

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

MEMORANDUM 1474

[Docket 0423-06]

IN RE: Review of a Bishop's Ruling on a Question Raised during the Southeast Jurisdictional Conference as to Whether Three of the Petitions Before the Body were Out of Order as a Matter of Law.

STATEMENT OF FACTS

At the Wednesday, November 2, 2022, plenary night session of the Southeastern Jurisdictional Conference [SEJ Conference], the Committee on Agenda (the “Committee”) reported on three resolutions submitted to the SEJC, namely the Leading with Integrity Resolution, Queer Delegates Resolution and U.S. Regional Conference Resolution. Pursuant to the Plan of Organization adopted by the 2022 SEJC, any consideration, proposal, resolution, or communication, which does not clearly refer to the business of the SEJC shall be referred to the Committee, “which shall determine whether or not it shall be presented to the conference and also whether it shall be printed in the Daily Christian Monitor.” Plan of Organization ¶ 5.F.3. The Committee determined that all three resolutions violated provisions of the Conference Rules and The Book of Discipline and, therefore recommended that the resolutions not “be distributed to delegates or published in the DCA or placed on the Agenda for consideration.” Minutes of SEJC, Proceedings of Nov. 2, 2022, at 31.

Following the Committee’s report, a discussion ensued during which a lay delegate moved to appeal the recommendations of the Committee. The motion received a second. The motion was voted upon and the vote passed with 222 YES and 128 NO to support the appeal of the Committee’s recommendations. The three resolutions were thus placed before the body for discussion.

The presiding bishop stated that the resolutions would be dealt with on the following day, Thursday, November 3, 2022. Copies of the three resolutions were handed out to delegation heads to distribute to their delegation members.

During the Thursday, November 3, 2022, plenary evening session, a clergy delegate requested a ruling of law in respect of the three resolutions that had been submitted to the Committee and reported on by the Committee at the Wednesday, November 2, 2022, plenary evening session. The written request submitted to the Conference Secretary is as follows:

“Are the three petitions before the body out of order as a matter of law as laid out in the response of the Committee on Agenda presented to the body by Bishop James Swanson and Del Holley, which is included in the journal and is thereby incorporated herein by referenced?”

The presiding bishop declared that he would receive the request for a decision of law but he had thirty days to make a ruling. Thereafter, he invited the authors of each petition to speak to the resolutions before the body. All three resolutions were discussed, voted upon and adopted by the body.

On November 22, 2022, the bishop gave his decision of law ruling that the three resolutions were out of order and not properly before the body for consideration. The bishop also held that the petitions were in conflict with the Book of Discipline of the United Methodist Church, the Rules of the SEJ, and decisions of the Judicial Council.

The factual circumstance of this matter indicates that the issues directly relate to the agenda-setting and decision-making processes of the SECJ and, thus constituted parliamentary matters. Moreover, the request for a decision of law, as phrased, was a request for a parliamentary ruling — “Are the three petitions out of order...?” The bishop’s ruling, though presented as a decision of law, is in essence a parliamentary ruling affirming the findings of the Committee. In a long line of cases the Judicial Council has held that when a bishop rules that a matter is out of order, the same is a parliamentary ruling. The Judicial Council does not affirm or overturn parliamentary rulings of bishops. The Judicial Council has specifically held that it does not have jurisdiction over such matters. See Memorandum 1439.

There is no disciplinary authority for the Judicial Council to assume jurisdiction of a parliamentary ruling by a presiding bishop. See Memoranda 898, 941, 1117, 1187, 1205, and 1356.

Therefore, having ruled the matter out of order the bishop should not have issued a substantive ruling in response to the question posed.

April 25, 2023

Concurring Opinion

We concur with our colleagues that the Judicial Council lacks jurisdiction but also want to respectfully highlight the proper timing of a parliamentary ruling. Bishop Holston’s ruling, though presented as decision of law, is in essence a parliamentary ruling that was made outside the regular business session — in fact, thirty days *after* adjournment of the annual conference. In previous cases, when a bishop made a parliamentary ruling outside of conference proceedings, the Judicial Council held that “the chair must rule on the request in the parliamentary session affording the opportunity for an appeal of the chair's ruling to

the body” and that “the better way to make a record of a parliamentary decision would be to do so on the record and orally on the floor during a regular session of the Annual Conference.” Memoranda 1117 and 1357. The underlying rationale is to give the members of an annual conference the opportunity to appeal the bishop’s parliamentary ruling. Although there are situations where an issue cannot be clearly identified as ‘parliamentary’ and ruled upon during the conference session, decisions of law should not be used to make parliamentary rulings **after the fact** so that annual conference members cannot exercise their right to appeal under the rules of parliamentary procedure.

Luan-Vu “Lui” Tran
Øyvind Helliesen
Deanell Tacha
Oswald Tweh

April 25, 2023

Separate Opinion

Our longstanding jurisprudence is that the Judicial Council has no jurisdiction to review a parliamentary ruling of a bishop in an annual conference. Parliamentary rulings by a presiding bishop may be challenged only by an appeal to the body during the conference session. There is no disciplinary authority for the Judicial Council to assume jurisdiction of a parliamentary ruling by a presiding bishop.

Decision 999 held that the Judicial Council does not have jurisdiction to review **parliamentary rulings** of episcopal leaders **made during conference sessions**. See Decisions 898, 941, 943, and 953. For a request to be a parliamentary ruling, the chair **must rule on the request during the parliamentary session** to afford the opportunity for an appeal of the chair’s ruling to the body. See Decisions 98, 1117, 1130, 1131, and 1171.

Parliamentary rulings of this nature do not exist outside of the parliamentary session; in other words, if the parliamentary session has adjourned and is over, then the time within which to make a parliamentary ruling is expired. As such, the Judicial Council has ruled in the past that it will deem the question as a question of law by operation of the expiration of time for dealing with it as a parliamentary matter. In such cases, we remand the matter back to the presiding Bishop for a full ruling of law.

Beth Capen

April 25, 2023