

JUL 25 2023

DECK WARREN
COURT CLERK

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA**

126

THE FIRST UNITED METHODIST CHURCH)
OF OKLAHOMA CITY, an incorporated)
religious association acting by and through its duly)
Elected Trustees,)

Plaintiff,)

v.)

THE OKLAHOMA ANNUAL CONFERENCE)
OF THE UNITED METHODIST CHURCH, INC.,)
a domestic not for profit corporation, THE BOARD)
OF TRUSTEES OF THE OKLAHOMA ANNUAL)
CONFERENCE OF THE UNITED METHODIST)
CHURCH, INC., a domestic not for profit)
corporation, JIMMY NUNN, Bishop of the)
Oklahoma Annual Conference, VICTOR)
MCCULLOUGH, District Superintendent of the)
Heartland District of the Oklahoma Annual)
Conference)

Case No. CJ 2023-3075

Defendants.)

**ORDER GRANTING PLAINTIFF'S
MOTION FOR TEMPORARY OR PERMANENT INJUNCTION**

NOW on this 25th day of July 2023, Plaintiff's Motion for Temporary or Permanent Injunction filed by Plaintiff The First United Methodist Church of Oklahoma City ("Plaintiff" or "First Church"), on June 1, 2023, comes before the Court for consideration, and having considered the pleadings and briefs submitted by the parties, evidence presented on July 7, 14, and 17, 2023, and arguments of counsel, the Court FINDS, ORDERS, ADJUDGES AND DECREES as follows:

1. It is not the Court's intent to rule on any ecclesiastical matters. Rather, the Court's ruling is based on neutral principles of law applicable to the property dispute without deciding any religious questions and without intruding into legitimate ecclesiastical autonomy. This Court finds

the issues before it involve an examination, applying neutral principles of law, of the process for a local church to disaffiliate from the United Methodist Church (UMC) with its personal and real property free of trust. The matter before this Court deals with enforcement of the Book of Discipline of the UMC ("*Discipline*") a covenant and/or contract between all parties to this action as it relates to Plaintiff's claimed right to "Local Church Property."

2. This Court recognizes the Stipulations of the parties filed on July 6, 2023, and incorporates such stipulations of fact in this Order.

3. The parties agree the General Conference of the UMC, at a conference held in 2019, adopted a provision for the *Discipline*, now included as ¶ 2553, which is the most recent enactment of the General Conference regarding the trust clause and ownership of local church property. To date, ¶2553 has been utilized in Oklahoma by 84 UMC churches to disaffiliate from the UMC with their property. Paragraph 2553 provides a time-limited right for a local church to disaffiliate from the UMC with its property free of trust. The choice of a local church to disaffiliate must be made in sufficient time for the disaffiliation process to be completed prior to December 31, 2023.

4. In order for a local church to complete the requirements for a local church's disaffiliation request to be considered for ratification by an annual conference, the local church must conduct a church conference to vote on disaffiliation and approve disaffiliation by a 2/3rd vote of the local church's professing members.

5. On October 22, 2022, 29 churches were approved for disaffiliation at a Special Called Annual Conference. On April 22, 2023, 55 churches were approved for disaffiliation at a Special Called Annual Conference.

6. Paragraph 248 of the *Discipline* provides alternative methods of calling for a church conference including a request from the local church council. On November 23, 2022, after a

period of discernment, First Church's church council, pursuant to ¶248 of the *Discipline*, requested a church conference for the purpose of voting on whether First Church desired to disaffiliate from the UMC.

7. On December 2, 2022, the District Superintendent, Rev. Dr. Victor McCullough, scheduled a church conference on January 22, 2023. On January 17, 2023, the District Superintendent notified First Church that the scheduled church conference would be postponed in order for the congregation to engage in a "deliberation process of analysis, according to Paragraph 212 [sic] of the *Discipline*" *or called the COP process. atty*

8. Ten days prior to the scheduled church conference, First Church's pastor submitted the membership rolls as requested by Defendants for any local church seeking to vote on disaffiliation.

9. Pursuant to the Book of Discipline, the pastor of a local church oversees the membership rolls. The district superintendent oversees the charge conference where membership rolls are discussed and approved.

10. First Church's membership rolls have been maintained electronically for a number of years. First Church's pastor did what he was supposed to do with regard to their membership rolls. First Church was not notified prior to January 22, 2023, nor prior to their February 5, 2023 church conference, that the membership rolls were insufficient to allow First Church to conduct its church conference. Defendants presented no evidence they notified First Church that their membership rolls were insufficient to allow First Church to conduct a church conference at any time for the purpose of voting on disaffiliation.

11. This Court finds that if there was a discrepancy with the membership rolls, there would and should have been some mention of it before the scheduled church conference on January

22, 2023. It is disingenuous for Defendants to now express concern about First Church's membership rolls. Defendants' assertion that the membership rolls should prevent First Church from conducting its church conference lacks credibility. It is not an ecclesiastical issue. It is a numbers thing. You count heads and you vote.

12. Defendants assert ¶ 248 of the *Discipline* grants a district superintendent complete discretion to cancel and reschedule a church conference as many times as the district superintendent desires. The result in this case was that by indefinitely "postponing" the church conference, the District Superintendent prevented First Church from exercising its right under ¶2553 to participate in the disaffiliation process. If Defendants' interpretation of ¶2553 is applied, Defendants have the ability to completely manipulate and strip all rights under the disaffiliation process by just continuing to cancel and reschedule a church conference until the sunset date set forth in ¶2553.2 of the *Discipline*. Such interpretation violates both the literal meaning, and the spirit and intent, of ¶2553. First Church met the terms and conditions of ¶ 248 of the *Discipline* which required the District Superintendent to conduct a church conference.

13. Defendants argue they are at liberty to add terms and conditions to the ¶2553 disaffiliation process. Defendants added a "condition precedent" to a church conference that allowed a district superintendent to delay a church conference until the local church completes Defendants' "Process for Assessment of Local Potential under ¶213 of the *Discipline*." Prior to the disaffiliation process, Defendants had a process in place under ¶213 referred to as the Conversation on Church Potential ("CCP"). After January 22, 2023, the date First Church's church conference was scheduled to take place, a process was developed which adapted the CCP to fit the context of churches who are considering disaffiliation. The newly developed process was referred to as a "Conversation on Church Viability" ("CCV"). Defendant Bishop Nunn testified he took

ultimate responsibility. However, this Court did not get a straight answer regarding the development of the CCV process.

14. The Court determines that the CCV process is not mentioned in ¶2553 or anywhere in the *Discipline*. Even though ¶2553 was effective January 1, 2020, Defendants had not developed the CCV process until after First Church was scheduled to vote on disaffiliation. The CCV is an unauthorized procedure. Defendants' requirement that First Church participate in Defendants' "CCV" process is a breach of ¶2553.

15. Even though the CCV was an unauthorized part of the ¶2553 process, Defendants breached their own unauthorized disaffiliation process. Defendant Conference Board of Trustees developed a process for disaffiliation with terms and conditions not included in ¶2553, including the condition precedent to complete a process under ¶ 213. According to the process, if a CCV was initiated, the local church must be "notified of such a requirement prior to the District Superintendent scheduling the conference" and the process must be "completed prior to the scheduling of the church conference." Defendant District Superintendent breached the disaffiliation process by failing to notify First Church or even initiate the CCV process until after the church conference was scheduled. Then, Defendants failed to conduct the process in a timely manner without good cause.

16. Defendants singled out First Church to complete the CCV process. The 84 other churches who disaffiliated in October 2022 and April 2023 were not required to complete the CCV process.

17. Defendants failed to give a credible explanation for requiring First Church to participate in a viability study only after First Church declared its intention to disaffiliate from the UMC. Defendants tried to justify the viability study by stating First Church did not pay its

apportionments in full. However, St. Luke's United Methodist Church and other churches paid a lower percentage of its apportionments than First Church but were permitted to disaffiliate.

18. Defendants tried to justify the viability study by stating First Church's outreach to the community was subpar. However, Defendants' limited "study" of First Church's "viability" was focused on financial questions instead of outreach. The evidence failed to show Defendants had reason to question First Church's viability. It looked like it was done to slow down First Church's ability to disaffiliate.

19. Paragraph 2553 requires a church conference to be held 120 days after the district superintendent calls for the church conference which Defendants breached. Defendant District Superintendent scheduled First Church's church conference on December 2, 2022. Defendants delayed the CCV process which resulted in First Church being unable to complete the disaffiliation process and be considered for ratification at the Special Called Annual Conference held on April 22, 2023. The excuses Defendants gave for delay of the CCV process are suspect. The best-case scenario is Defendants were busy. The worst-case scenario is that Defendants purposely delayed in order to prevent First Church from being able to disaffiliate from the UMC with their property free of trust. The delay of the CCV process looks like an intentional attempt to prevent First Church from disaffiliating. Defendants tried to justify their delay based on limited staff and extra work caused by many churches exercising their right to disaffiliate. Yet, they added an extra step to First Church's disaffiliation process that is not mentioned in ¶2553. Defendants' explanation does not add up. It does not add up that Defendants would require a viability study on a church who has declared an intent to disaffiliate, especially when Defendants claim to be so busy they do not have sufficient staff to handle the extra work caused by the disaffiliation process.

20. Because Defendant District Superintendent refused to oversee a church conference as requested by Plaintiff, First Church conducted its own church conference on February 5, 2023, for purposes of voting on disaffiliation. First Church provided proper notice, pursuant to ¶246.8 of the *Discipline*, of the church conference to vote on disaffiliation and did the proper balloting procedure. A vote was conducted. Approximately sixteen ballots were received via e-mail. Defendants' process prohibits email ballots. It is disingenuous that Defendants insisted First Church failed to properly notify its members of the meeting because an individualized email or letter was not sent to each member (even though not required by ¶246.8); yet, homebound members or members with Covid were not permitted by Defendants to vote by email. Nevertheless, First Church achieved the 2/3 threshold required by ¶2553 to disaffiliate from the UMC without considering the email ballots. The voting process by First Church, though not overseen by Defendant District Superintendent due to the District Superintendent's breach of the *Discipline* and failure to follow Defendants' own processes, is deemed to be a valid disaffiliation vote and should be recognized by Defendants.

21. According to ¶2553.4, "The General Council on Finance and Administration shall develop a standard form for Disaffiliation Agreements under this paragraph to protect The United Methodist Church.... The agreement shall include a recognition of the validity and applicability of ¶ 2501, notwithstanding the release of property therefrom." The General Conference of the UMC provided a way for a local church to leave and take its property. Paragraph 2553 also allows annual conferences to develop additional standard terms for the disaffiliation agreement that are not inconsistent with the standard form of this paragraph. Defendants' attempt to include the ¶¶212-213 process in the middle of the disaffiliation process is not consistent with the intent of ¶2553. Defendants do not have discretion to add "standard terms" that are contrary to the intent of

¶2553 and thwart a local church's efforts to disaffiliate under ¶2553. The ¶2553 disaffiliation process does not require or need the CCV or CCP process. The disaffiliation agreement will be construed against the drafter (Defendants) and is a contract of adhesion.

22. Defendants expressed their desire to maintain a United Methodist presence in downtown Oklahoma City and indicated a need for the delegates to the Oklahoma Annual Conference to consider whether the Conference would be "viable" without First Church's United Methodist presence in downtown Oklahoma City. This excuse for preventing First Church from disaffiliating ignores the fact that there would still be a United Methodist presence in downtown Oklahoma City even if First Church disaffiliates since *The Christ Experience* is a United Methodist congregation in downtown Oklahoma City. If Defendants genuinely deny this case is about property, the Conference's "viability" should be maintained with the presence of *The Christ Experience's* congregation in downtown Oklahoma City.

23. It is not this Court's decision whether First Church should disaffiliate or not. That is for the congregation to decide. However, this Court may require Defendants to adhere to the process it used for other local churches. First Church was offered a disaffiliation process that is an "adhesion contract" under ¶2553. The General Conference of the UMC made the rules for a "take it or leave it" disaffiliation process. Defendants improperly violated its own process without justification.

24. First Church has been harmed by Defendants' failure to follow the ¶2553 process and the failure of First Church to be presented to the April 22, 2023, Special Called Annual Conference caused First Church irreparable harm that will continue unless immediate injunctive relief is not granted.

25. First Church has demonstrated its likelihood of success on the merits.

26. Due to the sunset provisions of ¶ 2553, Defendants' other deadlines imposed on local churches seeking to disaffiliate, and the clear language of ¶ 2553 which grants First Church a right to disaffiliate from the UMC with its property, along with Defendants' actions and inactions, First Church is entitled to an extraordinary remedial relief which relief causes no harm to Defendants and is not contrary to public interest.

27. When Plaintiff's disaffiliation request was stalled by Defendants, it prevented Plaintiff from being presented to the Special Called Annual Conference held on April 22, 2023, when 55 other local churches were ratified in one block vote. Defendant Bishop Nunn scheduled a final Special Called Annual Conference to be held on October 14, 2023, for any other local churches seeking to disaffiliate. If this Court were to simply order that First Church be placed in the process for disaffiliation for possible consideration at the October 14, 2023, Special Annual Conference, First Church would be deprived of votes by delegates to the April 22, 2023, Special Called Annual Conference who have since disaffiliated and are no longer United Methodists. The majority of the delegates to the October 14, 2023 Annual Conference are more likely from churches intending to remain United Methodist and may be less inclined to vote in favor of First Church's request to disaffiliate. The continuing damage to First Church by Defendants' multiple breaches and wrongful actions would not be remedied if this Court simply orders Defendants to allow First Church to start the disaffiliation process anew.


IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that:

1. First Church is not required to complete the CCV process imposed on it by Defendants because the CCV process is not sanctioned by ¶ 2553 and is not in compliance with the *Discipline* and Defendants' own process.

2. Due to the improper canceling of First Church's church conference, the failure of Defendant District Superintendent to hold a church conference within 120 days of his call of the church conference on December 2, 2022, and the impending deadlines set forth in ¶ 2553, the church conference held by First Church on February 5, 2023, shall be recognized by Defendants as a valid disaffiliation vote such that the only step left for First Church is for the Oklahoma Annual Conference delegates to vote on whether to approve First Church's disaffiliation request.

3. First Church should be placed in as close a position as the local church would have been *but for* the breaches of Defendants. Therefore, Defendant Bishop Nunn is ordered to call a Special Called Annual Conference on or before August 6, 2023, for the purpose of voting on whether to approve First Church's disaffiliation agreement with the Conference Board of Trustees. The delegates to the Special Called Annual Conference to be held on or before August 6, 2023, shall be made up of the same membership as those voting delegates to the April 22, 2023, Special Called Annual Conference in order to place First Church in as close a position as possible to what they would have been *but for* Defendants' breaches of ¶2553.

4. The Temporary Restraining Order granted by this Court on June 1, 2023 shall remain in effect.



Judge Aletia Haynes Timmons
W-2023 - 3075

CERTIFIED COPY
AS FILED OF RECORD
IN DISTRICT COURT

JUL 25 2023

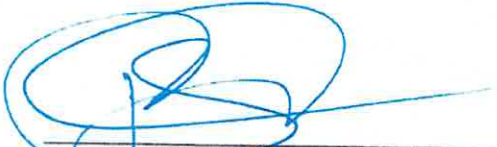
RICK WARREN COURT CLERK
Oklahoma County


APPROVED AS TO FORM ONLY:



Cheryl Plaxico, OBA No. 4499
PLAXICO LAW FIRM, PLLC
923 North Robinson Ave., 5th Floor
Oklahoma City, OK 73103
(405) 400-9609
cploxico@plaxicolaw.com

Cara S. Nicklas, OBA No. 14180
MCALISTER, MCALISTER & NICKLAS PLLC
15 E. 15th Street, Suite 200
P.O. Box 1569
Edmond, OK 73083
(405) 359-0701
cnicklas@mcalistrlaw.com
Attorneys for Plaintiff



Ross Plourde, OBA No. 7193
Peyton S. Howell, OBA No. 33917
MCAFEE & TAFT, P.C.
8th Floor, Two Leadership Square
211 N. Robinson Ave.
Oklahoma City, OK 73102
(405) 235-9621
ross.plourde@mcafeetaft.com
peyton.howell@mcafeetaft.com
Attorneys for Defendants