

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Richard E. Fields, Special Circuit Judge

Appellate Case No. 2012-213391

Lower Court Case No. 2012-CP-27-291

Barbara B. Clark, Warren E. Hatcher, Cassie Keeton, Daniel Green,
Powell Hampton, Amos Hatcher, Bobby Keeton, James Moseley,
Willie B. Oliver, Individually and as General Officers of the
RMUE Church.....Respondents

v.

Fred Henderson Moore.....Appellant

REPLY BRIEF OF APPELLANT

RECEIVED

NOV 18 2013

S.C. Supreme Court

Eduardo K. Curry, Esquire
Curry & Housey, P.A.
Post Office Box 42270
N. Charleston, SC 29423
(843) 767-5284
(843) 767-5286 (Fax)
Attorney for Appellant

TABLE OF CONTENTS

Table of Authorities ii

Argument in Reply 1

 A. Appellant Properly Preserved the Issue of Venue for Appeal 1

 B. All Courts lack Subject Matter Jurisdiction over this case Pursuant to Article 1,
 Section 2 of the South Carolina Constitution and the First Amendment of the
 United States Constitution 3

Conclusion 5

TABLE OF AUTHORITIES

CASES

Bean v. South Carolina Central Railroad Co., Inc.,
709 S.E. 2d 99, 111 (S.C. App. 2011) 2-3

Bramlett v. Young, 93 S.E. 2d 873 (S.C. 1956) 5

Doe v. Doe, 634 S.E. 2d 51, 54-55 (S.C. App. 2006) 2

Elam v. South Carolina Department of Transportation, 602 S.E. 2d 772 (S.C. 2004) 1

Harmon v. Dreher, 17 S.C. Eq. (1 Speers) 87 (1843) 4-5

Knotts v. Williams, 462 S.E. 2d 288 (S.C. 1995) 5

Morris Street Baptist Church v. Dart, 45 S.E. 753 (S.C. 1903) 5

Pearson v. Church of God, 478 S.E. 2d 849 (S.C. 1996). 4-5

Queen’s Grant II Horizontal Property Regime v. Greenwood Development Corp.,
628 S.E. 2d 902, 919 (S.C. App. 2006) 2

Wilson v. Presbyterian Church of John’s Island, 19 S.C. Eq. 192 (1846) 5

OTHER AUTHORITIES

U.S. Const. First Amendment 3-4

U.S. Const. Fourteenth Amendment 3-4

S.C. Const. Art. 1 §2 4

S.C.R. Civ. P. 59(e) 1-3

ARGUMENT IN REPLY

Without restating the issues or making redundant arguments, which have been thoroughly set forth in Appellant's Initial Brief, Appellant offers the following points of clarification and rebuttal to the arguments raised by Respondents.

A. APPELLANT PROPERLY PRESERVED THE ISSUE OF VENUE FOR APPEAL.

Respondents' Initial Brief states that Appellant did not preserve his improper venue objection for appeal. Respondents claim that Appellant's objection to venue was not presented to and ruled upon by Special Referee Fields. Furthermore, Respondents claim that the only way Appellant could have preserved any objection was to file a Rule 59(e) motion. S.C.R. Civ. P. 59(e). Respondents have misstated the facts and the law. At the November 2, 2012 Hearing, Appellant properly preserved the issue of venue. Appellant objected to the venue being held in Jasper County. Transcript Page 8, Lines 13-19. Special Referee Fields denied **ALL** Appellant's motions and objections, including the objection to venue. Transcript Page 33, Lines 16-17. In addition, Appellant stated multiple times that he did not waive his objection to venue, despite being overruled. Transcript Page 8, Lines 22-24; Pages 34-35, Lines 25, 1-3.

According to Elam v. South Carolina Department of Transportation, 602 S.E. 2d 772 (S.C. 2004), "issues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court." As evidenced by the transcript of the November 2, 2012 Hearing, Appellant objected to venue, and Special Referee Fields overruled the objection. Transcript Page 8, Lines 13-19; Page 33, Lines 16-17. Appellant raised the issue, and the lower court ruled on the issue. Special Referee Fields's ruling on the matter was verbal and on the record. His not including each and every ruling on every

objection made during the hearing in the November 3, 2012 Order does **NOT** mean the court did not rule on the matter. The transcript of the November 2, 2012 Hearing makes it very clear that Appellant objected to venue; Special Referee Fields ruled on the objection; and Appellant refused to waive the objection. If this Court were to adopt Respondents' logic, then every objection made during the course of a case that was not specifically ruled on in an order, but was ruled on verbally during a hearing or trial or the like, would be treated as if it were never raised. To accept such reasoning would be contrary to the purpose of the rules of issue preservation.

According to Queen's Grant II Horizontal Property Regime v. Greenwood Development Corp., 628 S.E. 2d 902, 919 (S.C. App. 2006), "[i]ssue preservation rules are designed to give the trial court a fair opportunity to rule on the issues, and thus provide us with a platform for meaningful appellate review." Special Referee Fields had a fair opportunity to rule on the issue of venue. In fact, Special Referee Fields did rule on the issue of venue. Transcript Page 33, Lines 16-17. Special Referee Fields made it absolutely clear that he rejected all motions and objections Appellant made during the November 2, 2012 Hearing and proceeded with the case. Therefore, this Court has a sufficient platform for meaningful appellate review.

Additionally, Respondents argue that the only way to preserve an issue for appeal is to file a Rule 59(e) motion. However, Respondents misstate the law. "When an Appellant neither raises an issue at trial nor through a Rule 59(e), SCRCP, motion, the issue is not preserved for appellate review." Doe v. Doe, 634 S.E. 2d 51, 54-55 (S.C. App. 2006). By using the "neither nor" language, an issue is preserved by either raising the issue at trial **OR** filing a Rule 59(e) motion. See Bean v. South Carolina Central Railroad Co.,

Inc., 709 S.E. 2d 99, 111 (S.C. App. 2011). Furthermore, this Court has already rejected the argument that a Rule 59(e) motion is the sole way to preserve an issue for appeal. Staubes v. City of Folly Beach, 529 S.E. 2d 543, 546-547 (S.C. 2000). Once the court has ruled on an objection, there is no need to repeat that objection. Id. at 547. This Court has explicitly ruled that parties are not required to engage in futile actions solely to preserve issues for appellate review. Id. Appellant's filing a Rule 59(e) motion after Special Referee Fields had ruled on the matter during the hearing would be futile. Since Special Referee Fields had ruled on the issue of venue, Appellant would be wasting the court's and all the other parties' time, resources, and money had he filed a Rule 59(e) motion to an objection on which the court had already ruled.

In sum, Appellant adequately preserved the issue of venue, and the issue is properly before this Court.

B. ALL COURTS LACK SUBJECT MATTER JURISDICTION OVER THIS CASE PURSUANT TO ARTICLE 1, SECTION 2 OF THE SOUTH CAROLINA CONSTITUTION AND THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION.

In their Initial Brief, Respondents attempt to misrepresent Appellant's argument. Appellant's position is that **ALL** civil courts lack subject matter jurisdiction over this case. Respondents want this Court to approve the unconstitutional meddling of the government into church affairs. Appellant asserts that the courts, including Special Referee Fields, who was acting on the court's behalf, lack subject matter jurisdiction because this case deals with purely ecclesiastical matters, which are clearly outside the purview of all civil courts, regardless of whether a state court or a federal court hears the case.

The First Amendment of the United States Constitution, as incorporated to the States by the Fourteenth Amendment, clearly and unequivocally prohibits any civil courts,

including state courts, from deciding matters that are ecclesiastical in nature. Furthermore, Article 1, Section 2 of the South Carolina Constitution, which was modeled after the First Amendment, prohibits the South Carolina courts from entertaining cases concerning ecclesiastical matters. Assuming, *arguendo*, that the First Amendment of the United States Constitution does not apply to South Carolina, which Respondents are apparently claiming, South Carolina's case law regarding the civil courts' subject matter jurisdiction over ecclesiastical matters mirrors that of the United States' First Amendment case law. South Carolina has long refused to allow its courts to have a role in deciding purely ecclesiastical matters. In Pearson v. Church of God, 478 S.E. 2d 849 (S.C. 1996), this Court, after thoroughly examining the state's case law, made clear that South Carolina's "courts may not engage in resolving disputes as to religious law, principle, doctrine, discipline, custom, or administration." Id. at 853.

Respondents want this Court to find that the civil courts have subject matter jurisdiction over this case. However, based on the relief Respondents requested and the content of the November 3, 2012 Order, the civil courts clearly lack subject matter jurisdiction. Respondents asked the courts to determine which parties' interpretation of the RMUE Church's governing laws, the Discipline, was correct and who was the valid leader of the RMUE Church. Both of those requests require the courts to engage in a detailed review of the Discipline, interpret its meaning, and determine which party properly interpreted and followed the Discipline. Such a review of the Discipline would require the courts to interpret ambiguous religious law and usage and rely on religious precepts. This Court has absolutely forbidden the South Carolina courts, including those acting on behalf of the courts (e.g., Special Referees), from engaging in such actions. See Harmon v.

Dreher, 17 S.C. Eq. (1 Speers) 87 (1843); Wilson v. Presbyterian Church of John's Island, 19 S.C. Eq. 192 (1846); Morris Street Baptist Church v. Dart, 45 S.E. 753 (S.C. 1903); Bramlett v. Young, 93 S.E. 2d 873 (S.C. 1956); Knotts v. Williams, 462 S.E. 2d 288 (S.C. 1995); Pearson v. Church of God, 478 S.E. 2d 849 (S.C. 1996).

Should this Court allow this case to continue and the November 3, 2012 Order to stand, this Court will, in one fell swoop, overturn more than 170 years of South Carolina case law and endorse the State of South Carolina's intrusion into church affairs.

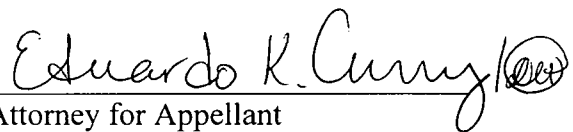
CONCLUSION

Based on the foregoing and in addition to the arguments made in Appellant's Initial Brief, Appellant respectfully submits that the issue of venue was properly preserved for appeal and that all civil courts lack subject matter jurisdiction.

WHEREFORE, based upon the foregoing facts and arguments, Appellant requests this Court to find that Jasper County is the improper venue; that the issue of venue was properly preserved for appeal; that the civil courts lack subject matter jurisdiction over this case and dismiss the case due to the lack of subject matter jurisdiction; reverse the November 3, 2012 Order; and lift any current injunctions and/or restraining orders against Bishop Fred Moore.

RESPECTFULLY SUBMITTED,

CURRY & HOUSEY, PA
EDUARDO K. CURRY, ESQ.



Attorney for Appellant
Post Office Box 42270
North Charleston, South Carolina 29423
(843) 767-5284

Dated: 11/15/2013

THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Richard E. Fields, Special Circuit Judge

Case No. 2012-CP-27-291

Barbara B. Clark, Warren E. Hatcher, Cassie Keeton, Daniel Green,
Powell Hampton, Amos Hatcher, Bobby Keeton, James Moseley,
Willie B. Oliver, Individually and as General Officers of the
RMUE Church.....Respondents

v.

Fred Henderson Moore.....Appellant

Appellate Case No. 2012-213391

PROOF OF SERVICE

The undersigned hereby certifies that a true copy of the **APPELLANT'S REPLY BRIEF**, has been served upon opposing counsel by hand delivery, email, or by mailing a copy properly addressed with sufficient postage affixed thereto this 15 day of November 2013 to the following:

Darrell Thomas Johnson, Jr., Esq.
PO Box 1125
Hardeeville, SC 29927



Law Clerk

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Richard E. Fields, Special Circuit Judge

Appellate Case No. 2012-213391

RECEIVED

NOV 18 2013

S.C. Supreme Court

Barbara B. Clark, Warren E. Hatcher, Cassie Keeton, Daniel Green,
Powell Hampton, Amos Hatcher, Bobby Keeton, James Moseley,
Willie B. Oliver, Individually and as General Officers of the
RMUE Church.....Respondents

v.

Fred Henderson Moore.....Appellant

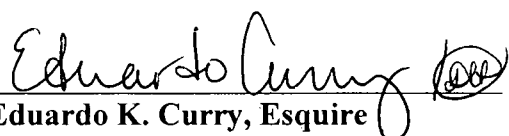
**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

1. Notice of Removal
2. Transcript of November 2, 2012 Hearing
3. Summons and Complaint
4. Answer of Defendant
5. Amended Complaint
6. Defendant's Response to Plaintiff's Request for Temporary Restraining Order and/or Injunctive Relief
7. Motion for Temporary Restraining Order & Temporary Injunction
8. Notice of Hearing for November 2, 2012
9. Amended Order of November 3, 2012
10. Minutes of the Reformed Methodist Union Episcopal Church
11. The Doctrine and Discipline of the Reformed Methodist Union Episcopal Church

I certify that this designation contains no matter which is irrelevant to this appeal.

November 18, 2013


Eduardo K. Curry, Esquire
Attorney for Appellant
Post Office Box 42270
North Charleston, South Carolina 29423
(843) 767-5284

THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Richard E. Fields, Special Circuit Judge

Case No. 2012-CP-27-291

RECEIVED

NOV 18 2013

S.C. Supreme Court

Barbara B. Clark, Warren E. Hatcher, Cassie Keeton, Daniel Green,
Powell Hampton, Amos Hatcher, Bobby Keeton, James Moseley,
Willie B. Oliver, Individually and as General Officers of the
RMUE Church.....Respondents

v.

Fred Henderson Moore.....Appellant

Appellate Case No. 2012-213391

PROOF OF SERVICE

The undersigned hereby certifies that a true copy of the **APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL**, has been served upon opposing counsel by hand delivery, email, or by mailing a copy properly addressed with sufficient postage affixed thereto this 15 day of November, 2013 to the following:

Darrell Thomas Johnson, Jr., Esq.
PO Box 1125
Hardeeville, SC 29927



Law Clerk