AFRICAN METHODIST EPISCOPAL CHURCH

# JUDICIAL COUNCIL

# DECISIONS



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*CLERK OF THE COUNCIL*

**2021 | QUADRENNIAL REPORT**

**MEMBERS:**
*ATTY. TASHUN BOWDEN-LEWIS*
*MR. WARREN H. DAWSON, ESQ.*
*REV. EDUARDO CURRY, ESQ.*




JUDICIAL COUNCIL • AFRICAN METHODIST EPISCOPAL CHURCH

**Letter of Transmittal**

**April 23, 2021**

The Bishops
The Episcopal Supervisors
The General Officers
The Connectional Officers
Presidents of Colleges and Universities, Deans, Chaplains, Delegates, Alternates, Members, and Observers to the 51st Session of the General Conference of the African Methodist Episcopal Church:

We, the Judicial Council submit this report of our stewardship covering the period of 2016-2021. This body served the African Methodist Episcopal Church under some extraordinary challenges and unconventional circumstances. Due to the unforeseen pandemic, the Judicial Council faced unique obstacles, as we commenced the work associated with our ministry to bring justice and equity within the AME Church. While we found our work quite simulating, we engaged in deliberations seeking to achieve fundamental fairness to all endeavoring to bring appeals and requests for declaratory decisions before this esteemed body.

This past quadrennium resulted in the Judicial Council addressing the issue of authority to postpone the General Conference, as well as its impact on the retirement of Bishops and General Officers. In our research for the proper resolution, we discovered the need for our Zion to be more insightful and proactive rather than reactionary. It is important to generate legislation, which prevents the need for the exploration of the legislative intent and/or interpretation of antiquated laws governing the African Methodist Episcopal Church. As the Church catapults to the other side of this devastating and paralyzing pandemic, we pray the guidance of our God in ensuring we become equipped to work through unforeseen conditions and predicaments in the future. Creative legislation would enable the Church to function at a higher level, instead of waiting for a crisis to surface.

Again, the Judicial Council reminds the members of the African Methodist Episcopal Church, we serve as an appellate body. We do not investigate charges, nor do we hear matters as a trial court, except at the seat of the General Conference. All appeals must be from a final decision of a bishop, pastor, board, commission, or other entity of the Church. When the Judicial Council submits decisions or rulings unfavorable to a member seeking an appeal or declaratory decision, we expect a level of professionalism and respect. While you may disagree with the decision/ruling, you should never resort to inappropriate or unchristian conduct. Please extend to us the respect associated with serving as judges within our Zion.

The Judicial Council receives no remuneration for our service to the Church. Every member of the Judicial Council holds employment to sustain his/her livelihood. We attempt to deliberate over matters as expeditiously as humanly possible. Engaging in employment and ecclesiastic service requires balancing our time. The extraordinary time devoted to our work reflects our love for Christ and the African Methodist Episcopal Church.

In 2016, we created the position of the Clerk of the Judicial Council (Court). We request that any filings for this body be sent to the Clerk of the Council. **Please do not serve the President or the members**. Service on the Judicial Council becomes effectuated only after receipt by the Clerk of the Judicial Council. Additionally, the Judicial Council cover sheet **must** accompany all filings. Without the cover sheet, your filing will not be perfected.

On behalf of the Judicial Council, I extend highest commendations to two of our sterling members Judge Vernon R. Byrd, II and Judge TaShun Bowden Lewis. Judge Byrd served with great distinction, as he exerted calm and methodical skill, and wisdom during deliberations. His judicial demeanor and temperament often resulted in his guiding the Council through a different perspective. You shall be missed, but we acknowledge God calls you to a higher service within His kingdom. We respectfully yield to the Lord Almighty for we know the plans God has for you. May His grace continue to shine on you, Judge Byrd. We look forward to working with you in a different capacity.

Judge Bowden Lewis displayed true dedication and faithful service as she artfully tackled issues before the Council. Her quick wit and superior legal acumen resulted in her being the "go to" member of the Judicial Council. TaShun will be missed, but not forgotten. We thank God for allowing you to develop an unbreakable bond with the Judicial Council. You will always hold a place of distinction in our hearts. As you move on to higher endeavors, remember you can never be replaced.

Special kudos to our first and dynamic clerk of the Judicial Council, Rev. Francine Brookins. Rev. Brookins worked tirelessly to ensure the docketing of matters before the Council. After docketing all matters filed, she transmitted the case files to each Council member. Without Rev. Brookins, the Judicial Council could not function. As you move forward Rev. Brookins, we thank you for your superb work. We acknowledge God's called you to a position, which affords us the opportunity to see you in a different light. Never forget you've been a part of us and will always be. To whom much is given, much is required. Job well done!

Finally, to each Judicial Council member, thank you for the many hours of dedicated service. You've proven yourselves to be among the best of the best. Your exceptional legal knowledge sets you apart from the rest. Serving with each of you has been my distinct honor and pleasure. May God continue to guide and strengthen you every day you serve the African Methodist Episcopal Church.

In His Service,

PATRICIA M. MAYBERRY
President
Judicial Council of the African Methodist Episcopal Church

## MEMBERS OF THE JUDICIAL COUNCIL

| | |
|---|---|
| President…… | Judge Patricia M. Mayberry<br>Carson, California<br>Fifth Episcopal District |
| Vice President…… | Judge Tania E. Wright<br>Conshohocken, PA<br>First Episcopal District |
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| Member…….. | Judge Vernon R. Byrd, II<br>Princeton, NJ<br>First Episcopal District |
| Member…….. | Judge Warren Hope Dawson<br>Tampa, FL<br>Eleventh Episcopal District |
| Member…….. | Judge Eduardo Curry<br>Charleston, SC<br>Seventh Episcopal District |

**AMENDED No. 2016-2020-01**

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

**RE: IN THE MATTER OF CHAVIS AME CHURCH**

Patricia M. Mayberry, President delivers the opinion on behalf of the Judicial Council.

## HOLDING

The Judicial Council finds that its Decision in 2012-2016-23 held a pastor may not organize a new Lay Organization, where one already exists. The Judicial Council never held in any of its decisions that a pastor may not conduct an election for one of its organizations at the local level, including the Lay Organization. The pastor may preside over the election of officers for the Chavis AME Lay Organization.

## PARTIES

Bishop Samuel L. Green, Sr., Presiding Prelate of the Seventh Episcopal District, seeks clarification of the Judicial Council's Decision in No. 2012-2016-23. Stephanie Ganaway Pasley and James Pasley, Jr. petition on behalf of the Chavis Lay Organization, challenging the attempt of Rev. William C. Ervin, III, Pastor of Chavis AME Church, to conduct the election of officers for the Chavis AME Church Lay Organization.

## JURISDICTION

Jurisdiction in this matter is pursuant to Part XI, Judicial Administration, Section XX, Paragraph A, Page 290 of *The Doctrine and Discipline of the African Methodist Episcopal Church (2012)* ("*Discipline 2012*"), to-wit:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF FACTS

1. On October 28, 2015, the Judicial Council issued its opinion in No. 2012-2016-23 reversing the November 1, 2014 decision of Presiding Elder Rosalyn Coleman, upholding the September 10, 2014 election conducted by Rev. Elton Rutledge, seeking to organize a Lay Organization at Chavis A.M.E. Church in South Carolina.

2. In its decision, the Judicial Council found that at the time of the September 10, 2014 election, a Lay Organization existed with new officers having been elected June 5, 2014, including the re-election of its President.

3. In a subsequent decision issued on January 8, 2016, the Judicial Council determined that prior to holding a new election of officers for the Lay Organization, the incumbent officers, as recognized in its previous decision (No. 2012-2016-23), must have the opportunity to carry out their annual term pursuant to the *Discipline*, Part XII, Connectional Societies and Organizations, Section III- The Connectional Lay Organization of the African Methodist Episcopal Church Constitution and By-Laws, Article VII - Election of Officers, Section 12, page 395.

4. In August 2016, President Ganaway Pasley of the Chavis Lay Organization attempted to provide notice of its annual election of officers to be held on August 18, 2016.

5. On or about August 16, 2016, Rev. Ervin advised the Lay President that he would conduct the election of officers for the Lay Organization. According to Rev. Ervin, the Presiding Prelate of the Seventh Episcopal District, instructed him to conduct the Lay Organization election.

6. On August 28, 2016, Bishop Green filed a request for clarification with the Judicial Council regarding decision No. 2012-2016-23, to determine whether that decision prevents a Pastor from holding or conducting an election of officers for the Lay Organization, if a Lay Organization already exists in the local church.

7. On September 9, 2016, the President and 1st Vice President of the Chavis AME Church Lay Organization submitted a request to the Judicial Council for a declaratory decision as to whether the Pastor could conduct the election of the Lay Organization, where one already exists.

## STATEMENT OF THE ISSUES

1. Whether the Judicial Council's holding in Case No. 2012-2016-23 precludes a Pastor from conducting and/or presiding over an election of officers for the Lay Organization, if a Lay Organization already exists in the local church?

2. Whether a pastor can conduct the annual election of officers for the Lay Organization?

## ANALYSIS AND DISCUSSION

In its decision No. 2012-2016-23, the Judicial Council strictly dealt with the attempt of the pastor at Chavis AME Church to organize a Lay Organization, where one existed. In the aforementioned matter, the duly organized Lay Organization at Chavis AME Church held its annual election of officers on June 5, 2015. Documentation, to include minutes of the various church quarters, verified that prior to the pastor's attempt to organize a Lay Organization, one existed. The Judicial Council held that no organization of the Lay Organization could occur. The decision never addressed any issues beyond organization or the re-organization of the Lay Organization. The Judicial Council never held that a pastor could not conduct (preside over) an election of officers for the Lay Organization.

In the present matter, the President and 1st Vice President of the Chavis AME Lay Organization seek to challenge whether their Pastor can conduct the election of officers for their organization. In their argument, they reference the *Discipline, 2012* Part XII, Connectional Societies and Organizations, Section III-The Connectional Lay Organization of the African Methodist Episcopal Church Constitution and By-Laws, Article XIII – Reserved and Implied Powers, Section 4, page 400, drawing the conclusion that the Lay Organization is an autonomous body at the local church level.

The local Lay Organization cannot be construed as a totally autonomous body. While the local Lay Organization is a self-governing body as referenced above, it must be incorporated into the local church structure. The pastor presides over all boards of stewards and trustees and all meetings for the transaction of spiritual and temporal business in the charge. See, *Discipline, 2012*, Part V-The Ministry-Section VI-The Itinerant Ministry, paragraph B. 8, page 92. More importantly, the Lay Organization, at the local church level, falls under Local Church Organization. Included in the organizations of the local church, are the Class/Class Leaders, Choir, Church School, Allen Christian Fellowship, Lay Organization, Women's Missionary Society/Young People's Division and Sons of Allen. See, *Discipline, 2012*, Part IV-Church Membership, Section II-Local Church Organization, subsection A-Constituent Boards, Workers, Organizations, Auxiliaries, paragraph 3e – Lay Organization, page 71. The Lay Organization president is a part of the Official Board and the Quarterly Conference. See, "Discipline, 2012", Part IV-Church Membership, Section II-Local Church Organization, subsection B-Official Board, paragraph 1 a – Composition, page 72 and Part VII – Conferences and Conventions, Section IV – Quarterly Conference, subsection A –

Composition, page 215. No section of the *Discipline* expressly prohibits the pastor of a local church from presiding over the election of officers for the local Lay Organization.

The Constitution and By-Laws for the Connectional Lay Organization establishes a nominating committee charged with responsibility of examining any and all information regarding nominees for elected offices being sought. Based on the qualified nominees, the committee prepares a slate of nominees, listing the qualifications of the nominees for the offices to be elected. See, *Discipline, 2012*, Part XII, Connectional Societies and Organizations, Section III-The Connectional Lay Organization of the African Methodist Episcopal Church Constitution and By-Laws, Article VI – Nomination and Election Procedures, Section 8 – Duties of the Committee, paragraph a and b, page 392.

Because the local Lay Organization possesses a procedure for obtaining nominees for the various offices, the mere presiding over the election by the pastor does not jeopardize the process. The process ensures its safeguards by and through the nominating committee, whose slate belongs to the Lay Organization, exclusively. Based on the protections afforded by the Connectional Lay Organization Constitution and By-Laws, as well as the guidance specified in Robert's Rules of Order, 11th Edition, no logical reason exists for denying a local pastor the opportunity to preside over the election. The Pastor and Lay Organization will work collaboratively to establish the date of the election of officers.

## CONCLUSION

The Judicial Council finds that its Decision in 2012-2016-23 held a pastor may not organize a new Lay Organization, where one already exists. The Judicial Council never held in any of its decisions that a pastor may not conduct/preside over the election of officers for one of its organizations at the local level, including the Lay Organization. The pastor may preside over the election of officers for the Chavis AME Lay Organization.

Opinion rendered this 4th day of November 2016.

Patricia M. Mayberry, President

Concurring: Judge Tania E. Wright, Judge Vernon R. Byrd, II, Judge Glenda F. Hodges, Judge TaShun Bowden-Lewis, Judge Derek Anderson, Judge Thomas Bess, Judge Warren Hope Dawson, and Judge Eduardo K. Curry.

**No. 2016-2020-02**

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

**RE: IN THE MATTER OF REV. T. LEVY MAHASHA**

Tania E. Wright, Vice-President, renders the opinion of the Judicial Council.

## HOLDING

The Judicial Council DENIES Petitioner's requested relief.

## PARTIES

Rev. T. Levy Mahasha. ("Petitioner" or "Rev. Mahasha") is an itinerant elder and former Presiding Elder of the Highveld District of the East Annual Conference of the Nineteenth Episcopal District of the African Methodist Episcopal Church. Bishop Paul J.M. Kawimbe ("Respondent" or "Bishop Kawimbe") is the Presiding Prelate for the Nineteenth Episcopal District. Rev. Dr. Jeffrey Cooper, "Dr. Cooper" or "General Secretary") is the Chief Information Officer/General Secretary of the African Methodist Episcopal Church.

## PROCEDURAL HISTORY

On May 24, 2016, ***In the Matter of Rev. T. Levy Mahasha***, No. 2012-2016-42, the Judicial Council *ruled* that Rev. Mahasha could not file charges with the General Secretary against Bishop Kawimbe until the completion of the conciliation process. The Judicial Council advised the parties to exhaust the conciliation process, prior to the implementation of any further judicial proceedings, as outlined by the *Doctrine and Discipline of the African Methodist Episcopal Church 2012*, hereinafter the "*Discipline.*"[1] However, the Judicial Council instructed the parties to the dispute to convene the Conciliation Committee no later than June 16, 2016.

We were advised that the Conciliation Committee did not convene by June 16, 2016. The Judicial Council received no requests for an extension of the aforementioned timeframe designated in its decision. The Judicial Council was unaware of any mutual agreement between the parties to extend the deadline for convening conciliation. Therefore, on June 20, 2016, ***In the Matter of Rev. T. Levy Mahasha***, No. 2012-2016-43,

[1] ***Also see***, ***In the Matter of Rev. James Mwenya,*** No. 2012-2016-18, dated November 20, 2014, where in the Judicial Council affirmed the General Secretary's decision not to empanel a Preliminary Inquiry Committee until after the completion of the conciliation process.

the Judicial Council issued an Order permitting Rev. Mahasha to proceed with judicial administration of this matter pursuant to the procedures outlined in the *Discipline.*

Rev. Mahasha now petitions the Judicial Council to (1) instruct and direct the General Secretary of the AME Church to include and present only evidence in the nature of sworn affidavits and not to deviate from the rules regarding the matter before the Preliminary Inquiry Committee. On the 18th of August 2016, Rev. Mahasha complained to the office of the General Secretary, alleging that Bishop Kawimbe tampered with the minutes of the 2014 Annual Conference. Rev. Mahasha is concerned that the Preliminary Inquiry Committee will be misled by the Respondent's actions and witnesses; and (2) compel and restrain Bishop Kawimbe from transferring him to a different conference and from other alleged provocative acts, pending the outcome of the judicial proceedings relative to charges filed by Rev. Mahasha against Bishop Kawimbe pursuant to the Minister's Bill of Rights.

## JURISDICTION

As it pertains to appeals, the jurisdiction of the Judicial Council is provided in the 2012 *Discipline*, Part XI. Judicial Administration, Section XX. The Judicial Council, Paragraph A. Jurisdiction, page 290 states:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

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## STATEMENT OF THE ISSUES

Whether the Judicial Council has jurisdiction and sufficient cause to intercede in a matter pending before the Preliminary Inquiry Committee/Impaneled Inquiry Committee to determine the authenticity of evidence or to direct the nature and types of evidence presented to the Committee by the General Secretary?

Whether the Judicial Council has *original* jurisdiction to enforce alleged violations of the Minister's Bill of Rights? Whether the Petitioner has a right to retain the *status quo* relative to his clerical appointment or assignment pending the outcome of related and/or nonrelated charges filed against the presiding prelate, pursuant to the Minister's Bill of Rights?

## STATEMENT OF FACTS

1. On or about January 15, 2015, Petitioner filed a formal complaint, with the General Secretary against Bishop Paul J.M. Kawimbe. Rev. Mahasha's complaint alleged that he had been subjected to "private humiliation and disgusting treatment" by Bishop Kawimbe in violation of the Ministers' Bill of Rights, Section VII, paragraph 7, page 101, of the *Discipline*. Therefore, Rev. Mahasha sought to file charges for maladministration against Bishop Kawimbe.

2. On July 30, 2015, Bishop Kawimbe sent a notice to Rev. Mahasha stating that effective October 11, 2015, he would be relieved of his Presiding Elder responsibilities. Additionally, the notice advised him that Bishop Kawimbe intended to transfer him from the East Annual Conference to another Annual Conference within the Nineteenth Episcopal District.

3. On October 7, 2015, Rev. Mahasha through his counsel sent a letter challenging the legal sufficiency of the July 30, 2015 notice. The letter accused Bishop Kawimbe of a multitude of offenses including: (1) Maladministration, (2) Disobedience to *Discipline* (3) Illegal Handling of local, conference, connectional and all other church funds, and (4) Sowing Dissention.

4. On October 11, 2015, Bishop Kawimbe announced that the appointment of the Highveld District of the East Annual Conference was in his hands. Rev. Mahasha received no appointment during this session of the Annual Conference.

5. On November 3, 2015, Petitioner received a call from one of the Bishop's administrative assistants requesting he meet with the Bishop at the Orangia Annual Conference the following day.

6. On November 9, 2015, Petitioner received a letter and a Certificate of Transfer, both dated November 3, 2015 transferring him to the Orangia Conference of the Nineteenth Episcopal District. Rev. Mahasha filed a petition with the Judicial Council, citing various concerns and requesting that he be permitted to file charges against Bishop Kawimbe without first utilizing the conciliation process. In that conciliation did not occur by June 16, 2016, as directed by the Order of the Judicial Council, Rev. Mahasha was permitted to file charges against Bishop Kawimbe, without benefit of the conciliation process. Those charges are to be heard by an Impaneled Preliminary Inquiry Committee.

7. Rev. Mahasha now files this 'urgent matter' requesting that the Judicial Council intercede in order to ensure that the General Secretary send only sworn affidavits to the Impaneled Preliminary Committee and does not otherwise "deviate from the rules." Rev. Mahasha also alleges that Bishop Kawimbe tampered with the 2014 minutes of an Annual Conference and challenges submission of that and other documents submitted by Bishop Kawimbe.

8. On October 17, 2016, Rev. Mahasha sent a letter asking the Judicial Council to restrain Bishop Kawimbe from transferring him to the Free State Annual Conference and from other "provocations" and further, asking the Judicial Council to compel Bishop Kawimbe to allow Rev. Mahasha to remain or be placed on the rolls of the East Annual Conference pending the resolution of the charges filed by Rev. Mahasha against Bishop Kawimbe.

## ANALYSIS AND DISCUSSION

The Judicial Council is the highest judicatory body of the African Methodist Episcopal Church. It is an appellant court elected by and amenable to the General Conference. *Discipline*, General Governmental Divisions and Authority, Section I. Divisions, E. Judicial Council, p.115. Save and except specific duties prescribed by the *Discipline*, pp. 292-295, the Judicial Council's jurisdiction is restricted to:

> …final appeals from any adverse decision by any bishop, board, commission, group, pastor or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

*Discipline*, p. 290.

Rev. Mahasha, alleging violations of the Minister's Bill of Rights, petitioned the Judicial Council requesting to file charges against Bishop Kawimbe. Section VII-Ministers Bill of Rights, paragraph 14, page 102, of the *Discipline* provides than an aggrieved pastor has the right to present charges through the judicial machinery and agencies of the church. However, the *Discipline*, Part XII, Judicial Administration, Section I. Conciliation Committee at 256 provides:

> … before any charge may be filed, introduced, or conveyed for consideration, all parties to any differences, dispute, claim or controversy shall submit the matters of contention to the Conciliation Committee.

Therefore, parties to disputes are required to exhaust the administrative and/or judiciary processes provided for in the *Discipline*, prior to seeking a ruling by the Judicial Council.

Accordingly, on May 24, 2016, ***In the Matter of Rev. T. Levy Mahasha***, No. 2012-2016-42, the Judicial Council *ruled* that Rev. Mahasha must exhaust the Conciliation process, prior to the implementation of any further judicial proceedings, as outlined by the *Discipline.* However, the Judicial Council instructed the parties to the dispute to convene the Conciliation Committee no later than June 16, 2016.

In the Decision of the Judicial Council, ***Mahasha*** 2014-2016-43, we ruled that if Conciliation did not take place before June 16, 2016, then Rev. Mahasha could pursue charges through the judicial machinery of the church. In the case of allegations by a minister against a bishop, those charges would go before the Preliminary Inquiry Committee. *Discipline*, Part XII, Judicial Administration, Section I, Paragraph F. at page 257. Subsequent to our June 20, 2016, Order of the Judicial Council, allowing him for good cause shown, to bypass the conciliation process, Rev. Mahasha filed an array of charges before the Preliminary Inquiry Committee.

Preliminary Inquiry Committee

The *Discipline*, Part XII, Judicial Administration, Section IV, Subsection B., Paragraphs 1-5, at pages 259-260, provides the procedure to be followed in a matter before the Preliminary Inquiry Committee:

> B. Procedure
>
> All charges shall be forwarded to the Secretary of the Church and the Secretary of the Council of Bishops… The convener, shall schedule a meeting and notify the accuser and the accused of the time and place thereof, for the purpose of drawing or selecting a panel of thirteen (13) members from the names of the Preliminary Inquiry Committee. The accused person may submit an answer or reply with accompanying affidavits and exhibits. This must be forwarded to the convener and the accuser(s) within twenty (20) days after receipt of the charges. The convener shall immediately give notice to each panel member upon his or her selection and shall forward to each, by registered or certified mail, return receipt requested, copies of the charges, a summary of the expected testimony, and all other submitted documents.

This Impaneled Committee shall receive all of the evidence, including, but not limited to, documents and sworn affidavits, along with the charges, and upon review, take the following action:

1. Each committee member shall independently decide or determine whether the submitted evidence provides probable cause to bring the accused to trial.

2. Notify the Secretary of the Church, within thirty (30) days of the committee's receipt of the evidence, whether there exists probable cause to bring the accused to trial. Said notice shall be forwarded to the Secretary of the Church by registered or certified mail, return receipt requested.

3. The Impaneled Committee of thirteen (13) shall be known as the Impaneled Inquiry Committee and shall have full power to compel the presentation of books, documents and all other evidence which it may deem relevant. Any member of the AME Church who fails to appear or to produce evidence as ordered by this Committee shall be subject to proceedings culminating in suspension from Church office and/or Church membership…

5. Action and decisions of the Preliminary Inquiry Committee through any Impaneled Inquiry Committee, following investigation and review shall either be:
a. A dismissal of the charges, or
b. A submission of the record of its findings to the Trial Committee …

The prescribed procedure states that the "Impaneled Committee ***shall receive all of the evidence***, ***including, but not limited to, documents and sworn affidavits***, along with the charges." (Emphasis added). In addition, the Impaneled Inquiry Committee has full power to compel submission of additional documents and all other evidence, which it may deem relevant. Each member of the Impaneled Inquiry Committee independently determines whether the submitted evidence provides probable cause to bring the accused to trial.

The Petitioner is essentially asking that the General Secretary and/or Judicial Council rule on the admissibility of the evidence to be presented to the Impaneled Inquiry Committee. Rev. Mahatma alleges that Bishop Kawimbe has submitted false misleading or otherwise improper documentation in response to the charges levied against him. The General Secretary serves to convene the proceedings, and is responsible for receiving the evidence, summarizing the expected testimony and distributing all documents and charges to a properly Impaneled Inquiry Committee. The General Secretary does not determine the weight of the evidence nor rule upon the evidence or its credibility. Petitioner does not allege that the General Secretary has any personal knowledge of fraudulent, misleading or misinformation. Further, there is no evidence that the General Secretary has "deviated from the rules," as is alleged. Under these circumstances, we will not direct the General Secretary as to the type of documents or evidence that he is permitted to receive or disseminate, in that the *Discipline* clearly permits a wide berth in the submission of evidence by all parties.

In an adversarial process it is the right and responsibility of the parties to refute evidence presented by an opposing party, by offering its own competent compelling evidence. Rev. Mahasha advised the Judicial Council that he had complained to the General Secretary regarding the responses by Bishop Kawimbe. There is nothing to suggest that Rev. Mahasha was precluded from providing additional evidence to support his allegations of fraud and/or submission of misleading information. Upon receipt of evidence that a party believes is false or misleading, it is incumbent upon the aggrieved party to submit additional competent and compelling evidence through affidavits or other documents to rebut the objectionable evidence presented.

The Judicial Council does not, at this juncture, have jurisdiction to intervene in the process as prescribed by the *Discipline*, and will not act as an advocate nor usurp the role and/ or authority of the General Secretary and the Impaneled Inquiry Committee in carrying out this judicial process.

Petitioner's Demand to Retain Status Quo Pending Judicial Proceedings

While the Judicial Council has jurisdiction to hear and determine any appeal from a bishop's decision on a question or ruling made in an annual conference on positive law which affects some substantial right of the appellant, it does not have jurisdiction to interfere with the right of the bishop to appoint, assign, transfer or remove pastors. Petitioner's alleges that Bishop Kawimbe violated his rights under the Minister's Bill of Rights. If so, and the offense is related to the current charges, it may be addressed before the Impaneled Inquiry Committee, as a part of the pending matter before that body, or it may be the subject of new charges.

Rev. Mahasha indicated that if he is not granted the immediate relief sought here that he will Petition the civil court for assistance. Rev. Mahasha is reminded that members of the AME Church are required by the *Discipline* to seek a final determination of any dispute arising between the members, officials and/or any components of the Church by exhausting all legal remedies provided in *Discipline* before filing civil proceedings. There has been no final ruling relative to Rev. Mahasha's charges against Bishop Kawimbe and the judiciary process set forth in the *Discipline* of the AME Church has not been exhausted.

## CONCLUSION

The Judicial Council has no jurisdiction to intercede at this phase of the judicial proceedings and therefore, DENIES Petitioner's requested relief.

Opinion rendered this 4th day of November 2016.

Tania E. Wright, Judge

Concurring: Judge Patricia M. Mayberry, Judge Vernon R. Byrd, Jr., Judge Glenda F. Hodges, Judge TaShun Y. Bowden-Lewis, Judge Derek H. Anderson, Judge Thomas L. Bess, Judge Warren H. Dawson and Judge Eduardo K. Curry.

2016-2020-03

BEFORE THE JUDICIAL COUNCIL
OF THE
AFRICAN METHODIST EPISCOPAL CHURCH

RE: IN THE MATTER OF JUDGE PRESIDENT M.M. LEEUW

Judge Eduardo K. Curry, Member, delivers the opinion of the Judicial Council

## HOLDING

The Judicial Council DENIES Petitioner's request to reverse the decision of the General Secretary (CIO) Cooper not to empanel a preliminary inquiry committee or take any action until after the conciliation process has been fully completed.

## PARTIES

The Layperson, M.M. Leeuw (Petitioner Leeuw), Bishop Paul J.M. Kawimbe (Respondent Kawimbe) President of Council of Bishops, (Respondent President) General Secretary Chief Information Officer (CIO) of the African Methodist Episcopal, Church Dr. Jeffery Cooper (Respondent Cooper).

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XI, section XX, Paragraph A. the Doctrine and Discipline of the African Methodist Episcopal Church, 2012 (hereafter *Discipline*) page 290. The paragraph restricts its jurisdiction of appeals to all final adverse decisions by any "bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the rights, members, church or body of the AME Church."

## STATEMENT OF THE ISSUES

1. Whether a Petitioner may proceed with the filing of charges with the Preliminary Inquiry Committee, when a conciliation is not held within twenty (20) days of Petitioner's request?

2. Whether Petitioner is entitled to an appointment of a disinterested bishop to Chair a conciliation, when allegations are made against the bishop in the Episcopal District in which the bishop presides?

## STATEMENT OF FACTS

Petitioner Leeuw sought to bring charges against Respondent Bishop Kawimbe and requested a conciliation as provided by the *Discipline*, part XI, Judicial Administration, Section I, Conciliation Committee, Subsection D, Page 257. The provision explicitly establishes the setting of the time for the committee as being within twenty (20) days after the request is filed. Additionally, Petitioner Leeuw asked that Respondent Bishop Kawimbe request the President of the Council of Bishops appoint a disinterested Bishop to serve as a chairperson of the Conciliation Committee as provided by the *Discipline*, Part XI, Judicial Administration, Section I, Conciliation Committee, Subsection A(5), Page 257.

Neither the appointment of a disinterested Bishop nor a time for the first meeting of the Conciliation Committee occurred within twenty (20) days after the request was filed. Petitioner Leeuw requested that the CIO of the African Methodist Episcopal Church, Respondent Dr. Jeffery Cooper, allow her to file charges with a Preliminary Inquiry Committee. Respondent Cooper responded that he was unable to begin the process of a preliminary inquiry because the convening Bishop for the conciliation process must inform the Respondent in writing that the conciliation process has failed.

Petitioner Leeuw argues that, since both the time had elapsed to appoint a disinterested Bishop to chair the Preliminary Inquiry Committee and to set the first meeting, she is not obligated to participate in conciliation and should be entitled to proceed with charges to the Preliminary Inquiry Committee, in the absence of conciliation.

## ANALYSIS AND DISCUSSION

The description provided, at Part XI, Section I, Conciliation Committee, that it is "the clear intent and purpose of the African Methodist Episcopal Church to encourage, create and stimulate peace and good will among its members.." Thus, the Discipline provides that before any charges may be filed, all parties are required to submit the matters to the Conciliation Committee. As this Judicial Council has previously ruled, parties must participate in the Conciliation process before charges may be filed. See, *In the matter of Rev. James Mwenya,* No. 2012-2016, where the Petitioners sought to bypass the Conciliation Committee because the first meeting had not been scheduled within twenty (20) days as provided by the *Discipline*. The Judicial Council has also previously ruled on the issue of time lapse as it relates to conciliations, *In the matter of Daisy Brown*, 2008-2012-01, dated February 6, 2009, wherein we directed that a conciliation be scheduled immediately.

As in *Mwenga*, while it is unfortunate that the process did not occur in a timely manner, there is no provisions in the *Discipline* that allows Petitioner to refuse to participate because of time delays. Furthermore, the *Discipline* is clear in Part XI, Judicial Administration, Section I, Subsection A(5), Page 257, that "when the Presiding Bishop of the Episcopal District wherein the dispute arises is also a party to the same, that bishop shall (emphasis added) request the President of the Council of Bishops to appoint a disinterested bishop to serve as a chairperson of the Conciliation Committee." The facts at hand are clear. Petitioner Leeuw has filed a dispute against t Respondent Kawimbe. Respondent Kawimbe is the Presiding Prelate of the Nineteenth (19th) Episcopal

District in which this dispute arises. The directive of the positive law makes it mandatory that the Council of Bishops appoint a disinterested bishop to chair the Conciliation Committee.

Accordingly, a disinterested bishop must be appointed by the Council of Bishops to chair the Conciliation Committee. Additionally, both parties must attempt to engage in Conciliation. The appointed disinterested chair of the Committee shall report to the CIO in writing, whether the Conciliation was a success or failure pursuant to the process set forth in the *Discipline*. This process must occur within thirty (30) days of the receipt of this Order.

## CONCLUSION

The Judicial Council DENIES Petitioner's request to reverse Respondent Cooper's decision not to empanel a Preliminary Inquiry Committee until after the conciliation process has been completed and reported in writing.

## ORDER

Petitioner Leeuw and Respondent Kawimbe are required to participate in the conciliation process. Additionally, Respondent Kawimbe is hereby directed to request, in writing, that the Council of Bishops appointment a disinterested bishop to chair and organize a conciliation committee to hear this matter pursuant to the *Discipline,* before any further action can be taken to proceed with charges. The organization of the Conciliation Committee and the request for an appointment of a disinterested bishop must be done within thirty (30) days of the date of this Order.

Opinion rendered this 15th day of November, 2016

Eduardo K. Curry,
Member

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Vernon R. Byrd, Jr., Judge Glenda F. Hodges, Judge Thomas Bess, Judge TaShun Bowden-Lewis, Judge Derek Anderson, and Judge Warren Hope Dawson.

**No. 2016-2020-04**

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

**RE: IN THE MATTER OF Rev. James Mwenya**

Derek Anderson, Member, delivers the opinion of the Judicial Council.

## HOLDING

Petitioner, by filing civil proceedings against the AME Church and Bishop Wilfred J. Messiah, before the High Court in Zambia, forfeited all rights of appeal to the Judicial Council relative to the matters to which Petitioner *herein* complains.

## PARTIES

Rev. James Mwenya ("Petitioner" or "Rev. Mwenya") is an Itinerant Elder in the South East Zambia Conference of the Seventeenth Episcopal District of the African Methodist Episcopal Church ("AME Church"). Bishop Wilfred J. Messiah ("Respondent" or "Bishop Messiah") is the Presiding Prelate of the Seventeenth Episcopal District of the A.M.E. Church.

## JURISDICTION

Jurisdiction in this matter is pursuant to Part XI, Judicial Administration, Section XX, Paragraph A, Page 290 of *The Doctrine and Discipline of the African Methodist Episcopal Church (2012)* ("*Discipline*"), to-wit:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

Whether Petitioner has the right to an appeal before the Judicial Council of the AME Church relative to the legality of the Board of Christian Education (BOCE) Budgets and Founder's Day Assessments imposed in the Seventeenth Episcopal District of the AME Church?

## STATEMENT OF FACTS

1. On April 24, 2016, Petitioner filed an appeal to the Judicial Council alleging that on March 15, 2016, Bishop Wilfred Messiah, Respondent, issued Memorandums instructing churches to pay: (a) Board of Christian Education (BOCE) Budgets and (b) Founder's Day Assessment. Petitioner complains that the demand for payment of these levies violates the positive law of the church. Petitioner referenced allegations of illegal assessments dating back to the 2013-2014 conference years. Petitioner alleges that the two levies are unlawful and that they have been the subject of the Judicial Process of the church in matters previously before the Bishop's Council and Judicial Council. [1]

2. On August 11, 2015, just prior to the start of the 2015 South East Zambia Annual Conference, Rev. Mwenya petitioned the High Court of Zambia for an interim injunction against the AME Church and Reverend Wilfred Jacobus Messiah (As Chairmen of the Trustees of the AME Church). The Petition and Statement of Claim before the High Court of Zambia requested that Bishop Messiah and the AME Church by themselves, agents, servants or otherwise be enjoined from proceeding with deliberating and deciding the issues relating to Rev. Mwenya's grievances. Petitioner alleged that Bishop Messiah has committed offenses which include: (a) Disobedience to the *Discipline*, (b) Maladministration and (c) Levying unauthorized assessments and the levying and collecting of assessments for personal gain. The AME Church, through its representatives, was required to appear before the High Court. The final hearing on this matter was April 25, 2016.

3. Respondent replied stating that the Memorandums of March 15, 2016 were reminders regarding assessments, which had been previously approved and alleged the Petitioner was not in good and regular standing. On November 4, 2016, the Judicial Council sent a request to Bishop Messiah for further response and documentation. On November 15, 2016, the Judicial Council received a number of documents from Respondent, which did not fully comply with the Judicial Council's request for information, in that he did not provide the relevant Episcopal District Budget nor minutes of the Annual Conferences, in which the Respondent claimed the assessments were approved nor did he provide documentation to support his claim that Petitioner was *not* in good and regular standing. A second request was

[1] On November 20, 2014, the Judicial Council issued its opinion in No. 2012-2016-18, denying the Petitioner's request to reverse the General Secretary's decision not to empanel a Preliminary Inquiry Committee until after the Conciliation process had been fully completed, relative to Petitioner's allegation against Bishop Wilfred J. Messiah. Petitioner was directed to participate in the scheduled Conciliation process before proceeding with any charges. Subsequently, Petitioner requested that the Judicial Council conduct a comprehensive review and reverse the decision of the Preliminary Inquiry Committee in the above referenced matter. In Decision No. 2012-2016-27, issued September 9, 2015, the Judicial Council denied the requested relief for lack of evidence in support of Petitioner's claims

made for documents on November 16, 2016, to which the Respondent agreed to fully comply if given additional time. To date, no further documentation has been received from Respondent.

## ANALYSIS AND DISCUSSION

The Judicial Council is the highest adjudicatory body of the African Methodist Episcopal Church. It is an appellant court elected by and amenable to the General Conference. *Discipline*, General Governmental Divisions and Authority, Section I. Divisions, E. Judicial Council, p.115. With the exception of the specific duties prescribed by the *Discipline*, pp. 290-295, the Judicial Council's jurisdiction is restricted to:

> …all final appeals from any adverse decision by any bishop, board, commission, group, pastor or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

*Id.* at 290. Parties to disputes are required to first exhaust the administrative and/or judiciary processes provided for in the *Discipline*, prior to seeking a ruling by the Judicial Council.

Furthermore, in accordance with the *Discipline* at p.292:

> Members of the AME Church, are required to seek a final determination of any disputes arising between said members and the Church and/or any department thereof by exhausting all legal remedies provided in *The Doctrine and Discipline of the African Methodist Episcopal Church* before civil proceedings are engaged in by the said member in his or her own behalf or anyone similarly situated.

If an appellant commences a civil suit against the church before an appeal is finally decided, the appellant forfeits all rights of appeal granted in the *Discipline*, *Id.* at 267.

The Judicial Council has examined the Petition for Injunctive Relief, as well as the Statement of Claims, which includes, amongst numerous other allegations, that Bishop Messiah imposed unlawful levies. The Judicial Council finds that the Petitioner, in filing civil proceedings, in the nature of an Interim Injunction, before the High Court in Zambia, forfeited all rights of appeal to the Judicial Council relative to the pending matter.

The filing of the civil suit by Petitioner precludes a finding relative to the underlying issue of whether the Board of Christian Education (BOCE) Budgets and Founder's Day Assessments were lawful and had been voted on by the Annual Conferences and properly included in the Budget of the 17th Episcopal District. Nevertheless, we note

that Respondent failed to fully comply with request for documentation relative to the minutes of the Annual Conferences and Budget of the 17th Episcopal District, and as such a negative inference could be drawn from failure to do so. This decision in no way should be read to support or perpetuate any unlawful practices.

**CONCLUSION**

Petitioner has forfeited the right to appeal; therefore, the appeal of the matters complained of in the instant petition are hereby DISMISSED.

Opinion rendered this 20th day of April 2017.

Derek H. Anderson
Member

Concurring: Patricia M. Mayberry, Tania E. Wright, Vernon R. Byrd, Glenda F. Hodges, Thomas L. Bess, TaShun Bowden-Lewis, Warren H. Dawson and Eduardo K. Curry

**No. 2016-2020-05**

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

**RE: IN THE MATTER OF STEPHANIE GANAWAY-PASLY, JAMES PASLY AND FRED MOORE**

TaShun Bowden-Lewis, Esq., Member, delivers the opinion on behalf of the Judicial Council.

## HOLDING

The Judicial Council DENIES the Petitioner's request for a reversal or modification of Bishop Green's decision.

## PARTIES

Mrs. Stephanie Ganaway-Pasly, Mr. James Pasly, Mr. Fred Moore, Mr. James Gilliard, Ms. Priscilla Bell and Ms. Teresa Cooper-Womble ("Petitioners") are members of Chavis African Methodist Episcopal Church ("Chavis A.M.E.") in the Seventh Episcopal District of the African Methodist Episcopal Church. Bishop Samuel Green, Sr. ("Respondent") is the Presiding Prelate in the Seventh Episcopal District of the African Methodist Episcopal Church.

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XI, Section XX, Paragraph A, of *The Doctrine and Discipline of the African Methodist Episcopal Church 2012*, ("*Discipline*"), page 290 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church

## STATEMENT OF THE ISSUE

1. Whether the April 15, 2017 trial scheduled to decide the charges against the Petitioners should proceed as scheduled?

## STATEMENT OF FACTS

Based on the documents submitted by the Petitioners, we find that the material facts are as follows:

1. The Petitioners were officers in the Chavis A.M.E. Lay Organization.

2. On February 4, 2016, the Petitioners filed charges against 32 parishioners in Chavis A.M.E.

3. On January 11, 2017, Mrs. Debra Brown filed charges against the Petitioners.

4. On February 13, 2017, Pastor Eduardo Curry informed the Petitioners that the Steward Board dismissed the charges against the 32 parishioners.

5. On March 1, 2017, Pastor Eduardo Curry informed the Petitioners that the Steward Board found the charges Mrs. Debra Brown filed were reasonable, they were no longer eligible to hold any office in the Chavis A.M.E. Lay Organization and their trial was set for April 15, 2017 at 10:00 a.m.

6. On March 6, 2017, the Petitioners wrote to the Respondent requesting that he prevent Pastor Eduardo Curry and Mrs. Debra Brown from moving forward with the April 15, 2017 trial, pending their request for investigation and review of dismissal of charges previously brought against the 32 parishioners.

7. On March 10, 2017, the Respondent informed the Petitioners that the Steward Board found "there are no reasonable grounds to support the allegations" against the 32 parishioners and they also found that "there are reasonable grounds to support the allegations" made by Mrs. Debra Brown. The Respondent also informed the Petitioners of the appeal process outlined in the *Discipline* once the trial is completed.

## ANALYSIS AND DISCUSSION

Part XI, Section XI, Paragraphs A and B, of the *Discipline*, page 266, explicitly outline the procedures for the trial of lay members in the African Methodist Episcopal Church.

The Petitioners have failed to show that the trial scheduled to begin on April 15, 2017 in anyway contradicts the procedures set forth in the *Discipline*. The Petitioners have provided no compelling evidence or sound reason to delay the scheduled trial. Further, the Petitioners may raise any objections before the trial court and if found guilty, may raise the matter on appeal.

Part XI, Section VI, Paragraph D, of the *Discipline*, page 262, states objections to the jurisdiction of the tribunal and objections to other matters shall be made at trial. Part XI, Section XII, Paragraphs A(1) and G, of the *Discipline*, pages 267-268, provides the procedures for an aggrieved layperson to proceed with the appeal of a trial decision and any alleged irregularities in the process. The Quarterly Conference shall hear the appeal. The case shall be settled by the vote of the majority of the members of the Quarterly Conference.

We have no basis on which to overrule the Respondent's decision to uphold the dismissal of the Petitioner's 32 charges and to move forward with the trial relevant to the charges brought forth by Mrs. Debra Brown.

The trial scheduled for April 15, 2017 may proceed as scheduled.

## CONCLUSION

The Judicial Council holds that the Petitioner's request for a reversal or modification of Bishop Green's decision is denied.

Opinion rendered this 8th day of April 2017.

TaShun Bowden-Lewis, Esq.
Member

Concurring: Patricia Mayberry, Tania Wright, Vernon Byrd, Glenda Hodges, Thomas Bess, Derek Anderson and Warren Dawson.

Eduardo Curry did not participate in this decision.

**No. 2016-2020-06**

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

**RE: IN THE MATTER OF REV. JAMES MWENYA**

Patricia M. Mayberry, President, delivers the opinion on behalf of the Judicial Council.

## HOLDING

The Judicial Committee and the South East Zambia Annual Conference failed to afford Petitioner due process rights, prior to suspending him from all official standing in the Church. The suspension is reversed.

## PARTIES

Reverend James Mwenya ("Petitioner or Rev. Mwenya") served as an Itinerant Elder in the South East Zambia Annual Conference (SEZAC) in Mongu, Zambia, Seventeenth Episcopal District of the African Methodist Episcopal Church ("A.M.E. Church"). Bishop Wilfred Jacobus Messiah ("Respondent or Bishop Messiah") is the Presiding Prelate in the Seventeenth Episcopal District of the A.M.E. Church. The South East Zambia Annual Conference (SEZAC) issued the Letter of Suspension.

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XI, Section XX, Paragraph A, of *The Doctrine and Discipline of the African Methodist Episcopal Church 2012*, ("*Discipline*"), page 290 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church

## STATEMENT OF THE ISSUE

Whether Reverend Mwenya received due process, pursuant to the *Discipline*, when he was suspended on September 12, 2016 from the African Methodist Episcopal Church for one year by in the South East Zambia Annual Conference, Seventeenth Episcopal District?

## STATEMENT OF FACTS

1. On or about February 20, 2015, Rev. Mwenya submitted charges against Bishop Messiah to Dr. Jeffrey Cooper, Chief Information Officer (CIO) for the African Methodist Episcopal Church.

2. On April 29, 2015, Dr. Cooper invoked the process to select thirteen members of the Preliminary Inquiry Committee to serve as the panel for Rev. Mwenya's charges against Bishop Messiah.

3. On June 3, 2015, Dr. Cooper opened the eleven sealed envelopes received from the Preliminary Inquiry Committee in the presence of two witnesses. On the same date, he notified Rev. Mwenya and Bishop Messiah, via electronic mail that a majority of the Committee voted to dismiss the charges.

4. On June 22, 2015, Rev. Mwenya appealed the decision of the Preliminary Inquiry Committee to the Judicial Council.

5. On August 11, 2015, just prior to the start of the 2015 South East Zambia Annual Conference, Rev. Mwenya petitioned the High Court of Zambia for an interim injunction against the AME Church and Reverend Wilfred Jacobus Messiah (As Chairmen of the Trustees of the AME Church). The Petition and Statement of Claim before the High Court of Zambia requested that Bishop Messiah and the AME Church by themselves, agents, servants or otherwise be enjoined from proceeding with deliberating and deciding the issues relating to Rev. Mwenya's grievances. Petitioner alleged that Bishop Messiah has committed offenses which include: (a) Disobedience to the *Discipline*, (b) Maladministration and (c) Levying unauthorized assessments and the levying and collecting of assessments for personal gain. The AME Church, through its representatives, was required to appear before the High Court. The final hearing on this matter was April 25, 2016.

6. On September 9, 2015, the Judicial Council denied Petitioner's request for verification and copies of the responses from the Preliminary Inquiry Committee in Decision No. 2012-2016-27.

7. On September 12, 2016, Petitioner received correspondence from Rev. Frederick Chilombo Chama, Secretary, South East Zambia Annual Conference notifying him that on September 10, 2016, the Judicial Committee of the Annual Conference found grounds to establish a prima facie case against Rev. Mwenya for disobedience to the *Discipline*, 2012, Part XI, Section XII, Paragraph B, subsections 3 and 6, page 267. The letter informed Rev. Mwenya that he had been suspended from all official standing in the AME Church for one year.

8. On or about January 2017, the Judicial Council received an appeal from Rev. Mwenya requesting reversal of the aforementioned suspension.

9. On January 31, 2017, the Secretary of the Judicial Council notified Bishop Messiah (via email) of the appeal filed by Rev. Mwenya regarding the denial of due process relative to his suspension. Bishop Messiah was requested to submit a response by February 15, 2017. As of the date of this decision, the Judicial Council received neither a response nor any documents from Bishop Messiah pertaining to Rev. Mwenya's suspension.

## ANALYSIS AND DISCUSSION

Part XI, Section IX, Paragraph B, of the *Discipline*, pages 263-265, explicitly outlines the procedures for the trial of Itinerant Preachers in the African Methodist Episcopal Church. Subsection 3 of the aforementioned provision indicates the role of the Judicial Committee of the Annual Conference. The Judicial Committee serves as an investigative body for the purpose of determining whether a trial is justified based on the allegations presented. *Discipline* at page 263. However, with its investigative duties the Judicial Committee must afford the "accused" the right to make statements and interrogate witnesses. *Id.* at 263. From the documents before the Judicial Council, it appears the Committee failed to afford Rev. Mwenya these rights.

After a determination that a trial is justified, the Judicial Committee must notify the presiding elder, in whose district the offense occurred, to establish the time and place of trial, which shall not be more than thirty (30) days from the date of such order. *Id.* Clearly, no trial occurred between September 10, 2017 (the date when the Judicial Committee determined a prima facie case existed) and September 12, 2016 (the issuance of the suspension letter).

More importantly, nothing in the section above confers upon the Judicial Committee the power to try the accused and impose punishment upon conviction. The power to convict and impose suspension rests solely with the Trial Committee, not the Judicial Committee of the Annual Conference. *See*, Part XI, Section IX, Paragraph B, subsection 9, of the *Discipline*, page 265.

Finally, the Secretary of the Annual Conference improperly concluded that Rev. Mwenya forfeited his appellate rights to challenge the suspension based on his filing of the civil action in the High Court of Zambia. The previous filing of a civil action cannot serve to bar Rev. Mwenya from appealing every action against him in the AME Church. Therefore, we find that Rev. Mwenya may appeal the suspension imposed by the South East Zambia Annual Conference. The attempt to preclude him from appealing his suspension violates the concepts of fundamental fairness and due process.

## CONCLUSION

Based on the aforementioned analysis, the Judicial Council holds that the Petitioner's request for a reversal of his suspension from all official standing in the AME Church is GRANTED. Petitioner did not receive due process, prior to being suspended, pursuant to the *Discipline*. Petitioner is restored as an Itinerant Elder in good and regular standing in the South East Zambia Annual Conference and the AME Church.

Opinion rendered this 20th day of April 2017.

Patricia M. Mayberry
President

Concurring: Tania E. Wright, Vernon R. Byrd, Glenda F. Hodges, Thomas L. Bess, TaShun Y. Bowden-Lewis, Warren H. Dawson, Derek H. Anderson and Eduardo K. Curry

**No. 2016-2020-07**

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

**Re: IN THE MATTER OF GEORGE MOORE**

Patricia M. Mayberry, President delivers the opinion of the Judicial Council.

**HOLDING:** Judicial Council holds Petitioner's suspension commences from the date of Bishop Preston Williams' letter, dated December 11, 2015 notifying him of a 24-month suspension. The period concludes 24 months thereafter. Further, Petitioner must satisfy all terms specified by the Trial Committee, prior to being considered for reinstatement.

## PARTIES

Petitioner is George A. Moore, Jr. (hereinafter "Petitioner") an inactive member of the clergy currently under suspension. Petitioner requests clarification as to Bishop Preston Williams' letter, dated December 11, 2015, imposing a 24-month suspension from his ministerial office based on the findings and recommendations of the Trial Committee that he violated the Sexual Misconduct Policy of *The Doctrine and Discipline of the African Methodist Episcopal Church 2012*, (hereinafter "*Discipline*").

Respondent is Bishop Reginald T. Jackson, the current Presiding Prelate of the Sixth Episcopal District (hereinafter called "Respondent or Bishop Jackson").

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XI, Section XX, Paragraph A, of the *Discipline*, page 290 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF ISSUE

Whether Bishop Jackson's letter, dated April 5, 2017, correctly identified the term of Petitioner's suspension based on the notice submitted by the former Presiding Prelate of the Sixth Episcopal District, Bishop Preston Warren Williams?

## STATEMENT OF FACTS

1. On March 13, 2015, Bishop Preston Williams, the Presiding Prelate of the Sixth Episcopal District, at the time in question, notified Petitioner of his temporary suspension from the pastorate at Saint Phillip Monumental AME Church in Savannah, Georgia, with compensation, based on an investigation conducted by the Judicial Committee of the Georgia Annual Conference of the Sixth Episcopal District for sexual misconduct. Bishop Williams instituted the temporary suspension, until the Judicial Committee determined whether sufficient evidence existed to refer the matter to the Trial Committee.

2. On or about December 11, 2015, Bishop Williams issued a decision suspending Petitioner for twenty-four (24) months from active ministry, pursuant to a finding by the Trial Committee that he violated the Sexual Misconduct Policy of the *Discipline*.

3. In July of 2016, Bishop Williams retired as an active bishop; and Bishop Jackson was assigned to the Sixth Episcopal District. On an unspecified date thereafter, Petitioner made an inquiry to Bishop Jackson, relative to his suspension from active ministry.

4. On April 5, 2017, Bishop Jackson informed Petitioner, by letter that his suspension commenced in 2016 and would last for 24 months. In the letter, Bishop Jackson stated the suspension would end in the fall of 2018, provided Petitioner obtain mental health counseling from a professional approved by the Trial Committee.

5. On or about June 1, 2017, Petitioner filed a petition requesting the Judicial Council clarify Bishop Williams' letter, dated December 11, 2015 as to when the 24-month suspension commenced.

6. In his response to Petitioner's appeal, Respondent conceded that the suspension commenced in December 2015, after the decision of the Trial Committee. Further, Bishop Jackson alleged Petitioner never satisfied the requirement that he seek counseling from a mental health professional approved by the Trial Committee.

## ANALYSIS AND DISCUSSION

The Judicial Council accepts jurisdiction of this matter as a final appeal of an adverse decision from a bishop, pursuant to of the *Discipline*, Part XI, Section XX, Paragraph A, page 290. In his April 5, 2017 letter, Bishop Jackson clearly informed Petitioner as to the timeframe he believed pertained to the suspension. The letter incorrectly stated that the suspension commenced in 2016 and would conclude in the fall of 2018. In no uncertain terms, the Judicial Council finds Petitioner's suspension runs from December 11, 2015 and concludes 24 months thereafter, based on the December 11, 2015 letter from Bishop Williams. Pursuant to the *Discipline*, Part XI, Section XIV, D. pp. 281-282, Bishop Williams properly issued the 24-month suspension; and following the period of suspension, Petitioner will be considered for reinstatement, after satisfying all terms specified by the Trial Committee.

## CONCLUSION

Judicial Council holds Petitioner's suspension commences from the date of Bishop Preston Williams' December 11, 2015 letter, notifying him of a suspension period to conclude 24 months thereafter. Further, Petitioner must satisfy all terms specified by the Trial Committee, prior to being considered for reinstatement.

Opinion rendered this 31st day of July, 2017.

Patricia M. Mayberry, President

Concurring: Judge Tania E. Wright, Judge Vernon R. Byrd, Jr., Judge Glenda F. Hodges, Judge TaShun Y. Bowden-Lewis, Judge Thomas L. Bess, Judge Derek H. Anderson, Judge Warren H. Dawson, and Judge Eduardo K. Curry.

**No. 2016-2020-08**

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

**RE: IN THE MATTER OF FELDON BONNER, II**

Judge Thomas L. Bess, Member, renders the opinion on behalf of the Judicial Council.

## HOLDING

.

The Judicial Council DENIES Petitioner's request for relief.

The appeal is untimely.

## PARTIES

Feldon Bonner, II ("Petitioner or Mr. Bonner") is a former member of Greater Ward Chapel AME Church, Houston, Texas in the Tenth Episcopal District. Rev. David I. Madison ("Respondent or Pastor Madison") is the Pastor of Greater Ward Chapel AME Church and Rev. Cuma Okoli ("Presiding Elder Okoli") is the Presiding Elder of the North Houston District of the AME 10th Episcopal District.

## JURISDICTION

As it pertains to appeals, jurisdiction of the Judicial Council is provided in the *Doctrine and Discipline of the African Methodist Episcopal Church, 2012* ("*Discipline*"), Part XI, Judicial Administration; Section XX, The Judicial Council, Paragraph A, Jurisdiction, on page 290 which states:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make decision which affects the right of any member or Church body of the AME Church.

## PROCEDURAL HISTORY

On May 26, 2017, Petitioner filed an appeal to the Judicial Council, alleging violation of due process and requesting that the Judicial Council reverse the decision of the Quarterly Conference, which on August 22, 2016, upheld the June 29, 2016 finding of the trial court that Mr. Bonner committed multiple violations of the Sexual Misconduct Policy. Mr. Bonner filed a Notice of Appeal on January 10, 2017 and filed a formal appeal to the Annual Conference through Elder Okoli on February 7, 2017. Mr. Bonner's request for an appeal was denied by letter of February 24, 2017, from Presiding Elder Okoli. The letter stated that based on his status as a lay member, he was not entitled to an appeal beyond the Quarterly Conference.

## STATEMENT OF THE ISSUE

Whether Petitioner, as a licentiate, is a lay member of the AME Church for the purposes of the *Discipline* and subject to the process as prescribed for lay members by the Sexual Misconduct Policy?

Whether Petitioner received due process for alleged violation of the Sexual Misconduct Policy as outlined in the *Discipline?*

## STATEMENT OF FACTS

1. On March 12, 2013, Mr. Bonner was caught by Pastor Madison with a female member of the church, in a sexual act in the fellowship hall. The incident was not reported.

2. In June of 2016, Pastor Madison received a letter from Reginald Smith, a minister, requesting an investigation regarding complaints about Mr. Bonner making sexual remarks to a visitor at the church a year ago and sending sexual oriented messages to two named female church members within the past two months. He further complained that while speaking with Mr. Bonner, he saw a nude picture of a female church member visible on Mr. Bonner's phone.

3. After conferring with stewards of the church, Rev. Madison conducted an investigation of the allegations and received the following information:

    - On June 7, 2016, Pastor Madison received a letter from a member regarding inappropriate sexual touching by Mr. Bonner in the fellowship hall, when she was 16 years of age; and

- Email and social media messages, allegedly inappropriate, sent by Mr. Bonner to a 16-year-old member, who stated that Mr. Bonner "trolled" her media accounts.

Upon a directive from Bishop Vashti McKenzie and consistent with the Sexual Misconduct Policy, the matters concerning the minors were reported to Harris County Child Protective Services.

- On June 8, 2016, Rev. Madison received letters from the two persons named in Mr. Smith's letter. One female complainant alleged unwelcomed sexual solicitation via social media and text messages from Mr. Bonner.
- A second female complainant, named by Mr. Smith, stated that Mr. Bonner sent explicit sexually suggestive messages to her via Facebook and text over the course of two years.

The General Counsel of the AME Church was notified of the complaints.

4. On June 9, 2016, Pastor Madison wrote Petitioner informing him that he had concluded his investigation of sexual misconduct allegations against him. Mr. Bonner was given a written complaint, but it did not include the names of the accusers. Mr. Bonner was given notice of a June 27, 2016 trial date to which he raised no objections. Mr. Bonner was temporarily suspended from his duties as licentiate at the church pending the outcome of a trial.

5. On June 27, 2016, the Trial Committee composed of Stewards Delores Baker and Chiquita Mott and the local Lay President Robert Flake (standing in for Steward Imani Nash, in that she was a witness in the matter) conducted a trial over which Pastor Madison presided. Also in attendance was Mr. Bonner, Warren FitzGerald (Mr. Bonner's legal counsel) Presiding Elder Okoli and Marshall Horton, (the church's pro bono legal advisor). Charges were presented to Mr. Bonner, but the name of the accusers nor any evidence by which he could determine their identities was provided to Mr. Bonner, because the accusers had stated that they feared intimidation or reprisal by Mr. Bonner. Mr. Bonner and counsel objected to the proceedings.

6. After consideration of Mr. Bonner's objections and consultation with Bishop McKenzie, it was decided that, in the interest of judicial fairness, the Trial Committee would proceed only with witnesses, who were willing to appear and that any decision by the Trial Committee would be based only on evidence presented at trial. The trial reconvened on June 29, 2016. Mr. Bonner was given an opportunity to examine the witnesses.

   (A) The Trial Committee concluded:

   - Mr. Bonner continued his sexual misconduct after being warned in 2013 about misuse of the fellowship hall to arrange a sexual liaison with a female church member.
   - Mr. Bonner sent unsolicited sexually suggestive messages to a church member.
   - Mr. Bonner showed a picture of a nude church member to a male minister of the church.

   (B) Trial Committee unanimously elected to:
   - Expel Mr. Bonner from Greater Ward AME Church.
   - Request that Bishop McKenzie prohibit Bonner from participation in other AME Churches under her jurisdiction.
   - Request that Bonner's license to preach or perform duties at Greater Ward AME Church be permanently revoked.

7. On July 11, 2016, Mr. Bonner appealed the decision of the Trial Committee. Mr. Bonner was permitted to present his appeal to the Quarterly Conference on August 22, 2016. On August 23, 2016, Mr. Bonner was notified that after review of the administrative record of the Trial Committee and consideration of the appellant arguments raised by Bonner, the Quarterly Conference confirmed the decision of the Trial Committee.

8. On January 10, 2017, Mr. Bonner attempted to appeal the decision of the Quarterly Conference to the Annual Conference, but he was advised by Presiding Elder Okoli that in accordance with the *Discipline,* he was a lay member and not clergy, and therefore, not entitled to an appeal before the Annual Conference.

9. On February 7, 2017, Petitioner filed an appeal to the Judicial Council requesting that the Judicial Council reverse the decision of the Quarterly Conference, which upheld the June 29, 2016 finding of the Trial Committee that Mr. Bonner committed multiple violations of the Sexual Misconduct Policy.

## ANALYSIS AND DISCUSSION

### *Due Process*

Mr. Bonner complains that he was denied due process and the right to appeal beyond the Quarterly Conference of Greater Ward AME Church. Due process, at a minimum, requires that the accused has notice and an opportunity to be heard.

Section XIV of the *Discipline*, Paragraph A, page 269-270, defines sexual misconduct by clergy, staff, appointed or elected officers and volunteers within the African Methodist Episcopal Church (hereinafter "AME Church") and describes the procedure for reporting, responding to and investigating complaints of sexual misconduct within the AME Church.

Section XIV, Paragraph B. Definitions, of the *Discipline,* page 270-271, defines various terminology as used within the policy and includes a definition of clergy. Clergy applies to "persons ordained as either local or itinerant deacons or elders within the AME Church; or person seeking ordination within the AME Church." Mr. Bonner, while licensed to preach, has not been ordained in the AME Church and did not meet nor pursue the prerequisites necessary for ordination in the AME Church. Therefore, Mr. Bonner is subject to the process and procedures, which the *Discipline* affords lay members. The Sexual Misconduct Policy at page 277 states:

> If the accused is not a clergyperson, the complaint will be processed according to Section XI, Trial of Lay Members, of The Doctrine and Discipline of the African Methodist Episcopal Church. The same time lines for processing the complaint as stated in Section IV of the clergy sexual misconduct shall apply.

After a review of the evidence presented, the Judicial Council concludes that Petitioner is a lay person.

The Policy provides that if the accused is not a bishop or clergy person, the pastor and Pro Tem of the Steward Board shall review the guiding principles and if any one of the guiding principles is applicable, the accused, as in the case of Mr. Bonner, may be temporarily suspended or removed from employment with the church or from a leadership position in the church pending the investigation. Further, as generally pertains to trial of lay members: "When charges shall have been preferred and notice thereof has been given, the accused shall cease to exercise the privileges or perform the duties of the office immediately." And if found guilty by the majority of the Trial Committee, may be expelled from the church for severe offenses. Part XI, Section XI, Paragraphs A and B, of the *Discipline*, page 266.

Part XI, Section VI, Paragraph D, of the *Discipline*, page 262, states that objections to the jurisdiction of the tribunal and to other matters shall be made at trial. Part XI, Section XII, Paragraphs A(l) and G, of the *Discipline*, pages 267-268, provides the procedures for an aggrieved layperson to proceed with the appeal of a trial decision and any alleged irregularities in the process. The Quarterly Conference shall hear the appeal. The case shall be settled by the vote of the majority of the members of the Quarterly Conference.

However, within its given authority, the Judicial Council can hear any final decision made at any conference level. In this case, the final decision was made at the Quarterly Conference in which Petitioner has requested relief. The *Discipline* generally allows for appeals from final decisions by lay members to the Judicial Council and the Sexual Misconduct Policy, specifically allows for appeals, where due process is deemed to have been violated. See Part XI, Judicial Administration, Section XX, The Judicial Council, Paragraph A, Jurisdiction at 290 and Section XIV, D. Policy and Procedure for Reporting. Appeals at 283 of the *Discipline*.

Mr. Bonner also alleges that Pastor Madison did not follow reporting procedures as required by the Sexual Misconduct Policy. The facts show that Pastor Madison and the Steward Board of Greater Ward AME Church did investigate the 2017 allegations of sexual misconduct and reported the information as is required. However, while Mr. Bonner was presented with charges against him, they did not share information with the accused that would enable Mr. Bonner to determine the identity of his accusers. Even though several of the accusers did not appear at the trial, the Trial Committee attempted to proceed with charges against Mr. Bonner, without the testimony of witnesses and without identifying the accusers. After Mr. Bonner raised objections to the proceedings on June 27, 2016, it was agreed that the Trial Committee would reconvene on June 29, 2016, going forward with evidence from only the available witnesses and that the decision of the Trial Court would be based upon that evidence alone. Any procedural defect was cured by the June 29, 2016 trial and subsequent appeals. Mr. Bonner was then able to question his accusers and was given an opportunity to be heard by the Trial Committee and on Appeal to the Quarterly Conference and now appeals to the Judicial Council. Mr. Bonner has received all due process to which he is entitled in accordance with the *Discipline.*

***Timeliness of the Appeal***

The Respondent argues that Mr. Bonner has no right of appeal beyond the Quarterly Conference, but that any appeal must be filed within thirty (30) days and that therefore, this Petition before the Judicial Council is untimely. Section XII. Appeals states that notice of an appeal must be given to the presiding officer of the tribunal within thirty (30) days after the adjournment of the proceedings from which the appeal is taken.

The decision of the Quarterly Conference was given to Mr. Bonner on August 23, 2016. Notice of Appeal of the decision of the Quarterly Conference was not received until January 10, 2017 and the appeal filed February 7, 2017 with Presiding Elder Okoli. Presiding Okoli advised Mr. Bonner by letter dated February 24, 2017, that he had no further right to appeal.

Mr. Bonner subsequently filed an appeal to the Judicial Council on May 26, 2017, eight months after the decision of the Quarterly Conference and three months after the denial of his appeal to the Annual Conference. Though untimely, based upon Mr. Bonner's allegations of procedural errors in the process, we reviewed the matter to determine Mr. Bonner's status as a lay person or clergy to determine his proper avenue of appeal and to ensure Mr. Bonner's due process rights were not violated or led to the untimeliness of the appeal. However, Mr. Bonner did not offer nor did we find justification or reason for the delay in the filing of this appeal.

## CONCLUSION

Petitioner was a lay member and afforded due process as such under the Sexual Misconduct Policy. The Judicial Council also finds that the Petition was untimely. Therefore, the Judicial Council DENIES Petitioner's request for relief, and submits this opinion as our final decision.

Opinion rendered this 6th day of September 2017.



J.

Thomas L. Bess, Sr.
Chaplain

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Vernon R. Byrd, Judge Glenda F. Hodges, Judge TaShun Y. Bowden-Lewis, Judge Derek H. Anderson, Judge Warren H. Dawson and Judge Eduardo K. Curry

**No. 2016-2020-09**

**BEFORE THE JUDICIAL COUNCIL**

**OF THE**

**AFRICAN METHODIST EPISCOPAL CHURCH**

**Re: IN THE MATTER OF BISHOP PAUL J. M. KAWIMBE**

Judge Glenda F. Hodges, Assistant Secretary delivers the opinion of the Judicial Council.

**HOLDING:** The Judicial Council lacks the requisite jurisdiction to review this matter at this time. As such, any findings that we would render now would be premature. Further, the judicial administration process should run its course, inasmuch as the matter is now properly before the Trial Committee.

## PARTIES

Petitioner is Bishop Paul J.M. Kawimbe (hereinafter "Petitioner" or Bishop Kawimbe"), the current Presiding Prelate of the Nineteenth Episcopal District.

Respondent is Rev. T. Levy Mahasha (hereinafter "Respondent" or "Rev. Mahasha"), an Itinerant Elder and former Presiding Elder of the Highveld District of the East Annual Conference of the Nineteenth Episcopal District of the African Methodist Episcopal Church.

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XI, Section XX, Paragraph A, , of *The Doctrine and Discipline of the African Methodist Episcopal Church 2012*, ("*Discipline*"), page 290 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF ISSUE

Whether the Judicial Council has requisite jurisdiction to intervene in a matter decided by the Preliminary Inquiry Committee and now pending before the Trial Committee?

## STATEMENT OF FACTS

1. On or about December 2, 2016, the General Secretary/CIO impaneled a Preliminary Inquiry Committee (hereinafter "Committee") to determine whether probable cause existed to proceed to trial on charges filed by Rev. T. Levy Mahasha against Bishop Paul J.M. Kawimbe.

2. On February 3, 2017, the General Secretary/CIO determined that the Committee found that the case against Bishop Paul J.M. Kawimbe should proceed to trial.

3. Subsequent to the Committee's finding, the parties engaged in procedural and pre-trial scheduling discussions, in preparation for trial.

4. On August 11, 2017, Petitioner filed this appeal, to the Judicial Council, of the Impaneled Preliminary Inquiry Committee's decision to proceed to trial.

## ANALYSIS AND DISCUSSION

The *Discipline*, part XI, Judicial Administration, Section IV, Subsection B., at pages 259-60, prescribes the procedure to be followed, when a matter is heard by the Preliminary Inquiry Committee. Specifically, the "action and decisions of the Preliminary Inquiry Committee through any Impaneled Inquiry Committee, following investigation and review shall either be: (a) a dismissal of the charges or (b) a submission of the record of its findings to the Trial Committee..." (See page 260, no. 5). In the instant matter, the duly constituted Preliminary Inquiry Committee's findings indicated that Bishop Kawimbe's case should proceed to trial. Accordingly, the parties have begun preparing procedural and pre-trial scheduling conferences, in preparation for the same. Petitioner indicated his acknowledgement of this fact by securing legal counsel to represent him at trial.

Petitioner filed simultaneous actions in the nature of a Motion to Dismiss before the Trial Committee and an appeal to the Judicial Council. While Petitioner cites our analysis in the Matter of Rev. T. Levy Mahasha, No. 2016-20-02, as support for the instant appeal to the Judicial Council, we denied Petitioner Mahasha the requested relief holding that "parties to disputes are required to exhaust the administrative and/or judiciary processes provided in the *Discipline*, prior to seeking a ruling by the Judicial Council." In that matter, we declined to accept jurisdiction inasmuch as the charges proffered by Rev. Mahasha against Bishop Kawimbe were pending before the Preliminary Inquiry Committee and, as such, the judiciary process as prescribed by the *Discipline* had not been exhausted.

Here, as the Petitioner has acknowledged, the Preliminary Inquiry Committee determined that the instant matter should proceed to trial. Accordingly, the matter is now properly before the Trial Committee. As such, the Judicial Council has no authority disturb the findings of the Preliminary Inquiry Committee nor to usurp the role the Trial Committee. The judicial process must continue to run its course in accordance with the *Discipline*.

**CONCLUSION**

The Judicial Council has no jurisdiction to intervene at this juncture of the judicial proceedings and therefore, Petitioner's request for relief is DENIED.

Opinion rendered this 30th day of August 2017.

Glenda F. Hodges
Assistant Secretary

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Thomas L. Bess, Judge TaShun Y. Bowden-Lewis, Judge Derek H. Anderson and Warren H. Dawson, and Eduardo K. Curry

Judge Vernon R. Byrd did not participate in this decision.

**No. 2016-2020-10**

BEFORE THE JUDICIAL COUNCIL
OF THE
AFRICAN METHODIST EPISCOPAL CHURCH

**RE: IN THE MATTER OF REV. TONY D. BOONE**

Judge Warren Hope Dawson, delivers the opinion on behalf of the Judicial Council.

## HOLDINGS

1. It is the decision of the Judicial Council, with noted concerns, that Bishop William P. DeVeaux, Sr., did not violate the Ministers' Bill of Rights, when the bishop directed Reverend Tony D. Boone to appear before the Ministerial Efficiency Committee.

2. It is the decision of the Judicial Council that there is insufficient competent evidence for the Judicial Council to render a finding as to whether Bishop William P. DeVeaux, Sr. violated the Ministers' Bill of Rights, when he appointed Reverend Tony D. Boone to a charge that was not comparable to or better than his previous assignment.

3. It is the decision of the Judicial Council that Bishop James LeVert Davis, in his capacity as Presiding Prelate for the Second Episcopal District of the AME Church, negotiated and entered into a legally binding settlement agreement ("Note of Satisfaction") with Reverend Tony D. Bonne, regarding the amount of compensation, i.e. in excess of $90,000.00, that Rev. Boone was to receive during his one-year appointment as the pastor of Pilgrim AME Church. The said settlement agreement was breached in that Rev. Boone's appointment to Pilgrim AME Church, Washington D.C. did not result in his receiving a compensation package (inclusive of all salary and benefits) that exceeded $90,000.00, as agreed to by Bishop Davis in the said "Note of Satisfaction."

## PARTIES

Petitioner, **Reverend Tony D. Boone**, Pastor of the Pilgrim African Methodist Episcopal Church, Washington, DC. Respondents, **Bishop William P. DeVeaux, Sr.**, the, now retired, former Presiding Prelate of the Second Episcopal District of the African Methodist Episcopal Church and **Bishop James LeVert Davis,** the current Presiding Prelate of the Second Episcopal District of the African Methodist Episcopal Church.

## JURISDICTION

Jurisdiction in this matter is pursuant to Part XI, Judicial Administration, Section XX, Paragraph A, Page 290 of The Doctrine and Discipline of the African Methodist Episcopal Church (2012) (hereinafter "*The Discipline*"), to-wit:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUES[1]

1. Whether Bishop DeVeaux violated the Ministers' Bill of Rights when he directed Reverend Tony Boone to appear before the Ministerial Efficiency Committee when there were no charges against him?

2. Whether the protections afforded Reverend Boone by the Ministers' Bill of Rights were violated when he received a pastoral appointment which was not comparable to or better than the previous one?

3. Whether Bishop Davis breached the "Note of Satisfaction" with Reverend Boone when the Bishop failed to appoint Reverend Boone to an AME Church with a comparable annual salary exceeding $90,000.00?

## CHRONOLOGY OF RELEVANT FACTS

**May 4, 2014** – Rev. Boone was appointed Pastor to First AME Church, Manassas, VA.

**January 13, 2016**- Bishop DeVeaux dispatched a "Ninety (90) Day Notice" to Rev. Boone which indicated a possibility of reassignment due to a "possibility of church conflict."

**February 1, 2016** – Bishop DeVeaux dispatched a letter to Rev. Boone referring Boone to the Ministerial Efficiency Committee ("MEC"), to "investigate management/leadership issues that have escalated," at First AME, Manassas, VA.

**February 19, 2016** –Rev. Boone appeared before the Ministerial Efficiency Committee and defended, inter alia, against allegations of management and leadership issues that included: failure to meet the debt service ratio with TD Bank; overspending of the housing and travel expenses by approximately $7500.00; creation of a promissory note by which Pastor Boone would "cure the default."

[1] As framed by the Petitioner.

**March 8, 2016** – The Ministerial Efficiency Committee held a second meeting, at which time it interviewed several key Officers of First AME, Manassas. The Officers present both supported and opposed Rev. Boone. The Committee concluded that there were, "irreconcilable differences between Rev. Boone and a segment of the Officers." The Committee then recommended that the matter, "be placed in the hands of the godly and prayerful wisdom of Bishop William P. DeVeaux and Presiding Elder Louis-Charles Harvey."

**March 17, 2016** - The Ministerial Efficiency Committee held a third meeting, at which time it was informed of two very contentious meetings: (a Men's Retreat and a post-Men's Retreat) among the membership and officers of First AME Manassas, on March 16, 2016. Whereupon, the Committee concluded, "the differences between Rev. Boone and a segment of the officers were beyond the Committee's understanding." The Committee then recommended that it was, "in the best interest of Pastor and the church, Rev. Tony Boone not be re-appointed to First AME, Manassas, VA."

**April 5, 2016**- The Ministerial Efficiency Committee officially issued its final recommendation that, "in the best interest of Pastor and the church, Rev. Tony Boone not be re-appointed to First AME Church, Manassas, Virginia."

**April 22, 2016**- Bishop DeVeaux appointed Rev. Boone to the Faith AME Church, Laurel, MD.

**May 13, 2016** – Rev. Boone, through his counsel, dispatched a letter to Charles Smith, Secretary of the Second Episcopal District, requesting, for the first time, that a Conciliation Committee be convened, within twenty (20) days, to address the decision and recommendation of the Ministerial Efficiency Committee.

**June 3, 2016** – Bishop DeVeaux, through his counsel, dispatched a letter responding to Rev. Boone's request to convene a Conciliation Committee. This letter insisted that Rev. Boone author a request detailing the nature of his contention, including the names of any interested parties.

**June 6, 2016** –Rev. Boone dispatched his letter which detailed the nature of his "matters of contention" and for the second time requested that a Conciliation Committee be convened within twenty (20) days, to address the decision and recommendation of the Ministerial Efficiency Committee. This letter was sent to Charles Smith, Secretary of the Washington Annual Conference and a copy to Bishop DeVeaux's attorney.

**June 7, 2016** –Rev. Boone, through his counsel, dispatched his letter which contained his "matters of contention" and requested that a Conciliation Committee be convened within twenty (20) days, to address the decision and recommendation of the Ministerial Efficiency Committee. This letter was sent to Charles Smith, Secretary of the Washington Annual Conference and a copy to Bishop DeVeaux's attorney.

**June 17, 2016** – Attorney for Bishop DeVeaux and the Second Episcopal District dispatched a letter demanding that Rev. Boone's request for a Conciliation meeting be in full compliance with the 2012 *Doctrine and Discipline*, or his request would not be honored.

**July 2016-** Bishop DeVeaux retired from active Episcopal ministry.

**August 22, 2016** – Rev. Boone, through his counsel, dispatched a letter to the new Presiding Bishop James LeVert Davis, requesting for the third time that a Conciliation Committee be convened. This letter also informed Bishop Davis that Rev. Boone had previously made this request to Bishop DeVeaux prior to his retirement and provided him with all the correspondence produced in the matter up to that point.

**September 16, 2016** – Rev. Boone, through his counsel, dispatched a letter to Bishop Davis, making a fourth request for the convening of a Conciliation Committee. A copy of this letter was sent to Charles Smith, Secretary of the Washington Annual Conference.

**September 16, 2016** –Presiding Elder Louis Charles-Harvey dispatched a letter to Rev. Boone requesting that Rev. Boone resubmit "a formal written request with accompanying documentation" for Conciliation to Charles Smith, Secretary of the Washington Annual Conference.

**September 19, 2016-** Rev. Boone, through his counsel, dispatched a letter to Charles Smith, Secretary of the Washington Annual Conference and for the fifth time, made a request for the convening of a Conciliation Committee.

**October 13, 2016-** A Conciliation Committee was convened and this proceeding resulted in the execution of a **"Note of Satisfaction,"** signed by Rev. Boone and by Bishop Davis. That Note was witnessed by Bishop Clement W. Fugh, and its terms are as follows: "In consideration of an appointment whose compensation package (inclusive of all salary and benefits) exceeds Rev. Tony D. Boone's pre-First AME Church, Manassas, compensation of $90,000.00, will be made at the seat of the Second Episcopal District Mid-Year Conference that will convene November 3-5, 2016. Terms of this agreement are to remain confidential."

**November 5, 2016-** Rev. Boone was appointed to Pilgrim AME, Washington, D.C.

**December 12, 2016-** Pastoral Compensation Package of Pilgrim AME reports a Final Monthly Amount of: $5,343.58 and a Final Six Month Total Amount of: $32,061.48.

**December 15, 2016** - Rev. Boone dispatched a letter to Bishop Davis saying that the "Note of Satisfaction" had been breached because: "I am currently earning $30,000 ($2,500 per month) less than we agreed in the Conciliation Committee Agreement. Furthermore, this compensation package is ($750 per month) less than what I was earning at my previous appointment, Faith AME Church. I am disappointed because I assumed that you or Presiding Elder Harvey conveyed to the leadership of Pilgrim my expected compensation."

**April 1, 2017** – Rev. Boone filed the instant Appeal to the Judicial Council of the AME Church.

**April 12, 2017** – Bishop Davis filed his Response, with Exhibits, to Rev. Boone's Appeal to the Judicial Council. That Response clarified that Bishop Davis was not involved with the proceeding before the Ministerial Efficiency Committee nor with Boone's pastoral appointment to Faith AME, Laurel, MD. That Response went on to state that he (Bishop Davis) convened a Conciliation Committee that resulted in a "Note of Satisfaction." Finally, the Response asserted that Bishop Davis had requested and received recent financial documentation relative to pastoral salary from Pilgrim AME prior to entering into the settlement agreement and denied that he "knowingly misled or misrepresented facts to Rev. Boone regarding Pilgrim AME Church's ability to compensate him with a salary exceeding $90,000.00 year."

**June 5, 2017** – Bishop DeVeaux filed his Response to Rev. Boone's Appeal to the Judicial Council. That Response referenced the background of Bishop DeVeaux's decision to refer Rev. Boone to the Ministerial Efficiency Committee; asserted that by letter dated January 13, 2016, Rev. Boone was given ninety (90) days prior notice that there was a possibility of reassignment from First AME; and finally asserts that the assignment to First AME was the best appointment "available" at that time.

**June 6, 2017** – Rev. Boone filed his Reply to Bishop Davis' Response. That Reply reasserted his concern about the much-delayed decision to convene a Conciliation Committee; reiterated his three (3) basic claims upon which the instant appeal is based and concluded with Rev. Boone's view that under the circumstances of this cause, "the burden of compensation is under the auspices of Bishop Davis..." – not Pilgrim AME.

**June 8, 2017** - Rev. Boone filed his Reply to Bishop DeVeaux's Response. That Reply asserts that Rev. Boone had significant support at First AME; contests the basis of the recommendation of the Ministerial Efficiency Committee and the accuracy of its proceedings; claims an availability of a comparable appointment (i.e. Mount Pisgah, Columbia, MD) at the time of his appointment to Faith AME; points out the difference between the language of Bishop DeVeaux's ninety (90) day letter [i.e. "possibility of reassignment"] and the language of the *Discipline* [i.e. "intent to move."]

## ANALYSIS AND DISCUSSION

Regarding the **first** issue raised by Petitioner, the Reverend Tony D. Boone, in the instant Appeal, Rev. Boone complains that Bishop William P. DeVeaux, Sr., violated the Ministers' Bill of Rights by directing him to appear before the Ministerial Efficiency Committee, when no charges had been made against him. This allegation is clearly unfounded. In this regard, the Judicial Council notes Bishop DeVeaux's letter to Rev. Boone, dated February 1, 2016, which stated, inter alia, "There appears to be management/leadership issues that have escalated," at First AME Church, Manassas, VA. That letter went on to say, "I am referring you to the Ministerial Efficiency Committee as required by the *Discipline* to investigate these concerns."

There does indeed appear to be sufficient concerns, although not denominated as "charges" that support the Bishop's decision to refer Rev. Boone to the Ministerial Efficiency Committee. Once the Committee was convened, the general concerns regarding issues of management and leadership became more defined by specific allegations, including:

1. That problems had arisen with First AME Manassas meeting the bank covenant with TD Bank. The Church has not met the debt service ratio required for the current loan for last year.
2. That Pastor Boone had overspent the housing and travel expenses by approximately $7500.00.
3. That First AME Manassas was in the process of creating a promissory note for Pastor Boone to sign to "cure the default."
4. That Pastor Boone was appointed July 2014 and allegedly demanded a salary increase in October 2014.
5. That there were irreconcilable differences between the Pastor and a segment of the officers of First AME Church.

Contrary to the suggestion of Rev. Boone, there is no express provision of the *Discipline* that requires "charges" be a part of a Bishop's decision to refer a pastor to the Ministerial Efficiency Committee. In the exercise of its duty to pass upon the efficiency and the moral conduct of a minister, the Committee is clothed with the inherent authority to inquire and investigate whether charges should be made against the referred minister. *Discipline*, Part VIII, Conferences and Conventions, Section II, Paragraph F. Committee on Ministerial Efficiency (1) (b), page 209. Bishop William P. DeVeaux, Sr., did not violate the Ministers' Bill of Rights of Reverend Tony D. Boone, when the Bishop directed Rev. Boone to appear before the Ministerial Efficiency Committee without delineating charges; however, we note our profound concern that Rev. Boone was compelled to go before the Ministerial Efficiency Committee on multiple occasions, relative to the same matter, even after the Ministerial Efficiency Committee initially concluded that there were no founded allegations or basis upon which to bring charges.

Regarding the **second** issue raised by Petitioner, the Reverend Tony D. Boone, in the instant Appeal, Rev. Boone complains on three (3) different grounds: (1) First, he complains that Bishop William P. DeVeaux, Sr., violated his Ministers' Bill of Rights when Boone's pastoral appointment was not comparable to or better than the previous one; (2) Second, he complains that there was an absence of a sufficient reason for the pastoral change; and (3) third, he complains that the language of the ninety (90) day letter from Bishop DeVeaux stated: "This letter is to inform you of the "possibility of reassignment" from your current pastorate" – as contrasted with the language of the *Discipline* which provides: "Intent to move." Here, the letter was an Early Warning rather than a Final Notice. In each instance, the reference is to the decision of the Bishop to move Rev. Boone from First AME, Manassas, VA to Faith AME, Laurel, MD. **See** Part V, Section VII. Ministers' Bill of Rights, Paragraph 5, page 100 of the *Discipline*.

Part V, Section VII. Ministers' Bill of Rights, Paragraph 1, page 100 of the *Discipline* states:

> It shall be the basic right of itinerant ministers of the African Methodist Episcopal Church to:

1. A pastoral appointment equal to their abilities, training and experience, when available. The new appointment, when available, shall be comparable to or better than the previous one, provided the pastor has not been found guilty under Judicial Administration. The action may result in location or an appointment that reflects the Church's current standing at the time of his or her departure.

On the matter of comparability, it appears undisputed that the annual compensation packages realized by Rev. Boone were: at First AME, Manassas, $120,000.00; at Faith AME, Laurel, $64,200.00 and at Pilgrim AME, Washington DC, $64,122.96. Of course, the entitlement to a comparable assignment is in the plain language of the *Discipline* – and is expressly limited by "availability." *Discipline* at page 100. The response of Bishop DeVeaux declared that when he moved Rev. Boone to Faith AME: "There was not a comparable appointment available at the time." Here, there is no clear and competent evidence before the Council to support or dispel either party's claim relative to the availability or unavailability of a comparable charge.

On the matter of the presence or absence of sufficient reason for pastoral change - though not expressly stated - the reasonable inference from the facts is that the change was for the good of the church.

Regarding the **third** issue raised by Petitioner, the Reverend Tony D. Boone complains that Bishop James LeVert Davis breached the "Note of Satisfaction" executed by him and Bishop Davis on October 13, 2016. The complete terms of said Note are set forth hereinabove. Rev. Boone complains that Bishop Davis failed to appoint him to an AME Church with an annual compensation package that exceeds $90,000.00. The reference here is to the decision of Bishop Davis to move Rev. Boone from Faith AME, Laurel, MD to Pilgrim AME, Washington, DC.

While the instant Appeal touches, in-part, upon a Bishop's decision to appoint, assign, transfer or remove a pastor, it actually is not a straight-line attack on the said prerogatives. If it was, then the Judicial Council would be without jurisdiction to decide this matter. See. Part XI, Judicial Administration, Section XX, Paragraph H (4), Page 292 of the *Discipline* which, in pertinent part, provides: "Nothing herein shall be construed to give the Judicial Council the right to interfere with the right of the bishop to appoint, assign, transfer or remove pastors." Instead, this Appeal seeks to enforce an agreement by a Bishop to do something that would otherwise be within the ambit of his godly and prayerful wisdom. In some regards, this situation is reminiscent of sovereign immunity, a legal doctrine by which the king, the sovereign or the state cannot be called upon to account for its conduct, *unless or except* when the sovereign agrees to be accountable. Here, the Bishop has agreed to be accountable regarding a decision that, under most circumstances, could not otherwise be questioned or reviewed.

The said "Note of Satisfaction" resulted from a belated[2] decision to convene a Conciliation Committee. Conciliation in this instance was all about reconciling or ameliorating issues/concerns raised by Rev. Boone. The "Note of Satisfaction" reflects a mutual decision between the Bishop and the Pastor to resolve those concerns, although said concerns were not expressly stated. Here, the "Note of Satisfaction" is very similar to a Post Mediation Memorandum, or other writing, that reflects, in some detail: "what" matters were resolved and "how" they were resolved. The Note of Satisfaction, like a Mediation Agreement, has all the indicia and consequences of a legal contract that is binding on the parties thereto.

It is without dispute that Rev. Boone has not received an appointment whose compensation package (inclusive of all salary and benefits) exceeds Rev. Boone's pre-First AME Church, Manassas compensation of $90,000.00 – as contemplated and agreed to by Bishop Davis.

For the reasons stated herein, it is the decision of the Judicial Council that Bishop James LeVert Davis breached the "Note of Satisfaction" by his assignment of Rev. Boone to Pilgrim AME, Washington, DC, where his compensation package did not exceed $90,000.00. Reverend Tony D. Boone is therefore entitled to $25,878.04 as compensation. Said sum accounts for the difference between the $90,000.00 plus agreed to in the "Note of Satisfaction" and the $64,122.96 received by Rev. Boone as compensation, resulting in a total compensation package of $90,001.00 for the one (1) year from November 5, 2016 to November 5, 2017, consistent with the "Note of Satisfaction."

Bishop Davis, in good faith, negotiated the "Note of Satisfaction" pursuant to his authority and in his capacity as the Presiding Prelate of the Second Episcopal District. Ergo, ultimate liability for the above-mentioned payment is on the Second Episcopal District. However, we note that when Bishop Davis appointed Rev. Boone to Pilgrim AME, in Washington D.C., he did so with a reasonable expectation that the local church would negotiate a compensation package within the same range as that received by the previous pastor. The fact that the local church substantially reduced the compensation package upon the assignment of Rev. Boone must not be ignored. While the ability of a local church to compensate their pastor may change, it is important that local churches not be permitted to arbitrarily disenfranchise newly assigned pastors when engaging in compensation negotiations. A bishop should be able to rely on the annual reports submitted by churches within the conference. When local churches reduce compensation packages received by incoming pastors, what standard shall the bishop use in an attempt to achieve comparability? How then can a bishop make equitable assignments?

Even so, under these circumstances, upon discovery of the failure of Pilgrim AME Church to provide a compensation package exceeding $90,000.00, Bishop Davis needed to have taken reasonable measures to fulfill the obligation associated with the "Note of Satisfaction."

Accordingly, the Judicial Council concludes and orders the following:

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[2] While it is not a factor to our decision, the Judicial Council duly notes the unnecessary delay in convening a Conciliation Committee, after more than four (4) requests by the Petitioner. It is appropriate to remember that sometimes: Justice Delayed is Justice Denied.

## CONCLUSION AND ORDER

1. Reverend Tony D. Boone is entitled to **$25,878.04** as compensation to account for the difference between the $90,000.00 *plus* agreed to in the "Note of Satisfaction" and the $64,122.96 received by Rev. Boone as compensation, resulting in a total compensation package of $90,001.00 for the one (1) year period from November 5, 2016 to November 5, 2017, consistent with the "Note of Satisfaction." Said sum to be paid in full within 90 days of the date of this decision, i.e., **February 5, 2018**.

2. Responsibility for the payment of the above stated compensation shall be upon the Second Episcopal District, through its agent, Bishop James LeVert Davis, or his successor, in the capacity of Presiding Prelate of the Second Episcopal District of the African Methodist Episcopal Church. In as much as Bishop Davis verified the prior pastor's salary, prior to making the appointment, he is not precluded from making a financial inquiry of the local church, Pilgrim AME, Washington DC, as to their ability to contribute to the outstanding obligation.

3. There having been no agreement regarding attorney's fees, Reverend Tony D. Boone's request for such fees is hereby denied.

Opinion rendered this 7th day of November 2017.

Judge Warren Hope Dawson

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Vernon R. Byrd, Jr., Judge Glenda F. Hodges, Judge TaShun Bowden-Lewis, Judge Derek H. Anderson, Judge Thomas L. Bess, and Judge Eduardo K. Curry.

**No. 2016-2020-11**

**BEFORE THE JUDICIAL COUNCIL**

**OF THE**

**AFRICAN METHODIST EPISCOPAL CHURCH**

**RE: IN THE MATTER OF BOBBY SISK**

Vernon R. Byrd, Jr., Secretary, delivers the opinion of the Judicial Council.

## HOLDING

Petitioner's Appeal is hereby DENIED. Petitioner forfeited his right to Conciliation when he filed a civil lawsuit against his former pastor. In this Appeal, Petitioner makes substantially the same allegations against the pastor that he made in his civil lawsuit.

## PARTIES

Bobby Sisk is a member of Bethel AME Church, San Francisco ("Petitioner"). Respondent is Bishop Clement W. Fugh, Presiding Prelate of the 5th Episcopal District of the AME Church ("Respondent").

## JURISDICTION

The Judicial Council has jurisdiction over this matter pursuant to the *Doctrine and Discipline of the AME Church 2012* ("*Discipline*"), Section XX, THE JUDICIAL COUNCIL, A., Jurisdiction p 313-314, which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.[1]

[1] Petitioner asked the Judicial Council to reverse Bishop Fugh's decision to deny his request for Conciliation as well as to clarify certain provisions of the *Discipline*. We accept jurisdiction on the basis of Petitioner's request for reversal.

## STATEMENT OF ISSUES

1. Does the *Discipline* require members of the AME Church to bring church related disputes through the AME Church judicial process **prior** to initiating an action in civil court?

2. Does a member of the AME Church forfeit the right to bring a matter through the AME Church judicial process, if that member has already taken that matter to civil court?

## STATEMENT OF FACTS

1. Petitioner is a long-standing member of Bethel AME Church, San Francisco ("Bethel") and was a member during the tenure of Rev. Philip R. Cousin, Jr. ("the pastor or Pastor Cousin"). The pastor's tenure at the church occurred between approximately May of 2013 and September of 2015.

2. Petitioner alleges that on February 7, 2015, Pastor Cousin permitted Elevate Independent Services, Inc. to make a report during an official board meeting of Bethel. Petitioner claims the report contained false claims and statements against him as a Housing Consultant, who had a signed agreement with Bethel. (Sisk Petition, Facts and Allegations Section #5).

3. Approximately one year later, on or about February 4, 2016, Petitioner filed a lawsuit in the Superior Court of California against the pastor, Elevate Independent Services, Inc. and others claiming, among other things, defamation based on the Elevate report that the pastor permitted to be read at the February 7, 2015 official board meeting. According to Petitioner, that lawsuit has been settled.

4. Petitioner supported his lawsuit with affidavits from members of the AME Church, including a Presiding Elder and several members of Bethel.

4. On July 8, 2017, Petitioner sent a letter to Rev. Ayisha Benham, Secretary of the California Annual Conference, requesting Conciliation to resolve a dispute he had with the pastor.

5. On July 14, 2017, Respondent Bishop Fugh denied the request for Conciliation, citing Petitioner's previous filing of a civil action against the pastor based on allegations substantially similar to the ones that gave rise to his civil action. In both his lawsuit and in his current appeal, the central allegation is that the pastor allowed an Elevate report to be read at a February 7, 2015 official board meeting.

6. On September 20, 2017, Petitioner filed an appeal with the Judicial Council requesting a reversal and declaratory judgment. Based primarily, but not exclusively on the pastor's action at the February 7, official board meeting, Petitioner asserts that he would like to now bring charges of Disobedience, Maladministration and Unacceptability in the Ministry against Rev. Cousin.

## ANALYSIS AND DISCUSSION

Petitioner claims that on February 7, 2015, Rev. Cousin permitted a false and defamatory report to be read at an Official Board meeting of Bethel. Clearly at that time, Petitioner had a right to adjudicate his dispute with Rev. Cousin through the AME Church's Judicial Administration and in particular, through the Conciliation process. His claim was against an AME pastor acting in his official capacity at an Official Board meeting concerning a contract that the Petitioner had with the church. However, Petitioner chose instead to forego Conciliation and filed a civil action in the Superior Court of California, concerning the same allegations, that he now seeks to resolve through Conciliation. In choosing to go to civil court first, Petitioner extinguished his right to Conciliation.

PART XI, JUDICIAL ADMINISTRATION, Section I Conciliation Committee at p. 256, strongly expresses the intent of the Church that disputes within the church be resolved peacefully without resort to formal judicial processes. It states:

> It is the clear intent and purpose of the African Methodist Episcopal Church to encourage, create, and stimulate peace and goodwill among all of its members, societies, local churches, auxiliaries, departments, and commissions. Accordingly, before any charge may be filed, introduced, or conveyed for consideration, all parties to any difference dispute, claim or controversy shall submit the matters of contention to the Conciliation Committee.[2]

The filing of a church related dispute in civil court **prior** to going through Conciliation violates the spirit of Section I, Conciliation Committee. The provision is stated quite broadly; the language is all encompassing: "**before any** charge may be filed" and "**any** difference, dispute, claim or controversy" and "**all** parties" "**shall** submit the matters of contention to the Conciliation Committee." (Emphasis added.)

If we were to interpret the Conciliation provision to serve as only a delay to the filing of internal charges, but not the filing of civil lawsuits, it would ironically encourage litigants to take "two bites of the same apple" or to file a civil lawsuit first while preserving their ability to go through the Conciliation process later. Not only would that interpretation discourage Conciliation settlements as a first option but it would result in additional time and resources being expended by churches and church personnel. In this matter, not only has the pastor's time been diverted to civil litigation, but also the time of a Presiding Elder and some members of Bethel. The costs of time and money that Conciliation is intended to preserve have already been lost by Petitioner's initiating a civil lawsuit on a church related matter instead of first opting for Conciliation.

[2] The one exception is that claims of sexual harassment are handled through a separate process.

Not only did Petitioner have a right to pursue Conciliation at the time he felt aggrieved on February 7, 2017, he had an obligation to do so before filing his civil action. Section XX. Judicial Council, H. 8. p. 292 states:

> Members of the AME Church are hereby required to seek a final determination of any dispute arising between said members and the Church and or any department thereof by exhausting all legal remedies provided in The Doctrine of the African Methodist Episcopal Church **before** civil proceedings are engaged in by the said member in his or her own behalf or anyone similarly situated.

Petitioner argues for a narrow interpretation of this provision. He contends that it does not apply because he did not sue "the church." It is true that neither Bethel nor the AME Church was a named party to the lawsuit. But, it is also true that Petitioner sued a pastor (an agent of the church) for action that the pastor took during a church meeting regarding a church contract to which Petitioner was a party. Under these circumstances, Petitioner had potential remedies "provided in The Doctrine of the African Methodist Episcopal Church" but he failed to exhaust those remedies prior to filing his civil lawsuit as the *Discipline* requires. Under these facts, Petitioner's lawsuit constituted suing "the church." The fact that a church was not a named party to the lawsuit is not material.

## CONCLUSION

Petitioner forfeited his right to Conciliation when he filed a civil lawsuit against his pastor premised on allegations substantially similar to ones that he would now like to take through Conciliation.

Opinion rendered this 15th day of November 2017.

Vernon R. Byrd, Jr.,
Secretary

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Derrick H. Anderson, Judge TaShun Bowden-Lewis, Judge Warren Hope Dawson, Judge Eduardo K. Curry

**No. 2016-2020-11**

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

**Re: IN THE MATTER OF BISHOP PAUL J. M. KAWIMBE --REQUEST FOR DECLARATORY DECISION**

Judicial Council delivers the opinion Per Curium.

**HOLDINGS:**

Part VI, Section II, G, 21, page 124 of the 2012 edition of the *Doctrine and Discipline of the African Methodist Episcopal Church* does not appear to be subject to more than one objective interpretation nor does it seem to be of doubtful meaning or application. However, the Judicial Council does find that the use of *thi*s provision, as communicated to Bishop Kawimbe by the President of the Council of Bishops in his October 4, 2017 directive, is inappropriate for the purpose intended. As such, this provision may not be used to impose restrictions on Bishop Kawimbe' s management of the 19th Episcopal District and is therefore unauthorized in its usage.

Furthermore, Part VI, Section II, G, 21, page 124 of the *Discipline* may not be interpreted to provide authority for the President of the Council of Bishops to direct Bishop Kawimbe to suspend all trials and Judiciary Committee actions until there is a full review of the matter; or, to refrain from making any changes in pastoral assignments during any series of annual conferences unless there is written concurrence of either the President of the Council of Bishops or a Bishop sitting with Bishop Kawimbe who represents the Council of Bishops.

**PARTIES**

This matter comes before the Judicial Council of the African Methodist Episcopal Church (hereinafter "Judicial Council") on a Petition for Appeal and Request for Declaratory Decision filed by Bishop Paul J. M. Kawimbe, the 121st elected and consecrated Bishop of the African Methodist Episcopal (AME) Church, assigned by the Episcopal Committee to serve as the bishop and presiding prelate of the 19th Episcopal District in Southern Africa (hereinafter "Petitioner" or "Bishop Kawimbe").

The first Respondent in this matter is Bishop Clement W. Fugh, President of the Council of Bishops and the 131st elected and consecrated bishop of the AME Church, assigned by the Episcopal Committee to serve as the bishop and presiding prelate of the 5th Episcopal District of the AME Church (hereinafter "Respondent 1" or "Bishop Fugh").

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The second Respondent in this matter is Bishop Jeffrey N. Leath, Chair of the Grievance Committee of the Council of Bishops and the 128th elected and consecrated Bishop of the AME Church, assigned by the Episcopal Committee to the 13th Episcopal District (hereinafter "Respondent 2" or "Bishop Leath").

Petitioner requests a declaratory decision, referencing a number of specific provisions of the 2012 edition of *The Doctrine and Discipline of the African Methodist Episcopal Church* (hereinafter "*Discipline*") relative to Part VI., General Governmental Divisions and Authority and Part XI., Judicial Administration. On appeal, Petitioner seeks to have the Judicial Council review an October 4, 2017 decision and directive which ordered the Petitioner, as the Presiding Bishop of the 19th Episcopal District to immediately:

> 1.Suspend all trials and Judiciary Committee actions until there is a full review of the matter; and,
>
> 2. Refrain from making any changes in pastoral assignments during the 2017 Series of Annual Conferences unless there is written concurrence of either the President of the Council of Bishops or the Bishop sitting with you who represents the Council of Bishops.

## JURISDICTION

The *Discipline* provides that the Judicial Council may make a ruling in the nature of a declaratory decision 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 Book of Discipline of the African Methodist Episcopal Church* seem 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." *Discipline*, Part XI. Judicial Administration, Section XX. The Judicial Council, Paragraph H. Duties, Subparagraph 10, page 293.

## STATEMENT OF ISSUES

I. Whether the following provision of the *Discipline* is subject to more than one interpretation or seems to be of doubtful meaning:

> Part VI. General Governmental Divisions and Authority, Section II, Authority of Active Bishops, Paragraph G, The Council of Bishops, Subsection 21, page 124;

II. Whether the authority to impose directives to Bishop Kawimbe as set forth in Bishop's Fugh's correspondence of October 4, 2017, issued at the request of the Grievance Committee of the Council of Bishops, is conferred by Part VI. General Governmental Divisions and Authority, Section II, Authority of Active Bishops, Paragraph G, The Council of Bishops, Subsection 21, page 124.

## PROCEDURAL HISTORY

By letter dated October 4, 2017, Bishop Fugh, the President of the Council of Bishop, informed the Petitioner that at the request of the Grievance Committee of the Council of Bishops, the Petitioner, was directed to:

1) suspend all trials and Judiciary Committee actions until there is a full review of the matter; and
2) refrain from making any changes in pastoral assignments during the Petitioner's 2017 series of Annual conferences unless there is written concurrence of either the President of the Council of Bishops or the Bishop sitting with him who represents the Council of Bishops.

Bishop Fugh cited Part VI, Section II, G, 21, page 124 of the *Discipline* as authority for his issuing such directives.

On October 30, 2017, the Petitioner filed this Appeal and Request for Declaratory ruling seeking to have the Judicial Council overturn the October 4, 2017 decision and directives of the President of the Council of Bishops. Petitioner asserts that the directives exceed the authority granted by the General Conference of the AME Church, to the Council of Bishops, and/or its President. Petitioner further asserts that the actions of the President of the Council of Bishop are contrary to the positive law of the *Discipline* and that they violate his due process rights in dispensing directives to him in the nature of disciplinary action, without the benefit of a trial or any opportunity for Petitioner to examine or respond to the information which prompted the issuance of these directives. Petitioner also asserts that the above-referenced directives were issued without any findings of wrongdoing by Petitioner.

On November 13, 2017, Bishop Fugh, in his capacity as President of the Council of Bishops, filed a Response to the Petition of Bishop Kawimbe, inter alia, describing the processes and procedures of the Grievance Committee of the Council of Bishops, alleging that Petitioner had agreed to the terms and conditions of the Council of Bishops regarding this matter and asserting that the Judicial Council lacked jurisdiction to review the actions of the Council of Bishops at this time.

Bishop Leath, Chair of the Grievance Committee of the Council of Bishops, also filed a Response to the Petition of Bishop Kawimbe, requesting that the Judicial Council deny the Petition of Bishop Kawimbe as "neither ripe for review by the Judicial Council, nor necessary for the purpose of further actions by the Petitioner or the Council of Bishops."

## ANALYSIS AND DISCUSSION

I. Declaratory Decision

The jurisdiction of the Judicial Council in granting a Declaratory Decision is specified in Part XI, Section XX, The Judicial Council, Paragraph H., Subparagraph 10, page 293 of the 2012 *Discipline*, 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 Book of Discipline of the African Methodist Episcopal Church* seem 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.

Clearly, in this matter, the parties have given more than one interpretation to the legislation set forth at Part VI, Section II, G, 21, page 124 of the *Discipline*. Obviously, by the very text of the October 4, 2017 directive to the Petitioner, Bishop Fugh is asserting that he and the Grievance Committee are acting under authority allegedly given by the cited provision. Conversely, the Petitioner is interpreting the language of the provision literately, i. e., the authority to act is only given to the President of the Council of Bishops when the Presiding Bishop is absent, or the President has authority to act co-jointly with the Presiding Bishop in "cases where the interest of the connection demands service." In view of these circumstances, the Judicial Council has jurisdiction and reason to act on the Petitioner's request for a declaratory decision in the instant matter. *Discipline* at page 293.

II. Application of Part VI. General Governmental Divisions and Authority, Section II, Authority of Active Bishops, Paragraph G, The Council of Bishops, Subsection 21

In this review, the Judicial Council makes no findings relative to the merits of any allegations or claims against Bishop Kawimbe in the underlying matter nor does the Judicial Council make any findings relative to due process claims asserted. Here, our review is focused solely on the interpretation and application of the provision at issue. After a careful review of the facts and the positive law of the *Discipline*, we conclude that the directives in the October 4, 2017 correspondence, at the request of the Grievance Committee, are not authorized by, or consistent with, the specific authority granted to the President of the Council of Bishops by Part VI, Section II, G, 21, page 124 of the *Discipline.*

Part VI, Section II, G 21 states:

> The President of the Council of Bishops shall, whenever the officers of any church call or necessity requires, visit any episcopal district, and act alone, in the absence of the presiding bishop, or co-jointly with him or her in all cases in which the interest of the connection demands service.

Under the above provision of the *Discipline*, the President of the Council of Bishops is only authorized to "act alone, in the absence of the presiding bishop, or co-jointly with" the presiding bishop where the interest of the connection demands service. In this instance, the Petitioner has alleged, and Respondents do not contest, that the Presiding Bishop has always been available and never been absent from the district. The directive in the October 4, 2017 document, in one instance, suspends the Presiding Bishop from acting in any matter with respect to trials and Judiciary Committee actions, and only with the "written concurrence" with respect to changes in pastor assignments. As such, this document does not appear to satisfy either of the criteria of the aforereferenced legislation -- the Presiding Bishop's absence or the Presiding Bishop and the President of the Council acting jointly.

The directives go beyond the authority granted by the provision to act "co-jointly with the presiding bishop where the interest of the connection demands service." The President of the Council of Bishop's October 4, 2017 directive, clearly places the Petitioner in a subordinate position. Accordingly, Part VI, Section II, G 21, the provision cited in support of the President of the Council of Bishop's October 4, 2017 directive to Bishop Kawimbe, is inappropriate in its usage.

Respondent 2 avers that the "Grievance Committee" of the Council of Bishops is a "long standing entity in the administration of the Council of Bishops. Respondent attached to his pleading a copy of the Council of Bishops' Grievance Committee Process and Procedures for the Handling of Grievances and Complaints as Exhibit 4. The Judicial Council makes no findings relative to the merits of the process and procedures of the Grievance Committee, as presented by Respondent 2.

The process governing the administration of complaints against Bishops by the Council of Bishops is clearly provided in the *Discipline* at Part VI, Section II, G 10. In this regard, this provision is specific in its grant of authority to remove a bishop from a district, to transfer a bishop from a district or give such other direction as needed for the good of the church. While we are aware that Respondent 1 mentioned this provision in his response, he failed to mention it in his October 4, 2017 document to Bishop Kawimbe. Rather, he supported his actions in that document by relying on Part VI, Section II, G 21, but indicated "that the action taken regarding Bishop Paul Kawimbe, as summarized in **The Council of Bishops Statement RE: The 19th Episcopal District**, was passed unanimously…"

We specifically requested that Respondent 1 provide documentary evidence relative to the actions of the Council of Bishops regarding the directives given to Bishop Kawimbe, in the October 4, 2017 document. We received redacted minutes from August 8, 2017 meeting of the Council of Bishops, which state that a Motion passed unanimously to accept Recommendation B, indicated below:

> Recommendation B: That Bishop Kawimbe remain in the 19th Episcopal District and abide by stipulations listed in the Grievance Committee Report, which called for the President of the Council of Bishops to appoint a Committee to monitor the upcoming Annual Conferences in the 19th Episcopal District, and to follow through on the matters listed in the Grievance Committee Report which included staffing, finances and the retirement program.

However, the authority cited in the October 4, 2017 document justifying the imposition of the directives was inappropriate in its usage.

## CONCLUSIONS

Part VI, Section II, G, 21, page 124 of the 2012 edition of the *Doctrine and Discipline of the African Methodist Episcopal Church* does not appear to be subject to more than one objective interpretation nor does it seem to be of doubtful meaning or application.

Part VI, Section II, G, 21, page 124 of the *Discipline* cannot be used to provide authority for the President of the Council of Bishops to direct a Presiding Bishop to suspend all trials and Judiciary Committee actions until there is a full review of the matter; or, to refrain from making any changes in pastoral assignments during any series of annual conferences unless there is written concurrence of either the President of the Council of Bishops or a Bishop sitting with the Presiding Bishop who represents the Council of Bishops.

Opinion rendered this 31st day of January 2018.

**No. 2016-2020-12**

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

**Re: IN THE MATTER OF STEPHANIE GANAWAY-PASLEY, ET AL**

Judicial Council delivers its opinion per curiam.[1]

## HOLDING

Petitioners did not receive "due process" in accordance with the *Doctrine and Discipline, African Methodist Episcopal Church, 2012*, hereinafter "*Discipline,*" warranting reversal of their expulsion, after being tried by the Chavis AME Church "Society."

Petitioners suffered harmful error, in that, the tribunal official had several conflicts of interest, which interfered with his ability to, be fair and impartial, in the capacity in which he served, during the trial proceedings.

Petitioner Moore established "good cause" for his failure to attend his trial on April 15, 2017. Therefore, his expulsion *in absentia* shall be over turned.

Petitioners are restored as members of Chavis AME Church. Petitioner will not be restored to their previous positions in the Lay Organization. All other requested relief is denied.

## PARTIES

This matter comes before the Judicial Council of the African Methodist Episcopal Church (hereinafter "Judicial Council") on a joint Petition of Appeal filed by Stephanie Ganaway-Pasley, James L. Pasley, Fred P. Moore, Teresa Cooper Womble, James "Slim" Gillard, and Priscilla Bell (hereinafter "Petitioners" or "Stephanie Ganaway-Pasley, James Pasley, Fred Moore, Teresa Womble, James Gillard, and Priscilla Bell").

The Respondent, in this matter is Chavis AME Church in Hemingway, South Carolina, Seventh Episcopal District of the African Methodist Episcopal Church (hereinafter "Respondent Chavis" or "Chavis AME").

[1] Per curiam is Latin for "by the court." A per curiam opinion is a ruling issued by an appellate court of multiple judges in which the decision is rendered by the court acting collectively (rather than by an individual judge) and either unanimously or, as in this matter, by a majority of the Court.

The second Respondent in this matter is the pastor of Chavis AME Church, Seventh Episcopal District (hereinafter "pastor" or "tribunal officer").

The third Respondent in this matter is the Presiding Elder, Georgetown District, Seventh Episcopal District, African Methodist Episcopal Church (hereinafter "Presiding Elder").

Petitioners appealed the decision of the tribunal held at Chavis AME Church expelling them from the church on April 15 and June 17, 2017, respectively. Further, Petitioners appealed the decision of the Quarterly Conference, which upheld their expulsions.

Petitioners seek the overturning of their expulsions, letters of transfers for those desiring to leave, public acknowledgement of the wrong and inappropriate actions, reinstatement of Petitioner Cooper Womble's complaint against the pastor, and reinstatement and investigation of the charges previously filed by Petitioners against the 32 Chavis members.

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XI, Section XX, Paragraph A, of *The Doctrine and Discipline of the African Methodist Episcopal Church 2012*, ("*Discipline*"), page 290 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church

## STATEMENT OF ISSUES

I. Whether Petitioners received "due process" when charged, tried and expelled from membership at Chavis AME Church on April 15, 2017 and June 17, 2017, respectively?

II. Whether during the trials on April 15, 2017 and June 17, 2017, the tribunal officer committed reversible error, while presiding over the trials of Petitioners?

III. Whether Petitioner Fred Moore's absence from the Chavis tribunal on April 15, 2017 was supported by "good cause?"

IV. Whether Petitioners received "due process" on July 17, 2017, when appealing their expulsions to the 4th Quarterly Conference?

**STATEMENT OF FACTS**

On January 11, 2016, Debra Brown, a member of Chavis AME Church, submitted a request to file charges against Petitioners alleging Habitual Neglect of Responsibilities, Disobedience to the *Doctrine and Discipline of the African Methodist Episcopal Church*, Maladministration, Improper Conduct, Sowing Dissension and Failing to Conform and Harmonize with the Connectional Lay Organization's Constitution.

On February 13, 2017, the pastor notified Petitioners that an investigative panel found no reasonable grounds to support the allegations filed on February 4, 2016 against 32 Chavis church members and former pastor Rev. Richard Brown. The investigative panel declined to prefer charges.

On February 22, 2017, following their investigation, the Steward Board preferred charges against Petitioners for trial.

On March 1, 2017, the pastor notified Petitioners of the decision of the Steward Board. The Notice set April 15, 2017, as the trial date for all Petitioners, except Petitioner Cooper-Womble.

On April 12, 2017, Petitioner Cooper Womble received Notice that the Steward Board preferred charges against her. The Notice set her trial for June 17, 2017.

On April 13, 2017, the Presiding Elder telephonically contacted Petitioner Priscilla Bell encouraging her not to show up for the trial. He requested she contact the pastor to "work something out." Additionally, the Presiding Elder contacted Petitioner Fred Moore telephonically leaving a message for him to follow the same instructions.

On April 15, 2017, the tribunal officer convened separate tribunals to address charges against Petitioners Stephanie Ganaway- Pasley, James Pasley, James Gilliard, Priscilla Bell and Fred Moore, filed by Chavis member Debra Brown. During all trials, the tribunal officer referred to himself as the judge, and the trier of facts. Pursuant to the *Discipline* at Part XI, Section VI, Paragraph D, page 262, objections to jurisdiction of the tribunal shall be made immediately after the trial opens, and other objections shall be made as soon as possible. Petitioners raised objections to jurisdiction and requested that the tribunal officer recuse himself from serving as the presiding official. The tribunal officer disposed of these objections as pretrial motions.

During the various trials on April 15, 2017, Debra Brown appeared to serve as the "prosecutor" for all charges against Petitioners, which included (1) habitual neglect, (2) disobedience to the *Doctrine and Discipline of the African Methodist Episcopal Church*, (3) maladministration, (4) improper conduct, (5) sowing dissension, and (6) failing to conform and harmonize with the Connectional Lay Organization's Constitution. The transcript revealed that the tribunal officer assisted her throughout the process by entering numerous objections on her behalf, although she raised none, clarified the charges she filed, and when she testified, suggested that a question could not be understood, even though the witness testified as though she fully understood the question, answered questions presented to Ms. Brown during cross-examination, suggested that Ms. Brown should object to various questions asked during her cross-examination by Petitioner Ganaway

Pasley, etc. At the end of each trial, the Society deliberated and reached a finding of guilt against each Petitioner.

The Society tried Petitioner Moore *in absentia*. After over approximately ten hours of being at the church waiting for his trial to be called, Petitioner Moore requested to leave to retrieve his medication and food. After requesting Petitioner Moore's case be called three times, the tribunal officer advised the Society to proceed with the trial. The Society found Petitioner Moore guilty of all charges preferred against him.

At the end of each April 15, 2017 trial, the pastor accepted the verdicts expelling each member from Chavis AME Church. He referenced each expulsion as a "sentence."

On June 17, 2017, Petitioner Teresa Cooper-Womble was tried for various offenses against the Society as described above. During her trial, Petitioner Cooper-Womble raised the same jurisdictional issues and request for recusal against the tribunal officer, articulated in the April 15, 2017 trials. Even though Petitioner Cooper-Womble served the pastor/tribunal officer with a Notice to appear as a witness in her matter, he denied her request for recusal and objections to jurisdiction. The pastor used his service as the tribunal officer as the reason he could not testify. He denied the jurisdictional issue and request for recusal without any further explanation.

After Debra Brown presented her charges, Petitioner Cooper Womble engaged in cross examination and presented her defense to the charges. As Petitioner Cooper Womble cross examined Ms. Brown, the tribunal officer sustained objections by Ms. Brown without seeking clarification. On several occasions, he provided the reason for her objections. During her case, Petitioner Cooper Womble called George Brown, Eddie Williams, and Rosa Gordon, who all invoked their fifth-amendment rights, thereby refusing to testify. The tribunal officer failed to intervene or explain the self-incrimination protection invoked by the witnesses, which precluded Petitioner Cooper Womble's examination of the witnesses.

When Petitioner Cooper Womble attempted to elicit testimony from witness Pasley, the tribunal officer threatened not to allow Pasley to testify, referred to the proceedings as "his court", and stated to the Society that the police be called when Pasley engaged in an argument with him. After deliberating, the Society found Petitioner Cooper Womble guilty of the preferred charges. The pastor "sentenced" her to expulsion from Chavis AME Church.

On July 17, 2017, Petitioners Ganaway-Pasley, Pasley, Gilliard, and Cooper Womble appeared before the 4th Quarterly Conference to appeal their expulsion from Chavis AME Church. Petitioner Bell did not appear because she never received notice of the date or time of the Quarterly Conference, even though she requested the information via email.

Several of the Petitioners requested that the Presiding Elder recuse himself from any involvement in the Quarterly Conference appeal. The Presiding Elder denied the requests.

During the 4th Quarterly Conference, Presiding Elder permitted the pastor to serve as the "acting" Secretary. Even though the pastor served as the tribunal officer in all the aforementioned trials, including announcing the verdicts and determining the penalty of expulsion against Petitioners, the Presiding Elder permitted him to serve as the spokesperson for Chavis AME Church during the appeal. The pastor requested the expulsions be upheld.

After the conclusion of the arguments presented by Petitioners and the pastor, the members of the Quarterly Conferenced voted to uphold the expulsions of Petitioners. The Presiding Elder ruled Petitioner Moore intentionally absented himself from the tribunal, thereby forfeiting his right to appeal pursuant to Part XI, Judicial Administration, Section XI, Trial of Lay Members, subsection A, page 266, *Doctrine 2012*.

## ANALYSIS AND DISCUSSION

I. Due Process

The trials conducted by the pastor, as the tribunal official, fall short of ensuring Petitioners received due process. The tribunal officer denied Petitioners' request that he recuse himself, despite his significant involvement during the pre-trial stage as pastor, to include using his law firm's envelopes for the submission of Notices to the various Petitioners, sending the charges to the Bishop, and attempting to engage in discussions with at least two of the Petitioners about the trial.

The pastor/tribunal officer received notice that Petitioner Cooper Womble requested he testify at her trial. His refusal to testify raises concern as to whether he possessed material and relevant information affecting the charges preferred against Petitioners. The mere fact that he served as the pastor of Chavis AME Church did not, in and of itself, preclude him from testifying. At the point he received Notice to testify, it would have been prudent to have secured another individual to preside over the hearing, to ensure a totally impartial tribunal officer.

The *Discipline* requires that the pastor, upon receiving such charges, shall call together members of the society or committee elected from the same. **See**, Part XI, Judicial Administration, Section XI, Trial of Lay Members, subsection A, page 266, *Discipline 2012*. The provision does not mandate that the pastor serve as the tribunal officer. Realistically, where the pastor intimately engages in the process at the preferral and pretrial stages, he/she should avoid even the appearance of bias or partiality challenges by disassociating himself from the trial process. Where the tribunal officer is intimately involved in the process prior to trial, he/she interferes with the concept of fundamental fairness. The pastor's involvement with the process creates a blurriness as to where his duties and responsibilities as pastor stopped and his duties and responsibilities as the tribunal officer began.

Furthermore, fundamental fairness is synonymous with due process, which dictates that Petitioners be provided with notice and a meaningful opportunity to be heard before an unbiased decision maker. After review of the documentation and trial testimony, we cannot reasonably conclude that Petitioners received the due process, to which they are entitled. The tribunal officer assisted Ms. Brown, the filer of the charges, throughout the process by placing numerous

objections on the record for her, overruled objections where none were raised, struck testimony from the record, and provided Ms. Brown answers during her testimony. In the Cooper Womble trial, he permitted multiple witnesses to invoke their fifth amendment right against self-incrimination, to preclude themselves from answering what were seemingly non-incriminating questions. At no time did the tribunal officer provide any insight as to the witnesses' refusal to testify or offer any explanation as to their invoking the fifth amendment.

II. Reversible Error

Careful perusal of the trial transcripts creates major concern regarding the handling of objections, testimony and examination of witnesses, tribunal rulings, and judicial temperament. Clearly, when parties proceed without counsel, the process necessitates significant explanations by the tribunal officer. Throughout the trials, the tribunal officer extended excessive latitude to Ms. Brown, the filer of the charges against Petitioners. The record demonstrates the tribunal officer's impatience with Petitioners, as they engaged in cross examination of Ms. Brown, as well as during their direct testimony. Clearly, there was a conflict of interest preventing a distinct separation in the interests of pastor and the tribunal officer.

Additionally, testimony emerged that the tribunal officer participated in ex parte communications with two of the petitioners (Gilliard and Cooper Womble), prior to their schedule trials. Even if Respondent desired to quash said trials, his actions barred the possibility of impartiality. Certainly, a tribunal officer would work to ensure he maintained neutrality throughout the trial process. By approaching Petitioners Gilliard and Cooper Womble to reach a resolution, immediately following worship service, the pastor diminished the appearance that he would be fair and neutral once the trial convened.

Throughout the trials of Petitioners, the roles of pastor, tribunal officer, "judge" and prosecutor became intermingled committing reversible error justifying the nullification of the trials and verdicts. The reversible error committed totally tainted the judicial process. At different stages of the trials, the rulings strongly supported an air of prejudice against Petitioners thwarting any possibility of fairness or opportunity to be fully heard.

Furthermore, the tribunal officer afforded Petitioners no opportunity to challenge whether members of the Society admitted into the proceedings constituted duly entitled voting members based on their "good and regular standing" in the church. The transcripts suggest that no direct verification occurred as to the Society members, other than informal vetting by Mr. Brown, the spouse of complainant Deborah Brown. Tasking Mr. Brown with an important responsibility, such as determining who would be extended the opportunity to serve as "triers of fact" in the trial of Petitioner, represents a blatant conflict of interest creating the strong appearance of impropriety. This error warrants characterization as harmful reversible error.

III. Good Cause for Not Attending Trial

As to Petitioner Moore, on April 15, 2017, the tribunal officer proceeded with his trial *in absentia*. According to the transcript, the tribunal officer instructed Mr. Brown, to call the name of Petitioner Moore three times in the hallway outside of the trial location. Petitioner Brown never responded. The *Discipline* at Part XI, Judicial Administration, Section XI, Trial of Lay Members, A., states:

> If the accused person evades a trial by being absent after due notice has been given, and the circumstances of the accusation are strong and presumptive, the accused shall be regarded as guilty and accordingly excluded. Witnesses from without shall not be rejected.

While the Society tried Petitioner Moore *in absentia*, the tribunal officer never established whether "good cause' existed for his absence. Nowhere in the transcripts of the proceedings does it reflect the start time or ending of the proceedings. In his appeal, Petitioner Moore alleges that he reported to the proceedings at approximately 10:00 am. In an email sent at 5:30 pm on April 15, 2017, Petitioner Moore notified the tribunal officer that he transferred to St. Luke AME Church. He stated his appearance during the series of trials was to serve as a witness. At 6:41pm, Petitioner Moore requested his trial be rescheduled because of his medical condition (diabetes) and the need to "attend to himself."

The issue becomes whether the tribunal officer should have granted a continuance to Petitioner Moore, after initially informing him to report at 10:00 am for his trial. From the evidence submitted, Petitioner Moore arrived for the 10 am trial and hours later left the premises, which does not suggest an intent to evade the proceedings. Being a diabetic and needing to take the necessary precautions for his condition serves as justification for his departure. The Notice never advised any of the petitioners to expect their participation to extend until after 5:00 pm. The time of the proceedings continued beyond the expectations of a reasonable person. Under these circumstances, Petitioner Moore should have been granted a continuance based on his medical condition.

Given the concerns regarding the tribunal officer's significant involvement in the preferral of charges, ex parte communications, undue bias during the proceedings, and failure to engage an impartial individual to vet members of the Society in "good and regular standing, the Judicial Council finds the proceedings failed to afford the Petitioners due process. Further, the Judicial Council finds that Petitioners failed to receive impartial and fair hearings based on the various incidents of harmful reversible error. Furthermore, the tribunal officer should have granted a continuance to Petitioner Moore based on the duration of the proceedings and his medical condition. Having reached findings that proceedings failed to afford Petitioners due process, as well as finding reversible harmful error, the Judicial Council declines to address the appeals filed at the Quarterly Conference. Therefore, the issue is moot.

## CONCLUSION

The Judicial Council finds that Petitioners did not receive due process during the proceedings against them on April 15, 2017 and June 17, 2017. The Judicial Council finds that reversible harmful error occurred during the proceedings on April 15, 2017 and June 17, 2017. The Judicial Council finds that good cause existed for Petitioner Moore's failure to attend his trial on April 15, 2017.

Petitioners' membership in Chavis AME Church is restored. Petitioners are entitled to an opportunity to be heard in an impartial forum relative to the preferred charges. They are not entitled to reinstatement to their previous positions as officers, unless there is a final favorable resolution of the preferred charges. All other requested relief is denied.

Opinion rendered this 27th day of April 2018.

PER CURIAM

Judge Eduardo K. Curry did not take part in the deliberations or the rendering of this decision.

**No. 2016-2020-13**

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

**Re: IN THE MATTER OF STEPHANIE GANAWAY-PASLEY, ET AL
REQUEST FOR CLARIFICATION OF THE DECISION OF THE JUDICIAL COUNCIL, *IN THE MATTER OF STEPHANIE GANAWAY PASLEY, ET AL.,* NO. 2016- 2020-12**

Judicial Council delivers its opinion per curiam.

## HOLDING

The Judicial Council holds that the tribunal/presiding officer, whether clergy or laity, must be neutral, detached and impartial, when overseeing any trial proceeding pertaining to the above-mentioned Petitioners. Additionally, the tribunal/presiding officer must possess no vested interest in the outcome of any subsequent trial proceedings involving the Petitioners.

## PARTIES

This matter comes before the Judicial Council of the African Methodist Episcopal Church (hereinafter "Judicial Council") via Respondent Chavis AME Church and its pastor seeking clarification of the per curiam decision of the Judicial Council No. 2016-2020-12, *In the Matter of Stephanie Ganaway Pasley, et al.* Respondents seek clarification of the language in the *Doctrine and Discipline 2012 and 2016*, hereinafter "*Discipline 2012*" and "*Discipline 2016* "as to who can serve as the "tribunal officer" in a trial involving lay persons.

The Respondent, in this matter is Chavis AME Church in Hemingway, South Carolina, Seventh Episcopal District of the African Methodist Episcopal Church (hereinafter "Respondent Chavis" or "Chavis AME"). The pastor of Chavis AME Church is also a Respondent.

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XI, Section XX, Paragraph A, of *The Doctrine and Discipline of the African Methodist Episcopal Church 2012*, ("*Discipline*"), page 290 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop,

board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF ISSUES

I. Who may serve as the tribunal/presiding officers in any retrial of Petitioners resulting from the Decision of the Judicial Council No. 2016-2020-12, *In the Matter of Stephanie Ganaway Pasley, et al.*?

## STATEMENT OF FACTS

1. In its decision of April 27, 2018 *In the Matter of Stephanie Ganaway Pasley, et al,* No. 2016-2020-12, the Judicial Council found that Petitioners did not receive due process, during the proceedings against them on April 15, 2017 and June 17, 2017. Further, the Judicial Council found that reversible harmful error occurred, during the proceedings on April 15, 2017 and June 17, 2017. Lastly, the Judicial Council found that good cause existed for Petitioner Moore's failure to attend his trial on April 15, 2017.

2. As a result of its findings, the Judicial Council determined that the parties were entitled to an opportunity to be heard in an impartial forum relative to the preferral of charges. The body denied reinstatement of the previous positions held by the parties, until a final favorable resolution of the preferred charges occurred.

3. On or about May 25, 2018, Respondents Chavis AME Church and Pastor sought clarification as to "who possessed eligibility to serve as the presiding or tribunal officer, in the trial of Lay members." The Respondents raised the concern based on the failure of the *Doctrine and Discipline 2012 and 2016* to clearly address the issue.

## ANALYSIS AND DISCUSSION

Respondents correctly articulated that the provisions in the *Discipline 2012 and 2016* failed to identify, who may serve as the presiding/tribunal officer in trials of Lay members. **See**, Part XI, Judicial Administration, Section XI, Trial of Lay Members, subsection A, page 266, *Discipline 2012;* and Part XVI, Judicial Administration, Section VII, Trials, subsection E (Lay Members), pages 328-329, *Discipline 2016*. Notwithstanding the *Disciplines*' silence, the art of jurisprudence clearly requires any tribunal/presiding officer to be neutral, detached and impartial when overseeing a proceeding impacting the rights of others. In the present matter, it is immaterial whether the officer is clergy or laity, so long as the individual possesses the aforementioned prerequisites for serving, in addition to having no vested interest in the outcome of the proceedings. With these caveats being established, the Judicial Council provides no further guidance.

## CONCLUSION

As clarification to its decision in No. 2016-2020, the Judicial Council holds that the tribunal/presiding officer, whether clergy or laity, in the present matter, must be neutral, detached and impartial, when overseeing any trial proceeding pertaining to the above-mentioned Petitioners. Additionally, the tribunal/presiding officer must possess no vested interest in the outcome of any subsequent trial proceedings involving the Petitioners.

Opinion rendered this 13th day of July 2018.

PER CURIAM

Judge Eduardo K. Curry did not take part in the deliberations or the rendering of this decision.

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**No. 2016-2020-14**

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

**Re: RESPONDENTS' MOTION FOR RECONSIDERATION IN THE MATTER OF STEPHANIE GANAWAY-PASLEY, ET AL, DECISION OF THE JUDICIAL COUNCIL NO. 2016-2020-12**

TaShun Bowden-Lewis, Esq., Member delivers the opinion of the Judicial Council.

## HOLDING

The Judicial Council DENIES Respondent's Petition for Reconsideration *In the Matter of Stephanie Ganaway-Pasley, et al.*, No. 2016-2020-12.

## PARTIES

The Petitioners *In the Matter of Stephanie Ganaway-Pasley, et al.*, No. 2016-2020-12 were Stephanie Ganaway-Pasley, James L. Pasley, Fred P. Moore, Teresa Cooper-Womble, James Gillard and Priscilla Bell.

The two Respondents, now requesting reconsideration of this matter, are the Pastor of Chavis African Methodist Episcopal Church, Seventh Episcopal District of the AME Church ("Pastor" or "Tribunal Officer") and Chavis African Methodist Episcopal Church, Seventh Episcopal District of the AME Church (Respondent Chavis" or "Chavis AME").

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XI, Section XX, Paragraph A, of *The Doctrine and Discipline of the African Methodist Episcopal Church 2012*, ("*Discipline*"), page 290 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF FACTS

1. On January 11, 2016, Debra Brown, a member of Chavis AME Church, submitted a request to file charges against Petitioners alleging Habitual Neglect of Responsibilities, Disobedience to the Doctrine and Discipline of the African Methodist Episcopal Church, Maladministration, Improper Conduct and Sowing Dissension.

2. On February 13, 2017, The Pastor of Chavis AME notified Petitioners that an investigative panel found no reasonable grounds to support the allegations filed on February 4, 2016 against 32 Chavis church members and former pastor Rev. Richard Brown. They declined to prefer charges.

3. On February 22, 2017, following their investigation, the Steward Board of Chavis AME preferred charges against Petitioners for trial.

4. On March 1, 2017, The Pastor of Chavis AME notified Petitioners of the decision of the Steward Board. The Notice set April 15, 2017, as the trial date for all petitioners, except Petitioner Cooper-Womble.

5. On April 12, 2017, Petitioner Cooper-Womble received Notice that the Steward Board preferred charges against her. The Notice set her trial for June 17, 2017.

6. On April 13, 2017, Presiding Elder Drayton contacted Petitioner Priscilla Bell encouraging her not to show up for the trial. Elder Drayton requested she contact the pastor to "work something out with him." Additionally, Presiding Elder Drayton contacted Petitioner Fred Moore with the same request.

7. On April 15, 2017, the Pastor of Chavis AME convened separate trials to address charges filed by Chavis AME member Debra Brown against Petitioners Stephanie Ganaway- Pasley, James Pasley, James Gilliard, Priscilla Bell and Fred Moore. During all trials, The Pastor of Chavis AME referred to himself as the judge, and the trier of facts. He handled Petitioner's objections to jurisdiction and a request for him to recuse himself from serving as the tribunal official as pretrial motions.

8. During the various trials on April 15, 2017, Debra Brown presented her charges against Petitioners, which included (1) habitual neglect, (2) disobedience to the doctrine and discipline of the African Methodist Episcopal Church, (3) maladministration, (4) improper conduct, (5) sowing dissension, and (6) failing to conform and harmonize with the Connectional Lay Organization Constitution. The transcript revealed The Pastor of Chavis AME assisted her throughout the process. At the end of each trial, the society deliberated reaching a finding of guilty against each Petitioner.

9. The society tried Petitioner Moore in absentia. After over approximately ten hours of being at the church waiting for his trial to be called, Petitioner Moore requested to leave to retrieve his medication and food. After requesting Petitioner Moore's case be called three times, The Pastor of Chavis AME advised the society to proceed with the trial. The society found Petitioner Moore guilty of the charges preferred against him.

10. At the end of each April 15, 2017 trial, the Pastor of Chavis AME accepted the verdicts expelling each member from Chavis AME Church. The Pastor of Chavis AME referenced the expulsions as "sentences."

11. On June 17, 2017, the society tried Petitioner Teresa Cooper-Womble for various offenses against the society as described above. As was articulated in the April 15, 2017 trials, Petitioner Cooper-Womble also raised jurisdictional issues and requested recusal of the Pastor of Chavis AME, who served as the tribunal officer. Even though Petitioner Cooper-Womble served the Pastor of Chavis AME with a Notice to appear as a witness in her matter, he denied her request for recusal and her objections to jurisdiction.

12. After Debra Brown presented her charges, Petitioner Cooper-Womble engaged in cross examination and presented her defense to the charges. After deliberating, the society found Petitioner Cooper Womble guilty of the preferred charges. The Pastor of Chavis AME "sentenced" her to expulsion from Chavis AME Church.

13. On July 17, 2017, Petitioners Ganaway-Pasley, Pasley, Gilliard, and Cooper-Womble appeared before the 4th Quarterly Conference to appeal their expulsion from Chavis AME Church. Petitioner Bell did not appear because she never received notice of the date or time of the Quarterly Conference, even though she requested the information via email.

14. During the 4th Quarterly Conference, Presiding Elder Drayton permitted the Pastor of Chavis AME to serve as the "acting" Secretary. Even though the Pastor of Chavis AME served as the tribunal officer in all the aforementioned trials, announced the verdicts and determined the penalty of expulsion against Petitioners, Presiding Elder Drayton permitted him to serve as the spokesperson for Chavis AME Church during the appeal. The Pastor of Chavis AME requested the expulsions be upheld.

15. After the conclusion of the arguments presented by all the Petitioners and The Pastor of Chavis AME, the members of the Quarterly Conference voted to uphold the expulsions of all the Petitioners.

16. On or about October 9, 2017, Petitioners filed an appeal of the action by the Quarterly Conference upholding their expulsions with the Judicial Council.

**17.** On or about April 27, 2018, after careful and thorough review of all submitted evidence and following its deliberation, the Judicial Council overturned the expulsion of all Petitioners based on the Judicial Council findings that Petitioners did not receive due process during the proceedings against them on April 15, 2017 and June 17, 2017, that reversible harmful error occurred during the proceedings on April 15, 2017 and June 17, 2017, and that good cause existed for Petitioner Moore's failure to attend his trial on April 15, 2017.

**18.** On or about June 6, 2018, Respondent, Pastor of Chavis AME Church filed a Motion for Reconsideration.

## ANALYSIS AND DISCUSSION

The Judicial Council afforded both Petitioner and Respondents ample notice and opportunity to submit evidence in this matter. The Council thoroughly examined all submitted materials *In the Matter of Stephanie Ganaway-Pasley, et al*. The decision was made based on the voluminous documents submitted by all parties, including trial transcripts.

The Judicial Council followed Part XI, Section XX, of the *Discipline* as well as all other applicable sections (i.e. Part XI, Section XI) in reaching its decision. Please refer to the 2012 *Discipline*, Paragraph H, beginning at page 292, to view the full scope of duties for the Judicial Council in this matter specifically, and in all matters before us generally.

The Respondents' Motion for Reconsideration did not produce any relevant material or information to warrant a reversal or modification of the Judicial Council decision in the underlying matter.

Therefore, the Judicial Council affirms its findings and conclusions reached in *In the Matter of Stephanie Ganaway-Pasley, et al*., Decision of the Judicial Council, No. 2016-2020-12.

## CONCLUSION

The Judicial Council DENIES Respondent's request for reconsideration.

Opinion rendered this 15 day of July 2018.

TaShun Bowden-Lewis, Judge

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek H. Anderson Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Vernon R. Byrd, Jr., and Judge Warren H. Dawson

Judge Eduardo K. Curry did not take part in the deliberations or the rendering of this decision.

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## No. 2016-2020-15

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

**RE: PETITION OF REVEREND TONY D. BOONE REQUESTING MODIFICATION AND ADDITIONAL RELIEF RE THE APPEAL OF TONY D. BOONE, JUDICIAL COUNCIL DECISION NO. 2016-2020-10**

Thomas L. Bess, D.Min., Chaplain, renders the opinion on behalf of the Judicial Council.

## HOLDING

The Judicial Council DENIES Petitioner's request for relief.

## PARTIES

Reverend Tony D. Boone ("Petitioner") is Pastor of Pilgrim AME Church, Washington, DC in the Second Episcopal District. Bishop James. L. Davis is the Presiding Prelate of the Second Episcopal District ("Respondents").

## JURISDICTION

As it pertains to this appeal, jurisdiction of the Judicial Council is provided in the *Doctrine and Discipline of the African Methodist Episcopal Church, 2016* ("*Discipline*"), Part XVI, Section XVI Judicial Council, Sub-Section A. Jurisdiction, Paragraph 1, page 361 which states:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

I. Whether Respondents complied with the Order of the Judicial Council in the Appeal of Tony D. Boone, No. 2016-2020-10?

II. Whether Petitioner is entitled to any further relief or compensation, as a result of the settlement agreement, i.e., "Note of Satisfaction" entered into with the Respondent, *beyond* that delineated in the Decision of the Judicial Council in the Appeal of Tony D. Boone, No. 2016-2020-10?

## STATEMENT OF FACTS

1. On November 17, 2017, the Judicial Council issued its Decision in the Appeal of Tony D. Boone, No. 2016-2020-10 stating : "Reverend Tony D. Boone is entitled to $25,878.04 in compensation for the difference between the $90,000.00 *plus* agreed to in the "Note of Satisfaction" and the $64,122.96 received by Rev. Boone as compensation, resulting in a total compensation package of $90,001.00 for the one (1) year period from November 5, 2016 to November 5, 2017, consistent with the 'Note of Satisfaction.' Said sum to be paid in full within 90 days of the date of this decision, i.e., February 5, 2018."

2. On February 5, 2018, the Second Episcopal District timely issued a check in the amount of $25,878.04 payable to Reverend Boone. The check was delivered by messenger to Reverend Boone. Reverend Boone deposited the check into his Bank of America account on February 7, 2018.

3. On February 8, 2018, Reverend Dr. Vanetta L. Brice, Second Episcopal District Treasurer, received a phone call from Reverend Boone at 8:07 p.m. alleging that the check issued by the Second District had been returned to the issuing bank, M&T Bank, for insufficient funds.

4. On February 9, 2018, Reverend Dr. Brice received a text message from Reverend Boone at 6:59 a.m. stating "According to my Bank of America account this morning the Bishop's check for $25,878.04 was officially returned on yesterday to M&T Bank for insufficient funds. I will contact you around 8:30 a.m. to participate in a call with Bank of America to resolve this matter. So far the ISF fees of $152 have posted."

5. Also, on February 9, 2017, Reverend Dr. Brice visited the M&T Bank to inquire about the check and was informed by a Bank representative that the check was not returned for insufficient funds but was returned for inability to reach the signees to verify signatures on the check.

6. Reverend Dr. Brice communicated the information received from the bank representative to Reverend Boone. In an effort to level set the matter, Reverend Dr. Brice asked Reverend Boone, with the expressed permission from Bishop Davis, if she could wire the $25,878.04 to his bank account. Reverend Boone agreed and received the funds via wire transfer. The Bank's Branch Manager also issued him a check for $152.00 to reimburse him for fees incurred.

7. On March 14, 2018, Reverend Boone filed a second Appeal with the Judicial Council asking for additional compensatory damages and attorney's fees, allegedly resulting from the breach of the Note of Satisfaction.

## ANALYSIS AND DISCUSSION

In the Appeal of Tony D. Boone, No. 2016-2020-10 the Judicial Council concluded that the Respondent breached the settlement agreement reflected by the Note of Satisfaction, delineated the terms of the agreement and fixed an appropriate remedy.

The Respondents complied with the Decision of the Judicial Council in the Appeal of Tony D. Boone, No. 2016-2020-10 by presenting a valid check in the amount of $25,878.04 to Reverend Boone on February 5, 2018. Bank of America made an independent decision to return the check for precautionary reasons and *not because of insufficient funds.* The decision to return the check was not within the immediate control of Bishop Davis and/or the Second Episcopal District.

On February 9, 2018, upon learning that the Bank had returned the check unpaid, the Second Episcopal District wired Reverend Boone $25,878.04 -- the amount Petitioner was due in accordance with the Note of Satisfaction and the Decision of the Judicial Council. Bank of America then refunded Reverend Boone $152.00 for the fees incurred on his account because the check was returned.

Accordingly, the Judicial Council concludes the following:

**CONCLUSION**

The Respondents complied with the ruling of the Judicial Council in the Appeal of Tony D. Boone, No. 2016-2020-10 by presenting a valid check in the amount of $25,878.04 to Reverend Boone on February 5, 2018. On February 9, 2018, upon learning that the Bank had returned the check unpaid, even though the funds were available, the Second Episcopal District wired Reverend Boone $25,878.04. Reverend Boone also received $152.00, refunded to him by Bank of America for the fees incurred from the Bank's fraud protocol. Upon receipt of those payments, the Judicial Council concludes that the Respondent has fully complied with the ruling of the Judicial Council.

In the Appeal of Tony D. Boone, No. 2016-2020-10, the Judicial Council delineated the terms of the Note of Satisfaction, concluded that the Respondent breached the agreement and fixed the appropriate remedy. In that same decision, the Judicial Council expressly ruled upon the matter of attorney fees. *See* Decision of the Judicial Council dated November 7, 2018, the Appeal of Tony D. Boone, No. 2016-2020-10. Respondent has fully complied with the ruling of the Judicial Council in the aforementioned matter. The Judicial Council DENIES Petitioner's request for Modification and/or any additional Relief.

Opinion rendered this 16th day of July 2018.



Thomas L. Bess, Sr., Judge

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Vernon R. Byrd, Jr., Judge TaShun Y. Bowden-Lewis, Judge Warren H. Dawson and Judge Eduardo K. Curry.

No. 2016-2020-16

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

**RE: IN THE MATTER REV. ASHLEY GORDON**
**REQUEST FOR CLARIFICATION**

Derek Anderson, Secretary, renders the opinion of the Judicial Council.

## HOLDING

The Judicial Council is without jurisdiction to grant the requested relief.

## PARTIES

Rev. Ashley Gordon ("Petitioner" or "Rev. Gordon") is an itinerant elder in the Cape Annual Conference in the 15th Episcopal District of the African Methodist Episcopal Church.

## JURISDICTION

As pertains to an appeal, jurisdiction of the Judicial Council is provided in the *Doctrine and Discipline of the African Methodist Episcopal Church, 2016* ("*Discipline*"), Part XVI, Judicial Council; Section A, Jurisdiction; Paragraph 1, page 361 which states:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

Whether the Judicial Council has jurisdiction to address Petitioner's request for clarification in a matter which came before the Ministerial Efficiency Committee, and referred to the Judicial Committee?

## STATEMENT OF FACTS

1. By letter dated March 9, 2017, Petitioner requested to be temporarily relieved from his pastoral duties. Petitioner met with the Ministerial Efficiency Committee on Tuesday, April 25, 2017, and in conclusion of the meeting the Chairperson informed him that the matter would be referred to the Judiciary Committee.

2. At the seat of the Cape Annual Conference held October 18-22, 2017, the matter was referred to the Judiciary Committee. On January 19, 2018, Petitioner filed a Petition before the Judicial Council

## ANALYSIS AND DISCUSSION

The Judicial Council is the highest judicatory body of the African Methodist Episcopal Church. It is an appellant court elected by and amenable to the General Conference. *Discipline*, Part XVI, Section XVI. Judicial Council, A. Jurisdiction; Paragraph 1, page 361. Save and except specific duties prescribed by the *Discipline*, pp. 361-365, the Judicial Council's jurisdiction is restricted to:

> ...final appeals from any adverse decision by any bishop, board, commission, group, pastor or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

At the time Petitioner filed this Petition, he had been before the Ministerial Efficiency Committee who indicated that they would be referring the matter to the Judiciary Committee. At the filing of this Petition before the Judicial Council, no charges had been preferred against Petitioner. At this juncture there is no final decision from which Petitioner may appeal to the Judicial Council. Petitioner makes no claim that any act of legislation or provision of the *Discipline* is of doubtful meaning. Petitioner indicates that he is seeking clarification in order to "make an informed decision as to how to pursue this matter further." The Judicial Council and has no authority to advise the Petitioner.

Petitioner also raises questions pertaining to conduct and procedures stating that he "reached out to engage in dialogue regarding this matter." However, the issues are not ripe for review by the Judicial Council. If the Petitioner is aggrieved by the process he must exhaust the remedies and appeal processes afforded him by the *Discipline*, before appealing to the Judicial Council. **See** *Discipline*, Part XVI; Section VIII. Appeals, B. Orders of Appeal, 2. Ministers at page 329.

## CONCLUSION

The Judicial Council has no jurisdiction to issue advisory opinions, and therefore, DENIES Petitioner's requested relief.

Opinion rendered this 19th day of July 2018.

Derek H. Anderson, Judge

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Vernon R. Byrd, Jr., Judge TaShun Y. Bowden-Lewis, Judge Warren H. Dawson and Judge Eduardo K. Curry.

**No. 2016-2020-17**

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

**RE: IN THE MATTER GANAWAY-PASLEY, ET AL.**
**MOTION TO DISMISS**

Judge Tania E. Wright, Vice-President, renders the opinion of the Judicial Council.

## HOLDING

Petitioners' Motion requesting that the Judicial Council dismiss charges preferred by Chavis AME Church and presently pending against Petitioners, is DENIED.

## PARTIES

This matter comes before the Judicial Council of the African Methodist Episcopal Church (hereinafter "Judicial Council") on a joint Motion to Dismiss presented to the Judicial Council by Stephanie Ganaway-Pasley, James L. Pasley, Fred P. Moore, Teresa Cooper Womble, James Gillard, and Priscilla Bell (hereinafter "Petitioners"), pursuant to the decision of the Judicial Council, *In the Matter of Stephanie Ganaway Pasley, et al,* 2016-2020-12, dated April 27, 2018.

The Respondents, in the *aforementioned* matter are Chavis AME Church in Hemingway, South Carolina, Seventh Episcopal District of the African Methodist Episcopal Church (hereinafter "Respondent Chavis" or "Chavis AME"), its pastor (hereinafter "Pastor") and the Presiding Elder, Georgetown District, Seventh Episcopal District, African Methodist Episcopal Church (hereinafter "Presiding Elder").

## JURISDICTION

As pertains to an appeal, jurisdiction of the Judicial Council is provided in the *Doctrine and Discipline of the African Methodist Episcopal Church, 2016* ("*Discipline*"), Part XVI, Judicial Council; Section A, Jurisdiction; Paragraph 1, page 361 which states:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make decision which affects the right of any member or Church body of the AME Church.

## PROCEDURAL HISTORY

1. On February 22, 2017, following their investigation, the Steward Board preferred charges against Petitioners for trial. Petitioners appealed the decision of the tribunal held at Chavis AME Church on April 15, 2017 and June 17, 2017. Further, Petitioners appealed the decision of the Quarterly Conference, which upheld their expulsions.

2. In its decision of April 27, 2018 *In the Matter of Stephanie Ganaway Pasley, et al,* No. 2016-2020-12, the Judicial Council found that Petitioners did not receive due process, during the proceedings against them on April 15, 2017 and June 17, 2017 and that reversible harmful error occurred in the conduct of these proceedings. Lastly, the Judicial Council found that good cause existed for Petitioner Moore's failure to attend his trial on April 15, 2017.

3. The Judicial Council determined that the parties were entitled to an opportunity to be heard in an impartial forum relative to the preferral of charges. The body denied reinstatement of the previous positions held by the parties, until a final favorable resolution of the preferred charges occurred.

4. On or about May 25, 2018, Respondents Chavis AME Church and Pastor sought clarification as to "who possessed eligibility to serve as the presiding or tribunal officer, in the trial of Lay members." The Respondents raised the concern based on the failure of the *Doctrine and Discipline 2012 and 2016* to clearly address the issue. As clarification to its decision in No. 2016-2020-13, on July 13, 2018 the Judicial Council held that the tribunal/presiding officer, whether clergy or laity, in the present matter, must be neutral, detached and impartial, when overseeing any trial proceeding pertaining to the above-mentioned Petitioners. Additionally, the tribunal/presiding officer must possess no vested interest in the outcome of any subsequent trial proceedings involving the Petitioners.

5. Respondent's forwarded a Motion to Dismiss to the Judicial Council via email on June 29, 2018, without the requisite cover sheet attached, requesting that the Judicial Council dismiss the preferred charges brought by Chavis AME Church, which are currently pending against them [1]

[1] Since October 10, 2011, the Judicial Council has required those filing appeals and responses to the Judicial Council to complete and attach the Cover Sheet before any new matter can be considered. Similarly, the Declaratory Relief Addendum must be completed and attached to a request for declaratory relief. Respondent emailed the Motion to Dismiss without the requisite Cover Sheet. Failure of Respondent to comply with this procedure caused a substantial delay in the Council's ability to respond to Respondent's Motion.

## STATEMENT OF THE ISSUE

Whether the charges brought by Chavis AME church and pending against Petitioners should be Dismissed by the Judicial Council?

## ANALYSIS AND DISCUSSION

The Judicial Council rulings in aforementioned matters were based upon findings that the Respondents committed procedural errors relative to the trial process. The Judicial Council did not rule on the merits of the underlying charges in its previous decisions. The Judicial Council concluded that the Petitioners are entitled to a fair hearing and a meaningful opportunity to be heard relative to the charges; however, the Judicial Council will not prematurely intercede by setting aside the preferred charges. Nothing in this ruling or in previous rulings should be construed to preclude the Respondents from bringing charges in accordance with their investigative findings and the February 22, 2017 decision of the Board of Stewards of Chavis AME to prefer charges against the Petitioners, so long as Petitioners are tried in accordance with the *Discipline* and afforded a fair and impartial hearing, with a meaningful opportunity to be heard.

Pursuant to the *Discipline*, Petitioners must raise any objections to the trial proceedings before the *tribunal officer*. And, if the Petitioners are then aggrieved by the process or conclusion of the trial court, they must exhaust the remedies and appeal processes afforded by the *Discipline*, i.e., appeal from the decision of the Trial to the Quarterly Conference, before filing any appealing to the Judicial Council. **See** *Discipline,* Part XVI; Section VIII. Appeals.

## CONCLUSION

The Judicial Council hereby DENIES Petitioner's requested relief.

Opinion rendered this 8th day of August 2018.

Tania E. Wright, Judge

Concurring: Judge Patricia M. Mayberry, Judge Derek H. Anderson, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Vernon R. Byrd, Jr., Judge TaShun Y. Bowden-Lewis, and Judge Warren H. Dawson.

Judge Eduardo K. Curry took no part in the deliberation or decision in this matter.

No. 2016-2020-18

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

**Re: IN THE MATTER OF THE APPEAL OF BISHOP PAUL J.M. KAWIMBE**

Judge Eduardo K. Curry, Member delivers the opinion of the Judicial Council.

## HOLDING

The Judicial Council holds that in accordance with *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, Part XVI. Judicial Administration, Section VI. Trial Procedures, A. Counsel for Persons Charged, p. 322 and Part XVI. Judicial Administration, Section VII. Trials, A. Bishops, p. 324 that Bishop Paul J.M. Kawimbe's Request for Declaratory Ruling and request for the payment of his attorney fees and expenses incurred and any future expenses in connection with his defense of the charges brought by Reverend Levy Mahasha is hereby DENIED.

## PARTIES

This matter comes before the Judicial Council of the African Methodist Episcopal Church (hereinafter "Judicial Council") on a Petition filed on December 1, 2017, by Bishop Paul J.M. Kawimbe, Presiding Prelate of the Nineteenth Episcopal District (hereinafter "Petitioner Kawimbe" or "Bishop Kawimbe") against the African Methodist Episcopal Church (hereinafter "Respondent" or "AME Church").

## JURISDICTION

The jurisdiction of the Judicial Council is provided in *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*") [1] Part XVI. Judicial Administration, Section XVI. Judicial Council, Paragraph A., p, 361, which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party

[1] The Petitioner references 2012 *Discipline*, which was the only available *Discipline* at the time of his filing. However, the 2016 *Discipline* was passed by the General Conference in July of 2016 and is properly applicable and is now readily available and will be referenced throughout this decision. And, while in some instances the references have changed since the 2012 edition, there are no substantive changes in the provisions raised in the instant appeal and request for declaratory ruling.

or body empowered to make a decision which affects the right of any member or Church body of the A.M.E. Church.

The Judicial Council shall also have jurisdiction for any request or petition for any Declaratory Decision sought. *Discipline at* p. 365.

## STATEMENT OF ISSUES

I. Whether the A.M.E. Church is required to pay the current and/or future legal fees and expenses of Bishop Paul Kawimbe incurred in connection with the defense of charges brought against him by Rev. Levy Mahasha?

II. Whether the Chief Financial Officer (CFO) of the AME Church is required to reimburse Bishop Paul Kawimbe for attorney fees and expenses incurred in connection with charges and trial before the AME Church?

III. Whether the CFO of the AME Church may expend monies from the general budget allocation to a bishop for his/her expenses incurred for legal fees and/or other trial related expenses?

IV. Whether the AME Church must maintain liability insurance to cover the cost of legal expenses incurred by each Episcopal District and/or its presiding prelate?

V. Whether the Pennsylvania non-profit code, 15 Pa.C.S. SS 5741-43 requires the AME Church to indemnify Bishop Paul Kawimbe for expenses incurred in defending charges before the trial committee of the AME Church?

## STATEMENT OF FACTS

1. On August 9, 2016, Petitioner Kawimbe, the presiding Bishop of the Nineteenth Episcopal District, received notice of charges filed against him by Reverend Mahasha. The Preliminary Inquiry Committee reviewed and referred the matter to trial.

2. Shortly after service of the pleadings, Petitioner Kawimbe sought legal representation. The record reflects that numerous phone calls, emails and correspondence took place between Petitioner Kawimbe, the Chief Financial Officer Richard Lewis (hereinafter CFO), General Counsel of the AME Church, Douglas Shelby and Petitioner Kawimbe's legal counsel, Richard H. Sinkfield of the law firm of Rogers and Hardin.

3. The communications reflect that Petitioner Kawimbe was served with notice that preliminary charges were preferred against him and would be set for trial. There were numerous emails between the parties from May 2017 through November 2017 relating to issues of legal

representation, omissions and errors insurance funds from the Nineteenth District Accounts and loans taken from Petitioner Kawimbe's 403 (B) account.

4. Bishop Kawimbe executed a letter of engagement on May 22, 2017 agreeing to and accepting the terms of the contract with the firm of Rogers and Hardin, which was signed solely by Bishop Kawimbe.

5. Douglas Shelby reviewed the letter and made recommendations regarding the contract sent to Petitioner Kawimbe, prior to Petitioner Kawimbe executing the same.

6. On June 1, 2017, Bishop Kawimbe sent a request for funds, in the amount of $40,000.00, to CFO Lewis. The CFO indicated that "$25,000 would come from the Overseas Development Fund and $15,000 from Travel," if it was "ok." At no time was there an indication that the monies sent were considered as a payment by the AME Church for attorney fees on behalf of Petitioner Kawimbe. No monies were sent to Petitioner Kawimbe's attorney by the AME Church.

7. On June 2, 2017, Bishop Kawimbe provided instructions, specifying the account to which the funds should be wired. On June 5, 2017, Bishop Kawimbe sent an acknowledgement of funds received from CFO Richard Lewis. The funds were not wired to Petitioner Kawimbe's attorney.

8. On August 7, 2017, Attorney Sinkfield sent an email to the CFO inquiring as to payments for Petitioner Kawimbe's attorney fees and as to whether an omissions insurance carrier existed for Connectional Officers and Bishops. On the same day, CFO, Richard Lewis responded that Petitioner had personal liability for attorney fees. On August 11, 2017, CFO Lewis informed Petitioner Kawimbe that no errors and omissions insurance existed for Bishops and General Officers. Subsequently on September 19, 2017, CFO Lewis sent a formal letter to Attorney Sinkfield reiterating that the Church held no professional liability insurance for Bishops.

9. On November 27, 2017, Bishop Kawimbe requested CFO Lewis release additional funds in the amount of $30,000 from Petitioner's 403B account. After discussion, the funds were dispersed as a loan, with an agreement for repayment to Petitioner Kawimbe's account in the amount of $500.00 per month beginning March 15, 2018.

10. A Pretrial Order was submitted by Bishop John R. Bryant, dated June 2017. In that order, the Presiding Officer stated:

> Bishop Kawimbe shall be allowed to appear by counsel of his choice and be heard orally or in writing, provided such counsel be a member or members of the AME Church. The Presiding Officer has been advised that Richard Sinkfield, Esq. has been chosen as the counsel for Bishop Kawimbe, and that Reginald Roberts, Esq. has been chosen as

prosecuting attorney for the African Methodist Episcopal Church.

11. The AME Church never signed/executed any contract or retained counsel on behalf of Bishop Kawimbe. Although communication occurred between the parties, all formal negotiations for representation involved Petitioner Kawimbe and Attorney Sinkfield.

12. The Petitioner alleges that there is a requirement for the AME Church to provide Bishops with professional liability insurance, appoint/provide counsel for the party and pay the attorney fees for counsel selected by Petitioner Kawimbe.

## ANALYSIS AND DISCUSSION

For a Bishop to enter into a fee arrangement for a legal matter, that Bishop must get approval from both (a) two-thirds of the Executive Committee or a majority of the entire Board and (ii) the CFO. *Discipline*, Part III. The Church and Its Property, Section IV. General Counsel and Attorney for the Church, pp. 75-76. The Petitioner failed to meet these requirements. In the Petition filed by Attorney Sinkfield on behalf of Petitioner Kawimbe, there is no reference to a request, consideration or approval to enter into a fee agreement by the Executive Committee and the CFO of the AME Church. There has also not been approval of the Executive Committee or a majority of the entire board to enter such agreement or pay attorney fees for Petitioner Kawimbe.

A review of the *Discipline* indicates that it is contemplated that each annual conference and episcopal district shall arrange and select attorneys who assist them in their individual districts. *Id. at* Subsection A & B, pp. 75-76. Additionally, any Bishop may petition the Board of Trustees of the church corporation to provide legal counsel provided that such action is approved by two-thirds of the Executive Committee or a majority of the entire Board of Trustees of the church corporation. *Id. at* p.76. Each Annual Conference and Episcopal Districts shall make arrangements with the selected attorney for the amount and payment of fees with approval of the General Counsel of the AME Church. *Id. at* Subsection D p. 77. The record reflects that Bishop Kawimbe sought fees which came from the 19th District Overseas Development Funds and Travel Budget. He procured a personal loan against his own 403B Account. Monthly bills were never forwarded to the AME Church or its Chief Financial Officer Richard Lewis for Petitioner Kawimbe's fees for the attorney that he selected. The hearing officer, Bishop John Bryant, never appointed Attorney Sinkfield as Bishop Kawimbe's counsel. Bishop Kawimbe never filed a request with the Executive Committee or the CFO to request funds for his legal defense or to pay his legal fees.

The Judicial Council also finds that the Overseas Development and Travel Funds fall within the budgets of the individual episcopal districts located outside the United States. Petitioner Kawimbe sought approval and requested the aforementioned funds from the CFO. Petitioner has the ultimate authority over the distribution of the funds and how they will be allocated. The funds were not derived from the general budget of the AME Church. In order to receive funds from the general budget, the *Discipline* proscribes a process that must be followed for Petitioner Kawimbe to obtain funds that are not within the discretion of the Bishop serving in that episcopal district.

The Judicial Council finds that Petitioner Kawimbe personally sought his own legal counsel per *Discipline,* which states:

> 1. Every person charged for trial shall be allowed to appear through counsel of his or her choice and to be heard orally or in writing provided such counsel be a member or members of the AME Church. The presiding officer shall in every trial, appoint counsel where none is chosen by the parties.
> 2. Not more than two (2) persons shall appear as counsel for each side at any trial.

Part XVI. Judicial Administration, Section VI. Trial Procedures, A. Counsel for Persons Charged, p. 322.

Petitioner Kawimbe secured his own attorney and executed his own engagement letter. Petitioner was counseled and sought advice over the selection of his legal counsel; however, he personally selected his own attorney and notified the hearing officer of his choice at the Preliminary Hearing. The Judicial Council cannot ascertain why Petitioner Kawimbe failed to have his attorney of choice file a petition requesting the AME Church to pay Petitioner's attorney fees, prior to representation. The record is devoid of such a request and we will not ignore the prescribed procedure.

The AME Church is not required to provide active Bishops with professional liability insurance. The clear intent of the *Discipline* and the Council of Bishops is that each Bishop is responsible for providing within its respective episcopal district its own liability insurance with the connectional AME Church named as a co-insured. This matter was addressed as recent as the Council of Bishops, December 7, 2016 meeting in Naperville, Illinois when it was determined: "Each Episcopal District must have insurance and their own liability insurance, with the connectional AME Church named as a co-insured." See minutes of Council of Bishops, December 7, 2016.

This Council agrees with the Respondent's reasoning in that professional liability insurance would generally cover third party suits and not internal cannon proceedings. Such coverage would allow the insured to bring claims against itself or continual barrage or unascertained cost and premiums that are outside of the scope of its contractual obligation.

Lastly, the Petitioner argues that Pennsylvania law requires the AME Church to reimburse him for attorney fees and expenses incurred. Petitioner cites Pennsylvania non-profit code, 15 Pa.C.S. §5741-43, indicating that the AME Church indemnify him for expenses incurred for his defense before the trial committee. The state statue permits indemnification and even mandates indemnification by non-profit agencies under specific circumstances. Mandatory indemnification entails a representative of the church in a third party or derivative corporate action who prevails on the merits. The Pennsylvania law is not applicable to the instant proceedings. The statute itself provides that unless the expressed provision violates the Constitution of the United States or Pennsylvania, where the religious institution set forth regulations on the same subject matter, canon law controls, even if inconsistent with Pennsylvania law. *See* 15 Pa.C.S. § 5107. The secular

law is subordinate to canon law. Here, the trial of Bishop Kawimbe was an internal proceeding that was and is controlled by the Cannon Law of the Church as scripted in the *Doctrine and Discipline of the AME Church*, 2016 Edition.

## CONCLUSIONS

I. The Judicial Council finds the AME Church is not required to pay the current or future legal fees, since Petitioner failed to petition the Executive Committee and/or CFO for payment from the general budget and funds as proscribe by *Discipline*, 2016.

II. The Judicial Council finds Petitioner Kawimbe selected his attorney, prior to any attempted appointment of counsel by Hearing Officer Bryant holding him responsible for payment of attorney fees and associated costs.

III. The Judicial Council finds the AME Church is not required to provide professional liability or omissions and errors liability insurance for General Officers or Bishops. The responsibility for the aforementioned insurance rests with each individual episcopal district.

IV. The Judicial Council finds that the Pennsylvania non-profit code, 15 Pa.C.S. § 5741-43 is not applicable to the proceedings that are controlled by the Cannon Law of the *Doctrine and Discipline of the AME Church, 2016*.

## ORDER

Based on the Analysis and Conclusions of the Judicial Council, Petitioner's request for relief is **DENIED**.

Opinion rendered this 18th day of October 2018.

Judge Eduardo K. Curry

Concurring: Judge Patricia M. Mayberry, Judge Derek H. Anderson, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Vernon R. Byrd, Jr., Judge TaShun Y. Bowden-Lewis and Judge Warren H. Dawson

Judge Tania E. Wright Concurring in Result:

I agree with the conclusion reached by the majority, i.e. the AME Church is not required to pay or reimburse Bishop Kawimbe for legal fees incurred in the underlying matter in that Bishop Kawimbe failed to follow those procedures which *are* clearly prescribed by the *Discipline* for obtaining legal funds. *Discipline*, Part III. The Church and Its Property, Section IV. General Counsel and Attorney for the Church, pp. 75-76 and Part XVI. Judicial Administration, Section VI. Trial Procedures, A. Counsel for Persons Charged, p. 322.

However, with regard to Bishop Kawimbe's request for a declaratory ruling on the issue of professional liability insurance, the *Discipline* provides that when the General Conference has passed any act or legislation that appears to be subject to more than one interpretation, or when it seems to be of doubtful meaning or application, any authority in the Church or any member in good and regular standing affected may have a right to appeal to the Judicial Council from a ruling based upon that legislation. Part XVI. Judicial Administration, Section XVI. Judicial Council, Paragraph I. Duties, (10), p. 365.

The *Discipline*, Part XI, Duties and Authority of Bishops and General Officers, Section I. Active Bishops, C. Salary, p. 167 affords certain benefits to the Bishops, to include professional liability insurance, with a condition these benefits do not exceed the budget parameters and states that the funds to cover both the salary and benefits of active bishop shall be included in the Connectional Budget Episcopal Fund. Contrary to the majority opinion, I find that this provision *is unclear and may be subject to more than one interpretation.*

Essentially, Bishop Kawimbe asserts that the provision requires the connectional church to secure insurance for his legal fees related to his role as bishop and that the Church's failure to do so requires that he be reimbursed for his legal fees. The General Counsel, CFO and Counsel of Bishops assert that it is the responsibility of each episcopal district to provide their own liability insurance. The General Counsel states that the Bishop has complete control over the monies allotted from the Episcopal Budget and from the General Church so that failure to obtain liability insurance should fall on the Bishop and not on the General Church.

The provision does not (a) define the scope of insurance coverage nor (b) state what entity of the church is to administer that coverage. A common definition distinguishes professional liability insurance from general liability insurance, in that professional liability insurance can be for errors and omissions only and protect against liability for negligence in providing advice, services and other duties of your profession, but *may or may not* include legal fees. General liability insurance covers legal fees and costs associated with a legal defense. The CFO clearly communicated that the AME Church does not maintain this type of comprehensive coverage for bishops.

The majority opinion concludes that the AME Church is not required to provide active bishops with professional liability insurance while stating:

> The clear intent of the *Discipline* and the Council of Bishops is that each Bishop is responsible for providing within its respective episcopal district its own liability insurance with the connectional AME Church named as a co-insured. This matter was addressed as recent as the Council of Bishops, December 7, 2016 meeting in Naperville, Illinois when it was determined: "Each Episcopal District must have insurance and their own liability insurance, with the connectional AME Church named as a co-insured." See minutes of Council of Bishop December 7, 2016.

I find no clear intent of the General Conference nor clear meaning in the reading of the provision of the *Discipline* at issue. Rather, I respectfully submit that clarity can only be gleaned from reliance on ancillary provisions of the *Discipline*, explanation, practice and usage as offered by the CFO and General Counsel. In addition, the Council relies on a definitive statement relative to liability insurance, noted in the meeting minutes of December 7, 2016 of the Council of Bishops (of which Bishop Kawimbe is a member). I believe the Judicial Council soundly adopted the reasoning and explanation of the Respondent(s), as opposed to that proffered by the Petitioner, in interpreting what, for me, is otherwise a dubious provision of the *Discipline*.

No. 2016-2020-19

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

**Re: IN THE MATTER OF THE APPEAL OF REVEREND CLINTON BROWN, SR.**

Judge Warren Hope Dawson, Member, and Judge Tania E. Wright, Vice-President, deliver the opinion of the Judicial Council.

## HOLDING

The Judicial Council holds that in accordance with *The Doctrine and Discipline of the African Methodist Episcopal Church 2012*, ("*Discipline*"), Section VII. Ministers' Bill of Rights, PREAMBLE- A BILL OF RIGHTS FOR AFRICAN METHODIST EPISCOPAL MINISTERS, the rights of Petitioner, Reverend Clinton Brown, Sr., **were not violated when he was transferred from Greater Mount Carmel A.M.E. Church, Doraville, Georgia to Summer Hill A.M.E. Church, Rome, Georgia** nor upon his subsequent transfer to **Parker Chapel A.M.E. Church, Culloden, Georgia**. Additionally, Reverend Clinton Brown, Sr., is *not* entitled to monetary compensation for lost wages or housing allowance, nor damages for harassment, mental cruelty, retaliation, public defamation of character or any other relief requested in this matter.

## PARTIES

Petitioner, **Reverend Clinton Brown, Sr.,** Itinerant Elder of the African Methodist Episcopal Church (hereinafter "A.M.E. Church") and Pastor, Parker A.M.E. Church, Culloden, Georgia, Macon Georgia Annual Conference, Sixth Episcopal District. Respondents, **Bishop Reginald Jackson,** Presiding Prelate of the Sixth Episcopal District, A.M.E. Church and **Bishop Preston Warren William, II,** Bishop, A.M.E. Church (Retired).

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XI, Section XX, Paragraph A, of *The Doctrine and Discipline of the African Methodist Episcopal Church 2012*, ("*Discipline*"), page 290 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF ISSUES

I. Whether Reverend Brown's reassignment from Greater Mount Carmel A.M.E. Church, Doraville, Georgia was in opposition to the May 16, 2016 recommendation of the Atlanta North Georgia Annual Conference Ministerial Efficiency Committee and, if so, whether that violated Petitioner's rights?

II. Whether Reverend Brown's reassignment from Greater Mount Carmel A.M.E. Church, Doraville, Georgia to Summer Hill A.M.E. Church, Rome, Georgia, both in the Atlanta North Georgia Annual Conference, violated his right to a comparable assignment as prescribed by the Ministers' Bill of Rights?

III. Whether Revered Brown is/was concurrently the pastor of Greater Mount Carmel A.M.E Church, Doraville, Georgia and Summer Hill A.M.E. Church, Rome, Georgia?

IV. Whether Reverend Brown is entitled to monetary compensation for lost wages and housing allowance and/or monetary damages for harassment, mental cruelty, retaliation public defamation of character or irreparable harm and embarrassment occasioned by his being ordered to undergo a psychological evaluation and mentorship for a year?

## STATEMENT OF FACTS

1. Bishop Preston Warren William II, a Respondent to this appeal is retired.

2. Bishop Reginald Jackson, a Respondent to this Appeal, (by the Petitioner's own admission) had no input or involvement in the pastoral appointments of the Petitioner to either Greater Mount Carmel A.M.E. Church or Summer Hill A.M.E. Church.

3. Although the minutes of the Annual Conference were not submitted by either party for our review, Rev. Brown asserts that the initial Ministerial Efficiency Committee's Recommendation to the Atlanta North Georgia Annual Conference in May of 2016 was that he should remain at Greater Mount Carmel and continue the vision of selling the church. Reverend Brown was initially referred to the Committee for allegedly failing to meet financial obligations. However, according to the May 16, 2016 written report of the Atlanta North Georgia Annual Conference Ministerial Efficiency Committee, Reverend Brown was found to have a financial plan for the church's indebtedness, as is required, but that the church leadership was not supportive of his plan. The Recommendation of the Committee was as follows:

> It is the recommendation of the Ministerial Efficiency Committee that Rev. Brown, the local church trustees and other appropriate local church leadership come together to formulate the arrear budget obligation and future directions of Mt. Carmel AME Church, Doraville, i.e. remain at the same location or move to a new location (what are the budget ramifications and how does the church meet its obligations). If a consensus can be reached, plans should be made to pay the arrear budget and move forward toward the Quarterly Conference and Annual Conference for land sale if affirmative. If a consensus cannot be reached, other leadership options should be considered.

The report also states that they pray the Bishop uses "godly judgement" towards this matter.

4. On May 20, 2016, the Atlanta North Georgia Annual Conference Ministerial Efficiency Committee issued a supplemental report in response to allegations regarding Reverend Brown's conduct, which was supplied by Presiding Elder Rhone. Its Recommendation reads as follows:

> It is the recommendation of the Ministerial Efficiency Committee that Rev. Brown be removed from the position of Pastor of Mt. Carmel AME Church and sent to a local church where he can handle the administrative responsibilities. It is further recommended that Rev. Brown be paired with a pastor who is able to mentor him for a period of 1 year to observe, advise and give feedback on administrative procedures at the local church level.

Although no minutes from the 2016 Annual Conference were submitted by either party, Reverend Brown indicated that after he raised a question on the motion regarding the recommendation, no vote was called for on the motion. However, Reverend Brown did not receive a ministerial appointment at the Annual Conference.

5. Just prior to the June 2016 Planning Meeting, Reverend Brown states that he was advised by Presiding Elder Rhone that he would not be returning to Greater Mount Carmel A.M.E. Church. On June 10, 2016, at the Sixth District Planning Meeting, Reverend Brown received an appointment to the pastoral charge at Greater Mount Carmel A.M.E., Doraville, GA. The date printed on the certificate of appointment is not decipherable. According to text messages provided by Reverend Brown allegedly between him and newly appointed Presiding Elder Hudson, Reverend Brown was called back to the stage by Bishop Williams on June 10, 2016, relative to the appointment, but was either absent from the facility or otherwise did not respond.

6. On June 12, 2016, Reverend Brown was informed via written communication from Bishop Williams, delivered to him at Greater Mount Carmel A.M.E. Church by Presiding Elder Hudson, that he had received the appointment to Greater Mount Carmel A.M.E. Church by inadvertent error. Instead, he was appointed as pastor to Summer Hill A.M.E., Rome, Georgia. The date printed on the certificate of appointment is indecipherable. After voicing both discontent and disbelief regarding the assignment, Rev. Brown went to Summer Hill A.M.E. on June 12, 2016 and remained there as the pastor.

7. On June 17, 2016, Reverend Brown was advised that he had again been referred to the Ministerial Efficiency Committee for refusal to accept his appointment and for pastoral interference. On June 21, 2016, in a series of text messages submitted by Reverend Brown allegedly between him and Elder Hudson, Reverend Brown asserts that the decision to move him was different from that which he and Bishop Williams discussed and that he was waiting to hear from his Bishop. He stated that until that time, he would continue to be the pastor of Greater Mount Carmel A.M.E. Church, Doraville and Summerhill A.M.E. Church, Rome.

8. On July 20, 2016, the Ministerial Efficiency Committee issued its Recommendation as follows:

> It is the recommendation of the MEC that Rev. Brown be removed from his position of Pastor at Summer Hill AME Church and undergo psychological evaluation from a licensed psychologist. This evaluation should include the testing of Rev. Brown's behavior, personality, and capabilities to determine if he is fit to serve as pastor of a local congregation. The choice of a specific psychologist is open to Rev. Brown. However, the person and evaluation plan must be approved by the MEC prior to moving forward. After successful evaluation, treatment (if necessary) and release Rev. Brown may return to serving as Pastor.

9. Reverend Brown continued as the pastor of Summer Hill A.M.E. for the remainder of the 2016-2017 conference year.

10. In June of 2017, Bishop Jackson provided Reverend Brown with the appropriate 90-day notice, conferenced with and appointed Reverend Brown to pastor Parker Chapel A.M. E. Church, Culloden, GA, Macon Georgia Annual Conference.

11. On December 18, 2017, Reverend Brown filed the instant Appeal to the Judicial Council.

12. On December 27, 2017, Bishop Jackson filed an Answer to the instant Appeal. Bishop Jackson states that upon his assignment as the bishop of the Sixth District in July of 2016, Reverend Brown came to see him (Bishop Jackson) to discuss his (Reverend Brown's) move from Greater Mount Carmel and asserted that Bishop Williams wanted him to conclude the sale of the church and its property. He also discussed how he received two appointments at the June 2016 meeting in Macon, GA., one appointing him to Greater Mount Carmel and a second, appointing him to Summer Hill A.M.E. Church. He insisted that he should be the pastor of Greater Mount Carmel A.M.E. Church and that Greater Mount Carmel had approved selling the church and property.

13. Bishop Jackson, Presiding Elder Hudson, the current pastor, Reverend Jeff Streator, and the property developer met with the Greater Mount Carmel congregation to discuss and clarify the proposed sale of the church and its property. At the meeting, the Greater Mount Carmel congregation denied that they had approved the sale and accused Reverend Brown of trying to sell the church and its property behind their backs. The congregation also made it clear that they wanted Reverend Brown moved. Reverend Brown, continued to insist that the congregation had approved selling the church and property and that Bishop Williams encouraged the sale. Bishop Jackson had no conversation with Bishop Williams regarding this matter; however, he notes that Bishop Williams moved Reverend Brown. Further, Reverend Brown continued to assert that he had two pastoral appointments.

14. In the response by Bishop Jackson, he states his reasons for moving Reverend Brown to Parker Chapel A.M.E. Church in June of 2017 were as follows: Presiding Elder Larry Hudson recommended that Reverend Brown be moved, citing his desire not to be there, decline in the church and the congregation's desire for a change in pastoral leadership. Bishop Jackson spoke to the pastor's steward at Summer Hill A.M.E. Church to confirm the presiding elder's report and to learn the status of the church. Bishop Jackson also considered the July 20, 2016 Ministerial Efficiency Committee Recommendation.

15. Bishop Jackson met with Reverend Brown at the Sixth District Planning Meeting in June 2017 and informed him that he (Bishop Jackson) was going to move him, citing his (Reverend Brown's) desire to move, his presiding elder's recommendation, the Ministerial Efficiency Committee recommendations and the desire of Summer Hill A.M.E. Church. He also told him that he would give him a temporary appointment to Parker Chapel A.M.E., Macon, Georgia Annual Conference to (1) allow him the opportunity to find a mentor as recommended by the Ministerial Efficiency Committee, (2) to see how he fared in another conference, away from Atlanta-North Georgia Conference, (3) to provide him an opportunity to prove his pastoral ability and (4) to gauge for himself (Bishop Jackson), if he (Reverend Brown) is suitable for pastoral ministry.

16. On April 11, 2018, the Judicial Council was advised by written communication from Bishop Jackson that he had received a request from an attorney for Reverend Brown requesting a Conciliation in this matter.

17. On June 8, 2018, Reverend Brown filed his Reply to Bishop Jackson's Answer asserting that, contrary to Bishop Jackson's response, the Greater Mount Carmel, A.M.E. Church had approved the sale and that he was carrying out Bishop William's request.

## ANALYSIS AND DISCUSSION

Reverend Brown asserts that his removal from Greater Mount Carmel was in violation of the Ministers' Bill of Rights in that (1) it was in opposition to the recommendation of the Ministerial Efficiency Committee, (2) the initial appointment sending him back to Greater Mount Carmel was an appointment for one year that could not be changed except by mutual consent or by a finding of maladministration or the like and that his move to Summer Hill A.M.E. was without the required notice and (3) the appointment was not comparable to his previous charge. Reverend Brown does not allege that he was not initially given the required ninety (90) day notice in advance of the bishop's intent to move him, prior to annual conference.

### Findings and Effect of the Atlanta North Georgia Annual Conference Ministerial Efficiency Committee

While the main purpose of the Ministers' Bill of Rights is to protect itinerate elders from arbitrary and capricious moves, it does not entitle a minister to a specific assignment. Nothing about Reverend Brown's move was seemingly arbitrary or capricious. Although the minutes of the Annual Conference were not submitted by either party for our review, Reverend Brown asserts that the initial Ministerial Efficiency Committee recommendation to the Atlanta North Georgia Annual Conference on or about May 16, 2016 was that he should remain at Greater Mount Carmel and continue the vision of selling the church. The actual report was not as definitive. The report was relative to financial issues for which the Ministerial Efficiency Committee noted that Reverend Brown had a plan to manage the fiscal affairs, but that the church was not supportive. The

report suggests that the church and its officers *try to come* to some agreement regarding the sale of the church. It continues by saying "If a consensus cannot be reached, other leadership options should be considered." The report further states that they pray that the Bishop uses his "godly judgement."

On May 20, 2016, The Atlanta North Georgia Annual Conference Ministerial Efficiency Committee issued a supplemental report, in response to additional information supplied by Presiding Elder Rhone. The Ministerial Efficiency Committee recommended that Reverend Brown be removed from the position as Pastor of Greater Mount Carmel A.M.E. Church and sent to a local church where he can handle the administrative responsibilities and further recommended that Reverend Brown be paired with a pastor who is able to mentor him for a period of 1 year to observe, advise and give feedback on administrative procedures. Although minutes from the 2016 Annual Conference were not submitted by either party, Reverend Brown indicated that after he raised a question on the motion regarding the recommendation, no vote was called for on the motion and therefore the motion died. Reverend Brown did not receive an appointment at annual conference. As such, Reverend Brown complains that his failure to be reappointed to Greater Mount Carmel A.M.E. was in opposition to the recommendation of the Ministerial Efficiency Committee.

The Ministerial Efficiency Committee is appointed by the Bishop with the duty to pass on the efficiency and moral conduct of such ministers as may be referred to it. *Discipline at 209*. The *Discipline* mandates that the Annual Conference must vote to accept the recommendation of the Ministerial Efficiency Committee (i) to involuntarily "locate" a minister, i.e., deprive the pastor of the right to exercise ministerial orders, (ii) to reprove, suspend or dismiss a minister for willful refusal or willful neglect of his or her duty to raise apportionments, and (iii) to sanction a minister for failure to attend annual conference without satisfactory reason. *Id. at 112-113* and *208-209*. We note no *mandatory* requirement for the same action/vote of the Annual Conference on recommendations of the Ministerial Efficiency Committee in other circumstances. Moreover, *recommendations* concerning appointments are not dispositive, in that the Bishop retains the right to exercise godly judgement and administrative discretion to make changes in the appointments that are deemed necessary for the good of the church and to ensure that all the churches under his/her jurisdiction have suitable pastors.

**Pastoral Appointment and Requirement for Comparable Charge**

Seemingly, Reverend Brown was appointed to Greater Mount Carmel A.M.E. on June 10, 2016, by inadvertent error and was notified of the actual appointment to Summer Hill A.M.E., by Presiding Elder Hudson, on June 12, 2016. The actual dates of the appointment, as they appear on the certificates are not decipherable. Text messages exchanged between the Presiding Elder and Reverend Brown, transcribed and presented to us by Reverend Brown, indicate that Bishop Williams attempted to correct his mistake on June 10, 2016, calling Reverend Brown back to the stage, but that Reverend Brown was not present or did not respond. The error was in fact corrected by letter of June 12, 2016. On June 12, 2016, Reverend Brown was appointed to Summer Hill A.M.E. and

ceased to be the Pastor of Greater Mount Carmel A.M.E. Church. We find this error unfortunate, but there was no sound reason for Reverend Brown to believe that he then had two charges, when he was made fully aware of the error and advised that another pastor had been appointed to Greater Mount Carmel. Even so, Reverend Brown continued to assert himself as the pastor, as it related to selling the church property of Greater Mount Carmel A.M.E.

Upon Bishop Jackson's assignment to the Sixth District in July of 2016, Reverend Brown came to see him and discussed his move from Greater Mount Carmel and asserted that Bishop Williams wanted him to conclude the sale of the church and its property. He also discussed how he received two appointments in June 2016 and insisted that he should be the pastor of Greater Mount Carmel A.M.E. Church and that the church had approved the selling of the church and property. Bishop Jackson met with Presiding Elder Hudson, the current pastor, Reverend Jeff Streator and the Greater Mount Carmel congregation to discuss the proposed sale of the church and its property. At the meeting, the Greater Mount Carmel congregation made it clear that they did not approve the sale of the church and its property. Further, they wanted Reverend Brown moved.

In his Petition for Appeal to the Judicial Council, Reverend Brown repeatedly reminds us that a pastoral appointment is for one year. Yet, Reverend Brown presents his Petition before the Judicial Council on December 18, 2017, more than one and one-half years after his reassignment to Summer Hill, A.M.E., which occurred on June 12, 2016. Although he did submit a complaint to the Judicial Council on June 17, 2016, he was duly advised that the Petition was not properly filed and could not be considered. He did not act again on that Petition until December of 2017. Reverend Brown, by his own admission, accepted his reassignment, on June 12, 2016, to Summer Hill A.M.E. Church and preached and remained there as pastor for the remainder of conference year 2016-2017. In June of 2017, Bishop Jackson, after meeting with Reverend Brown and explaining his significant reasons for doing so, assigned Reverend Brown to Parker Chapel A.M.E. Church.

Reverend Brown also alleges that his rights were violated in that he did not receive a comparable charge in June of 2016. The Ministers' Bill of Rights requires an appointment equal to one's abilities, training and experience and when reappointed, a comparable charge or better, when available, unless found guilty under Judicial Administration. Here there was no finding of guilt under Judicial Administration, but there were significant findings and recommendations by the Ministerial Efficiency Committee supporting a need for a change in assignment for Reverend Brown. The appointment is affected by the abilities and limitations of the minister and of course the availability of a church at the time of the appointment. In all instances, a comparable appointment, as relates to the Ministers' Bill of Rights, is fact-driven and entails a plethora of comparisons to include, but not limited to, salary and other compensation. Here, Bishop Jackson asserts that there is a significant difference between the salary Reverend Brown indicated that he received at Greater Mount Carmel and the much lower salary which was reported to the annual conference.

An evaluation of those claims does not generally begin with this appellant tribunal, rather the claim would be initially evaluated before other bodies such as Conciliation or a Preliminary Inquiry Committee, ideally at or near the time of the new appointment. A request for Conciliation may have been appropriately filed prior to filing an appeal before the Judicial Council, but certainly not simultaneously nor after the Petitioner has presented the matter to the Judicial Council.

The Ministers' Bill of Rights is not self-effectuating; any rights must be asserted by the aggrieved party who believes his/her rights have been violated. There does not appear to be a statutory limitation on the time for asserting one's rights under the Ministers' Bill of Rights. However, there are equitable considerations, regarding the alleged violations and enforcement of the Ministers' Bill of Rights. In that an appointment is for only one year, it is reasonable and prudent that a request for Conciliation and/or any charges and appeals would be initiated soon after a pastor finds him or herself aggrieved. ***See*** *Decision of the A.M.E. Judicial Council in Julius Baker 2008-2012-25*, wherein Petitioner's claim was barred by the Doctrine of Latches when Petitioner sought to challenge his location before the Florida Annual Conference in that Petitioner waited almost four years, after being directed to seek relief, if any, through the authority of the Florida Annual Conference. Reverend Brown failed to timely exercise claims relative to his transfer from Greater Mount Carmel A.M.E. Church to Summer Hill A.M.E. Church and any claims are similarly barred by the Doctrine of Latches.

## CONCLUSIONS

I. While we find that Reverend Brown's reassignment from Greater Mount Carmel A.M.E. Church, Doraville, Georgia was *not* in opposition to the May 16, 2016 recommendation of the Atlanta North Georgia Annual Conference Ministerial Efficiency Committee, we also find that the recommendation of the Ministerial Efficiency Committee is not dispositive as to whether a minister is reassigned by a bishop.

II. Reverend Brown's reassignment from Greater Mount Carmel A.M.E. Church, Doraville, Georgia to Summer Hill A.M.E. Church, Rome, Georgia, both in the Atlanta North Georgia Annual Conference, did not violate his right to a comparable assignment as prescribed by the Ministers' Bill of Rights.

III. Revered Brown was no longer the pastor of Greater Mount Carmel A.M.E Church, Doraville, Georgia, after his appointment to Summer Hill A.M.E. Church, Rome, Georgia on June 12, 2016.

IV. Reverend Brown is *not* entitled to monetary compensation for lost wages and housing allowance and/or monetary damages for harassment, mental cruelty, retaliation public defamation of character or irreparable harm and embarrassment occasioned by his being ordered to undergo a psychological evaluation and mentorship for a year.

**ORDER**

Based on the Analysis and Conclusions of the A.M.E. Judicial Council, Petitioner's request for relief is DENIED.

Opinion rendered this 27th day of September 2018.

Warren H Dawson

Judge Warren Hope Dawson

Tania E Wright

Judge Tania E. Wright

Concurring: Judge Patricia M. Mayberry, Judge Derek H. Anderson, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Vernon R. Byrd, Jr., Judge TaShun Y. Bowden-Lewis and Judge Eduardo K. Curry.

## No. 2016-2020-20

**BEFORE THE JUDICIAL COUNCIL**

**OF THE**

**AFRICAN METHODIST EPISCOPAL CHURCH**

**RE: IN THE MATTER OF REV. WILLIAM A. HOPKINS**

Judge Glenda F. Hodges, Assistant Secretary, delivers the opinion of the Judicial Council.

This matter comes before the Judicial Council on the Petition of Rev. William A. Hopkins, an Itinerate Elder, Bethel (Powersville) African Methodist Episcopal Church, Macon Annual Conference, Sixth Episcopal District.

### HOLDING

The Judicial Council is an appellate court. Its jurisdiction is limited to final appeals and requests for declaratory decision sought where legislation passed by the General Conference is unclear or subject to more than one interpretation. *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, (*Discipline*) Part XVI. Judicial Administration, Section XVI. Judicial Council, Paragraph A., p, 361 and p. 365. Petitioner seeks varied relief, including bringing charges against various individuals. The Petitioner has not sought the remedies afforded by the *Discipline* neither does Petitioner make any claim that any provision of the *Discipline* is of doubtful meaning. After a thorough review of the Petitioner's assertions, we conclude that we lack jurisdiction in this matter.

### ORDER

Accordingly, the Judicial Council Denies this petition for appeal and request for declaratory decision, as well as any other relief requested.

This opinion rendered on this 24th day of October 2018.

By: Glenda F. Hodges

Judge Glenda F. Hodges

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek H. Anderson, Judge Thomas L. Bess, Judge Vernon R. Byrd, Jr., Judge TaShun Y. Bowden-Lewis, Judge Warren H. Dawson and Judge Eduardo K. Curry.

**No. 2016-2020-22**

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

**RE: IN THE MATTER OF James Ellis**

Judge Tania E. Wright, Vice President, delivers the opinion of the Judicial Council.

## HOLDING

The creation of the 5th Presiding Elder District, known as the Charlotte Maxeke District, was recommended by the Committee on Mission and Circuits and properly presented and approved by the Boland Annual Conference of the Fifteenth Episcopal District of the AME Church.

## PARTIES

Petitioner James Ellis is a lay member of Gow Chapel AME Church in the Paarl Presiding Elder District, in the Boland Annual Conference of the Fifteenth Episcopal District of the African Methodist Episcopal Church ("AME Church") and hereby appeals to the Judicial Council from an October 6, 2018 decision of the Boland Annual Conference to create a 5th Presiding Elder District (Charlotte Maxeke). The Respondents are the Boland Annual Conference of the Fifteenth Episcopal District of the AME Church and Bishop David Rwhynica Daniels, Jr. ("Bishop Daniels"), the Presiding Prelate of the Fifteenth Episcopal District of the AME Church.

## JURISDICTION

Jurisdiction in this matter is pursuant to Part XVI, Judicial Administration, Section XVI, Paragraph A(1) Page 361 of *The Doctrine and **Discipline** of the African Methodist Episcopal Church (2016)* ("***Discipline***"), to-wit:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

Was the creation of the 5th Presiding Elder District, Charlotte Maxeke, recommended by the Committee on Mission and Circuits, properly presented and approved by the Boland Annual Conference of the Fifteenth Episcopal District of the AME Church, consistent with the ***Discipline*** of the AME Church?

## STATEMENT OF FACTS

1. The 3rd Session of the Boland Annual Conference was held at the Wright Chapel AME Church from October 4, 2018 to October 7, 2018. According to the certified minutes, the first business session of the Boland Annual Conference was called to order following the completion of the opening worship service on October 4, 2018. The organization of the Conference was presented and accepted by the Presiding Elder's Council. The conference boundaries were established, by motion, as the first six rows of the hall. The Conference roll was read by the Secretary of the Conference; transferees were received and welcomed by the conference. Names of the deceased were given to the Committee on Memoirs. The Presiding Elders submitted the names of their lay delegates.

2. According to the certified Minutes from the Boland Annual Conference, during the morning session on the second day of the Conference, October 5, 2018, the Committee on Missions, Circuits and Stations submitted a written report to the Boland Annual Conference stating the following:

> After we have conducted a feasible study of our location and communicated with the Presiding Elders, we have unanimously agreed to make the following recommendations to the Boland Annual Conference, and that we must increase our Presiding Elder's districts into five (5) Districts and promote church growth and empowerment …

3. The Committee on Missions, Circuits and Stations recommended the creation of the Charlotte Maxeke District in addition to pointing out other existing opportunities for church growth and development. The written report concluded that the committee had "considered development, numerical and spiritual growth of all people." Their stated objectives are to (a) enhance church growth and planting, (b) enhance spiritual growth and development, (c) increase diversity and (d) identify and encourage areas without AME congregations.

4. The certified minutes indicate that a motion was made and seconded, to adopt the recommendations of the Committee. According to the minutes, there was unreadiness noted and that various speakers addressed the challenges of creating a 5th Presiding Elder District and that "many speakers" spoke in favor of and against the creation of the district which "will accommodate the Xhosa speaking members." The minutes further indicate

that "The Bishop called numerous meetings and persons together to address the rationale for the creation of the fifth district." The matter was deferred.

5. On the morning of October 6, 2018, the 3rd day of the Conference, a motion was made to adopt the full report of the Committee on Missions, Circuits and Stations. The motion was recorded as follows: "to create a 5th Presiding Elders District on request of the members of the listed church as per report." Three persons voiced unreadiness. There was as request for "division of the house," i.e., a vote other than a voice vote. The vote was taken by standing and resulted in the following: In favor 30; Against 28 and Abstentions 6. The motion was carried.

6. Petitioner James Ellis appeals to the Judicial Council from the October 6, 2018 decision of the Boland Annual Conference to create a 5th Presiding Elder District (Charlotte Maxeke) asking that the decision of the Annual Conference be reversed on the grounds that the decision is (a) based on race (b) not in the spirit of the AME Church and its history (c) not in the spirit of Ubuntu (collective humanity) and (d) that the vote was contentious and flawed.

## ANALYSIS AND DISCUSSION

The Judicial Council is the highest adjudicatory body of the African Methodist Episcopal Church. It is an appellant court elected by and amenable to the General Conference. ***Discipline***, Part X. Organizational Structure of General and Connectional Divisions, Section III. General Divisions of the General Conference, D. Judicial Council, p.161. Apart from the specific duties prescribed by the ***Discipline***, pp. 361 and 364-367, the Judicial Council's jurisdiction is restricted to:

> …all final appeals from any adverse decision by any bishop, board, commission, group, pastor or any other regularly constituted party or body empowered to make a decision that affects the right of any member or Church body of the AME Church.

Mr. Ellis petitioned the Judicial Council to overturn the decision of the Boland Annual Conference to create a 5th Presiding Elder District, alleging that the decision to do so is racist and will reflect poorly on the image of the AME Church, that it violates the spirit of the church and of collective humanity and that the election process before the Boland Annual Conference establishing the Presiding Elder District was flawed. Essentially, Mr. Ellis objects to the decision and contends that it was made solely based on racial classification. Conversely, Respondents maintain that the decision has nothing to do with divisiveness or racism and everything to do with inclusiveness and accommodation of the Xhosa speaking population.

Mr. Ellis and others opposed to the creation of the district, as well as those supporting the addition of the new district, were given an opportunity to be heard before the Annual Conference. Before the vote, additional meetings were held by the Bishop so that those affected could put forth their arguments for and against the formation of the district. Delegates had an opportunity to weigh the pros and cons before voting to add the additional district. Mr. Ellis disagrees with the decision of the Annual Conference but proffers no evidence by which the Judicial Council can or should reverse the decision of that body.

One of several means by which the ***Discipline*** mandates promotion, i.e., growth and development of the AME Church, is through the presiding elders in each district, and committees of the annual conference (here referred to as Missions, Circuits and Stations), subject to the decision of the Annual Conference. ***Discipline***, Part VIII. Ministerial Classification Rules and Support, Section V. The Presiding Elder, D. Supervisory and Advisory Functions, pp. 151-152; *see also* Part XI. Duties and Authority of Bishops and General Officers, Section IV. General Officers, F (8) Executive Director of Church Growth and Development, pp. 189-190. It is therefore clearly within the authority of the Annual Conference to create and/or dissolve presiding elder districts. The Judicial Council is empowered to review such decisions, when requested, to determine if the decision in any way violates the laws of the church. The Judicial Council will not disturb the ruling of the Annual Conference or other decision-making body of the church, without evidence that the action or ruling violates the ***Discipline*** of the AME Church. Even if Petitioner has a rational disagreement with the decision, that does not justify our usurping the authority of the Annual Conference. We will only overturn the decision if there is sufficient evidence, i.e., an available body of facts and information to prove that a belief is true or valid and that the decision or the decision-making process violated the ***Discipline***.

During the voting process, it was suggested that something other than a voice vote needed to be taken; both parties agree that the Bishop honored the request for a "division of the house," by allowing voting by standing. Mr. Ellis alleges that the Bishop intimidated the voters by continuing (5x) to ask those in favor to stand. When challenged regarding the procedure, the Bishop agreed that he would ask the nays and abstainers to stand, the same number of times. After the standing vote and passing of the motion, there was a request for a secret ballot, a request which the Bishop refused.

Petitioner complains that there were people absent when the vote was taken on the motion to establish the new district. However, we note that it is the duty of every member of the Annual Conference to attend its sessions. Here, the conference was properly convened, roll taken delegates identified and boundaries of the conference established. ***Discipline***, Part XIV. Conferences, Section II. The Annual Conference, F. Attendance and G. Organization p.269. Prior to the vote, according to Petitioner, the delegates were asked to occupy the first six rows, which were previously established as the conference boundaries. Once the Bishop has called the meeting to order, it is the responsibility of the elected delegate or alternate to be present to hear the business of the church and to vote on any motions. Nothing in this process was patently flawed or would serve as a basis to reverse the decision of the Annual Conference.

Petitioner alleges that the decision is racist; however, the Respondents raise arguments to the contrary. The AME Church "whose founders affirmed their humanity in the face of slavery and racism, stands in defense of disadvantaged and oppressed people in the 21st century." ***Discipline***, Part I Historical Preamble, Mission, Vision, Purposes and Objectives, Section I. The Historical Preamble, p. 23. Here, there is no evidence of patent racism or discrimination on which to draw such a conclusion. At this juncture, Petitioner has provided little evidence, but asks that we rely on his perception and historical knowledge upon which he bases his strong opinion regarding the same. The argument was made before the Annual Conference, while others argued that the same action would *not* serve to segregate a population, but rather to be more inclusive. The motion was carried by the Annual Conference.

In the ***Matter of Reverend Samuel D. Siebo***, No. 2012-2016-02, before the Judicial Council of the AME Church, the Petitioner alleged that the decision of the bishops to not provide him with a certification and endorsement was made with discriminatory intent. On that issue we noted the following:

> The Judicial Council, as an appellate body, applies the law of the Church to the established facts of a given case. Because it is not a trial court or determiner of factual disputes, it cannot make determination as to whether someone had discriminatory intent or motives. In such instances where the material facts are in dispute, a petitioner may avail himself of the internal conciliation and trial procedures that are provided for in the ***Discipline***, if he so chooses.

The Judicial Council reversed the decision of the Bishop refusing to endorse Petitioner to be an active duty chaplain but did so on other grounds.

In this instance, it is not the established *facts* that are so much in dispute as it is the *differing opinions* within the body as to motive and as to the result (negative or positive) of the redistricting on the church and community.

During the year, the presiding elder holds Quarterly Conferences in every church and circuit to determine the efficiency of the pastor, the effectiveness of the ministry and to give direction to the affairs of the church in his/her district. ***Discipline,*** Part VIII. Ministerial Classifications, Rules and Support, Section V. The Presiding Elder, C. Administrative Functions, p. 148. That may well be a better indicator as to the relative harm or good for those churches, rather than what is now little more than conjecture and speculation. If legitimate issues or concerns arise, those negatively impacted may *then* address and redress those issues and concerns through the proper mechanism of the church, as we indicated in the ***Siebo*** matter referenced above.

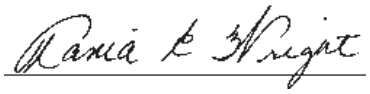
## CONCLUSION

The creation of the 5th Presiding Elder District, known as the Charlotte Maxeke District, was recommended by the Committee on Mission and Circuits and properly presented and approved by the Boland Annual Conference of the Fifteenth Episcopal District of the AME Church.

## ORDER

Petitioner's requested relief is hereby DENIED.

Opinion rendered this 31st day of January 2019.



Judge Tania Wright

Concurring: Judge Patricia M. Mayberry, Judge Derek Anderson, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Vernon R. Byrd, Judge TaShun Bowden-Lewis, Judge Warren H. Dawson and Judge Eduardo K. Curry

**No. 2016-2020-23**

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

**Re: MOTION FOR RECONSIDERATION OF JC DECISION NO. 2016-2020-12 DUE TO NEWLY ACQUIRED EVIDENCE PERTAINING TO STEPHANIE GANAWAY-PASELY**

Judge Vernon R. Byrd, Jr., writes the Opinion for the Judicial Council.

## HOLDING

Petitioners' Motion for Reconsideration is GRANTED.

The Judicial Council holds that Respondent Stephanie Ganaway-Pasely is not a member of Chavis AME Church and was not a member of Chavis AME during the pendency of Judicial Council Decision No. 2016-2020-12.

Since Respondent Ganaway-Pasely was not a member of Chavis AME or any other AME Church, she was not entitled to any rights and privileges afforded to members of the AME Church.

The Judicial Council Decision No. 2016-2020-12 is modified solely with respect to the Respondent Ganaway-Pasely and remains in effect in all other respects.

## PARTIES

Chavis AME Church, Hemmingway SC, Rev Eduardo K Curry, Pastor of Chavis AME Church, Debra Brown, Member of Chavis AME Church (Petitioners) and Stephanie Ganaway-Pasely (Respondent).

## STATEMENT OF ISSUES

Whether Respondent is a member of the AME Church?

Whether Respondent is entitled to use the judicial process of the AME Church?

## STATEMENT OF FACTS

1. In Judicial Council Decision No. 2016-2020-12, the Judicial Council held that petitioners did not receive adequate due process during local church trials. The trials resulted in the expulsion of membership of the petitioners in that matter. One of the petitioners was Stephanie Ganaway-Pasely.

2. In its Motion for Reconsideration of Judicial Council Decision No. 2016-2020-12, current Petitioners presented newly acquired evidence that Ganaway-Pasely is a member of the Royal Baptist Church of Charleston, SC. It is not clear precisely how long she has been a member of Royal Baptist Church, but the evidence before the Judicial Council is that she claimed she was a member of Royal Baptist at least as far back as 2012.

3. In its prior term, the Judicial Council ruled in Decision No. 2012-2016-22 that Ganaway-Pasely was a member of Chavis AME. The Judicial Council was not presented with evidence that she is a member of another denomination at that time. We are therefore not disturbing the earlier case.

4. The evidence presented are two exhibits attached to the Motion for Reconsideration. Exhibit 1 is a marketing document for a business called Pasely & Associates. In it Respondent states: "She is a member of Royal Baptist Church, Charleston, SC and under watch-care at Chavis AME in Hemmingway SC." The date of Exhibit 1 is unclear. However, the same statement online is copyrighted 2012.

5. Exhibit 2 is Respondent's campaign literature in connection with her seeking the office of Probate Judge. The document is dated January 22, 2018 and in it she repeats her church membership status: "She is a member of Royal Baptist Church, Charleston, SC and under watch-care at Chavis AME in Hemmingway SC."

6. In her response to the Motion for Reconsideration, Respondent did not deny either the authenticity of Exhibits 1 and 2 or the truthfulness of the statements contained therein.

## STATEMENT OF JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XVI, Section XVI, Paragraph A, of *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*"), p. 361 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision that affects the right of any member or Church body of the AME Church.

## ANALYSIS

In Judicial Council Decision No. 2016-2020-12, the Judicial Council reversed the expulsion of certain members of Chavis AME and held that they were not given adequate "due process" at the local level. Respondent was one of the Petitioners in that matter. However, current Petitioners assert in their Motion for Reconsideration that Respondent was a member of Royal Baptist Church and therefore not entitled to the rights and privileges of a member of the AME Church. Petitioners attached two exhibits to support that claim. In both documents Respondent represents: "She is a member of Royal Baptist Church, Charleston, SC and under watch-care at Chavis AME in Hemmingway SC."

One cannot be a member of another denomination and a member of the AME Church at the same time. While Respondent contends that she was a member under "watch care," in the current Discipline there is no category of membership called "watch care." There are three categories of membership in the AME Church: Full Member, Preparatory Member and Affiliate Member, see Part IV Local Church Membership, Section II Categories of Membership, pp. 81-82. Not only is there no category for "watch care," but as a member of another denomination, Respondent would not even qualify as an Affiliate Member of an AME Church.[1] Respondent has for some time repeatedly represented to the public in writing that she is a member of Royal Baptist Church. We take her at her word and therefore find that she is not a member of Chavis AME or the AME Church.

As such, Respondent is not entitled to any of the rights and privileges of a member of the AME Church. She cannot presently hold an office in the AME Church nor can she avail herself of the judicial processes of the Church. Indeed, the Judicial Administration of the AME Church is for the resolution of disputes between members, officers and organizations of the AME Church. The first clause of the Judicial Administration section of the Discipline states:

> It is the clear intent and purpose of the African Methodist Episcopal Church to encourage, create and stimulate peace and goodwill among all of its **members**...

Part XVI, Section I Conciliation Process, A, p. 315. Moreover, the Discipline is clear that even the jurisdiction of the Judicial Council is "**restricted to**" matters that "affect the right of any **member** or Church body of the AME Church." (see the Statement of Jurisdiction above).

[1] An Affiliate Member is someone who is a full member of an AME Church in one location but who is living in another location for an extended period of time and joins another AME Church as an Affiliate Member.

## CONCLUSION

Respondent represented in writing to the public that she is a member of another denomination. She has not denied the authenticity of Exhibits 1 and 2. As such, she is not a member of the AME Church and not entitled to rights and privileges afforded to the same.

## ORDER

Petitioners Motion for Reconsideration is GRANTED. The Judicial Council Decision No. 2016-2020-12 is MODIFIED solely with respect to the Respondent Ganaway-Pasely and remains in effect in all other respects.

Opinion rendered this 6th day of February 2019.

Judge Vernon R. Byrd, Jr.

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek H. Anderson, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge TaShun Y. Bowden-Lewis, Judge Warren H. Dawson.

Judge Eduardo K. Curry did not participate in the deliberation or the decision in this case.

**No. 2016-2020-23**

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

**Re: MOTION FOR RECONSIDERATION OF JC DECISION NO. 2016-2020-12 DUE TO NEWLY ACQUIRED EVIDENCE PERTAINING TO STEPHANIE GANAWAY-PASELY**

Judge Vernon R. Byrd, Jr., writes the Opinion for the Judicial Council.

## HOLDING

Petitioners' Motion for Reconsideration is GRANTED.

The Judicial Council holds that Respondent Stephanie Ganaway-Pasely is not a member of Chavis AME Church and was not a member of Chavis AME during the pendency of Judicial Council Decision No. 2016-2020-12.

Since Respondent Ganaway-Pasely was not a member of Chavis AME or any other AME Church, she was not entitled to any rights and privileges afforded to members of the AME Church.

The Judicial Council Decision No. 2016-2020-12 is modified solely with respect to the Respondent Ganaway-Pasely and remains in effect in all other respects.

## PARTIES

Chavis AME Church, Hemmingway SC, Rev Eduardo K Curry, Pastor of Chavis AME Church, Debra Brown, Member of Chavis AME Church (Petitioners) and Stephanie Ganaway-Pasely (Respondent).

## STATEMENT OF ISSUES

Whether Respondent is a member of the AME Church?

Whether Respondent is entitled to use the judicial process of the AME Church?

## STATEMENT OF FACTS

1. In Judicial Council Decision No. 2016-2020-12, the Judicial Council held that petitioners did not receive adequate due process during local church trials. The trials resulted in the expulsion of membership of the petitioners in that matter. One of the petitioners was Stephanie Ganaway-Pasely.

2. In its Motion for Reconsideration of Judicial Council Decision No. 2016-2020-12, current Petitioners presented newly acquired evidence that Ganaway-Pasely is a member of the Royal Baptist Church of Charleston, SC. It is not clear precisely how long she has been a member of Royal Baptist Church, but the evidence before the Judicial Council is that she claimed she was a member of Royal Baptist at least as far back as 2012.

3. In its prior term, the Judicial Council ruled in Decision No. 2012-2016-22 that Ganaway-Pasely was a member of Chavis AME. The Judicial Council was not presented with evidence that she is a member of another denomination at that time. We are therefore not disturbing the earlier case.

4. The evidence presented are two exhibits attached to the Motion for Reconsideration. Exhibit 1 is a marketing document for a business called Pasely & Associates. In it Respondent states: "She is a member of Royal Baptist Church, Charleston, SC and under watch-care at Chavis AME in Hemmingway SC." The date of Exhibit 1 is unclear. However, the same statement online is copyrighted 2012.

5. Exhibit 2 is Respondent's campaign literature in connection with her seeking the office of Probate Judge. The document is dated January 22, 2018 and in it she repeats her church membership status: "She is a member of Royal Baptist Church, Charleston, SC and under watch-care at Chavis AME in Hemmingway SC."

6. In her response to the Motion for Reconsideration, Respondent did not deny either the authenticity of Exhibits 1 and 2 or the truthfulness of the statements contained therein.

## STATEMENT OF JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XVI, Section XVI, Paragraph A, of *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*"), p. 361 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision that affects the right of any member or Church body of the AME Church.

## ANALYSIS

In Judicial Council Decision No. 2016-2020-12, the Judicial Council reversed the expulsion of certain members of Chavis AME and held that they were not given adequate "due process" at the local level. Respondent was one of the Petitioners in that matter. However, current Petitioners assert in their Motion for Reconsideration that Respondent was a member of Royal Baptist Church and therefore not entitled to the rights and privileges of a member of the AME Church. Petitioners attached two exhibits to support that claim. In both documents Respondent represents: "She is a member of Royal Baptist Church, Charleston, SC and under watch-care at Chavis AME in Hemmingway SC."

One cannot be a member of another denomination and a member of the AME Church at the same time. While Respondent contends that she was a member under "watch care," in the current Discipline there is no category of membership called "watch care." There are three categories of membership in the AME Church: Full Member, Preparatory Member and Affiliate Member, see Part IV Local Church Membership, Section II Categories of Membership, pp. 81-82. Not only is there no category for "watch care," but as a member of another denomination, Respondent would not even qualify as an Affiliate Member of an AME Church.[1] Respondent has for some time repeatedly represented to the public in writing that she is a member of Royal Baptist Church. We take her at her word and therefore find that she is not a member of Chavis AME or the AME Church.

As such, Respondent is not entitled to any of the rights and privileges of a member of the AME Church. She cannot presently hold an office in the AME Church nor can she avail herself of the judicial processes of the Church. Indeed, the Judicial Administration of the AME Church is for the resolution of disputes between members, officers and organizations of the AME Church. The first clause of the Judicial Administration section of the Discipline states:

> It is the clear intent and purpose of the African Methodist Episcopal Church to encourage, create and stimulate peace and goodwill among all of its **members**...

Part XVI, Section I Conciliation Process, A, p. 315. Moreover, the Discipline is clear that even the jurisdiction of the Judicial Council is "**restricted to**" matters that "affect the right of any **member** or Church body of the AME Church." (see the Statement of Jurisdiction above).

[1] An Affiliate Member is someone who is a full member of an AME Church in one location but who is living in another location for an extended period of time and joins another AME Church as an Affiliate Member.

## CONCLUSION

Respondent represented in writing to the public that she is a member of another denomination. She has not denied the authenticity of Exhibits 1 and 2. As such, she is not a member of the AME Church and not entitled to rights and privileges afforded to the same.

## ORDER

Petitioners Motion for Reconsideration is GRANTED. The Judicial Council Decision No. 2016-2020-12 is MODIFIED solely with respect to the Respondent Ganaway-Pasely and remains in effect in all other respects.

Opinion rendered this 6th day of February 2019.

Judge Vernon R. Byrd, Jr.

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek H. Anderson, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge TaShun Y. Bowden-Lewis, Judge Warren H. Dawson.

Judge Eduardo K. Curry did not participate in the deliberation or the decision in this case.

**No. 2016-2020-24**

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

**RE: IN THE MATTER OF REV. LAUAN CONRAD BERENDS**

The Judicial Council delivers the opinion per curium.

## HOLDING

The Judicial Council finds that nothing in any provisions raised by Petitioner is doubtful in meaning or open to more than one interpretation. Therefore, the Declaratory Decision is denied.

The Judicial Council finds that Petitioner received a decision from the Trial Committee, which must be appealed to Triers of Appeals, where issues of due process exist; otherwise the appeal rests with the Annual Conference, before the Judicial Council can invoke jurisdiction over Petitioner's appeal.

## PARTIES

Reverend Lauan Conrad Berends ("Petitioner or Rev. Berends") served as an Itinerant Elder in the Cape Annual Conference, Cape Town, South Africa in the Fifteenth Episcopal District of the African Methodist Episcopal Church ("AME Church"). Bishop David R. Daniels, Jr. ("Respondent or Bishop Daniels") is the Presiding Prelate in the Fifteenth Episcopal District of the AME Church.

## JURISDICTION

The *Doctrine and Discipline of the African Methodist Episcopal Church 2016*, hereinafter "*Discipline,*" provides that the Judicial Council may make a ruling in the nature of a declaratory decision:

> 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* seem 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 (1) interpretation.

*Discipline*, Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365.

The *Discipline*, Part XVI, Section XVI, Paragraph A, p. 361 also provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

The Order of Appeals for Ministers from (1) the decision of the Trial Committee shall be to the Annual Conference, and (2) the decision of the Annual Conference to the Judicial Council. ***See***, *Discipline,* Part XVI, Judicial Administration, Section VIII. Appeals, B. Orders of Appeals, p. 329.

## STATEMENT OF THE ISSUE

I. Whether the issues raised by Rev. Berends alleging violations by Bishop Daniels in addressing the allegations of sexual misconduct against him meets the standards for the issuance of a Declaratory Decision?

II. Whether Rev. Berends may appeal the decision of the Trial Committee directly to the Judicial Council?

## STATEMENT OF FACTS

1. On or about April 9, 2018, Mr. Chris Van Rooy, member of St. John AME Church- Kensington, Cape Annual Conference, Fifteenth Episcopal District, requested to meet with Rev. Anthony Jacobs, Presiding Elder of the Cape Town District.

2. On April 10, 2018, Presiding Elder Jacobs informed Rev. Berends, pastor of St. James AME Church-Kensington of the meeting.

3. On April 16, 2018, Presiding Elder Jacobs met with Mr. Van Rooy and Ms. Luzanne Fortune, who made allegations of clergy sexual misconduct against Rev. Berends. Presiding Elder Jacobs immediately contacted Bishop David Daniels, Jr., Presiding Prelate for the Fifteenth Episcopal District. Bishop Daniels instructed Presiding Elder Jacobs to arrange a meeting with the parties (Mr. Rooy and Ms. Fortune), Bishop Daniels and PE Jacobs.

4. On April 24, 2018, Bishop Daniels held a meeting with the aforementioned parties, PE Jacobs, and PE Burger at the Fifteenth Episcopal District office. During the meeting, Ms. Fortune described her sexual relationship with her pastor, Rev. Berends. She alleged that several encounters occurred at the parsonage, where she resided with the Berends family. Bishop Daniels video recorded her testimony, as she provided detailed statements regarding her sexual encounters with her pastor. Ms. Fortune stated at the time of her relationship with Rev. Berends, she served as the youth leader for St. John AME Church.

5. On April 25, 2018, Bishop Daniels temporarily relieved Rev. Berends of his pastoral duties pending the outcome of the investigation of the Ministerial Efficiency Committee of the Cape Annual Conference. Rev. Berends was given thirty (30) days to vacate the parsonage.

6. The Ministerial Efficiency Committee (MEC) met on May 10 and 15, 2018, after numerous attempts to notify Rev. Berends to appear before the body. The MEC tried to contact Rev. Berends telephonically, as well as by personal service at his home through his eldest son. Rev. Berends failed to meet with the MEC.

7. On May 21, 2018, the MEC notified Rev. Berends that based on his non-appearance, the committee referred his matter to the Judiciary Committee.

8. On June 6, 2018, the Judiciary Committee (Presiding Elder Juliana Williams, Rev. Vernon Bailey, Rev. Allistair Didloff, Rev. Marco De Lililly, Rev. Joseph Sidonie, and Rev. B Witbooi) met with Rev. Anthony Jacobs, Presiding Elder of the Cape Town District. During the meeting the Committee viewed the Official Charges, a letter from Bishop Daniels dated April 25, 2018, affidavits, a 14-page cell phone record, and a video recording. After review of the aforementioned documentary evidence, the committee met with Mr. Van Rooy, Ms. Fortune and Rev. Berends. Rev. Berends alleged proper procedures were not followed and handed an appeal to the Bishop's office.

9. On June 7, 2018, the committee met with Rev. Berends, who refused to respond to the allegations. After stating he felt aggrieved, he left the meeting. The committee proceeded with deliberations. The committee determined sufficient evidence existed to refer Rev. Berends to trial.

10. On July 4, 2018, Bishop Daniels notified Rev. Berends of the decision issued by the Judiciary Committee. In the correspondence, he instructed Rev. Berends to report to the Trial Committee on July 17, 2018, at the Fifteenth Episcopal District Headquarters. Again, he requested Rev. Berends vacate the parsonage.

11. On July 12, 2018, Rev. V. Gwarube sent notices to the members of the Trial Committee inviting them to the meeting on July 17, 2018 at 18:00 (6:00 p.m.).

12. On July 17, 2018, the Trial Committee met with Rev. Berends. Rev. Berends objected to the failure of the Trial Committee to provide adequate time for him to defend the charges. Additionally, he objected to his counsel not being present. He requested the hearing be postponed. When the Trial Committee denied his request, he left the hearing. The hearing proceeded without the presence of Rev. Berends. Following witness testimony and deliberations, the Trial Committee sustained the charge of sexual misconduct.

13. On July 20, 2018, Rev. Allistair Didloff notified Bishop Daniels of the decision of the Trial Committee.

14. On or about September 2018, Rev. Berends filed a petition before the Judicial Council of the AME Church, alleging that the matter was pending before the Trial Committee. In his petition for a declaratory decision, he raised procedural errors. He also requested a declaratory decision based on Bishop Daniels' bias and involvement regarding the charges. Rev. Berends failed to cite any legislation passed by the General Conference that appears to be subject to more than one interpretation or any paragraph in *Discipline* that is doubtful as to meaning or application.

15. On October 3, 2018, Rev. Didloff admitted that he failed to communicate the outcome of the Trial Committee to Rev. Berends.

16. On February 1, 2019, Rev. Berends appealed the decision of the Trial Committee to the Judicial Council.

## ANALYSIS AND DISCUSSION

### I. Declaratory Decision Requirements

In order for the Judicial Council to issue a declaratory decision, a party must allege that an act or legislation passed by the General Conference appears subject to more than one interpretation or a paragraph(s) of the "*Discipline*" is doubtful in meaning. ***See***, *Discipline*, Part XVI. Judicial Administration, Section XVI. Judicial Council, Subsection I. Duties, paragraph 10, p. 365. A review of Rev. Berends allegations primarily concern violations of the policy and procedures associated with Sexual Misconduct cases. The failure of an individual to follow the established procedures does not invoke any right to a declaratory decision. The provisions for handling cases falling within this category do not suggest more than one interpretation nor create any doubt as to their meaning. Failure to follow establish procedure constitutes procedural error, which must be raised at each and every level to perfect a challenge.

Secondly, Rev. Berends failed to identify any specific provision which would give rise to a declaratory decision. Without specifically identifying what provision meets the criteria, this body cannot be expected to locate a provision *sua sponte*. When a party requests a declaratory decision, the request must be appropriate and seek relief, which upholds the criteria specified. The Judicial Council finds none of the requirements for issuance of a declaratory decision have been met. Therefore, the request for declaratory decision must be denied.

**II. Filing of an appeal of a Decision of the Trial Committee**

Petitioner failed to follow the procedures established within the *Discipline* for filing an appeal of a decision by the Trial Committee. The *Discipline* requires referral of matters of Sexual Misconduct, to the Triers of Appeals, in accordance with Part XVI, Section IX, Subsection D, pp. 331-332. ***See also***, Part XVI, Judicial Administration, Section X Sexual Misconduct, Subsection I. Right of Appeal, paragraph 5, p. 352. The Triers of Appeals may only consider matters, where due process is deemed to have been violated. The body may only consider "new evidence," if the evidence has bearing on the outcome of the sustained verdict. ***Id***.

The appeal filed by Petitioner's raises numerous violations by the Judicial Committee and the Trial Committee. Petitioner alleges he never received the opportunity to be heard by the Judicial Committee. He denies ever receiving any formal charges regarding sexual misconduct. He alleges that he discovered the Trial Committee intended to hold a hearing upon his arrival for what he believed to be a meeting. The Trial Committee denied his request for a postponement and to be represented. Finally, he denies receiving the outcome from the Trial Committee, even though it proceeded with the hearing.

The majority of these issues constitute due process complaints, which require referral to the Trier of Appeals. Even though the process initially appears in the *Discipline* 2012, the *Discipline* 2016 clarifies the process and procedure, as it relates to cases of Sexual Misconduct. To ignore a process clearly updated and reiterated in the current *Discipline* would violate the law of the AME Church. The Judicial Council finds that Petitioner must follow the law, as mandated, in the *Discipline* 2016, requiring any appeal from a Trial Committee, as it relates to Sexual Misconduct, be presented to the Triers of Appeals.

It should be noted where the appeal of the Trial Committee does not concern due process violations, the appeal must be filed with the Annual Conference, then from the Annual Conference to the Judicial Council. ***See,*** Part XVI. Judicial Administration, Section VIII. Appeals, Subsection B. Order of Appeals, paragraph 2, p. 329. The requirement for thirty (30) days' notice of appeal to the presiding officer of the tribunal must be waived, because the record reflects the tribunal failed to properly notify Petitioner of the results of their deliberation.

## CONCLUSION

The Judicial Council DENIES the Petitioner's request for a Declaratory Decision, based on his failure to meet the requirements for issuance. The Judicial Council refers Petitioner's appeal to the body designated to hear due process issues, after the rendering of a decision by the Trial Committee, in accordance with the *Discipline* 2016. Where the issues do not concern due process issues, Petitioner must appeal directly to the Annual Conference.

Opinion rendered this 4th day April 2019.

PER CURIUM

**No. 2016-2020-26**

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

**RE: IN THE MATTER OF REV. TEBOHO GORDON KLAAS**

Judge Warren Hope Dawson, Member, issues the opinion of the Judicial Council.

## HOLDING

Respondents, in suspending Petitioner for period of one year without the benefit of a trial and/or other judicial process violated due process rights afforded Petitioner by the *2016 Discipline of the African Methodist Episcopal Church*.

The Judicial Committee of the East Annual Conference is the body that is designated to determine whether the accused should be charged and whether the matter should be referred to the Trial Committee. The Trial Committee then by two-thirds (2/3) vote has the authority to prescribe penalties which include reprimand, transfer, suspension or expulsion, if there is a finding of an offense(s) at trial.

Petitioner is not currently the pastor of Robinson Temple African Methodist Episcopal Church, Modisapodi District and has no authority to act in that capacity. Petitioner's suspension shall continue pending the decision of the Judicial Committee and/or Trial Committee, unless rescinded by the presiding prelate or other authorized body.

## PARTIES

PETITIONER: Reverend Teboho Gordon Klaas ("Petitioner" or "Rev. Klaas"), is an Itinerant Elder and former Pastor of the Robinson Temple African Methodist Episcopal Church, Modisapodi District. RESPONDENTS: Bishop Paul JM Kawimbe ("Respondent" or "Bishop Kawimbe") is the Presiding Prelate in the Nineteenth Episcopal District of the African Methodist Episcopal (AME) Church and the East Annual Conference (also "Respondent").

## JURISDICTION

The *Doctrine and Discipline of the AME Church 2016 ("Discipline")*, Part XVI, Section XVI, Paragraph A., p. 361 also provides that:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse

> decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

Whether Respondent(s) violated Rev. Klaas' right to due process by suspending him from his official duties for a period of one year, upon the recommendation of the Ministerial Efficiency Committee, without invoking the judicial process?

## STATEMENT OF FACTS

1. On, October 7, 2018, the East Annual Conference Ministerial Efficiency Committee (MEC) presented a report to the East Annual Conference. According to the Certified True Extract of Minutes, a motion to accept the report was made, properly seconded and the motion carried. Regarding Petitioner, the report reads as follows:

   > "For insubordination, gross disobedience and heresy. The committee recommends that Rev. Klaas be suspended for a year. He is also referred to the Trial committee for Pastoral interference, sowing dissension, Pastoral improper conduct, inciting members and defamation of character. The Rev R Motau moved for the adoption of the recommendation. The Rev MD Jonqo seconded the motion. The motion was carried."

2. Petitioner, as well as one other in the East Annual Conference, was suspended from all official duties for a period of one year, consistent with the recommendation in the report of the MEC. Petitioner did not receive a trial.

3. On November 5, 2018 (via email dated Monday, November 5, 2018 03:24:45 PM PST), Petitioner filed with the Judicial Council an Appeal of the decision of the East Conference. Said filing was marked by the Clerk of Council as received as of November 10, 2018 (via email dated Saturday, November 10, 2018 9:10 PM). Petitioner in his appeal asked that the Council reverse the decision of the Annual Conference, alleging due process violations, irregularities in the proceedings and alleged inappropriate conduct by the MEC and by Bishop Kawimbe.

4. The Council of Bishops met in December of 2018 and proposed that since the pastors from the 19th Episcopal District were suspended, *not moved*, they should remain at the churches where they had been appointed, *with pay*, prior to the suspension, pending the outcome of their appeals. The President of the Bishop's Council communicated to the Petitioners what he believed to be a matter of common consent. Bishop Kawimbe expressed disagreement and advised that he had appointed others to pastor the churches of the suspended pastors.

5. According to a letter from Bishop Kawimbe, Petitioner continues in the role of pastor of Robinson Temple AME, the church to which he was previously appointed, notwithstanding his suspension and the appointment of a new pastor.

## ANALYSIS AND DISCUSSION

The principle issue before the Judicial Council is whether Rev. Klaas received due process[1] prior to his being relieved of his official duties for one year.

Rev. Klaas complains that Bishop Kawimbe did not inform the East Annual Conference that the matter of a Conciliation with Bishop Kawimbe was *sub judice* (meaning a matter already before the court which is undecided). Rev. Klaas references a Petition for a Declaratory Decision filed by himself and others, regarding a request for Conciliation with Bishop Kawimbe. That matter was filed on September 25, 2018 and was pending before this court prior to Rev. Klaas' suspension. However, the filing of that or any other matter ***does not act as an automatic stay*** as to any decision, action or proceeding, except where it is specifically prescribed by the *Discipline*.

Based on the foregoing, there is no question but that Rev. Klaas in fact filed a timely appeal of the decision of the East Annual Conference, that is to say his appeal was filed within thirty days (30) days of the October 7 suspension. ***See,*** Part XVI. Judicial Administration, Section VIII. Appeals, Subsection B. Order of Appeals, paragraph 2, p. 329. The determination of whether an appeal is timely filed is most often jurisdictional and is always a judicial rather than a clerical decision.

Although Petitioner complains, we find no procedural error in the method of service or in the MEC's failure to divulge the source of the referrals at this stage. In addition, while there is a prohibition regarding lay members being a member of the MEC, lay persons carrying out administrative duties and acting as scribes for that body, but not participating in deliberations, does not make them members of that committee and does not *per se* violate the *Discipline*. It is noted that lay and clergy persons involved in any way in these proceedings should be extremely cognizant of privacy issues. Also, we have lingering concerns about the conclusory nature of the allegations as presented in the report of the MEC.

In significant part the conclusions regarding gross disobedience, insubordination[2], and heresy[3] are not supported by underlying facts, at least not facts which are included in the

[1] Early on, it is important to point out that **due process of law** is a right, indeed an entitlement. As such, one does not need to deserve it nor to earn it. It is available – if timely preserved for review on appeal.

[2] Regarding **insubordination**, the record in this cause suggests, among other things, that this Petitioner may have accused the consecrated and duly serving prelate as being " …a fugitive running away from the South African governmental department of Home Affairs; and serving as an uncompensated volunteer without a work permit from the government." Such statements, if later found to be true, could, maybe should, invite determinations that Petitioner may have been insubordinate, may have insulted and may have promulgated injury to the AME Church.

written report of the MEC. In the ordinary course, an appellate tribunal, such as the Judicial Council, is enabled or limited in the performance of its role as a reviewing body by the extent to which the underlying facts, that support the decision of the lower tribunal, are or not included in its written report.

While the report of the MEC states that the judicial process should be instituted it does not properly refer the matter, but nevertheless, recommends a suspension until the next annual conference. The Judicial Committee is the body which would determine whether the accused should be charged and as to whether the matter should be referred to the Trial Committee. The Trial Committee then by two-thirds (2/3) vote has the authority to prescribe penalties which include reprimand, transfer, suspension or expulsion, if and when there is a finding of an offense at trial. *Discipline,* Part XVI. Judicial Administration, Section VII. Trials, C. Itinerant Preachers, paragraphs 2-4, pp. 324-326. Relative to ministers, the decision of the Trial Committee is then appealable to the Annual Conference and from there to the Judicial Council. See, *Discipline,* Part XVI, Judicial Administration, Section VIII. Appeals, B. Orders of Appeals, p. 329.

The Judicial Council is mindful that it may be necessary for a Bishop directly or via the Annual Conference to immediately suspend a pastor, as is specifically mandated by the *Discipline* with regard to alleged violations of certain provisions as they are in the best interest of the church. A suspension, pending further investigation, documentation or judicial process, may be necessary and appropriate. However, a blanket one-year suspension is seemingly punitive and at a minimum requires due process, and or notice of the offense and a meaningful opportunity to be heard by an appropriate judicial body, as provided for by the *Discipline*.

Rev. Klaas rightly complains that the Annual Conference may have voted without knowing the Committee's rationale for its recommendations and in that regard, Bishop Kawimbe, as the presiding prelate, erred in imposing the recommended penalty of a suspension for a period of one year, without instituting the appropriate judicial process.

It is noted that a letter from Bishop Jackson, President of the Council of Bishops *erroneously* advised Petitioner that the pastors were to be suspended, *with pay* and to remain at their present churches until resolution of these matters. Bishop Jackson stated what he believed, at the time, to be a shared consensus of the Council of Bishops per their meeting of December 2018. Bishop Kawimbe was clearly *not* in agreement with the proposal as set forth by the Council of Bishops and unequivocally communicated his disapproval in that, as the presiding prelate he appointed pastors to the various churches to replace the suspended pastors. Petitioner's continued reliance on the miscommunication from the Council of Bishop's is misplaced, in light of the unambiguous directives from the presiding prelate, Bishop Kawimbe, relieving Petitioner of his official duties.

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[3] Regarding **heresy**, the record in this cause suggests, among other things, that this Petitioner may have "In his public speaking and on Facebook, denied that the Bible is the ordained word of God." Such a statement and/or belief, if later found to be true, may be the basis for appropriate sanctions under The Discipline of the AME Church.

According to a letter from Bishop Kawimbe, notwithstanding the decision of the Annual Conference and despite his appointing another pastor, Rev. Klaas did not vacate his charge and continues to *act* as the pastor of Robinson Temple AME Church, in direct contravention to the suspension. The Judicial Council in no way condones or lends approval to Petitioner's continued refusal to relinquish this charge. However, relative to the suspension, Petitioner is entitled to and will be afforded due process as is provided by the *Discipline*.

## CONCLUSION

Respondents, in relieving Petitioner of all his official duties for a period of one year, without the benefit of a trial and/or other judicial process violate due process rights afforded Petitioner by the *2016 Discipline of the African Methodist Episcopal Church*.

## ORDER

The decision of the East Annual Conference is hereby MODIFIED.

Respondents shall *immediately* refer the report of the Ministerial Efficiency Committee as pertaining to allegations of offenses by Petitioner, along with any supporting documentation, to the Judicial Committee of the East Annual Conference for *prompt* and thorough investigation and consideration. If a majority of the Judicial Committee determines that a trial is justified, the date for trial should be set for no more than thirty (30) days from the date of that order.

Petitioner's suspension shall continue pending the decision of the Judicial Committee and/or Trial Committee, unless rescinded by the presiding prelate or other authorized body. Petitioner is not currently the pastor of the Robinson Temple African Methodist Episcopal Church, Modisapodi District and has no current authority to act in that capacity.

Opinion rendered this 17th day of May 2019.

Warren H Dawson

Judge Warren Hope Dawson

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek Anderson, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Vernon R. Byrd, Judge TaShun Bowden-Lewis and Judge Eduardo K. Curry

No. 2016-2020-27

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

**Re: IN THE MATTER OF ESSIE JOHNSON**

TaShun Bowden-Lewis, Esq., Member, delivers the opinion of the Judicial Council.

## HOLDING

The Judicial Council DENIES Petitioner's request for a declaratory decision.

## PARTIES

The Petitioner is Mrs. Essie Johnson ("Petitioner" or "Mrs. Johnson"), a member of St. Luke African Methodist Episcopal Church, Seventh Episcopal District of the African Methodist Episcopal Church.

The Respondent is Rev. George Brown, Pastor of St. Luke African Methodist Episcopal Church, Seventh Episcopal District of the African Methodist Episcopal Church.

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XVI, Section XVI, Paragraph A, of *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*"), page 361 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

The *Discipline* at Part XVI, Section XVI, Paragraph I (10), page 365 further provides that:

> When the General Conference shall have passed any act or legislation that appears to be subject to more than one (1) interpretation, or when any paragraph or paragraphs of The Doctrine and Discipline of the African Methodist Episcopal Church seem 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

11. On October 8, 2018, Mr. Johnson wrote a letter to Bishop Samuel Green explaining the reason why he and Mrs. Johnson would not be attending a meeting, scheduled for November 1, 2018 with Bishop Green, Presiding Elder Cooper and Rev. Brown. Mr. Johnson stated that his attorney advised them not to attend the meeting without their witnesses.

12. On October 17, 2018, Mr. Johnson wrote a letter to Bishop Samuel Green explaining again the reason why he and Mrs. Johnson would not meet on November 1, 2018.

## ANALYSIS AND DISCUSSION

The *Discipline*, Part XVI, Section XVI, I (4), page 364, states "Nothing herein shall be construed to give the Judicial Council the right to interfere with the right of the bishop to appoint, assign, transfer or remove pastors…" Mrs. Johnson's displeasure with Rev. Brown, based on the sentiments she has expressed, is not a matter under the jurisdiction of the Judicial Council.

The *Discipline*, Part XVI, Section VII (E), page 328, outlines the procedural steps necessary when a lay member is accused of an offense. Mrs. Johnson's indignation regarding the actions of Naomi Mitchell, Rhonda Montgomery, Gloria Evans and Danielle English can be properly addressed via these channels.

Part XVI, Judicial Administration, Section I (A) of the *Discipline*, page 315, is the proper vehicle to address all of Mrs. Johnson's concerns.

> It is the clear intent and purpose of the African Methodist Episcopal Church to encourage, create and stimulate peace and goodwill among all its members, societies, local churches, auxiliaries, departments and commissions. Accordingly, before any charge maybe filed, introduced or conveyed for consideration, all parties to any difference, dispute, claim or controversy shall submit the matters of contention to the Conciliation Committee…

Mrs. Johnson and her husband declined Bishop Samuel Green's offer to meet. The more formalized Conciliation may assist to mend the fractured relationship.

The *Discipline*, Part XVI, Section XVI, I (10), page 365, defines the parameters in which a declaratory decision can be pursued. Mrs. Johnson states openly that her request does not fit the required criteria. Mrs. Johnson's grievances can be addressed by using the aforementioned procedures outlined under Judicial Administration in the *Discipline*.

## CONCLUSION

The Judicial Council DENIES Respondent's request for a declaratory decision.

Opinion rendered this 4th day of April 2019.

TaShun Bowden-Lewis, Esq.

Concurring: Patricia M. Mayberry, Tania E. Wright, Derek H. Anderson, Glenda F. Hodges, Thomas L. Bess, Vernon R. Byrd, Jr., Warren H. Dawson and Eduardo K. Curry.

**No. 2016-2020-28**

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

**RE: IN THE MATTER OF REV. LAWRENCE PAULSE**

Patricia M. Mayberry, President, renders the opinion of the Judicial Council.

## HOLDING

The Judicial Council reverses the decision of the West Annual Conference. Any charge against Petitioner must follow the Judicial Administration process to include investigation by the Judicial Committee and finally, referral to the Trial Committee, if a majority of the Judicial Committee determine that a trial is justified.

## PARTIES

The Petitioner is Rev. Lawrence Paulse, Nineteenth Episcopal District, West Annual Conference, Johannesburg, South Africa. The Respondents are Bishop Paul Jones Mulenga Kawimbe, Presiding Prelate of the Nineteenth Episcopal District and the West Annual Conference of the African Methodist Episcopal (AME) Church.

## JURISDICTION

As it pertains to appeals, the jurisdiction of the Judicial Council is provided in the 2016 *Doctrine and Discipline of the AME Church (Discipline)*, Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph A. Jurisdiction, page 361 states:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

Whether Petitioner's suspension for one year, based on the charge of Pastoral Interference, on the recommendation of the Ministerial Efficiency Committee (MEC) and adopted by the Annual Conference but without the benefit of invoking the judicial process, violates his due process rights?

## STATEMENT OF FACTS

1. The West Annual Conference, which convened from October 11-14, 2018 at New Bethel AME Church, Lichtenburg, South Africa. The MEC gave its report on or about October 12, 2018. In its report, the MEC recommended that Rev. L. Paulse be suspended for one year and referred for trial, based on a charge of Pastoral Interference. The report failed to provide any clarification as to the conduct which resulted in the charge of Pastoral Interference.

2. The Conference adopted the report of the MEC in its entirety.[1]

3. The Minutes do not reflect any action by the Judicial Committee regarding Rev. Paulse's charge of Pastoral Interference.

4. Petitioner filed an Appeal of the decision of the West Annual Conference, dated December 21, 2018, which was received and deemed filed by the Council on December 24, 2018.

5. Petitioner's appeal contained illegible handwriting rendering the document significantly indiscernible. The document failed to provide a sufficient basis for the appeal. No supporting evidence accompanied Petitioner's appeal.

6. On or about April 3, 2019, Bishop Paul Jones Mulenga Kawimbe submitted certified Minutes of the 2018 West Annual Conference, as well as the Report of the MEC.

## ANALYSIS AND DISCUSSION

Rev. Paulse alleges that he never received any documentation supporting the charge of "pastoral interference" presented to the MEC. Without an opportunity to effectuate a proper defense, the MEC recommended that Rev. Paulse be suspended for one year and referred for trial. Without the benefit of investigation by the Judicial Committee, the Annual Conference adopted the MEC's recommendation.

In reviewing the report of the MEC, it becomes blatantly apparent that several deficiencies exist. The report contains no factual information forming the basis of the alleged charge of "pastoral interference." The report simply acknowledges that the reason for the referral was made clear to Rev. Paulse. The report fails to state any evidence or the circumstances giving rise to the charge.

[1] It should be noted the minutes of the West Annual Conference reflect the same individual Rev. Qokela moved the adoption of the report and seconded the motion. If the aforementioned sequence occurred as printed in the Minutes, the motion lacked the proper parliamentary process for adoption.

The 2016 *Discipline*, Part XVI, Section XIII, Paragraph F., p. 358 provides for the charge of Pastoral Interference:

> 1. No elder, deacon or preacher in any charge shall interfere with the business of any other charge.
> 2. If any should be found guilty of doing so, without having been called according to *The Doctrine and Discipline of the African Methodist Episcopal Church* or by the bishop or presiding elder, he or she shall be dealt with, as in other cases of violation of *The Doctrine and Discipline of the African Methodist Episcopal Church.*

The Judicial Council has no factual information by which it can determine the basis of the pastoral interference charge levied against Rev. Paulse. The report raises many unanswered questions as to the nature of the conduct that led to the MEC's recommendation for a one-year suspension and referral to trial. Neither the MEC report nor the Annual Conference minutes contain evidence to substantiate the action taken.

Secondly, it is not objectionable that the report states that the judicial process should be instituted; however, the MEC is without authority to refer the matter to trial. The Judicial Committee is the body which would determine whether the accused should be charged and as to whether the matter should be referred to the Trial Committee. The Trial Committee then by two-thirds (2/3) vote has the authority to prescribe penalties which include reprimand, transfer, suspension or expulsion, if and when there is a finding of an offense at trial. *Discipline,* Part XVI. Judicial Administration, Section VII. Trials, C. Itinerant Preachers, paragraphs 2-4, pp. 324-326. Relative to ministers, the decision of the Trial Committee is then appealable to the Annual Conference and from there to the Judicial Council. See, *Discipline,* Part XVI, Judicial Administration, Section VIII. Appeals, B. Orders of Appeals, p. 329.

A bishop may not arbitrarily suspend a pastor for one-year without invoking the judicial process. The *Discipline* outlines the judicial procedure when attempting to charge the clergy with offenses. Nothing in the certified Minutes of the West Annual Conference 2018, remotely suggests that Rev. Paulse received the benefits associated with the judicial process. Neither was he afforded due process rights embedded in the judicial administration process. Any suspension without due process clearly violates the positive law of the Church. While the Judicial Council lacks any authority to interfere with the appointment of Bishop Kawimbe (See, *Discipline*, Part XVI, Section XVI, paragraph I., p. 361), it will ensure that Petitioner be afforded due process as prescribed by the *Discipline*.

## CONCLUSION

The Judicial Council reverses the decision of the West Annual Conference. Any charge against Petitioner must follow the Judicial Administration process, to include investigation by the Judicial Committee and finally, referral to the Trial Committee if the required majority of the Judicial Committee determine that a trial is justified.

The Ministerial Efficiency Committee shall immediately relinquish its report and all supporting documentation, including the list of witnesses, to the Judicial Committee of the West Annual Conference. The Judicial Committee shall immediately investigate and determine whether the matter should be referred to the Trial Committee.

Further, should Petitioner file any subsequent appeals before the Judicial Council, it must be legible and not handwritten.

Opinion rendered this 30th day of April 2019.

Patricia M Mayberry

JUDGE PATRICIA M. MAYBERRY

Concurring: Judge Tania E. Wright, Judge Derek H. Anderson, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Vernon R. Byrd, Jr., Judge TaShun Y. Bowden-Lewis, Judge Warren H. Dawson and Judge Eduardo K. Curry

**No. 2016-2020-29**

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

**RE: IN THE MATTER OF REV. Tsheole James Ntsiea**

Judge Eduardo K. Curry, Member, delivers the opinion on behalf of the Judicial Council.

## HOLDING

Respondents erred in suspending the Petitioner for a period of one year, without the benefit of trial and/or other judicial process and violated due process rights afforded Petitioner by the *Doctrine and Discipline of the African Methodist Episcopal Church 2016*.

Respondents shall *immediately* refer the report of the Ministerial Efficiency Committee as pertains to Petitioner, along with any supporting documentation and/or names of witnesses, to the Judicial Committee of the Orangia Annual Conference for prompt but thorough investigation and consideration. Copies of all documentation presented to the Judicial Committee shall also be provided to Petitioner. If a majority of the Judicial Committee determines that a trial is justified, the date for trial should be set for no more than thirty (30) days from the date of the order/decision of the Orangia Judicial Committee.

Petitioner's period of suspension shall continue pending the decision of the Judicial Committee and/or Trial Committee, unless rescinded by the presiding prelate or other.

## PARTIES

Reverend Tsheole James Ntsiea ("Petitioner" or "Rev. Ntsiea") served as an Itinerant Elder in the Orangia Conference in the Nineteenth Episcopal District of the African Methodist Episcopal Church ("AME Church"). Bishop Paul J.M. Kawimbe ("Respondent" or "Bishop Kawimbe") is the Presiding Prelate in the Nineteenth Episcopal District of the African Methodist Episcopal Church and the Orangia Annual Conference (also "Respondent").

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XVI, Paragraph A, p.361 of *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*") which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

I. Whether Bishop Kawimbe violated the positive law of the church in allowing lay members to perform administrative duties in committees and deliberate in the annual conference on issues regarding ministerial relations and trials of ministers?

II. Whether Judicial Council has jurisdiction to address Bishop Kawimbe's standing to carry out the legal business in the Nineteenth Episcopal District, where assigned by the General Conference of the AME Church? Whether Petitioner has forfeited the right to utilize the judicial mechanism of the AME Church regarding an issue on which he has previously filed a civil action in the High Courts of South Africa?

III. Whether Bishop Reginald Jackson, President of the Council of Bishops, had the requisite authority to authorize Rev. Ntsiea to remain as the pastor of the church where he was previously appointed, pending the appeal of his suspension?

IV. Whether Rev. Ntsiea may appeal the decision of the Ministerial Efficiency Committee and Orangia Annual Conference directly to the Judicial Council?

## STATEMENT OF FACTS

1. On or about September 28, 2018, Rev. Ntsiea received an email invitation to appear before the Orangia Conference Ministerial Efficiency Committee (MEC). On October 5, 2018, he received from Dineo Modise and Debbie Modise, lay members. notice of the postponement of this meeting to October 17, 2018.

2. Rev. Ntsiea alleges that lay members of the Annual Conference are precluded from participating in committees concerning ministerial relations and trials of ministers. Therefore, Petitioner asserts that the MEC and Bishop Kawimbe violated the positive law of the church by including lay members in the administrative duties of the committee.

3. Petitioner alleges that the Committee failed to provide specific information concerning the referrals.

4. Petitioner states that he did not appear at either meeting of MEC due to lay persons being involved and the short notice of the event. He also objected to unlawful charges by the MEC and their recommendation to the 113th Session of the Annual Conference for a one-year suspension for insubordination and disobedience.

5. Rev. Ntsiea alleges that Bishop Kawimbe did not have the authority to preside over the Annual Conference because he did not have legal papers allowing him to conduct business, according to the laws of South Africa and that he failed to have the budget approved by the annual conference.

6. Rev. Ntsiea along with others approached the high court to oppose a court interdict, which had previously been granted to Bishop Kawimbe. The interdict was amended and allowed for Rev. Ntsiea and others to participate. He further alleges that Bishop Kawimbe violated the interdict and failed to recognize him during the annual conference.

7. On November 1, 2018, the Organia Annual Conference MEC issued a Report in regard to a letter of referral from the Presiding Elders regarding 15 pastors.

8. The MEC report indicates that each affected member was notified regarding the referral and Reverend Ntsiea was called twice to the meeting of the committee and failed to attend both scheduled meetings. The finding of the committee was that a judicial process be instituted referring him for trial and the process be instituted as per *Book of Discipline* 2016 p. 318-19. It was recommended that the Reverend Ntsiea be "suspended from all official functions per page 327 4(a) and pg. 270(3) of the BOD until the next Annual Conference."

9. A certified copy of the 113th Session of the Orangia Annual Conference minutes were submitted by Bishop Kawimbe and states that the Rev. T.D.M. Teketsi read the report on all parties who appeared before them. The report was then adopted on motion by Rev. Teketsi seconded by Rev. T. Rampa, motion carried.

10. Rev. Ntsiea alleges that the voice vote was not carried and struck down but has provided no proof of same.

11. Rev. Ntsiea presented a letter dated December 10, 2018 from Bishop Reginald Jackson, President of the Council of Bishops which states in pertinent part:

> Because you have a right to appeal, you are to remain as pastor of the church where you served prior to your last annual conference. This will occur only if you appeal and will take effect when Bishop Kawimbe provides you and the church notice of this action.

The letter states that the Council of Bishops concurred in this directive at its meeting December 5th in Atlanta, GA. Bishop Kawimbe's reply to Bishop Jackson indicated that there was no common consensus and that he had appointed other pastors to replace those suspended.

12. On December 20, 2018, Rev. Ntsiea appealed the decision of the MEC and Orangia Annual Conference to the Judicial Council and requested that the Judicial Council reverse the decision of the Orangia Annual Conference, alleging due process violations, irregularities in the proceedings and in the conduct of the Ministerial Efficiency Committee and presiding prelate, Bishop Kawimbe.

## ANALYSIS AND DISCUSSION

**I.** Whether lay members serving in administrative capacities in committees concerning ministerial relations and trials of ministers violates the positive law of the church?

Rev. Ntsiea asserts that lay members are precluded from participating in committees concerning ministerial relations and trials of ministers. The *Discipline*, Part XIV, Section II. The Annual Conference, Paragraph L. The Rights of Lay Members at 272 states specifically the following:

> 1. Lay members of the Annual Conference shall participate in all deliberations and vote upon all measures.
> 2. Lay members of the Annual Conference must serve on all committees, except those on ministerial relations and for the trial of ministers.

In the case at hand there is no information submitted by the Petitioner indicating that any lay person were members of the MEC committee and a trial of the minister has not taken place. Rev. Ntsiea in his complaint references two emails sent from Dineo Modise and Debbie Modise both lay members. We find no procedural error in the method of service or in the Ministerial Efficiency's Committee's failure to divulge the source of the referrals at this stage. Per the *Discipline* lay members are allowed to participate in all deliberations and to vote. However, there is a prohibition regarding lay members being a

Bishop Jackson states that Petitioner has a right to appeal his suspension by the annual conference and is directed to "remain as pastor of the church where you served prior to your last annual conference." Bishop Kawimbe provided Council with a copy of an email sent to Bishop Jackson wherein he states that there was no concurrence to allow pastors to remain per the Council of Bishops. Petitioner's continued reliance on the miscommunication from the president of the Bishop's Council is misplaced, in light of the unambiguous directives from the presiding prelate, Bishop Kawimbe, relieving Petitioner of his official duties.

**IV.** Whether Rev. Ntsiea may appeal the decision of the Ministerial Efficiency Committee and Orangia Annual Conference directly to the Judicial Council?

On September 28, 2018 Rev. Ntsiea was sent notification regarding a meeting of the MEC. He was further notified on October 5, 2018 that the meeting was postponed, and a new date would be forthcoming on the following Monday. A new message was sent on October 10, 2018 from Debbie Moise that the MEC would meet on October 17, 2018. Another reminder email was sent on October 12, 2018, with an attached email from MEC with the date of appearance, location and time. The notice lists the reasons for appearance as Disobedience and Insubordination. He was instructed that he needed to be present and had a right to present evidence or any supporting documents and lastly was notified that failure to appear would result in the Committee making a recommendation to the Conference. Rev. Ntsiea did not appear. Petitioner alleges that the MEC Committee's report should have been tabled because the committee was unlawfully constituted.

Although Petitioner complains, we find no procedural error in the method of service, in the MEC's failure to divulge the source of the referrals at this stage or in the makeup of the committee. We find that Bishop Kawimbe is given the authority to appoint a Committee on Ministerial Efficiency consisting of five (5) elders. The Committee has the duty to pass on the efficiency and moral conduct of such ministers as may be referred to it. *Discipline* at 271.

Bishop Kawimbe provided the Council with a certified copy of the Ministerial Efficiency Committee and the process it prescribes. The report was brief and provided a short paragraph of the infractions of each pastor. Petitioner failed to appear, and the MEC recommended to the Annual Conference that the Petitioner be referred to trial. The minutes of the 113th Session of the Orangia Annual Conference were submitted by Bishop Kawimbe and indicates that the Rev. T.D.M. Teketsi read the report on all parties who appeared before them. The report was then adopted on motion by Rev. Teketsi seconded by Rev. T. Rampa, motion carried. Even though Petitioner alleges that the vote was not carried, the minutes reflect otherwise.

However, the MEC erred when it recommended that the matter be referred to trial. The Judicial Committee is the body which would determine whether the accused should be charged, and as to whether the matter should be referred to the Trial Committee. The Trial Committee then by two-thirds (2/3) vote has the authority to

member of the Ministerial Efficiency Committee. Lay persons carrying out administrative duties and acting as scribes for that body, but not participating in deliberations of that committee, does not make them members of that committee and does not *per se* violate the *Discipline*. It is noted that lay and clergy persons involved in any way in these proceedings should be extremely cognizant of privacy issues.

**II.** Whether the Judicial Council has jurisdiction to address Bishop Kawimbe's authority to conduct the business of the 19th Episcopal District, where he was assigned by the General Conference of the AME Church?

Rev. Ntsiea has raised issues regarding the legal status of Bishop Kawimbe's authority to conduct business before the 113th Session of the Orangia Annual Conference and the legality of his actions because he does not have the required papers to carry out business in South Africa. The AME Church expects the compliance of each bishop with the laws of the country to which they are assigned. If the bishop fails to do so, the country will respond in accordance with its own laws.

The Judicial Council lacks authority or jurisdiction to address this matter. Bishop Kawimbe has been assigned as the Presiding Prelate of the Nineteenth District and is afforded all rights of a Bishop in the AME Church. The Judicial Council acknowledges that the Petitioner in his answer has admitted that he has sought civil action to annul the proceedings of the 113th Annual Conference which has been done in total contradiction of the *Discipline* which states:

> Members of the AME Church are hereby required to seek a final determination of any dispute arising between said members and the Church and/or any department thereof by exhausting all legal remedies provided in The *Doctrine and Discipline of the African Methodist Episcopal Church* before civil proceedings are engaged in by the said member in his or her own behalf or anyone similarly situated.

*Discipline* at 364.

Rev. Ntsiea along with others approached the high court civilly to oppose Bishop Kawimbe's authority to serve as Bishop. Due to the civil litigation, Plaintiff has forfeited his right to challenge the issue of work permit with this court. *Discipline* at 330.

**III.** Whether Bishop Reginald Jackson, President of the Council of Bishops, had the requisite authority to authorize Rev. Ntsiea to remain as the pastor of the church where he was previously appointed, pending the appeal of his suspension?

Petitioner provided the Judicial Council with a copy of a letter written by Bishop Jackson, President of the Council of Bishops, dated December 10. 2018. In the letter

prescribe penalties which include reprimand, transfer, suspension or expulsion, if and when there is a finding of an offense at trial. *Discipline,* Part XVI. Judicial Administration, Section VII. Trials, C. Itinerant Preachers, paragraphs 2-4, pp. 324-326. Relative to ministers, the decision of the Trial Committee is then appealable to the Annual Conference and from there to the Judicial Council. See, *Discipline,* Part XVI, Judicial Administration, Section VIII. Appeals, B. Orders of Appeals, p. 329.

We are satisfied that the Orangia Annual Conference did vote to accept the recommendations of the MEC. The Orangia Annual Conference and Bishop Kawimbe, as the presiding prelate, erred in their attempt to impose the recommended suspension from all functions until the next Annual Conference, prior to utilization of the appropriate judicial processes.

## CONCLUSION

Respondents, erred in relieving Petitioner of all his official duties for a period of one year, without the benefit of trial and/or other judicial process which violates due process rights afforded Petitioner by the *2016 Discipline of the African Methodist Episcopal Church.*

## ORDER

The decision of the Orangia Annual Conference is hereby MODIFIED. Petitioner's request as to all other matters is DENIED.

Respondents shall *immediately* refer the report of the Ministerial Efficiency Committee as pertains to allegations of offenses by Petitioner, along with any supporting documentation, to the Judicial Committee of the Orangia Annual Conference for *prompt* and thorough investigation and consideration. If a majority of the Judicial Committee determines that a trial is justified, the date for trial should be set for no more than thirty (30) days from the date of the order/decision of the Orangia Judicial Committee.

Opinion rendered this 15 day of May 2019.

Judge Eduardo K. Curry

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek H. Anderson, Judge Glenda F. Hodge, Judge Thomas L. Bess, Judge Vernon R. Byrd, Judge TaShun Y. Bowden-Lewis and Judge Warren H. Dawson.

**No. 2016-2020-30**

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

**RE: IN THE MATTER OF REV. VICTOR JAPHTA MALEFETSE**

Judge Tania E. Wright, Vice President, renders the opinion of the Judicial Council.

## HOLDING

Respondents, in suspending Petitioner for period of one year, without the benefit of trial and/or other judicial process, violated due process rights afforded Petitioner by the *2016 Discipline of the African Methodist Episcopal Church*.

The Judicial Committee of the Orangia Annual Conference is the body that is designated to determine whether the accused should be charged and whether the matter should be referred to the Trial Committee. The Trial Committee, then by two-thirds (2/3) vote, has the authority to prescribe penalties which include reprimand, transfer, suspension or expulsion, if there is a finding of an offense(s) at trial.

Petitioner is not currently the Pastor of Bethel Temple African Methodist Episcopal Church, Goldfields District and has no authority to act in that capacity. Petitioner's suspension shall continue, pending the decision of the Judicial Committee and/or Trial Committee, unless rescinded by the presiding prelate or other authorized body.

## PARTIES

PETITIONER: Reverend Victor Japhta Malefetse ("Petitioner" or "Rev. Malefetse"), is an Itinerant Elder and former Pastor of the Bethel Temple African Methodist Episcopal Church, Goldfields District. RESPONDENTS: Bishop Paul JM Kawimbe ("Respondent" or "Bishop Kawimbe") the Presiding Prelate in the Nineteenth Episcopal District of the African Methodist Episcopal (AME) Church and the Orangia Annual Conference (also "Respondent").

## JURISDICTION

The *Discipline*, Part XVI, Section XVI, Paragraph A., p. 361 also provides that:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

Whether Respondent(s) violated Rev. Malefetse's right to due process by suspending him from his official duties for a period of one year, upon the recommendation of the Ministerial Efficiency Committee, without invoking the judicial process?

## STATEMENT OF FACTS

1. On, November 4, 2018, the Orangia Annual Conference Ministerial Efficiency Committee (MEC) presented a report to the Orangia Annual Conference. According to the Certified Minutes, a motion to accept the report was made, properly seconded and the motion carried. As pertains to the Petitioner, the report reads as follows:

   > Based on the seriousness of the referrals brought against the pastor of gross disobedience and insubordination, your committee deems it fit that a judicial process be instituted which therefore means that the said pastor be referred for trial and the process be instituted as per Book of Discipline 2016 p.318-19 read with section V. Arrangement of Trial. It is thus recommended that the Reverend be suspended from all official functions (see p.327, 4[a] BOD 206) until the next Annual Conference. As in accordance to the BOD p. 340 section 2(h); the pastor failed to submit his background check.

2. Petitioner, as well as others, was suspended from all official duties for a period of one year, consistent with the recommendation in the report of the Ministerial Efficiency Committee. Petitioner was not subjected to trial proceedings.

3. Petitioner filed an Appeal of the decision of the Orangia Conference to the Judicial Council, dated December 20, 2018, which was received and deemed filed by the Council on December 24, 2018. Petitioner requested that the Council reverse the decision of the Annual Conference, alleging due process violations, irregularities in the proceedings and in the conduct of the MEC and presiding prelate, Bishop Kawimbe.

4. The Council of Bishops met in December of 2018 and proposed that since the pastors from the 19th Episcopal District were suspended, *not moved*, they should remain at the churches, where they had been appointed, *with pay*, prior to the suspension, pending the outcome of their appeals. The President of the Bishop's Council communicated to the Petitioners what he believed to be a matter of common consent. Bishop Kawimbe expressed disagreement and advised that he had appointed others to pastor the churches of the suspended pastors.

5. According to a letter from Bishop Kawimbe, Petitioner continues in the role of pastor of Bethel Temple AME, the church to which he was previously appointed, notwithstanding his suspension and the appointment of a new pastor.

## ANALYSIS AND DISCUSSION

The principle issue before the Judicial Council is whether Rev. Malefetse received due process prior to his being relieved of his official duties for one year.

Rev. Malefetse complains that Bishop Kawimbe did not inform the Orangia Annual Conference that the matter of his suspension was *sub judice* (meaning a matter already before the court, which is undecided). Rev. Malefetse references a Petition for a Declaratory Decision filed by Rev. Malefetse and others, regarding a request for Conciliation with Bishop Kawimbe. The matter was filed on October 10, 2018 and was pending before this court prior to Rev. Malefetse's suspension; however, the filing of that or any other matter ***does not act as an automatic stay*** as to any decision, action or proceeding, except where may be specifically prescribed by the *Discipline*.

Accordingly, Rev. Malefetse should have filed a timely appeal of the decision of the Orangia Annual Conference, that is to say within thirty days (30) days of the Nov. 4 suspension. ***See,*** Part XVI. Judicial Administration, Section VIII. Appeals, Subsection B. Order of Appeals, paragraph 2, p. 329. Even though untimely, given the flawed process employed, equity demands that the Judicial Council address what could otherwise be a continuing injustice.

Although Petitioner complains, we find no procedural error in the method of service or in the MEC's failure to divulge the source of the referrals at this stage. Moreover, the *Discipline* is silent in this regard and offers little guidance even as to the MEC's reporting requirements. We note that while there is a prohibition regarding lay members being members of the MEC, there is no such prohibition regarding lay persons carrying out administrative duties and/or acting as scribes for the MEC. These lay persons are not

participating in deliberations, they are not members of the MEC nor do their actions constitute *per se* violations of the *Discipline*. We admonish lay and clergy persons involved in any way in these proceedings to be extremely cognizant of privacy issues. We also have lingering concerns about the conclusory nature of the allegations as presented in the report of the MEC. In significant part, the conclusions regarding gross disobedience and insubordination are not supported by underlying facts, at least not facts which are included in the written report of the MEC.

In addition to gross disobedience and insubordination, the report of the MEC alleges that Petitioner failed to submit a background check. The specific section of the *Discipline* referenced by the MEC's report states that all persons in positions involving the care and supervision of children must undergo a mandatory background check. We have no factual basis to determine if that particular provision is applicable to Rev. Malefetse. However, in general, the *Discipline* requires those with first time pastoral assignments or who move to a different pastoral assignment, to undergo a mandatory background check and complete a transfer assessment. We gleaned from the reading of the Certified Minutes of the Annual Conference that Rev. Malefetse presented transfer papers at the Orangia Conference from the West Conference. As such, Petitioner would have been obliged to submit a background check. We also discern from the Certified Minutes that no report was received from Bethel Temple AME Church, where Rev. Malefetse was the appointed pastor. It was more likely than not that, this factor was considered, but was not stated in the written report of the MEC.

While the report of the MEC states that the judicial process should be instituted, it does not properly refer the matter, but recommends a suspension until the next annual conference. The Judicial Committee is the body, which would determine whether the accused should be charged and as to whether the matter should be referred to the Trial Committee. The Trial Committee then by two-thirds (2/3) vote has the authority to prescribe penalties which include reprimand, transfer, suspension or expulsion, if and when there is a finding of an offense at trial. *Discipline,* Part XVI. Judicial Administration, Section VII. Trials, C. Itinerant Preachers, paragraphs 2-4, pp. 324-326. Relative to ministers, the decision of the Trial Committee is then appealable to the Annual Conference and from there to the Judicial Council. See, *Discipline,* Part XVI, Judicial Administration, Section VIII. Appeals, B. Orders of Appeals, p. 329.

The Judicial Council is mindful that it may be necessary for a Bishop, directly or via the Annual Conference, to immediately suspend a pastor, as is specifically mandated by the *Discipline,* with regard to alleged violations of certain provisions or in the best interest of the church. A suspension, pending further investigation, documentation or judicial process may be necessary and appropriate. However, a blanket one-year suspension is clearly punitive and, at a minimum, requires due process, that is to say, notice of the offense and a meaningful opportunity to be heard by an appropriate judicial body, as provided for by the *Discipline*.

Rev. Malefetse alleges that the Annual Conference voted "unanimously" *not* to suspend him, but that Bishop Kawimbe otherwise entered the vote. The Certified Minutes of the 113th Session of the Orangia Annual Conference, also reflect other notes of contention with Rev. Malefetse questioning Bishop Kawimbe's authority to preside over the Orangia Annual Conference, asking for clarification as to whether he was an appointed bishop from the connectional church or a visitor – seemingly a reference to Bishop Kawimbe being compelled to seek an emergency order of the Court relative to a missing *work permit* before being allowed to preside over the Orangia Conference, in the 19th Episcopal District, where he was appointed by the General Conference of the AME Church.

Certified Minutes of the Orangia Annual Conference reflect that the conference voted to accept the report of the MEC, *in toto,* which included the various recommendations. Rev. Malefetse's version of the facts is in contradiction to the Certified Minutes, as well as others appealing their suspensions, one saying that the conference unfairly or unwittingly voted to adopt the report of the MEC and another interpreting the voice vote as being against adopting the report. However, there is no support for Rev. Malefetse's rendition or recollection of the unanimous vote against his suspension. The Judicial Council also notes that no one called for a "division of the house" to verify or tabulate the vote, which would have provided stronger evidence in this controversial matter.

We are nevertheless satisfied that the Orangia Annual Conference did vote to accept the recommendations of the MEC. However, the Orangia Annual Conference and Bishop Kawimbe, as the presiding prelate, erred in imposing the recommended penalty of a suspension for a period of one year, without instituting the appropriate judicial process.

It is noted that a letter from Bishop Jackson, President of the Council of Bishops, *erroneously* advised Petitioner that the pastors were to be suspended *with pay* and to remain at their present churches until resolution of these matters. Bishop Jackson stated at the time, what he believed to be a shared consensus of the Council of Bishops, per their meeting of December 2018. Bishop Kawimbe was clearly *not* in agreement with the proposal as set forth by the Council of Bishops and unequivocally communicated his disapproval in that, as the presiding prelate, he appointed pastors to the various churches to replace the suspended pastors. Petitioner's continued reliance on the miscommunication from the Council of Bishops is misplaced, in light of the unambiguous directives from the presiding prelate, Bishop Kawimbe.

According to a letter from Bishop Kawimbe, notwithstanding the decision of the Annual Conference and despite his appointing another pastor, Rev. Malefetse did not vacate his charge. He continues to *act* as the pastor of Bethel Temple AME Church, in direct contravention to the suspension. The Judicial Council in no way condones or lends approval to Petitioner's continued refusal to relinquish this charge. Relative to the suspension, Petitioner is entitled to and will be afforded due process, as is provided by the *Discipline*.

## CONCLUSION

Respondents, in relieving Petitioner of his official duties for a period of one year, without the benefit of trial and/or other judicial process, violate due process rights afforded Petitioner by the *2016 Discipline of the African Methodist Episcopal Church*.

## ORDER

The decision of the Orangia Annual Conference is hereby MODIFIED.

Respondents shall *immediately* refer the report of the Ministerial Efficiency Committee as pertaining to allegations of offenses by Petitioner, along with any supporting documentation, to the Judicial Committee of the Orangia Annual Conference for *prompt* and thorough investigation and consideration. If a majority of the Judicial Committee determines that a trial is justified, the date for said trial should be set no more than thirty (30) days from the date of that order.

Petitioner's suspension shall continue, pending the decision of the Judicial Committee and/or Trial Committee, unless rescinded by the presiding prelate or other authorized body. Petitioner is *not* currently the pastor of the Bethel Temple African Methodist Episcopal Church, Goldfields District and has *no* current authority to act in that capacity.

Opinion rendered this 27th day April 2019.

Tania E Wright

JUDGE TANIA E. WRIGHT

Concurring: Judge Patricia M. Mayberry, Judge Derek H. Anderson, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Vernon R. Byrd, Jr., Judge TaShun Y. Bowden-Lewis, Judge Warren H. Dawson and Judge Eduardo K. Curry

**No 2016-2020-31**

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

**RE: IN THE MATTER OF REV. THABO F. SENATLE**

Judge Thomas L. Bess, Chaplain, renders the opinion of the Judicial Council.

## HOLDING

The Judicial Council modifies the decision of the Orangia Annual Conference. Any charge against Petitioner must follow the Judicial Administration process to include investigation by the Judicial Committee and finally, referral to the Trial Committee, if a majority of the Judicial Committee determine that a trial is justified.

## PARTIES

The Petitioner is Rev. Thabo F. Senatle, an Itinerant Elder in the Nineteenth Episcopal District, Orangia Annual Conference, Johannesburg, South Africa. The Respondents are Bishop Paul Jones Mulenga Kawimbe, Presiding Prelate of the Nineteenth Episcopal District and the Orangia Annual Conference of the African Methodist Episcopal (AME) Church.

## JURISDICTION

As it pertains to appeals, the jurisdiction of the Judicial Council is provided in the 2016 *Discipline*, Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph A. Jurisdiction, page 361 states:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

Whether Petitioner's suspension for one year, on the recommendation of the Ministerial Efficiency Committee and adopted by the Annual Conference , based on the charge of Pastoral Interference, but without the benefit of invoking the judicial process, violates his due process rights?

## STATEMENT OF FACTS

1. On October 17, 2018, a letter was delivered by Chairperson Rev. Joyce Tember inviting Rev. Senatle to appear before the Ministerial Efficiency Committee ("MEC" or "Committee").

2. On October 17, 2018, Rev. Senatle informed the Chair that the date clashed with prior commitment.

3. On November 2, 2018, Rev. Senatle was summoned to meet the MEC. The Committee informed him that he was charged with pastoral interference. The Committee wanted his thoughts on the charges. He was not informed as to who charged him nor was documentation provided as to the charges. He did not respond because of the lack of information provided.

4. On November 4, 2018, the Orangia Annual Conference MEC made its report to the conference. The report indicates that Rev. Senatle was referred to the MEC for (1) Pastoral Interference and (2) Non-payment of auditing and staffing fee. The report states:

> The Pastor appeared before the committee and he did not show any remorse, therefore based on the seriousness of the referrals brought against him, that he be suspended from all Pastoral duties until the next Annual Conference. Furthermore that a judicial process be instituted against the pastor as per Book of Discipline 2016p318-19 section V. Arrangement of Trial. In accordance to the BOD p340 section 2(h); the pastor failed to submit his background check. The committee recommends that Disciplinary action be facilitated in the next 30 working days.

The Orangia Annual Conference adopted the report of the MEC in its entirety.

5. December 12, 2018, Rev. Senatle sent Bishop Kawimbe a notice of appeal of his suspension. Also, he complained to the Bishop about not receiving a copy of the MEC report.

6. On or about April 3, 2019, Bishop Paul Jones Mulenga Kawimbe submitted certified Minutes of the 2018 Orangia Annual Conference, as well as the Report of the MEC.

## ANALYSIS AND DISCUSSION

Rev. Senatle alleges that he never received any documentation supporting the charge of "pastoral interference" presented to the MEC. Without an opportunity to effectuate a proper defense, the MEC recommended that he be suspended for one year and referred for trial. Without the benefit of investigation by the Judicial Committee, the Annual Conference adopted the MEC's recommendation.

In reviewing the report of the MEC, it becomes blatantly apparent that several deficiencies exist. The report contains no factual information forming the basis of the alleged "pastoral interference" offense. The report states that he "showed no remorse" but fails to state any evidence or the circumstances giving rise to the charge.

The Doctrine and Discipline, 2016, *Discipline*, Part XVI, Section XIII, Paragraph F., p. 358 provides for the charge of Pastoral Interference:

> 1. No elder, deacon or preacher in any charge shall interfere with the business of any other charge.
> 2. If any should be found guilty of doing so, without having been called according to The Doctrine and Discipline of the African Methodist Episcopal Church or by the bishop or presiding elder, he or she shall be dealt with, as in other cases of violation of The Doctrine and Discipline of the African Methodist Episcopal Church.

The Judicial Council cannot conclude the basis of the pastoral interference charge levied against Rev. Senatle. The report raises many unanswered questions as to what conduct led to the MEC's recommendation for a one-year suspension and referral to trial. Neither the MEC report nor the Annual Conference minutes contains evidence to substantiate the action taken. The MEC report also charges non-payment of auditing and staffing fee and failing to submit a background check. However, there is no information available as to the specifics of the alleged deficiencies.

Secondly, it is not objectionable that the report states that the judicial process should be instituted;[1] however, the Ministerial Efficiency Committee is without authority to refer the

[1]The *Discipline*, Part XI, Section I, Paragraph C , p.156, also provides that if the MEC determines that a minister has conducted himself or herself in such a way as to be rendered unacceptable as an itinerant elder, the MEC may notify the pastor in writing six (6) months before the annual conference and request location. If the pastor refuses, the conference by (2/3) vote, upon recommendation of the MEC and investigation by the conference, may deprive the pastor of the right to exercise ministerial orders. Even if the requisite conditions are met, the pastor must be provided a meaningful opportunity to defend himself or herself before the annual conference.

matter to trial. The Judicial Committee is the body which would determine whether the accused should be charged and as to whether the matter should be referred to the Trial Committee. The Trial Committee then by two-thirds (2/3) vote, has the authority to prescribe penalties which include reprimand, transfer, suspension or expulsion, if and when there is a finding of an offense at trial. *Discipline,* Part XVI. Judicial Administration, Section VII. Trials, C. Itinerant Preachers, paragraphs 2-4, pp. 324-326. Relative to ministers, the decision of the Trial Committee is then appealable to the Annual Conference and from there to the Judicial Council. See, *Discipline,* Part XVI, Judicial Administration, Section VIII. Appeals, B. Orders of Appeals, p. 329.

A bishop may not arbitrarily suspend a pastor for one-year without invoking the judicial process. The *Discipline* outlines the appropriate judicial procedure to follow, when attempting to charge the clergy with offenses. From the reading of the certified Minutes of the Orangia Annual Conference 2018, nothing remotely suggests that Rev. Senatle received the benefits associated with the judicial process nor was he afforded due process rights embedded in the judicial administration process. Any suspension without due process clearly violates the positive law of the Church. While the Judicial Council lacks any authority to interfere with the appointments of Bishop Kawimbe (See, *Discipline*, Part XVI, Section XVI, paragraph I., p. 361), it is the responsibility of the Judicial Council to ensure that Petitioner is afforded due process as prescribed by the *Discipline*.

## CONCLUSION

The Judicial Council MODIFIES the decision of the Orangia Annual Conference. Any charge against Petitioner must follow the Judicial Administration process to include investigation by the Judicial Committee and finally, referral to the Trial Committee, if the required majority of the Judicial Committee determine that a trial is justified.

The Ministerial Efficiency Committee shall immediately relinquish its report and all supporting documentation, including the list of witnesses, to the Judicial Committee of the Orangia Annual Conference for immediate investigation and determination as to whether the matter should be referred to the Trial Committee.

Opinion rendered this 23rd day of May 2019.

JUDGE THOMAS L. BESS

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek H. Anderson, Judge Glenda F. Hodges, Judge Vernon R. Byrd, Judge TaShun Y. Bowden-Lewis, Judge Warren H. Dawson, and Eduardo K. Curry.

## No. 2016-2020-32

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

**RE: IN THE MATTER OF REV. TEBOHO G. KLAAS AND MR. MXOLISI VILAKAZI**

Judge Eduardo K. Curry, Member, delivers the opinion on behalf of the Judicial Council.

## HOLDING

I. The Petitioners failed to provide evidence that the Respondent conducted the East Annual Conference in contravention of the *Doctrine and Discipline of the African Methodist Episcopal Church* 2016.

II. Judicial Council does not have the authority to address Bishop Kawimbe's standing to carry out the business in the Nineteenth Episcopal District, where assigned by the General Conference of the AME Church.

## PARTIES

Reverend Teboho G. Klaas and Mr. Mxolisi Vilakazi ("Petitioners" or "Rev. Klaas and Mr. Vilakazi" served as an Itinerant Elder and Delegate, respectively, in the East Annual Conference in the Nineteenth Episcopal District of the African Methodist Episcopal Church ("AME Church"). Bishop Paul J.M. Kawimbe ("Respondent" or "Bishop Kawimbe") is the Presiding Prelate in the Nineteenth Episcopal District of the AME Church and the East Annual Conference (also "Respondent").

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XVI, Paragraph A, p.361 of the *Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*") which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

I. Whether Bishop Kawimbe violated the *Discipline* while conducting the business of the East Annual Conference?

   a. In allegedly ruling that a lay member cannot be elected as the Conference Treasurer or deliberate in the East Annual Conference vote on ministerial relations.
   b. In requiring churches to pay apportionments, which were allegedly not voted upon by the previous Annual Conference and without approval of a Conference Budget.
   c. In electing the Judicial Committee.

II. Whether the Judicial Council has jurisdiction to address Bishop Kawimbe's standing to carry out the business in the Nineteenth Episcopal District, where assigned by the General Conference of the AME Church?

## STATEMENT OF FACTS

1. On or about October 4, 2018, the 67th Session of the East Annual Conference was held and hosted in Barberton (Mpumalanga Province, Republic of South Africa).

2. Reverend Klaas attended as an active Itinerant Elder and Mxolisi Vilakazi as a Delegate of the East Annual Conference, Masibambisane A.M.E. Church.

3. Petitioners allege that the *Discipline* 2016, Part XIV, Section II G. p. 270 states that the Annual Conference shall elect its officers by majority vote. Petitioner alleges that the vote was unlawful because the total number of voting participants in the election of the Treasure did not constitute a majority of the total number of eligible voting members of the East Annual Conference. Petitioner complains that the Treasurer was elected after three rounds of voting and that those facts are not reflected in the minutes. However, there was no challenge to the minutes.

4. Petitioners indicate that Bishop Kawimbe failed to have the Episcopal District Budget approved through its 67th annual conference; however, two assessments have been imposed, the Forensic Audit and Office Staffing. They argue that these apportionments have resulted in reprimands to those pastors who did not pay the assessments, in violation of *Discipline* 2016, Part XIV, Section II G & H. pp. 268-271.

5. Petitioner argues that the Finance report was tabled and only reflected income with no expenditure section. However, the minute's state that the East Annual Conference approved the report before the conference adjourned.

6. Petitioners complain that through a point of order raised by a presiding elder, Bishop Kawimbe improperly ruled against a point of privilege, questioning whether Bishop Kawimbe was conducting church work without a work permit and refers to a letter from Bishop Jackson, dated October 3, 2018.

7. Petitioners allege the Judicial Committee was not elected or confirmed. The minutes indicate that the same Committee was nominated by the Presiding Elders, except for the replacement of Rev. S.B. Dire with the Rev. M.D. Kubheka.

8. On December 20, 2018, Rev. Teboho G. Klaas and Mxolisi Vilakazi filed this joint appeal seeking to reverse several decisions of Bishop Kawimbe and the 67th Session of the East Annual Conference, as well as alleging due process violations and other irregularities in the proceedings.

## ANALYSIS AND DISCUSSION

There are numerous issues raised by Petitioners, Rev. Klaas and Mr. Vilakazi, complaining about the procedural manner in which Bishop Kawimbe conducted the 67th East Annual Conference and questioning whether his actions were unlawful and violated the *Discipline*.

The record is silent as to any objections or the failure of the East Annual Conference to pass the budget. Petitioners have failed to produce cogent or competent evidence to support allegations that the budget was not properly passed. Petitioners argue that the Conference Budget Adjustments Committee was misled to vote on these two apportionments, the Forensic Audit and Office Staffing. By Petitioners' own admission, the apportionments were passed, and the Petitioners have failed to provide any proof to support their baseless allegations of trickery and deception. They provided no affidavits, no written documents and no certified record in support of their arguments.

Further, the Petitioners challenge the election of the Treasurer. A certified copy of the minutes was provided by the parties. On page 2 of the East Annual Report, the record reflects that all Conference Officers were elected. The officers were proposed and there was a point of unreadiness indicating that the nominated Treasurer be voted up or down against a second nominee. Bishop Kawimbe stated that the procedure would be to *split the house*, i.e., vote by other than a voice vote, on the existing name, rather than introducing a new nominee. The house was split, and the Statistician counted the votes by hand 37 yes and 15 no.

Petitioner alleges that the Finance report was tabled and only reflected income with no expenditure section. However, the minute's state that the East Annual Conference approved the report before the conference adjourned.

This Council is concerned with two issues surrounding Petitioners' allegations. Number one, Petitioners have offered renditions of activity that are not supported by the certified records of the 67th East Annual Conference. Secondarily, Petitioners attempt to use references from the *Discipline* 2016 that are clearly inapplicable or plainly not the positive law of the church. This Council is bound by factual allegations that can be supported by the evidence.

Petitioners allege that lay members were precluded from being considered for the position as Conference Treasurer, in violation of specific provisions in the *Discipline 2016*. A review of the conference minutes does not support Petitioners' allegations. In fact, it reflects that a motion was made to approve the Finance Committee.

Although the minutes are silent on this account, Petitioners state that a lay delegate attempted to state his unreadiness on the recommendations of the Ministerial Efficiency Committee report but was not permitted to do so. Petitioners further state that lay delegates were precluded from deliberating on matters related to ministerial relations. The *Discipline*, Part XIV, Section II, Paragraph L, addresses The Rights of Lay Members and specifically states the following:

1. Lay members of the Annual Conference shall participate in all deliberations and vote upon all measures.
2. Lay members of the Annual Conference must serve on all committees, except those on ministerial relations and for the trial of ministers.

The language of the *Discipline* clearly states that Lay members cannot serve on committees involving ministerial relations and the trials of ministers. However, the language does not preclude them from addressing these matters once brought before the body of the Annual Conference. Duly elected delegates in good and regular standing, whether lay or ministerial, have an inherent right to be heard and to vote on reports pertaining to all committees.

Petitioners raised issues regarding the legal status of Bishop Kawimbe's authority to conduct business before the East Annual Conference and the legality of his actions because he does not have the required papers to carry out business in South Africa. The AME Church expects that each Bishop will comply with the laws of the country to which the Bishop is assigned. If the Bishop fails to do so the country will respond in accordance with its own laws. The Judicial Council has no authority or jurisdiction to address this matter. Bishop Kawimbe has been assigned as the Presiding Prelate of the Nineteenth Episcopal District and is afforded all rights of a Bishop in the AME Church.

Lastly, Petitioners challenge the compilation of the Judicial Committee. While it was problematic to acquire the records of the 66th East Annual Conference, that is to say, the certified minutes of the previous year, it was clear that the Annual Conference intended to confirm the compilation of the Judicial Committee along with the addition of Rev. M.D. Kubheka as a new member. In the absence of a noted objection, the new compilation of the Judicial Committee was properly organized and compiled.

## CONCLUSION

The Petitioners have made allegations that were not based in fact or supported by the positive law of the *Discipline* 2016. Therefore, the relief that is being sought is denied.

## ORDER

Based on the aforementioned consideration and deliberation Petitioners' complaint is DENIED in whole.

Opinion rendered this 8th day of August 2019.

Judge Eduardo K. Curry

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek H. Anderson, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge TaShun Y. Bowden-Lewis, and Judge Warren H. Dawson.

Judge Vernon R. Byrd, Jr. did not participate in this decision.

**No. 2016-2020-33**

**BEFORE THE JUDICIAL COUNCIL**

**OF THE**

**AFRICAN METHODIST EPISCOPAL CHURCH**

**RE: MATTER OF REV. SIBUSISO ANTHONY GULE REQUEST FOR DECLARATORY DECISION**

Per Curium Decision of the Judicial Council of the African Methodist Episcopal Church

## HOLDING

1. Petitioner's request for a Declaratory Decision is Denied, in that Petitioner fails to indicate 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 (1) interpretation."

2. Petitioner's requested relief to file a complaint with the Preliminary Inquiry Committee, without Conciliation, is Denied.

3. Petitioner properly requested Conciliation with Bishop Paul Kawimbe through the Secretary of the Annual Conference. In that the presiding prelate is a party to the dispute, the *Doctrine and Discipline of the African Methodist Episcopal Church 2016* requires that Bishop Kawimbe request the President of the Council of Bishops to appoint a disinterested bishop to serve as chairperson of the Conciliation Committee. The Committee shall also include a presiding elder, not a party to the matter, and two members of the local church, one to be selected by each party to the dispute. Each party shall furnish the name address and telephone number of its designated member to the secretary of the Annual Conference.

4. The Judicial Council directs that within twenty (20) days of this Order, a time be set for the Conciliation Committee to meet with written notice to all parties.

## PARTIES

PETITIONER: Rev. Sibusiso Anthony Gule, Itinerant Elder, FH Gow Temple Orlando, South Africa, West Annual Conference, 19th Episcopal District African Methodist Episcopal (AME) Church (*hereinafter* "Petitioner" ). RESPONDENTS: Bishop Paul J. M. Kawimbe, Presiding Prelate, 19th Episcopal District AME Church (hereinafter "Bishop Kawimbe" or "Respondent") and Rev. Dr. Jeffery B. Cooper, General Secretary/Chief Information Officer (CIO), AME Church (hereinafter "Dr. Cooper" or "Respondent" ).

## JURISDICTION

The *Doctrine and Discipline of the African Methodist Episcopal Church 2016*, hereinafter "*Discipline,*" provides that the Judicial Council may make a ruling in the nature of a declaratory decision:

> 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* seem 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 (1) interpretation.

*Discipline*, Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365.

The *Discipline*, Part XVI, Section XVI, Paragraph A, p. 361 also provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

I. Whether Petitioner has been affected by the action of any conference, connectional board or ruling of a bishop based upon any act or legislation that appears to be subject to more than one interpretation or any paragraph of the *Discipline* which is of doubtful meaning or application?

II. Whether under the circumstances alleged herein, the General Secretary may institute Preliminary Inquiry proceedings based upon failed Conciliation?

## STATEMENT OF FACTS

1. Petitioner sent a letter to Bishop Paul Kawimbe on July 6, 2018 demanding retraction and an apology relevant to a statement appearing in the 19th Episcopal District report to the General Board and Council of Bishops, which met June 25-28, 2018 in Atlanta Georgia. The letter was signed by Rev. Sibusiso Gule, Rev. Teboho Klaas, Rev. Solomon Maans, Rev. Victor Malefetse and Rev. Tsheole Ntsiea.

2. Petitioner filed a request for conciliation with the secretary of the West Annual Conference of the 19th Episcopal District by letter dated July 28, 2018 along with a sworn affidavit. Copies of the request and documentation were sent to Bishop Kawimbe and to the Council of Bishops.

3. On September 5, 2018, Rev. Teboho Klaas, on behalf of himself and the other aforementioned ministers, sent correspondence to Dr. Jeffery B. Cooper, General Secretary/CIO, African Methodist Episcopal Church requesting that he forward their complaints to the Preliminary Inquiry Committee to prefer charges against Bishop Kawimbe alleging that since Bishop Kawimbe had not scheduled conciliation, their attempts to resolve their issues through conciliation had failed.

4. On September 6, 2018, Dr. Cooper sent correspondence to Rev. Teboho Klaas acknowledging receipt of the documentation. Further, Dr. Cooper stated his belief that the *Discipline* did not permit him authority to grant their request. He suggested they request the Judicial Council intervene and determine whether the Preliminary Inquiry could go forward.

5. On October 10, 2018, Petitioner, along with the four other ministers, filed a request for a Declaratory Decision and/or Final Decision of a Bishop, with accompanying affidavits before the Judicial Council of the AME Church.

6. In response to the petitions, Bishop Kawimbe states he has not refused Petitioner conciliation, but did not schedule conciliation because he was (1) respecting the decision of a case previously filed and resolved in the civil courts; and (2) because he had not received a grievance from the Council of Bishops.

## ANALYSIS AND DISCUSSION

### I. JURISDICTION OF THE JUDICIAL COUNCIL

#### A. Declaratory Decisions

Petitioner is requesting that we *declare* that Conciliation has failed, in order that the matter proceed to the Preliminary Inquiry Committee. That is not the nature, purpose, or meaning of a declaratory decision as is set forth in the *Discipline. See* Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365.

In order to issue a declaratory decision, the Judicial Council must find that the law of the church is subject to more than one interpretation or of doubtful meaning. Petitioner's complaint fails to allege 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" from which Petitioner seeks clarification. Moreover, there is no provision of the *Discipline* cited which is alleged to be doubtful in meaning. As such, the Judicial Council must deny the request for a declaratory decision.

**B. Final Decision**

Bishop Kawimbe's failure to fix a date for the Conciliation Committee to meet, as is mandated in the *Discipline*, in response to Petitioner's lawful request, is a final decision, appealable to the Judicial Council. While we find no error in Dr. Cooper's refusal to allow the matter to proceed to the Preliminary Inquiry Committee, prior to Conciliation or certification that Conciliation has failed, we also consider his decision, in this matter, as a final and appealable decision. *Discipline*, Part XVI, Section XVI, Paragraph A, p. 361.

## II. CONCILIATION

PART XVI. JUDICIAL ADMINISTRATION, Section I Conciliation Process at p. 315 *strongly expresses* the intent of the Church that disputes within the church be resolved peacefully without resort to formal judicial processes. It states in pertinent part:

> A. Purpose of Conciliation
> It is the clear intent and purpose of the African Methodist Episcopal Church to encourage, create, and stimulate peace and goodwill among all of its members, societies, local churches, auxiliaries, departments, and commissions. Accordingly, before any charge may be filed, introduced, or conveyed for consideration, all parties to any difference dispute, claim or controversy shall submit the matters of contention to the Conciliation Committee.

In accordance with a mandate of the *Discipline,* before any charge can be filed or conveyed for consideration, all parties to any dispute shall submit the matter of contention to the Conciliation Committee. After a request has been filed with the secretary of the Annual Conference and copies furnished to the presiding bishop (when a party to the dispute), must request the President of the Council of Bishops appoint a disinterested bishop to serve as chairperson of the Committee. The presiding bishop should affix a time for meeting within twenty (20) days after the request is filed and notice given to the parties by certified mail. Within thirty days of the first meeting, the chairperson should meet with each party with a view toward firm resolution. The parties should , where possible, work to effectuate a settlement. If the matter is not settled within 120 days after the first meeting of the committee, then conciliation shall cease. *Discipline* at 316.

After review of Bishop's Kawimbe's response, we find nothing in his reasoning which would prevent him from now moving forward with Petitioner's request for Conciliation.

Only in exceptional circumstances would parties be permitted to bypass Conciliation. In reviewing the basis of this request, the Judicial Council finds that Conciliation should go forth before Petitioner will be permitted to file a complaint or charges with the Preliminary Inquiry Committee. The parties are expected to proceed with a sincere endeavor for a peaceful resolution.

## CONCLUSION

Petitioner's request for a Declaratory Decision is Denied, in that Petitioner fails to indicate 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."

Petitioner's requested relief to file a complaint with the Preliminary Inquiry Committee, without Conciliation, is Denied.

Respondent, Bishop Kawimbe, must convene a Conciliation Committee, with the composition of members as prescribed by the *Discipline* in response to Petitioner's request.

## ORDER

Petitioner's request for Declaratory Decision is Denied.

The Judicial Council directs that within twenty (20) days of this Order, a time shall be set for the Conciliation Committee to meet with written notice to all parties.

Opinion rendered this 14th day June 2019.

Per Curium

**No. 2016-2020-34**

**BEFORE THE JUDICIAL COUNCIL**

**OF THE**

**AFRICAN METHODIST EPISCOPAL CHURCH**

**RE: MATTER OF REV. TEBOHO GORDON KLAAS**
**REQUEST FOR DECLARATORY DECISION**

Per Curium Decision of the Judicial Council of the African Methodist Episcopal Church

## HOLDING

1. Petitioner's request for a Declaratory Decision is Denied, in that Petitioner fails to indicate 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."

2. Petitioner's requested relief to file a complaint with the Preliminary Inquiry Committee, without Conciliation, is Denied.

3. Petitioner properly requested Conciliation with Bishop Paul Kawimbe through the Secretary of the Annual Conference. In that the presiding prelate is a party to the dispute, the *Doctrine and Discipline of the African Methodist Episcopal Church 2016* requires that Bishop Kawimbe request the President of the Council of Bishops to appoint a disinterested bishop to serve as chairperson of the Conciliation Committee. The Committee shall also include a presiding elder, not a party to the matter, and two members of the local church, one to be selected by each party to the dispute. Each party shall furnish the name address and telephone number of its designated member to the secretary of the Annual Conference.

4. The Judicial Council directs that within twenty (20) days of this Order, a time be set for the Conciliation Committee to meet with written notice to all parties.

## PARTIES

PETITIONER: Rev. Teboho Gordon Klaas, Itinerant Elder, Robinson Temple African Methodist Episcopal (AME) Church, Vosloorus, South Africa, East Annual Conference, 19th Episcopal District (*hereinafter* "Petitioner" ). RESPONDENTS: Bishop Paul J. M. Kawimbe, Presiding Prelate, 19th Episcopal District AME Church (hereinafter "Bishop Kawimbe" or "Respondent") and Rev. Dr. Jeffery B. Cooper, General Secretary/Chief Information Officer (CIO), AME Church (hereinafter "Dr. Cooper" or "Respondent" ).

## JURISDICTION

The *Doctrine and Discipline of the African Methodist Episcopal Church 2016*, hereinafter "*Discipline,*" provides that the Judicial Council may make a ruling in the nature of a declaratory decision:

> 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* seem 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 (1) interpretation.

*Discipline*, Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365.

The *Discipline*, Part XVI, Section XVI, Paragraph A, p. 361 also provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

I. Whether Petitioner has been affected by the action of any conference, connectional board or ruling of a bishop based upon any act or legislation that appears to be subject to more than one interpretation or any paragraph of the *Discipline* which is of doubtful meaning or application?

II. Whether under the circumstances alleged herein, the General Secretary may institute Preliminary Inquiry proceedings based upon failed Conciliation?

## STATEMENT OF FACTS

1. Petitioner sent a letter to Bishop Paul Kawimbe on July 6, 2018 demanding retraction and an apology relevant to a statement appearing in the 19th Episcopal District report to the General Board and Council of Bishops, which met June 25-28, 2018 in Atlanta Georgia. The letter was signed by Rev. Sibusiso Gule, Rev. Teboho Klaas, Rev. Solomon Maans, Rev. Victor Malefetse and Rev. Tsheole Ntsiea.

2. Petitioner filed a request for conciliation with the secretary of the East Annual Conference of the 19th Episcopal District by letter dated July 28, 2018 along with a sworn affidavit. Copies of the request and documentation were sent to Bishop Kawimbe and the Council of Bishops.

3. On September 5, 2018, Rev. Teboho Klaas, on behalf of himself and the other aforementioned ministers, sent correspondence to Dr. Jeffery B. Cooper, General Secretary/CIO, African Methodist Episcopal Church requesting that he forward their complaints to the Preliminary Inquiry Committee to prefer charges against Bishop Kawimbe alleging that since Bishop Kawimbe had not scheduled conciliation, their attempts to resolve their issues through conciliation had failed.

4. On September 6, 2018, Dr. Cooper sent correspondence to Rev. Teboho Klaas acknowledging receipt of the documentation. Further, Dr. Cooper stated his belief that the *Discipline* did not permit him authority to grant their request. He suggested they request the Judicial Council intervene and determine whether the Preliminary Inquiry could go forward.

5. On October 10, 2018, Petitioner, along with the four other ministers, filed a request for a Declaratory Decision and/or Final Decision of a Bishop, with accompanying affidavits before the Judicial Council of the AME Church.

6. In response to the petitions, Bishop Kawimbe states he has not refused Petitioner conciliation, but did not schedule conciliation because he was (1) respecting the decision of a case previously filed and resolved in the civil courts; and (2) because he had not received a grievance from the Council of Bishops.

## ANALYSIS AND DISCUSSION

### I. JURISDICTION OF THE JUDICIAL COUNCIL

#### A. Declaratory Decisions

Petitioner is requesting that we *declare* the Conciliation has failed, in order that the matter proceed to the Preliminary Inquiry Committee. That is not the nature, purpose, or meaning of a declaratory

decision as is set forth in the *Discipline. See* Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365.

In order to issue a declaratory decision, the Judicial Council must find that the law of the church is subject to more than one interpretation or of doubtful meaning. Petitioner's complaint fails to allege 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" from which Petitioner seeks clarification. Moreover, there is no provision of the *Discipline* cited which is alleged to be doubtful in meaning. As such, the Judicial Council must deny the request for a declaratory decision.

**B. Final Decision**

Bishop Kawimbe's failure to fix a date for the Conciliation Committee to meet, as is mandated in the *Discipline*, in response to Petitioner's lawful request, is a final decision, appealable to the Judicial Council. While we find no error in Dr. Cooper's refusal to allow the matter to proceed to the Preliminary Inquiry Committee, prior to Conciliation or certification that Conciliation has failed, we also consider his decision, in this matter, as a final and appealable decision. *Discipline*, Part XVI, Section XVI, Paragraph A, p. 361.

## II. CONCILIATION

PART XVI. JUDICIAL ADMINISTRATION, Section I Conciliation Process at p. 315 *strongly expresses* the intent of the Church that disputes within the church be resolved peacefully without resort to formal judicial processes. It states in pertinent part:

> A. Purpose of Conciliation
> It is the clear intent and purpose of the African Methodist Episcopal Church to encourage, create, and stimulate peace and goodwill among all of its members, societies, local churches, auxiliaries, departments, and commissions. Accordingly, before any charge may be filed, introduced, or conveyed for consideration, all parties to any difference dispute, claim or controversy shall submit the matters of contention to the Conciliation Committee.

In accordance with a mandate of the *Discipline,* before any charge can be filed or conveyed for consideration, all parties to any dispute shall submit the matter of contention to the Conciliation Committee. After a request has been filed with the secretary of the Annual Conference and copies furnished to the presiding bishop (when a party to the dispute), must request the President of the Council of Bishops appoint a disinterested bishop to serve as chairperson of the Committee. The presiding bishop should affix a time for meeting within twenty (20) days after the request is filed and notice given to the parties by certified mail. Within thirty days of the first meeting, the chairperson should meet with each party with a view toward firm resolution. The parties should , where possible, work to effectuate a settlement. If the matter is not settled within 120 days after the first meeting of the committee, then conciliation shall cease. *Discipline* at 316.

After review of Bishop's Kawimbe's response, we find nothing in his reasoning which would prevent him from now moving forward with Petitioner's request for Conciliation.

Only in exceptional circumstances would parties be permitted to bypass Conciliation. In reviewing the basis of this request, the Judicial Council finds that Conciliation should go forth before Petitioner will be permitted to file a complaint or charges with the Preliminary Inquiry Committee. The parties are expected to proceed with a sincere endeavor for a peaceful resolution.

## CONCLUSION

Petitioner's request for a Declaratory Decision is Denied, in that Petitioner fails to indicate 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."

Petitioner's requested relief to file a complaint with the Preliminary Inquiry Committee, without Conciliation, is Denied.

Respondent, Bishop Kawimbe, must convene a Conciliation Committee, with the composition of members as prescribed by the *Discipline* in response to Petitioner's request.

## ORDER

Petitioner's request for Declaratory Decision is Denied.

The Judicial Council directs that within twenty (20) days of this Order, a time shall be set for the Conciliation Committee to meet with written notice to all parties.

Opinion rendered this 14th day June 2019.

Per Curium

**No. 2016-2020-35**

**BEFORE THE JUDICIAL COUNCIL**

**OF THE**

**AFRICAN METHODIST EPISCOPAL CHURCH**

**RE: MATTER OF REV. SOLOMON MAANS**
**REQUEST FOR DECLARATORY DECISION**

Per Curium Decision of the Judicial Council of the African Methodist Episcopal Church

## HOLDING

1. Petitioner's request for a Declaratory Decision is Denied, in that Petitioner fails to indicate 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."

2. Petitioner's requested relief to file a complaint with the Preliminary Inquiry Committee, without Conciliation, is Denied.

3. Petitioner properly requested Conciliation with Bishop Paul Kawimbe through the Secretary of the Annual Conference. In that the presiding prelate is a party to the dispute, the *Doctrine and Discipline of the African Methodist Episcopal Church 2016* requires that Bishop Kawimbe request the President of the Council of Bishops to appoint a disinterested bishop to serve as chairperson of the Conciliation Committee. The Committee shall also include a presiding elder, not a party to the matter, and two members of the local church, one to be selected by each party to the dispute. Each party shall furnish the name address and telephone number of its designated member to the secretary of the Annual Conference.

4. The Judicial Council directs that within twenty (20) days of this Order, a time be set for the Conciliation Committee to meet with written notice to all parties.

## PARTIES

PETITIONER: Rev. Solomon Maans, Itinerant Elder, Soweto, Johannesburg, East Annual Conference, 19th Episcopal District African Methodist Episcopal (AME) Church (*hereinafter* "Petitioner" ). RESPONDENTS: Bishop Paul J. M. Kawimbe, Presiding Prelate, 19th Episcopal District AME Church (hereinafter "Bishop Kawimbe" or "Respondent") and Rev. Dr. Jeffery B. Cooper, General Secretary/Chief Information Officer (CIO), AME Church (hereinafter "Dr. Cooper" or "Respondent" ).

## JURISDICTION

The *Doctrine and Discipline of the African Methodist Episcopal Church 2016*, hereinafter "*Discipline,*" provides that the Judicial Council may make a ruling in the nature of a declaratory decision:

> 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* seem 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 (1) interpretation.

*Discipline*, Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365.

The *Discipline*, Part XVI, Section XVI, Paragraph A, p. 361 also provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

I. Whether Petitioner has been affected by the action of any conference, connectional board or ruling of a bishop based upon any act or legislation that appears to be subject to more than one interpretation or any paragraph of the *Discipline* which is of doubtful meaning or application?

II. Whether under the circumstances alleged herein, the General Secretary may institute Preliminary Inquiry proceedings based upon failed Conciliation?

## STATEMENT OF FACTS

1. Petitioner sent a letter to Bishop Paul Kawimbe on July 6, 2018 demanding retraction and an apology relevant to a statement appearing in the 19th Episcopal District report to the General Board and Council of Bishops, which met June 25-28, 2018 in Atlanta Georgia. The letter was signed by Rev. Sibusiso Gule, Rev. Teboho Klaas, Rev. Solomon Maans, Rev. Victor Malefetse and Rev. Tsheole Ntsiea.

2. Petitioner filed a request for conciliation with the secretary of the East Annual Conference of the 19th Episcopal District by letter dated July 28, 2018 along with a sworn affidavit. Copies of the request and documentation were sent to Bishop Kawimbe and to the Council of Bishops.

3. On September 5, 2018, Rev. Teboho Klaas, on behalf of himself and the other aforementioned ministers, sent correspondence to Dr. Jeffery B. Cooper, General Secretary/CIO, African Methodist Episcopal Church requesting that he forward their complaints to the Preliminary Inquiry Committee to prefer charges against Bishop Kawimbe alleging that since Bishop Kawimbe had not scheduled conciliation, their attempts to resolve their issues through conciliation had failed.

4. On September 6, 2018, Dr. Cooper sent correspondence to Rev. Teboho Klaas acknowledging receipt of the documentation. Further, Dr. Cooper stated his belief that the *Discipline* did not permit him authority to grant their request. He suggested they request the Judicial Council intervene and determine whether the Preliminary Inquiry could go forward.

5. On October 10, 2018, Petitioner, along with the four other ministers, filed a request for a Declaratory Decision and/or Final Decision of a Bishop, with accompanying affidavits before the Judicial Council of the AME Church.

6. In response to the petitions, Bishop Kawimbe states he has not refused Petitioner conciliation, but did not schedule conciliation because he was (1) respecting the decision of a case previously filed and resolved in the civil courts; and (2) because he had not received a grievance from the Council of Bishops.

## ANALYSIS AND DISCUSSION

### I. JURISDICTION OF THE JUDICIAL COUNCIL

#### A. Declaratory Decisions

Petitioner is requesting that we *declare* the Conciliation has failed, in order that the matter proceed to the Preliminary Inquiry Committee. That is not the nature, purpose, or meaning of a declaratory

decision as is set forth in the *Discipline. See* Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365.

In order to issue a declaratory decision, the Judicial Council must find that the law of the church is subject to more than one interpretation or of doubtful meaning. Petitioner's complaint fails to allege 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" from which Petitioner seeks clarification. Moreover, there is no provision of the *Discipline* cited which is alleged to be doubtful in meaning. As such, the Judicial Council must deny the request for a declaratory decision.

**B. Final Decision**

Bishop Kawimbe's failure to fix a date for the Conciliation Committee to meet, as is mandated in the *Discipline*, in response to Petitioner's lawful request, is a final decision, appealable to the Judicial Council. While we find no error in Dr. Cooper's refusal to allow the matter to proceed to the Preliminary Inquiry Committee, prior to Conciliation or certification that Conciliation has failed, we also consider his decision, in this matter, as a final and appealable decision. *Discipline*, Part XVI, Section XVI, Paragraph A, p. 361.

## II. CONCILIATION

PART XVI. JUDICIAL ADMINISTRATION, Section I Conciliation Process at p. 315 *strongly expresses* the intent of the Church that disputes within the church be resolved peacefully without resort to formal judicial processes. It states in pertinent part:

> A. Purpose of Conciliation
> It is the clear intent and purpose of the African Methodist Episcopal Church to encourage, create, and stimulate peace and goodwill among all of its members, societies, local churches, auxiliaries, departments, and commissions. Accordingly, before any charge may be filed, introduced, or conveyed for consideration, all parties to any difference dispute, claim or controversy shall submit the matters of contention to the Conciliation Committee.

In accordance with a mandate of the *Discipline,* before any charge can be filed or conveyed for consideration, all parties to any dispute shall submit the matter of contention to the Conciliation Committee. After a request has been filed with the secretary of the Annual Conference and copies furnished to the presiding bishop (when a party to the dispute), must request the President of the Council of Bishops appoint a disinterested bishop to serve as chairperson of the Committee. The presiding bishop should affix a time for meeting within twenty (20) days after the request is filed and notice given to the parties by certified mail. Within thirty days of the first meeting, the chairperson should meet with each party with a view toward firm resolution. The parties should, where possible, work to effectuate a settlement. If the matter is not settled within 120 days after the first meeting of the committee, then conciliation shall cease. *Discipline* at 316.

After review of Bishop's Kawimbe's response, we find nothing in his reasoning which would prevent him from now moving forward with Petitioner's request for Conciliation.

Only in exceptional circumstances would parties be permitted to bypass Conciliation. In reviewing the basis of this request, the Judicial Council finds that Conciliation should go forth before Petitioner will be permitted to file a complaint or charges with the Preliminary Inquiry Committee. The parties are expected to proceed with a sincere endeavor for a peaceful resolution.

## CONCLUSION

Petitioner's request for a Declaratory Decision is Denied, in that Petitioner fails to indicate 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."

Petitioner's requested relief to file a complaint with the Preliminary Inquiry Committee, without Conciliation, is Denied.

Respondent, Bishop Kawimbe, must convene a Conciliation Committee, with the composition of members as prescribed by the *Discipline* in response to Petitioner's request.

## ORDER

Petitioner's request for Declaratory Decision is Denied.

The Judicial Council directs that within twenty (20) days of this Order, a time shall be set for the Conciliation Committee to meet with written notice to all parties.

Opinion rendered this 14th day June 2019.

Per Curium

**No. 2016-2020-36**

**BEFORE THE JUDICIAL COUNCIL**

**OF THE**

**AFRICAN METHODIST EPISCOPAL CHURCH**

**RE: MATTER OF REV. VICTOR JAPHTA MALEFETSE**
**REQUEST FOR DECLARATORY DECISION**

Per Curium Decision of the Judicial Council of the African Methodist Episcopal Church

## HOLDING

1. Petitioner's request for a Declaratory Decision is Denied, in that Petitioner fails to indicate 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."

2. Petitioner's requested relief to file a complaint with the Preliminary Inquiry Committee, without Conciliation, is Denied.

3. Petitioner properly requested Conciliation with Bishop Paul Kawimbe through the Secretary of the Annual Conference. In that the presiding prelate is a party to the dispute, the *Doctrine and Discipline of the African Methodist Episcopal Church 2016* requires that Bishop Kawimbe request the President of the Council of Bishops to appoint a disinterested bishop to serve as chairperson of the Conciliation Committee. The Committee shall also include a presiding elder, not a party to the matter, and two members of the local church, one to be selected by each party to the dispute. Each party shall furnish the name address and telephone number of its designated member to the secretary of the Annual Conference.

4. The Judicial Council directs that within twenty (20) days of this Order, a time be set for the Conciliation Committee to meet with written notice to all parties.

## PARTIES

PETITIONER: Rev. Victor Japhta Malefetse, Itinerant Elder, Bethel Temple Odendaalsrus, South Africa, Orangia Annual Conference, 19th Episcopal District African Methodist Episcopal (AME) Church (*hereinafter* "Petitioner" ). RESPONDENTS: Bishop Paul J. M. Kawimbe, Presiding Prelate, 19th Episcopal District AME Church (hereinafter "Bishop Kawimbe" or "Respondent") and Rev. Dr. Jeffery B. Cooper, General Secretary/Chief Information Officer (CIO), AME Church (hereinafter "Dr. Cooper" or "Respondent" ).

## JURISDICTION

The *Doctrine and Discipline of the African Methodist Episcopal Church 2016*, hereinafter "*Discipline,*" provides that the Judicial Council may make a ruling in the nature of a declaratory decision:

> 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* seem 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 (1) interpretation.

*Discipline*, Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365.

The *Discipline*, Part XVI, Section XVI, Paragraph A, p. 361 also provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

I. Whether Petitioner has been affected by the action of any conference, connectional board or ruling of a bishop based upon any act or legislation that appears to be subject to more than one interpretation or any paragraph of the *Discipline* which is of doubtful meaning or application?

II. Whether under the circumstances alleged herein, the General Secretary may institute Preliminary Inquiry proceedings based upon failed Conciliation?

## STATEMENT OF FACTS

1. Petitioner sent a letter to Bishop Paul Kawimbe on July 6, 2018 demanding retraction and an apology relevant to a statement appearing in the 19th Episcopal District report to the General Board and Council of Bishops, which met June 25-28, 2018 in Atlanta Georgia. The letter was signed by Rev. Sibusiso Gule, Rev. Teboho Klaas, Rev. Solomon Maans, Rev. Victor Malefetse and Rev. Tsheole Ntsiea.

2. Petitioner filed a request for conciliation with the secretary of the Orangia Annual Conference of the 19th Episcopal District by letter dated July 28, 2018 along with a sworn affidavit. Copies of the request and documentation were sent to Bishop Kawimbe and to the Council of Bishops.

3. On September 5, 2018, Rev. Teboho Klaas, on behalf of himself and the other aforementioned ministers, sent correspondence to Dr. Jeffery B. Cooper, General Secretary/CIO, African Methodist Episcopal Church requesting that he forward their complaints to the Preliminary Inquiry Committee to prefer charges against Bishop Kawimbe alleging that since Bishop Kawimbe had not scheduled conciliation, their attempts to resolve their issues through conciliation had failed.

4. On September 6, 2018, Dr. Cooper sent correspondence to Rev. Teboho Klaas acknowledging receipt of the documentation. Further, Dr. Cooper stated his belief that the *Discipline* did not permit him authority to grant their request. He suggested they request the Judicial Council intervene and determine whether the Preliminary Inquiry could go forward.

5. On October 10, 2018, Petitioner, along with the four other ministers, filed a request for a Declaratory Decision and/or Final Decision of a Bishop, with accompanying affidavits before the Judicial Council of the AME Church.

6. In response to the petitions, Bishop Kawimbe states he has not refused Petitioner conciliation, but did not schedule conciliation because he was (1) respecting the decision of a case previously filed and resolved in the civil courts; and (2) because he had not received a grievance from the Council of Bishops.

## ANALYSIS AND DISCUSSION

### I. JURISDICTION OF THE JUDICIAL COUNCIL

#### A. Declaratory Decisions

Petitioner is requesting that we *declare* the Conciliation has failed, in order that the matter proceed to the Preliminary Inquiry Committee. That is not the nature, purpose, or meaning of a declaratory decision as is set forth in the *Discipline. See* Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365.

In order to issue a declaratory decision, the Judicial Council must find that the law of the church is subject to more than one interpretation or of doubtful meaning. Petitioner's complaint fails to allege 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" from which Petitioner seeks clarification. Moreover, there is no provision of the *Discipline* cited which is alleged to be doubtful in meaning. As such, the Judicial Council must deny the request for a declaratory decision.

**B. Final Decision**

Bishop Kawimbe's failure to fix a date for the Conciliation Committee to meet, as is mandated in the *Discipline*, in response to Petitioner's lawful request, is a final decision, appealable to the Judicial Council. While we find no error in Dr. Cooper's refusal to allow the matter to proceed to the Preliminary Inquiry Committee, prior to Conciliation or certification that Conciliation has failed, we also consider his decision, in this matter, as a final and appealable decision. *Discipline*, Part XVI, Section XVI, Paragraph A, p. 361.

## II. CONCILIATION

PART XVI. JUDICIAL ADMINISTRATION, Section I Conciliation Process at p. 315 *strongly expresses* the intent of the Church that disputes within the church be resolved peacefully without resort to formal judicial processes. It states in pertinent part:

> A. Purpose of Conciliation
> It is the clear intent and purpose of the African Methodist Episcopal Church to encourage, create, and stimulate peace and goodwill among all of its members, societies, local churches, auxiliaries, departments, and commissions. Accordingly, before any charge may be filed, introduced, or conveyed for consideration, all parties to any difference dispute, claim or controversy shall submit the matters of contention to the Conciliation Committee.

In accordance with a mandate of the *Discipline,* before any charge can be filed or conveyed for consideration, all parties to any dispute shall submit the matter of contention to the Conciliation Committee. After a request has been filed with the secretary of the Annual Conference and copies furnished to the presiding bishop (when a party to the dispute), must request the President of the Council of Bishops appoint a disinterested bishop to serve as chairperson of the Committee. The presiding bishop should affix a time for meeting within twenty (20) days after the request is filed and notice given to the parties by certified mail. Within thirty days of the first meeting, the chairperson should meet with each party with a view toward firm resolution. The parties should, where possible, work to effectuate a settlement. If the matter is not settled within 120 days after the first meeting of the committee, then conciliation shall cease. *Discipline* at 316.

After review of Bishop's Kawimbe's response, we find nothing in his reasoning which would prevent him from now moving forward with Petitioner's request for Conciliation.

Only in exceptional circumstances would parties be permitted to bypass Conciliation. In reviewing the basis of this request, the Judicial Council finds that Conciliation should go forth before Petitioner will be permitted to file a complaint or charges with the Preliminary Inquiry Committee. The parties are expected to proceed with a sincere endeavor for a peaceful resolution.

## CONCLUSION

Petitioner's request for a Declaratory Decision is Denied, in that Petitioner fails to indicate 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."

Petitioner's requested relief to file a complaint with the Preliminary Inquiry Committee, without Conciliation, is Denied.

Respondent, Bishop Kawimbe, must convene a Conciliation Committee, with the composition of members as prescribed by the *Discipline* in response to Petitioner's request.

## ORDER

Petitioner's request for Declaratory Decision is Denied.

The Judicial Council directs that within twenty (20) days of this Order, a time shall be set for the Conciliation Committee to meet with written notice to all parties.

Opinion rendered this 14th day June 2019.

Per Curium

**No. 2016-2020-37**

**BEFORE THE JUDICIAL COUNCIL**

**OF THE**

**AFRICAN METHODIST EPISCOPAL CHURCH**

**RE: MATTER OF REV. TSHEOLE JAMES NTSIEA**
**REQUEST FOR DECLARATORY DECISION**

Per Curium Decision of the Judicial Council of the African Methodist Episcopal Church

## HOLDING

1. Petitioner's request for a Declaratory Decision is Denied, in that Petitioner fails to indicate 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."

2. Petitioner's requested relief to file a complaint with the Preliminary Inquiry Committee, without Conciliation, is Denied.

3. Petitioner properly requested Conciliation with Bishop Paul Kawimbe through the Secretary of the Annual Conference. In that the presiding prelate is a party to the dispute, the *Doctrine and Discipline of the African Methodist Episcopal Church 2016* requires that Bishop Kawimbe request the President of the Council of Bishops to appoint a disinterested bishop to serve as chairperson of the Conciliation Committee. The Committee shall also include a presiding elder, not a party to the matter, and two members of the local church, one to be selected by each party to the dispute. Each party shall furnish the name address and telephone number of its designated member to the secretary of the Annual Conference.

4. The Judicial Council directs that within twenty (20) days of this Order, a time be set for the Conciliation Committee to meet with written notice to all parties.

## PARTIES

PETITIONER: Rev. Tsheole James Ntsiea, Itinerant Elder, St. Paul African Methodist Episcopal (AME) Church, Namahadi, Qwaqwa, Orangia Annual Conference, 19th Episcopal District (*hereinafter* "Petitioner" ). RESPONDENTS: Bishop Paul J. M. Kawimbe, Presiding Prelate, 19th Episcopal District AME Church (hereinafter "Bishop Kawimbe" or "Respondent") and Rev. Dr. Jeffery B. Cooper, General Secretary/Chief Information Officer (CIO), AME Church (hereinafter "Dr. Cooper" or "Respondent" ).

## JURISDICTION

The *Doctrine and Discipline of the African Methodist Episcopal Church 2016*, hereinafter "*Discipline,*" provides that the Judicial Council may make a ruling in the nature of a declaratory decision:

> 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* seem 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 (1) interpretation.

*Discipline*, Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365.

The *Discipline*, Part XVI, Section XVI, Paragraph A, p. 361 also provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

I. Whether Petitioner has been affected by the action of any conference, connectional board or ruling of a bishop based upon any act or legislation that appears to be subject to more than one interpretation or any paragraph of the *Discipline* which is of doubtful meaning or application?

II. Whether under the circumstances alleged herein, the General Secretary may institute Preliminary Inquiry proceedings based upon failed Conciliation?

## STATEMENT OF FACTS

1. Petitioner sent a letter to Bishop Paul Kawimbe on July 6, 2018 demanding retraction and an apology relevant to a statement appearing in the 19th Episcopal District report to the General Board and Council of Bishops, which met June 25-28, 2018 in Atlanta Georgia. The letter was signed by Rev. Sibusiso Gule, Rev. Teboho Klaas, Rev. Solomon Maans, Rev. Victor Malefetse and Rev. Tsheole Ntsiea.

2. Petitioner filed a request for conciliation with the secretary of the Orangia Annual Conference of the 19th Episcopal District by letter dated July 28, 2018 along with a sworn affidavit. Copies of the request and documentation were sent to Bishop Kawimbe and to the Council of Bishops.

3. On September 5, 2018, Rev. Teboho Klaas, on behalf of himself and the other aforementioned ministers, sent correspondence to Dr. Jeffery B. Cooper, General Secretary/CIO, African Methodist Episcopal Church requesting that he forward their complaints to the Preliminary Inquiry Committee to prefer charges against Bishop Kawimbe alleging that since Bishop Kawimbe had not scheduled conciliation, their attempts to resolve their issues through conciliation had failed.

4. On September 6, 2018, Dr. Cooper sent correspondence to Rev. Teboho Klaas acknowledging receipt of the documentation. Further, Dr. Cooper stated his belief that the *Discipline* did not permit him authority to grant their request. He suggested they request the Judicial Council intervene and determine whether the Preliminary Inquiry could go forward.

5. On October 10, 2018, Petitioner, along with the four other ministers, filed a request for a Declaratory Decision and/or Final Decision of a Bishop, with accompanying affidavits before the Judicial Council of the AME Church.

6. In response to the petitions, Bishop Kawimbe states he has not refused Petitioner conciliation, but did not schedule conciliation because he was (1) respecting the decision of a case previously filed and resolved in the civil courts; and (2) because he had not received a grievance from the Council of Bishops.

## ANALYSIS AND DISCUSSION

### I. JURISDICTION OF THE JUDICIAL COUNCIL

#### A. Declaratory Decisions

Petitioner is requesting that we *declare* the Conciliation has failed, in order that the matter proceed to the Preliminary Inquiry Committee. That is not the nature, purpose, or meaning of a declaratory

decision as is set forth in the *Discipline. See* Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365.

In order to issue a declaratory decision, the Judicial Council must find that the law of the church is subject to more than one interpretation or of doubtful meaning. Petitioner's complaint fails to allege 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" from which Petitioner seeks clarification. Moreover, there is no provision of the *Discipline* cited which is alleged to be doubtful in meaning. As such, the Judicial Council must deny the request for a declaratory decision.

**B. Final Decision**

Bishop Kawimbe's failure to fix a date for the Conciliation Committee to meet, as is mandated in the *Discipline*, in response to Petitioner's lawful request, is a final decision, appealable to the Judicial Council. While we find no error in Dr. Cooper's refusal to allow the matter to proceed to the Preliminary Inquiry Committee, prior to Conciliation or certification that Conciliation has failed, we also consider his decision, in this matter, as a final and appealable decision. *Discipline*, Part XVI, Section XVI, Paragraph A, p. 361.

## II. CONCILIATION

PART XVI. JUDICIAL ADMINISTRATION, Section I Conciliation Process at p. 315 *strongly expresses* the intent of the Church that disputes within the church be resolved peacefully without resort to formal judicial processes. It states in pertinent part:

> A. Purpose of Conciliation
> It is the clear intent and purpose of the African Methodist Episcopal Church to encourage, create, and stimulate peace and goodwill among all of its members, societies, local churches, auxiliaries, departments, and commissions. Accordingly, before any charge may be filed, introduced, or conveyed for consideration, all parties to any difference dispute, claim or controversy shall submit the matters of contention to the Conciliation Committee.

In accordance with a mandate of the *Discipline,* before any charge can be filed or conveyed for consideration, all parties to any dispute shall submit the matter of contention to the Conciliation Committee. After a request has been filed with the secretary of the Annual Conference and copies furnished to the presiding bishop (when a party to the dispute), must request the President of the Council of Bishops appoint a disinterested bishop to serve as chairperson of the Committee. The presiding bishop should affix a time for meeting within twenty (20) days after the request is filed and notice given to the parties by certified mail. Within thirty days of the first meeting, the chairperson should meet with each party with a view toward firm resolution. The parties should, where possible, work to effectuate a settlement. If the matter is not settled within 120 days after the first meeting of the committee, then conciliation shall cease. *Discipline* at 316.

After review of Bishop's Kawimbe's response, we find nothing in his reasoning which would prevent him from now moving forward with Petitioner's request for Conciliation.

Only in exceptional circumstances would parties be permitted to bypass Conciliation. In reviewing the basis of this request, the Judicial Council finds that Conciliation should go forth before Petitioner will be permitted to file a complaint or charges with the Preliminary Inquiry Committee. The parties are expected to proceed with a sincere endeavor for a peaceful resolution.

## CONCLUSION

Petitioner's request for a Declaratory Decision is Denied, in that Petitioner fails to indicate 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."

Petitioner's requested relief to file a complaint with the Preliminary Inquiry Committee, without Conciliation, is Denied.

Respondent, Bishop Kawimbe, must convene a Conciliation Committee, with the composition of members as prescribed by the *Discipline* in response to Petitioner's request.

## ORDER

Petitioner's request for Declaratory Decision is Denied.

The Judicial Council directs that within twenty (20) days of this Order, a time shall be set for the Conciliation Committee to meet with written notice to all parties.

Opinion rendered this 14th day June 2019.

Per Curium

**No. 2016-2020-38**

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

**Re: STEPHANIE GANAWAY-PASELY'S MOTION FOR RECONSIDERATION OF JC DECISION NO. 2016-2020-23**

The Opinion of the Judicial Council is rendered Per Curiam.[1]

## HOLDING

Petitioner, Stephanie Ganaway-Pasely's Motion for Reconsideration of JC Decision No. 2016-2020-23 is hereby **DENIED**.[2] All of what petitioner now asserts consists of arguments and information that she already put forth or could have put forth during the deliberation of JC Decision No. 2016-2020-23. The decision is final and Petitioner's Motion for Reconsideration is **DENIED**.

Opinion rendered this 14th day of August 2019.

Per Curiam

[1] Judge Eduardo K. Curry did not participate in the deliberation nor decision in this matter.
[2] JC Decision No. 2016-2020-23 granted a Motion for Reconsideration of JC Decision No. 2016-2020-12 on the basis of newly acquired evidence.

**No. 2016-2020-39**

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

**RE: IN THE MATTER OF Johan J. Claasen**

Judge Glenda F. Hodges, Assistant Secretary, delivers the opinion of the Judicial Council.

## HOLDING

I. The recommendation to create a fourth presiding elder district, known as the MM Mokone District, as set forth in the Report on the Committee on Circuits and Stations of the Cape Annual Conference of the Fifteenth Episcopal District of the African Methodist Episcopal church, is consistent with the *Doctrine and Discipline of the African Methodist Episcopal* church and was properly presented and approved by the Cape Annual Conference.

II. The Judicial Council is without the authority to change the time/dates of the Cape Annual Conference as determined by Bishop David R. Daniels, Jr., Presiding Bishop of the Fifteenth Episcopal District of the African Methodist Episcopal church.

## PARTIES

Petitioner Johan J. Claasen is a lay member of Ravensmead African Methodist Episcopal Church in the Cape Annual Conference of the Fifteenth Episcopal District of the African Methodist Episcopal Church ("AME Church") and hereby appeals to the Judicial Council from a decision of the Cape Annual Conference to create a Presiding Elder's District solely on the language reflecting the ethnicity of the members of the District. Additionally, Petitioner appeals to the Judicial Council to change the time and dates of the Cape Annual Conference, as determined by Bishop David R. Daniels, Jr., the Presiding Prelate of the Cape Annual Conference. The Respondents are the Cape Annual Conference of the AME Church and Bishop David Rwhynica Daniels, Jr. ("Bishop Daniels"), the Presiding Prelate of the Fifteenth Episcopal District of the AME Church.

## JURISDICTION

Jurisdiction in this matter is pursuant to Part XVI, Judicial Administration, Section XVI, Paragraph A(1) Page 361 of the *Doctrine and Discipline of the African Methodist Episcopal Church (2016) ("Discipline"*), to-wit:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUES

I. Was the establishment of a fourth Presiding Elder District, known as the MM Mokone District, as recommended by the Committee on Circuits and Stations and approved by the Cape Annual Conference of the Fifteenth Episcopal District of the AME church, consistent with the objectives of the AME church, as expressed by the *Discipline* of the AME Church?

II. Does the Judicial Council have the authority to change the time/dates of the Cape Annual Conference, as determined by the respective Bishop of that Conference?

## STATEMENT OF FACTS

1. Petitioner Johan J. Classen appeals to this Judicial Council from a decision made at the last session of the Cape Annual Conference held at the Ebenezer AME Church Retreat on or about October 24-28, 2018 to create a fourth Presiding Elder's District (Black Presiding Elder's District) asking that the decision of the Annual Conference be reversed on the grounds that the decision is (a) based on race and inconsistent with the AME church's objectives, (b) in serious conflict with the country's transformation, diversity and inclusion principles and (c) the vote was flawed.

**2.** According to the response from the Presiding Elder's Council of the Cape Annual Conference, the decision to create a fourth presiding elder district, the MM Mokone District, was based on church development and growth, rather than race or color. Additionally, they indicate that fourth district will allow persons to speak in the language with which they are comfortable and to worship in their mother tongue. The response is consistent with the Report of the Committee on Circuits and Missions which recommended creation of the fourth district to the Cape Annual Conference.

**3.** The Presiding Elder selected to lead the fourth district, Presiding Elder B. Jantijies, asserted that "people were previously excluded in the executive structures of the church and conference affairs, but with the new district, all persons are experiencing inclusion." The response from the Cape Annual Conference Presiding Elder's Council indicates that the other Presiding Elders support the statement of Presiding Elder Jantijies.

4. The Council of Presiding Elders commended Bishop Daniels for taking extra time in consultation and being transparent in his vision, in addition to his intention. The Committee on Missions, Circuits and Stations received the membership and statistics report as well as the district's report which provided evidence that churches were able to sustain a fourth district.

5. The certified minutes of the Cape Annual Conference, the minutes of the October 18, 2018 joint meeting of the Presiding Elder's Council and Committee on Circuit and Stations, and the Report of the Committee on Missions, Circuits and Stations indicate that the creation of the fourth Presiding Elder's District, known as the MM Mokone District, was recommended and properly presented to the Cape Annual Conference.

6. The certified minutes of the Cape Annual Conference indicate that the Bishop called for the mode of election and the same proceeded pursuant to the wishes of the members of the Cape Annual Conference. As such, the voting outcome indicated majority support in favor of the creation of a fourth Presiding Elder's district. The Council of Bishops certified that the voting process was legitimate and transparent.

## ANALYSIS AND DISCUSSION

The Judicial Council is the highest adjudicatory body of the African Methodist Episcopal Church. It functions as a Court of Appeals, elected by and amenable to the General Conference. See *Discipline***,** Part X, Organizational Structure of General and Connectional Divisions, Section III. General Divisions of the General Conference, D, Judicial Council, p. 161. Absent the specific duties prescribed by the ***Discipline***, pp. 361 and 364-367, the Judicial Council's jurisdiction is restricted to:

> …all final appeals from any adverse decision by any bishop, Board, commission, group, pastor or any other regularly Constituted party or body empowered to make a decision that affects the right of any member or Church body of the AME Church.

Mr. Classen petitioned the Judicial Council to overturn the decision of the Cape Annual Conference to create a fourth Presiding Elder District, which he refers to as the "Black" presiding elder district, claiming that the decision to do so was racist and inconsistent with the objectives of the AME Church, in conflict with South Africa's transformation, diversion and inclusion principles and that the process to create the fourth Presiding Elder's District was achieved by a flawed vote. Mr. Claasen objects to the decision of the Cape Annual Conference and alleges that the same was a product of racism. Alternatively, the Respondents maintain that because of the leadership of Bishop and Mother Daniels, the development and empowerment of the 15th Episcopal District have been obvious and filled with compassion. Further, they claim that this leadership has reunited the District.

The Presiding Elders of the Cape Annual Conference maintain that in spite of the diverse cultures, languages, gender and ethnic traditions, the Bishop's intention has always been to serve the people, including those who are in the minority within the Cape Annual Conference. They assert that this intention is manifested as the Bishop has included persons on Committee assignments who reflect all cultures, languages and ethnic groups. According to the Presiding Elders of the Cape Annual Conference, the creation of a fourth Presiding Elder District was based on development and growth of the District, rather than race or color. As such, the fourth District would allow persons to speak in the language with which they are comfortable. Petitioner and others opposed to the creation of the fourth Presiding Elder District have failed to present compelling evidence with which the Judicial Council can or should reverse the decision of the Cape Annual Conference.

The Petitioner spends much time in his appeal arguing that the decision to create a fourth Presiding Elder District is embedded in racism and against the AME objectives as an all-inclusive church. Further, he argues that the same is in serious conflict with South Africa's transformation program, its diversity and its inclusion principles. Finally, he argues that the new district is in total contradiction of the imperatives and foundation of the Free African Society. Contrary to the Petitioner's assertions, the certified minutes of the Cape Annual Conference provide proof positive of the Conference's commitment to be inclusive and indicate that this practice of inclusion has been prominent since the formation of the AME Church in South Africa. Further challenges to the Petitioner's assertions indicate that one of the congregations in the fourth Presiding Elder District is Afrikaans speaking and has shown no signs of being segregated within the new district but has been included in the District's programs and has indicated in their first ***new*** District Conference, their desire to remain as a member church. Ultimately, the certified minutes of the Cape Annual Conference indicate that the creation of the fourth District reiterates the inclusion principle of the Free African Society because persons can now worship in their mother tongue.

Annual Conference Dates

Lastly, Petitioner challenges Bishop David R. Daniels, Jr.'s change of the dates for the Cape Annual Conference to October 2-6, 2019, the first week in October, when previously held October 24-28, 2018, the third week in October.

The Conference is to be held at Bethel Memorial AME, Hazendal. Pursuant to the *2016 Discipline*, Annual Conference, Section II, Paragraphs E(1 and 2) Page 269, to-wit:

> 1. Every annual conference shall designate the place where the next conference will be held.
> 2. The time for holding the next conference ***shall*** be set by the Presiding bishop, which should be done at each current conference.

Setting the dates for the next annual conference is not *required* to be done at the seat of the current conference. However, pursuant to the *Discipline*, the Bishop has complete discretion regarding the time and date of the conference. Further, it should be understood that the delegates *do not* have the right to deliberate regarding these annual conference dates.

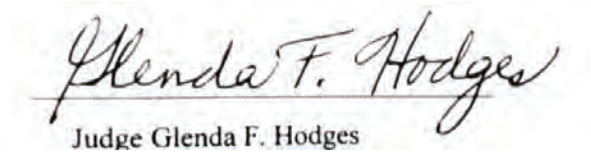
## CONCLUSION

The creation of the fourth Presiding Elder District, known as the MM Mokone District was recommended by the Committee on Mission and Circuits, in agreement with the Council of Presiding Elders and properly presented and approved by the Cape Annual Conference of the Fifteenth Episcopal District of the AME Church. Additionally, the authority to change the time/date of an Annual Conference is consistent with the authority assigned to him/her, pursuant to the 2016 *Discipli*ne.

## ORDER

Based on the previous deliberation, Petitioner's complaint is hereby DENIED.

Opinion rendered this 29th day of August 2019.




Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek Anderson, Judge Thomas L. Bess, Judge Vernon R. Byrd, Judge TaShun Bowden-Lewis, Judge Warren H. Dawson and Judge Eduardo K. Curry

**No. 2016-2020-40**

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

## RE: IN THE MATTER OF Johan J. Claasen

Judge Glenda F. Hodges, Assistant Secretary, delivers the opinion of the Judicial Council.

This matter comes before the Judicial Council on the Petition of Johan J. Claasen, a layperson and member of Ravensmead African Methodist Episcopal Church, Cape Annual Conference, Fifteenth Episcopal Church.

## HOLDING

During the October 24-28, 2018 Cape Annual Conference, Petitioner complained, pursuant to the *Doctrine and Discipline of the African Methodist Episcopal Church 2016,* (*Discipline*) Part XVI. Judicial Administration, Section XIII. Causes for Ministerial Impeachment, Paragraph D (1), p. 357, that Rev. Abraham Neethling had conducted himself in such a manner as to be rendered unacceptable to the people as an itinerate preacher. Petitioner provided documentary evidence that a complaint had been filed against Rev. Neethling for *suspicion* of fraud and corruption. According to Petitioner, the matter was tabled by the Cape Annual Conference. A newspaper article forwarded to the Judicial Council, as an addendum to the petition, states that Rev. Neethling was criminally charged with fraud and corruption in June of 2019 and that the matter is/was pending trial.

Petitioner's complaint to the Judicial Council seeks to compel Bishop Daniels to conduct an immediate investigation regarding Rev. Abraham Neethling. In accordance with the *Discipline*, p. 357, Petitioner's allegations shall be investigated by the Annual Conference and is properly before that body.

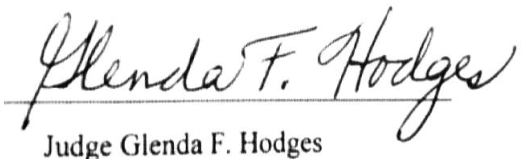
The Judicial Council is an appellate court. Its jurisdiction is limited to final appeals and requests for declaratory decisions sought where legislation passed by the General Conference is unclear or subject to more than one interpretation. *Discipline 2016*, Part XV. Judicial Administration, Section XVI. Judicial Council, Paragraph A., p. 361 and p. 365. After a thorough review of the Petitioner's assertions, we conclude that we lack jurisdiction at this juncture to act on this matter.

## ORDER

Accordingly, the Judicial Council DENIES this petition for appeal, as well as any other relief requested.

This opinion rendered on this 29th day of August 2019.

By:



Judge Glenda F. Hodges

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek Anderson, Judge Thomas L. Bess, Judge Vernon R. Byrd, Judge TaShun Bowden-Lewis, Judge Warren H. Dawson and Judge Eduardo K. Curry

**No. 2016-2020-41**

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

**RE: IN THE MATTER OF REV. SOLOMON MAANS**

Judge Derek H. Anderson, Secretary, delivers the opinion of the Judicial Council.

## HOLDING

Respondents, in suspending Petitioner for period of one year without the benefit of a trial and/or other judicial process, violated due process rights afforded Petitioner by the *2016 Discipline of the African Methodist Episcopal Church.*

The Judicial Committee of the East Annual Conference is the body that is designated to determine whether the accused should be charged and whether the matter should be referred to the Trial Committee. The Trial Committee then by two-thirds (2/3) vote has the authority to prescribe penalties which include reprimand, transfer, suspension or expulsion, if there is a finding of an offense(s) at trial.

Petitioner is not currently the pastor of MM Mokone African Methodist Episcopal Church Charlotte Maxeke District, and has no authority to act in that capacity. Petitioner's suspension shall continue pending the decision of the Judicial Committee and/or Trial Committee, unless rescinded by the presiding prelate or other authorized body.

## PARTIES

PETITIONER: Reverend Solomon Maans ("Petitioner" or "Rev. Maans"), is an Itinerant Elder and former Pastor of the M. M. Mokone Memorial African Methodist Episcopal Church, Charlotte Maxeke District. RESPONDENTS: Bishop Paul JM Kawimbe ("Respondent" or "Bishop Kawimbe") is the Presiding Prelate in the Nineteenth Episcopal District of the African Methodist Episcopal (AME) Church and the East Annual Conference (also "Respondent").

## JURISDICTION

The *Doctrine and Discipline of the AME Church 2016 ("Discipline")*, Part XVI, Section XVI, Paragraph A., p. 361 also provides that:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board,

commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

Whether Respondent(s) violated Rev. Maans' right to due process by suspending him from his official duties for a period of one year, upon the recommendation of the Ministerial Efficiency Committee, without invoking the judicial process?

## STATEMENT OF FACTS

1. On, October 7, 2018, the East Annual Conference Ministerial Efficiency Committee (MEC) presented a report to the East Annual Conference. According to the Certified True Extract of Minutes, a motion to accept the report was made, properly seconded and the motion carried. Regarding Petitioner, the report reads as follows:

> The Rev Maans was noncompliant and disobeyed orders from his Presiding Elder. The committee recommends that he should be suspended for a year. The Rev R Motau moved for the adoption of the recommendation. The Rev CMF Mayekiso seconded the motion. The motion was carried.

2. Petitioner, as well as one other in the East Annual Conference, was suspended from all official duties for a period of one year, consistent with the recommendation in the report of the MEC. Petitioner did not receive a trial.

3. Petitioner in his appeal asked that the Council reverse the decisions of the East Annual Conference and Bishop Kawimbe which was based upon the recommendation of the MEC.

4. The Council of Bishops met in December of 2018 and proposed that since the pastors from the 19th Episcopal District were suspended, *not moved*, they should remain at the churches where they had been appointed, *with pay*, prior to the suspension, pending the outcome of their appeals. The President of the Bishop's Council communicated to the Petitioners what he believed to be a matter of common consent. Bishop Kawimbe expressed disagreement and advised that he had appointed others to pastor the churches of the suspended pastors.

## ANALYSIS AND DISCUSSION

The principle issue before the Judicial Council is whether Rev. Maans received due process prior to his being relieved of his pastoral duties for one year. Rev. Maans claims that Bishop Kawimbe did not inform him of the matter that caused his referral to the Ministerial Efficiency Committee (MEC). Further, Rev. Maans asserts that the MEC never indicated to the conference who referred him to the committee or shared how and why they came to the recommendation to suspend.

Rev. Maans alleges that he did not fully participate in the proceedings before the MEC of the East Annual Conference because he believed the matter to be *sub judice* (meaning a matter already before the court which is undecided). Rev. Maans is apparently referencing a Petition for a Declaratory Decision filed by himself and others, regarding a request for Conciliation with Bishop Kawimbe. That matter was filed on September 25, 2018 and was pending before the Judicial Council prior to Rev. Maans' suspension. However, the filing of that or any other matter ***does not act as an automatic stay*** as to any decision, action or proceeding, except where it is specifically prescribed by the *Discipline*.

According to the report of the MEC, this matter was not referred for further judicial proceedings as is afforded by the *Discipline*. Nevertheless, a suspension for disobedience and insubordination was recommended until the next annual conference. No evidentiary evidence was provided in support of the recommendation. [1]

The Judicial Council is mindful that it may be necessary for a Bishop directly or via the Annual Conference to immediately suspend a pastor, as is specifically mandated by the *Discipline* with regard to alleged violations of certain provisions as they are in the best interest of the church. A suspension, pending further investigation, documentation or judicial process, may be necessary and appropriate. However, a blanket one-year suspension requires due process, and or notice of the offense and a meaningful opportunity to be heard by an appropriate judicial body, as provided for by the *Discipline*.

The Judicial Committee is the body which must determine whether the accused should be charged and as to whether the matter should be referred to the Trial Committee. The Trial Committee then by two-thirds (2/3) vote has the authority to prescribe penalties which include reprimand, transfer, suspension or expulsion, if and when there is a finding of an offense at trial. *Discipline,* Part XVI. Judicial Administration, Section VII. Trials, C. Itinerant Preachers, paragraphs 2-4, pp. 324-326. Relative to ministers, the decision of the Trial Committee is then appealable to the Annual Conference and from there to the Judicial Council. See, *Discipline,* Part XVI, Judicial Administration, Section VIII. Appeals, B. Orders of Appeals, p. 329.

[1] Rev. Maans indicates that on Monday, October 1, 2018, he received a copy of an email sent to the MEC by Presiding Elder Thabo A.M. Mofokeng indicating that Rev. Maans was being referred to the MEC for: 1. Failing to pay the full conference budget for 2018; and (2) Failing to pay the 2018 Provident Fund. Rev. Maans disputes those allegations, however, those specific matters were not referenced in the report of the MEC.

Rev. Maans rightly complains that the Annual Conference may have voted without knowing the Committee's rationale for its recommendations. Further, Bishop Kawimbe, as the presiding prelate, erred in imposing the recommended penalty of a suspension for a period of one year, without instituting the appropriate judicial process.

The Judicial Council notes that a letter from Bishop Jackson, President of the Council of Bishops *erroneously* advised Petitioner that the pastors were to be suspended, *with pay* and to remain at their present churches until resolution of these matters. Bishop Jackson stated what he believed, at the time, to be a shared consensus of the Council of Bishops per their meeting of December 2018. Bishop Kawimbe was clearly *not* in agreement with the proposal as set forth by the Council of Bishops and unequivocally communicated his disapproval in that, as the presiding prelate he appointed pastors to the various churches to replace the suspended pastors. Any present reliance on the miscommunication from the Council of Bishop's is misplaced, in light of the unambiguous directives from the presiding prelate, Bishop Kawimbe, relieving Petitioner of his official duties.

## CONCLUSION

Respondents, in relieving Petitioner of all his official duties for a period of one year, without the benefit of a trial and/or other judicial process violates due process rights afforded Petitioner by the *Discipline of the African Methodist Episcopal Church 2016*.

## ORDER

The decision of the East Annual Conference is hereby MODIFIED.

Respondents shall *immediately* refer the report of the Ministerial Efficiency Committee as pertains to allegations of offenses by Petitioner, along with any supporting documentation, to the Judicial Committee of the East Annual Conference for *prompt* and thorough investigation and consideration. If a majority of the Judicial Committee determines that a trial is justified, the date for trial should be set for no more than thirty (30) days from the date of that order.

Petitioner's suspension shall continue pending the decision of the Judicial Committee and/or Trial Committee, unless rescinded by the presiding prelate or other authorized body. Petitioner is not currently the pastor of the M. M. Mokone Memorial African Methodist Episcopal Church, Charlotte Maxeke District and has no current authority to act in that capacity.

Opinion rendered this 29th day August 2019.

Derek H. Anderson

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Vernon R. Byrd, Judge TaShun Bowden-Lewis, Judge Warren H. Dawson and Judge Eduardo K. Curry

**No. 2016-2020-42**

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

**Re: IN THE MATTER OF BISHOP PAUL J.M. KAWIMBE**

TaShun Bowden-Lewis, Esq., Member, delivers the opinion of the Judicial Council.

## HOLDING

The Judicial Council DENIES Petitioner's request for a reversal of the Council of Bishops decision. The Judicial Council sustains the decision by the Council of Bishops (COB) to remove Bishop Paul J.M. Kawimbe as Presiding Prelate of the 19th Episcopal District of the African Methodist Episcopal Church.

## PARTIES

The Petitioner is Bishop Paul J.M. Kawimbe ("Petitioner" or "Bishop Kawimbe"), Presiding Prelate of the Nineteenth Episcopal District of the African Methodist Episcopal (AME) Church. Bishop Kawimbe lists twenty-three Presiding Elders and four Pastors of the Nineteenth Episcopal District who "join" him in this matter.

The Respondent is the Council of Bishops of the African Methodist Episcopal Church.

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XVI, Section XVI, Paragraph A, of *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*"), page 361 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

As it pertains to decisions of the Council of Bishops, Part XI, Section III, Paragraph F(5), page 172 of the *Discipline* specifically provides:

> Review of a Decision
>
> a. On the appeal of at least one bishop, the Judicial Council shall review any decision made by the Council of Bishops to remove a bishop from the episcopal district to which assigned by the General Conference.
>
> b. A bishop must notify both the Council of Bishops and the Judicial Council in writing, within ten (10) days of removal from an episcopal district, of the intention to make such an appeal.
>
> c. If the decision by the Council of Bishops for the removal or transfer of a bishop is appealed, the decision shall not become effective unless the Council of Bishop is sustained by the Judicial Council.

## STATEMENT OF ISSUES

I. Was the process used by the Council of Bishops to remove Bishop Kawimbe contrary to the *Discipline?*

II. Was the decision of the Council of Bishops to remove Bishop Kawimbe arbitrary?

## STATEMENT OF FACTS

1. There has been strife and tension in the Nineteenth Episcopal District for a period of time.

2. The Judicial Council issued several recent decisions regarding matters with pastors in the Nineteenth Episcopal District. The decisions reflect due process violations committed by Bishop Kawimbe against several pastors. Additionally, Bishop Kawimbe failed to schedule conciliations where required and completely avoided the use of the judicial procedures as set forth in the *Discipline*.

3. On January 23, 2019, Bishop Reginald Jackson (former President of the Council of Bishops), received a letter from Rev. Sibusiso Gule. Rev. Gule was suspended on October 14, 2018, at the West Annual Conference in the Nineteenth Episcopal District. Rev. Gule appealed to a regulatory agency in South Africa. The regulatory agency ruled in Rev. Gule's favor and ordered that he receive retroactive pay. It also ordered the African Methodist Episcopal Church lift Rev. Gule's suspension.

4. On June 1, 2019, Bishop Reginald Jackson received a petition, containing five hundred and fifty-one unverified signatures, purportedly of clergy and laity from the Nineteenth Episcopal District, to "Recall" Bishop Kawimbe as Presiding Prelate.

5. On June 13, 2019, the Council of Bishops received a letter from Rev. Victor Malefetse and Rev. Gule, regarding a planned march on June 14, 2019, at the Nineteenth Episcopal District headquarters.

6. On June 14, 2019, the Council of Bishops received a second letter from those involved in the June 1, 2019 petition demanding the "immediate REMOVAL" of Bishop Kawimbe. This letter was signed by Rev. Malefetse and Mrs. N.V. Nkolozi.

7. On June 23, 2019, members of the Grievance and Complaints Committee (Grievance Committee) of the Council of Bishops met to discuss two matters: Bishop Wilfred Jacobus Messiah and Bishop Paul J.M. Kawimbe. The Grievance Committee consists of (in alphabetical order) Bishop John R. Bryant, Bishop E. Anne Henning Byfield, Bishop Philip Robert Cousin, Bishop David R. Daniels, Bishop Clement W. Fugh, Bishop Samuel Green and Bishop Jeffrey N. Leath.

8. The Council of Bishops has its own internal rules and structure with specific committees.

9. The Grievance Committee of the Council of Bishops "shall…examine all grievances and complaints coming to the Council concerning members of the Council and the recommended action in each case."

10. At 10:10 p.m. the June 23, 2019 meeting with Bishop Kawimbe began. The Grievance Committee stated "we are here to address the continual issues of administration, appointments and suspension of ministries, financial transparency and other issues such as media covered protest marches. This is not a trial, but an opportunity to understand how to resolve this situation."

11. Bishop Kawimbe was present along with Presiding Elder Phafane J. Mengoai and Presiding Elder Makhene.

12. Bishop Kawimbe stated several things in his opening statement to the Grievance Committee including "…I have done nothing wrong. I am being attacked by people who want to destroy the district and are being used by outsiders…"

13. Presiding Elder Mengoai's statements to the Grievance Committee included "…the 19th District is intact and people outside of the district are fueling the fire…"

14. Presiding Elder Makhene's statements to the Grievance Committee included "We had no problems until the 2nd year of his 2nd term, then negative assaults without signs blew up."

15. When asked by the Grievance Committee, "Did you hold the Conciliation Meeting?" Bishop Kawimbe responded, "No, I told the Secretary of the Conference. The people filed a preliminary inquiry with Dr. Jeffrey Cooper and no action has moved beyond the preliminary council. We are planning to hold the meeting."

16. When asked by the Grievance Committee "When are you going to do so?" Bishop Kawimbe responded "Soon."

17. When asked by the Grievance Committee "Our concern is for the resolution of the issues of the district. How do you see a resolution to these allegations?" Bishop Kawimbe responded "There are no real problems. The Church must not allow a few people to destroy the whole."

18. When asked by the Grievance Committee "How do you see what you have done positively in these concerns?" Bishop Kawimbe responded "Thank you for this question. The Sanlam Provident Fund was a major concern for the district. After review of the matter, I made the necessary changes in improving, reporting and updating the pastors' deposits. The issue has been quieted. The assignment of new pastors in some of the churches has been positive."

19. When asked by the Grievance Committee "What has happened to those who allege they were removed inappropriately?" Bishop Kawimbe responded "Many are still trying to interfere in those churches and trying to hold service at these churches. But all is well. The Lord is on our side."

20. When stated by the Grievance Committee "Bishop, no conciliation has been done yet for these matters." Bishop Kawimbe responded "Soon!"

21. This meeting ended at 11:30 p.m. The recommendation by the Grievance Committee to the Council of Bishops, based on their interview with Bishop Kawimbe, was "Bishop Kawimbe be removed from the assignment of the 19th Episcopal District for the good of the church with full salary and no loss of priestly functions."

22. On June 24, 2019, the Council of Bishops met at their regular session. Bishop Harry Seawright, President of the Council of Bishops called for the Grievance Committee Report. Bishop Fugh, Chair of the Grievance Committee, stated "The issue before the Committee was not whether a crime or chargeable offense had been committed, but whether for the good of the Church they should remain or be removed from their respective Episcopal District assignments." Bishop Fugh stated "this is not a trial." Bishop Henning Byfield, Secretary of the Grievance Committee, read the report.

23. Bishop Wilfred Jacobus Messiah and Bishop Kawimbe were allowed "to fully express themselves as it related to the report…and answer any questions which Council Members may have had."

24. The recommendations in the report of the Grievance Committee were adopted by the Council of Bishops. The Council of Bishops voted to remove Bishop Kawimbe from the Nineteenth Episcopal District for the "good of the church." The vote passed 14 to 5; only active Bishops present voted.

25. Bishop Kawimbe sent a timely notice of appeal to the Judicial Council from the decision of the Council of Bishops to remove him from his Episcopal assignment in the Ninetieth Episcopal District. An appeal was filed by Bishop Kawimbe on July 5, 2019, requesting that the Judicial Council reverse the June 24, 2019 decision of the Council of Bishops.

## ANALYSIS AND DISCUSSION

The *Discipline*, Part XI, Section III, F(3), page 172, states "The Council of Bishops shall hear complaints and petitions against any one of its members, and shall have the authority, by a two-thirds (2/3) vote of the Council of Bishops, to remove or transfer a bishop from a district, or give such directions as their judgment deems best for the good of the Church."

The *Discipline,* Part XI, Section III, D(1), page 171 states "The Council of Bishops shall have the authority to administer the affairs of the AME Church as authorized by the General Conference, but in no case shall the Council of Bishops administer the affairs of the Church contrary to the positive law of *The Doctrine and Discipline of the African Methodist Episcopal Church.*"

The Council of Bishops authority to remove Bishop Kawimbe from the Nineteenth Episcopal District is clear and unambiguous. Bishop Kawimbe takes issue with the role of the Grievance Committee. There is nothing in the *Discipline* which prevents the Council of Bishops from forming and using this internal Committee. The Grievance Committee has a "Process and Procedure for the Handling of Grievances and Complaints" that is known and available to all members of the Council of Bishops. The process is in place to ensure "confidentiality" and provide "due process."

The *Discipline,* Part XI, Section III, F(5)(*c*), page 172 states "If the decision by the Council of Bishops for the removal or transfer of a bishop is appealed, the decision shall not become effective unless the Council of Bishops is sustained by the Judicial Council."

Bishop Kawimbe, along with two of his Presiding Elders, had an opportunity to be heard by the Grievance Committee as well as the entire Council of Bishops before any vote on the matter was taken. The Grievance Committee makes recommendations to the Council of Bishops. This Committee "shall arrange to hear all parties, view all documentation involved in the matter(s) which have been received with the intent of resolving/bringing clarity to the issue(s)."

The problems in the Nineteenth Episcopal District are well-documented. The responses by Bishop Kawimbe and two Presiding Elders to direct questions by the Grievance Committee are incomplete and nonresponsive. The decision of the Council of Bishops does "not deny salary, seniority or the possibility of another assignment" to Bishop Kawimbe. There is nothing to suggest that there is a bias against the members of our illustrious African Methodist Episcopal Church, who are African. The decision by the Council of Bishops was factually based and not made arbitrarily. The decision is sustained.

## CONCLUSION

The Judicial Council DENIES Petitioner's request for a reversal of the Council of Bishops decision.

The Judicial Council SUSTAINS the decision of the Council of Bishops, hereby making the removal of Bishop Kawimbe from the Nineteenth Episcopal District of the African Methodist Episcopal Church effective as of the date of this decision.

Opinion rendered this 5th day of September 2019.

TaShun Bowden-Lewis, Esq.

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek Anderson, Judge Glenda F. Hodges, Judge Thomas L. Bess, Judge Warren Hope Dawson and Judge Eduardo K. Curry

Judge Vernon R. Byrd, Jr. did not participate in the deliberation or rendering of this decision.

**No. 2016-2020-43**

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

**RE: IN THE MATTER OF REV. CECELIA GREENEBARR**

Patricia M. Mayberry, President, renders the opinion of the Judicial Council.

## HOLDING

The Judicial Council DENIES the appeal. The Judicial Council finds Petitioner failed to raise any new evidence or procedural errors justifying the overturning of the decision of the Preliminary Inquiry Committee (PIC). The decision of the Preliminary Inquiry Committee is sustained.

Petitioner lacked any entitlement to receive certification, as an itinerant elder in good and regular standing, based on her failure to demonstrate local relations with any African Methodist Episcopal Church.

Petitioner violated the positive law of the Church by establishing a new congregation, without written permission from Respondent and by failing to follow the procedures set out in the *Discipline* 2016 for starting new congregations.

## PARTIES

The Petitioner is Rev. Cecelia GreeneBarr, an itinerant elder in the Fourth Episcopal District, Michigan Annual Conference. Respondent is Bishop John Franklin White, Presiding Prelate of the Fourth Episcopal District of the African Methodist Episcopal Church.

## JURISDICTION

As it pertains to appeals, the jurisdiction of the Judicial Council is provided in the *Doctrine and Discipline of the African Methodist Episcopal Church*, 2016, hereinafter "*Discipline, 2016*", Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph A. Jurisdiction, page 361 states:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

I. Whether Respondent violated the Ministers Bill of Rights, when he:

A. moved Petitioner from Smith AME Church to Saunders Memorial Church on August 17, 2017; and
B. removed Petitioner from Saunders Memorial AME Church on March 25, 2018?

II. Whether Respondent committed reversible error in failing to certify Petitioner as an itinerant elder in good and regular standing?

III. Whether Petitioner failed to follow the prescribed procedures in accordance with the *Discipline*, 2016, when attempting to start a new congregation?

## STATEMENT OF FACTS

1. In 2015, Rev. Dr. Cecelia GreeneBarr received an appointment to the charge of Smith Chapel AME Church in Inkster, Michigan.

2. On or about April 17, 2017, Rev. GreeneBarr submitted a formal request to Bishop White to be moved from Smith Chapel AME Church. She based the request on needing a church that not only would embrace the gifts God placed in her life but had the stamina to help her get elected a bishop at the 2020 General Conference.

3. On April 20, 2017, Bishop White responded to Rev. GreeneBarr's request by advising he could not absolutely assure her of an assignment to a charge equal or better than Smith Chapel AME Church. Further, he notified her of the possibility of being transferred to another Annual Conference within the Fourth Episcopal District.

4. The 2017 Pastor's Annual Conference Summary Sheet showed Smith Chapel's membership to be 97 full members, with total funds raised of $128,649.60. The pastor's salary and support equaled $40,000.00.

5. Saunders Memorial AME Church 2017 Pastor and Delegate Report reflected membership of 170 and Pastor's salary /support in the amount of $44,000. Both the Pastor and delegate signed the report on August 10, 2017.

6. Petitioner certified to the General Secretary (Chief Information Officer) she received total compensation in 2017 in the amount of $29,000.00.

7. In August 2017, at the Michigan Annual Conference, Bishop White assigned Petitioner to Saunders Memorial Church in Detroit, Michigan.

8. On October 1, 2017, Petitioner relocated the congregation of Saunders Memorial AME Church to a community center (Mack Alive) alleging life-threatening mold within the facility rendered the church uninhabitable.

9. The laboratory report, dated September 20, 2017, for Saunders Memorial AME Church stated the report should not be used for health evaluation purposes or to evaluate the safety of an occupied space. The report recommended contacting a physician for health and safety questions. No evidence exists that Petitioner contacted a physician as recommended.

10. On or about October 7, 2017, Petitioner contacted the news media about the mold within the church.

11. In January 2018, Presiding Elder Norman Osborne, Presiding Elder of the South District, Michigan Annual Conference, and Rev. Robert Brumfield (Conference Trustee) met with the members of Saunders Memorial AME Church to discuss the state of repairs for the church. During the meeting, members raised their dissatisfaction with Rev. GreeneBarr. The members voiced concerns including: the division of the church, disrespectful and degrading sermon topics towards members, frequent tardiness in commencing the service, mishandling of the musicians and her contacting the media regarding the mold situation at Saunders.

12. When Presiding Elder Osborne held a follow-up meeting with the congregation, the members raised the following additional concerns: decrease in tithes/offerings, failure of members to attend church after Sunday School, alleged deception by Petitioner regarding their safety as to the mold, no youth in the church and Petitioner's rude and dismissive conduct toward the members.

13. After each meeting, Presiding Elder Osborne met with Petitioner to express his concerns about her administration. Petitioner responded by inquiring whether he would support her candidacy for Bishop. According the Presiding Elder Osborne, "He realized the futility of the process. She simply didn't get it."

14. On March 24, 2018, Respondent, Presiding Elder Osborne, the Annual Conference Trustees, and the Trustees of Saunders Memorial met. Only two Saunders officers attended the meeting. The same day officers of Saunders sent Respondent a letter requesting Petitioner be removed from Saunders to facilitate the change needed to restore the church and reunite the congregation. The letter emphasized the low attendance and lack of financial support from the members.

15. On March 25, 2018, Respondent removed Petitioner as the pastor of Saunders Memorial AME Church for the good of the congregation.

16. On May 1, 2018, Petitioner submitted a request for Conciliation alleging Respondent violated the Ministers' Bill of Rights when he reassigned her from Smith AME Church to Saunders Memorial AME Church, during the Michigan Annual Conference in August 2017. Further, Petitioner alleged an additional violation when Respondent removed her from Saunders Memorial AME Church on March 25, 2018.

17. On May 8, 2018, the members of Saunders sent a letter to Respondent thanking him for honoring their request to remove Petitioner.

18. On May 16, 2018, the Ministerial Efficiency Committee (MEC) met with Petitioner.

19. At the conclusion of the Michigan Annual Conference (August 17, 2018), Petitioner did not receive a pastoral assignment.

20. On November 6, 2018, Dr. Jeffrey Cooper, Chief Information Officer, African Methodist Episcopal Church, notified Petitioner that the Preliminary Inquiry Committee (PIC) did not sustain the charges filed against Respondent as to violations of the Ministers' Bill of Rights.

21. Petitioner contacted Respondent on April 14, 2019 to request a letter of good and regular standing to send to Dr. Cooper for her candidacy for Bishop.

22. In the letter of April 14, 2019, Petitioner also expressed a desire to plant a new congregation. However, Petitioner failed to provide any additional information to Respondent regarding the establishment of a new congregation.

23. On April 17, 2019, Respondent advised Petitioner of the deadline for certification of candidates. Respondent requested that Rev. GreeneBarr provide information as to her local church membership and confirmation that her name appears on the Quarterly Conference roll of that church. In the same communication, Respondent informed Rev. GreeneBarr of the procedures for starting a new church, in accordance with the *Discipline*. Further, he advised her that the appropriate committee of the annual conference would address her request at the seat of the Michigan Annual Conference.

24. On April 19, 2019, Petitioner filed Articles of Incorporation with the State of Michigan for a new congregation, Creative Worship Center. However, Petitioner failed to follow the requirements in the *Discipline* for the establishment of a new congregation, which must include the demographics, the location, etc.

25. On April 20, 2019, Rev. Darren Penson of Mt. Calvary AME Church informed Respondent of Petitioner's sporadic attendance at his church. He denied that she participated in any ministries within Mt. Calvary.

26. On April 25, 2019, Rev. Alfred Johnson, pastor of Newman AME Church- Pontiac informed Respondent that Petitioner never attended his church more than twice. He denied that Petitioner joined Newman AME.

27. On May 2, 2019, Respondent notified Petitioner to suspend all activities associated with planting a church.

28. Petitioner started a fundraising campaign to raise $100,000.00. On or about May 5, 2019, she solicited funds from various AME Church members, including an active Bishop of the AME Church. Petitioner publicize the start date for the new congregation as May 7, 2019. Petitioner referenced her credentials as an ordained itinerant elder in the African Methodist Episcopal Church.

29. On May 10, 2019, Petitioner filed a petition for appeal with the Judicial Council alleging Respondent violated the Ministers' Bill of Rights and had improperly refused to certify her as an itinerant elder in good and regular standing.

## ANALYSIS AND DISCUSSION

### I. Respondent Did Not Violation the Ministers' Bill of Rights

Petitioner filed charges against Respondent alleging two violations of the Ministers Bill of Rights. Petitioner's charges proceeded to the Preliminary Inquiry Committee, which denied the charges, therefore no Trial Committee was convened. Dr. Cooper notified Petitioner on November 6, 2018, the Preliminary Inquiry Committee failed to sustain the charges against Respondent. Petitioner filed a petition for appeal with the Judicial Council on May 10, 2019. Counsel for Respondent argues that the *Doctrine and Discipline of the African Methodist Episcopal Church*, 2016, hereinafter "*Discipline*" offers no provision for appealing any decision from the Preliminary Inquiry Committee. This body disagrees with the proffered argument in that the *Discipline* provides that the Judicial Council has authority to hear "*all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church." Id.*

The Preliminary Inquiry Committee (PIC) falls within the aforementioned provision. If the PIC referred Petitioner's charges to the Trial Committee, any procedural irregularities could be raised before that body. In this case, the only appropriate body to raise concerns as to the failure to sustain charges would be the Judicial Council. See *In the Matter of Rev. James Mwenya*, JCDecision No. 2012-2016-27 (September 9, 2015) *wherein* the Judicial Council reviewed alleged procedural errors of the PIC in dismissing the matter before it. Petitioner requests appellate review over the action of the PIC, but raises no allegations of impropriety or procedural irregularities regarding the PIC. Petitioner simply seeks to rehash the same issues presented to the Committee. In essence, Petitioner seeks a "second bite at the apple."

Petitioner provided no new evidence, nor did she raise any procedural errors committed by the PIC warranting reversal of its decision. Without new evidence of procedural deficiencies, the Judicial Council cannot substitute its judgment for that of the impaneled body charged with the responsibility of addressing the alleged violations of the Ministers' Bill of Rights submitted by Petitioner. An Appellate review is not undertaken lightly; credible arguments and evidence must exist to support such review. See *In the Matter of Rev. James Mwenya, Id.*

An additional concern about Petitioner's current complaint, is that she waited over six months to bring the matter before the Judicial Council. Matters not timely appealed could ultimately bar an otherwise appealable claim. The Chief Information Officer, Dr. Cooper notified Petitioner on or about November 6, 2018 that the PIC did not sustain the charges (two counts of violation of the Ministers' Bill of Rights) against Respondent. Petitioner elected to wait until May 10, 2019 to file her appeal with the Judicial Council. By waiting approximately seven months, Respondent could have been prejudiced or negatively impacted by the delay in the raising MBR issues in this appeal.

The Judicial Council finds no justification for disturbing the decision of the PIC. The Judicial Council denies Petitioner's appeal, as it relates to two violations of the Ministers' Bill of Rights.

**II. Petitioner's Certification as an Itinerant Elder**

Respondent acted appropriately in requesting information from Petitioner, as to her status as an Itinerant Elder. After Petitioner no longer pastored Saunders Memorial AME Church, she carried the obligation to maintain local relations, in order to be in good and regular standing as an Itinerant Elder. The *Discipline* states:

> Every elder, deacon and preacher shall have his or her name recorded in the Quarterly Conference Journal of the charge that includes his or her membership and also enrolled on a class paper. He or she shall meet in class, unless he or she lives too far away; teach and labor in our church schools, and subject to the preacher-in-charge in receiving appointments to preach or teach, and labor in the church school, as occasions may require. If he or she neglects these duties, the Quarterly Conference may deprive him or her of his or her ministerial office.

See, *Discipline 2016,* Part VIII, Ministerial Classifications, Rules and Support, Section IV. Local Ministry, paragraph D, page 144.

An inquiry by Respondent as to Petitioner's claim to be in local relations with Newman AME Church, Pontiac, Michigan failed to support her contention. Rev. Alfred Johnson, pastor of Newman AME, denied Petitioner joined the church. In fact, he reported she only attended twice during the 2018-2019 Conference Year. Rev. Darren Penson, pastor of Mt. Calvary AME Church, characterized Petitioner's attendance as sporadic with no involvement in the ministries at Mt. Calvary AME. Additionally, he denied that she served in any ministerial capacity.

Petitioner failed to produce one scintilla of evidence regarding her affiliation with any AME Church. Without sufficient evidence, as to her involvement and affiliation with an AME Church, she does not meet the requirements for being an itinerant in local relations. Respondent lacked any obligation to certify Petitioner as being in good and regular standing, under these circumstances.

**III. Petitioner Failed to Follow the Procedures for Starting a New Congregation**

Petitioner started a new congregation without following the procedures required by the African Methodist Episcopal Church. Petitioner notified Respondent of her interest in starting a new congregation on 14 April 2019. Respondent advised Petitioner via letter on 17 April 2019, as to the appropriate procedure. Approximately two days later, Petitioner filed Articles of Incorporation for a new congregation under the name, Creative Worship Center. The document made no reference to the African Methodist Episcopal Church. The *Discipline* requires the approval of the presiding bishop of the Episcopal District where the proposed church will be located. *See*, *Discipline 2016*, Part VI –Starting and Merging Congregations, Section I A, page 107.

Petitioner never received the approval from Respondent to engage in the process for starting a new congregation. Instead of awaiting approval, Petitioner filed Articles of Incorporation demonstrating an intent to proceed with her plans. Not only did she proceed with steps toward the establishment of this congregation, she solicited funds from an AME Bishop as well as other members of the AME Church. Petitioner commenced a fundraising campaign, in the amount of $100,000, utilizing her AME Church affiliation and status as an itinerant elder. Respondent directed Petitioner to suspend her actions on May 2, 2019. Petitioner continued with her plans to establish Creative Worship Center setting the date for its first worship service on May 7, 2019. By promoting herself as pastor and founder of Creative Worship Center, Petitioner's acted contrary to the positive law of the African Methodist Episcopal Church.

## CONCLUSION

The Judicial Council finds Petitioner failed to raise any new evidence or procedural errors justifying the overturning of the decision of the Preliminary Inquiry Committee. The decision of the Preliminary Inquiry Committee is sustained.

Further, the Judicial Council finds Petitioner lacked any entitlement to receive a certification, as an itinerant elder in good and regular standing, based on her failure to demonstrate local relations with any African Methodist Episcopal Church.

Petitioner violated the positive law of the Church by establishing a new congregation without written permission from Respondent and failing to follow the procedures set out in the *Discipline* 2016 for starting new congregations.

The Judicial Council refers this matter to the Michigan Annual Conference for appropriate action consistent with this decision.

Petitioner's appeal is DENIED.

Opinion rendered this 3rd day of October 2019.

Patricia M Mayberry
PATRICIA M. MAYBERRY

Concurring: Judge Tania Wright, Judge Derek Anderson, Judge Thomas Bess, Judge Eduardo Curry, Judge Warren Dawson, and Judge TaShun Bowden-Lewis.

Judges Vernon Byrd and Glenda Hodges did not participate in this decision.

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

**RE: IN THE MATTER OF MILDRED GREGORY, MARTHA CRUMEL AND LAWRENCE MONCRIEF**

Thomas L. Bess, D.Min., Chaplain, delivers the opinion on behalf of the Judicial Council.

## HOLDING

The Petitioners' Appeal is DENIED.

Petitioners' Appeal to the Judicial Council is premature in that the *Discipline* provides that the Presiding Elder will render decisions on all questions of law in the Quarterly and District Conferences and Church School Convention, subject to appeal to the Annual Conference. We note that Petitioners fail to identify any provision of the *Discipline* which would require the Presiding Elder to provide information on assessments regarding other local churches. Notwithstanding, the Judicial Council lacks jurisdiction to rule on this matter prior to a decision by the Annual Conference.

## PARTIES

Mildred Gregory, Martha Crumel and Lawrence Moncrief, Petitioners

Presiding Elder Willie J. Cook and Bishop Adam J. Richardson, Respondents

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XVI, Judicial Administration, Section XVI, Paragraph A of *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*"), page 361 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make decisions that affect the rights of any member or Church body of the AME Church.

## STATEMENT OF THE ISSUE

Whether Petitioners' request to compel Conciliation or overturn the Presiding Elder's denial of Petitioners' request to view the assessments of all local churches on the Presiding Elder District is a final appeal and properly before the Judicial Council?

## STATEMENT OF FACTS

1. At the planning meeting for Presiding Elder Willie J. Cook ("P.E. Cook") on December 8, 2018 at St. Paul AME Church in Delray, FL, a request was made that the Presiding Elder's report show individual assessments for every church on the District .

2. P.E. Cook denied the request to see all of the individual church assessments.

3. Lawrence Moncrief, Mildred Gregory and Martha Crumel filed for conciliation with the secretary of the conference on February 19, 2019.

4. Lawrence Moncrief, Mildred Gregory and Martha Crumel again filed for conciliation with the secretary of the conference on March 15, 2019.

5. Subsequently, a letter was sent to Bishop Richardson, P.E. Cook and Rev. James C. Watson informing them of the Petitioners' intent to file with the Judicial Council.

## ANALYSIS AND DISCUSSION

The *Discipline* at page150, Section (10), Paragraph (f) states the following:

> The Budget Committee shall present a printed, annual report of the District income and expenditures to each local church of the Districts of the Annual Conference and the Episcopal District.

According to Petitioners, during his District planning meeting, the Presiding Elder denied their request that his report show individual assessments for every church on the District. While nothing in the *Discipline* requires the Presiding Elder to provide each local church with the amount of each individual church assessment, notwithstanding, Petitioners assert a right to view that information.[1]

[1] The District financial matters are presented twice minimally at Annual Conference, once when the Presiding Elder District make their report of the year and second when the Episcopal Accountant gives a report of all the Presiding Elders' Districts in the Conference.

In accordance with the *Discipline* at page 148, Section (C), Paragraph (5):

> The presiding elder will render decisions on all questions of law in the Quarterly and District conferences and Church School Convention, subject to appeal to the Annual Conference.

Petitioners twice requested Conciliation and now files an appeal to the Judicial Council regarding the Presiding Elder's decision to deny Petitioners' access to the requested information. We are unaware of any appeal by Petitioners, from the Presiding Elder's decision, to the Annual Conference. This remedy as set forth by the *Discipline* must be exhausted before a *final appeal* of the decision can be taken to the Judicial Council.

## CONCLUSION

We note that Petitioners fail to identify any provision of the *Discipline*, which would require the Presiding Elder to provide information on assessments regarding other local churches. However, the request for appeal to the Judicial Council is premature. Therefore, the Judicial Council lacks jurisdiction to rule on the issue presented or to offer Petitioners other requested relief.

Opinion rendered this 9th day of October 2019.



Judge Thomas L. Bess

Concurring: Judge Tania E. Wright, Judge Derek H. Anderson, Judge Vernon R. Byrd, Jr., Judge Warren Hope Dawson and Judge Eduardo K. Curry

Dissenting opinion by Judge Patricia M. Mayberry, Judge Glenda F. Hodges and Judge TaShun Y. Bowden-Lewis join in the opinion.

The Judicial Council improperly declined to take jurisdiction over an issue falling within the scope of its authority. The Council opined that Petitioners' appeal should be referred to the Annual Conference, pursuant to the *Doctrine and Discipline, 2016, Part VII, Section V, paragraph C5, page 148*. We respectfully dissent to the Council's decision.

We acknowledge Petitioners raised the question during the District Conference. However, Respondent refused to provide Petitioners the information sought regarding the amount of assessments paid by other churches, within the Presiding Elder District. Petitioners' inquiry did not rise to the level of a question of law. Respondent merely refused to provide the information. The Council should have accepted jurisdiction, pursuant to the *Doctrine and Discipline, 2016, Part XVI, Section XVI, paragraph A1, page 361.* The Council created a false expectation regarding Petitioners' right to the information.

The Budget Committee of the Presiding Elder District provides financial accountability. While the Committee prepares a comprehensive report, which includes all financial assessments from the local church for District operations, nothing within the *Discipline* 2016 places any mandatory requirement for the Presiding Elder to divulge assessment information to one church about what other churches within the Presiding Elder District pay. *See, Discipline 2016*, *Part VII, Section V, paragraph C10e, page 150.* The Judicial Council should have accepted jurisdiction and denied the appeal for the reasons stated above.

**No. 2016-2020-45**

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

**RE: IN THE MATTER OF JOHN THOMAS III**

Judge Eduardo K. Curry, Member, delivers the opinion on behalf of the Judicial Council.

## HOLDING

Petitioner's Request for a Declaratory Decision is premature in that the Petitioner seeks to have the Judicial Council interpret issues where there is no actual controversy filed before this court. As such, the Judicial Council lacks jurisdiction to review this matter and/or to grant the requested relief.

## PARTIES

John Thomas III, General Officer, Editor of Christian Recorder, Petitioner.
No Respondent.

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XVI, Judicial Administration, Section XVI, Paragraph A of *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*"), page 361 that provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make decisions that affect the rights of any member or Church body of the AME Church.

The *Discipline* further provides that the Judicial Council may make a ruling in the nature of a declaratory decision:

> 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 seem 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 (1) interpretation.

*Discipline*, Part XVI. Judicial Administration, Section XVI. The Judicial Council, Paragraph I. Duties, Subparagraph 10, p. 365

## STATEMENT OF THE ISSUE

Whether the Judicial Council, based upon Petitioner's request, has authority to interpret Part XIV, Section I , Paragraph D, Subparagraph 1b, page 249 of the *Discipline* requiring itinerant elders to "have been traveling Elders in the AME Church for at least four (4) years next preceding their election" as ministerial delegates, when there is no actual statement of controversy, no named Respondent and no appeal pending before the Judicial Council?

## STATEMENT OF FACTS

1. The Petitioner John Thomas III (Petitioner) is a General Officer and Editor of the Christian Recorder.

2. On September 28, 2019, Petitioner filed a Request for Declaratory Relief.

3. In his request, Petitioner alleges that different Bishops have interpreted the time requirement for "traveling" in a variety of ways, counting from: (1) admission to conference; (2) first ordination; 3) second ordination; and (4) assignment of first pastorate. He also alleges that there is a difference as to what constitutes the four years of "traveling." He further asks whether or not the "traveling" should include the year of ordination?

## ANALYSIS OF DISCUSSION

The *Discipline* at page 365, Subparagraph 11, states the following:

> When a Declaratory Decision is sought all persons or bodies who have or claim any interest that would be affected by the declaration shall be parties to the proceedings, and the Petition shall name such parties.

The Petitioner fails to produce any first-hand factual allegations or any issue of controversy between parties. Petitioner's hypotheticals are merely conjecture and beg for speculation. In the case at hand, there is no actual controversy within the jurisdiction of the Judicial Council. The

Petitioner has failed to cite subjective or particular districts from which or parties from whom any allegation of differing interpretations have existed or occurred.

## CONCLUSION

The object of the declaratory decision is to permit determination of a controversy before obligations are repudiated or rights are violated. However, in the instant case, no controversy has been filed nor Respondent identified. Petitioner request for a Declaratory Decision is premature and not ripe for review by the Judicial Council.

## ORDER

Petitioner's request for Declaratory Relief is DENIED.

Opinion rendered this 18th day of November 2019.

Judge Eduardo K. Curry

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek H. Anderson, Judge Thomas L. Bess, Judge Glenda H. Hodges, Judge Vernon R. Byrd, Jr., Judge TaShun Y. Bowden-Lewis, and Judge Warren Hope Dawson

No. 2016-2020-46

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

**Re: IN THE MATTER OF BISHOP WILFRED J. MESSIAH**

Judge TaShun Bowden-Lewis, Member, delivers the opinion of the Judicial Council.

## HOLDING

The Judicial Council GRANTS Petitioner's request for a reversal of the Council of Bishops decision. The Judicial Council finds that the decision of the Council of Bishops (COB) to remove Bishop Wilfred J. Messiah as Presiding Prelate of the 17th Episcopal District of the African Methodist Episcopal Church, for the good of the church, is not satisfactorily supported by the record and therefore will not be sustained by the Judicial Council.

## PARTIES

The Petitioner is Bishop Wilfred J. Messiah ("Petitioner" or "Bishop Messiah"), Presiding Prelate of the Seventeenth Episcopal District of the African Methodist Episcopal (AME) Church.

The Respondent is the Council of Bishops of the African Methodist Episcopal Church.

## JURISDICTION

The jurisdiction of the Judicial Council is provided in Part XVI, Section XVI, Paragraph A, of *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*"), page 361 which provides:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under "Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

As it pertains to decisions of the Council of Bishops, Part XI, Section III, Paragraph F(5), page 172 of the *Discipline* specifically provides:

> Review of a Decision
>
> a. On the appeal of at least one bishop, the Judicial Council shall review any decision made by the Council of Bishops to remove a bishop from the episcopal district to which assigned by the General Conference.
>
> b. A bishop must notify both the Council of Bishops and the Judicial Council in writing, within ten (10) days of removal from an episcopal district, of the intention to make such an appeal.
>
> c. If the decision by the Council of Bishops for the removal or transfer of a bishop is appealed, the decision shall not become effective unless the Council of Bishops is sustained by the Judicial Council.

## STATEMENT OF THE ISSUE

I. Whether the decision of the Council of Bishops to remove Bishop Messiah from the Episcopal District to which assigned by the General Conference is supported by the record and sustainable by the Judicial Council where in accordance with the record of proceedings:

> The issue before the [Grievance] Committee was not whether a crime or chargeable offense had been committed, but whether *for the good of the Church* they[Bishops Kawimbe and Messiah] should remain or be removed from their respective Episcopal District assignments.

## STATEMENT OF FACTS

1. There has been civil tension and disease outbreaks throughout parts of the Seventeenth Episcopal District for a period of time.

2. The Seventeenth Episcopal District is extremely large. It encompasses six countries, twelve annual conferences and approximately 263,788 members.

3. The twelve annual conferences of the Seventeenth Episcopal District are:

   i. East Africa Conference: Kenya
   ii. Congo River Conference: Kinshasa District and Congo Brazzaville
   iii. Mbuji Mayi/Tshikapa Conference: Central Congo DR
   iv. Kananga Conference: Central Congo DR

v. Katanga Conference: Lubumbashi
vi. Great Lakes Conference: Eastern Congo and Rwanda
vii. Burundi Conference: Burundi
viii. Southeast Zambia Conference
ix. Southwest Zambia Conference
x. Northeast Zambia Conference
xi. Northwest Zambia Conference
xii. Zambezi Conference: Ends at the border of Angola

4. At the seat of the 2012 General Conference of the African Methodist Episcopal Church, Bishop Messiah was appointed Presiding Prelate for the Seventeenth Episcopal District.

5. The Seventeenth Episcopal District's Annual Report at the 2013 General Board Meeting of the African Methodist Episcopal Church stated that Bishop Messiah attended all annual conferences except "the Congo River Annual Conference, where we were advised by the U.S.A. State Department, not to travel to that region because of the conflict with the M23 Rebels. An alternate date November 13 -17, 2013 has already been established to conduct this Annual Conference."

6. The Seventeenth Episcopal District's Annual Report at the 2014 General Board Meeting of the African Methodist Episcopal Church stated that Bishop Messiah attended all annual conferences.

7. The Seventeenth Episcopal District's Annual Report at the 2015 General Board Meeting of the African Methodist Episcopal Church stated that Bishop Messiah attended all annual conferences except the Congo, Democratic Republic of Congo, Kenya and Burundi conferences.

8. The Seventeenth Episcopal District's Annual Report at the 2016 General Board Meeting of the African Methodist Episcopal Church stated that Bishop Messiah attended all annual conferences "except at times of political instability in Democratic Republic of Congo, Kenya and now Burundi and the outbreak of Ebola on the countries that border the 17th Episcopal District."

9. The Seventeenth Episcopal District's Annual Report at the 2017 General Board Meeting of the African Methodist Episcopal Church made no mention of Bishop Messiah attending any annual conference.

10. The Seventeenth Episcopal District's Annual Report at the 2018 General Board Meeting of the African Methodist Episcopal Church stated that Bishop Messiah attended the Northeast Zambia, Southwest Zambia and Katanga (in Kolwezi, Congo DR) annual conferences.

11. The Seventeenth Episcopal District's Annual Report at the 2019 General Board Meeting of the African Methodist Episcopal Church stated that Bishop Messiah was not able to attend the Congo DR in 2018. "The Burundi and Great Lakes Conferences have pledged to begin this 2019 Annual Conference with their participation in the Episcopal Budget." A schedule for the 2019 annual conferences includes trips to the East Africa, Burundi and the Great Lakes Conferences.

12. On June 12, 2019, Bishop Messiah received an email from John Thomas, Editor of the Christian Recorder. The email was about our churches from Burundi, Uganda, Rwanda and DRC leaving to join the AME Zion Church. Bishop Messiah responded that he had no knowledge about this.

13. On June 18, 2019, Bishop Reginald Jackson, former President of the Council of Bishops, contacted Bishop Messiah to be available for a conference call with the Council of Bishops on June 21, 2019.

14. On June 21, 2019, Bishop Messiah reported, among other things, on the conference call with the Council of Bishops that after investigation, he was told that "none of our AME Churches, in the region that comprised the 17th Episcopal District was a part of the exodus as reported by Mr. John Thomas."

15. Bishop Reginald Jackson stated on the conference call that the matter was being referred to the Grievance Committee of the Council of Bishops.

16. On June 23, 2019, members of the Grievance and Complaints Committee (Grievance Committee) of the Council of Bishops met to discuss two matters: Bishop Wilfred J. Messiah and Bishop Paul J.M. Kawimbe. The Grievance Committee consists of (in alphabetical order) Bishop John R. Bryant, Bishop E. Anne Henning Byfield, Bishop Philip Robert Cousin, Bishop David R. Daniels, Bishop Clement W. Fugh, Bishop Samuel Green and Bishop Jeffrey N. Leath.

17. The Council of Bishops has its own internal rules and structure with specific committees.

18. The Grievance Committee of the Council of Bishops "shall…examine all grievances and complaints coming to the Council concerning members of the Council and the recommended action in each case."

19. At 8:27 p.m. the June 23, 2019 meeting with Bishop Messiah began. Presiding Elder Martin Chama accompanied Bishop Messiah. The Grievance Committee stated: "This is not a trial, but an opportunity to understand how to resolve this situation of persons leaving the Church, and other matters."

20. When asked by the Grievance Committee "Have you been to Rwanda, and the other countries in question?" Bishop Messiah responded, "I went to Congo as I said on the Council of Bishops conference call. It was dangerous, violent and we were afraid for our lives."

21. When asked by the Grievance Committee "What about other countries in question? Rwanda? Burundi?" Bishop Messiah responded, "It was dangerous in the region and Ebola was looming. They were all invited and expected to be at the Annual Conference…"

22. When asked by the Grievance Committee "Did you ever go to the Rwanda, Burundi, more than once to the Congo?" Bishop Messiah responded, "I went in March 2019." When asked by the Grievance Committee "Where did you go?" Bishop Messiah responded, "I met with the Area Administrator Bemba of Rwanda."

23. When asked by the Grievance Committee "Did you give pastoral appointments to Rwandans? Did you ordain anyone, consecrate a deaconess, assign presiding elders? Did anyone come from Rwanda, Burundi or Congo to the Annual Conferences?" Bishop Messiah responded "No" to each of these questions.

24. When asked by the Grievance Committee "Why didn't you report any of this to the Council of Bishops?" Bishop Messiah responded, "I did, it was in my written report in 2015." When asked "What was in your written report?" Bishop Messiah responded, "The situation in Rwanda." When asked "Did you mention that you had not visited the countries?" Bishop Messiah responded, "It's in the report."

25. When asked by the Grievance Committee "Bishop Messiah, how do you explain that Bishop John R. Bryant, Supervisor Cecelia William Bryant, Dr. Jonathan Weaver, Rev. Carlos Perkins and representatives of the AMEZ Church traveled to Rwanda and some to the Congo during the period in question?" Bishop Messiah responded, "I don't know. I was told not to go if others went, they did not tell me. I don't know."

26. When asked by the Grievance Committee "How many churches are leaving?" Bishop Messiah responded "We are not losing 106 churches as stated. We have 12 annual conferences in the 17th Episcopal District. Congo, Burundi and Rwanda are in the Great Lakes annual conference. The number of churches and people in these areas are greatly exaggerated."

27. When asked by the Grievance Committee "How many churches are staying in our Zion?" Bishop Messiah responded, "I'm not sure." When asked "How many churches are still in Rwanda?" Bishop Messiah responded, "About 9." When asked "What are the names of the churches, pastors and estimated membership?" Bishop Messiah responded, "I don't know offhand. There is a church in Kigari." When asked "Do you have an Annual Conference Roll which includes the countries of Burundi, Rwanda and Congo?" Bishop Messiah responded, "No."

28. This discussion ended at 9:15 p.m. Bishop Messiah was brought back into the room.

29. When asked by the Grievance Committee "Bishop Messiah, what is the status of the $12,500 the AME Church raised for the repairs of the churches in Rwanda?" Bishop Messiah responded, "I sent $2500 to Rwanda and I have the other $10,000 in an account to be used when they need it." When stated by the Grievance Committee "You stated on the Council of Bishops call that you disbursed it all and had signatures to show that you had disbursed it. Further, you stated you would bring the documentation to this meeting." Bishop Messiah

responded, "No, I gave $2500." When asked "Which is correct, $2500 or $12,500?" Bishop Messiah responded "The pastors in Rwanda said they only needed $2500 and asked me to hold the money until they found a place. They are using another building now."

30. When asked by the Grievance Committee "Which church? Who?" Bishop Messiah responded, "I will have to check." When asked "Do you have the documentation about the money?" (Bishop Messiah holds up a piece of paper.) He responds "Yes." When asked "May we see it?" Bishop Messiah responded, "It has other items on it, and I need to copy it and will give it to you." When asked "So, you are saying you still have $10,000 of the money the church gave you?" Bishop Messiah responded, "Yes, and the form showing it needs to be copied."

31. The discussion ended at 9:30 p.m. The recommendation by the Grievance Committee to the Council of Bishops, based on their interview with Bishop Messiah, was "Bishop Messiah will be removed from the assignment of the 17th Episcopal District for the good of the church with full salary and no loss of priestly functions."

32. On June 24, 2019, the Council of Bishops met at their regular session. Bishop Harry Seawright, President of the Council of Bishops called for the Grievance Committee Report. Bishop Fugh, Chair of the Grievance Committee, stated "The issue before the Committee was not whether a crime or chargeable offense had been committed, but whether for the good of the Church they should remain or be removed from their respective Episcopal District assignments." Bishop Fugh stated "this is not a trial." Bishop Henning Byfield, Secretary of the Grievance Committee, read the report.

33. Bishop Wilfred Jacobus Messiah and Bishop Kawimbe were allowed "to fully express themselves as it related to the report…and answer any questions which Council Members may have had."

34. The recommendations in the report of the Grievance Committee were adopted by the Council of Bishops. The Council of Bishops voted to remove Bishop Messiah from the Seventeenth Episcopal District for the "good of the church." The vote passed 14 to 5; only active Bishops present voted.

35. On June 25, 2019, Bishop Messiah sent a timely notice of appeal to the Judicial Council regarding the decision of the Council of Bishops to remove him from his Episcopal assignment in the Seventeenth Episcopal District.

36. On July 1, 2019, an appeal was filed by Bishop Messiah requesting that the Judicial Council reverse the June 24, 2019 decision of the Council of Bishops.

## ANALYSIS AND DISCUSSION

The *Discipline*, Part XI, Section III, F(3), page 172, states, "The Council of Bishops shall hear complaints and petitions against any one of its members, and shall have the authority, by a two-thirds (2/3) vote of the Council of Bishops, to remove or transfer a bishop from a district, or give such directions as their judgment deems best for the good of the Church."

The *Discipline,* Part XI, Section III, D(1), page 171 states "The Council of Bishops shall have the authority to administer the affairs of the AME Church as authorized by the General Conference, but in no case shall the Council of Bishops administer the affairs of the Church contrary to the positive law of *The Doctrine and Discipline of the African Methodist Episcopal Church.*"

The *Discipline,* Part XI, Section III, F(5)(c), page 172 states "If the decision by the Council of Bishops for the removal or transfer of a bishop is appealed, the decision shall not become effective unless the Council of Bishops is sustained by the Judicial Council."

Bishop Messiah was transparent regarding the Episcopal presence (and lack thereof) in certain parts of the Seventeenth Episcopal District specifically Rwanda, Burundi and the Congo since he was assigned to be the Presiding Prelate in this District. The Council of Bishops has been silent, publicly, on this matter until the recent reports of members desiring to leave our Zion to join another denomination surfaced.

All members of the esteemed African Methodist Episcopal Church are entitled to and deserving of oversight by and contact with their Bishop. The breadth and depth of the geographical area as well as the civil unrest, political issues and bouts of disease are well-documented in the Seventeenth Episcopal District. The reality of the difficulties within this Episcopal District do not excuse apathetic, lackadaisical attitudes and posture but they do shed light on the fact that assistance is needed and has been needed for quite some time.

The lack of consistent Episcopal presence throughout certain parts of the Seventeenth Episcopal District from 2013 to the present has been no secret throughout our Connectional Church. The reasons for the lack of consistency have been published. The removal of Bishop Messiah is not an effective remedy to the problems affecting the Seventeenth Episcopal District.

As an active Bishop in the African Methodist Episcopal Church, Bishop Messiah is ordered to comply with the duties of his sacred office in the manner prescribed by the *Discipline*, Part XI, Section 1(B), page164-166 in its entirety as well as adhere to the requirement of making an annual report to the Council of Bishops as outlined in the *Discipline*, Part XI, Section III (J), page 173-174 which states:

> Annual Reports from Active Bishops
>
> All active bishops shall make an annual report to the Council of Bishops, containing the following information:
>
> 1. The number of annual conferences.
> 2. The number of members in each annual conference.
> 3. The amount of the General Budget Fund apportioned.
>    a. The Episcopal District
>    b. Each of the annual conferences
> 4. The amount of the General Fund collected and sent to the office of the Chief Financial Officer of the AME Church from each of the annual conferences.
> 5. If this represents an increase, the same amount or a decrease as compared with last year's report, list the following, and give details:

a. Ministers who have been expelled during the year.
b. Ministers who have withdrawn from the Connection during the year.
c. Congregations that have split or withdrawn from the Connection during the year.

6. Give details of new churches organized or established during that year.

Strict adherence to this requirement will ensure that any deficiencies in the Episcopal presence and oversight in the Seventeenth Episcopal District, and all Episcopal Districts, within our glorious denomination will be handled and addressed forthwith.

## CONCLUSION

The Judicial Council GRANTS Petitioner's request for a reversal of the Council of Bishops' decision to remove him from his assignment in the Seventeenth Episcopal District in that the record of their proceedings fails to establish how or that the removal Bishop Messiah from his district is, at this juncture, effectually "for the good of the church."

In accordance with Part XI, Section III, Paragraph F(5)(c), page 172 of the *Discipline*, the decision of the Council of Bishops to remove Bishop Messiah from the Seventeenth Episcopal District of the African Methodist Episcopal Church shall not become effective in that the decision is not satisfactorily supported by the record of the non-trial proceedings and is not sustained by the Judicial Council.

Opinion rendered this 22nd day of November 2019.

TaShun Bowden-Lewis, Esq.

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Derek H. Anderson and Judge Warren Hope Dawson

Judge Vernon R. Byrd, Jr. did not participate in the deliberation or rendering of this decision.

Dissenting: Judge Glenda H. Hodges.

Dissenting: Judge Thomas L. Bess and Judge Eduardo K. Curry file a dissenting opinion.

We respectfully **DISAGREE AND DISSENT** to the majority's opinion for the following reasons:

Since the inception of our Zion, our Church, the African Methodist Episcopal Church it has been a historically, hierarchal organization that relies on order, rules and accountability from the top pinnacle to its base. This expected structure has allowed our denomination to exist, function and flourish through wars, depression, recession, segregation and racism. The godly genius of our forefathers and foremothers understood and anticipated that all episcopal districts, facts and conditions would not be the same throughout the connection. However, two immutable characteristics has always remained true, accountability and consistency.

It is these unyielding attributes that we insist and have experienced with tremendous *discipline* that may draw the ire of some but has been the backbone of our church's identity and existence. From the top to the bottom, from the bottom to the top, the constraint reaffirmation of transparency and accountability, by allowing the servant leader and the servant follower to be focused and consistent no matter where they came in contact with African Methodism throughout the universe. The majority has underestimated these unyielding characteristics of accountability and consistency.

Bishop Messiah, a Reverend Father in our Zion, is and was not a novice. He was the 120th elected and consecrated bishop in 2004. He is an experienced supervisor, chief pastor and servant leader. He is a learned theologian who understands the *Doctrine and Discipline of the African Methodist Episcopal Church*. The *Discipline* requires an obligation of consistency and accountability of the episcopacy and its districts.

In the *Discipline*, 2016 edition, Part XVIII, Section XIV. The Order for the Consecration of a Bishop, p. 664 quotes: "A bishop should keep watch over yourselves and over the flock, of which the Holy Spirit has made you overseers, to shepherd, the church of God that he purchased with the blood of his own Son". (Acts 20:17-35) Furthermore, Bishop Messiah proclaimed that he was persuaded in his consecration "to instruct the people committed to your charge and teach all members…." *Discipline*, p. 666. This sense of accountability was mandated by Bishop Messiah's vows to God and the African Methodist Episcopal Church, upon election and consecration. Bishop Messiah's failure to supervise the Annual Conference or use regular and ample technology was negligent. Years of malfeasance and non-supervision are inexcusable.

The *Discipline* clearly authorizes and mandates the duties and authority of Bishops, specifically pages 163-174, (see Doctrine and *Discipline*, 2016 edition, Section B Duties) as follows:

1. The bishop shall, (emphasis added) preside in all of the Annual Conferences within the Episcopal District where assigned and in conjunction with the presiding elders determine what shall be the appointments of all of the pastors at the Annual Conference.

2. The Bishop shall not have anything in this section applied which shall prevent the bishops from using godly judgment in making charge in the appointments that are deemed necessary "for the good of the church." (emphasis added) see p. 165 and

3. The bishop shall travel at large throughout the episcopal district, visit every circuit and station and oversee the spiritual and temporal business of the churches or congregations within the district to which assigned.

See page 166.

The duties of a bishop aforementioned contain the word "shall." It requires an unequivocal and mandatory duty to factually exercise those duties as the presiding prelate upon his or her own admission. Bishop Messiah did not visit or supervise all of the Annual Conferences of which he was assigned. In fact, not only did he not visit, but also under questioning by the Grievance Committee of the Council of Bishops failed to know the number of members in his district, whether any ecclesiastical activities occurred in his district or whether any appointments were made. He did not exercise supervision over and did not oversee, all of the members in his district. He did not have a system in place to oversee the area of controversy in the Seventeenth Episcopal District, specifically Rwanda, Burundi or the Congo. Bishop Messiah failed to discharge his duties as a bishop to the people that he promised to serve. His presence and supervision were not optional but was mandatory.

Bishop Messiah's lack of accountability is inexcusable. The African Methodist Episcopal Church demands accountability. It is part of our structure and character. Shall is not optional. The majority opinion of the Judicial Council is tasked with interpreting the positive law of the church. The General Conference determined the size of the Episcopal District. The Episcopal Committee determines who is appointed to the Episcopal District. The appointee has no option but to service the Episcopal assignment or to refuse the assignment.

It is certainly perplexing that the majority did not mention that Bishop Messiah's derelictions of duties had been addressed with the Episcopal Committee and the committee had elected to previously show him grace, unbeknownst to the Council of Bishops. The Council of Bishops was certainly unaware of Bishop Messiah's failure to attend the Annual Conference at issue, as evidence in the letter from Bishop Jackson, stating that they had no knowledge of Bishop Messiah's lack of visitation and supervision. Bishop Messiah was warned by the Episcopal Committee and thus was expected to govern his duties responsibly and in a timely fashion to correct his lack of attendance and supervision. He did not correct his actions.

The majority conveniently does not address that the same authority exercised by the Council of Bishops in using "for the good of the church" to recommend its removal of Bishop Messiah, is the same authority Bishop Messiah is granted by the *Discipline* to exercise supervision of his episcopal district. This dispensation of power exists in order to allow changes to occur so that consistency and accountability for both positive and negative situations are used.

The concept of appointments in African Methodism lies within the gravamen of the itineracy. Itinerant means to travel. The orders of an itinerant elder are fully understood to be one that the appointee agrees to go and perform with Godly wisdom, the execution of one's required and expected duties. The vows are non-negotiable.

An analysis of Bishop Messiah's failure to supervise and govern the areas of controversy on the continent of Africa is troubling and problematic. The majority opinion seems to conclude that Bishop Messiah's reasoning for failure to conduct any business, accountability and supervision on a consistent basis is justified and thus, he should not be removed "for the good of the church" by the Council of Bishops. We disagree.

Bishop Messiah had the opportunity to avail himself of various tools and communication skills to ensure that his ecclesiastical duties and doctrine expectations of African Methodism were fulfilled. In the 21st Century, video conferring, cellular phones, emails and texting technology were ample tools to at least provide some loose form of communications and direction. The traditional Methodist system also provided for the governing and control of an episcopal district through the use of presiding elders and pastors. The record is void as to Bishop Messiah's use of the available tools and traditional systems. Jesus in a parable in Matthew 18:12 talked about the good Shephard leaving the flock of ninety-nine and going to find the one. Bishop Messiah's failure to do so is unacceptable. He was tasked with servicing the entire episcopal district. Partial service of the Episcopal District was inexcusable and non-compliant to his duties as required by the *Discipline*.

The majority opinion gives Bishop Messiah credit for serving the vast amount of the episcopal district for which he was appointed and inexplicably took his word that there was unrest, and danger and Ebola health concerns without him providing factual material documents to verify his assertions. The majority opinion defies the logic of the expectation. The amount of his actions in the other parts of his episcopal district simply does not excuse the existence of dereliction of his duties to the affected areas of the controversy.

The majority opinion fails to enforce the positive law of the church and ultimately is a disservice to Methodism. Conversely, if pastors of an Annual Conference did not visit their churches, nor manufactured supervision, or control and failed to account for memberships, appointments and money, the presiding prelate of that Episcopal District and Annual Conference would have exercised disciplinary and remedial actions for the good of the church and to maintain control. In this case, the majority has failed to properly see and address the infestation that would occur if such actions were left unpunished and tolerated throughout the connection and the African Methodist Episcopal infrastructure. If allowed, the trickledown effect of stewards, trustees, class leaders and component heads adopting such irresponsible and lackadaisical attitudes, would doom the effectiveness of the African Methodist Episcopal Church. Bishop Messiah failed to produce official documents that supported his purported restriction of travel to the Annual Conference and effected areas in question. He did not produce accurate accountability of monies allegedly held for the conferences at issue. This stands true, even if there was a period of time Bishop Messiah could not travel; it was not the entire time of his tenure as Presiding Bishop of his Episcopal District.

Finally, the trite and noninformative responses by Bishop Messiah to the Grievance Committee lacked the urgency of solution given the egregiousness of the circumstances. Such nonchalant responses give us some concern. Bishop Messiah was previously warned by the Episcopal Committee and given "grace". Subsequently, he had been recommended by the Grievance Committee and adopted by the Council of Bishops, that he be removed from his assignment. The Council of Bishops recommended that he be removed from this appointment because of the subsequent further infractions "for the good of the church." The Episcopal Committee for the same actions, had given Bishop Messiah grace, yet he repeated the same actions again. Although God's grace is unlimited, repetitive infractions have to be addressed in order to maintain consistency and structure.

Bishop Messiah responses to the Grievance Committee of the Council of Bishops are insufficient at worse and trite at best. The burden of proof remains on the appointee to show that he or she has faithfully discharged the duties assigned by the Episcopal appointment. Bishop Messiah's responses that his actions of no supervision are in the report are simply nonresponsive. His responses seem to suggest that if he did not mention any activity of supervision and control that the silence in response from the Council of Bishop's report is equivalent to acquiescence. It is simply a flawed assertion. All duties are expected and mandatory to be performed according to our *Doctrine and Discipline*. It does not provide for an excuse. Bishop Messiah replies to the Grievance Committee, blatantly suggest that their failure to catch his malfeasance in the report amounted to acceptance and approval of his conduct of lack of supervision and control. Bishop Messiah's logic is not cohesive and flies in the face of the positive law of the church. The majority opinion failed to address that Bishop Messiah's previous warning by the Episcopal Committee and its act of giving grace for a new start was totally dismissed by Bishop Messiah by his continuing subsequent acts of failure to re-conform his duties to the expectations of the *Doctrine and Discipline* of the African Methodist Episcopal Church.

Such continued malfeasance becomes willful and wonton and required immediate action to restore order. Whether it is one member or thirty-five thousand members that were lost it is immaterial, if the vows or the sacred trust of the episcopacy is violated. In this matter, it has been violated and the Council of Bishops required disciplinary action.

For all the aforementioned reasons and the positive law of the African Methodist Episcopal Church, we respectfully **DISSENT** and believe that the ruling of the Counsel of Bishops to remove Bishop Messiah "for the good of the church" should be upheld.

**No. 2016-2020-47**

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

**PETITION FOR RECONSIDERATION AND DECLARATORY DECISION re JUDICIAL COUNCIL DECISION NO. 2016-2020-46 IN THE MATTER OF BISHOP WILFRED JACOBUS MESSIAH'S APPEAL OF THE DECISION OF THE COUNCIL OF BISHOPS**

Per Curium opinion of the Judicial Council.

## HOLDING

The Petition for Reconsideration is hereby DENIED.

## PARTIES

The Petitioner is Bishop Jeffery N. Leath ("Petitioner" or "Bishop Leath"), Presiding Prelate of the Thirteenth Episcopal District of the African Methodist Episcopal (AME) Church and member of the Council of Bishops (COB) and a member of its Grievance Committee. Bishop Leath filed this Petition in his personal capacity as a member of the AME Church and as a member of the COB.

## ANALYSIS AND DISCUSSION

In the Matter of Bishop Wilfred J. Messiah No. 2016-2020-46, the Judicial Council reviewed Bishop Messiah's request for a reversal of the COB's decision to remove him as Presiding Prelate of the 17th Episcopal District of the African Methodist Episcopal Church. The Judicial Council found that the decision of the COB was not satisfactorily supported by the record and granted Bishop Messiah's appeal ---three members of the Judicial Council dissented. The *Discipline,* Part XI, Section III, F(5)(c), page 172 states: "If the decision by the Council of Bishops for the removal or transfer of a bishop is appealed, the decision shall not become effective unless the Council of Bishops is sustained by the Judicial Council."

Bishop Leath filed the instant Petition for Reconsideration asking the Judicial Council to reconsider and to reverse its decision in the above captioned matter. In support of his request, Bishop Leath raises three issues of concern:

I. Judicial Council's scope (standard) of review;
II. Record upon which the Judicial Council based its decision; and
III. Definition of *for the Good of the Church*.

I. Scope (Standard) of Review

As was his undeniable right granted to him as a Bishop and as a member of the AME Church, Bishop Messiah appealed the decision of the COB which would have removed him from the episcopal district to which he was assigned by the General Conference. The *Discipline,* Part XI, Section III, F(5)(a), page 172 provides: "On the appeal of at least one bishop, the Judicial Council *shall review any decision* made by the Council of Bishops to remove a bishop from the episcopal district to which assigned by the General Conference." In addition, the *Discipline* at page 366 states: "The right to appeal to the Judicial Council is exclusively granted to any member of the AME Church, and any rules or regulation pertaining to same in conflict with this provision are hereby expressly repealed."

The petition of Bishop Leath states that a review by an appellate court focuses on process and procedure. The petition proffers that the scope of review of the Judicial Council is limited to ensuring adherence to the correct process and procedure and that no further review is appropriate. The Petitioner avers that it is **not** the role or within the purview of an appellate court to assess the rightness or wrongness of a decision.

The scope or standard of review refers to the right to have an issue reviewed on appeal. There is nothing in the *Discipline* which limits review of a decision to procedure/process. Petitioners may not always note specific grounds for appeal. While there is a fundamental right to due process; i.e. a meaningful opportunity to be heard, a review of the record might include procedural aspects, such as, due process, bias, or a transparent methodology. In addition, the "body of evidence" may be evaluated in terms of relevance or reliability but could include such things as substantive errors and consistency.

Bishop Leath also argues that the *standard* was not met, in part, because the standard was not known. This is not the only matter of this nature to have come before the COB nor the first to be appealed to the Judicial Council. In addition, the General Counsel of the AME Church is available to the COB for guidance on legal matters and is the appropriate body to so advise. However, for informative purposes we submit the following:

The scope or standard of review centers on the *type of decision made*. When a body makes a decision of fact where evidence may be disputed or contested that decision is reviewed to determine whether there was sufficient competent/reliable evidence to establish that fact or to reach a particular conclusion. When a body makes a decision of law the appellate court may make its own analysis or determination as to the correct application or interpretation of that law. With regard to a purely discretionary decision the appellate court must determine if the decision-maker abused its discretion or if its decision was arbitrary or capricious. Decisions often involve mixed questions, therefore, the application of a particular standard of review is determined by the specific issue, decision-maker, parties to the dispute and the procedural history of the matter on appeal.

In the context of appellate review, to sustain a judgement is to support, validate, approve or agree with a decision or ruling. As it pertains to the *Discipline*, if the decision of the COB to remove or transfer a bishop is appealed, the decision shall not become effective unless the COB is sustained by the Judicial Council. *Id*. 173. As a reviewing body, we must be convinced and sufficiently confident in the decision of the Bishop's Council, so as to sustain/affirm it.

II. The Record and Consideration of Materials for Review.

In the Petition for Reconsideration, Bishop Leath concludes that the scope of review is limited to procedure and therefore the review by the Judicial Council should be exclusively the record of the proceedings, i.e., the minutes submitted by the COB. The Petition for Reconsideration raises a concern that the findings of fact in our original adjudication include findings which were not in the minutes from the COB forwarded to the Judicial Council for its consideration. However, the matter came to us on appeal from Bishop Messiah and his evidentiary submissions became part of the record, as did the Response by the COB.

Sufficiency of the evidence is more of a qualitative analysis than quantitative analysis. We assess the record before us and make a concerted effort to avoid speculation. We may, from time to time, request one or both parties to supplement the record with additional information, but we are an adjudicatory body and not an investigatory body.

Since our ruling, the Judicial Counsel has been presented with a plethora of information as to what is now being cited as the basis of the decision of the COB. As such, the *record of the proceedings* submitted to the Judicial Council for our review was deficient and did not include critical facts upon which the COB actually based their decision. It is unfair to the original Petitioner and wholly improper for the Judicial Council to now consider matters presented in the Petition for Reconsideration and elsewhere that were not previously made part of the record, particularly if that information was available to the COB, but not submitted during the pendency of the proceeding.

III. *For the good of the church*

The *Discipline*, Part XI, Section III, F(3), page 172, states, "The Council of Bishops shall hear complaints and petitions against any one of its members, and shall have the authority, by a two-thirds (2/3) vote of the Council of Bishops, to remove or transfer a bishop from a district, or give such directions as their judgment deems best for the good of the Church."

For the good of the church? The term appears in four distinct places in the *Discipline*: 1) relative to the local church and pastor's removal of a stewardess 2) relative to a pastor's removal of class leaders 3) relative to a Bishop's ability to make changes in appointments and 4) relative to the COB's authority to remove or transfer a Bishop from a district or give such direction as their judgment deems best. While the term is widely used it is not defined in the *Discipline*. What is or is not *for the good of the church* has largely been determined on a case by case basis and depends wholly on the facts and circumstances, that is to say, the details surrounding a situation or that which causes something to occur. The *Discipline* allows removal of an individual from their assigned position in exceptional, unusual or atypical situations or circumstances.

Bishop Leath asks the Judicial Council if we would not agree that the protection of assets and proper care of members are for the good of the church? We agree that these as well as other factors could be considered for the good of the church. However, we note that these goals were not articulated and were not apparent from the record provided to the Judicial Council.

The record provides little information, as to how/why the church would be better served without Bishop Messiah, in his present capacity. Based on the information or lack thereof provided, the Judicial Council was not confident that adherence to the decision of the COB would do more harm than good. At a minimum, one should be able to articulate and support such a grave decision with sound reasoning and competent evidence such that a reviewing body might clearly understand the basis of such a decision and be convinced and confident, so as to enable it to affirm the decision. A bare conclusion is the weakest form of evidence, if it can be considered evidence at all.

## CONCLUSION

The Judicial Council in no way usurped the function of the Council of Bishops nor supplanted its judgment for theirs – *the majority ruling was based on the conclusion that the Council of Bishops failed to support their decision with sufficient evidence and therefore the Judicial Council was unwilling to sustain or/uphold their decision.* The record of the proceedings was deficient, and the Judicial Council was not given the opportunity to review critical facts upon which the Council of Bishops based their decision. Bishop Leath delineates facts and allegations in support of the removal of Bishop Messiah, much of which was not previously submitted for our review, even though available at the time of Bishop Messiah's appeal.

For the reasons stated herein, the Petition for Reconsideration of Bishop Jeffery N. Leath, is hereby DENIED and the decision of the Judicial Council is final.

Opinion rendered this 28th day of February 2020.

Per Curium
One-member Dissenting

**No. 2016-2020-48**

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

**RE: IN THE MATTER OF REV. DR. PATRICIA MITCHELL MARZETT**

Patricia M. Mayberry, President, renders the opinion of the Judicial Council.

## HOLDING

The Judicial Council DISMISSES the Petitioner's appeal for lack of jurisdiction. Petitioner failed to assert that a final decision was rendered by an entity empowered to do so.

The request for a declaratory decision is DENIED. Petitioner fails to specifically identify any provision, which falls within the parameters for the rendering of a declaratory decision.

## PARTIES

The Petitioner is Rev. Dr. Patricia Mitchell Marzett, Seventh Episcopal District, South Carolina Annual Conference. The Respondents are Bishop Samuel Green, Presiding Prelate of the Seventh Episcopal District, Rev. Dr. Jon Black, Dean, Board of Examiners, and the South Carolina Annual Conference Board of Examiners.

## JURISDICTION

As it pertains to appeals, the jurisdiction of the Judicial Council is provided in the 2016 *Discipline*, Part XVI Judicial Administration, Section XVI, The Judicial Council, Paragraph A, Jurisdiction, page 361 and states:

> The jurisdiction of the Judicial Council shall relate to and be restricted to (except as may be set under Duties" hereinafter set out) all final appeals from any adverse decision by any bishop, board, commission, group, pastor, or any other regularly constituted party or body empowered to make a decision which affects the right of any member or Church body of the AME Church.

As it relates to a declaratory decision, the jurisdiction of the Judicial Council is provided in the 2016 *Discipline*, Part XVI, Section XVI, The Judicial Council, Subsection I Duties, paragraph 10, page 365 and states:

> When the General Conference shall have passed an act or legislation that appears to be subject to more than one (1) interpretation, or when a paragraph or paragraphs of the *Doctrine and Discipline of the African Methodist Episcopal Church* seem to be of doubtful meaning or application … 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.

## ISSUES

I. Whether Petitioner received a final decision pertaining to her qualifications or eligibility for ordination as an Itinerant Elder appealable to the Judicial Council?

II. Whether Petitioner properly raised any provision(s) of the *Discipline* that appears to be subject to more than one application or interpretation or is of doubtful meaning or application to warrant a declaratory decision by the Judicial Council?

## STATEMENT OF FACTS

1. On or about June 20, 2020, Petitioner filed an appeal with the Judicial Council.

2. Rev. Marzett's appeal stems from a letter from her pastor, Rev. Dr. Lawrence Gordon, dated May 14, 2020 to the South Carolina Annual Conference Board of Examiners recommending she be retained in the fourth-year class.

3. In the appeal, Petitioner claims no provision exists in *the Doctrine and Discipline of the African Methodist Episcopal Church, 2016* mandating she possess a Master of Divinity degree, to be ordained an Itinerant Elder.

4. The South Carolina Annual Conference convenes on September 17, 2020. The Board of Examiners will present its recommendations for action, regarding ministerial ordinations, during the Annual Conference. Only the Annual Conference possesses the authority to accept or reject the recommendations of the Board of Examiners.

## DISCUSSION

In her appeal, Petitioner alleges she should be ordained an Itinerant Elder. Petitioner fails to indicate that the Board of Examiners will present its recommendations for ordination to the South Carolina Annual Conference scheduled to convene on September 17, 2020. At the present time, no final decision has been issued by the South Carolina Annual Conference, the body with proper authority to act upon the report of the Board of Examiners. Petitioner prematurely complains about a contemplated action.

For the Judicial Council to have jurisdiction, the matter must be a final decision. The appeal by Petitioner constitutes a premature action for which the Judicial Council lacks any jurisdiction. Based on these pertinent facts, finding itself without jurisdiction, the Judicial Council must dismiss Petitioner's appeal.

As to the declaratory decision, Petitioner neither presented nor raised any portion of the *Discipline* she believes to be doubtful in meaning or open to more than one interpretation. When one seeks a declaratory decision, the burden rests with the individual to present facts, supporting documentation and pertinent evidence demonstrating the existence of a conflict warranting a ruling by the Judicial Council. The conflict alleged must be specific and detailed. The Judicial Council should not be forced to guess or speculate as to the portions of the *Discipline* giving rise to a declaratory decision. Under these circumstances, the Judicial Council finds that no issues exist for the rendering of a declaratory decision.

## CONCLUSION

The Judicial Council finds the matter presented by Petitioner is premature. The Judicial Council lacks jurisdiction to address the issue raised. Therefore, the matter is DISMISSED without prejudice.

The Judicial Council finds the requirements for the issuance of a declaratory decision have not been met. Therefore, the Request for a Declaratory Decision is DENIED.

Opinion rendered this 1st day of September 2020.

PATRICIA M. MAYBERRY
President

Concurring: Judge Tania E. Wright, Judge Derek Anderson, Judge Thomas L. Bess, Judge Vernon R. Byrd, Judge TaShun Bowden-Lewis, Judge Warren Hope Dawson and Judge Eduardo K. Curry

**No. 2016-2020-49**

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

**Re: IN THE MATTER OF ALFRED S. GOLIATH**
**REQUEST FOR DECLARATORY DECISION**

Judge Tania E. Wright and Judge Derek Anderson deliver the opinion of the Judicial Council.

## HOLDING

The Judicial Council DENIES Petitioner's request for a declaratory decision.

## PARTIES

The Petitioner is Alfred S. Goliath hereinafter "*Petitioner*." Petitioner states that he is the former President of the Namibia Conference Lay Organization (2002-2008) also the former 15th Episcopal District Lay President (2008-2016) and currently holds the office of Advisor to the Connectional Lay Organization (CLO) President.

## JURISDICTION

The jurisdiction of the Judicial Council is provided at page 365 of *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*") at Part XVI, Section XVI, Paragraph I (10) which provides:

> When the General Conference shall have passed any act or legislation that appears to be subject to more than one (1) interpretation, or when any paragraph or paragraphs of The Doctrine and Discipline of the African Methodist Episcopal Church seem 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 that appears to be subject to more than one (1) interpretation.

## STATEMENT OF ISSUE

Whether Part XI. Duties and Authority of Bishops and General Officers, Section I. Active Bishops, Paragraph D (2) at page 167, of the *Discipline* which reads "In no case shall any bishop be assigned to the same episcopal district for more than two consecutive quadrenniums" is subject to more than one interpretation or is of doubtful meaning or application?

## ANALYSIS AND DISCUSSION

Petitioner surmises that the postponement of the General Conference has resulted in bishops who were serving their second consecutive assignment to their Episcopal Districts acting in contravention to "the provisions of the *Book of Discipline* and do not have the legitimacy nor the authority to do so as the discipline unequivocally states *in no case*." The Petitioner further argues that the bishop cannot then fulfill the obligations relative to Part XIV, Section II. The Annual Conference, paragraph C(4), page 267 (presiding over the annual conferences) in that the bishop's term has "lapsed." In addition, Petitioner complains that holding a virtual Annual Conference is in stark contrast to paragraph G(6) at page 270.

After careful review of Petitioner's queries, we find that the legislation at issue does not appear to be subject to more than one (1) interpretation, nor of doubtful meaning or application. The Episcopal Committee makes an assignment of bishops subject to the approval of the General Conference as provided in Part XI Duties and Authority of Bishops and General Officers, Section I. Active Bishops, Paragraph D (1) at page 167, of the *Discipline*. At, Section I, Paragraph G(1)(g), page 255 the *Discipline* further states:

> The Episcopal Committee shall make the assignment of bishops, subject to the approval of the General Conference. A bishop may be assigned to succeed himself or herself once, but in no case shall a bishop be assigned to any district for more than two consecutive quadrenniums.

Nothing in the *Discipline* states that an appointment of a bishop to any Episcopal District "lapses." The Episcopal Committee has not made any further assignments of bishops since the General Conference of 2016. The bishops, serving their second subsequent appointment to an Episcopal District have not been "reappointed' to their Episcopal Districts in contradiction with the *Discipline*. Because of a world-wide pandemic the bishops have maintained the *status quo* and will continue to serve in their current assignment until reassigned. As such, a bishop's duties and responsibilities and the authority to carry them out is unchanged. Also, due to the world-wide pandemic, travel restrictions and limitation on meeting sizes, being *present and/or presiding* at an Annual Conference may necessarily be in stark contrast to that to which one may be accustomed.

## CONCLUSION

Part XI. Duties and Authority of Bishops and General Officers, Section I. Active Bishops, Paragraph D (2) at page 167, of the *Discipline* which reads "In no case shall any bishop be assigned to the same episcopal district for more than two consecutive quadrenniums" is not subject to more than one interpretation and is not of doubtful meaning or application. There has been no violation of the stated provisions. A bishop's assignment and the authority to perform the attendant duties and responsibilities continues until reassigned.

Opinion rendered this 28th day of December 2020.

Tania E. Wright, Vice-President

Derek H. Anderson, Secretary

Concurring: Judge Patricia M. Mayberry, Judge Tania E. Wright, Judge Thomas L. Bess, Judge TaShun Y. Bowden-Lewis, and Judge Warren Hope Dawson and Judge Eduardo K. Curry

Judge Vernon R. Byrd and Judge Glenda Hodges did not participate in this decision.

**No. 2016-2020-50**

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

**Re: IN THE MATTER OF DR. HERCULES MILES JR REQUEST FOR DECLARATORY DECISION**

Per Curium Decision of the Judicial Council of the African Methodist Episcopal Church

## HOLDING

The Judicial Council DENIES Petitioner's request for a Declaratory Decision.

## PARTIES

The Petitioner is Dr. Hercules Miles, Jr. hereinafter ("*Petitioner")*. Petitioner is a retired General Officer of the African Methodist Episcopal Church (AME).

## JURISDICTION

The jurisdiction of the Judicial Council is provided at page 365 of *The Doctrine and Discipline of the African Methodist Episcopal Church 2016*, ("*Discipline*") at Part XVI, Section XVI, Paragraph I (10) which provides:

> When the General Conference shall have passed any act or legislation that appears to be subject to more than one (1) interpretation, or when any paragraph or paragraphs of The Doctrine and Discipline of the African Methodist Episcopal Church seem 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 that appears to be subject to more than one (1) interpretation.

## STATEMENT OF ISSUES

I. Does the General Conference Commission have the authority to postpone the General Conference due to the COVID-19 pandemic?

II. Does postponement of the 2020 General Conference postpone the retirement date of Bishops because of the change in the General Conference of 2020?

III. Does postponement of the 2020 General Conference change the retirement date for those Bishops who will be seventy-three (73) years of age before July 15, 2021? (51st Quadrennial currently scheduled for July 6-11, 2021)

IV. Does postponement of the 2020 General Conference change the retirement date for General Officers?

V. Does postponement of the 2020 General Conference change the deadline for submission of legislation and candidacy for election qualifications?

## ANALYSIS AND DISCUSSION

### AUTHORITY TO POSTPONE THE GENERAL CONFERENCE

The *Discipline* Part XIV Conferences, Section I. General Conference, Paragraph E(1), at page 252 states: "The General conference shall meet perpetually once in every four(4) years between June 15 and July 15 for a period not to exceed ten (10) days."

The composition and duties of the General Conference Commission are set forth at Part XIV. Conferences, Section I. General Conference, Paragraph J (1) at pp 260-261:

> 1. General Conference Commission a. *Composition* The General Conference Commission shall consist of four (4) bishops nominated by the Council of Bishops and elected by the General Conference; two (2) representatives (one (1) lay and one (1) ministerial) from each episcopal district, to be nominated by ballot by the District delegation and elected by the General Conference; six (6) at-large representatives—three (3) lay and (3) ministerial of whom at least one (1) must be a young adult ages eighteen (18) to thirty (30)—to be nominated by ballot at the General Conference; the General Secretary, and the Chief Financial Officer of the Church…c. *Duties* 1) Advance Selection of General Conference Site The General Conference Commission shall select the site of the General Conference of the AME Church at least twelve (12)

> years in advance of its convening. Preliminary planning would take place during the ensuing twelve (12) years, and the dates of the General Conference will be between June 1 and August 31, excluding first (1st) Sundays and holidays. Clauses that address acts of God should be considered…

We note that the dates of the General Conference under this provision range from June 1 to August 31 as opposed to that in Paragraph E (1), which indicates June 1 to July 15. We also note a reference to an Act of God Clause which presumably the planners should consider when contracting for conference accommodations. There does not appear to be any further reference to possible emergency situations which might affect the date time or location of the General Conference.

The General Conference Commission is specifically tasked with selecting hosts, locations, meeting facilities and hotel accommodations with consideration for costs accessibility and "other such matters as in its judgement will contribute to the proper planning for and entertainment of the General Conference." *Discipline*, Paragraph J(1)(c)(2) at page 260. Nowhere in their duties do we find expressed authorization *for this body or any other* to postpone the General Conference outside of the prescribed dates. However, there is implicit in their duties the ability to make change and/or cancel arrangements. And, when faced with a world-wide pandemic, restricted travel and uncertainty as to the availability and/or safety of the meeting site, the General Conference Commission made changes in its arrangements, ostensibly in conjunction with the Council of Bishops, effectively postponing and rescheduling the General Conference. As such, it would seem prudent for the General Conference to designate the body responsible for making and/or ratifying such action should an emergency of this magnitude again arise.

## POSTPONEMENT OF THE 2020 GENERAL CONFERENCE EFFECT ON RETIREMENT OF BISHOPS

The General Conference Commission's postponement of the 2020 General Conference does not postpone the retirement date of the Bishops of the African Methodist Episcopal Church.

Part XI, Sec. E. Retirement Date, page 167 of the *Doctrine and Discipline of the African Methodist Episcopal Church* says:

> Upon election and consecration, the General Conference shall notify a bishop of the definite date of his or her retirement. That date shall be final and not changed regardless of changes in the dates of the General Conference or information submitted by the bishop or other sources.

The *Discipline* 2016 of the Church is clear and unequivocal. Once the General Conference assigns the date of retirement of a bishop, the date may not be modified. However, the real question involves what constitutes a retirement? In practice, the bishop submits a request for retirement, there is a recommendation by the Episcopal Committee, and the General Conference votes on the recommendation. *See*, Combined Minutes of the African Methodist Episcopal Church, 50TH

Quadrennial Session of the General Conference, Volume Two, pp 61-62 and Volume One, pp 312-313. A copious search of the *Discipline* does not specifically explain the process of retiring Bishops. However, it's clear all authority to govern rest solely in the purview of the General Conference of the African Methodist Episcopal Church. Any such detour from its authority lies within the hands of the legislation and decision of the General Conference.

Per the *Discipline* the Episcopal Committee sets the date of retirement and upon election and consecration the bishops are notified of their date of retirement and the date is final and not subject to change. However, the provision for retirement is not self-executing nor is the recommendation and acceptance by the General Conference a mere formality. Retirement is effected only upon recommendation by the Episcopal Committee and acceptance by a duly convened General Conference.

## POSTPONEMENT OF THE 2020 GENERAL CONFERENCE EFFECT ON RETIREMENT OF BISHOPS REACHING SEVENTY-THREE (73) YEARS OF AGE ON OR BEFORE JULY 15, 2021

The postponement of the 2020 General Conference to 2021 does not change the retirement date for Bishop's who will be seventy-three (73) years of age before July 15, 2021.

Part XI, Sec. E., pp167-168 states:

> Bishops shall be retired at that General Conference when the Bishop's seventy-third (73rd) birthday is on or before July 15 of the General Conference year.

Any Bishop whose seventy-third (73rd) birthday fell on or before July 15 of the 2020 General Conference year is mandated to retire at the 51st Quadrennial Session of the General Conference. Dates of retirement are determined at the time of the election and consecration of the bishop and cannot be reconfigured or otherwise changed due to the rescheduling of the 2020 General Conference. To conclude otherwise would result in a claim of detrimental reliance by those given retirement dates of 2024. It would be punitive to impose the July 15th rule on anyone outside of the 2020 retirees because we are scheduled to have a General Conference in 2024. This premise remains consistent with our discussion on the postponement of the General Conference and its effect on the retirement of Bishops. The Judicial Council will not seek to disturb or impact the dates established for any Bishop scheduled to retire in 2024.

## POSTPONEMENT OF THE 2020 GENERAL CONFERENCE EFFECT ON RETIREMENT OF GENERAL OFFICERS

The *Discipline* at Part XI Section IV, Paragraph (J) (1) and (2) at pp 193-194, states as follows:

> Retirement 1. It shall be mandatory that all General Officers of the African Methodist Episcopal Church who will become seventy-five (75) years of age, either prior to or within two (2) years following the adjournment of a General Conference, be retired from active service at that General Conference and, therefore, become ineligible for reelection to office. 2. All General Officers, immediately upon election, shall file with the General Conference an official copy of his or her birth certificate or legal proof of birth date. Before a General Officer receives his or her commission to office, he or she shall be officially informed in writing by the General Board of the effective date of his or her retirement.

The language is clear and unequivocal as to the calculation of the retirement dates for General Officers. The Judicial Council is not aware of any General Officer whose date of retirement could potentially be changed or otherwise impacted by application of this provision, relative to the postponement of the General Conference. If so, that General Officer should in fact be a named party to the Petition for Declaratory Decision and would be entitled to present briefs and arguments in support of their position. *Discipline*, Part XVI, Section XVI, Paragraph I (11) at page 365. The General Officers must be able to rely on the mandated dates of retirement given them at the time of their election.

## POSTPONEMENT OF THE 2020 GENERAL CONFERENCE DEADLINE FOR SUBMISSION OF LEGISLATION AND CANDIDATE FILINGS

It is our position that all deadlines for filing legislation and declaring to file for any elected position in the African Methodist Episcopal Church expired before the pandemic occurred in this year of 2020. According to the *Discipline* and our practice, all who aspire for an elected position must have declared prior to 180 days before the start of the scheduled General Conference. In addition, all legislation must have been submitted within 90 days of the year of the start of the scheduled General Conference. *See*, *Discipline* 2016, Part XIV, Conferences, Section 1 General Conference, subsection G. General Conference Committees, subsection 6, Revisions Committee, paragraph c, page 57. In both instances, any candidate or legislation that fail to fall within the mandated parameter/deadline are excluded from consideration. We do not find that the emergency of the COVID 19 pandemic interfered with the mandated deadlines. Therefore, we find the deadlines should not be extended.

## CONCLUSION

In conclusion, we hold that the Petitioner's request for a Declaratory Decision is DENIED. We find the pandemic created a necessity which made it necessary for the General Conference Commission to postpone the 51st Quadrennial Session of the General Conference of the AME Church. The 51st Quadrennial Session of the General Conference was initially scheduled for July 8-15, 2020. Any concerns regarding the postponement should have been raised prior to the initial dates established for the 2020 General Conference.

The postponement of the 2020 General Conference, which resulted from the pandemic, does not create changes in the retirement dates of Bishops or General Officers, but results in the status quo being maintained, until the convening of the 51st Quadrennial Session of the General Conference of the African Methodist Episcopal Church. Further, we find the retirement date remains the same for those established dates for the year 2024. The Judicial Council lacks any authority to disturb those dates. Further, we find the previously established deadlines for legislation and filing for candidates seeking elected positions within the AME Church shall remain intact.

Opinion rendered this 30th day of December 2020.

PER CURIUM

Judge Vernon R. Byrd and Judge Glenda Hodges did not participate in this decision.


AFRICAN METHODIST EPISCOPAL CHURCH
JUDICIAL COUNCIL