

## JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

### DECISION 1308

#### **IN RE: Review of a Bishop's Decision of Law in the North Georgia Annual Conference Regarding a Question Concerning the Process for the Discontinuation of a Licensed Local Pastor**

#### **DIGEST**

The ruling of the bishop is affirmed that the question is moot and hypothetical and that the question deals with issues that are legal or administrative processes and is not a proper question to be dealt with by a bishop in a substantive manner in a ruling of law.

#### **STATEMENT OF FACTS**

In the closing session of the North Georgia Annual Conference, during the reading of appointments on June 19, 2015, a lay member stood when the church in her district was called and asked a question of law to the bishop without the benefit of a microphone. She previously had presented a written copy to an assistant secretary of the annual conference at a break preceding the reading of the appointments. The question of law follows:

In light of the change of appointments at Still Waters UMC in Atlanta when a licensed local pastor is discontinued for reasons that are chargeable offenses under Par. 2702.1, must the district committee on ordained ministry follow the fair process requirements of Par. 363, giving the local pastor the opportunity to defend herself against these charges?

The Bishop's Ruling of Law on this question states:

1. The Question presented is not a proper subject for a substantive ruling by a bishop. Decision 33 provides: "It is not the duty of the presiding Bishop to rule upon any hypothetical question which may be propounded, nor to answer requests for information which involve no legal content.
2. The Guidelines for Bishop's Rulings on Questions of Law in Decision 799 state:

Judicial and Administrative procedures: The bishop has no authority to make substantive rulings on judicial or administrative matters. Such matters are limited to the purview of the judicial or administrative bodies such as Committee on Investigation, Trial Court, Committee on Appeals or Judicial Council. The constitution (¶ 18) and the 1996 Discipline (¶¶ 358, 2623, and 2626-2628) have placed the authority to resolve such questions in these bodies. To do otherwise would violate the principle of separation and balance of powers between the legislative, executive and judicial branches as set forth in the Constitution. Questions which are procedural or substantive matters relating solely to actions in a judicial or administrative process are not proper questions to be addressed in a substantive ruling by a bishop.

3. Questions as to fair process, judicial process, and administrative process must be addressed in the appropriate manner and through the specific bodies set forth in the Discipline. In no event may an individual bring those delineated issues to the Judicial Council pursuant to a review of a bishop's ruling on a question of law; to do so circumvents the process set forth in the Discipline and also violates the principle of the separation and balance of powers. It is only by vote of an authorized body for a declaratory decision that the matter might be addressed by the Judicial Council on the merits. Decision 872.

4. The question presented was whether a district committee on ministry must follow fair process requirements when it discontinues a local pastor for reasons which would be chargeable offenses. Such issue is not a matter which would or did come before the North Georgia Annual Conference for discussion or action. The question is posed hypothetically and deals with matters relating to legal or administrative process and thus is not a proper question to be addressed in a substantive ruling by a bishop. See Memorandum No, 1167.

The Judicial Council was provided with the full minutes of the annual conference session, including the questions found in the Organization and General Business section of the minutes. A brief in support of the person involved was also filed.

## JURISDICTION

The Judicial Council has jurisdiction under ¶¶ 51 and 56.3 of the Constitution of The United Methodist Church and under ¶ 2609 of *The Book of Discipline* 2012, interpreted by Judicial Council Decision 1244.

## ANALYSIS AND RATIONALE

A review of the Minutes of the North Georgia Annual Conference Session indicates that the subject of the request for a decision of law was not part of the business of either the clergy session or the Annual Conference session. This question of law did not relate to any action taken by the Annual Conference. The actions of the District Committee on Ordained Ministry in this instant case were presented to the clergy session for information only as Question 22 in the Board of Ministry report. No questions were ever raised before the Annual Conference for action. No charges or complaints were filed against the local pastor. Thus, the ruling of the bishop is affirmed that the question is moot and hypothetical and not the proper subject for a substantive ruling by a bishop (Decision 33). The bishop further cites the guidelines for Bishop's rulings on questions of law as found in Decision 799. These guidelines state that bishops have no authority to make substantive rulings in situations that involve judicial or administrative matters. The issue in the question relates to an administrative process and is not a proper question to be addressed by the bishop. Memorandum 1167 states in part:

Questions as to fair process, judicial process, and administrative process must be addressed in the appropriate manner and through the specific bodies set forth in the *Discipline*. In no event may an individual bring those delineated issues to the Judicial Council pursuant to a review of a bishop's ruling on a question of law; to do so circumvents the process set forth in the *Discipline* and also violates the principle of the separation and balance of powers. It is only by vote of an authorized body for a *declaratory decision* (emphasis added) that the matter might be addressed by the Judicial Council on the merits.

As a consequence, these long held standards of jurisprudence direct bishops not to rule on such questions of fair process or administrative processes and further, bishops are not to violate the principle of the separation and balance of power by ruling on such questions (See Decisions 799, 917, and 1156).

## DECISION

The ruling of the bishop is affirmed that the question is moot and hypothetical and that the question deals with issues that are legal or administrative processes and is not a proper question to be dealt with by a bishop in a substantive manner in a ruling of law.

Beth Capen was absent.

Kabamba Kiboko was absent.

Randall Miller, first lay alternate, participated in this decision.

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

October 24, 2015