

STATE OF SOUTH CAROLINA)
 COUNTY OF GREENVILLE)
)
 Theoplious Welfare & Karla Welfare,)
)
 Plaintiffs,)
)
 vs.)
)
 Antwion M. Yowe, Willie Johnson, Michael)
 Humbert, & Charles Edward,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 C.A. NO.: 2012-CP-23-7868

ORDER GRANTING MOTION TO DISMISS

RECEIVED
 SEP 25 2013
 SC Court of Appeals

2013 AUG 22 5 P 4: 54
 CLERK OF COURT
 GREENVILLE CO. S.C.
 WICKINSHER

This matter is before the Court on Defendant's motion to dismiss Plaintiff's Complaint, or in the alternative, for summary judgment, on grounds that this Court lacks subject matter jurisdiction to determine the issues raised by the Complaint. Plaintiff's claims involve matters of internal church governance which are protected by the Establishment Clause of Amendment 1 to the Constitution of the United States as well as by Article 1, Section 2 of the Constitution of South Carolina.

Defendants contend further that Plaintiffs have failed to join either the congregation of the church, or the church itself, which are necessary and indispensable parties to this action pursuant to Rules 17 and 19 of the South Carolina Rules of Civil Procedure. Additionally, Defendants move for summary judgment and ask the court to consider affidavits from church members which support the contention that, to the extent Plaintiffs complain that the quorum requirements of the Church Constitution and By-Laws were not complied with at certain meetings, those provisions of the Constitution and By-Laws have been waived by a long history in the church of giving effect to decisions from meetings at which no quorum was present.

For the reasons set forth below, the Defendants' motion to dismiss is granted.

#1
 29

ENTERED COMPUTER

FACTS/PROCEDURAL BACKGROUND

Plaintiffs Theoplious Welfare and Karla Welfare (Plaintiffs) are members of Reedy River Missionary Baptist Church (Church). Theoplious also serves a trustee for the Church. The Church is an unincorporated entity and is governed by a constitution and set of by-laws. Defendant Antiwon Yowe currently serves as Pastor to the Church and has held this position for approximately three years, while Defendants Willie Johnson, Michael Humbert and Charles Edward (Defendants) serve as Senior Leadership.

Plaintiffs filed suit on December 17, 2012 and moved for a Preliminary Injunction, alleging Defendants' failure to follow the Church's constitution and by-laws while conducting meetings and subsequently implementing the decisions voted upon at those meetings, constitutes actionable behavior resulting in irreparable harm to the Plaintiffs. Plaintiffs seek relief in the form of an injunctive order rescinding motions passed at any business meeting in which a quorum was not present, requiring the Pastor to place certain items on the Church's business meeting agenda for a new vote, requiring Defendants to produce an external audit report, requiring Defendant Yowe to produce his employment contract, and requiring Defendants to pay Plaintiff's attorney's fees and costs.

Defendants moved to dismiss or, in the alternative, for summary judgment, and the Court heard argument on March 5, 2013. Upon taking the matter under advisement, the Court strongly encouraged the parties to resolve this matter amongst themselves without involving the Court system. It appears the parties did attempt to engage in intra-church discussions, but resolution was unsuccessful.

Based on the allegations of Plaintiff's Complaint and upon the applicable law, Defendants' Motion to Dismiss is granted.

#2
eu

LAW/ANALYSIS

The First Amendment to the United States Constitution and Article 1, §2 of the South Carolina Constitution clearly provide for the separation of church and state and accordingly, it is well-settled that South Carolina courts are limited in their jurisdiction over intra-church disputes. "The civil courts will not enter into the consideration of church doctrine or church discipline, nor will they inquire into the regularity of the proceedings of the church judicatories having cognizance of such matters." Morris Street Baptist Church v. Dart, 67 S.C. 338, 45 S.E. 753 (1903).

South Carolina courts are specifically without jurisdiction to interfere with a church's internal administrative procedures, See Banks v. St. Matthews Baptist Church, 706 S.E.2d 30 (Ct. App. 2011). Plaintiffs seek to have this Court substitute its decisions for decisions made by voting members of the Church. The relief sought by Plaintiffs, rescission of actions taken by the Church in 2012, and injunctive relief which would include designating what the Church must include in the agenda for the upcoming meetings would constitute constitutionally prohibited intrusions into the internal governance of the Church.


Additionally, when a church is governed "congregationally," see Bowen v. Green, 275 S.C. 43 (1980), our courts are further limited to only reviewing actions taken by a congregation. Knotts v. Williams, 319 S.C. 473, 479 (1995). Reedy River Missionary Baptist Church is governed congregationally. See Complaint at ¶ 9. The only named Defendants to this matter are the Pastor and three members of the Church; neither the Church as an entity nor the congregation were ever named as a party. As this dispute arises directly from actions taken by the Church and the congregation, Plaintiffs have failed to join indispensable and necessary parties, as required by SCRCP 17 and 19, for a just adjudication of this matter.

#3
Ecr

As the Court grants Defendant's Motion to Dismiss, it is not necessary to reach the merits of the summary judgment motion.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED that Defendants' Motion to Dismiss be granted, and Plaintiff's claims are dismissed.

AND IT IS SO ORDERED.


The Honorable Edward W. Miller
Circuit Judge, Thirteenth Judicial Circuit

August 20, 2013

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2012CP2307868

FILED CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2013 AUG 22 P 4:54

Theoplious Welfare vs. Antwion M Yowe

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other: _____
 Rule 12(b), SCRPC; Rule 41(a),
- ACTION STRICKEN (CHECK REASON):**
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other: _____
 Rule 40(j) SCRPC; Bankruptcy:
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

NOTICE

This is a notice to you that an Order Granting Motion to Dismiss in this case has been filed in the Clerk of Court's Office. To obtain a certified copy, you may contact our office by phone (864) 467-8551 or email a request to cnoblitt@greenvillecounty.org. If you would like a copy via email, please provide a valid email address.

Dated at Greenville; South Carolina, this 22nd day of August, 2013.

Court Reporter:

PRESIDING JUDGE -

Edward Delane Rosemond PO Box 1498 Seneca, SC 29679

Larry Lee Plumblee Eppes & Plumblee, P.A. P.O. Box 10066 Greenville, SC 29603

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

RECEIVED

SEP 25 2013

SC Court of Appeals