

## JUDICIAL COUNCIL

### ORAL ARGUMENT

ON BEHALF OF THE REV. EDWARD JOHNSON

OCT 27, 2005

The matter before us is critical. Its implications are profound. A wrong-step here will deconstruct pastoral ministry as we have known it for over 200 years. Clergy and laity alike from Connecticut to California are anxious about its outcome.

#### FACTS AND PROCEEDINGS

Recall with me these salient facts:

- The Rev. Edward H. Johnson was the senior pastor of South Hill UMC for six years. In his 24 years of exemplary service, there have been neither complaints, nor unwillingness nor inability to fulfill UM ministry. The South Hill UMC people deeply love him.
- In the fall of 2004, an individual began attending South Hill UMC. Having been an inactive member at South Hill Baptist Church, the individual expressed an interest in returning. Rev. Rosenfeld lay down conditions for his return. The individual refused to comply with them. Rev. Johnson and the church welcomed him like any other person. The individual took communion, and sang in the choir.

- On Dec. 8, 2004, associate pastor, Rev. Lee Warren, communicated with District Superintendent, Anthony Layman, and Rev. Johnson about the person's desire to become a member of South Hill UMC.
- In January 2005, Rev. Johnson continued to express Christ's grace and acceptance to the membership candidate. He began his usual pastoral practice of holding membership classes. He met with him six times, called him on the phone, took homemade raisin bread to his shop, and offered to be the membership candidate's 'spiritual friend'.
- On January 26, 2005, Rev. Layman discussed the membership candidate's membership request with Rev. Johnson. Rev. Johnson expressed apprehension about the membership candidate behavior in the Baptist and Presbyterian churches. Rev. Layman reminded him homosexuals are to be received within the church.
- On January 28, after consulting Bishop Charlene P. Kammerer, Rev. Layman gave Rev. Johnson an ultimatum. It was his obligation to receive into membership 'any person who can receive the vows and affirm them'.
- In February meetings with the membership candidate, the membership candidate acknowledged to Rev. Johnson his on-going homosexual practice and his intention to continue having same-sex sex.

- He told the membership candidate he would regretfully have to postpone his membership candidacy until they worked through some issues. He remained his friend. After communicating his decision to Rev. Layman, Rev. Johnson received notice Rev. Layman was filing a judicial complaint against him citing ¶2702.e.
- After a supervisory meeting on March 9 in which Rev. Johnson had no advocate, Bishop Kammerer forwarded an ‘administrative complaint’ to the Board of Ordained Ministry, citing ¶362.2 ‘unwillingness or inability to perform ministerial duties’.
- After four hearings with Rev. Johnson, the Board of Ordained Ministry sustained the administrative complaint, submitting it to the annual conference clergy who upheld it in Executive Session on June 13, 2005.

Let me explain why we believe the evidence contradicts the administrative complaint against the Rev. Edward H. Johnson.

In Docket X, a question about the process was raised. Bishop Kammerer responded. The process was in order because it ‘is the prerogative of a bishop to determine which route the complaint will take.’ Having chosen administrative complaint, the facts must substantiate an administrative complaint. They do not. The facts show that the Rev. Johnson has not one time demonstrated by word or action any unwillingness

or inability to perform his ministerial duties. He welcomed the membership candidate, met with him, shared with him, instructed him, and offered to be his ‘spiritual friend’.

Rev. Johnson, to use the Board’s words, was failing to follow the direction of his bishop and district superintendent. **There is a fatal variance between the charge brought and the proof given. The Board’s findings do not support their conclusion and complaint.**

## ISSUES I

In Docket XI, the question is raised whether a bishop or district superintendent has the authority to order an elder appointed to a local church to receive into membership a person who acknowledges and impenitently practices homosexuality but says he or she is able to receive the vow.

*The answer is **no!***

Indeed, what authority does the bishop have? Considerable.(¶416.1,404).

The bishop tells elders where to go. Elders must go. Rev. Johnson has faithfully gone as sent for twenty-four years.

*The Discipline* identifies the Bishop’s responsibilities in ¶414, ¶415, & ¶416, ‘to make and fix the appointments’. No authority is given a Bishop to take charge of the ordering, management and ministry of a local church.

What about the District Superintendent's authority? The key ¶423.13, oft quoted by the Board of Ordained Ministry, states two tasks of the district superintendent's supervision. One, 'to see that the provisions of the *Discipline* are observed'. Bishop Jack M. Tuell says this 'means that if a local church is planning to do something that is not in accord with the *Discipline*, the superintendent has the duty and the responsibility to see that its provisions are abided by.'<sup>1</sup> The second task is to interpret and decide 'all questions of Church law'. In the case of Rev. Johnson, no question of law was generated by South Hill UMC. (¶2718.1)

A district superintendent and bishop are not judicially authorized to take charge of or dictate absolutely an action relative to membership to the administrative officer who has been put in charge by the Constitution in ¶54 (¶340.3). In speaking of the superintendent's authority, Bishop Tuell says, 'It is clear that he or she has no authority to tell a local pastor what to do. The pastor is the pastor *in charge* and responsible for what happens in the church.'<sup>2</sup> No one here would suggest the Bishop or a District Superintendent has rightful authority to tell the pastor what sermon text to take, what sermon to preach, or tell the pastor who to visit, counsel,

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<sup>1</sup> Jack M. Tuell, *The Organization of The United Methodist Church: Revised 2002 Edition* (Nashville: Abingdon Press, 2002), p 108.

<sup>2</sup> Tuell, *The Organization of The United Methodist Church*, p. 108.

evangelize, baptize or marry or, dare I say, who must be brought in as a member.

Bishop Kammerer and Rev. Layman have overreached their authority. An established principle in law holds that subordinates in an organization are not bound to obey a superior's command to perform an illegitimate action.

Ground for a complaint resides not in Rev. Johnson's failure to comply with the superintendency's interpretation of *The Discipline* simply because **they** demand it. Contrary to the Bishop's statement, Rev. Johnson rejects, not *The Discipline*, but the Bishop's interpretation of *The Discipline*. Authority for the complaint resides only in the belief that Rev. Johnson has failed to uphold *The Discipline*. *The distinction must be made between disobedience to the superintendency on a matter of local church ministry, and disobedience to Church law.*

## ISSUE II

To answer the question whether Rev. Johnson was disobedient to church law by postponing membership to an avowed, impenitently practicing homosexual, consider these issues: (A) Whether *The Book of Discipline* distinguishes between homosexual orientation and practice? (B) Whether *The Discipline* provides any distinction between a clergy and laypersons relative to the self, avowed practice of homosexuality. Bishop Kammerer says, 'The prohibition of gay persons in (sic) United Methodist Church

applies to clergy, not to lay persons...’ Firstly, let it be underscored, Rev. Johnson drew the line not at homosexual persons, but homosexual practice.

Secondly, *The Book of Discipline* distinguishes between homosexual orientation and practice. (§§304.2, 2702.1, and twice in 161.G) Bishop Kammerer and the Board of Ordained Ministry have applied a conception of homosexuality to Rev. Johnson’s situation that does not distinguish between sexual orientation and practice. Thirdly, there is Judicial Council authority found in the concurring opinion of Decision #702 that there is indeed a difference between a homosexual person and a self-avowed practicing homosexual.

The bishop assumes the Church’s prohibition of self-avowed practicing homosexuality does not apply to lay persons. Therefore, it follows there is no prohibition against laypersons practicing homosexuality! Therefore, in her view, laypersons can practice same-sex sex and ‘repent of your sins’ simultaneously with perfect congruity.

For over thirty years, our General Conference has unwaveringly affirmed ‘sexual relations only...in the marriage bond’ and the practice of homosexuality is incompatible with Christian teaching’ (§161G). The context of §161.G shows the prohibition includes all the *laos*, clergy *and* lay. To argue otherwise is simply *not credible*. The statement ‘the practice of

homosexuality is incompatible with Christian teaching’ is the establishing premise of church law. (¶304.3 and in ¶2702.1)

The bishop says the ‘prohibition of gay persons’ applies not to lay persons. Really? *It is indeed to lay persons to whom it is applied.* Church law prohibits laypersons from becoming certified and ordained.

To expect one type of practice from clergy and another from the laity (a) denies the ‘priesthood of all believers’ and (b) promotes a double standard. All clergy receive their call as laity. For the Church to nurture lay members in discipleship one way only to renounce it to become clergy is logically absurd.

In addition, a membership candidate willfully practicing an action against church teaching could, upon joining the church, be exposed to the charge of ‘sexual misconduct’ or ‘immorality’.<sup>3</sup>

### ISSUE III

Does an elder appointed to a local church have any pastoral discretion in who is received into membership? **Yes!**

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<sup>3</sup> Also, ¶2702.1, which speaks of ‘immorality’ in connection with licensed or ordained clergy, defines ‘immorality’ as ‘not being celibate in singleness or faithful in a heterosexual marriage’.

Clearly, pastors have been given discretionary judgment by *The Book of Discipline 2004* to mediate membership. In my brief, I have sighted three such examples (§§216.1b, 226.1, & 222). The Church does not, and never has, left the adjudication of membership vows to the subjective determination of a seeking candidate. What church or organization does? . To argue as the Board of Ordained Ministry Chair Rev. Jeffrey Mickle that discretionary judgment ‘can lead to many abuses’ is fallacious argumentation.<sup>4</sup> The Roman Catholic Church knows having priests has lead to many abuses. It does not propose doing away with the priesthood. **Never has the Church made the membership candidate the final arbiter of his or her membership.**

Documentation shows through two centuries of our disciplinary heritage preachers have been given expressly discretionary authority to determine whether or not a person meets the threshold of membership as set forth in *The Book of Discipline*. This is an unarguable *fact of history*. The Rev. Mickle indicates he is not knowledgeable of this fact. Bishop Kammerer is dismissive of it.

## BAPTISM AND TRANSFER FROM OTHER DENOMINATIONS (§225)

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<sup>4</sup> The Rev. Jeffrey Mickle, A Brief, Fall 2005, p. 5.

A second sub-issue is whether any person who has been baptized in another Christian denomination who states he or she can take the vows, but who is actively and impenitently engaging in homosexuality can be denied membership. *Yes*, a person may be denied membership. One assumption surfacing throughout Rev. Johnson's hearings is inclusiveness demands no one be denied membership in our Church. ¶214 is often quoted. 'All people may attend its worship services, and become members in any local church in the connection (¶4)'. Indeed, ¶4 in the Constitution makes clear 'all persons...shall be eligible'. It does not say *all persons are entitled*. Our inclusiveness has its exclusiveness. We do have two conditions that exclude 3/4 of the world from Church membership: baptism and 'taking vows...'. Contrary to Rev. Mickle's argument, grace is not exclusive to membership. Grace is conveyed to members **and** non-members.

Bishop Kammerer wrongly implies the reception of a member from another denomination in ¶225 is in the imperative mood. It is actually in the subjunctive mood of possibility or permission. It says, 'may be received'.

Rev. Jeffrey Mickle argues this 'permissiveness' 'is not intended on behalf of the receiving church, but on behalf of the persons seeking to participate.'<sup>5</sup> This is a stretch. The verb 'may be received' is in the passive

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<sup>5</sup> Mickle, *Brief*, p. 4

voice. It shows the subject of the sentence, ‘member’, is not the actor but the *recipient* of the action of the Church.

One of three options for dealing with a transfer is to receive a transfer ‘by declaration of Christian faith’ and reaffirmation of one’s baptismal covenant.

When persons transfer from one denomination to another, it is an appropriate time for being held accountable to the baptismal covenant (§221 & 217). Pastors are ‘to encourage reaffirmation of the baptismal covenant (340.2.a.2). Therefore, in holding membership classes with the membership candidate, Rev. Johnson was not selectively harassing ‘one kind of person’, as he is accused. He was *conscientiously applying The Discipline*.<sup>6</sup>

#### TAKING THE VOW

During membership class, the membership candidate was neither willing to accept the principle of celibacy in singleness nor commit himself to it. Rev. Johnson rightly concluded the membership candidate was ‘violating the covenant and failing to keep the vows’ (§221).

Bishop Kammerer reprimands Rev. Johnson for ‘demanding that a gay man’s repentance be to not practice a gay lifestyle’ and for trying ‘to change the man’s orientation’.<sup>7</sup> The Rev. Mickle thinks repentance conflicts

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<sup>6</sup> The Rev. Howe O. Tom Thomas, Jr. *Docket XI: Review of Bishop’s Decisions of Law in the Virginia Annual Conference Related to the Authority of A Pastor Under ¶ 214 and ¶225 of the 2004 Discipline*, p. 6; Mickle, *Brief*, p. 5.

<sup>7</sup> Thomas, *Docket XI*, pp. 5, 6.

with justification by faith.<sup>8</sup> Bishop Kammerer and Rev. Mickle’s arguments assume place repentance *after* justification by faith. This is neither Wesleyan nor United Methodist. John Wesley argues in the standard sermon ‘The Way to the Kingdom’ (one of the United Methodist Church’s doctrinal standards) repentance precedes justifying faith. ‘Cease from evil and learn to do well...’ he says, ‘then I say unto thee... One step more and thou shalt enter in. Thou dost ‘repent’. Now, ‘believe the gospel’.<sup>9</sup> Our other doctrinal standards (Part II of our ‘Doctrinal Standards and Our Theological Task’ in ¶101, also Article XI in ¶103) confirm this, ‘God reaches out to the repentant believer in justifying grace’.

Contrary to, Bishop Kammerer’s interpretation, Rev. Johnson never tried to change a man’s orientation. He desired the change of a man’s practice. Both Bishop Kammerer and Rev. Mickle commit the logical fallacy of ‘definitional dodge’. On the one hand, they want us to assume the classical concept of repentance as the turning away from sin; yet, clearly, they mean by ‘repentance’ something that is not a turning away from sin. Huh? You mean, one who does not repent, cannot confess Jesus Christ, is a proud member of the Ku Klux Klan or the Man-Boy Love Association, or

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<sup>8</sup> Mickle, *Brief*, p. 6.

<sup>9</sup> John Wesley, *The Bicentennial Edition of the Works of John Wesley*, ed.-in-chief Frank Baker, Vol. 1: *Sermons I*: 1-33, ed. Albert C. Outler (Nashville: Abingdon Press, 1986), p. 229; see his whole argument, pp. 225-229.

thinks the United Methodist Church is the anti-Christ, *must* be received into membership. These analytically false statements are self-contradictory.

## CONCLUSION

In conclusion, Rev. Johnson was inclusive and pastoral in not refusing ministry to a self-avowed, practicing homosexual. In postponing membership, Rev. Johnson used pastoral, discretionary judgment properly informed by *The Book of Discipline*, given him by the Church, and affirmed by two hundred years of practice.

In every point, Rev. Johnson was obedient to *The Discipline* and Church law. If the Bishop's assumption is correct, that clergy must receive into membership any person who 'is able to receive the vow, affirm the vow and promises to fulfill the vow', regardless of his or her state of Christian commitment, then the character of our Church, to say nothing of the Christian gospel, is jeopardized and radically diminished.

Further, Bishop Charlene P. Kammerer's responses to the Questions of Law from the June 2005 Executive Session of the Virginia Annual Conference are based upon false premises, erroneous, disciplinary interpretations and mischaracterizations of the action of the Rev. Edward H. Johnson. They advance specious conclusions that do not rise to the level of

providing sufficient rationale and a clear-cut, judicial basis for the complaint.

If you agree, we ask you to reverse Bishop Charlene P. Kammerer's decisions of law, to declare the action of the Board of Ordained Ministry null and void. The proper action is to reinstate Rev. Edward H. Johnson to full connection with the annual conference with back pay and salary.

Thank you very much for your reasoned and prayerful attentiveness, and your commitment to our Church.

H. O. Tom Thomas, Jr.

Pastor, N. Mecklenburg Charge