

# JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

## DECISION NO. 1494

[Docket No. 0424-1]

IN RE: Review of a Bishop's Ruling on Questions asked in the Virginia Annual Conference Regarding Disciplinary Requirements and Procedures Related to Various Phases of the Complaint Process to Supervisory and Judicial Processes.

### DIGEST

A Petition for Declaratory Decision presented as a request for Decision of Law is not properly before a bishop for a substantive ruling. The Decision of Law of Bishop Sue Hauptert-Johnson is affirmed in part, reversed in part, and modified in part.

### STATEMENT OF FACTS

Following a motion made by a clergy member during the 2023 clergy executive session and presumably reported out to the plenary business session, the Virginia Annual Conference voted to submit the following four Questions of Law to the bishop:

- Is it permissible for a supervisory process in a complaint proceeding to extend beyond the time limits defined by Paragraph 362.1(e)?
- Does the *Book of Discipline* allow for a substitution in complainants to be made after a complaint has been transferred to the judicial process and awaiting the naming of a counsel for the church?
- May a bishop deny a respondent the right to an advocate in an inquiry relating to an ongoing complaint?
- During the supervisory phase of adjudicating a complaint, may a bishop deny the use of a facilitated just resolution process?

The questions presented arose following the 2019 filing of a complaint against a clergy member of the Virginia Annual Conference. At its June 2022 session, the Virginia Annual Conference voted to submit a Petition for a Declaratory Decision that came before the Judicial Council as Docket No. 1022-09. In JCD 1466, the Judicial Council declined to adjudicate the case on the grounds that “the detailed issues posed by the [Request for Declaratory Decision] arose out of complaints filed against a clergy person in 2019 and that this was still an open and pending judicial matter.” The record shows that, on June 5, 2023, a just resolution was reached and the matter is no longer open and pending.

In her ruling, dated July 19, 2023, Bishop Sue Hauptert-Johnson raised concerns about the lack of any remedy available to a clergy person against whom a complaint was filed if the bishop

failed to take all necessary actions as required by *The Discipline*. Nevertheless, the bishop held that the “Questions are improper questions of law because the questions are those related to judicial procedure.”

## JURISDICTION

The Judicial Council has jurisdiction pursuant to ¶ 2609.6 of *The Book of Discipline, 2016* [hereinafter *The Discipline*].

## ANALYSIS AND RATIONALE

The striking similarity between the Questions presented here and the Petition for Declaratory Decision submitted by the Virginia Annual Conference in 2022 leads to the conclusion that the Questions are essentially a restatement of the previous Petition for Declaratory Decision. In a similar case, the Judicial Council ruled:

A bishop may not make a substantive ruling on a Petition for Declaratory Decision presented as a request for Decision of Law but must state that it is an improperly posed question. Questions pertaining to the constitutionality, meaning, application, or effect of an act of General Conference come within the jurisdiction of the Judicial Council under ¶ 2610 and, therefore, are beyond the scope of episcopal authority.

JCD 1454, *citing* JCD 846, 1304, 1331.

Although the bishop correctly held that the Questions were improper, she based her decision on the fact that they concerned judicial matters, which were beyond the purview of a bishop. The issue here is not the substance (“judicial process”) but the form (“Petition for Declaratory Decision”) in which this matter has been presented. Further, a ruling of law is not the appropriate place for a bishop to raise legitimate concerns regarding lack of judicial remedies or suggest legislative solutions in violation of the separation of powers. Therefore, we (1) affirm the holding “the Questions are improper questions of law,” (2) reverse the second paragraph regarding lack of judicial remedies and (3) modify by substituting the quote above from JCD 1454 for the entire final paragraph of her decision.

## DECISION

A Petition for Declaratory Decision presented as a request for Decision of Law is not properly before a bishop for a substantive ruling. The Decision of Law of Bishop Sue Hauptert-Johnson is affirmed in part, reversed in part, and modified in part.

April 22, 2024

## Concur in Part and Dissent in Part

I affirm the Bishop's ruling that the questions are improper questions of law because the questions are related to judicial procedure. Furthermore, her analysis is well-grounded in Judicial Council precedents. There is a paragraph in the analysis and rationale, however, which is problematic. The paragraph is from JCD 1454 wherein the application of prior Judicial Council decisions brought about a result that was contrary to the long-line of precedents on these matters. The paragraph has two separate parts.

**A bishop may not make a substantive ruling on a Petition for Declaratory Decision presented as a request for Decision of Law but must state that it is an improperly posed question.** The first sentence is virtually identical to a sentence that was constructed long ago in the line of precedents concerning the impropriety of a Bishop answering questions dealing with judicial processes. It is found in a variety of decisions throughout the years, but those decisions always concern questions that concern judicial, administrative, or fair process procedures. The sentence has been included in past Judicial Council decisions when the Judicial Council was trying to remind the church that questions that concern judicial, administrative, or fair process procedures, are not proper questions to ask of a Bishop as a "Question of Law" but rather are questions that [when raised in the context of an annual conference session] must be asked of the Judicial Council. The only way for an annual conference to place such questions before the Judicial Council is by way of a request for a Declaratory Decision. Hence the sentence is saying that one cannot ask questions of law of a bishop [for a ruling/decision of law] but rather must ask the questions of the Judicial Council [Declaratory Decision].

Furthermore, there is nothing in our polity which precludes members of annual conference from asking the same questions of the Judicial Council which were incorrectly asked of a bishop in the preceding annual conference session. Indeed, from time to time the Judicial Council has virtually instructed persons to do so.

The second part of the paragraph is a bit more problematic in that it presents a misstatement of our polity and precedents. Specifically, Bishops often rule on questions concerning the application of a provision in the Discipline to the circumstances confronting an annual conference. Similarly Bishops rule on matters related to the meaning of provisions in the Discipline as it effects the annual conference's work, as well as ruling on the way in which a provision of the Discipline may effect the work of the annual conference. The only thing that a bishop cannot do is to declare a provision in the Discipline unconstitutional. Thus the second sentence of the quoted paragraph from JCD 1454 is not in keeping with our polity. See, for example, Decisions 799, 830, and 1166.

Thus, I would affirm the Bishop's ruling that the questions are improper questions to ask of a Bishop for a substantive ruling given that they pertain to judicial, administrative, and/or fair process procedures. I would then vacate the portion of the Bishop's ruling which goes beyond the scope of stating that the questions are improper questions for a substantive ruling by a Bishop.

Beth Capen  
April 22, 2024