

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1460 [Docket Nos. 1022 -15 & 16]

IN RE: Review of a Bishop's Ruling on Questions of Law in the Greater New Jersey Annual Conference Concerning Disaffiliation and the Legality of the Resolution A Call To Discernment and Renewal.

IN RE: Review of a Bishop's Ruling on Questions of Law in the Greater New Jersey Annual Conference Concerning the Legality of Actions Taken by Various Annual Conference Entities, the Inability to Amend Proposed Actions Contained in Reports to the Annual Conference, the Legality of Certain Procedures Related to Disaffiliation, and the Effect of the Resolution A Call To Discernment and Renewal in regard to those matters raised therein.

DIGEST

The decision of Bishop John R. Schol is affirmed for the reasons set forth therein.

STATEMENT OF FACTS

Due to the similarity of the questions presented, the two cases are combined in this decision for the sake of consistency and clarity.

At a plenary session of the Greater New Jersey Annual Conference (the “GNJ”) held on May 23, 2022, a motion was made to approve legislation designated as “A Call to Discernment and Renewal” (the “Call”). After several attempts to amend the legislation which were ruled out of order by Bishop Schol, a motion to suspend the rules was adopted so that a vote could be undertaken. A further motion to approve the original version of the Call was made and the legislation passed.

The Call lists ten initiatives and resources which GNJ congregations can undertake if they are willing and ready to deepen faith, develop leadership, grow congregational vitality, and end racism, sexism, and exclusion. It then undertakes to resource local congregations which desire to disaffiliate from the UMC:

Be it further resolved that GNJ will in addition to its missional priority, inform and assist any congregation seeking to disaffiliate utilizing the principles, and process set forth in paragraph 2553 of the Book of Discipline of The United Methodist Church (BOD), related to congregations considering a change in relationship to the UMC and GNJ, and the several Judicial Council rulings including but not limited to 1379,1420,1421,1422,1423,1424 and 1425 concerning separation from the UMC, as follows:

1. Discernment Process — the cabinet will develop and carry out an up to 6-month discernment process with any church considering disaffiliating from the UMC (Judicial Council Ruling. 1425).

2. Vote to Disaffiliate — following the discernment process, a Church Conference will be held to vote on disaffiliation. A 2/3's approval vote is required to disaffiliate (paragraph 2553 and Judicial Council Ruling 1379).
3. Connectional Covenant — if the congregation votes to disaffiliate by a 2/3's vote or more, the cabinet will develop a connectional covenant for disaffiliation. A connectional covenant is not a legal agreement, but a promise between GNJ and the disaffiliating congregation, and if disaffiliating to a denomination, with the receiving denomination that outlines how all parties will respect, honor, and treat one another during the disaffiliation and for five years following the disaffiliation (Judicial Council Ruling 1424).
4. Congregation Due Diligence — the disaffiliating congregation will perform all the necessary research and submit all the necessary documents and information required by the GNJ Board of Trustees to draft the Disaffiliation Agreement.
5. Disaffiliation Agreement — the GNJ Board of Trustees, with the advice of the GNJ cabinet, treasurer, benefits coordinator, the chairperson of CFA, DCM and chancellor, will draw up an agreement detailing the terms and conditions of the disaffiliation, including the effective date of disaffiliation and local church's obligations (payments/liabilities due, etc.), that will be memorialized in a binding Disaffiliation Agreement between the annual conference and the trustees of the local church, in consultation with the local church Administrative Council, acting on behalf of the congregation's members. (Paragraph 2553 and Judicial Council Ruling 1379).
6. Annual Conference Approval — the annual conference at its regular annual session votes to ratify the disaffiliation agreement. A simple majority approval vote is required to approve the terms and disaffiliation (Paragraph 2553 and Judicial Council Ruling 1379).

Following a form template for the Confessional Covenant, the Call includes a **Disaffiliation Terms Worksheet** which graphs onto the ¶ 2553 process (i) seventeen items of **Due Diligence** which a disaffiliating congregation must undertake, (ii) thirteen required payments which the disaffiliating congregation must pay, and (iii) seven **Other Actions** which the disaffiliating congregation must satisfy by the disaffiliation date.

During the discussion and debate on this legislation, a total of sixteen requests were made for a bishops ruling of law. This matter involves thirteen of those requests. Each of the questions and Bishop's ruling of law follow:

Question of Law - #1

Is the required payment term on page 146 lines 18 through 22 which states, "For congregations that disaffiliate, and their appointed pastor(s) remain(s) in the UMC, the estimated clergy compensation including housing and benefits for 18 months and maximum moving expenses for two moves per individual. If an appointment is identified for the impacted pastor by June 30, 2024, any unused portion from this item will be reimbursed to the disaffiliating congregation by August 1, 2024." the work of the Trustees under paragraph 2553.4?

Ruling of Law:

As to **Question #1**, the General Conference delegated this authority to the conference board of trustees in paragraph 2553 and affirmed in Judicial Council Decision 1440.”

Question of Law — #2

Is this required payment term on page 146 lines 18 through 22 and actions of GNJ trustees subject to a Question of Law under Paragraph 51 as the GNJ trustees are amenable to the annual conference, under Book of Discipline Paragraph 604 and 2512 which states, “They shall be amenable to the annual conference...”

Ruling of Law:

As to **Question #2**, decision 1379 has determined that paragraph 2553 of the Book of Discipline is constitutional

Question of Law — #3

By adopting A Call For Discernment and Renewal on page 139 lines 33-40 in the Pre-Conference Workbook, did the GNJ annual conference delegate to its trustees the absolute authority to make final decisions on adding terms to the standard terms of disaffiliation, apart from annual conference action as required in Paragraph 2553.4a which states, “Annual conferences (my emphasis) may develop additional standard terms that are not inconsistent with the standard form of this paragraph?” See JCD 1210.

See JCD 1444 which states, “This reserve right...is not absolute but must be counter-balanced by the General Conference’s power to “1. Define and fix the powers and duties of the annual conferences in Para. 16.3 not the least because the constitution qualifies this reserve right with the concluding sentence: ‘The annual conference shall discharge such duties and exercise such powers as the General Conference under the constitution may determine?’

Ruling of Law:

As to **Question #3**, the annual conference did not delegate this paragraph, it followed paragraph 2553 and Judicial Council decision 1440 as stated in response to the second question. The General Conference directed the board of trustees to fulfill this responsibility.

Question of Law — #4

Does the adopting of A Call To Discernment and Renewal violate provisions in the Book of Discipline in paragraphs 620 – 628 and elsewhere, regarding clergy funding and appointment, by permitting the GNJ conference trustees to be empowered to usurp authority expressly reserved to other entities of the church, in reliance of erroneous assertions of authority based on Paragraph 2553?

Ruling of Law:

As to **Question #4**, the board of trustees did not “usurp” others authority but is ensuring there if funding available for the cabinet to do its work if an appointment is not available or an appointment at the equitable compensation level for the pastor that remains in The UMC is not available. The trustees added this in conversation with the cabinet as paragraph 2553 provides permission for the board of trustees to add items to the term sheet not included by the General Conference.

Regarding “paragraphs 620-628 and elsewhere,” the phrase “and elsewhere” is null and void because it is hypothetical and does not provide a substantive Book of Discipline paragraph to make a ruling. Paragraphs 620-628 are not in conflict with paragraph 2553 and the board of trustee’s term that a disaffiliating congregation must provide adequate funding to ensure its non-disaffiliating pastor receives full compensation (paragraph 624) and received minimum compensation beyond the next appointment if there are not sufficient number of appointments that the annual conference is obligated to ensure the pastor receives their minimum compensation. Further paragraphs 620-628 identify potential funding for clergy compensation, such as apportionments and equitable compensation, but does not limit the funding to these funds. The board of trustees is acting in good faith to ensure there is sufficient funding for a clergy person’s compensation to be administered by the council on finance and administration, equitable compensation and cabinet when a church disaffiliates, and the clergy person does not disaffiliate.”

Question of Law — #5

Does the adoption of A Call To Discernment and Renewal allow the annual conference, its agencies and/or GNJ Trustees to financially obligate another organizational unit of the United Methodist Church in violation of Paragraph 604.2, which states, “An annual conference cannot financially obligate any organizational unit of the United Methodist Church except the annual conference itself?”

Ruling of Law:

As to **Question #5**, this question is null and void because it does not identify an instance where the annual conference has obligated another organizational unit and therefore the question is hypothetical

Question of Law — A

In light of the fact that legislation was introduced by the GNJ Cabinet, Trustees and Connectional Table at the 2022 session of the GNJ annual conference as “A Call For Discernment and Renewal” as found in “2022-AC-PCWB-Addendum- final-version-for-web” beginning with line 30 on page 137 and continuing to line 8 on page 140; and

In light of the fact GNJ published and printed under the heading “Disaffiliation Terms” in a document identified as “2022-AC-PCWB-Addendum-final version for web” and thereafter The Greater New Jersey Annual Conference was denied the right to take action on an amendment to a proposal brought to the 2022 session of the Annual Conference, in which the items set forth under the heading of “Term Sheet” found on page 146 of the “2022-AC-PCWB-Addendum-final-version-for-web” were identified and incorporated, and included by reference to this amendment, and thereby the express subject of the proposed amendment to “A Call For Discernment and Renewal” on pages 137 line 30 to 140 line 8 in the Pre-Conference workbook and the items printed on page 146 of the “2022-AC-PCWB-Addendum-final-version-for-web” even though the referenced and included items on page 146 were not stand-alone proposals apart from “A Call For Discernment and Renewal.” and

In light of the fact that the amendment was improperly ruled out of order, the ruling was appealed, and the ruling was upheld by the body, thereby the conference was left in the position of taking an action that is contrary to the Book of Discipline because the GNJ Trustees were not thereby held amenable to the annual conference action, when the following was as an identified,

included and referenced item being expressly acted upon as part of an amendment to the consideration of "A Call For Discernment and Renewal" found in "2022-AC-PCWB-Addendum-final-version-for-web" beginning with line 30 on page 137 and continuing to line 8 on page 140:

“For congregations that disaffiliate, and their appointed pastor(s) remain(s) in the UMC, the estimated clergy compensation including housing and benefits for 18 months and maximum moving expenses for two moves per individual. If an appointment is identified for the impacted pastor by June 30, 2024, any unused portion from this item will be reimbursed to the disaffiliating congregation by August 1, 2024.” The reference for the materials impact that members of the conference have been denied the right to ask a Question of Law?

Ruling of law

As to Question A, this first section of Mr. Pogue’s request is null and void because there is no question, but a series of statements. Even the final sentence, while having a question mark at the end of the sentence, is a statement rather than a question. Bishops only to rule on questions of law that pose a particular disciplinary question.

Question of Law — B

In light of the fact that Judicial Council Decisions 1421 (and affirmed by later decisions of law) in which the Judicial Council stated, “The annual conference as the basic body in the Church has the reserved right to make final decisions regarding the disaffiliation of local churches within its boundaries.”

Is there any provision in Paragraph 2553 which allows an action of the annual conference to stand when it permits the conference Trustees to demand clergy funding or other local church funding as referenced in the amendment, as Term Sheet on page 146 of “2022-AC-PCWB-Addendum-final-version-for-web” by the Trustees failing to be amendable to the annual conference, by the trustees deliberately rejecting annual conference authority to exert its final decision reserved rights as provided in the following paragraphs of the Book of Discipline and in Judicial Council decisions, and as evidenced by the trustees’ refusal to be amendable to the annual conference? Paragraph 640, which refers to the duties of the board of trustees, as stated in Paragraph 2512.1- 8, which states in Paragraph 2512.2 “... They shall be amendable to the annual conference...”

Ruling of Law:

As to Question B, paragraph 2553 of the BOD grants full authority to the Board of Trustees to establish the terms and conditions of the disaffiliation agreement: “the terms and conditions for that disaffiliation shall be established by the board of trustees of the applicable annual conference, with the advice of the cabinet, the annual conference treasurer, the annual conference benefits officer, the director of connectional ministries, and the annual conference chancellor.” This paragraph places the terms of the agreement solely in the purview of the Board of Trustees. Such authority would include any modification of the agreement. — Judicial Council Decision 1440.

The role of the Annual Conference in disaffiliation is not mentioned in 2553. The Judicial Council in Decision 1379 added that role by reading paragraph 2553 in the context of other provisions of BOD. The Judicial Council held that “Absent specific language to the contrary, this provision can reasonably be construed as requiring ratification (i.e. consent after) by simple majority of the members of an annual conference.” — Judicial Council Decision 1440

Paragraph 2512.2, states that the conference board of trustees is amenable to the annual conference and the General Conference passed legislation authorizing the board of trustees to develop the term sheet for disaffiliation. When there appears to be two conflicting paragraphs in The Book of Discipline, each must be first read as having validity, and as possible, to “harmonize” the passages just as the Judicial Council did in Memorandum 1446 and Decision 1312.

The General Conference has determined that the board of trustees in matters of disaffiliation have the authority to develop the term sheet and that the annual conference has the authority to approve or disapprove the disaffiliation of a church without the authority to amend the term sheet developed by the board of trustees.

Question of Law — C

Do provisions in the Book of Discipline in paragraphs 620 - 628 and elsewhere regarding clergy funding and appointment, permit conference trustees to usurp authority expressly reserved to the annual conference, by the trustees improperly asserting authority not granted to them and by ignoring proper motions placed before the annual conference action, and making erroneous assertions of authority based on Paragraph 2553?

Ruling of Law:

As to Question C, the board of trustees did not “usurp” others authority but is ensuring that funding be available for the cabinet to do its work if an appointment is not available or an appointment at the equitable compensation level for the pastor that remains in The UMC is not available. The trustees added the term in question by Mr. Pogue in conversation with the cabinet as paragraph 2553 provides the board of trustees to add items to the term sheet.

Question of Law — D

Does a presiding bishop have the authority to deny an annual conference member’s right to propose an amendment to a matter which is properly before the annual conference for its consideration by claiming to rule a proposed amendment out of order as a parliamentary matter, by expressing the basis of his improper assertion of a parliamentary ruling on his own expressed interpretation of provisions of Paragraph 2553 of the Book of Discipline, while his ruling is based on no rule of the conference, no element in Robert’s Rules of Order, and no authority to usurp rights granted to the annual conference in the Book of Discipline and in Judicial Council decisions?

Ruling of Law:

As to Question D, this question is null and void because it is a parliamentary matter. The Judicial Council does not have the authority to review a parliamentary procedure, but it is a matter for the annual conference to resolve. Mr. Pogue offered an amendment that was ruled out of order. Mr. Pogue challenged the ruling of the chair and the chair’s ruling was sustained by the body. See JCD 898, 941, 1117, 1187, 1205, 1356, and 1339.

Question of Law — E

Further, does a presiding bishop have the right to rule an amendment out of order by claiming it is hypothetical solely because it refers to material which has been expressly presented and clearly

identified by reference, solely because the material included by reference has not been previously acted upon by the annual conference.

Ruling of Law:

As to Question E, his question is null and void because it is a parliamentary matter. The Judicial Council does not have the authority to review a parliamentary procedure, but it is a matter for the annual conference to resolve. Mr. Pogue offered an amendment that the bishop ruled out of order. Mr. Pogue challenged the ruling of the chair and chair's ruling was sustained by the body. See JCD 898, 941, 1117, 1187, 1205, 1356, and 1339.

Question of Law — F

Does a presiding bishop have the authority to deny an annual conference member's right to propose a Question of Law regarding a matter which is properly before the annual conference for its consideration by claiming to rule a proposed Question of Law out of order? May a bishop refuse to accept such Questions of Law by basing his improper claim of parliamentary ruling on his own expressed interpretation of provisions of Paragraph 2553 of the Book of Discipline, while his arbitrary ruling is based on no rule of the conference, no element in Robert's Rules of Order, and no provision of the Book of Discipline?"

Ruling of Law:

As to Question F, this question is null and void because all of Mr. Pogue's question of law have been responded to in this ruling.

Question of Law — G

Is there any provision in Paragraph 2553 that permits the conference Trustees to demand clergy funding or other funding in violation of the Book of Discipline when it is based on the Trustees failing to be amendable to the annual conference by deliberately rejecting annual conference authority as provided in various provisions of the Book of Discipline? (See attached proposed amendment and materials from the 2022 Pre-Conference Workbook addendum.) Paragraphs 620 to 628; and Paragraph 614 e); and

Paragraph 604.2 which states, "An annual conference cannot financially obligate any organizational unit of the United Methodist Church except the annual conference itself." and elsewhere in the Book of Discipline.

Ruling of Law:

As to Question G, paragraph 2553 of the BOD grants full authority to the Board of Trustees to establish the terms and conditions of the disaffiliation agreement: "the terms and conditions for that disaffiliation shall be established by the board of trustees of the applicable annual conference, with the advice of the cabinet, the annual conference treasurer, the annual conference benefits officer, the director of connectional ministries, and the annual conference chancellor." This paragraph places the terms of the agreement solely in the purview of the Board of Trustees. Such authority would include any modification of the agreement. — Judicial Council Decision 1440

The role of the Annual Conference in disaffiliation is not mentioned in 2553. The Judicial Council in Decision 1379 added that role by reading paragraph 2553 in the context of other

provisions of BOD. The Judicial Council held that “Absent specific language to the contrary, this provision can reasonably be construed as requiring ratification (i.e. consent after) by simple majority of the members of an annual conference.” — Judicial Council Decision 1440.

Paragraph 2512.2, states that the conference board of trustees is amenable to the annual conference and the General Conference passed legislation authorizing the board of trustees to develop the term sheet for disaffiliation. When there appears to be two conflicting paragraphs in The Book of Discipline, each must be first read as having validity, and as possible, to “harmonize” the passages just as the Judicial Council did in Memorandum 1446 and Decision 1312.

The General Conference has determined that the board of trustees in matters of disaffiliation have the authority to develop the term sheet and that the annual conference has the authority to approve or disapprove the disaffiliation of a church without the authority to amend the term sheet developed by the board of trustees.

Question of Law — H

Is Missional Transition Support arbitrary and capricious since there is no plan for any new church plants nor any provisions for churches with a majority vote for disaffiliation that falls short of the two-thirds threshold.

Ruling of Law:

As to Question H, this question is null and void because there are no references to “arbitrary and capricious” in paragraph 2553 or in any other reference to church law and therefore there is no standard on which to base a ruling.

Jurisdiction

The Judicial Council has jurisdiction under ¶ 2609.6 of *The Book of Discipline 2016*.

Decision

The decision of Bishop John R. Schol is affirmed for the reasons set forth therein.

Dennis Blackwell recused himself and did not participate in any of the proceedings related to this decision.

February 28, 2023

Separate Opinion

We concur with our colleagues regarding some aspects of the Bishop's ruling, but we note that the Digest needs to indicate the major issues that were ruled upon by the Bishop and further indicate those aspects upon which the Judicial Council specifically agrees and affirms as a matter of church law.

The specific issues that the Judicial Council is affirming in its review of a Bishop's ruling on a question of law ought to be set forth in the Digest so that those institutions and publications [especially hardcopy print publications], which quote and rely exclusively upon the Digest to provide a **concise statement of the issues** decided by the Judicial Council in each Decision or Memorandum, are able to continue to alert their respective readers or members of potential changes in the interpretation or application of church law. If a Digest states only that the Judicial Council affirms the ruling of the Bishop "**for the reason set forth therein**" then those institutions and publications which have heretofore relied upon our Digest, will no longer be in a position to immediately provide a meaningful alert to their respective readers or members concerning such decisions or memorandums that have just been released by the Judicial Council.

Beth Capen
Kabamba Kiboko
February 28, 2023

Separate Opinion

In addition to the above concern is that episcopal rulings contain many nuanced statements that can be interpreted in a variety of ways and thereby risk resulting in polity which could be misapplied by others. General Conference has tasked the Judicial Council, exclusively, with the responsibility of articulating those major aspects of each episcopal ruling and relating each aspect to the Disciplinary principles, polity, and former Decisions which provide the predicate for determining that the Bishop is correct or incorrect concerning that aspect of his or her ruling. The denomination is relying upon the Judicial Council to identify the key points in an episcopal ruling, and affirm, modify or reverse those key points, in whole or in part, and thereby reconcile the multiple rulings that are issued each year and ensure that our church law is not subject to more than one interpretation.

Beth Capen
February 28, 2023