

BEFORE THE JUDICIAL COUNCIL
OF
THE UNITED METHODIST CHURCH

RE: Report of a Bishop’s Ruling, Made During the Regular Session of the Western Pennsylvania Annual Conference, Finding that a Proposed Petition Concerning Disaffiliation was in Violation
of the Discipline.

Docket Number 1022-13

By Rev. Nathanael Fugate, Clergy Member of the Western Pennsylvania Annual Conference

I) Legislative History of P73

At the 2019 Special Session of the General Conference, the General Conference used its legislative powers under the provisions of ¶16 to pass two petitions that became ¶1504.23 and ¶2553.

In ¶1504.23 the General Conference required a local church that changed its relationship through closure, abandonment, or release from the trust clause pursuant to ¶2548, ¶2549, or otherwise, to contribute a withdrawal liability in an amount equal to its pro rata share of any aggregate unfunded pension obligation to the annual conference.¹ The provision applies *equally* to closure, abandonment, and release from the trust clause in any manner in accordance with the principle of legality developed under JCD 1366.

¹“If a local church or charge in the United States changes its relationship to the United Methodist Church through closure, abandonment, or release from the trust clause pursuant to ¶2548, ¶2549, or otherwise, notwithstanding whether property with title held by the local church is subject to the trust (under term of ¶2501), the local church shall contribute a withdrawal liability in an amount equal to its pro rata share of any aggregate unfunded pension obligations to the annual conference.”

In ¶1504.23 the General Conference vested The General Board of Pensions and Health Benefits with responsibility for determining the aggregate funding obligations of the annual conference using market factors similar to a commercial annuity provider. The General Conference further vested the authority to determine the local church's share to the annual conference.²

In ¶2553, the General Conference created a balanced process which was connectional in nature. That is to say ¶2553 is “multi-leveled, global in scope, and local in thrust”³ because it requires input from the global church (GCFA) through the standard form, the annual conference through the additional standard terms, the Conference Trustees who establish those terms in Disaffiliation Agreements, and the local church who votes for disaffiliation and negotiates for the Disaffiliation Agreement. ¶2553 is also “a vital web of interactive relationships”⁴ because it affords checks and balances within its structure to protect and safeguard the rights and authority of the annual conference and of The United Methodist Church.

Those checks and balances are expressed through the process laid out in ¶2553. Judicial Decision 1312 states, “The system of government, with which The United Methodist Church constitutes itself, is based on an interconnected set of authorities. The system balances and constrains the power exercised by each of the authorities individually and by all connectionally.” So too has ¶2553 created a system based on an interconnected set of authorities. Those authorities are:

² ¶1504.23, “The General Board of Pension and Health Benefits shall determine the aggregate funding obligations of the annual conference using market factors similar to a commercial annuity provider, from which the annual conference will determine the local church's share.”

³ Judicial Decision 1366

⁴ Judicial Decision 1366

- 1) The General Council on Finance and Administration. GCFA has been granted the authority under both ¶2553 and ¶807.9 to “safeguard and protect the interests and rights of the denomination”. In the context of ¶2553 this is done by developing a standard form with which all Disaffiliation Agreements must be consistent.
- 2) The annual conference. The annual conference has been granted the authority under ¶2553 and ¶33 to develop additional standard terms for disaffiliation which are not inconsistent with the standard form of ¶2553. Furthermore, the annual conference has been granted the authority under 2529.1.b.3 and Judicial Decision 1420 and 1421 to vote to ratify all established binding Disaffiliation Agreements.
- 3) The Conference Board of Trustees. The Conference Trustees have been granted the exclusive authority under ¶2553 and Judicial Decision 1420 to establish the terms and conditions of any Disaffiliation Agreement with a local church. According to ¶2553, each Disaffiliation Agreement “must be consistent with the following provisions.” Those provisions are the standard form developed by GCFA and the additional standard terms developed by the annual conference.
- 4) The Church Conference. The Church Conference has been granted the authority under ¶2553 and ¶248 to vote to disaffiliate by a $\frac{2}{3}$ majority.
- 5) The Local Church Trustees. The Trustees of the local church are granted the authority under ¶2553 to act on behalf of a Church Conference that votes to disaffiliate to memorialize the Disaffiliation Agreement with the Conference Board of Trustees.

In ¶2553, the General Conference vested the annual conference Trustees with the responsibility and authority to establish the terms and conditions for the disaffiliation of a local

church conference that votes for disaffiliation. The terms and conditions, including the effective date of disaffiliation are required to be memorialized in a binding Disaffiliation Agreement between the annual conference and trustees of the local church.⁵

In addition to the annual conference Trustees being constrained in its authority to establish terms and conditions for the disaffiliation of a local church by civil and church law,⁶ the General Conference counterbalanced this power to establish terms and conditions for the disaffiliating local church by vesting two additional church entities.⁷ The General Conference mandated and vested The General Council on Finance and Administration to develop a standard form for Disaffiliation Agreements to protect The United Methodist Church⁸. The General Conference vested the annual conference with the right, authority, and power to develop additional standard terms that are not inconsistent with the standard form of this paragraph.⁹

The General Council on Finance and Administration developed a standard form for Disaffiliation Agreements. The General Council on Finance and Administration has not made

⁵ ¶2553.4, “If the church conference votes to disaffiliate from The United Methodist Church, the terms and conditions for that disaffiliation shall be established by the board of trustees of the applicable annual conference, with the advice of the cabinet, the annual conference treasurer, the annual conference benefits officer, the director of connectional ministries, and the annual conference chancellor. The terms and conditions, including the effective date of disaffiliation, shall be memorialized in a binding Disaffiliation Agreement between the annual conference and the trustees of the local church, acting on behalf of the members.”

⁶ ¶¶2506 and 2508

⁷ ¶2553.4, “. . . That agreement must be consistent with the following provisions:”

⁸ ¶2553.4(a), “Standard Terms of the Disaffiliation Agreement. The General Council on Finance and Administration shall develop a standard form for Disaffiliation Agreements under this paragraph to protect The United Methodist Church as set forth in ¶807.9. The agreement shall include a recognition of the validity and applicability of ¶2501, notwithstanding the release of property therefrom.”

⁹ ¶2553.4(a), “Standard Terms of the Disaffiliation Agreement. . . Annual conferences may develop additional standard terms that are not inconsistent with the standard form of this paragraph.”

this form public, nor was it made available to author of P73, so the legislative form of P73 assumes the existence of this document and that it conforms to the provisions of ¶2553.¹⁰

No single entity has control over the entire process. Rather, checks and balances are written into the paragraph to ensure, as Judicial Decision 1312 states, that “no single entity has authority for all ecclesial matters. Each authority center is balanced or constrained by other authorities.” GCFA develops the standard form in order to safeguard the denomination, but they cannot add additional terms to that standard form. The Annual Conference develops additional terms in order to safeguard the annual conference, and it ratifies each Disaffiliation Agreement to ensure those agreements are consistent with the standard form and additional standard terms developed by GCFA and the Annual Conference, but it does not establish those terms in Disaffiliation Agreements through negotiations with local churches and it cannot negate the standard form developed by GCFA. The Conference Trustees establish the individual disaffiliation agreements with local church trustees ensuring that those agreements are consistent with the standard form and additional standard terms, but they cannot negate, amend, or ignore the standard form developed by GCFA nor the additional standard terms developed by the annual conference. Each authority is constrained by other authorities.

II) Jurisdiction

The bishop’s ruling should have been handled in a parliamentary manner by the WPA Conference. The bishop inappropriately removed P73 from the legislative assembly of the Western Pennsylvania Annual Conference under the guise of a ruling of law, and placed it under

¹⁰ ¶2553.4(a), “. . .The General Council on Finance and Administration shall develop a standard form for Disaffiliation Agreements under this paragraph to protect The United Methodist Church as set forth in ¶807.9.”

the jurisdiction of the Judicial Council. A parliamentary appeal was attempted by a member of the annual conference, but the bishop did not permit that appeal to go forward stating, “There is no appeal, this is a decision of law.”¹¹ By not permitting an appeal of her decision and with no question of law asked or submitted in writing to the bishop, the bishop undercut all constitutional authority the Annual Conference has to vote on matters before it in ¶33 and thereby created a non-*Disciplinary* veto power for the episcopal office.

Therefore, the Judicial Council does not have jurisdiction under ¶2609.6, and the Council should rule that the bishop inappropriately removed this legislation from the floor of the Annual Conference and violation of the Constitution and the separations of powers as provided in ¶¶16, 16.3, 16.5, and 16.7. The General Conference has full legislative power of all matters distinctly connectional (¶16). The General Conference in ¶16.3 and the Constitution in ¶33 gives the annual conference the right to vote on P73. The General Conference has created a judicial system in ¶16.7 and the Constitution in ¶51 requires questions for the bishop to make a ruling of law. Further in no place has the General Conference used its legislative power to enable episcopal leaders to stop legislative action and place a matter under the jurisdiction of The Judicial Council per ¶16.5.

Rationale:

¶2609.6 states that “The Judicial Council shall pass upon and affirm, modify, or reverse the decisions of law made by bishops in central, district, annual, or jurisdictional conferences *upon questions of law submitted to them in writing* in the regular business of a session” (emphasis added). This reality that a question of law must be presented in order for a ruling of

¹¹ See Appendix A: Transcript of Ruling of Law

law to be made under ¶51 and ¶56.3 is affirmed also by the language of ¶51, “A bishop [...] shall decide all questions of law coming before the bishop in the regular business of a session, *provided that such questions be presented in writing [...]*” (emphasis added). There is no authority for a bishop to render a decision of law without a properly submitted question of law.

Furthermore, Judicial Decision 1449 states, “The Judicial Council’s jurisdiction is limited to those provisions contained in ¶ 2609 and ¶ 2610 of the 2016 Book of Discipline and may only rule pursuant to those paragraphs. Here, there was no question of law properly and duly submitted to the presiding Bishop upon which he could issue a ruling of law, nor was there a request for a declaratory decision that was adopted by the Annual Conference. As such, the submission is not properly before us.”

There was no question of law presented at the annual conference, with regards to P73, by which the bishop could have offered a ruling. This is both affirmed by the minutes of the annual conference and the “Report by Bishop on Decision of Law” form which fails to list any questions of law, because none were asked, and instead directs to only the “Attached Decision of Law”. Because there was no question of law asked there could be no decision of law made, and therefore the Judicial Council does not have jurisdiction.

III) Statement of Facts

P73 was properly submitted to the 2022 session of the Western Pennsylvania Annual Conference for the purpose of creating additional standard terms. Any disaffiliation agreement

negotiated between the annual conference trustees and the local church trustees would be required to be consistent with these additional terms in accordance with ¶2553.4.¹²

Section 7 made amendments to P73 to further clarify the additional terms and approved the measure 93-9-3.¹³

The amended legislation P73 was removed from the consent calendar, after which Bishop Cynthia Moore-Koikoi made a ruling of law regarding P73 as amended.¹⁴

Bishop Moore-Koikoi's ruling of law states:

This petition takes away the authority given to the Board of Trustees under ¶2553 to determine if ¶2553 and conference policies have been complied with before the annual conference votes to approve or deny the request to disaffiliate.

Further, this petition takes away the authority of the Board of Trustees, cabinet, annual conference benefits officer, the director of connectional ministries, and the annual conference chancellor given to them by ¶2553. And (it limits their ability to perform) their duty as officers of the denomination to preserve the safeguard and protect the interests and rights of the annual conference; to maintain the resources related to the annual conference's interests and those of The United Methodist Church. (The implication of ¶2553.4a is that the Board of Trustees is acting on behalf of GCFA to ensure that the provisions of ¶807.9 are protected in any Disaffiliation Agreement.)

The only right of a local church to disaffiliate is in ¶2553, and this is a limited right.

¶2548.2 does not provide a right to a local congregation to disaffiliate, and the deeding of

¹² Pre-Conference Journal submitted by Conference Secretary, John Wilson to Judicial Council, pgs. 442-445.

¹³ See amended P73 submitted by Conference Secretary, John Wilson, and Consent Calendar submitted by Conference Secretary John Wilson.

¹⁴ See Daily Proceeding submitted by Conference Secretary, John Wilson.

property pursuant to ¶2548.2 relates only to property and not to the disaffiliation or separation of the church itself. In addition, ¶2548.2 does not address any issues of pension liability, (therefore it's inclusion in this petition is inappropriate).

This petition negates the authority of the Board of Trustees to add additional standard terms to any agreement. Each of those agreements must be ratified by the annual conference.

The designation of “over” and “fully” funded pension is a technical term, not simply a balance sheet total. It is a determination that is made by the Board of Pensions, CFA, and Wespath pursuant to ¶1504.8a and ¶1506.6.

This petition violates ¶2553.4a and ¶1504.23 (in allowing for the option of a \$1 pension liability).

The petition negates the Board of Pensions ability to carry out ¶2512.4.

Further ¶2553 sets the parameters for the effective date of disaffiliation based on the conditions that must be met for disaffiliate as spelled out in ¶2553.¹⁵

IV) Request for Relief

The following relief is requested from the Judicial Council. The Judicial Council should rule that the bishop is in violation of the Constitution. Bishops do not have the power to stop the legislative process and they do not have the power to place a matter under the jurisdiction of The Judicial Council. Bishops are limited to “deciding all questions of law coming before the bishop in the regular business of a session, provided that such questions be presented in writing and that the decisions be recorded in the journal of the conference” (¶51). The Judicial Council’s

¹⁵ See Daily Proceeding submitted by Conference Secretary, John Wilson.

jurisdiction is limited to the bishop's ruling deciding those questions submitted in writing. The actions of Bishop Cynthia Moore Koi-Koi in arresting the legislative process, removing P73 from the legislative jurisdiction of the Western Pennsylvania Annual Conference, and placing P73 under the jurisdiction of The Judicial Council violates the Constitution and separation of powers (§§16, 16.3, 16.5, 16.7, 33, and 51).

Should the Judicial Council decide that it does have jurisdiction to rule on this "ruling of law" rendered by the Bishop, then the following relief is requested of the Council based on the subsequent analysis and rationale.

- 1) *This petition takes away the authority given to the Board of Trustees under §2553 to determine if §2553 and conference policies have been complied with before the annual conference votes to approve or deny the request to disaffiliate. **No, P73 does not. The Trustees still determine if conference policies (including standard terms by GCFA and the additional terms adopted by the annual conference) have been complied with before the annual conference votes to approve or deny the request for disaffiliation. Nowhere does P73 not require the development of a disaffiliation agreement between the conference board of trustees and the trustees of a local church that has voted to disaffiliate. In addition, nowhere does P73 negate the required vote of the annual conference on the binding disaffiliation agreement.***
- 2) *Further, this petition takes away the authority of the Board of Trustees, cabinet, annual conference benefits officer, the director of connectional ministries, and the annual*

conference chancellor given to them by ¶2553. And (it limits their ability to perform) their duty as officers of the denomination to preserve the safeguard and protect the interests and rights of the annual conference; to maintain the resources related to the annual conference's interests and those of The United Methodist Church. (The implication of ¶2553.4a is that the Board of Trustees is acting on behalf of GCFA to ensure that the provisions of ¶807.9 are protected in any Disaffiliation Agreement.) **No, P73 does not take away the authority of the Board of Trustees, cabinet, annual conference benefits officer, the director of connectional ministries, and the annual conference chancellor given to them by ¶2533. The annual conference trustees are entitled to receive advice from these officers and entities in accordance with ¶2553.4 in order to comply with the standard terms adopted by GCFA and the additional terms adopted by the annual conference in P73. Nowhere does P73 prohibit or negate the standard form developed by GCFA which is the safeguard and protection of The United Methodist Church under 807.9.**

- 3) *The only right of a local church to disaffiliate is in ¶2553, and this is a limited right. ¶2548.2 does not provide a right to a local congregation to disaffiliate, and the deeding of property pursuant to ¶2548.2 relates only to property and not to the disaffiliation or separation of the church itself. In addition, ¶2548.2 does not address any issues of pension liability, (therefore its inclusion in this petition is inappropriate).* **No, P73 only deals with additional terms regarding ¶2553. ¶2548 is referenced in P73 only as required by the General Conference in reference to ¶1504.23. Withdrawal liability of a local church's pro-rata share of the unfunded pension liability is defined in ¶1504.23. Pro-rata share**

means a part of the whole including all churches of the annual conference. ¶1504.23 shares that this must include all churches that change their relationship with the United Methodist Church including closure, disaffiliation and those who change their status in accordance with ¶2548.

- 4) *This petition negates the authority of the Board of Trustees to add additional standard terms to any agreement. Each of those agreements must be ratified by the annual conference. No, P73 does not negate the authority of the Board of Trustee to add additional standard terms to any agreement. The Board of Trustees may make additional terms under P73 and that power is only limited by the requirement of ¶2553.4 that those terms and conditions must be consistent with the provisions of ¶2553.4(a) namely the Standard Terms established by GCFA and the additional standard terms adopted in P73. P73 still requires those memorialized standard disaffiliation agreements negotiated between the annual conference trustees and the local church trustees to be voted upon by the annual conference at its meeting in 2023.*
- 5) *The designation of “over” and “fully” funded pension is a technical term, not simply a balance sheet total. It is a determination that is made by the Board of Pensions, CFA, and Wespah pursuant to ¶1504.8a and ¶1506.6.*

This petition violates ¶2553.4a and ¶1504.23 (in allowing for the option of a \$1 pension liability).

The petition negates the Board of Pensions ability to carry out ¶2512.4. No, P73 requires that all churches pay their withdrawal liability of their pro-rata share of the

unfunded pension liability. As the Board of Pensions and Trustees have not published the pro-rata share for any churches nor how it was calculated. P73 makes the additional standard term of the method for calculation to be the historic method used by the Western Pennsylvania Annual Conference to calculate the withdrawal liability for churches whose status changed by closure under the provisions of ¶1504.23. In the additional term the annual conference designates where the money from disaffiliation should be deposited under the direction of the Conference Board of Pensions and designates that it shall be used to reduce the annual conference unfunded pension liability.

- 6) *Further ¶2553 sets the parameters for the effective date of disaffiliation based on the conditions that must be met for disaffiliate as spelled out in ¶2553* **No, P73 does not violate the effective date required by ¶2553. The General Conference established a sunset date in ¶2553 for the disaffiliation process, and any individual disaffiliation date must be within that timeframe. Further nothing in ¶2553 states that it is inconsistent for an annual conference to establish a target date for all disaffiliations to take effect provided that it does not violate that sunset provision.**

V) Analysis and Rationale

1) The bishop ruled that *“This petition takes away the authority given to the Board of Trustees under ¶2553 to determine if ¶2553 and conference policies have been complied with before the annual conference votes to approve or deny the request to disaffiliate.”*

This ruling should be overturned because P73 does not take away the authority given to the Board of Trustees under ¶2553 to determine if ¶2553 and conference policies have been complied with. Nowhere in P73 is the right of the Conference Trustees to establish, in a binding disaffiliation agreement, the terms and conditions of disaffiliation. In fact, that right is explicitly affirmed by the first RESOLVED clause of P73, “The annual conference trustees shall use these additional standard terms in creating the specific binding disaffiliation agreements between the annual conference and the local church trustees acting on behalf of the members in accordance with ¶2553.4.”

Furthermore, P73 empowers the Conference Board of Trustees to carry out the responsibility to “determine if ¶2553 and conference policies have been complied with” by clearly expressing what the conference policies are. Up until this point in June neither the annual conference nor the Conference Trustees had publicly espoused any policies regarding disaffiliation. Therefore, there were no conference policies prior to P73. By stating in P73 what the additional terms would be for local churches seeking disaffiliation under ¶2553, the annual was making clear what the conference policies were and what the additional terms would be under ¶2553.4.a. Contrary to the bishop’s ruling, P73 actually empowers the Board of Trustees to use their authority under ¶2553.

2) The bishop ruled, “*Further, this petition takes away the authority of the Board of Trustees, cabinet, annual conference benefits officer, the director of connectional ministries, and the annual conference chancellor given to them by ¶2553. And their duty as officers of the denomination to preserve the safeguard and protect the interests and rights of the annual*

conference; to maintain the resources related to the annual conference's interests and those of The United Methodist Church."

This ruling of the bishop should be overturned because P73:

A) Does not take away any of the authority given to the Board of Trustees nor the right to give advice given to the cabinet, annual conference benefits officer, the director of connectional ministries, and the annual conference chancellor.

B) Does not prevent the Board of Trustees from accomplishing their duty to protect the interests and rights of the annual conference.

C) Does not prevent the Board of Trustees from maintaining the resources related to The United Methodist Church.

A) P73 does not prevent the cabinet, annual conference benefits officer, the director of connectional ministries, and the annual conference chancellor from offering advice to the Board of Trustees as the Board establishes the terms and conditions of each disaffiliation agreement. The annual conference trustees are entitled to receive advice from these officers and entities in accordance with ¶2553.4 in order to assist them in complying with the standard terms adopted by GCFA and the additional standard terms developed by the annual conference in P73.

B) P73 does not prevent the Board of Trustees from accomplishing their duty to protect the interests and rights of the annual conference. ¶2512.4 does grant authority to the Board of Trustees to "intervene and take all necessary legal steps to safeguard and protect the interests and rights of the annual conference anywhere and in all matters relating to property and rights to property [...] where held in trust or established for the benefit of the annual conference." This

authority for intervention or legal action is only granted to the Trustees so that the Board may “safeguard and protect the interests and rights of the annual conference”. The interests of the annual conference are made known through the legislation and policies of the annual conference, such as the development of additional standard terms under ¶2553.4.a, and the rights of the annual conference include the right to develop additional standard terms as granted to the annual conference under ¶2553.4.a.

Therefore, by clearly stating what the interests of the annual conference are through exercising the annual conference’s right to develop additional standard terms under ¶2553.4.a, P73 actually empowers the Conference Trustees to exercise their duty to protect those interests and rights by ensuring that all binding disaffiliation agreements are in line with those additional standard terms created by P73.

C) The General Council on Finance and Administration, not the Conference Board of Trustees, is the body tasked by the *Discipline* in ¶2553.4.a to protect The United Methodist Church as set forth in ¶807.9. GCFA does this by developing a standard form under ¶2553. The Board of Trustees ensure that ¶807.9 has been upheld on behalf of GCFA by establishing individual Disaffiliation Agreements which are consistent with the standard form developed by GCFA. P73 states nothing about the standard form developed by GCFA since the annual conference was only given authority under ¶2553 to develop additional standard terms, and not given authority to amend the standard form. Since the standard form and the requirements therein have not been amended or even addressed, it would be impossible for P73 to prevent the Trustees to fulfill their duty to safeguard and protect the interests of The United Methodist

Church because the Board fulfills that duty on behalf of GCFA by ensuring the standard form is applied in all Disaffiliation Agreements.

3) The bishop ruled that, “*The only right of a local church to disaffiliate is in ¶2553, and this is a limited right. ¶2548.2 does not provide a right to a local congregation to disaffiliate, and the deeding of property pursuant to ¶2548.2 relates only to property and not to the disaffiliation or separation of the church itself. In addition, ¶2548.2 does not address any issues of pension liability*”. The implicit ruling being that the inclusion of ¶2548.2 in addressing ¶2553 is violative of the *Discipline*.

This ruling should be overturned because P73 only deals with the additional terms developed by the annual conference. ¶2548 is referenced in P73 (along with ¶1504.23, ¶2548, ¶2549, and ¶2553) only as required by the General Conference in reference to ¶1504.23. Withdrawal liability of a local church’s pro-rata share of the unfunded pension liability is defined in ¶1504.23. Pro-rata share means a part of the whole, which includes all churches of the annual conference. ¶1504.23 states that this must include all churches that change their relationship with the United Methodist Church including closure, abandonment, disaffiliation, and those who change their status in accordance with ¶2548. Therefore, ¶2548 is included in P73 not as an alternate means of disaffiliation but only as a reference to how the pro-rata share is calculated in accordance with ¶1504.23.

4) The bishop ruled that, “*This petition negates the authority of the Board of Trustees to add additional standard terms to any agreement. Each of those agreements must be ratified by the annual conference.*”

This ruling should be overturned because P73 does not negate the authority of the Board of Trustees to add additional standard terms to any agreement. The Conference Trustees still have the explicit authority to create additional standard terms to any agreement “as required by church and state law.” And while ¶2553.4 does grant the authority to the Conference Trustees to establish terms and conditions by memorializing them into a binding disaffiliation agreement, those terms and conditions must be consistent with the standard form developed by GCFA and the additional standard terms developed by the annual conference. ¶2553.4 does not grant authority to the Conference Trustees to violate the *Discipline* by negating the standard form or the additional standard terms.

¶2553.4 establishes the same relationship between the General Council on Finance and Administration and the Conference Trustees as it does the Annual Conference and the Conference Trustees. The standard form under ¶2553.4.a is developed first by GCFA and then additional standard terms are developed by the Annual Conference. All of the terms and conditions established in Disaffiliation Agreements must be consistent with both sets of terms. If the Conference Trustees are able to ignore or amend standards developed by the Annual Conference then they have the same authority to ignore or amend the standard form developed by GCFA since both bodies have the authority to develop standard and additional terms. It is clear the Conference Trustees do not have the authority to amend or ignore the Standard Form developed by GCFA since that would completely undermine GCFA’s role in protecting the institution of the United Methodist Church and the annual conference. In the same way, it is clear that the Conference Trustees do not have the authority to amend or ignore the Standard Additional Terms developed by the Annual Conference since that would completely undermine the Annual Conference’s role in protecting the institution and rights of the annual conference.

Furthermore, ¶2512.2 states, “[The Board of Trustees] shall be amenable to the annual conference.” Amenability within the context of the Discipline is related to policy and action. Whether it is the General Conference, Annual Conference, or local church, the constituents which are amenable to each of these larger institutions have the responsibility to operate within the will, made known through the policies, of the institution. To allow an amenable constituent to develop new policies which are expressly restricted by the larger institution or to change policies which have already been developed undermines the entire notion of amenability and destroys the connectional nature of the United Methodist Church.

The United Methodist Church already has a prime example of this interplay between institution and constituent in the case of the Annual Conference’s Board of Ordained Ministry. With regards to candidates for elders orders, the standards for ordination have been developed by the General Conference in ¶335, such as educational requirements, years of service as provisional members, and the candidate’s ability to communicate clearly in oral and written form. The Conference can then develop additional standard terms for ordination which are not in conflict with the standard terms stated in ¶335.¹⁶ This is the case in Western Pennsylvania where additional minimum requirements for consideration for ordination have been added in 2009 for those going through the process. These additional terms do not negate the standard terms developed by the General Conference, but are additional to those standard terms. The Board of Ordained Ministry may not ignore these terms or establish additional terms which are expressly prohibited by the General or Annual Conference. Neither the General nor the Annual Conference tells the Board how to vote in their work of establishing whether the standard and additional terms have been met with a particular candidate, but these institutions do require that the

¹⁶ Judicial Decision 440

developed standards or policies have been met. The approval of any candidate by the Board of Ordained Ministry is then ratified by the clergy session.

The same is true for the Trustees under ¶2553. GCFA developed the standard terms, the Annual Conference further develops additional standard terms which are not in conflict with GCFA's terms, and the Trustees (who may add on other terms and conditions that are consistent with the standard form and additional terms) are responsible for establishing the disaffiliation agreements showing that those terms have been met. Their disaffiliation agreement is then ratified by the Annual Conference.

All P73 does is develop additional standard terms which are not inconsistent with the standard form developed by GCFA, with which any binding disaffiliation agreement established between the Conference Trustees and the trustees of a local church must be consistent.

5) The bishop ruled that, *“The designation of “over” and “fully” funded pension is a technical term, not simply a balance sheet total. It is a determination that is made by the Board of Pensions, CFA, and Wespeth pursuant to ¶1504.8a and ¶1506.6. This petition violates ¶2553.4a and ¶1504.23. The petition negates the Board of Pensions ability to carry out ¶2512.4.”*

This ruling should be overturned. It is true that ¶1504.8.a gives authority to the General Board of Pensions and Health Benefits “to determine the liabilities allocated to and the contributions due from each annual conference” and ¶1506.6 does clearly state that a funding plan for pensions must be passed by the annual conference with the “receipt and inclusion of a favorable written opinion from the General Board of Pensions and Health Benefits”. However, the funds received for disaffiliation are outside of the formal funding plan adopted by the

Western Pennsylvania Annual Conference under ¶1506.6. Since those funds are outside of the adopted plan, P73 simply seeks to ensure, through the creation of an additional term, that the funds received for unfunded pension obligations are indeed used for unfunded pension obligations.

This ruling should further be overturned because P73 does not violate ¶2553.4.a and ¶1504.23 nor does it negate the Board of Pensions ability to carry out ¶2512.4.¹⁷ Both ¶1504.23 and ¶2553.4.d state, “(T)he local church shall contribute (a) withdrawal liability in an amount equal to its pro rata share of any aggregate unfunded pension obligations to the annual conference. The General Board of Pension and Health Benefits shall determine the aggregate funding obligations of the annual conference using market factors similar to a commercial annuity provider, *from which the annual conference will determine the local church’s share*” emphasis added.

Therefore, the process for determining the withdrawal liability as established in the *Discipline* are as follows:

- 1) The General Board of Pension and Health Benefits determines the aggregate funding obligations of the annual conference using market factors similar to a commercial annuity provider
- 2) Using that information the annual conference determines what the local church’s share will be.

¶1504.23 has been in effect since February 2019, and since then many churches in the Western Pennsylvania Annual Conference have been closed under ¶2549. In compliance with ¶1504.23, the annual conference has been calculating the pro rata share of each church which

¹⁷ ¶2512.4 deals with the rights and duty of the Board of Trustees not the Board of Pensions.

closed during those three years. However, the amount set by Wespeth and the calculation for the share of each individual church had not been published by the conference Board of Pensions prior to annual conference 2022.

Since, as of annual conference 2022, the Board of Pensions and Trustees had not published the pro-rata share for any churches nor how it was calculated, P73 made, as an additional standard term, the method for calculating the pro rata share of churches which disaffiliate the same as the historic method used between February 2019 and June 1st 2022 by the Western Pennsylvania Annual Conference to calculate the withdrawal liability for churches whose status changed by closure under the provisions of ¶1504.23. This provision is in line with the principle of legality developed under JCD 1366, ensuring that the calculation formula developed by the annual conference during those dates are applied equally to all churches under the provisions of ¶1504.23. In this additional term, the annual conference designates where the money from disaffiliation should be deposited under the direction of the Conference Board of Pensions and designates that it shall be used to reduce the annual conference unfunded pension liability. P73 does not violate ¶1504.23 nor ¶2553.4.a, rather it simply calls for the same calculation that the conference has been using for the past three years to continue. If that calculation is less than one dollar then P73 adds the additional term that one dollar be added to the cost for the sake of record keeping.

6) The bishop ruled that, *“Further ¶2553 sets the parameters for the effective date of disaffiliation based on the conditions that must be met for disaffiliate as spelled out in ¶2553.”*

This ruling should be overturned because P73 does not violate the effective date required by ¶2553. The General Conference established a sunset date in ¶2553 for the disaffiliation process. Nothing in ¶2553 states that it is inconsistent for an annual conference to establish a

target date for all disaffiliations to take effect provided that it does not violate that sunset provision.

¶2553.4 states, “The terms and conditions, *including the effective date of disaffiliation*, shall be memorialized in a binding Disaffiliation Agreement [...] That agreement must be consistent with the following provisions” (emphasis added). This clearly shows that the disaffiliation date is one of the terms and conditions which are to be included in the Disaffiliation Agreement and as such the disaffiliation date is subject to the provisions of ¶2553.4.a.

¶2553.4.a states that, “ The General Council on Finance and Administration shall develop a standard form for Disaffiliation Agreement under this paragraph [...] Annual Conferences may develop additional standard terms that are not inconsistent with the standard form of this paragraph.” It is clear that the Annual Conference may develop additional terms as long as they are not in conflict with the standard form of this paragraph. Since ¶2553.4 states that the disaffiliation date is one of the terms and conditions in the Disaffiliation Agreement, and since no specific date is developed by ¶2553, then the Annual Conference may develop the additional term of a disaffiliation date to be memorialized in all Disaffiliation Agreements.

This additional term, developed by P73, does not negate the authority given to the Conference Board of Trustees, rather it develops an additional term to be established by the Conference Trustees in the Disaffiliation Agreements with each local church that votes to disaffiliate. That disaffiliation agreement “must be consistent” with this additional term.

VI) Summary

The action of the bishop at this session of the Western Pennsylvania Annual Conference sets a dangerous and disturbing precedent within the United Methodist Church. Our polity is

grounded on the principle of separation of powers. This is true in all branches of our church and in all jurisprudence. The action of the bishop is an example of the overreach of episcopal authority which allowed for the unchecked veto power of the executive branch over the legislative branch in Western PA.

Decisions of Law are based on two primary pillars within our polity. The first is the constitutional authority given to bishops to rule on all questions of law properly before them, and the second is the recourse a conference has should a bishop's decision be overturned. Both pillars were ignored and undercut in the actions of Bishop Cynthia Moore Koi-Koi when she removed P73 from the jurisdiction of the Western Pennsylvania Annual Conference and placed it under the jurisdiction of The Judicial Council.

By thwarting the legislative process through violating the constitution, the bishop created an entirely new power to veto legislation properly before the annual conference which is not contained within the constitution nor any other part of the *Discipline*. By not permitting a vote to be taken the bishop destroyed any recourse the annual conference otherwise would have had according to the *Discipline*. This is a dangerous precedent to set, and it is one that the Judicial Council should consider carefully as they render their Judicial Decision.

Respectfully Submitted,

Nathanael Fugate

Appendix A

Transcript of the Ruling of Law

Transcript of Saturday June 4th at the annual conference meeting of the Western Pennsylvania Annual Conference.

Bishop Moore Koi-Koi: I'll be working with P73.

Steve Morse: Good morning conference. If you would turn in your pre-conference journal to page 442, and in your Daily Journal to page 469 you'll find P73 on page 442 of the pre-conference journal and the amendments that were made are on page 469 and 470. The vote of the section, with those amendments, was 93 concurrence 9 non-concurrence and 3 abstentions. So the section moves concurrence.

Bishop: It is the ruling of the chair that this item is not properly before us. This is a decision of law, and let me share that decision of law with you. This petition takes the authority given to the Board of Trustees under paragraph 2553 to determine if 2553 and Conference policies have been complied with before the annual conference votes to approve or deny the request to disaffiliate. Further, this petition takes away the authority of the Board of Trustees, cabinet, annual conference benefits officer, the director of connection Ministries and the annual conference chancellor, given to them by paragraph 2553 and their Duty as officers of the denomination to preserve the Safeguard and protect the interests and rights of the annual conference to maintain the resources related to the annual conference interests and those of the United Methodist Church. The only right of a local church to disaffiliate is in paragraph 2553 and this is a limited

right. Paragraph 2548.2 does not provide a right to a local congregation to disaffiliate and the deeding of property pursuant to paragraph 2548.2 relates only to property and not to the disaffiliation or separation of the church itself. In addition, paragraph 2548.2 does not address any issues of pension liability. This petition negates the authority of the Board of Trustees to add additional standard terms to any agreement. Each of those agreements must be ratified by the annual conference. The designation of over or fully funded is a technical term not simply a balance sheet total. It is a determination that is made by the board of Pensions CFA and Westpath pursuant to paragraph 1504.8.a and paragraph 1506.6. This petition violates paragraph 2553.4.a and paragraph 1504.23. It negates the board of Pensions ability to carry out 2512.4. Further 2553 set the parameters for the effective date of disaffiliation based on the conditions that must be met for disaffiliation as spelled out in paragraph 2553. This is the ruling of the chair as a decision, a matter of law.

As a teachable moment, for those of you who might not be aware, in the United Methodist Church, bishops and the Judicial Council are those who have the responsibility to interpret the book of discipline, and therefore, whenever a bishop makes a decision of Law, an interpretation of the book of discipline, it is automatically appealed on behalf of the body to the Judicial Council. So my ruling will automatically go to the Judicial Council. The Judicial council is like the Supreme Court for our church so their decision will be final on the matter. That is my administrative response to the petition.

Bishop: All right we will now hear petition 14. Yes? We'll try it.

Nathanael Fugate: Just a question of clarification. Is it your ruling that P73 is out of order then?

Bishop: That is my ruling.

Fugate: Bishop with all due respect I would like to appeal that ruling to the body.

Bishop: There is no appeal, this is a decision of law. Thank you.

Fugate: Bishop it is my understanding that ruling something out of order according to Robert's Rules is...

Bishop: It is not ruled out of order by Robert's Rules it is a decision of law as I stated. Thank you.

Fugate: Bishop I also understand that according to Robert's Rules 4.16, which you referenced yesterday, that any question or amendment that is before the body, unless it is out of order according to Robert's Rules, must be presented unless it is unclear. It seems to me that this should be in front of the body unless it is ruled out of order against Robert's Rules.

Bishop: It is not ruled out of order in Robert's Rules it is a decision of law and so therefore decisions of law our church polity takes precedence over Robert's Rules as is stated in our conference rules. The matter is now before the Judicial Council. We will now move on to petition 14, thank you.