

Docket No. 1012-2

IN THE
Judicial Council of the United Methodist Church

**IN RE: REQUEST FROM THE 2012 GENERAL CONFERENCE FOR A
DECLARATORY DECISION REGARDING CALENDAR ITEM 355**

**AMICUS CURIAE BRIEF OF THE
COUNCIL OF BISHOPS**

SUBMITTED BY:

**BISHOP ALFRED GWINN
BISHOP GRANT HAGIYA**

**ON BEHALF OF THE
COUNCIL OF BISHOPS
OF THE UNITED
METHODIST CHURCH**

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I. Issue Presented

The General Conference adopted, on May 5, 2012, by more than twenty percent of its members, a motion to seek a declaratory decision on Calendar Item 355, Petition Number 20303, as to whether that decision violates either the third restrictive rule of the constitution relating to Episcopal authority, and/or the fourth restrictive rule of the constitution, relating removal of a right of clergy without a hearing, trial or resort to any form of appeal; and/or in violation of historical precedents to the contrary.¹ In Memorandum No. 1211, the Judicial Council held that the matter is deferred to the Fall 2012 Docket. See Appendix A.

II. Jurisdiction

The Judicial Council has jurisdiction of this matter pursuant to the *Discipline* ¶ 2610.²

III. Standing

The Council of Bishops has standing in matter under the *Discipline* ¶427, but as well, it appointed Bishops Gwinn to oversee the work of the Study of Ministry Commission (which was the committee which proffered the changes to the General Conference through a series of petitions). In the alternative, the Council of Bishops offers this brief as an Amicus Curiae brief.

IV. Argument

1. Procedural history

The request for a declaratory decision relates specifically to Calendar Item 355, which made numerous changes to the *Discipline* ¶ 377.4.³ See Appendix B. The request fails to

¹ *Daily Christian Advocate*, p.2760, May 5, 2012, approved, Yes 397; No, 341. *Memorandum No. 1211*, Judicial Council May 4, 2012.

² ¶ 2610. *Declaratory Decisions*—1. The Judicial Council, on petition as hereinafter provided, shall have jurisdiction to make a ruling in the nature of a declaratory decision as to the constitutionality, meaning, application, or effect of the *Discipline* or any portion thereof or of any act or legislation of a General Conference; and the decision of the Judicial Council thereon shall be as binding and effectual as a decision made by it on appeal.

³ (2012 Text as adopted) ¶ 337. *General Provisions*— 1. Ordained elders and persons who have been granted a license for pastoral ministry and who have been approved by vote of the clergy members in full connection may be appointed to local churches. All clergy members and licensed local pastors to be appointed shall assume a lifestyle consistent with Christian teaching as set forth in the Social

identify the multiplicity of decisions to which it, in fact, refers and moreover, identifies the Calendar Item as relating to the “2010 General Conference.” It is presumed that the 2010 reference is an error and the request refers to Calendar Item Number 355 as identified in the 2012 General Conference.

Principles. 2. Elders and deacons, associate members, provisional members, and persons licensed for pastoral ministry may be appointed to ministry settings that extend the ministry of The United Methodist Church and the witness and service of Christ’s love and justice in the world. They shall be given the same moral and spiritual support by the annual conference as are persons in appointments to pastoral charges. Their effectiveness shall be evaluated in the context of the specific setting in which their ministry is performed. Such ministry settings shall include teaching, pastoral care and counseling, chaplaincy, campus ministry, social services, and other ministries so recognized by the conference Board of Ordained Ministry and approved by the bishop.

a) Full connection and provisional member elders, associate members, and persons licensed for pastoral ministry may be appointed to Extension Ministries serving in ministries of pastoral care in specialized settings. See ¶¶ 326, 343-344 for specific information about Extension Ministries.

b) Deacons in provisional membership and full connection may be appointed to appointments beyond the local church that extend the witness and service of Christ’s love and justice in a ministry to both the community and the church. This ministry connects community and church and equips all Christians to fulfill their own calls to Christian service. See ¶¶ 326, 328, 329, 331 for specific information about these ministries.

c) All persons in such appointments shall: (1) be appointed to a setting that provides an appropriate support and accountability structure; (2) continue to be accountable to the annual conference for the practice of their ministry; (3) provide an annual report, including a narrative of their ministry, evidence of continuing education, and evidence of an annual evaluation in their setting; (4) maintain a relationship with a charge conference.

3. In the case that an elder or associate member in good standing is not continued under appointment one of the following steps shall be taken: a) If the elder is not continued because a missional appointment is not available, then the bishop shall recommend the elder to the Board of Ordained Ministry for transitional leave (¶ XXX). b) If the elder is not continued because of ineffectiveness then the bishop shall initiate an administrative process as outlined in ¶ 361 at least 90 days prior to the annual conference.

4. a) Each annual conference shall quadrennially name a task force consisting of: four members named by the Conference Lay Leader; at least two clergy members from the Board of Ordained Ministry nominated by the Chair of the Board of Ordained Ministry and elected by the clergy session; a superintendent named by the Bishop; and the Bishop. The task force shall meet annually to develop a list of criteria to guide the Cabinet and Bishop as they make missional appointments. b) The Cabinet shall report the following information annually to the Board of Ordained Ministry Executive Committee: 1) those elders, provisional elders and associate members who have not received a full-time missional appointment and the rationale; 2) those elders, provisional elders and associate members who have not received an appointment for reasons of ineffectiveness and the steps which have been taken in the complaint process; 3) statistics by age, ethnicity and gender of elders who have not received a full-time missional appointment; and 4) learnings that have been gleaned as appointment-making is carried out in a new way. This data will also become a part of the agenda of the Committee on the Episcopacy at the conference and jurisdictional levels. This data will also become part of the evaluation of bishops by the Committee on the Episcopacy at the conference and jurisdictional levels.

The history of events leading to this request relate to the fact that the Study of Ministry Commission submitted a series of petitions to General Conference 2012, among which were five petitions relating to appointment of elders, provisional elders and associated members. Assigned to the Ministry and Higher Education Committee, these petitions include the following items which were subsequently adopted in Calendar Items 358, 352, 355, 356,358 and 359:

- Modification of provisions for changes in conference relationship, See *Discipline*, ¶ 353ff., inserting a provision for “transitional leave” with no claim on conference funds, though no restriction on ministerial functions. See *ADCA*, p. 1400, 20308-MH¶ 300-G, *DCA* p.2178, #358.
- Deletions to ¶ 321, eliminating the security of appointment for associate members. See *ADCA*, p. 1408, 20285-MH-¶ 321-G, *DCA* p.2178, #352.
- Deletions to ¶ 337, eliminating item #1 appertaining to the requirement that all elders in good standing shall be continued under appointment. If not, a requirement for transitional leave is instituted. The following is deleted:

“All elders in full connection who are in good standing in an annual conference shall be continued under appointment by the bishop unless they are granted a sabbatical leave, an incapacity leave (¶ 357), family leave, a leave of absence, retirement, or have failed to meet the requirements for continued eligibility (¶ 334.2, .3), provided that if the elder is appointed to serve in an affiliated relationship in a missionary conference (¶ 586.4.b) and that appointment is terminated by the bishop who presides in the missionary conference, then the responsibility for meeting this obligation rests with the bishop of the conference of which the elder is a member.”

- Additions to ¶ 337, establishing transitional leave for those not continued under appointment – including the following language (See *DCA*, p.2336, yes 866 – no 221):

“3. In the case that an elder or associate member in good standing is not continued under appointment one of the following steps shall be taken: a) If the elder is not continued because a missional appointment is not available, then the bishop shall recommend the elder to the Board of Ordained Ministry for transitional leave (¶ XXX). b) If the elder is not continued because of ineffectiveness then the bishop shall initiate an administrative process as outlined in ¶ 361 at least 90 days prior to the annual conference.

4a) Each annual conference shall quadrennially name a task force consisting of: four members named by the Conference Lay Leader; at least two clergy members from the Board of Ordained Ministry nominated by the Chair of the Board of Ordained Ministry and elected by the clergy session; a superintendent named by the Bishop; and the Bishop. The task force shall meet annually to develop a list of criteria to guide the Cabinet and Bishop as they make missional appointments.

b) The Cabinet shall report the following information annually to the Board of Ordained Ministry Executive Committee: 1) those elders, provisional elders and associate members who have not received a full-time missional appointment and the rationale; 2) those elders, provisional elders and associate members who have not received an appointment for reasons of ineffectiveness and the steps which have been taken in the complaint process; 3) statistics by age, ethnicity and gender of elders who have not received a full-time missional appointment; and 4) learnings that have been gleaned as appointment-making is carried out in a new way. This data will also become part of the evaluation of bishops by the Committee on the Episcopacy at the conference and jurisdictional levels.

- Significant additions to ¶ 338 permitting bishops and cabinet to appoint elders, associate members to less than full-time appointments. (See DCA, p.2336, yes 866- no 21).

“At the initiative of the bishop and cabinet or at his or her own initiative, a clergy member may request and may be appointed in one-quarter, one-half, or three-quarter time increments by the bishop to less than full-time service without loss of essential rights or membership in the annual conference.”

- Deletions to ¶ 354 removing transitional leave from this section dealing solely with voluntary leaves, creating a new paragraph on transitional leave. (See DCA, p.2336, yes 866- no 21).

2. Constitutional issue reframed

The request for a declaratory decision could be construed as relating only to the requester’s reference to Calendar Item 355 and the *Discipline* ¶ 337; however, this paragraph does not use the term “guaranteed appointments.” If so, the question has no Disciplinary referents to the allegedly troubling phrase. The Judicial Council could, therefore, simply regard the matter as moot and hypothetical.

In the alternative, and given the gravity of the issue, however, a reasonable argument could also be made to address the issue in context as indeed relating to the Restrictive Rules ¶¶ 19, 20; but, as well, as the *Discipline* ¶¶ 334, 337, 338, 354, 355, 358 and 359.

Article III of the Restrictive Rules reads:

¶ 19. Article III.—The General Conference shall not change or alter any part or rule of our government so as to do away with episcopacy

Article IV of the Restrictive Rules reads:

¶ 20. Article IV.—The General Conference shall not do away with the privileges of our clergy of right to trial by a committee and of an appeal; neither shall it do away with the privileges of our members of right to trial before the church, or by a committee, and of an appeal.

Thus, with full knowledge that the following is not precisely the language of the request for a declaratory decision, the larger question is: “Do the changes to the *Discipline* ¶ 337 adopted by General Conference 2012 violate either the third or fourth Restrictive Rules in view of the language of the *Discipline* in ¶ 334?” Paragraph 334 reads:

¶ 334. Ministry, Authority, and Responsibilities of an Elder in Full Connection—An elder in full connection is authorized to give spiritual and temporal servant leadership in the Church in the following manner:

1. Elders in full connection shall have the right to vote on all matters in the annual conference except in the election of lay delegates to the general and jurisdictional or central conferences (¶ 602.1a) and shall share with deacons in full connection responsibility for all matters of ordination, character, and conference relations of clergy. This responsibility shall not be limited by the recommendation or lack of recommendation by the Board of Ordained Ministry, notwithstanding provisions which grant to the Board of Ordained Ministry the right of recommendation.¹³ They shall be eligible to hold office in the annual conference and to be elected delegates to the general and jurisdictional or central conferences under the provision of the Constitution (¶ 35, Article IV). Every effective elder in full connection who is in good standing shall be continued under appointment by the bishop provided that if the elder is appointed to serve in an affiliated relationship in a missionary conference (¶ 586) and that appointment is terminated by the bishop who presides in the missionary conference, then the responsibility for meeting this obligation rests with the bishop of the conference of which the elder is a member.¹⁴

2. There are professional responsibilities (¶ 340) that elders are expected to fulfill and that represent a fundamental part of their accountability and a primary basis of their continued eligibility for annual appointment. These shall include:

- a) Continuing availability for appointment.
- b) Annual participation in a process of evaluation with committees on parish relations or comparable authority as well as annual participation in a

process of evaluation with the district superintendent or comparable authority.

c) Evidence of continuing effectiveness reflected in annual evaluations by the pastor-parish relations committee and by the district superintendent or comparable authorities

d) Growth in professional competence and effectiveness through continuing education and formation. The Board of Ordained Ministry may set the minimum standards and specific guidelines for continuing education and formation for conference members;

e) Willingness to assume supervisory and mentoring responsibilities within the connection.

3. When an elder's effectiveness is in question, the bishop shall complete the following procedure:

a) Identify the concerns. These can include an elder's failed professional responsibilities, vocational ineffectiveness, or refusal of episcopal appointment.

b) Hold supervisory conversations with the elder that identifies the concerns, and designs collaboratively with the elder, a corrective plan of action.

c) Upon evaluation, determine that the plan of action has not been carried out or produced fruit that gives a realistic expectation of future effectiveness.

4. If an elder fails to meet professional responsibilities (§ 340), does not demonstrate vocational competence or effectiveness as defined by the annual conference through the Board of Ordained Ministry and cabinet, and/or does not accept the appointment determined by the bishop, then an appointment may be forfeited and the provisions of § 361 may be invoked.

5. Clergy who are retired, on incapacity leave, or on sabbatical leave may at their own initiative apply to the conference Board of Ordained Ministry for affiliate membership in the annual conference where they reside. By a two-thirds vote of the executive session, such clergy may be received with rights and privileges, including service on conference boards, agencies, task forces, and committees, with voice.

3. Relationship of 2012 changes in the *Discipline* to the office of a bishop

No changes made by the 2012 General Conference alter the polity and governance of The United Methodist Church so as to eliminate the episcopacy. Bishops are still elected at jurisdictional conferences, and the duties of a bishop were not changed in any manner. Note, for example, that the *Discipline* § 414 describes some eleven elements constituting the spiritual and temporal leadership to be provided by bishops. Not one of these elements was subject to any change by the General Conference.

Similarly, § 415 describes the presidential duties of bishops to preside over annual and jurisdictional conferences as well as the general conference; to provide "general oversight for the fiscal and program operations" of annual conferences, and to ensure fair process for clergy and

laity in all involuntary administrative and judicial proceedings; to form districts and appoint district superintendents, and to ordain. Not one of these duties was changed or otherwise modified by the 2012 General Conference, or more specifically Calendar Item Number 355.

Finally, the *Discipline* ¶ 416 identifies among the duties of a bishop the requirement to work “with Ordained, Licensed, Consecrated, and Commissioned Personnel.” This requirement was not changed – perhaps made the easier, but in no way restricted -- by the 2012 General Conference.

4. Increasing the array of appointment options provides Episcopal flexibility

Nonetheless, the effect of the aforementioned changes to the *Discipline* is multifold:

- The changes clearly permit and expand what has, in fact, been a longstanding Episcopal prerogative; that is, to appoint clergy to parishes which have characteristics that are commensurate with the clergy person’s managerial and relational skills as well as personal style. Not every clergy person can manage a large multi-staffed parish.

- But the changes now also include the option of less than full-time appointments. Thus a clergy person whose abilities are more suited to the demands of a very small, or rural parish, may well receive such an appointment. This option vastly expands the array of choices open to the presiding bishop.

- As well, a new status category is established – transitional leave – which may either be requested by the clergy person, bishop or cabinet. Again, this option expands the choices open to a presiding bishop and the cabinet.

In contrast to the suggestion that changes to the *Discipline* ¶ 337 in any way “change or alter any part or rule of our government so as to do away with episcopacy or destroy the plan of our itinerant general superintendency,” the changes enhance the role of the Episcopal leader of an annual conference granting far greater flexibility in appointment options.

5. Fair process rights afforded clergy are not violated

The request for a declaratory decision raises the question of whether ¶ 337 threatens or abrogates in any fashion the “right of clergy without a hearing, trial, or resort to any form of appeal...” Note that there is no clarity as to what right is alleged to have been diminished by the

actions of the General Conference. Nor is there reference to potential violation of The *Discipline* ¶ 20, which is Article IV of the Constitution, namely:

¶ 20. Article IV.—The General Conference shall not do away with the privileges of our clergy of right to trial by a committee and of an appeal; neither shall it do away with the privileges of our members of right to trial before the church, or by a committee, and of an appeal.

But if the issue is not to be dismissed as moot and/or hypothetical, then in fact, the additions to ¶ 337 are but clarifications to and expansion of the range of options available to a presiding bishop and cabinet, and have no direct relationship to any diminution of the fair process rights available to clergy. Fair process is guaranteed by the *Discipline* ¶ 20, and ¶ 362, specifically providing that if a complaint arises out, related to, ineffectiveness, the clergyperson is offered the opportunity for a hearing. As well, he or she may have the services of a clergyperson advocate who, in fact, has the right to be heard on behalf of the person against whom a claim of ineffectiveness is raised. Not only is this right not abrogated by the institution of a transitional leave status, the additions specifically grant to the person the rights of ¶ 362.

Although fair process rights are extended, the clergyperson is to be held accountable for his or her behavior and performance. This has long been the standard, though few Episcopal leaders exercised the right. Examine Decision 524, where the Judicial Council upheld a decision by Bishop Jack Tuell granting involuntary leave of absence to a clergy member who had requested a specific appointment and refused an appointment that was offered. This illustrates the point that fair process rights are not unlimited, but subject to limitations.

Note that there are several status categories of relationship to the annual conference without suspension upon the exercise of all ministerial functions. For example, ¶ 354 includes several types of voluntary leave of absence, personal leave, and family leave, none of which would invoke fair process. The new paragraph on transitional leave affords fair process – though does not specifically use that phrase. But it does include the elements of advocacy, and vote of the annual conference. Annual conference membership and the power of vote are not affected.

Involuntary leave of ¶ 355 specifically requires fair process. Further, the Judicial Council has held on several occasions that involuntary action to change the status of a clergyperson's relationship to an annual conference (such as transitional leave) is not equivalent to termination of those rights granted by ordination. Ordination and annual conference membership are related,

but not equivalent. Decision 110 held that a person who voluntarily locates retains the status of a local preacher “until he voluntarily surrenders his credentials or is deprived of such by due process of trial.” To be sure, Decision 240 held that suspension of ministerial functions as a penalty imposed by a trial court was, in fact, to prohibit the exercise of ministerial functions – but suspension as a result of trial is a different matter, occurring after fair process has been granted.

In the 2012 General Conference there was no addition to ¶ 337 that removed the necessity for accountability and evaluation of effectiveness. In Decision 351 the Council firmly held that involuntary location – after fair process – was not unconstitutional. In view of the recent request, the language of that decision is instructive:

“Equally historic is the method for protecting the rights of ministers who are not "under charges," against whom no formal accusations have been brought, and therefore for whom no trial is properly in order. This method has used long-accepted practices and procedures to determine the acceptability of a person for appointment by a bishop to a parish in the church.”

The actions of the 2012 General Conference are consonant with, and but a continuation of, the church’s longstanding practice of requiring accountability in service.

In Decision 557, the Council had held “There is an even longer history of legislation providing for trial of a ministerial member and the minister's right to trial is guaranteed by the church Constitution...” Noting that ordination is a “sacred trust” the Council also emphasized the necessity for both accountability and review of a clergy member’s behaviors. In Decision 459 the Council affirmed that a clergyperson may be placed on leave of absence involuntarily. In Decision 462, the Council held that the annual conference could determine the appointability of a ministerial member. Decision 485 is interesting in that it traces the history through several editions of the *Discipline* having to do with conference relations and involuntary as well as voluntary location – holding that the right to fair process remains in any involuntary change of status. Decision 544 also supports the authority of the church to establish such standards for the exercise of ministry as it may determine. As an aside, note that none of these issues relate to

secular law, they are all canonical. In fact, as far as secular law is concerned the church could act in an arbitrary fashion were it so to do, but the secular courts would not choose to intervene.⁴

2012 General Conference made no change in the requirement for accountability and review and amplified or continued what has been the longstanding practice in the church.

In fact, present legislation grants substantial rights to clergypersons who are in a transitional leave status, to the point that a clergyperson's ability to engage in ministry was not vitiated by any recent act of the General Conference. While the *Discipline* provides remedies for issues that arise appertaining to clergy appointments, including a broad spectrum of relationships to the annual conference, even under category of transitional leave, the clergyperson's ministerial functions are not restricted, e.g. the language of the new transitional leave paragraph (italics provided for illustration):

“6. After consultation and with the written consent of the pastor in charge, and with the approval of the district superintendent and the staff-parish relations committee of a local church, clergy members shall designate a charge conference within the bounds of the annual conference to which they shall relate and submit an annual report. *They shall report all marriages performed, baptisms administered, funerals conducted and other ministerial activities to the charge conference, pastor in charge, and Board of Ordained Ministry.* The exercise of this ministry shall be limited to the charge conference to which they relate and with the written permission of the pastor in charge unless special permission is granted by the bishop of the conference where membership is held. With the permission of the bishop of the conference where membership is held, under the supervision of the district superintendent, the clergy member may preach, teach, perform marriages, and, if holding sacramental privileges, administer the sacraments outside of the charge where membership is held.”

Thus under this provision, the clergy person – though not appointed to a pastoral charge, must be related to a charge conference – and may yet exercise ministerial functions, albeit limited to that charge conference to which they relate. Consequently, it must be said that the

⁴ See *Gellington v. Christian Methodist Episcopal Church*, 203 F.3d 1299 (11th Cir. 2000); *Bollard v. California Province of Soc’y of Jesus*, 196 F.3d 940 (9th Cir. 1999) *Combs v. Central Texas Annual Conference of the United Methodist Church*, 173 F.3d 343 (5th Cir. 1999); *Young v. Northern Ill. Conference of United Methodist Church*, 21 F.3d 184 (7th Cir. 1994); *Scharon v. St. Luke’s Episcopal Presbyterian Church*, 929 F.2d 360 (8th Cir. 1991); *Minker v. Baltimore Annual Conference of United Methodist Church*, 894 F.2d 1354 (D.C. Cir. 1990); *Rayburn v. General Conference of Seventh-day Adventists*, 772 F.2d 1164 (4th Cir. 1985), *cert. denied*, 478 U.S. 1020 (1986); *EEOC v. Southwestern Baptist Seminary*, 651 F.2d 277, 283-85 (5th Cir. 1981), *cert. denied*, 456 U.S. 905 (1982); *McClure v. Salvation Army*, 460 F.2d 553 (5th Cir. 1972), *cert. denied*, 409 U.S. 896 (1972).

provision permitting transitional leave does not impinge upon ministerial functions per se, though clearly affecting whether such position would be remunerative, with claim upon the annual conference.

6. A principle for apparent conflict of law

As well, some may wish to argue that the changes to ¶ 337 are in conflict with ¶ 334; e.g. the provision requiring appointment, “...Every effective elder in full connection who is in good standing shall be continued under appointment by the bishop” Were the changes of 2012 seen as in conflict with ¶ 334, the decision previously cited, Decision 557, provides an illustration of a principle to be followed in circumstances where there is apparent conflict of law. To be sure, the *Discipline* ¶ 510.2 also provides a rule for “Resolutions and positions adopted by the General Conference” which are understood to be “valid until they are specifically rescinded, amended, or superseded by action of subsequent sessions of the General Conference.” Whether this principle applies to legislative acts is not clear, but Decision 557 does apply the common principle of statutory construction; namely, that where there is an apparent conflict of law, one must read the conflicting statutes in such a manner as to give full effect to all. But, if the differences are irreconcilable, then the latest in date of enactment prevails. Under this principle, even if the changes to ¶ 337 et. al., instituting the option of transitional leave, were held to be not reconcilable with ¶ 334.1, (wherein is stated that every elder in good standing shall be under appointment) then the latest paragraph having been enacted last, would prevail. In short, ¶ 337 and related items viz. appointment to transitional leave, would prevail.

7. Summary

Assuming the request for a declaratory decision is reframed so as to include ¶ 337 and those paragraphs with similar language, related to transitional leave as well as the possibility of less than full-time appointments, it is argued that there is no abrogation of the role of the episcopacy such that Article III of the Restrictive Rules has been violated. Nor is there diminution of the fair process rights granted to clergy, such that Article IV of the Restrictive Rules has been violated.

V. Prayer

Having filed this Amicus Curiae brief on behalf of the Ministry Study Committee, I respectfully request that the Judicial Council, upon consideration of the request for a declaratory decision will hold that the request, narrowly considered, is hypothetical and moot, or contains no grounds upon which relief can be granted. Or, in the alternative, the Judicial Council will address the multiplicity of items relating to appointment and hold that the changes related thereto do not violate either the Third or Fourth Restrictive Rules, of the *Discipline* ¶¶19, 20.

Respectfully submitted on behalf of the Council of Bishops

BISHOP ALFRED GWINN

BISHOP GRANT HAGIYA

Appendix A

Memorandum No. 1211

***In Re: REQUEST FROM THE 2012 GENERAL CONFERENCE FOR A DECLARATORY
DECISION REGARDING CALENDAR ITEM 355***

Friday, May 04, 2012.

On Friday, May 4, 2012, by a vote of more than one-fifth of its members the General Conference requested a declaratory decision as to the constitutionality of Calendar Item Calendar Item 355.

The text of the request is as follows:

Does Calendar Item 355 of the 2012 General Conference, removing guaranteed appointments to clergy, violate either the third restrictive rule of the Constitution (§ 19) by setting up a process that can do away with the authority of the Episcopacy in our denomination and/or the fourth restrictive rule of the Constitution (§ 20) by taking away a right of clergy without a hearing, trial, or resort to any form of appeal; and/or in violation of historical precedents to the contrary.

The Judicial Council does not have sufficient time to process the case and render an opinion in response to this request before adjournment of the 2012 General Conference. This matter is deferred to the Fall 2012 Docket.

May 4, 2012

Appendix B

book *Three Simple Questions*. And, I invite you, to bow in prayer with me as I pray the prayer that is at the conclusion of the chapter titled "Who are we together?"

The Lord be with you.

MULTIPLE VOICES: And also with you.

BISHOP OUGH: Let us pray.

(prayer)

Let me tell you where we are in our work this morning. We left off having approved a motion to bundle Reports 4 through 9 except for Report 8 from GCF&A and we're going to return to those reports at this time. I see some white cards. Yes, I'll recognize this one. Mic 6, please.

SrAA.T — — — —

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Appov. ttt ent efe. r. Decls. sw
Council Declaratio. ry. Decl. s. wh

FREDERICK K. BREWING (New York): Fred Brewington, New York Annual Conference, Lay. I rise to seek a request for a declaratory decision from the Judicial Council regarding guaranteed appointments. Is that in order at this time?

BISHOP OUGH: It is in order. Let me see if there's a second to it.

MULTIPLE VOICES: Second.

BISHOP OUGH: All right, you may speak to it.

BREWINGTON: I request a declaratory decision on the paragraphs 2609.1, 2609.2, and 2610.2 subdivision a. The question: does Calendar Item 355 of the 2010 General Conference removing guaranteed appointments to clergy violate either the third restrictive rule of the constitution under paragraph 19 by setting up a process that can do away with the authority of the episcopacy in our denomination and/or the fourth restrictive rule of the constitution, which is paragraph 20, by taking away a right of clergy without a hearing, trial, or resort to any form of appeal and/or in violation of his-

torical precedence to the contrary? Bishop, I believe that this is in order given the fact that there was no appeal process to the body disallowing the matter being pulled from the consent calendar based on the administrative determination. Two: that no opportunity existed to cure any technical defect in the request which was disallowed to pull the matter from the consent calendar. Three: no voices have been heard by the persons most affected by this matter. Next: the contextual and contractual destruction of the *quid pro quo* of a covenant vow of itinerancy of all existing and future clergy would be affected. And finally, the question of the impact on our ability to attract new and young clergy to The United Methodist Church at a time when the proclamation has been made that their very presence is needed in our church. I have this in electronic form and will be able to present it to the dais if it is voted in.

BISHOP OUGH: That would be very helpful. Folks, let me tell you where we are. There has been a motion for this body to request a declaratory decision. It is in order. You've heard one speech for it by the maker of the motion. It requires 20 percent of the voting body to order this request. So are there any speeches against this request? I would be looking for a red card or an orange card. All right, any other speeches or comments? All right, I think you're ready to express your opinion on this. If you would get your keypads out. If you are in favor of this request in ordering, requesting this declaratory decision you will push number 1, you'll vote yes. If you're opposed to this you'll vote no; that would be number 2. Vote now.

(pause)

All right. Five seconds. Curiae Brief: Council of Bishops.

(pause)

Alid; ballotis closed; We'll wait for the r: Mults. { Yes; \$97t/No 34JJ,

You have ordered this request and so it will be forwarded to the Judicial Council. All right, yes, there's another white card right here, I'll recognize. Mic 9, please

JUDY ANN NUTTER (West Virginia): Judy Nutter, West Virginia Annual Conference, U.S. I rise for a prayer request. In previous general conferences, we have lifted up Sudan. Last summer, southern Sudan, where we have many ministries has gone, has become an independent state. I would ask that at some time this morning that we have a moment for the bishop from the East Africa area to pray and lift up that area and our ministries please.

BISHOP OUGH: All right. I think we could do that right now. Yes, Bishop Wandabula is here and he's coming. We'll give him just a moment to come and pray for the Sudan. Let us be in prayer.

BISHOP DANIEL WANDABULA: Let us humble servants pray.

(prayer)

GCF&A Reports 4, 5, 6, 7, 9

BISHOP OUGH: Amen. Thank you, Bishop. All right, folks, we are going to return to our work. Before the break you bundled reports 4, 5, 6, 7, and 9. Since we've had a break I'm going to ask the committee to just highlight what is in these reports. I will remind you to turn to discussion and questions about all of these reports and we are under the new rule of two speeches for and two against.

KUMAR: In Report number 4, you will find Africa University Fund budget and in Report number 5 you will find Episcopal Fund and Report number 6 you will find General Administration Fund. Report number 7 you would find International Cooperation Fund Budget and Report number 9 you would find the summary of Special Church Offerings.

VARGO: The committee moves adoption of reports 4, 5, 6, 7, and 9.

