

Bishop Martin D. McLee, Presiding
New York Annual Conference

Bishop's Decision of Law

Petition 2013-310 does not violate ¶¶ 304.3 (qualifications for ordination), 341.6 (ceremonies that celebrate homosexual unions) nor the chargeable offenses delineated in 2702 of the 2012 *Book of Discipline*.

In Decision 1218, the Judicial Council has again restated the requirements for review of an annual conference resolution which questions the church's position on human sexuality. The Decision involved a 2012 resolution of the New York Annual Conference. It affirmed a Bishop's Decision of Law which had upheld a resolution which declared its opposition to the actions of the 2012 General Conference to continue provisions of church law that restrict certain rights and privileges of gay, lesbian, bisexual, and transgendered people in The United Methodist Church.

At the 2013 Annual Conference, a resolution entitled "Commendation of Those Who Have Taken a Stand for Justice" (Item 3015, Petition # 2013-310) was adopted on June 7, 2013, after which William ("Bill") Voth, a Lay Member of the Conference, requested a Ruling of Law on whether the resolution violates paragraphs 304.3, 341.6 and 2702 of The Book of Discipline, and Judicial Council Decisions 886, 1111 and 1115 and is therefore void. The Request for a Ruling of Law was properly made in writing.

Judicial Council Decision 1120, which was relied on by the Judicial Council in its 2012 Decision 1218, provides the Judicial Council's current elucidation of this difficult area of church law. In Decision 1218, the Judicial Council stated that Decision 1120:

"... offers a clear and careful articulation of the statements of the governing principles used to review annual conference resolutions in reference to issues of human sexuality. We acknowledge that differences in opinion exist on this very difficult issue. The guidelines expressed in Decision 1120 provide an evaluative way to deal with such resolutions."

In Decision 1120, it is stated:

"The Discipline is the law of the Church that regulates every phase of the life and work of the Church. Decision 96 made clear the principle that the Discipline is the only authoritative book of law of the Church. All entities of the Church are bound by its provisions. All actions of an annual conference must be faithful to and

consistent with the Discipline. An annual conference may express disagreement with other bodies of The United Methodist Church, but is still subject to the Constitution, the Discipline and the decisions of the Judicial Council. In Decision 886 the Judicial Council announced the principle that annual conferences may not legally negate, ignore or violate provisions of the Discipline with which they disagree, even when the disagreements are based on conscientious objections to those provisions.

“Judicial review of an annual conference resolution requires an intensive fact specific examination of the text of the annual conference resolution, and a clear understanding of the context of the annual conference debate. The context of the debate is normally supplied by a complete and comprehensive record of annual conference proceedings. The Judicial Council has reviewed numerous resolutions adopted by annual conferences concerning the issue of human sexuality. Judicial Council jurisprudence on this issue is not a model of clarity. Nevertheless, the current state appears to be that a resolution may *express disagreement* with the current language of the Discipline and may *express its aspirational hopes*, but an annual conference may not legally negate, ignore or violate provisions of the Discipline, even when the disagreements are based upon conscientious objection to those provisions.” (Emphasis added.)

Decision 1120 included a discussion of Decisions 886, 1111 and 1115 cited by the Member in his Request for a Ruling.

The request for a Ruling of Law does not question any particular provision of the Resolution (Item 3015). Therefore, the Resolution must be given a careful “articulation and review” of all its parts in their entirety. The Resolution is denominated a “commendation” which is itself an act of praise and thus an expression of aspirational hope.

In the first four Whereas clauses, the Resolution recites the New York Annual Conference’s historical record of support for the full inclusion of God’s gay, lesbian, bisexual, and transgendered children in the life of the church. Historical statements do not negate, ignore or violate the *Discipline*. (Judicial Council Decision 1021.)

The fifth Whereas clause states: “WHEREAS there have been many prophetic and pastoral individuals and congregations within The United Methodist Church who have taken actions that are aligned with the New York Annual Conference and our longstanding efforts towards the inclusion of lesbian, gay, bisexual, and transgender persons in the life and ministry in the church.” This general, historical statement does not specify what actions it contemplates nor does it proscribe any actions which negate, ignore or violate provisions of the Discipline.

Thereafter, the Resolution contains six Resolved paragraphs which commend various United Methodist clergy who have taken actions which may have been viewed by some as violating the Discipline. Some of the individuals endured church trials for these

actions, some did not and one has charges pending. These clauses are also historical statements. Celebrating clergy who took actions of conscience, some of which may have been found to violate the Discipline, at most expresses disagreement with the Discipline, but it does not proscribe any particular clergy person to act in violation of the Discipline nor does it imply that actions such as those cited do not risk the consequences of the Discipline, even unto risking complaints and trials pursuant to paragraph 2702 of the Discipline.

In the seventh Resolved clause, persons are commended who have “pledged to offer pastoral ministry to same-sex couples seeking services of marriage,” including “208 clergy.” In the eighth Resolved clause, “the more than 1,100 clergy across the connection” are commended who have “pledged that they will also officiate at services for same-sex couples. . .” Even assuming these statements are true, which cannot be verified, they at most express statements that many disagree with some provisions of the Discipline such as those paragraphs cited by the Member who has made the Request for a Ruling.

In the ninth Resolved clause, retired Bishop Melvin Talbert is commended as follows:

RESOLVED that the New York Annual Conference commend Bishop Melvin Talbert and his call for United Methodists to ignore the prohibitions against GLBT people that are found in *The Book of Discipline* and saying “I declare to you that the derogatory language and restrictive laws in *The Book of Discipline* are immoral, and unjust and no longer deserve our loyalty and obedience,” a call which has made him the target of opponents of the LGBT people in The UMC, who have called for his censure; . . .”

Here, a careful articulation and review of the clause indicates that it commends Bishop Talbert for “saying” and “calling,” which acknowledges him for his disagreement with the United Methodist Church’s historical exclusion of lesbian, gay, bisexual, and transgender persons in the full life and ministry in the church. The clause is without prescriptive force. The clause itself is a commendation of another person and is not itself an Annual Conference call upon clergy or others within the church to act in accordance with Bishop Talbert’s call.

The tenth Resolved commends the Rev. Dr. Thomas Ogletree, a retired clergy member of the Conference, for many achievements in his professional career as a pastor and theologian, which is by its nature an historical statement. It also commends “his inspiring witness for equality in The UMC for persons of all sexual orientations” which is a general, aspirational statement.

The eleventh and final Resolved also requires a careful articulation and review, since it commends “all of those unnamed clergy, laity, and congregations whose bold actions and courageous statements help to provide for the pastoral needs of same-sex couples within The United Methodist Church.” In reality, this is a neutral statement in

regards to the paragraphs of the Discipline cited by the Member who has made the Request for a Ruling. There are many pastoral needs that can and should be provided to same-sex couples who are recognized as being of sacred worth by the Discipline, and no actions or statements are singled out which negate, ignore or violate provisions of the Discipline.

As the Bishop of the whole New York Annual Conference, I can well identify with the frustration of the Member and may other Members who are not in agreement with the historical and annually enacted resolutions of the Annual Conference expressing opposition to the discriminatory provisions of the Discipline that are cited. Those feelings of frustration, and perhaps even anger, are not unlike the feelings held by the overwhelming majority of the New York Annual Conference which voted for the Resolution (Item 3015, Petition # 2013-310) regarding the Disciplinary cited paragraphs which were retained by the 2012 General Conference on this subject. While I wish my actions and words could bring about an acceptance by both sides to agree to disagree, my obligation in this case is to make a decision in accordance with my understanding of the current church law enunciated by the Judicial Council.

In conclusion, nowhere does the Resolution say: “go and do likewise” to the clergy or anyone else in the New York Annual Conference. It is a non-binding Resolution and does not require clergy to take particular action or engage in action that violate the Discipline. It has no prescriptive force. The Resolution neither states nor implies that the provisions of the Discipline cited in the Member’s Request for a Ruling do not exist, should be ignored or can be violated. The Resolution successfully walks a line between celebrating those who have disobeyed without advocating disobedience. The Resolution taken in its entirety is a statement of aspirational hope in opposition to the church’s position on the inclusion of same-sex couples in the full life of the church, and it is affirmed.