

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1371

IN RE: Review of a Bishop's Decision of Law in the Greater New Jersey Annual Conference concerning if the bishop, committee(s) or agency(ies) have the authority to join and participate in a lawsuit filed against the New Jersey State Board of Education and Acting Commissioner of the New Jersey Department of Education.

DIGEST OF CASE

The Judicial Council has consistently ruled that the Annual Conference may not delegate any authority given it by *The Book of Discipline of the United Methodist Church, 2016* [hereinafter *The Discipline*]. (See Judicial Council Decisions 78, 79, 400, 584, and 590). *The Discipline* states in ¶ 2512.2 that the annual conference board of trustees “shall be amenable to the annual conference.” The plain sense of this language is that the board of trustees acts at the direction of the annual conference and not as an initiator of action, except as *The Discipline* stipulates.

The interests and commitments on the part of the Greater New Jersey Annual Conference and the desire of the annual conference to participate in the lawsuit are not at issue. Rather, the issue is whether the board of trustees, as a matter of Church law, had the authority to enter into a lawsuit (not pertaining to property and rights to property) on behalf of the Greater New Jersey Annual Conference without being directed to do so by the annual conference. They did not.

The bishop's decision of law is reversed.

STATEMENT OF FACTS

The Board of Trustees of the Greater New Jersey Annual Conference [hereinafter GNJAC] voted on May 12, 2018 to join a lawsuit in the name of the annual conference with the support of eleven conference agencies to address the segregation of Black and Latino students within the state of New Jersey. The lawsuit was filed on May 17th—before the annual conference convened on May 20th. It was explained to the annual conference prior to and during the session that the board of trustees and eleven other agencies supported being a plaintiff and that the annual conference would have the opportunity to vote on the legislation. The date was chosen by an external organization to commemorate the anniversary of the U. S. Supreme Court decision in *Brown v. Board of Education of Topeka*. The GNJAC was not part of the timing of the decision.

The legislation was sent to all members of the annual conference on May 17, 2018 and directed the members to a website that had written material, a podcast and a video explaining the issue and the lawsuit. During the discussion of the legislation, it was explained that GNJAC

would be withdrawn as a plaintiff if the conference voted not to be a plaintiff.

On May 21, 2018, during the discussion of legislation to continue as a plaintiff in the lawsuit to seek to end segregation of New Jersey public schools, Mr. Gyuchang Sim, an at-large lay member to the annual conference requested a ruling of law:

In reference to a resolution presented in the addendum of the pre-conference booklet on “Segregation in New Jersey Schools”, does a bishop, committee(s) or agency(ies) or all combined of the GNJUMC have an authority to make a decision of the United Methodist Greater New Jersey to join and participate in a lawsuit filed on May 17, 2018 against the State of State Board of Education and an Acting Commissioner of the State Department of Education between the annual conference for 2017 and 2018?

On May 21, 2018 the annual conference approved the resolution with one dissenting vote that the Greater New Jersey Annual Conference continue as a plaintiff in the lawsuit to seek to end segregation of New Jersey public schools.

The bishop issued the following ruling on June 18, 2018:

When a board of trustees/”directors” acts, they are not acting on behalf of the board but the organization. The board of trustees may act to safeguard and protect the interests of the annual conference, using legal remedies as necessary and must be amenable to the annual conference. In the action of the board of trustee to initiate the annual conference as a plaintiff in a lawsuit to seek an end to segregation in New Jersey public schools is a self-interest for United Methodists and the board of trustee’s action in this matter is granted under The Book of Discipline ¶ 2512.4. The board of trustees is the only agency by discipline that may take this step in the interests of the annual conference but other agencies may endorse and support the action.

Therefore, the board of trustees, acting on behalf of the interests of the United Methodists of Greater New Jersey with authority under ¶ 2512.4 may take legal action and did so in collaboration with other New Jersey nonprofit organizations. Further, the lawsuit did not obligate the annual conference financially and, in order to re-affirm that the board of trustees was amenable to the annual conference, it reported its actions and presented legislation to the annual conference for the annual conference’s vote to continue and be a plaintiff in the lawsuit. The Greater New Jersey Annual Conference may continue as a plaintiff in the lawsuit to seek to end segregation in New Jersey public schools by vote of the annual conference session on May 20, 2018 affirming it as a plaintiff in the lawsuit.

Both Bishop John Schol and Mr. Gyuchang Sim [hereinafter Petitioner] filed briefs as Interested Parties. Initially docketed for the October 2018 meeting, this case was deferred to the 2019 February Special Session of the Judicial Council.

JURISDICTION

The Judicial Council has jurisdiction pursuant to ¶¶ 51, 56.3 and 2609.6 of *The Book of Discipline, 2016*.

ANALYSIS AND RATIONALE

The Judicial Council ruled in decisions 78, 79, 380, 400, 584, and 590 that the Annual Conference may not delegate any authority given it by *The Discipline*. *The Discipline* states that the annual conference board of trustees “shall be amenable to the annual conference.” The plain sense of this language is that the board of trustees acts at the direction of the annual conference and not as an initiator of action, except as *The Discipline* stipulates. Paragraph 2512.3 grants authority to the trustees “with respect to the properties of the annual conference and its agencies.” Paragraph 2512.4 further states

the board [of trustees] may intervene and take all necessary legal steps to safeguard and protect the interests and rights of the annual conference anywhere and in all matters relating to property and rights to property whether arising by gift, devise, or otherwise, or where held in trust or established for the benefit of the annual conference or its membership.

The plain sense of this paragraph, which is found in Section IV of Chapter 6 of *The Discipline* entitled “Annual Conference Property,” is that “the board may intervene and take all necessary legal steps” when such intervention relates “to property and rights to property.” It is a stretch to interpret this paragraph as extending to the trustees the authority to file a lawsuit on behalf of the annual conference in relation to any matter not pertaining to “property and rights to property.”

As to the question of amenability, the bishop asserts that:

the board of trustees was amenable to the annual conference by presenting legislation to the annual conference for its endorsement and recognizing that the annual conference name would be withdrawn if the annual conference did not approve the legislation.

Certainly, the ultimate decision did lie with the annual conference and clearly the annual conference did decide to uphold the action of the Trustees. The reason given for not waiting for authorization by the annual conference was to join the suit on May 17—a significant date, to be sure. However, *The Discipline* does not authorize the trustees to act first and seek approval later.

The desire of the annual conference to join the lawsuit as a plaintiff is clear. What is problematic is the process that was followed to get to the vote by the annual conference. By accepting to vote on the Trustees’ action on May 20, 2018, to continue as a plaintiff in the lawsuit to seek to end segregation in New Jersey public schools, the GNJAC delegated its authority given it by *The Discipline* to a committee. (See Judicial Council Decisions 78, 79, 380, 400, 584, and 590). The Annual Conference is to maintain its role in decision-making. (See Judicial Council Decision 1257).

Although the call to seek to end segregation in New Jersey public schools is in line with the Constitution ¶ 5, with our social principles ¶¶ 162, 162A, 164E, and resolutions #3132-3165 of the 2016 Book of Resolutions, the process to reach the needed result was in error. The

interests and commitments on the part of the GNJAC and the desire of the annual conference to participate in taking action are not at issue. Rather, the issue is whether the board of trustees had the authority to preemptively enter into a lawsuit on behalf of the GNJAC. They did not.

RULING

The Judicial Council has consistently ruled that the Annual Conference may not delegate any authority given it by *The Book of Discipline of the United Methodist Church, 2016* [hereinafter *The Discipline*]. (See Judicial Council Decisions 78, 79, 400, 584, and 590). *The Discipline* states in ¶ 2512.2 that the annual conference board of trustees “shall be amenable to the annual conference.” The plain sense of this language is that the board of trustees acts at the direction of the annual conference and not as an initiator of action, except as *The Discipline* stipulates.

The interests and commitments on the part of the Greater New Jersey Annual Conference and the desire of the annual conference to participate in the lawsuit are not at issue. Rather, the issue is whether the board of trustees, as a matter of Church law, had the authority to enter into a lawsuit (not pertaining to property and rights to property) on behalf of the Greater New Jersey Annual Conference without being directed to do so by the annual conference. They did not.

The bishop’s decision of law is reversed.

February 21, 2019

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

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

Beth Capen was absent.

Kent Fulton, second lay alternate, participated in this decision.

Ruben Reyes was absent.

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