

DECISION 1278

IN RE: Review of a Bishop's Decisions of Law in the Philippines Central Conference Regarding the Legality of Proposed Rules for the Election of Bishops in Light of Judicial Council Decision 1249

DIGEST

The rulings of the presiding bishop during the December 12, 2012, session of the Philippines Central Conference are affirmed. There are no violations of ¶ 405 in the *2008 Discipline* in procedures for the election of bishops as set by the Philippines Central Conference Committee on Plan of Organization and Rules of Order Proposal in Article 2, E. Committee on Elections, Section 18; Section 19, subsections (a), (b) and (e). There are also no violations of the *Discipline* in Article V: Episcopal Election, A. General Guidelines, Sections 1, 2, 7 and 9. There are violations of Section 19, subsections (c), (d), (d) and Article V, A, Sections 3, 4, 5, 6 and 8. No restrictions on or evaluation of candidates for bishop may be made other than the requirement that the candidate be an elder in full connection in an annual conference of the central conference. The Committee on Elections has no authority to evaluate candidates or eliminate a candidate based on the number of votes received on any ballot. The rulings are affirmed.

STATEMENT OF FACTS

On December 12, 2012, in the course of the 20th Regular Session of the Philippines Central Conference, two members made two separate requests for decisions of law by the presiding bishop, Bishop Warner Brown. The requests were as follows:

1. I move that the presiding bishop make a ruling on Page 9, Line 229 the whole section on Committee on Elections.
2. I move to request the Chair to rule on whether the CPORO proposal, particularly ART. 2, Part E: Committee on Elections, Sections 18-20 and ART. 5, Part A: General Guidelines, Sections 1-9, as printed in the legislative agenda kit of the 20th Regular Session of the Philippines Central

Conference, currently convened here in Bayombong, N.V, Philippines (Dec 11-16, 2012) are in conflict with Par. 405 of the 2008 Book of Discipline of the United Methodist Church and with Sec. III, Part A.3 of the Philippines Central Conference Plan Organization and Rules of Order as printed in the 2012 Handbook for Delegates, page 85.

The presiding Bishop made a decision of law in which he found some of the provisions of the Committee on Plan of Organization and Rules of Order Proposal as being in violation of the *2008 Discipline*.

The records initially submitted to the Judicial Council contained only the two requests for decisions of law and the presiding Bishop's decision of law. Absent from the records were the minutes of the December 12, 2012, session at which the requests were made and copies of the Committee on Plan of Organization and Rules of Order Proposal and the Philippines Central Conference Plan of Organization and Rules of Order. Efforts were made by the Judicial Council to obtain the minutes of the December 12, 2012, session with no success.

In Memorandum 1249 the matter was remanded to the Philippines Central Conference, and it was instructed to forward to the Secretary of the Judicial Council the minutes of the December 12, 2012, session of the 20th Regular Session of the Philippines Central Conference and the Philippines Central Conference Plan of Organization and Rules of Order within 60 days as of that decision. The Judicial Council retained jurisdiction.

The Judicial Council again made efforts to obtain the requested documents from the Conference Secretary but to no avail. As a result, after the expiration of the 60 days deadline without submission of the requested documents by the Conference Secretary, the Secretary of the Judicial Council was constrained to request Bishop Warner Brown to provide the legislative documents upon which he based his decision of law. Bishop Brown graciously complied and forwarded to the Judicial Council the requested documents.

The Judicial Council has now received the following documents:

1. The requests for decisions of law;

2. The Bishop's Report of Decision of Law;
3. Transcript of excerpts from minutes of the 2012 Philippines Central Conference;
4. The 2012 Handbook for Delegates, Philippines Central Conference; and,
5. The Legislative Agenda Kit for the 2012 session of the Philippines Central Conference.

The questions of law were properly presented in writing during a plenary session of the Philippines Central Conference, December 12, 2012.

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 following, each ruling will be examined separately. The particular section in the Legislative Agenda Kit will be cited with the Bishop's ruling.

The presiding Bishop made the following ruling on the two questions of law.

In order to respond to the requested rulings of law, it was necessary to review Article 2, E: Committee on Elections (page 9-10 of the Legislative Agenda Kit for the PCC).

In regards to E. Committee on Elections, Sections 18-20, I make the following rulings of law:

E. Committee on Elections

Section 18. Composition. - This Committee shall be composed of seven (7) members to be constituted as follows: three (3) retired clergy and four (4) lay members who shall be appointed, and thereafter convened, by the College of Bishops, one (1) year before the sessions of the Central Conference. [New]

The Book of Discipline does not prohibit having a committee

on elections in order to conduct orderly elections for the episcopacy. Therefore, there is no problem with Section 18 (Composition) which gives the composition of the committee.

The Judicial Council affirms this ruling.

Section 19. Duties of the Committee. - The Committee on Elections shall have the following duties:

(a) To receive the endorsement/nomination from an Annual Conference of an eligible clergy who has expressed his availability for election to the Episcopal Office;

(b) To receive the Declaration of Availability For Election filed by an eligible Clergy who has sought but failed to receive an endorsement/nomination from an Annual Conference;

(c) To evaluate and thereafter give due course to the endorsement/nomination from an Annual Conference;

(d) To evaluate and thereafter give due course to the Declaration of Availability for Election filed by an eligible clergy;

d)(sic) To notify officially all the Principal and Reserve Delegates to the Central Conference not later than sixty (60) days prior to the regular session of the Central Conference of complete and final list of all eligible clergy whose Endorsement or Declaration of Availability have been accepted and given due course.

(e) To prepare and print the Official Ballots and the Election Return for every balloting which shall be used during the Elections;

(f) To screen, organize and deputize a team of volunteers that shall serve as election tellers, canvassers, clerks and security officers and, together with the Committee, shall assist the Presiding Bishop in maintaining an orderly conduct of election and canvassing of ballots.

The Bishop ruled on this section:

The Book of Discipline does not prohibit a committee on elections from receiving endorsements/nominations as stated in subsections (a) and (b). Paragraph 405 provides, "Each jurisdictional or central conference shall develop appropriate procedures for furnishing information about nominees from annual conferences." Nor does the Book of Discipline prohibit preparing and distributing ballots and election returns as stated in

subsection (e). Therefore, provided that the nominations are not limited to those received by the committee, I rule that the procedures in subsections (a), (b) and (e) are not in violation of Paragraph 405. However, Paragraph 405 provides that "[b]allotting at jurisdictional and central conferences shall not be limited to nominees of annual conferences " Therefore, these procedures cannot exclude nominees other than those nominated by annual conferences and they cannot be used to exclude nominees. While the receipt and organization of information concerning nominees by annual conferences can be a valuable service to the voting delegates of the central conference, the committee should not use any evaluation or other procedure it may adopt to disqualify nominees, that power being reserved to the delegate body. It is noted that subsection (f) was removed by the committee prior to the ruling. In regards to subsection (c), the Book of Discipline states in par. 403 that a bishop is an elder in full connection. Therefore, a nominee who is eligible for election is an elder in full connection. A central conference cannot adopt a procedure (or authorize a committee) that in any way limits the eligibility of elders in full connection as nominees beyond the limits set by General Conference. Furthermore, the annual conference is the only body that can vote on matters of character of clergy (par. 33 in the constitution) and lay members cannot vote on character of clergy (except lay members of boards of ordained ministry) (also par. 33). Therefore, as noted above, the committee on elections cannot evaluate the endorsements/nominations from an annual conference as proposed in subsection (c) to exclude nominees. At most, the committee can gather and report information as to whether the person is an elder in full connection when providing other information about nominees. Therefore, to the extent that subsection (c) may attempt to give any power or authority to the committee beyond evaluating whether a nominee is an elder in full connection, I rule that it is in violation of the 2008 Book of Discipline.

The Judicial Council affirms the Bishop's decision on this section. The Bishop further ruled on the two subsections labeled d:

In regards to both paragraphs labeled subsection (d), the General Conference has established (par. 405.1 as it pertains to this matter) that persons may be nominated by ballot when they receive 10 votes or 5% of

the valid votes cast in the central conference election process. Therefore, as noted above regarding subsections (a), (b) and (c), to the extent that these subsections may operate to limit the persons who may be nominees or to evaluate their eligibility beyond determining whether they are elders in full connection, the subsections violate the 2008 Book of Discipline. For the reasons previously stated, the evaluation of, or the creation of, a complete and final list of all eligible clergy referenced in both paragraphs labeled (d) could violate the Book of Discipline, and, therefore, these subsections are overly broad and grant power and authority to the committee that are reserved for the delegates to the central conference.

The Judicial Council affirms the Bishop's decision on these subsections.

The next item considered by the Bishop was Article V, EPISCOPAL ELECTION, A. General Guidelines.

Section 1. Priority in the Order of Business. - The Episcopal Election shall be the priority item in the order of business of the second day. It shall immediately follow the devotional period and shall continue and interrupt any order of business of the Conference until there is an election of the required number of bishops or until such time as the Central Conference in session shall order otherwise. [Lifted from Section III. A. 1., Plan of Organization and Rules of Order]

Section 2. Presiding Officer. - The bishop assigned by the Council of Bishops as the accredited representative of The United Methodist Church or any of the bishops elected by the Central Conference to serve until retirement shall, in accordance with their own agreement, preside over the session in which the order of business is the Episcopal Election.

[Lifted from Section III. A. 2., Plan of Organization and Rules of Order]
Section 3. Eligibility for Election. - An Elder in good standing in any of the Annual Conferences in the Philippines Central Conference who has been ordained to that order for at least four (4) consecutive years preceding an Episcopal Election and has not yet reached the age of sixty four (64) years shall be eligible for Episcopal Election. [Lifted from Section III. A. 3 Plan of Organization and Rules of Order]

Section 4. Endorsement/Nomination by the Annual Conference. - An eligible Elder who is interested to serve in the Episcopal Office shall

secure the endorsement and/or nomination of an Annual Conference, preferably the Annual Conference of which he is a Member, so that he may be considered for episcopal election. The endorsement and/or nomination shall mean that that the Annual Conference (a) has found the eligible clergy to possess the moral fitness, the educational preparation, and the maturity and aptitude to serve as a servant leader in the episcopal office; and (b) has declared its complete support for such bid for election. [New]

Section 5. Individual Declaration of Availability. - An eligible Elder who has sought but failed to get the endorsement of the Annual Conference of which he is a Member or any other Annual Conference shall still be considered for election to the Episcopal Office provided submits an Individual Declaration of Availability. [New]

Section 6. Deadline of the Filing of Endorsement(sic)/Nomination; Individual Declaration of Availability. - Any Endorsement/Nomination by an Annual Conference in favor of an eligible elder, or any Individual Declaration of Availability must be communicated and filed with the Committee on Elections not later than One Hundred Twenty (120) days before the regular session of the Central Conference. Clergy members who have not filed their endorsement/nomination or their Individual Declaration of availability shall not be included in the list of candidates for Episcopal Election. [New]

Section 7. Vote Necessary to Elect. - Unless otherwise ordered by the Central Conference, a two-thirds (2/3) vote of the delegates present and voting by secret ballot shall elect a Bishop. [Lifted from Section III. A. 4., Plan of Organization and Rules of Order]

Section 8. Episcopal Aspirants Not Receiving Ten (10) Percent of the Votes. In any balloting, an episcopal candidate who fails to receive at least ten (10) per cent of the votes cast shall be deleted in the list of candidates and shall not be allowed to be further voted upon in any succeeding balloting during that session. [New]

Section 9. Term of Elected Bishop. - The Bishop elected shall serve a term of eight (8) years without re-election. [New]

The Bishop made the following rulings on this section:

In regards to Article V: Episcopal Election, A. General Guidelines (pages 14-

15 of the Legislative Agenda Kit), the Book of Discipline does not prohibit anything in Sections 1 and 2.

In regards to Section 3, the central conference cannot adopt legislation that is contrary to the provisions in Paragraph 405. Any elder in full connection in the United Methodist Church is eligible for election as previously noted in the plan of organization and rules in the 2012 Handbook for Delegates (page 85). Therefore, I rule that Section 3 violates the 2008 Book of Discipline.

In regards to Section 4, each annual conference passes on the character of the clergy on an annual basis. Therefore, all clergy in good standing are presumed to be of good character and eligible for election. Judicial Council Decision 1216, states " ... the supervisory and administrative processes contained in the Discipline are carefully and specifically designed to protect the rights of the individual and of the Church. The steps set forth therein must be followed carefully and concisely." Furthermore(sic), Judicial Council Decisions 311 and 430 require that election processes must "not preclude the casting of votes for any qualified elder in the balloting for the episcopacy." (Quote is from JCD 311)

Therefore, while the considerations noted in Section 4 are appropriate endorsement considerations for an annual conference, they cannot be required, and Section 4 violates the Book of Discipline.

In regards to Section 5, the General Conference has established a process that allows for a nomination by ballot and therefore the central conference cannot restrict the consideration of an eligible person for election. Thus, the requirement in Section 5 violates the Book of Discipline.

In regards to Section 6, the Book of Discipline does not prohibit the communication and filing of an endorsement/nomination within 120 days in order to meet publication deadlines related to the procedures for furnishing information to the delegates, but endorsements and nominations cannot be precluded if the deadline is not met. Pursuant to Paragraph 405, nominations and endorsements can occur at any time during the central conference, including by ballot at the conference. Therefore, to the extent Section 6 may provide authority for limiting nominations or endorsements, it violates Paragraph 405 of the Book of Discipline.

Section 7 is not in conflict with the Book of Discipline. Paragraph 405.2(b) provides that the central conference is authorized "to fix the percentage of

votes necessary to elect a bishop" and "[i]t is recommended that at least 60 percent of those present and voting be necessary to elect." Section 7's requirement of a two-thirds vote exceeds the recommendation.

In regards to Section 8, this provision is similar in substance to the provision that was determined to be in violation of the Book of Discipline in Judicial Council Decision 430.

Because a valid nominee may not receive a certain number of votes on one ballot but then receive enough votes to effectively be re-nominated on a subsequent ballot, all nominees should remain on the ballot until the permitted number of bishops is elected.

Actual removal of a nominee from the ballot may operate to violate Judicial Council Decision 430 and provisions of the Book of Discipline and therefore invalidate a ballot, whereas leaving a nominee on the ballot results in no harm and the delegates effectively "remove" a nominee from the ballot by not voting for the person. It is also important to note that central conference episcopal elections shall be conducted on the same general procedures as jurisdictional conferences (par. 543.3) Section 9 is not in conflict with the Book of Discipline since central conferences can set the tenure of the episcopacy (par. 543.3). The proposed term of 8 years is not in conflict with the Book of Discipline.

The Bishop's rulings regarding Article V: Episcopal Election, A. General Guidelines are affirmed.

DECISION

The rulings of the presiding bishop during the December 12, 2012 session of the Philippines Central Conference are affirmed. There are no violations of ¶ 405 in the *2008 Book of Discipline* in procedures for the election of bishops as set by the Philippines Central Conference Committee on Plan of Organization and Rules of Order Proposal in Article 2, E. Committee on Elections, Section 18; Section 19, subsections (a), (b) and (e). There are also no violations of the *Book of Discipline* in Article V: Episcopal Election, A. General Guidelines, Sections 1, 2, 7 and 9. There are violations of Section 19, subsections (c), (d), (d) and Article V, A, Sections 3, 4, 5, 6 and 8. No restrictions on or evaluation of candidates for bishop may be made other than the requirement that the candidate be an elder in full connection in an annual conference of the central conference. The Committee on

Elections has no authority to evaluate candidates or eliminate a candidate based on the number of votes received on any ballot. The rulings are affirmed.

j. Kabamba Kiboko was absent.

Timothy K. Bruster, first clergy alternate, took part in this decision.

William B. Lawrence, President

F. Belton Joyner, Jr., Secretary

October 25, 2014