

**BEFORE THE JUDICIAL COUNCIL
OF THE
AFRICAN METHODIST EPISCOPAL CHURCH**

RE: IN THE MATTER OF BISHOP PRESTON W. WILLIAMS

HOLDING: The Judicial Council has jurisdiction to issue a declaratory decision on the interpretation of the language found in The Ministers' Bill of Rights regarding new pastoral appointments which reads, in relevant part: "[T]he new appointment, when available, shall be comparable or better than the previous one. . . ." The Doctrine and Discipline of the African Methodist Episcopal Church, Part V, Section VII, Paragraph 1, *Discipline*, page 100. As provided in the *Discipline*, prior to the Judicial Council rendering a final decision in this matter, affected parties will be given an opportunity to provide written briefs, arguments and evidence to the Judicial Council for consideration.

PARTIES

This matter comes before the Judicial Council on a petition for a declaratory decision filed by Bishop Preston Warren Williams, Presiding Bishop of the Sixth Episcopal District of the African Methodist Episcopal Church with respect to the language in The Doctrine and Discipline of the African Methodist Episcopal Church, Part V, Section VII, Ministers' Bill of Rights, Paragraph 1 (2012 edition).

JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XI, Section XX, Paragraph H, Subparagraph 10 of The Doctrine and Discipline of the African Methodist Episcopal Church, 2012, (*"Discipline"*), page 293 which provides:

When the General Conference shall have passed any act or legislation that appears to be subject to more than one interpretation, or when any paragraph or paragraphs of the Doctrine and Discipline of the African Methodist Episcopal Church seems to be of doubtful meaning or application, any authority in the Church or any member in good and regular standing affected thereby shall have the right to appeal to the Judicial Council under the law of the Church from any action of any conference, connectional board, or ruling of a bishop based upon an act of legislation which appears to be subject to more than one interpretation. In such case the Judicial Council shall make a ruling in the nature of a declaratory decision and the effect of such an act, legislation, paragraph or paragraphs of the Doctrine

and Discipline of the African Methodist Episcopal Church and the decision shall be final, subject to the approval of the General Conference.

STATEMENT OF ISSUE

1. Whether the language in Part V, Section VII, Paragraph 1 of the *Discipline* can be subject to more than one interpretation, or is of doubtful meaning or application?
2. Whether the Petitioner has been affected by an action or ruling of any conference, connectional board or bishop because of an act of legislation which appears to have more than one interpretation?

STATEMENT OF FACTS

Bishop Williams made a change of appointment to a pastor based on what he believed to be a request for a change by the pastor to her Presiding Elder. In considering the new appointment for the pastor, Bishop Williams reviewed the notarized Pastor's Annual Report submitted by the pastor and the notarized Pastor's Annual Report of the incumbent pastor at the charge where he intended to appoint the pastor. Based upon his review of the two Pastor's Annual Reports, Bishop Williams determined that the compensation and lodging at the charge where he intended to transfer the pastor was greater than her then current appointment. He thus, transferred the pastor to the new charge. Thereafter the pastor disputed whether the compensation at the new charge was comparable to her prior appointment and filed a request for the convening of a Conciliation Committee. At the Conciliation, both the pastor and the church produced evidence that the actual compensation and lodging received by the pastor at her former charge was greater than that reported on the notarized Pastor's Annual Report form.

Bishop Williams has alleged that as a result of the Conciliation, he had to send the pastor back to her former church which created "chaos and complaints" from the stewards and church members of that church.

According to Bishop Williams, he had to resolve the Conciliation to the satisfaction of the pastor because of the ambiguity regarding the comparability of appointments as set forth in the Ministers' Bill of Rights. In his Petition, Bishop Williams is seeking a declaratory decision regarding the meaning and interpretation of the requirement that the new appointment be "comparable to a previous appointment."

ANALYSIS AND DISCUSSION

Part XI, Section XX, Paragraph H, subparagraph 10 of the Discipline (page 293) provides for declaratory review by the Judicial Council in limited circumstances. First, there has to be legislation that is subject to more than one interpretation or there is language in the *Discipline* that is doubtful in meaning or application. Secondly, the appeal must be taken by an authority in the church or by a member affected by an action of any conference, connectional board or ruling of a bishop based upon an act of legislation which appears to be subject to more than one interpretation. Thus the initial inquiry for the Judicial Council was whether the instant Petition met the threshold requirements for declaratory review.

The Ministers' Bill of Rights provides, in relevant part, regarding new pastoral appointments: "[T]he new appointment, when available, shall be comparable or better than the previous one. . . ." Part V, Section VII, Paragraph 1, *Discipline*, page 100. As Bishop Williams has contended, he applied this language to mean that based on the information provided in the Pastor's Annual Report he could determine comparability as contemplated by the Ministers' Bill of Rights. Evidently, the pastor and her former church measured comparability based on her actual receipts for compensation and lodging irrespective of whether it had been reported on the Pastor's Annual Report form.

A review of the legislative history of Ministers' Bill of Rights, which was initially passed in 1980, reveals that it contained similar language, as in the 2012 *Discipline*, regarding new appointments. The 1980 legislation read: "[T]he new appointment shall be comparable or better than the prior one." There is no explanation or discussion in the 1980 General Conference minutes as to what measure of comparability was intended. (See Combined Minutes of the Forty-First Session of the General Conference, pages 156-157, 180-181, 191-192, 199-205.) However, an examination of *The Doctrine and Discipline of the African Methodist Episcopal Church*, 1980, as well as, the 1984, 1988, 1990 and 1992 editions, reveals that the completion of the Pastor's Annual Report, the signed certification of its truthfulness and accuracy, and its submission at Annual Conference was an integral part of the responsibilities of a pastor at Annual Conference set forth in the body of the *Discipline*. In the 1996 *Discipline*, and thereon, the Pastor's Annual Report Blank form is set forth in the Appendix of the *Discipline* and there is no reference to its use in the Annual Conference responsibilities and requirements of a pastor, or in any other section of the *Discipline*.

Without any written guidance or historical data as to what was intended by the language in the Ministers' Bill of Rights regarding comparability and the absence of prior Judicial dictum, the language in question is subject to more than one interpretation, is of doubtful meaning or application and a declaratory decision is warranted in this matter. We thus conclude that the first prerequisite to a declaratory review has been met. In addition, the level of controversy and costs of the litigation related to the ambiguous clause further supports our conclusion that the matter is appropriate for declaratory decision.

Turning now to the issue of whether the second prerequisite to declaratory review by the Judicial Council is present – to wit, is Bishop Williams a party affected by “**the action of**

any conference, connectional board, **or ruling** of a bishop based upon an act of legislation which appears to be subject to more than one interpretation.” The pastor requested the convening of a Conciliation Committee against Bishop Williams, and according to him, as a result of evidence presented to the Conciliation Committee by the pastor and her former church, he had to reverse a pastoral appointment. The question of whether the Conciliation Committee is a body within the definition of “conference, connectional board, or ruling of a bishop” must be answered in the affirmative when a Part XI, Section 1, Paragraph F, page 257, is reviewed. Paragraph F provides a right of direct appeal from the Conciliation Committee to a “general officer or connectional officer.”

This matter is one of first impression for the Judicial Council. Here we have a Bishop filing a petition following the conclusion of a matter before a Conciliation Committee – and the Bishop is the party seeking a review because of the ambiguity of the language in the *Discipline*, the Bishop was adversely affected in that he had to reverse an appointment. Parenthetically, we note that situation is not within the context of the language in Part XI, Section 1, Paragraph F, page 257, providing that a first filing must be made with the Preliminary Inquiry Committee instead of the Judicial Council when a Bishop is involved. Clearly, since the role of the Preliminary Inquiry Committee is to determine whether a bishop (or other member of the AME Church) should be tried on the connectional level for some alleged violation of the *Discipline*, a filing with that body in this circumstance would not be applicable. See, *Discipline*, page 259.

In this matter of first impression, while there is no specific language covering this precise situation where a petition for declaratory review is sought by a Bishop from an adverse result from a Conciliation Committee, a clear conclusion can be drawn that this matter would be liken to that of the direct appeal right of the general officer or connectional officer as set forth in Part XI, Section 1, Paragraph F, page 257. Hence, we conclude that the second prerequisite of a declaratory review has been met.

In his Petition, Bishop Williams contends that “comparability shall be measured solely by certified Pastors Annual Report. If either the outgoing pastor or the incoming pastor has omitted, falsified, or submitted misleading information in the Annual Report, and that information is relied upon by a Bishop, he or she should not be held liable for any violation of the Bill of Rights.”

CONCLUSION

Having concluded that the two prerequisites to a declaratory review has been met, the Judicial Council now will invite all parties who would be affected by a declaratory decision on the question of what measurement of comparability is to be employed by bishops when making new appointments to pastors as provided in the Ministers’ Bill of Rights, to submit briefs, arguments and other relevant evidence for the consideration of this Judicial Council. The Judicial Council finds that the affected parties are all active Bishops of the African Methodist Episcopal Church and all active itinerant ministers of the African Methodist Episcopal Church.

A copy of this Decision will be mailed to each Bishop and an INVITATION TO SUBMIT WRITTEN BRIEF, ARGUMENT OR EVIDENCE will be posted in the next edition of the Christian Recorder and Christian Recorder Online with an invitation to the affected parties to submit a written brief, argument or evidence to assist the Judicial Council in its deliberations. Any affected party who wishes to submit a brief, argument and/or other evidence must do in writing by March 1, 2015, by prepaid mail to: Judicial Council c/o Reverend Francine Brookins, Secretary, P.O. Box 310827, Fontana, CA 92331, or email to JCAMESecretary@ymail.com

I. INTRODUCTION

The Judicial Council is currently without authority to render advisory opinions and we have so ruled in prior cases. An advisory opinion is one that gives general guidance on a legal question but it does not specifically resolve a legal dispute between opposing parties. As is discussed more fully below, the law that articulates our jurisdiction limits the Council to ruling in disputed matters. The case before us is not a disputed matter between opposing parties. There is no respondent. The petitioner does not ask us to reverse or in any way modify a prior action. We simply have a petitioner's request for guidance on a legal question going forward. To be sure, the petitioner raises an important question concerning the meaning of the word "comparable" in the Ministers Bill of Rights. Nevertheless, in light of the clear limits of the Judicial Council's jurisdiction, petitioner's question is more appropriately addressed to legal counsel for the church not the church's appellate judicial body. Whether or not our jurisdiction should be expanded to include the authority to address questions outside of the context of a dispute is an important policy decision and a matter for the General Conference of the AME Church to consider.

II. STATEMENT of FACTS

In the matter before us, a pastor asserted that her rights under the Ministers Bill of Rights were violated when the bishop assigned her to a church that was not "comparable" to the church from which she was moved. As is required by the Discipline, prior to filing charges against the bishop, the pastor submitted the controversy to a Conciliation Committee to try to resolve the matter. See the *Doctrine and Discipline of the AME Church, Part XI, Section I, p 256*. During Conciliation the bishop received evidence that persuaded him that indeed the church to which he assigned the pastor was not "comparable" to the church from which she was moved. He then reassigned her back to the original charge. Whatever happened between the bishop and the pastor after Conciliation is not in the record before the Judicial Council nor is it germane to the legal analysis.

The bishop petitioner asserts that in making his original decision he relied on the pastor's annual report in assessing "comparability." He discovered during Conciliation that the pastor's report on which he relied was inaccurate. Although the bishop reassigned the pastor back to her original charge, he has these lingering questions post Conciliation: what is the meaning of "comparable" in the Ministers Bill of Rights and can a bishop rely solely on numbers in pastoral

reports when making assignments to determine “comparability”? He filed a Petition for Declaratory Judgment with the Judicial Council. Neither the pastor nor anyone else has filed anything in opposition to the petition. The bishop’s questions are, without a doubt, critical and in need of clarification. However, within the confines of this particular petition and the current law, the Judicial Council is without authority to address them.

III. ANALYSIS AND DISCUSSION

The requirements that must be met before a party “shall have the right to appeal to the Judicial Council” for a declaratory judgment are found in the *Doctrine and Discipline of the AME Church, Part XI, Section XX, H, 10*, at p 293. The two requirements that are relevant to this discussion are: 1) there must be a law of “doubtful meaning or application,” and 2) an “action of any conference, connectional board, or ruling of a bishop based upon an act of legislation which appears to be subject to more than one interpretation.”

As the majority states, the first requirement has been met. However, the second requirement of appealing from an “action of any conference, connectional board, or ruling of a bishop” has not been met. The majority’s position is that whatever happened during the Conciliation process meets the requirement of an “action” and that the Conciliation Committee constituted a “conference” or “connectional board.” It argues further that the bishop’s Petition for Declaratory Judgment is an “appeal” from what transpired during Conciliation. However, the bishop petitioner in this case *is not* appealing from an “action of any conference, connectional board or ruling of a bishop.” He is not even appealing the Conciliation and as is explained below he cannot appeal the Conciliation. His unopposed Petition for Declaratory Judgment does not meet the second requirement and should be denied.

First, Conciliation is not an “action of a conference” or a “connectional body” and it is not a “ruling of a bishop.” It is a process. It is the AME Church’s method of giving parties an opportunity to mediate disputes. An aggrieved party cannot pursue a charge, petition or complaint without first going through the Conciliation process. *Doctrine and Discipline, Part XI, Section I Conciliation Committee, p 256*. It is intended to promote peace and to help avoid charges being filed, preliminary inquiry committees being impaneled and trials. As an informal process, it is not one in which any party can be required to agree to anything. Instead, the power to agree or not agree on a resolution to the underlying grievance is always in the hands of the parties to the dispute. Paragraph D, 2 states: “The committee’s deliberations shall be confidential and informal within the framework of peace and openness, but shall not in any manner, jeopardize the rights of either party.” During the Conciliation in this case, the bishop petitioner decided to reassign the pastor back to the original charge. No conference, connectional body or bishop required the bishop to take the action that he did.

In several places the majority asserts that the bishop felt that “he had to” reverse his decision once he received more accurate information. Assuming *arguendo* that the statement is

true, how one feels is of no jurisdictional consequence under our law. Instead, adverse “actions” and or “rulings” are the jurisdictional triggers.

Second, because the Conciliation process is simply an informal forum for the parties to attempt to resolve a dispute, it is not an activity in which appealable “actions” or “rulings” take place. Nevertheless, the majority asserts:

“The question of whether the Conciliation Committee is a body within the definition of ‘conference, connectional board, or ruling of a bishop’ must be answered in the affirmative when Part XI, Section I, F, p 257 is reviewed. Paragraph F provides the right of direct appeal from the Conciliation Committee..”

Respectfully, I disagree. First, a Conciliation Committee is an *ad hoc* committee that by law is discharged after 120 days (at the latest) after the first meeting. It is not given any authority to take actions, to make rulings or to require the parties to agree to anything. Its role is to help the parties to resolve their dispute amicably. Second, Part XI, Section I, F, p 257 does not provide for a right of appeal from the Conciliation process and does not use that language. Instead, it permits the parties to pursue charges, petitions or complaints should the Conciliation process not result in a mutually agreeable outcome. The last sentence of paragraph E states:

“If the matter is not settled within one hundred twenty (120) days after the first meeting of the committee, conciliation shall cease, and the committee discharged.

Immediately following that sentence, paragraph F states:

The parties shall have the right to file a petition, complaint, or charge with the Preliminary Inquiry Committee, if a bishop is involved, and to the Judicial Council if a general officer or a connectional officer is a party to a matter.

Paragraph F simply preserves the parties’ rights to commence the filing of charges should the Conciliation process not prove fruitful.

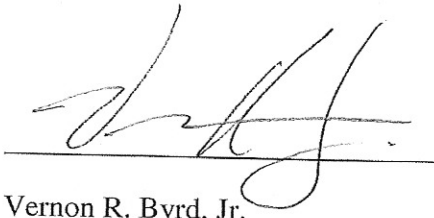
Third, the bishop petitioner does not identify any action or ruling that he is appealing. Indeed, the bishop petitioner’s cover sheet filed with the Judicial Council makes it clear that he is not requesting an appeal from an “action” or a “ruling.” Paragraph 7 of the Judicial Council’s cover sheet asks the petitioner to “State the nature of this appeal.” It offers several options with the instruction to “Check all that apply.” On the bishop petitioner’s form the following options were left blank: appealing a “Final decision of Bishops ruling or decision,” appealing a “Final decision of an Annual Conference,” appealing a “Final decision of a regularly constituted Board, Commission, group or other party,” and appealing a “Final action of a conference or connectional board.” Additionally, at paragraph 9 he is asked: “What do you want the Judicial Council to do in your matter? (Check all that apply).” “Reverse a decision/ruling” is left blank.

“Modify a decision/ruling” is also left blank. The only option checked was “Declaratory decision.” This is not offered as an argument that the bishop petitioner did not “check the right box,” but rather it is offered to show that the bishop petitioner’s intention is not to appeal an action or a ruling but simply to get clarification on a question—a valid question—but one that jurisdictionally we cannot address since it is not within the context of appealing a “ruling” or an “action.”

Significantly, the arguments that the petitioner is appealing from the Conciliation process or appealing his own decision do not come from the bishop petitioner; they come from the majority. It lays down these positions as a kind of jurisdictional bridge to reach the question of what is “comparable.” The question is important indeed, but the bridge builder is the General Conference, which is empowered to enact legislation that expands our jurisdiction should it so decide. The unopposed petitioner is not appealing an action or a ruling. He is simply asking for an advisory opinion, which we have previously held we cannot give.

IV. CONCLUSION

In order to be faithful to the current law and Judicial Council precedent, and to highlight for the church the limits of our jurisdiction, I respectfully offer this Dissent.



Vernon R. Byrd, Jr.