



JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH
CONSEIL JUDICIAIRE DE L'EGLISE METHODISTE UNIE
RECHTSHOF DER EVANGELISCH-METHODISTISCHEN KIRCHE
CONSELHO JUDICIAL DA IGREJA METODISTA UNIDA
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Report by Bishop on Decision of Law

This form is to be used for (please check one):

☒ Reporting of decisions of law made by bishops in response to questions of law submitted to them in writing during the regular business of a conference session (§ 56.3 Const. and ¶ 2609.6 *The Book of Discipline* 2016).

☐ Reporting of episcopal decisions on questions of law when such decisions are appealed by one-fifth of the members of the conference (§ 56.2 Const. and ¶ 2609.7 *The Book of Discipline* 2016).

Name of Bishop: John R. Schol
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Annual Conference: Greater New Jersey Date of session: 5/21-23/17 (month/day/year)
Question(s) of Law: Please see attached

Authorities Cited (indicate paragraph or decision number where applicable):

Constitution: _____ Book of Discipline: 2016: 354, 2609.6 2012: 355, 363, 2702
Judicial Council Decision(s): 777, 806, 915, 1216, 1230, 1270

Signature: 
Bishop of The United Methodist Church

Date: June 16, 2017
(month/day/year)

The following must be attached:

- ☐ Decision of Law, including facts, rationale and ruling
- ☐ Text of the written request for decision
- ☐ Minutes of annual conference proceedings (relevant portions only)
- ☐ List of names and addresses of interested parties
- ☐ Other relevant materials (e.g. conference rules, resolutions, policies, reports)

Send electronic copy of this form and all materials in PDF and Microsoft Word format to:
secretaryjudicialcouncil@gmail.com

Mail four (4) sets of hard copies to: Secretary of the Judicial Council, 5556 N Sheridan Road,
610; Chicago, IL 60640 USA

Question of Law – submitted to Bishop John R. Schol by Rev. Dr. Robert E. Costello

May 23, 2017

Bishop Schol, I present this question of law.

“In light of action taken on May 21, 2017 in the executive session of this 2017 Greater NJ Annual Conference meeting, in which the clergy session acted on question #50 of the business of the conference, regarding paragraph 354 (2016 edition) 355 (2012 edition) in the *Book of Discipline*; and in which the clergy turned down the Board of Ordained Ministry’s recommendation for an involuntary leave of absence dating back to October 22, 2016; and further in light of judicial council decision 1230, in which a clergyperson was forced to retire involuntarily and that retirement was overturned by the Judicial Council and all compensation was restored; (see also decision 1270);

In order to be made whole, should Dr. Jisun Kwak receive from the conference the full salary, and all pastoral benefits including housing, health insurance, pension credit and funding, and travel expenses that she was receiving in her appointment, from the time her involuntary leave began until she is back in an appointment or until, through appropriate process, she is determined to be ineligible for appointment, and that the rate of such compensation should be at the level she was receiving as of October 22, 2016.”

The United Methodist Church of Greater New Jersey

Decision of Law Requested May 23, 2017

Compensation for an Elder Discontinued on Involuntary Leave of Absence

John R. Schol, Bishop

DECISION

A vote on the interim action of the Board of Ordained Ministry to affirm the Board's action to place an elder on involuntary leave of absence effective October 22, 2016 was not acted on and therefore the involuntary leave of absence is nullified. The elder is to be paid her equitable compensation which includes salary, housing, pension and health benefits from October 22, 2016 to June 30, 2017.

STATEMENT OF FACT

At a full session of the 2017 Annual Conference of the United Methodist Church of Greater New Jersey, on May 23, 2017, an elder in good standing submitted the following question of law:

In light of action taken on May 21, 2017 in the executive session of this 2017 Greater NJ Annual Conference Meeting, in which the clergy session acted on Question #50 of the business of the conference, regarding Paragraph 354 (2016 Edition) 355 (2012 Edition) in The Book of Discipline; and in which the clergy turned down the Board of Ordained Ministry's recommendation for an involuntary leave of absence dating back to October 22, 2016; and further in light of Judicial Council Decision 1230, in which a clergyperson

was forced to retire involuntarily and that retirement was overturned by the Judicial Council and all compensation was restored: (see also Decision 1270), and

In order to be made whole, should Rev. Dr. Jisun Kwak receive from the conference the full salary, and all pastoral benefits including housing, health Insurance, pension credit and funding and travel expenses that she was receiving in her appointment, from the time her involuntary leave began until she is back in an appointment or until, through appropriate process, she is determined to be ineligible for appointment, and that the rate of such compensation should be at the level she was receiving as of October 22, 2016.

JURISDICTION

The Judicial Council has jurisdiction pursuant to Par. 2609.6

STATEMENT OF FACTS

In June of 2016, the cabinet sought and was granted a suspension of an elder that had a complaint filed for immorality, crime and disobedience to the order and discipline of The United Methodist Church, and relationships and behavior that undermine the ministry of another pastor (paragraph 2702 of the 2012 Book of Discipline). The elder was a District Superintendent at the time of the request for suspension.

The supervisory process for complaints, paragraph 363 of the 2012 Book of Discipline did not result in a just resolution and the cabinet sought and was granted an Involuntary Leave of Absence in October of 2016 per paragraph 355 (2012 Book of Discipline).

At the Clergy Session held on May 21, 2017, the clergy in full connection and others who were members of the Board of Ordained Ministry acted on Question #50 regarding the continuation of clergy on various leaves of absence.

Question #50b sought a continuation of involuntary leave of absence for the elder identified in the request for this ruling. The Board of Ordained Ministry's request to continue the elder on involuntary leave was not supported by a vote of 122 to 137. The elder has been appointed to a church and will begin the new appointment effective July 1, 2017. There was no motion nor vote to revoke the involuntary leave of absence back to October 22, 2016 as required by the 2016 Book of Discipline, paragraph 354.5 and the 2012 Book of Discipline, paragraph 355.4.

On the final day of the Annual Conference Session, May 23, 2017, the elder requesting the ruling, motioned to suspend the rules to provide back salary and benefits for the clergy person who was on involuntary leave of absence. The request was for the period the elder was on involuntary leave of absence dating back to October 22, 2016 until the elder was appointed to a new appointment. The motion did not pass. The elder then requested his ruling of law.

ANALYSIS AND DECISION

The continuation of a clergy person on involuntary leave of absence requires a two-thirds vote (2016 Book of Discipline, paragraph 354.4 and 2012 Book of Discipline, paragraph 355.3). A vote to affirm the interim action to place a clergy person on involuntary leave of absence requires a simple majority vote (2016 Book of Discipline, paragraph 354.5 and 2012 Book of Discipline, paragraph 355.4). There was no vote on the interim action of the Board of Ordained Ministry as required and therefore the Board of Ordained Ministry action is nullified.

Regarding the amount of compensation the elder is entitled to, neither Judicial Council Decisions noted in the request for a decision of law, 1230 and 1270, are on point for reversing an involuntary leave of absence or for assigning compensation. In Decision 1230, a bishop's involuntary retirement was fully overturned because of procedural errors. In the matter at hand, there has been no determination that there were any procedural errors in placing the elder on involuntary leave of absence. Even a clergy vote to reverse that decision, should it have occurred, only reflects a difference of opinion among the clergy, not a finding of procedural error. Also, the compensation awarded in Decision 1230 was for a bishop's salary which the retired bishop returned to the office of bishop and therefore was entitled to a bishop's compensation.

Decision 1270 refers to a modification by the Committee on Appeals of a clergy's penalty meted by the trial court and that modified penalty specifically says "without compensation" for the period the clergy person was suspended and so the issue of remuneration while serving a penalty was a non-issue in that case. In the matter involving this ruling, the elder's actions are about to

go before the Committee on Investigation and then possibly trial at which time the trial court has the authority to address compensation issues based on the facts in this case.

In other Judicial Council decisions leaves of absence, including 777, 806, 915 and 1216, the Judicial Council has ruled that the equitable compensation is to provide the guideline for back compensation. Travel has not been included because it is a reimbursement for actual travel related to ministry. The elder was not under appointment and therefore did not have any travel related to an appointment.

In the Greater New Jersey case, the elder on involuntary leave of absence was a suspended district superintendent. Even if the Board of Ordained Ministry had not suspended and/or placed the elder on involuntary leave of absence, the elder would not have continued as a district superintendent because of the issues and evidence involved in the case. In fact, interim district superintendents were assigned during the suspension and a new district superintendent was announced once the elder was placed on involuntary leave of absence. To award the salary and benefits of a district superintendent would not reflect other Judicial Council rulings that call for equitable compensation. In fact, the elder's appointment that will begin on July 1, 2017 is the elder's equitable compensation.

A vote on the interim action of the Board of Ordained Ministry to affirm the Board's action to place an elder on involuntary leave of absence effective October 22, 2016 was not acted on and therefore the involuntary leave of absence is nullified. The elder is to be paid her equitable

compensation which includes salary, housing, pension and health benefits from October 22, 2016 to June 30, 2017.

Submitted by: John R. Schol, Bishop

Appendix 1

Daily Proceedings
Of the 18th Annual Conference Session of the
United Methodist Church of Greater New Jersey
Meeting at Wildwood, NJ

Sunday, May 21, 2017 – 4:00 p.m.

CLERGY SESSION

Bishop Schol began with words of welcome. The bar for this clergy session was set. Rev. Hector Burgos, Director of Connectional Ministries, led the body in song. Rev. Thomas Korkuch, chair of the Board of Ministry, read John 17:20-13. Rev. Shawn Callender-Hogan offered the opening prayer.

QUESTIONS 17-50a

Rev. Thomas Korkuch and Rev. Jessica Naulty, also on the Board, presented the report of the Board Report (Parts II-V of the Disciplinary Questions - 17 – 50a). As each question was presented, it was received and/or adopted, as action required. During this time, the Candidates for Ordination were introduced. Bishop Schol asked the historical questions, and the candidates were led out of the room. Bishop Schol asked for a vote to approve the candidates. They were approved unanimously. Similarly, the Candidates for Commissioning were introduced, led out of the room, and Bishop Schol asked for a vote to approve the candidates. They were approved unanimously.

MOTION

When question 50b was presented, which involved approval of continuing Rev. Jisun Kwak on Involuntary Leave of Absence, a motion was made by Rev. David Wiley to suspend the rules and use a process agreed upon by all concerned parties, in order to discuss the question. The motion passed.

There were three speeches for continuation and three speeches against question 50b.

Question 50 of the Board of Ordained Ministry Report:

50. Who are the provisional, ordained members or associate members on leave of absence and for what number of years consecutively has each held this relation (§353)? (Indicate credential. Record Charge Conference where membership is held.)

Name	Number of Years	Charge Conference
a) Voluntary?		
(1) Personal, 5 years or less (§353.2a 3) (v)		
Kristin Helms (PD)	2	St. Paul's: Thorofare
Eugene Kim (FE) (eff. 1/1/17)	2	Hackensack
Matthew Na (FE)	3	Cornerstone: Hasbrouck Heights

(2) Personal, more than 5 years (§353.2a 3) (v 2/3)

- | | | |
|---|----|----------------------|
| Holly Hughes Cartwright (FE) | 17 | Keyport: Calvary |
|
(3) Family, 5 years or less (§353.2b 3) (v) | | |
| William Benjamin (FE) | 1 | Asbury: Woodlynn |
| Allyson Estes (FE) | 5 | Asbury Park: Ballard |
|
(4) Family, more than 5 years (§354.2b 3) (v 2/3) | | |
|
(5) Transitional (§353.2c) | | |
| Maylis de La Fe Rodriguez (PD) | 1 | |
|
b) Involuntary (§ 354)? (v 2/3) | | |
| Jisun Kwak (FE) (eff. 10/22/16) | 2 | First UMC: Millville |
| <i>(Clergy Executive Session did not affirm)</i> | | |

MOTION

Rev. Robert E. Costello made a motion to take the vote for question 50b by written ballot. The motion passed. The ballot was taken and tellers retired to count the votes.

A recess was taken for dinner.

REPORT OF VOTE

After the recess, Bishop Schol reported the result of the vote: 122 yes votes, 137 no votes. Question 50b to continue Rev. Jisun Kwak on Involuntary Leave of Absence was not supported.

QUESTIONS 52-72

The remainder of the Board of Ordained Ministry was presented and approved.

Bishop Schol acknowledged all the retirees.

The Clergy Report in its entirety was presented for approval. The entire report was approved with the exception of question 50b.

Daily Proceedings
Of the 18th Annual Conference Session of the
United Methodist Church of Greater New Jersey
Meeting at Wildwood, NJ

**Tuesday, May 23, 2017
12:15 PM**

FULL SESSION

MOTION

Rev. Robert E. Costello made a motioned to suspend the rules to provide back salary and benefits for Rev. Dr. Jisun Kwak, who was on involuntary leave of absence. The motion did not pass.

QUESTION OF LAW

Rev. Robert E. Costello presented the following question of law: “In light of action taken on May 21, 2017 in the executive session of this 2017 Greater NJ Annual Conference meeting, in which the clergy session acted on question #50 of the business of the conference, regarding paragraph 354 (2016 edition) 355 (2012 edition) in the Book of Discipline; and in which the clergy turned down the Board of Ordained Ministry’s recommendation for an involuntary leave of absence dating back to October 22, 2016; and further in light of judicial council decision 1230, in which a clergyperson was forced to retire involuntarily and that retirement was overturned by the Judicial Council and all compensation was restored; (see also decision 1270); In order to be made whole, should Dr. Jisun Kwak receive from the conference the full salary, and all pastoral benefits including housing, health insurance, pension credit and funding, and travel expenses that she was receiving in her appointment, from the time her involuntary leave began until she is back in an appointment or until, through appropriate process, she is determined to be ineligible for appointment, and that the rate of such compensation should be at the level she was receiving as of October 22, 2016.”

Bishop Schol explained that he has up to thirty days to respond to this point of law.

Appendix 2

Question of Law – submitted by Rev. Dr. Robert E. Costello on May 23, 2017

Bishop Schol, I present this question of law.

“In light of action taken on May 21, 2017 in the executive session of this 2017 Greater NJ Annual Conference meeting, in which the clergy session acted on question #50 of the business of the conference, regarding paragraph 354 (2016 edition) 355 (2012 edition) in the *Book of Discipline*; and in which the clergy turned down the Board of Ordained Ministry’s recommendation for an involuntary leave of absence dating back to October 22, 2016; and further in light of judicial council decision 1230, in which a clergyperson was forced to retire involuntarily and that retirement was overturned by the Judicial Council and all compensation was restored; (see also decision 1270);

In order to be made whole, should Dr. Jisun Kwak receive from the conference the full salary, and all pastoral benefits including housing, health insurance, pension credit and funding, and travel expenses that she was receiving in her appointment, from the time her involuntary leave began until she is back in an appointment or until, through appropriate process, she is determined to be ineligible for appointment, and that the rate of such compensation should be at the level she was receiving as of October 22, 2016.”

List of Interested Parties in Docket No. 1017-2

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