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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

**APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas**

The Honorable Patrick C. Fant, III

**Appellate Case No.: 2025-001623
Civil Action Case No.: 2019CP2306363
Consolidated Civil Action No.: 2017CP2306127**

Enoree Fork Baptist Church..... Plaintiff,

v.

Sylvester Jackson, Stepping-Stone Ministries, Inc., William M. Landreth, Landreth Properties, LLC, Cordell Porter, Donald Cox Ernest Murray, CresCom Bank/Formerly Greer State Bank, and Rodney Butler..... Defendants,

AND

Sylvester Jackson, Karen Robinson, Michael Robinson, Dorothy Williams, John Woodfold, Ernest "Terry" Murray, Donald Cox, Timothy McBee, Derrick Cox, Reginald Jackson, Willie Foster, Cynthia Robinson, Zelma Brown, Telek Cobb, Sarah Thomason, and Thurshia Jamison-Jackson..... Respondents,

v.

Charles "Bennie" Smith, Robin Smith, Larry Dawkins, Mable Dawkins, Jimmy Davis, Brenda Davis, Dorothy Thomason, L.C. Thomason, and James Sims..... Appellants.

RESPONDENTS' RETURN TO APPELLANTS' PETITION FOR WRIT OF SUPERSEDEAS

In accordance with Rules 205, 240, and 241 of the SCACR, the Respondents, by and through counsel, does hereby Return and Respond to Appellant's Petition for Writ of Supersedeas and shows the Court as follows:

STATEMENT OF APPELLANT'S POSITION

Appellant's Motion and Memorandum in Support of Supersedeas contend that:

1. Supersedeas is necessary to "maintain the status quo."
2. The trial court exceeded its authority in ordering a congregational vote, citing *McCain v. Brightharp* and *Bowen v. Green*, 275 S.C. 431, 434 (1980).
3. Allowing a vote to proceed will cause irreparable harm.
4. Appellant is likely to succeed on appeal because the trial court misapplied precedent.
5. The equities favor granting a stay.

Respondents contend that the trial court properly followed *McCain* in restoring the status quo but erred by mandating a congregational vote.

1. Supersedeas Is a Discretionary, Extraordinary Remedy

"[T]he purpose of a supersedeas is to stay proceedings in the trial court, to preserve the status quo pending the determination of the appeal and to preserve to appellant the fruits of a meritorious appeal where they might otherwise be lost to him. As a rule, a supersedeas does not reverse, annul, or undo what has already been done, or impair the force of the judgment, order, or decision of the trial court. [A] supersedeas suspends the judgment but does not annul the judgment itself." *Graham v. Graham*, 301 S.C. 128, 130 390 S.E.2d 469, 470 (Ct. App. 1990). In determining whether an order should issue pursuant to this Rule, the lower court, administrative tribunal, appellate court, or judge or justice of the appellate court should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot. Rule 241(c)(2), SCACR. Supersedeas is discretionary, not automatic, and requires a showing of irreparable harm or futility of appeal. ~~Rule 241, SCACR~~; *Ex parte Morris*, 367 S.C. 56, 624 S.E.2d 649 (2006).

Appellant has not made that showing. The trial court order is very detailed and summarizes the key evidence and testimony from trial. The trial court also bases the order on *McCain* properly and the analysis of the facts align with *McCain*, aside from ordering the congregation to vote.

2. The Trial Court Properly Restored the Status Quo, But Exceeded Its Authority in Ordering a Vote

The trial court correctly determined that no valid congregational vote occurred and restored the prior condition, consistent with *McCain v. Brightharp*, 339 S.C. 588, 529 S.E.2d 770 (2000) and *Bowen v. Green*, 275 S.C. 43 (1980). *McCain* and *Bowen* hold that where no vote occurs, courts may restore the status quo so that ecclesiastical processes may proceed if the congregation so chooses. This was the exactly what happened in this case and the trial court correctly identified that issue. However, the trial court exceeded its authority when it went further to mandate a congregational vote on the pastor's termination. Even under *McCain*, courts may not compel a church to hold or schedule such a vote. Restoration of the status quo was sufficient to return governance to the congregation; whether to conduct a vote is a matter for the congregation itself, not judicial directive.

Further, *McCain*, citing *Bowen* holds:

In these cases, this court's function is to assure that the church itself has spoken: if it has, *this court inquires no further, but if it has not, this court may restore the status quo to enable the church to act. Id.* (emphasis added).

Bowen v. Green, 275 S.C. 43 (1980).

3. No Irreparable Harm Demonstrated

Appellant claims irreparable harm if a vote proceeds, but this is speculative. This case has been ongoing since 2016 with a lengthy procedural history. No right of appeal is lost or any harm done to either party by allowing the restoration order to stand, especially if the required vote is stricken or stayed.

Petitioner alleges error by the trial court related to alleged inappropriate parties being named. The trial court correctly noted that issue has been raised and ruled on in previous motions. The trial court also correctly concluded that it cannot overturn that prior ruling based on the following law.

One Circuit Court Judge does not have the authority to set aside the order of another. Circuit Court Rule 60; 1 *Cook v. Taylor*, 272 S.C. 536, 252 S.E.2d 923 (1979).

One circuit judge cannot supersede the order of another. *Duncan v. Union-Buffalo Mills Co.*, 110 S.C. 302, 96 S.E. 522, 524 (1918).

Enoree Baptist Church v. Fletcher, 340 S.E.2d 546, 287 S.C. 602 (S.C. 1985).

And:

The Court of Common Pleas is a unity, although its jurisdiction is administered by a number of judges who are, in some sense, the exponents of the court. When one of these judges makes a decision upon the merits of a matter within his jurisdiction, that is not merely the personal opinion of the judge, but a judgment of the Court of Common Pleas, which exhausts the power of the court upon that subject and must stand until reversed or set aside in the manner prescribed by law. There is no appeal from one Circuit judge to another. All are of equal dignity and have the same right to pronounce the judgments of the court. One Circuit judge upon the same state of facts, has no power to change, alter or reverse a decision of a brother judge of the same Circuit. Otherwise, there would be no end to litigation. No one could tell where it would stop. Nothing could be considered as finally adjudged, and all rights of person and property would be set afloat. This rule results from the nature of the case and well-established principles.

Steele v. Charlotte, C. & A.R. Co., 14 S.C. 324 (S.C. 1880).

4. No Likelihood of Success on Appeal Shown

Appellant's assertion of likely success rests only on disagreement with the trial court's equitable remedy. South Carolina law requires a strong probability of success to justify a stay and Appellants fail to meet such burden. The trial court's restoration of the status quo as discussed above was fully consistent with *McCain* and *Bowen* and an appropriate exercise of discretion, with the exception of the congregation being required to hold a vote.

5. Equities Favor Respondent

Further delay harms Respondent and the congregation by prolonging instability and keeping the congregation in limbo, depriving them of orderly self-governance. The order restores the congregations right to govern itself and will allow the congregation to act on terminating Respondent Sylvester Jackson if they so choose.

ALTERNATIVE REQUEST FOR PARTIAL RELIEF

Should the Court determine that some relief is warranted, Respondent respectfully submits that the appropriate course is not to grant supersedeas in full, but rather to modify the trial court's order, pursuant to its authority under Rule 241(c)(3), SCACR, by striking the mandate requiring a congregational vote.

Such a modification would:

- Preserve the trial court's proper restoration of the status quo under McCain.
- Avoid improper judicial interference in ecclesiastical governance.
- Allow the congregation to hold a vote if it chooses, but not under judicial compulsion.

This narrower relief would cure the overbreadth of the order while maintaining stability and respecting the limits of judicial authority.

CONCLUSION

For the foregoing reasons, Respondents respectfully request that this Court:

1. Deny Appellants' Petition for Writ of Supersedeas in its entirety;

OR, IN THE ALTERNATIVE,

2. Modify the trial court's order to strike only the mandate requiring a congregational vote, while allowing the restoration of the status quo to remain in effect; and
3. Grant such other and further relief as the Court deems just and proper.

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