

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1391

IN RE: Review of a Bishop’s Ruling on a Question of Law in the Baltimore-Washington Annual Conference Wherein Said Questions Exclusively Concerned the Adjourned Clergy Session of the Previous Day and Related to Voting Upon Members for Admission to the Connection, Matters of Character, Conference Relations, Commissioning, Ordination, and Such Other Responsibilities Resulting from the Constitutional Authority Vested in the Clergy Session.

DIGEST OF CASE

Church law contains no provision requiring that each ministerial candidate be approved by a separate vote of the clergy session in an annual conference. Nor does *The Discipline* prescribe a supermajority for passing a motion to vote on the candidates as a group. The clergy members in full connection have the constitutional prerogative to determine if ministerial candidates are eligible for commissioning and ordination. The vote of the clergy session to approve ministerial candidates is a binding administrative action that cannot be nullified, except through the proper administrative or judicial process. Upon admission to full or provisional membership, a clergy person can be subject to review under ¶ 362. But only the trier of fact in an administrative or judicial process can properly determine if such person meets the criteria of “a self-avowed practicing homosexual.” The Decision of Law of Bishop LaTrelle Miller Easterling is affirmed.

STATEMENT OF FACTS

During the clergy session of the Baltimore-Washington Annual Conference, on May 29, 2019, a clergy member made the motion to approve all clergy candidates in a certain class in accordance with a single vote, rather than on a candidate-by-candidate vote. The clergy session voted in favor of that motion by a margin of 245 to 122 (67%). Following that vote and for the entire duration of the clergy session, no person challenged the propriety of the decision to adopt this method of approving the candidates for commissioning and ordination. No clergy member raised a question of law on that issue, nor did anyone move to request a declaratory decision from the Judicial Council on the legality of this procedure.

Subsequently, a motion was made to approve all candidates that had been recommended by the Board of Ordained Ministry [hereinafter BOOM] for commissioning—one of whom was one of the candidates at issue in JCD 1368. The clergy session voted to approve those candidates by a vote of 285 to 77—a 79% majority. Prior to the vote, no clergy member asked for an opportunity to question or examine any of the candidates. Nor did anyone move to “divide the

question” or to “strike-out” any portion of it, or to invoke any other parliamentary procedure available to exclude or to call for a separate vote on any particular candidate.

In a following vote, the clergy session voted 314 to 47—by an 87% majority—to approve the entire class of candidates BOOM recommended for ordination. Here, too, no clergy member raised a question of law, made a motion to request a declaratory decision from the Judicial Council, or used any parliamentary procedure available to challenge the legality of the vote to approve all candidates as a group, one of whom was alleged to be ineligible for ordination.

The next day, on May 30, after the clergy session had concluded, a clergy member presented in plenary session the following questions of law:

1. Whether the “process of using block voting to approve of a group of candidates for ordination or commissioning violated the Disciplinary requirement for a 75 percent affirmative vote for each candidate and prevented the clergy session from questioning the two candidates about whom Judicial Council Ruling 1368 was made.
2. Whether the vote to affirm the candidates was consistent with church law, in that only 2/3rds of the clergy session voted to affirm the process of voting for all candidates as a block.
3. Whether the two candidates in question are properly candidates for commissioning and ordination.

Within thirty days, Bishop LaTrelle Miller Easterling issued her Decision of Law, which states (in relevant parts):

Ruling on Question 1: The Clergy Session’s decision to vote on each class of clergy candidates as a group did not violate The Book of Discipline of The United Methodist Church (“Discipline”), nor did it prevent the clergy session from questioning any of the candidates, including the two candidates at issue in Judicial Council Decision (“JCD”) 1368.

Ruling on Question 2: The clergy session’s votes to elect the clergy candidates to provisional membership and full membership, respectively, were both consistent with church law, notwithstanding that (as framed in Question 2) “only 2/3rds of the clergy session voted to affirm the process of voting for all candidates as a block.” (emphasis added)

Ruling on Question 3: For all practical purposes, the third question—which asks “whether the two candidates in question are properly candidates for commissioning and ordination”—is moot and hypothetical. At this juncture, the “two candidates in question” are no longer “candidates for commissioning and ordination.” Rather, one of them has already been both elected and commissioned as a provisional member, and the other has already been elected and ordained as a full elder. Under these circumstances, and in accordance with our constitutional polity and binding Judicial Council precedent, those covenantal acts—commissioning and ordination—have already been performed; those acts constitute acts of the Church; and, as such, no ruling by a bishop on a question of law can nullify what the Church has already accomplished.

Bishop Easterling and Rev. Robert Barnes filed separate briefs as interested parties.

JURISDICTION

The Judicial Council has jurisdiction under ¶¶ 51, 56.3, and 2609.6.

ANALYSIS AND RATIONALE

Question 1

At issue here is whether *The Book of Discipline of The United Methodist Church, 2016* [hereinafter *The Discipline*] mandates that each candidate for commissioning and ordination be approved separately by a three-fourths majority of the clergy members in full connection of an annual conference. The process for admission of provisional members, deacons, and elders is set forth in *The Discipline*, ¶¶ 324, 330, and 335.¹ Those disciplinary provisions contain no requirement, express *or* implied, of a voting procedure to ensure that each ministerial candidate be approved by a separate vote of clergy members in full connection. Conversely, *The Discipline* states clearly when a vote for *each* candidate is necessary. For instance, ¶ 310.2(e) requires that “[c]andidates seeking to become certified for licensed or ordained ministry shall: [...] be voted on by individual written ballot by the committee members present.” [emphasis added] If it had chosen to prescribe a voting procedure on a candidate-by-candidate basis, the General Conference would have certainly said so. But it did not make such stipulation in ¶¶ 324, 330, and 335.

The ministerial membership of an annual conference “shall have reserved to it the right to vote...on all matters relating to the character and conference relations of its members, and on the ordination of clergy...” Constitution, ¶ 33. This constitutional provision guarantees the autonomy of annual conferences in matters of conference relations and ordination of clergy persons that cannot be curtailed by the episcopacy. This guarantee is also enshrined in ¶ 602.1(a), which declares, “Clergy members in full connection...shall have sole responsibility for all matters of ordination, character, and conference relations of clergy.” As we recently ruled in a related case involving the Baltimore-Washington Annual Conference:

There is no permissible basis for a bishop to make a ruling requiring the Executive Session to exclude persons (or to do anything). The meeting of the

¹ Paragraph 324 prescribes for admission to provisional membership the following:

¶ 324. *Qualifications for Election to Provisional Membership*—A person shall be eligible for election to provisional membership in the annual conference by a three-fourths majority vote of the clergy session on recommendation of its Board of Ordained Ministry after meeting the following qualifications. [footnote omitted]

Regarding the ordination as deacons, ¶ 330 states:

¶ 330. *Requirements for Ordination as Deacon and Admission to Full Connection*—Provisional members who are applying for admission into full connection and who have been provisional members for at least two years following the completion of the educational requirements for ordination as a deacon specified in .3 below may be admitted into membership in full connection in an annual conference by three-fourths majority vote of the clergy members in full connection of the annual conference, upon recommendation by three-fourths majority vote of the Board of Ordained Ministry...

With regard to the ordination of elders, ¶ 335 provides:

¶ 335. *Requirements for Admission to Full Connection and Ordination as Elder*—Provisional members who are candidates for full connection and ordination as elders and have been provisional members for at least two years may be admitted into membership in full connection in an annual conference and approved for elder’s ordination by three-fourths majority vote of the clergy members in full connection of the annual conference, upon recommendation by three-fourths majority vote of the Board of Ordained Ministry, after they have qualified as follows. [footnote omitted]

Executive Session is a process among clergy and other session members; the bishop presides without vote.²

Absent specific language to the contrary in *The Discipline*, the annual conference and, particularly, the clergy session were within their reserved rights to adopt a procedure to approve the candidates as a group.

Clergy members have the right to ask questions or make comments on *any matter* presented to them by the Board of Ordained Ministry at *any time* during the clergy session, as this Council held in JCD 406:

The Annual Conference through its ministerial members has a right to know that the Board of the Ministry has found no weaknesses in a candidate that would hazard an effective ministry. Such a right would require that members be permitted to comment or question the Board of the Ministry when it brings its recommendations.³

There was no evidence in the record suggesting that the clergy members were prevented from exercising their constitutional prerogative as a result of the decision to conduct a “block vote” on the class of candidates, as claimed by the movant.⁴ On the contrary, there was ample opportunity during the proceedings to raise questions or use any of the parliamentary procedures available to address issues concerning candidates. But none were raised or used. It is beyond the purview of the Judicial Council to inquire as to why the clergy members chose not to do so and to second-guess their decisions.

Question 2

The point of contention here is whether the 67% majority that supported the “block voting” process violated *The Discipline* in that it fell short of the 75% supermajority required for approving ministerial candidates under ¶¶ 324, 330, and 335. Two votes are at issue here. The first vote was a parliamentary vote on whether to vote on the candidates as a block. Nothing in *The Discipline* requires a supermajority for this parliamentary vote. When that motion passed, the next motion was for approval of the candidates as a group which clearly requires the supermajority. The distinction is between the decision to adopt a particular voting method and execution of the voting itself. The first requires only a simple majority. The second requires the supermajority.

If a three-fourths majority vote was necessary for admission to provisional and full membership, it does not necessarily follow that the same threshold was required for the motion to vote on the candidates as a class. A distinction must be made between the decision to adopt a

² JCD 1368 at 5.

³ JCD 406 [emphasis added].

⁴ See Brief of Rev. Robert Barnes, p. 5:

In view of this, such a move for “block voting” by simple majority vote effectively creates an end-run around the clear Disciplinary requirement of a three-quarters vote (¶324 & 335). In this fashion the Clergy Executive Session allows a bare majority (51%) vote to lump both qualified and unqualified candidates together. This effectively allows a group of less than three-quarters of the clergy to nullify the intended veto power of 26% of the clergy. If the clergy session would truly fulfill its constitutional right and duty to be the final examiner of candidates, then it should be allowed to exercise this right in a meaningful way free of parliamentary tactics denying that ability.

particular voting method and the execution thereof. “The annual conference, for its own government, may adopt rules and regulations not in conflict with the Discipline of The United Methodist Church.” ¶ 604.1. Under that grant of authority, the Baltimore-Washington Annual Conference could have adopted rules requiring a supermajority for motions to approve a “block voting” process or distinct votes for each candidate. As pointed out in Bishop Easterling’s brief, the conference rules do not prescribe either one, in which case “a simple majority was all that was needed to approve voting on the candidates as a group.”⁵ When Church law and conference rules lack specific instructions, the proper inference is that a simple majority was sufficient. Consequently, the decision of the clergy session to vote on the candidates as a group was lawful.

Question 3

Whether the two candidates in question were properly candidates for commissioning and ordination was a matter for the clergy session to determine. As stated previously, the Constitution assigns this important responsibility to the ministerial members of an annual conference who have the exclusive right to vote on all matters relating to the character and conference relations of its members and on the ordination of clergy. ¶ 33. The separation of powers forbids the delegation of this function to another body. Even if there were reasons to believe that some candidates were ineligible, “[i]t was not within the authority of a bishop to prevent the Executive Session from fulfilling its responsibilities.” JCD 1368. Upon being admitted to provisional and full membership, the clergy persons cease to be “candidates” so that their conduct in life and ministry can be subject to review under ¶ 362.

As we emphasized in JCD 1341, “[a]lthough ¶ 304.3 disallows the consecration of an openly homosexual bishop, only the trier of fact in an administrative or judicial process can properly determine if such person meets the criteria of ‘a self-avowed practicing homosexual.’ Absent such determination, a clergy person remains in good standing.” [emphasis added] Like the election of a bishop, the vote of the clergy session to approve a ministerial candidate is a binding administrative action that cannot be nullified, except through the proper administrative or judicial process. If “[t]here is no provision in *The Discipline* making it lawful to deny consecration to a duly elected episcopal candidate in good standing without fair and due process,” there is no disciplinary provision making it lawful to deny commissioning or ordination to a properly approved candidate, “even if there are serious concerns about his or her same-sex marital status at the time of [commissioning or ordination].” *Id.* page 9. Therefore, Bishop Easterling was correct in concluding “that the episcopacy cannot nullify the clergy session’s free exercise of that right, after the fact, by declining to commission and ordain those persons the clergy session has elected.”⁶

RULING

Church law contains no provision requiring that each ministerial candidate be approved by a separate vote of the clergy session in an annual conference. Nor does *The Discipline* prescribe a supermajority for passing a motion to vote on the candidates as a group. The clergy

⁵ Brief of Bishop LaTrelle Miller Easterling, p. 7 [hereinafter Easterling Brief].

⁶ Easterling Brief at 9.

members in full connection have the constitutional prerogative to determine if ministerial candidates are eligible for commissioning and ordination. The vote of the clergy session to approve ministerial candidates is a binding administrative action that cannot be nullified, except through the proper administrative or judicial process. Upon admission to full or provisional membership, a clergy person can be subject to review under ¶ 362. But only the trier of fact in an administrative or judicial process can properly determine if such person meets the criteria of “a self-avowed practicing homosexual.” The Decision of Law of Bishop LaTrelle Miller Easterling is affirmed.

Lidia Romao Gulele was absent.

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

November 1, 2019