

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Thomas A. Russo, Circuit Judge

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APR 04 2014

SC Court of Appeals

Case No. 2010-CP-21-2932
Appellate Case No. 2012-213355

Raymond Haselden, Sharon Haselden, Annie Raye Haselden, Faye Haselden
and The General Conference of the Free Will Baptist Church of the
Pentecostal Faith, Appellants

Vs.

New Hope Church, Randy Sharpe, Johnny Powell, Winston Haselden
and Donnis McDonald Respondents

PETITION FOR REHEARING

Appellants petition the Court for a rehearing on the following grounds:

- I. That the Court has erroneously construed *All Saints Parish Waccamaw v. Protestant Episcopal Church in the Diocese of South Carolina*, 385 S.C. 428, 685 S.E.2d 163 (2009) as deciding that the only way for a congregation to bind itself to

the Discipline of a Denomination to which it and its members belong is the execution of a written trust agreement.

II. That the Court has failed to consider that a Congregation may be bound by the constitution of the general church when the Discipline of the Denomination creates an express trust in favor of the denominational church. *Jones v Wolf*, 443 U.S. at 602, 99 S.Ct. at 3025, 61 L.Ed.2d 775. *Presbytery of Greater Atlanta, Inc. v. Timberridge Presbyterian Church, Inc.*, 290 Ga. 272, 11, 719 S.E.2d 446 (Ga., 2011)

MEMORANDUM

In is opinion the court has quoted *Jones v Wolf*, 443 U.S. at 602, 99 S.Ct. at 3025, 61 L.Ed.2d 775. stating that when resolving disputes over the ownership of church property, courts must rely "exclusively on objective, well-established concepts of trust and property law familiar to lawyers and judges." However that quote is just a portion of a much larger discussion of neutral principles that recognizes the importance of Church Discipline.

The neutral-principles method, at least as it has evolved in Georgia, requires a civil court to examine certain religious documents, such as a church constitution, for language of trust in favor of the general church. In undertaking such an examination, a civil court must take special care to scrutinize the document in purely secular terms, and not to rely on religious precepts in determining whether the document indicates that the parties have intended to create a trust. In addition, there may be cases where the deed, the corporate charter, or the constitution of the general church incorporates religious concepts in the provisions relating to the ownership of property. If in such a case the interpretation of the instruments of ownership would require the civil

court to resolve a religious controversy, then the court must defer to the resolution of the doctrinal issue by the authoritative ecclesiastical body. *Serbian Orthodox Diocese*, 426 U.S., at 709, 96 S.Ct., at 2380.

Jones v. Wolf 443 U.S. at 603

Here the Discipline of the Denomination creates in secular terms a restriction on diverting church property from the Denomination. This is unlike the facts in *All Saints*¹ or *Jones v. Wolf*². The facts here are that Denomination in a procedure in which each congregation participated adopted a specific restriction on alienation of collectively owned property. RoA p. 356 and RoA p. 228. In *Carnes*, the Georgia Courts awarded control of the local church property to the loyalist members of the local church because the constitution of The United Methodist Church, its Book of Discipline, contained an express trust provision in favor of the general church. *Carnes v. Smith*, 236 Ga. 30, 222 S.E.2d 322, cert. denied, 429 U.S. 868, 97 S.Ct. 180, 50 L.Ed.2d 148 (1976) See also *Presbytery of Greater Atlanta, Inc. v. Timberridge Presbyterian Church, Inc.*, 290 Ga. 272, 11, 719 S.E.2d 446 (Ga., 2011).

The facts before this court distinguish this case from both *All Saints* and *Jones*

¹Shortly thereafter, in 1903, the Trustees of the Diocese signed a quit-claim deed (hereinafter the "1903 Quit-Claim Deed") transferring any interest the Diocese may have had in the congregation's property to All Saints Parish, Waccamaw, Inc. The Diocese did not retain any interest in the property, reversionary or otherwise. The 1903 Quit-Claim Deed was recorded in the Georgetown County public records on May 30, 1903. All Saints 385 S.C. at 437

²And here, as in *Presbyterian Church II*, but in contrast to *Carnes*, the provisions of the constitution of the general church, the Book of Church Order, concerning the ownership and control of property failed to reveal any language of trust in favor of the general church. The courts accordingly held that legal title to the property of the Vineville church was vested in the local congregation *Jones v. Wolf* 443 U.S. at 601

and create at least a genuine issue as to control of church property.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Louis D. Nettles", written over a horizontal line.

LOUIS D. NETTLES

Folkens Law Firm, PA

PO Box 6139

Florence, South Carolina 29502

Attorney for Appellants

843-665-0100

April 3, 2014

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April 3, 2014

The Honorable Tanya Gee
Clerk, The South Carolina Court of Appeals
1015 SUMTER ST
COLUMBIA, SC 29201-3726

RE: Raymond Haselden et al. v. New Hope Church et al
Case No.: 2010-CP-21-2932
Appellate Case No. 2012-213355

Dear Ms. Gee:

Enclosed herewith please find an original and six copies of a Petition for Rehearing in this matter. I also enclosed a certificate of service and a check for the filing fee.

With kind regards, I am,

Yours very truly,

A handwritten signature in black ink, appearing to read "Louis D. Nettles".

Louis D. Nettles

LDN/app01

Enclosure

cc:
Walker H. Wilcox. Esq.

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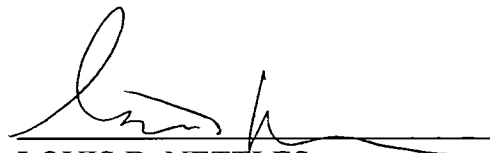
New Hope Church, Randy Sharpe, Johnny Powell, Winston Haselden
and Donnis McDonald Respondents

CERTIFICATE OF SERVICE

I certify that I have served a copy of the Petition for Rehearing on Respondent
by placing the same in the Unites States Mail postage prepaid and addressed to

Walker H. Wilcox. Esq
PO Box 1909
Florence S.C. 29503-1909

April 3, 2014



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Attorney for Appellants
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SC Court of Appeals

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Honorable Tanya Gee
SC Court of Appeals
1015 Sumter Street

COLUMBIA, SC 29201

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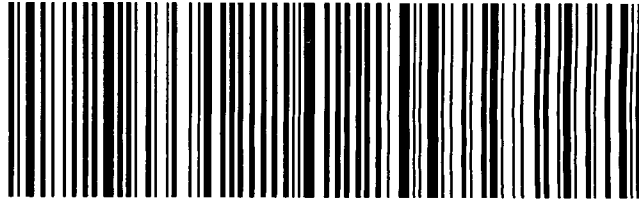
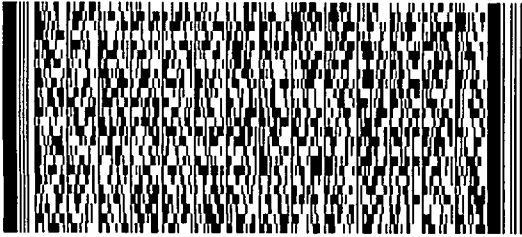
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