

**Eyewitness Account and Commentary
on Judicial Council Hearings and Decisions #1031 and 1032
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BACKGROUND

The United Methodist Judicial Council (JC), a church equivalent to the Supreme Court, met October 27-29 in Houston TX. Their official mandate is to review questions of law within the denomination and to determine whether regional and local decisions/actions are consistent with the Book of Discipline (official policy and practice.) Often, though not always, the JC hears oral arguments related to specific cases.

The case receiving the most media attention before the hearings was that of Beth Stroud. A former clergywoman in the Philadelphia area, Stroud was brought to church trial last December for revealing she was living in a covenanted lesbian relationship, a violation of the Discipline and a chargeable offense for clergy.

A jury of her clergy peers found her guilty and also voted to penalize her by removing her ordination and clergy credentials. Last spring, the Northeastern Jurisdictional Appeals Committee overturned the verdict and penalty, arguing that Stroud did not receive due process; she had been discriminated against because of her sexual orientation and since “status” and “self-avowed, practicing homosexual” had not been defined by the General Conference (which sets official policy), there was no chargeable offense.

(This argument is based on interpretation of Discipline paragraph 304.3, which states that “self-avowed, practicing homosexuals” may not be accepted as clergy candidates, licensed, ordained or appointed. Several other JC docket items pertained to this paragraph as well.)

Another case involved Rev. Ed Johnson, an ordained Elder (clergy) in the Virginia Annual Conference. Johnson denied local church membership to a homosexual man – reputedly unrepentant. Brought to the notice of his District Superintendent (DS) and Bishop, Johnson was directed to receive the man into membership. When he didn't, his Board of Ordained Ministry (regional clergy peers) voted to put him on involuntary leave without pay for failure to submit to the direction of his superiors. His side appealed this decision to the JC, arguing the procedure denied him due process and that the DS and Bishop violated his authority as pastor in charge to determine readiness for membership.

A majority of the other docket items, which did not warrant oral arguments, also had to do with sexuality issues:

Item #1020 – The California-Nevada Annual Conference decided that the word “status” in Paragraph 304.3 of the Discipline includes sexual orientation, but declined to define “practicing homosexual.” Bishop Shamana ruled that these actions would not affect the enforceability of Discipline paragraph 304.3. The Judicial Council upheld her decision.

Item #1021 – The Pacific Northwest Annual Conference adopted a statement “Affirming Our Unity Amongst Diversity of Opinion,” which stated faithful Christians differ in their understandings about sexual orientation. The Judicial Council ruled the statement could stand, but that it was “a historical statement which does not legally negate, ignore, or violate provisions of the *Discipline*, including the Constitution of The United Methodist Church. The petition has no prescriptive force.”

Item #1028 – The California-Nevada Annual Conference adopted a resolution in which local churches may report to their District Superintendents their plans to welcome and include LGBT (lesbian, gay, bisexual and transgender) persons in leadership roles. The Judicial Council ruled that the same restrictions (celibacy in singleness and fidelity in marriage) that apply to clergy do not apply to laity and that this resolution is not in violation of the Discipline. However, they also ruled it is a recommendation for local churches and does not carry the force of law.

Item #1030 – Western Michigan Annual Conference added Domestic Partner Benefits to the Conference Health Plan. The case was referred back to the Conference's Council on Finance and Administration to determine if this policy uses church funds to promote the acceptance of homosexuality, which is prohibited by the Discipline.

ORAL HEARINGS - OBSERVATIONS

One of the most interesting conversations I had occurred before the hearings took place, while waiting outside on the sidewalk. Assuming that I was on the “progressive” side, a man from another local UM church warned me against the conservative presence at First Church, where the hearings were being held. He told me that he was all for an inclusive society and church, but that would only happen when we threw out the first five books of the Bible and the concept of “original sin.” When I told him I didn't agree and that he and I were probably on opposite sides of most issues, he criticized those who engage in “Bible-thumping,” presumably me, and quickly walked away.

About 100 observers and a handful of media persons attended the hearings. United Methodist Communications continued its policy of restricting “unofficial” media reps from comment or advocacy. The female media rep sitting in front of me either failed to read the policy – or simply chose to ignore it – since she prominently displayed her rainbow stole. The media packet included a list of the docket items, but the only case that was detailed was Beth Stroud's. Her professional public relations manager was there, but she didn't seem to exert the same influence as at the trial.

STROUD CASE

The legal teams for Beth and for the Eastern Pennsylvania Annual Conference were each given 30 minutes to present their case and offer rebuttal, with another half hour set aside for questions from the JC.

Rev. Tom Hall again led the team for Eastern Pennsylvania Conference, joined by Robert Shoemaker and Richard Heitzenrater, a professor at Duke Seminary.

The basic arguments were as follows:

- What is really at stake is the authority of General Conference to determine and enforce minimum standards for ministry. Is the clear language of the Discipline in regard to sexuality issues valid and enforceable.
- The claim that Stroud did not get due process defies all logic and reason. Her side pleaded JC ruling #702, but that ruling had to do with a Bishop that refused to appoint a person based on rumor, speculation and innuendo. Beth received due process: she herself disclosed her sexual behavior, charges against her were filed based on irrefutable facts, and she underwent a complete supervisory and judicial process.
- The Appeals Committee overstepped its bounds in declaring paragraph 304.3 to be a new standard of doctrine, a “novel” definition and a dangerous precedent that would destroy doctrinal integrity. It did not have the power to make a constitutional argument and interpretation – only General Conference is authorized to do that. The Appeals Committee could have made a suggestion to General Conference, but instead they made

a declaration – they instructed General Conference what to do. That is the height of arrogance.

Alan Symonette and Rev. Jim Hallam led Stroud's defense team, and they began by introducing her to the JC – declaring that this is all about her, all about her calling. The arguments were a rehash of previous ones they had made at the trial and appeals hearing:

- They hadn't been allowed to bring in "experts" to argue the constitutional arguments, which is not fair. (Actually, they could have brought in just about anyone as an "amicus" or friend of the court for this hearing.)
- General Conference hasn't defined "status" or "self-avowed, practicing homosexual," so you can't try Stroud on that charge. (Though it's OK for them to plead – and thereby define – status when arguing that she was discriminated against because of her orientation.) Ordination is open to all of any status – including sexual orientation – because homosexuality is a "state of being."
- Prohibition of openly homosexual people for candidacy, licensing or ordination does not apply if they have already completed the process. "All these actions were in place and cannot be reversed." Once ordained, always ordained.
- Questions at the trial about Stroud's sexual activity were offensive and insidious.
- There is no consensus on paragraph 304.3 and it should be in the Social Principles where it would not be enforceable. Homosexual practice is the only teaching that prohibits someone from ministry.

Eastern Pennsylvania rebuttal reiterated that no entity may ignore or disobey the Discipline and the issue is setting minimum standards for clergy.

Stroud rebuttal reminded the JC that the denomination stands for "open minds" and an inclusive church. Grace is the smashing of purity systems where some are declared "clean" and some "unclean," where certain classes of people are declared an aberration. Citing the passage of Romans 8:33 – "It is God who justifies," – implied that homosexuals for that reason cannot be condemned.

The only JC question asked was whether both sides were given the opportunity to question or challenge the composition of the trial jury, to which both sides answered "yes."

JOHNSON CASE

Rev. Tom Thomas, Ed Johnson's advocate, opened his presentation by briefly reviewing Ed's history as a pastor – six years at South Hill UMC and 24 years in ministry. He also briefly reviewed some of the details of the case. The man seeking membership had broken fellowship with the South Hills Baptist Church and had attempted to return. When that church put conditions on his return, he began instead to attend the local United Methodist church, where he participated in the choir. Associate Pastor Lee Warren indicated to Johnson the man's interest in joining church and Johnson enrolled him in membership instruction classes. Through that process, Johnson determined the man needed to postpone membership until some issues were resolved. Warren informed the District Superintendent (DS) of this and he intervened. When Johnson refused to rescind his decision, the DS reported the case to the Bishop, who took it to the Board of Ordained Ministry. Johnson was removed from the pulpit and placed on involuntary, unpaid leave for "failure to follow the directions of his DS and Bishop."

Counsel noted that Bishop Jack Tuell ruled that Bishops have no authority to "tell a pastor what to do." DS or Bishop can't dictate pastoral oversight of the local church.

Meaning of membership was discussed. While Discipline paragraphs 161G, 214 and 4 indicate that all are eligible for membership, that does not mean all are entitled to membership. Disciplinary language states all may be received into membership, not all shall be received.

A minimal requirement for membership, as stated in the membership vows, is repentance and turning from sin. Membership should not be the subjective determination of the seeking candidate; the seeker is not the final arbiter of membership.

Rev. Jeff Michel and Bishop Charlene Kammerer spoke for their side. Michel reminded the JC that the vote to place Johnson on leave and under remedial counseling was 448/114.

Michel also discussed the meaning of membership.

United Methodist policies on homosexuality are a finely tuned balance – not approving, but also not excluding. Quoting various paragraphs from the Discipline, he argued that “no imaginable group” may be excluded from membership, including homosexuals.

Bishop Kammerer noted that Bishop’s rulings of law do not usually warrant an oral argument, so she realized how important this case and the decisions were. In fact, it is “critical to the faith identity of the UMC.”

She argued that inclusiveness is the mark of the denomination and that all persons are of sacred worth. Membership might have been a “means of grace” to help the man in question change and transform. Singling out one single sinful behavior – homosexuality – gives LGBT people 2nd class citizenship. She believes we should err on the side of grace and inclusion.

In rebuttal, Thomas argued that membership vows should be “more than lip service.” Finding in Johnson’s favor would send a message to the laity that they are as important as the clergy with the same expectations for moral standards. The pastor in charge is not a “figurehead to rubber stamp membership requests.”

Michel’s rebuttal was that a minister’s personal conscience may not barr someone from receiving membership. Ministers may not decide fitness for membership. After searching his/her heart, the seeker alone discerns readiness for membership. Membership is a “means of grace” that is “not limited to the worthy.”

JUDICIAL COUNCIL RULINGS

Detailed copies of all the current JC findings (#1027-1032) are available on the UMC website at http://archives.umc.org/interior_judicial.asp?mid=263&SN=1001&EN=1032&JDMOD=VWL

Here are summaries for the Stroud and Johnson cases:

STROUD

The decision of the Northeast Jurisdiction Committee on Appeals is reversed and the verdict and penalty of the trial court in the Eastern Pennsylvania Annual Conference is reinstated. Rev. Stroud was accorded all fair and due process rights enumerated in the *Discipline* and in Judicial Council decisions. Regulation of the practice of homosexuality does not violate the “status” provisions of the Constitution. The Committee on Appeals was without jurisdiction to declare that ¶ 304.3 established a new standard of doctrine contrary to our present existing and established standards of doctrine. Such a determination is reserved solely to the General Conference, and

the *Discipline* does not require that it must use specific language to do so. The instructions of the presiding officer of the trial court correctly stated the law of the church with respect to the penalty deliberations of the trial court and did not constitute error.

JOHNSON

The decision of law Bishop Charlene P. Kammerer is reversed. This case is remanded to the Virginia Annual Conference to terminate forthwith the involuntary leave of absence of the Elder. (Johnson)

The Conference Relations Committee of the Conference Board of Ordained Ministry had no authority to consider a judicial complaint. The Board's authority extends to consideration of remedial or other action on an administrative complaint. The Board of Ordained Ministry transformed an allegation determined by the Bishop to be the basis for an administrative complaint into a chargeable offense and as such did not have disciplinary authority to consider the complaint. The Clergy Session's action in approving involuntary leave of absence based on specifications supporting a chargeable offense is null and void.

The Elder is entitled to reinstatement to the status he held immediately prior to the action placing him on involuntary leave of absence. The Elder is entitled to immediate appointment and all salary and other benefits retroactive to July 1, 2005.

And ...

The decisions of law of Bishop Charlene P. Kammerer are reversed. The *2004 Discipline* invests discretion in the pastor-in-charge to make the determination of a person's readiness to affirm the vows of membership (§ 217). Paragraphs 214 and 225 are permissive and do not mandate receipt into membership of all persons regardless of their willingness to affirm membership vows.

COMMENTARY

Both the Stroud and Johnson rulings have sparked lively, and sometimes heated, discussions. You can check out the following Methodist related blogs to join in -- Wesley Blog (<http://www.wesleyblog.com/>) and Locusts & Honey (<http://locustsandhoney.blogspot.com/>).

The Stroud decision did not come as a surprise, as I have believed since the trial that her side had a very weak case to begin with. It is sad to watch them search for or manufacture legalistic loopholes to try to get their way. Their argument "once ordained, always ordained" is downright silly and embarrassing. Their refusal to separate behavior from orientation, or to recognize there is a difference, is simply "par for the course."

I think that this latest Judicial Council ruling clarifies and strengthens expectations of clergy in regards to homosexuality, setting precedent to rule out the "status" argument, at least under current policies. Perhaps activists will have less motivation now to "act out," disobey and test the denominational will. I expect they will continue to try to change legislation through efforts at General Conference.

While activists want to make the Johnson case into an issue of inclusion or exclusion of LGBT persons, that's not essentially what is at stake. It's about pastoral authority and the meaning of membership; is it an inclusive "club" that anyone can join or a covenant community entered through faith and repentance. I think it's a discussion that is long overdue.

Finally, I also predict that our battle over sexuality will now clearly be taken to a different level – moral expectations of the laity. It is utterly schizophrenic to have the Johnson ruling on one hand and the Cal-Nevada ruling on the other – the one where local churches report how they welcome LGBT persons and include them in church leadership. Until we decide whether or not same-sex behavior can be separated from so-called orientation, and whether or not homosexuality is a sinful or acceptable expression of discipleship, we will probably continue with this endless wrangling.