by one-fifth of the annual conference before such matters were submitted. After further reflection, the bishop determined that all decisions of law raised in the regular business session of an annual conference were to be submitted to the Judicial Council, with or without a vote of the annual conference. On July 20, 2013, the bishop filed his decisions on the questions of law.

In addition, the Bishop provided the complete Daily Proceedings of the 2013 Annual Conference, an outline of the pre-conference journal, a copy of the resolution establishing *A Future with Hope* Campaign Fund, a copy of the Strategic Ministry Plan resolution, a copy of the Strategic Ministry Plan, and a Sandy Relief Case Statement (information about *A Future with Hope* corporation, including the budget and the funding campaign).

A clergy member of the annual conference filed an *amicus curiae* brief. In turn, the bishop submitted a response to that *amicus* brief.

In response to a request from a member of the Judicial Council, the conference treasurer provided a copy of the 2012 Annual Conference budget; the 2012 budget vs. actual report, the 2013 budget; the 2013 budget vs. actual report as of September 30, 2013; the 2014 annual conference budget; the 2014 budget for *A Future with Hope*, Inc. This decision pertains to the second question submitted. Question 2 reads:

Does the Primary Task Team have authority between sessions of the Annual Conference to

1) Approve and implement a disaster-response plan and budget to respond to the devastation from Superstorm Sandy,

2) Approve and implement the establishment of "A Future with Hope" corporation, and

3) Elect a Board of Directors for "A Future with Hope"?

(Greater New Jersey Annual Conference, *Pre-conference Journal*, pp. 133 line 33 - 134, line 19)

The decision of the bishop is as follows:

The actions noted in the above question of law were reported by the Primary Task Team which appeared in the Pre-conference Journal, page 133, along with other reports to the conference. The Annual Conference voted to receive the reports as part of its consent calendar.

The Annual Conference by its own motion and action approved the items in the question of law separate and apart from any action by the Primary Task Team. Therefore any actions the Primary Task Team took prior to the Annual Conference are irrelevant and of no import but as noted in the first question, the

Primary Task Team in between sessions of the Annual Conference may not take actions that the Discipline confers to the annual conference.

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

In the preface to the ruling on the written questions of law duly presented at the Annual Conference session, the bishop indicated that the conference leadership organized the short and long-term ministry response of the Annual Conference to the Superstorm Sandy by creating *A Future with Hope* non-profit organization. The bishop responded to Question 2 by indicating that the Annual Conference session voted to “receive the report as part of its consent calendar.” The report that was presented was a Case Statement which included the announcement of the formation of the nonprofit *A Future with Hope*, the listing of the already elected Board of Trustees, a budget plan that included the statement: “Overhead and administration costs such as office space, accounting, and support services will be underwritten by The United Methodist Church.” Included in the case statement/report was a rationale for the *A Future with Hope* campaign fund. The Annual Conference approved a motion presented by the Conference Council of Finance and Administration establishing this fund.

In this reporting format there was no opportunity to amend or question an action that had been taken on behalf of the Annual Conference in the interim between sessions of the Annual Conference. The nonprofit corporation appears to have been established prior to the vote at Annual Conference in May of 2013. The Board of Trustees was already in place at the time of the report to and election by the Annual Conference. Neither the Primary Task Team nor the other entities of the Annual Conference listed by the Bishop in his remarks on the decisions of law had disciplinary authority to create *A Future with Hope* corporation on their own recommendation.

The Judicial Council was not provided with any of the organizing documents of the nonprofit or a timeline delineating when such action was taken. One would assume that all of this is in order as an incorporated legal entity in the state of New Jersey. There is also no documentation as to whether *A Future with Hope, Inc.* has made application for inclusion in The United Methodist Church Group Tax Exemption Ruling. In making such a request, the entity must have a strong organizational relationship with some United Methodist organization such as a local church, district, annual conference, jurisdiction or general agency. (GCFA Legal Department, Category II Organizations)

Secondly, the Annual Conference authorized by motion *A Future with Hope Mission Fund Campaign* to raise \$12,000,000 of which \$7,000,000 (60%) would be used for Superstorm Sandy Relief work and funneled to the already established non-profit

corporation. This resolution was properly presented to the Annual Conference by the chair of the Conference Council on Finance and Administration in compliance with ¶ 613.2. The remaining money raised would be designated for Imagine No Malaria and local church mission projects.

Thirdly, the *existing* board of directors for the nonprofit corporation, *A Future with Hope* was elected as part of the conference nominating committee report after discussion, on May 30, 2013.

The question of law behind Question 2 is reflected in the initial wording of the question: Does the Primary Task Team (and/or conference leadership) *have the authority between sessions of the Annual Conference* (emphasis added) to take the described actions: implement a disaster response plan and budget funded in part by the annual conference, establish a non-profit corporation and elect its Board of Directors? The bishop cites Decision 831 in response to Question 1, (Decision 1256) that the annual conference cannot delegate its authority to a committee to make decisions. Thus, in this instant question, the bishop erred in not holding that the action of the Primary Task Team, the Executive Committee of the Primary Task Team, the Conference Council of Finance and Administration and the Trustees was not in compliance with the *Book Discipline* ¶ 33 and Decision 831. His ruling was that the actions of the Primary Task Team in reference to the issues raised in Question 2 are “irrelevant and of no import” because the Annual Conference subsequently approved the establishment of the *A Future with Hope Mission Fund*, acted to receive the report of the case statement announcing the already created nonprofit corporation under question and mission strategy for Hurricane Sandy relief, and reaffirmed the already elected Board of the nonprofit organization in the action on the nominating report.

Decision 831 is very clear about the inability to delegate authority to take action to a committee or committees of the Annual Conference on behalf of the annual conference. The bedrock of our organizational discipline holds that the annual conference is the basic body in the church and all assigned actions must be approved by the annual conference. No entity of the conference can circumvent or act without the prior approval of the annual conference. The bishop’s ruling appears to assume that the annual conference action “approved the items in the question of law separate and apart from any action by the Primary Task Team” mooted the three items in the second question of law. This is circular reasoning. If this were to be the case, any committee of the annual conference could take interim action for the annual conference and then bring that action for approval to the annual conference and claim that such actions were “irrelevant and of no import.” The Annual Conference may not surrender its accountability for the direction, management and evaluation of its mission and ministry to committees of the annual conference between sessions of the annual conference. The annual conference has the authority to vote on “rights as have not been delegated to the General Conference under the Constitution,” and “discharge such duties and such powers as the General Conference under the Constitution may determine.” (¶ 33,

Article II) If this were not the case, annual conferences would cease to be the basic body of the church and become merely passive and reactive to issues initiated and decided by subordinate conference bodies or to the whim of the bishop as executive. This is an untenable position. The guidance of settled principles of church law and polity require the constitutionally embedded separation of executive and legislative powers.

DECISION

The decision of law by the Bishop on Question 2 from the Greater New Jersey Annual Conference is not affirmed. The Primary Task Team, Conference Council on Finance and Administration and conference leadership including the Bishop and Cabinet had no authority to take actions to set forth a disaster response plan and budget including the establishment of the nonprofit corporation *A Future with Hope, Inc.*, and to elect a Board of Directors on its own without prior Annual Conference approval. The campaign plan is legal as it was approved by the Annual Conference on a motion from the Conference Council on Finance and Administration.

To rule that *A Future with Hope* corporation is null, void, and without effect is impractical and probably impossible as it is now a separately incorporated entity meeting a great humanitarian need. However, this ruling serves as a pronouncement to the Greater New Jersey Annual Conference to be cognizant of the importance of maintaining the role of the Annual Conference in decision-making and in monitoring the future structure and strategic decisions of the Annual Conference and the actions of the conference entities between the sessions of the annual conference.

Dennis Blackwell was absent.

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

October 26, 2013