

Bishop Jane Allen Middleton, Presiding New York Annual Conference

Bishop's Decision of Law II

(A decision of law made by a bishop in response to a written question during the 2016 annual conference session)

At the Clergy Session of the 2016 Annual Conference, the session had voted in a single vote by a vote of more than two-thirds of those present and voting to approve the 13 candidates for provisional membership and voted in a single vote by a vote of more than two-thirds of those present and voting to approve the 14 candidates for full membership as an ordained elder, same being all the candidates put forth by the Board of Ordained Ministry. After the voting, Rev. Steven M. Knutsen, an associate member without vote, requested a Decision of Law on four questions related to whether certain proceedings and procedures of the Board of Ordained Ministry were in accordance with the Book of Discipline's stipulations.

On approximately July 7, 2016, I published my Decision of Law ruling that the questions presented relate to proceedings and procedures of an independent Conference board that is not a subject upon which a decision of law can be made, and also in part because certain questions are hypothetical and out of order. My Decision was submitted to the Judicial Council as required by § 2609.6 of the Book of Discipline (2012) and appeared on the Council's fall calendar.

On October 28, 2016, the Council delivered Decision No. 1330. In its Decision, it affirmed my refusal to rule on questions three and four. But, the Council reversed my ruling on questions one and two holding they "are proper to rule upon, and the bishop cannot refuse to answer the questions."

Question 1: "Is the Conference Board of Ordained Ministry required to ascertain whether a candidate meets the qualifications for candidacy and ordained ministry, including whether or not she or he is exhibiting 'fidelity in marriage and celibacy in singleness' or is a self-avowed practicing homosexual?"

Answer: No, the Board of Ordained Ministry is not required to "*ascertain*" whether a candidate meets the qualifications for candidacy and ordained ministry, including whether or not she or he

is exhibiting “fidelity in marriage and celibacy in singleness” or is a “self-avowed practicing homosexual.”

The Merriam-Webster Dictionary defines “ascertain” as:

Definition of *ascertain*¹

1 *archaic* : to make [certain](#), exact, or precise

2 : to find out or learn with certainty

I have been unable to find any reference in the *Discipline* that requires Boards of Ordained Ministry to “find out or learn with certainty” whether a person is a self-avowed practicing homosexual. Rather, the process for approving persons for provisional membership², and as deacons in full connection³ and elders in full connection⁴ is a process of examination. In each of the cited paragraphs of the *Discipline*, the process of examination is described which includes the examination questions and the method.

The method is both written and oral examination. The questions include in each case: “. . . will you agree to exercise responsible self-control by personal habits conducive to physical health, intentional intellectual development, *fidelity in marriage and celibacy in singleness*, integrity in all personal relationships, social responsibility, and growth in grace and the knowledge and love of God.”⁵ (*Emphasis added.*) The examination process, which comes after an extensive period of study, experience and mentoring, is one of presenting the Disciplinary questions, the response of the persons under consideration, the careful listening to the written and oral words by the persons on the Boards conducting the examination, the review, measurement and evaluation of the record of the persons under consideration. In deliberating, the examination questions in & 330.5 of the *Discipline* “are guidelines for the preparation of the examination.”

The Annual Conference makes its decision by the vote of not less than 2/3 of the voting members of the Board and the Clergy Session of the Annual Conference as to whether the candidate meets the Disciplinary standards for ministry. "In our covenant we are called to trust one another as we recommend, examine, and elect candidates for the ordained ministry and

¹ From www.Merriam-Webster.com, “Ascertain,” downloaded 12/12/16.

² *Discipline* & 324.9

³ *Discipline* & 330.5

⁴ *Discipline* & 335

⁵ *Discipline* & 335(c)(3). See also & 324.9(o) & 330.5(c)(3)

conference membership."⁶ The verbs here are "recommend," "examine," and "elect." “. . . [T]he General Conference under Par. 15 of the Constitution has the power to establish standards, conditions and qualifications for admission to the ministry. Under Par. 37 of the Constitution, however, it is the Annual Conference, as the basic body of the church that decides whether those standards have been met. Reserved to it is the right to vote on all matters relating to the character and conference relations of its ministerial members and on the ordination of ministers.”⁷ In other words, it is the annual conference that decides whether to ordain an individual or not using a process of evaluation and discernment, not a process of ascertaining with certainty.

Nowhere in *Discipline* §§ 324.9(o), 330.5(c)(3) & 335(c)(3) does it say that the Board of Ordained Ministry must *ascertain* with certainty whether each person being examined is “a self-avowed practicing homosexual.” And, in the case of deacons and elders in full connection, there is another specific question which asks: “Provide evidence of your willingness to relate yourself in ministry to all persons without regards to race, color, ethnicity, national origin, social status, gender, sexual orientation, age, economic condition or disability.”⁸

This is not to deny that the Discipline states that if a person being evaluated is *known*, by extrinsic evidence or self-admission, to be a self-avowed *practicing* homosexual, they cannot be commissioned or ordained under the rules of the Discipline. See Judicial Council Decisions 542 and 1321. The question before me has to do with the process of the Board of Ordained Ministry. Ascertainment implies that the Board must conduct some form of investigation. This is not right. Rather, their role is measurement, evaluation and discernment based on their experience with and the responses of the person in process.

Question 2: “Can the Conference Board of Ordained Ministry legally recommend to the clergy session a candidate whom they believe to be a self-avowed practicing homosexual or otherwise in violation of the fidelity and celibacy standard?”

Answer: No, the members of the Board of Ordained Ministry cannot base their votes as to whether or not to recommendation a candidate on their “*beliefs*” about the person’s homosexuality.

The Merriam-Webster Dictionary defines “believe,” as:

⁶ Discipline & 310.2d, footnote 3, p. 228.

⁷ Judicial Council Decision 542.

⁸ Discipline §§ 330.5(c)(4) & 325(c)(4).

Definition of *believe*⁹

1. **a** : to consider to be true or honest <*believe* the reports> <you wouldn't *believe* how long it took>

b : to accept the word or evidence of <I *believe* you> <couldn't *believe* my ears>

2.: to hold as an opinion : [suppose](#) <I *believe* it will rain soon>

Voting on a candidate for ministry cannot be based on speculation about that person's sexuality. The word "believe" focuses on the state of mind of the person holding the belief: to consider, accept, hold as an opinion. This implies that when it comes to ordination, a Board member can jump to a conclusion without the existence of evidence upon which to base the opinion. For example, in the concurrence to Judicial Council Decision 1330, it is stated that "Given the uncontroverted statement that two of the candidates are self-avowed practicing homosexuals. . ." In my opinion, that is a jump to a belief of something that is not based on fact. To my knowledge, none of the candidates openly acknowledged that he or she is a self-avowed practicing homosexual.

Allegation that a person is a self-avowed practicing homosexual under the Discipline is a chargeable offense. *The Board of Ordained Ministry cannot judge a local pastor or provisional member guilty of a chargeable offense under the guise of "examining" their fitness for ministry!* As stated in my Answer to Question 1, the role of the Board members is measurement, evaluation and discernment based on their experience with and the responses of the person in process.

"While [the Council of Bishops call for "A Way Forward," recommending that General Conference defer all votes on human sexuality and refer this entire subject to a special Commission] is addressed to the legislative body of the Church and the Judiciary is not legally bound by it, the Judicial Council should not be perceived, albeit mistakenly, as working at cross-purposes with its co-equal branches. It will not discredit or detract from its guarded independence if a temporary hold on a non-urgent, highly controversial matter is taken."¹⁰

DECISION: Members of the Board of Ordained Ministry are not required to affirmatively initiate an investigation to ascertain the sexuality of candidates for ministry, nor can they base their votes on subjective beliefs and opinions about candidates not based on fact. Rather it is the

⁹ From www.Merriam-Webster.com, "Believe," downloaded 12/12/16.

¹⁰ Judicial Council Decision 1321, Separate Opinion.

role of the Board of Ordained Ministry to confirm that a candidate has completed the required steps to ministry, to provide monitored and evaluated experiences in ministry and to examine candidates according to the Disciplinary questions. The Board members then measure and evaluate the candidates' responses, and based thereon, they vote on whether the candidate meets the Disciplinary standards and should be recommended to the Annual Conference. The vote of the Clergy Session constitutes the decision of the Annual Conference and is final.

[End]