

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM FAIRFIELD COUNTY  
Court of Common Pleas

Judge Brooks P. Goldsmith, Circuit Court Judge

Case No. 2012-213071

James R. Glover, as Presiding Elder of the Lancaster District of the African Methodist Episcopal  
(A.M.E.) Church,.....Appellant,

v.

Corthan Manning, Jr., Theodore Manning, and Earlene W. Manning,.....Respondents

**FINAL REPLY BRIEF OF APPELLANT'S**

Randall R. Williams  
P.O. Box 3461  
Greenwood, SC 29648  
(864) 227-9156  
Attorney for Appellant

**RECEIVED**

APR 15 2013

**SC Court of Appeals**

**TABLE OF CONTENTS**

**TABLE OF CONTENTS** .....i

**TABLE OF AUTHORITIES** .....ii

**ARGUMENTS**.....1

    I. An denomination may create a trust in favor of denomination by  
    reciting a trust in the constitution of the denomination     1

    II. The Neutral Principles analysis requires the court to consider the  
    constitution of a denomination.....2

    III. Appellants have never conceded that respondents are rightful  
    owners of the church property .....3

    IV. The neutral principles analysis requires consideration of  
    deposition testimony.....4

    V. The issue of constructive trust was properly preserved for  
    review by the appellate court.....5

**CONCLUSION** .....7

## TABLE OF AUTHORITIES

### Cases

<u>All-Saints Parish, Waccamaw, Inc. v. The Protestant Episcopal Church In the Diocese of South Carolina</u> 685 S.E. 2d 163, (S.C. 2009).....	1,2,3
<u>From The Heart Church Ministries, Inc. v. Philadelphia-Baltimore Annual Conference</u> 964 A. 2d 215 (Md. 2009) .....	4
<u>Herron v. Century BMW</u> 395 S.C. 461 .....	6
<u>Jones v. Wolf</u> 443 U.S. 595, (1979).....	1,2
<u>State v. Russell</u> 546 S.E. 2 <sup>nd</sup> 202 (S.C. App. 2001).....	5,6
<u>Wilder Corporation v. Wilkie</u> 497 S.E. 2 <sup>nd</sup> 731, (S.C. 1998) .....	5,7

### **Other Authorities**

Book of Discipline of the African Methodist Episcopal Church.....	1,3,5,6,7
---	-----------

## ARGUMENTS

### **I. AN DENOMINATION MAY CREATE A VALID TRUST IN FAVOR OF THE DENOMINATION BY RECITING A TRUST IN THE CONSTITUTION OF THE DENOMINATION**

The Respondents have failed to recognize the clear mandate of *Jones v. Wolf*, 443 U.S. 595 (1979), or simply refuse to acknowledge the Supreme Court’s approach to the application of neutral principles to church property disputes. *Jones v. Wolf* provided the foundation of the neutral principles analysis. The United States Supreme Court stated “the constitution of a denomination can be made to recite an express trust in favor of the denominational church...and the civil courts shall be bound to give effect to the result indicated by the parties.” *Id.* at 606. The constitution of the African Methodist Episcopal Church, Inc. is *The Book of Discipline of the African Methodist Episcopal Church, Inc.* *The Book of Discipline of the African Methodist Episcopal Church* plainly states that “The title(s) to all real, personal and mixed property held at the General, Annual Conference level or by the local churches, shall be held IN TRUST for the African Methodist Episcopal Church, Inc., and subject to the provisions of *The Book of Discipline of the African Methodist Episcopal Church*. (R. p. 74).

Also, the South Carolina Supreme Court has expressly said that the courts in South Carolina should adhere to or be mindful of the United States Supreme Court’s ruling in *Jones v. Wolf*. In *All-Saints Parish, Waccamaw, Inc. v. The Protestant Episcopal Church In the Diocese of South Carolina*, 385 S.C. 428, 685 S.E. 2d 163, 168 (2009), the court stated “We hereby explicitly reaffirm that, when resolving church dispute cases, South Carolina courts are to apply the neutral principles of law approach as

approved by the Supreme Court of the United States in *Jones v. Wolf*.” The members of the denomination have chosen to purposely include provisions in its constitution according to the United States Supreme Court and to rely thereon.

## **II. THE NEUTRAL PRINCIPLES ANALYSIS REQUIRES THE COURT TO CONSIDER THE CONSTITUTION OF A DENOMINATION**

Consideration by the court of an ecclesiastical denomination’s constitution to determine whether the constitution of a denomination provides for the creation of a trust in favor of the denomination does not violate the Pearson Test. Consideration of a church’s constitution does not require the court to give its opinion on religious theory or doctrine and to do so is not an application of the deference approach in deciding church property disputes. The South Carolina Supreme Court has used the constitution of a denomination in its analysis of church property disputes. The court in *All-Saints Parish, Waccamaw*, when discussing which entity should exercise corporate control of church property clearly examined the constitution of the denomination. The court stated...”Finally nothing in the All-Saints Parish, Waccamaw , Inc. constitutions and canons of the ECUSA or Diocese requires third party approval ... .” *Id.* at 173. Again, the court in its discussion of the 2000 notice and the Dennis Canon took note of the constitution of the denomination, therein known as the Dennis Canon. Eventhough the Supreme Court found that the constitution of the denomination did not have any legal effect, it did take note of it in its application of the neutral principles analysis when the court stated “we hold that neither the 2000 Notice nor the Dennis Canon has legal effect on title.” *Id.* at 172.

Although, the court held that the church constitution did not have legal effect on title in *All-Saints Parish, Waccamaw*, it is not dispositive in this matter. The Respondents

refer to *All-Saints Parish, Waccamaw*, as the basis of their argument that this court should decide as the court decided in *All-Saints Parish, Waccamaw*, that there is no evidence or contention to indicate that the A.M.E. church ever held title to the property herein and thus a trust could not have been created. The Respondents assertions are misplaced. The courts' ruling was that "the Diocese did not, at the time it recorded the 2000 Notice, have any interest in the congregation's property." *All-Saints Parish, Waccamaw, Inc. v. The Protestant Episcopal Church In the Diocese of South Carolina*. 385 S.C. 428, 685 S.E.2d 163, 172 (2009). The court did not state that the Diocese never had an interest. As such the facts in *All Saints Parish, Waccamaw* are distinct from the facts herein. The Diocese voluntarily executed the 1903 Quitclaim deed in order to settle any doubt as to the status of title to parish property. *Id.* at 172. The court therein found that the denomination's constitution was inapplicable because the denomination transferred the property by quitclaim deed in 1903. In this matter this denomination has not transferred church property to Respondents.

### **III. APPELLANTS DID NOT CONCEDE THAT RESPONDENTS ARE RIGHTFUL OWNERS OF THE CHURCH PROPERTY**

The Respondents in their initial brief claim that Appellants conceded that Respondents have good title and direct the courts attention to page 22 lines 14-21 of the trial transcript. (Respondents' Initial Brief pg. 6). The Appellant referred to the Book of Discipline and its application to the facts herein. (R. p. 104, lines 1-25).

Also, the Respondents allege that Appellant conceded that they do not own the property herein. (Respondents' Initial Brief pg. 6). The transcript does not reflect that the African Methodist Episcopal Church, Inc. was not the owner of the church property which is the subject of this matter as Respondents claim. Transcript page 17 lines 16-25

do not refer to ownership of property. The Respondents' counsel is recorded as discussing the existence of a trust and the failure of Appellant to state a cause of action. (R. p. 99, line 16-25).

Appellant's counsel stated "They claim that there is good title, yeah..." (R. p. 103, line 14). Counsel was merely repeating the Respondents allegation and responding thereto. The remainder of the statement found in the transcript states "but they did not transfer the property," which is a clear indication that counsel did not believe or consent to the Respondents view of ownership. (R. p. 103, line 15).

#### **IV. THE NEUTRAL PRINCIPLES ANALYSIS REQUIRES CONSIDERATION OF DEPOSITION TESTIMONY**

The Appellants request for a continuance or holding the court's decision in abeyance until depositions could be performed was not made to delay matters. (R. p. 84, lines 12-20). Initial depositions were continued due to the hospitalization of Appellant. (R. p. 87, lines 2-6). Afterwards the parties scheduled depositions to be heard during the week of the hearing (R. p. 87, lines 5-8). The Respondents at their whim refused to cooperate and cancelled the depositions. (R. p. 88, lines 6-7).

The neutral principles analysis requires this court to look at all relevant evidence. In *From The Heart Church Ministries, Inc. v. Philadelphia-Baltimore Annual Conference*, 964 A. 2d 215 229 (Md. App. 2009), the Court of Special Appeals of Maryland stated..."we review not only the denomination's polity, but all relevant documents and circumstances, including From the Hearts charter and bylaws, the religious corporation law, the relations and correspondence between the parties, the deposition testimony...and all relevant documents." The trial judge herein did not have the benefit of all of the evidence in order to properly rule. The deposition testimony in

this matter is important to arrive at a just and proper final determination. Although, counsel for Appellants stated that “depositions are necessary...to make sure that as far as that they’re met the requirements of the Book of Discipline...” (R. p. 111, lines 7-13). That is not the only reason. The issue of consent is a fundamental part of the neutral principles analysis. In this matter the constitution of the denomination also known as the Book of Discipline of the African Methodist Episcopal Church, Inc. list 5 factors which show the intent of the founders and later congregations of an African Methodist Episcopal Church. (R. p. 72). By submitting to these 5 factors the parties will have demonstrated their intent and consent to become a part of the denominational connection and have church property held in trust for the benefit of the African Methodist Church, Inc.

#### **V. THE ISSUE OF CONSTRUCTIVE TRUST WAS PROPERLY PRESERVED FOR REVIEW BY THE APPELLATE COURT**

The law of this state regarding preservation of issues for the purpose of appeal was stated very clearly in *Wilder Corporation v. Wilkie*, 330 S.C. 71, 497 S.E.2d 731 (1998). The Respondent Wilder Corporation brought suit for foreclosure of a bond title against Appellant. During trial, Wilder’s attorney objected to Wilkie’s introduction of an amortization table, but phrased his objection as an objection to the theories considered in the accountants math. *Id.* at 733. The court held that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for review. *Id.* at 733.

It is not mandatory that appellant use the specific name and type of trust. In *State v. Russell*, 345 S.C. 128, 546 S.E.2d 202 (S.C. App. 2001), Mr. Russell was convicted of Driving Under the Influence after trial and appealed to this court alleging that he was

entitled to a directed verdict because the state failed to establish the corpus delicti of Driving Under the Influence. The State's position was that Mr. Russell did not use the exact words corpus delicti in his objection. *Id.* at 204. This court held

Although Russell did not use the exact words corpus delicti in his request for a directed verdict, it is clear from the argument presented in the record that the motion was made on this ground. The State, in opposing the motion, used the words corpus delicti and cited the relevant case law.

*Id.* at 204.

Appellant has always maintained that the property herein is held in trust for the benefit of the African Methodist Episcopal Church, Inc . (R. p.106, lines 15-25, p.107, lines 1-7, p.108, lines 1-25). Respondents also are aware of Appellant's assertions of the existence of trust and admit such. (R. p. 99, lines 4-25).

The trial judge was aware of Appellant assertion that it did not matter whether there was an express trust or implied trust. Counsel for Appellant brought to the attention of the trial judge the fact that Appellants did not consider the lack of express terms stating that the property was held in trust was fatal. Counsel for appellant stated "And also even if it does not have an in trust clause in the deed it doesn't matter, the Book of Discipline...lists several factors. (R. p. 106, lines 22-25). One is use of name custom or policy. (R. p. 107, lines 1-6). Herein the trial judge was aware that Appellants based their argument on both an express and an implied constructive trust.

If the matter is sufficiently clear to highlight the error it is properly preserved. In Herron v. Century BMW 119S.E.2<sup>nd</sup> 640,642, (S.C. 2011) the court stated "the issue must be sufficiently clear to bring into focus the precise nature of the alleged error so that it can be reasonably understood by the judge." The Appellant's numerous assertions of a trust were specific enough to alert the trial judge of the issue of trust.

Also, the finding of a trust is the cornerstone of Appellant's prosecution of this case. In *Wilder Corporation v. Wilkie*, 330 S.C. 71, 497 S.E.2d 731, 733 (1998), the Court held in its discussion of the differing amortization schedules of each party and how the schedules lend weight to the allegation that the issue was preserved wrote "seller and buyers...schedules clearly conflicted on the issues buyer proposes as not being preserved....These issues...integral to the computation. Thus seller's objection was specific enough to allow the trial judge to understand and rule upon the alleged error. Herein, the trial Judge was aware that the existence of a trust was the foundation of and basis of the litigation. (R. p.106, lines 22-25, p.107, lines 1-6, p. 108, lines 1-25).

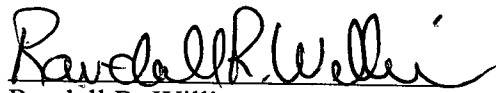
As such, Appellant numerous use of the word trust and the integral importance to his theory of this case sufficiently brought this matter before the trial court. The motion was denied and as such is properly before this court.

### **CONCLUSION**

Therefore, this Court should find that the Book of Discipline of The A.M.E. Church creates a valid and enforceable trust in favor of African Methodist Episcopal Church Inc. and is the owner of all church property owned by Pine Grove A.M.E. Church. The Appellant respectfully requests a declaratory judgment stating that all property of the Pine Grove African Methodist Episcopal Church is held in Trust by the Trustees of Pine Grove African Methodist Episcopal Church on behalf of the African Methodist Episcopal Church, Inc.; that the African Methodist Episcopal Church, Inc. is the true owner of both the real and personal property of Pine Grove African Methodist Episcopal Church; that Plaintiff is entitled to both the real and personal property of the Pine Grove African Methodist Episcopal Church; that Pine Grove African Methodist

Episcopal Church is affiliated with the African Methodist Episcopal Church; that a permanent injunction be issued requiring Defendants to return all funds and properties, both real and personal, belonging to the Pine Grove African Methodist Episcopal Church; and a permanent injunction enjoining and restraining Defendants from coming onto Church property disturbing the normal worship service.

Further, in the alternative Appellants respectfully ask that this matter be remanded to the trial court with instructions to uphold the trust provisions recited in the constitution of the African Methodist Episcopal Church.



Randall R. Williams  
Post Office Box 3461  
Greenwood, SC 29648  
(864) 227-9156  
Attorney for the Appellant

Greenwood, South Carolina  
April 15, 2013

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM FAIRFIELD COUNTY  
Court of Common Pleas

Brooks P. Goldsmith, Circuit Court Judge

---

Case No. 2012-213070

---

James R. Glover, as Presiding Elder of the Lancaster District of the African Methodist Episcopal (A.M.E.) Church,.....Appellant,

v.

Corthan Manning, Jr., Theodore Manning, and Earlene W. Manning,.....Respondents.

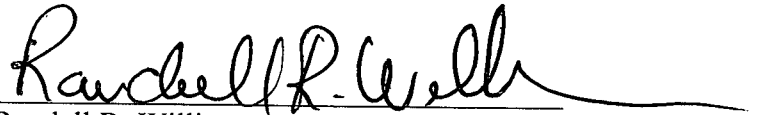
---

**CERTIFICATE OF COUNSEL**

---

The undersigned hereby certified that this **Final Reply Brief** complies with Rule 211(b), SCACR.

April 15, 2013



Randall R. Williams  
Post Office Box 3461  
Greenwood, South Carolina 29646  
(864) 227-9156  
Attorney for Appellant