

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM McCORMICK COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Case No. 2013-002236

RECEIVED

DEC 08 2014

SC Court of Appeals

Samuel L. McPherson, as Presiding Elder of the
Abbeville-Greenwood District of the African
Methodist Episcopal (A.M.E.) Church *Appellant-Respondent,*

v.

Henry Banks, Mary Robinson, Delois Phillips,
Naomi Mattison, and Frank Mattison *Respondents-Appellants.*

RESPONDENTS-APPELLANTS' FINAL RESPONSE BRIEF
TO AMENDED INITIAL BRIEF OF APPELLANT-RESPONDENT

Marvin R. Watson, Esquire
333 Main Street
Post Office Drawer 799
Greenwood, SC 29648
Telephone: (864) 229-2569
Facsimile: (864) 229-1819

Attorney for Respondents-Appellants

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

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

Frank R. Addy, Jr., Circuit Court Judge

Case No. 2013-002236

Samuel L. McPherson, as Presiding Elder of the
Abbeville-Greenwood District of the African
Methodist Episcopal (A.M.E.) Church *Appellant-Respondent,*

v.

Henry Banks, Mary Robinson, Delois Phillips,
Naomi Mattison, and Frank Mattison *Respondents-Appellants.*

**RESPONDENTS-APPELLANTS' FINAL RESPONSE BRIEF
TO AMENDED INITIAL BRIEF OF APPELLANT-RESPONDENT**

Marvin R. Watson, Esquire
333 Main Street
Post Office Drawer 799
Greenwood, SC 29648
Telephone: (864) 229-2569
Facsimile: (864) 229-1819

Attorney for Respondents-Appellants

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
STATEMENT OF ISSUES ON APPELLANT- RESPONDENT'S INITIAL APPEAL	1
STATEMENT OF THE CASE	1
STATEMENT OF THE FACTS	4
ARGUMENT	
I. THE TRIAL COURT DID NOT ERR IN CONCLUDING THAT THE 4.5-ACRE TRACT OF REAL PROPERTY BELONGS TO THE ROCKFORD CHURCH AND THAT THE BUILDING FUND ACCOUNT BELONGS TO THE ROCKFORD CHURCH	8
A. The Neutral Principles Approach Mandates That Church Property May Be Determined Only By State Law	8
B. Rockford Church Holds Legal And Equitable Title To The 4.5-Acre Tract Of Property	13
II. ROCKFORD CHURCH IS THE OWNER OF THE BUILDING FUND ON DEPOSIT WITH THE McCORMICK COUNTY CLERK OF COURT	16
CONCLUSION	20
CERTIFICATE OF COMPLIANCE	
CERTIFICATE OF SERVICE	

TABLE OF AUTHORITIES

Cases	Page
<i>All Saints Parish Waccamaw v. Protestant Episcopal Church in Diocese of S.C.</i> , 385 S.C. 428, 685 S.E.2d 163 (2009)	9, 10, 14, 15
<i>Banks v. St. Matthew Baptist Church</i> , 391 S.C. 475, 706 S.E.2d 30 (2011)	10, 14, 15, 16
<i>Glover v. Manning</i> , No. 2014-UP-256, 2014 WL 2926501 (S.C. Ct. App. June 25, 2014) (unpublished opinion)	11, 12
<i>Glover v. Stevenson</i> , No. 2014-UP-257, 2014 WL 2926811 (S.C. Ct. App. June 25, 2014) (unpublished opinion)	11, 12
<i>Jones v. Wolf</i> , 443 U.S. 595 (1979)	10
<i>Lynch v. Lynch</i> , 201 S.C. 130, 21 S.E.2d 569 (1942)	17
<i>McCain v. Brightharp</i> , 399 S.C. 240, 730 S.E.2d 916 (2012)	9, 18, 19
<i>Morris St. Baptist Church v. Dart</i> , 675 S.C. 338, 455 S.E. 753 (1904)	9, 18
<i>Pearson v. Church of God</i> , 325 S.C. 45, 478 S.E.2d 849 (1996)	9, 10, 14
<i>Rector of Christ Church in Savannah v. Bishop of the Episcopal Diocese of Ga., Inc.</i> , 290 Ga. 95, 718 S.E.2d 237 (2011)	9
<i>Serb. E. Orthodox Diocese for the U.S. & Can. v. Milivojevich</i> , 426 U.S. 696 (1976)	16
<i>Staubes v. City of Folly Beach</i> , 339 S.C. 406, 529 S.E.2d 543 (2000)	12
<i>Stogsdill v. S.C. Dep't of Health & Human Servs.</i> , No. 5271, 2014 WL 4437468 (S.C. Ct. App. Sept. 10, 2014) (not yet released for publication)	12

TABLE OF AUTHORITIES (CONT'D)

Statutes	Page
S.C. Code Ann. § 62-7-401 (Supp. 2013)	11
U.S. Const. amend. I	8, 10

**STATEMENT OF ISSUES ON
APPELLANT-RESPONDENT'S INITIAL APPEAL**

1. Did the trial court err in granting a 4.5-acre tract of real property to the Respondents-Appellants?
2. Did the trial court err in ordering that Respondents-Appellants are the legal and equitable owners of funds on deposit with the McCormick County Clerk of Courts?

STATEMENT OF THE CASE¹

On March 25, 2011, Appellant-Respondent Samuel L. McPherson (hereinafter referred to as "Appellant-Respondent" or "McPherson"), as Presiding Elder of the Abbeville-Greenwood District of the African Methodist Episcopal ("AME") Church, filed a Complaint against Henry Banks, Mary Robinson, Delois Phillips, Naomi Mattison, and Frank Mattison (hereinafter referred to as "Respondents-Appellants"), as representatives and longtime parishioners of Rockford Church. (Record on Appeal ["R."] pp. 31-35.) The Complaint alleged that Respondents-Appellants were no longer members of their church and should be banned from meeting at their church. (R. p. 33.) The Complaint also sought declaratory judgment stating that the national African Methodist Episcopal church (the "national AME church") was the owner of

¹The Amended Initial Brief of Appellant-Respondent makes references to a Record on Appeal, yet, to date, the Record on Appeal for the Amended Initial Brief has not been made available to Respondents-Appellants and was not filed with the Amended Initial Brief of Appellant-Respondent. For this reason, this Response Brief does not include references to the Record on Appeal.

Rockford Church's real and personal property pursuant to the hierarchical church's rules. (R. pp. 34-35.)

Rockford Church was originally established as an independent church in the early 20th century. (R. p. 14.) It later became affiliated with the national AME church and was referred to as the Rockford African Methodist Episcopal Church or the Rockford AME Church. (R. p. 14.) In 2010, the Rockford Church parishioners, including the Respondents-Appellants, voted to become independent once again because the national AME church monetary demands were too onerous, and because the national AME church failed to provide assistance to the rural community church. McPherson's complaint was filed in response to the parishioners' move toward independence. (R. pp. 15, 41-42.)

In April 2011, the trial court rejected McPherson's requests that Respondents-Appellants be banned from their church and ordered that they be permitted to enter church property. (R. pp. 5-10.) The court later requested that the balance of the funds in the church building fund, held in a certificate of deposit, be held in trust by the Clerk of Court of McCormick County until the ownership status of the funds could be determined. (R. p. 13.)

After protracted litigation by Appellant-Respondent on other issues in the complaint, as listed in the Initial Brief and the Amended Initial Brief of Appellant-Respondent, a hearing was held before the Court of Common Pleas, McCormick County, on the remaining property dispute issues. On June 27, 2013, the trial court

held that Respondents-Appellants' church, known as "Rockford Church," holds legal and equitable title to the 4.5-acre tract of land on which the church sanctuary sits. (R. pp. 16-17.) The court also held that the Rockford Church has both legal and equitable title to the funds held in the Rockford Church Building Fund, which currently sits in the court escrow account. (R. pp. 16-17.) Finally, the court held that the national AME church held equitable title, but not legal title, to the additional 13.1-acre tract of land contiguous to the 4.5-acre tract of land. (R. p. 17.)

Prior to the filing of his Notice of Appeal, on September 11, 2013, the trial court denied McPherson's Motion to Alter or Amend the Judgment. On September 24, 2013, the trial court denied McPherson's Motion to Take Depositions Pending Appeal. The trial court also denied McPherson's motions to alter or amend the September 11, 2013 and September 24, 2013 Orders. (R. pp. 22-25.)

On October 15, 2013, Appellant-Respondent filed a notice of appeal regarding the ruling on the 4.5-acre tract of land and the church building fund. Immediately after, on October 16, 2013, Respondents-Appellants filed a notice of a cross-appeal regarding the trial court's ruling on the 13.1-acre tract of land. The appeals were consolidated by this Court pursuant to the Clerk of Court's order dated October 30, 2013.

Appellant-Respondent filed his Initial Brief on April 22, 2014, after a long delay due to Appellant-Respondent's inability to retrieve certain court hearing transcripts. Respondents-Appellants filed their response to the Initial Brief, as well

as their Initial Brief on their appellate issue. In May 2014, however, Appellant-Respondent sought to file an amended initial brief notwithstanding the already long delay in filing its first initial brief. On August 19, 2014, this Court granted Appellant-Respondent's motion to amend its initial brief and Respondents-Appellants' motion to serve and file their Appellants' Initial Brief out of time.

On September 18, 2014, the day Appellant-Respondent's amended initial brief was due, Appellant-Respondent moved for substitution of counsel. Before the court was able to rule on that motion, Appellant-Respondent filed its Amended Initial Brief through the substituted counsel. Respondents-Appellants object to the filing of Appellant-Respondent's Amended Initial Brief before the court ruled on the Motion for Substitution of Counsel. To the extent the Amended Initial Brief is properly before this Court, however, Respondents-Appellants respectfully submit this Response Brief to Appellant-Respondent's Amended Initial Brief of Appellant-Respondent.

STATEMENT OF THE FACTS

McPherson, as the Presiding Elder of the Abbeville-Greenwood District of the AME church, represents the national AME Church, Inc., in the present action. (R. p. 14.) The national AME Church, Inc., is a hierarchical church that presides, through "districts," over numerous individual churches. (R. p. 14.) Respondents-Appellants are longtime members and representatives of Rockford Church. (R. p. 41.) Rockford

Church was originally an independent rural church. (R. p. 14.) Prior to 2011, Rockford Church was affiliated with the national hierarchical AME Church, Inc., during which time it was referred to as "Rockford (AME) Church." (R. pp. 14-15.) It was a member of the Abbeville-Greenwood District, over which McPherson presides as the AME Elder. (R. p. 14.)

In 2010, a dispute arose between members of Rockford Church, including the individual Respondents-Appellants, and the national AME Church, Inc. (R. pp. 14-15.) Members of Rockford Church objected to the national church's unrelenting demands for money from Rockford Church, as well as other poor rural churches, while at the same time failing to provide support and assistance to the rural churches. (R. pp. 14-15, 41, 189-90.) Concerned members of Rockford Church informed McPherson, as the Presiding Elder of the national church, about their concerns, but McPherson did nothing. (R. p. 41; p. 73, lines 23-25; pp. 194, 197, 201.)

The national AME Church, Inc.'s lack of support for Rockford Church in particular was evident by the national church's refusal to assist Rockford Church in making basic structural repairs to its aging and decrepit physical church property. (R. pp. 189-90.) For this reason, beginning in late 1990s, Rockford Church members began making special inter vivos gifts directly to the Rockford Church. (R. pp. 186, 901.) These gifts were specifically earmarked to the Rockford Church Building Fund so that the monies would be used only to make the necessary repairs and improvements to the Rockford Church sanctuary and to build up a savings account,

with the eventual goal of building a new and more secure church building. (R. pp. 197-99, 201.) These building funds were intended for the exclusive purpose of repairing and improving the Rockford Church sanctuary and for no other purpose. (R. pp. 199, 201.)

In addition, in 2010, the members of Rockford Church transferred the Deed to the Rockford Church property to the Rockford Church Trustees who were no longer affiliated with the national AME Church, Inc., and fully recorded the Deed transfer in Book 232 of Deeds, in the Auditor's Office of McCormick City, South Carolina. (R. p. 416.)

By 2010 members of the Rockford Church, including the named Respondents-Appellants, along with the minister, voted to fully withdraw from the national AME Church, Inc. (R. p. 15.) The members could not pay the steep fees the national church imposed on small rural churches such as Rockford. (R. pp. 41, 42, 189-90.) In addition, the national AME Church, Inc., refused to assist Rockford Church in making the necessary repairs to the sanctuary. (R. pp. 33-34, 41.)

In early 2011, McPherson filed a complaint against Respondents-Appellants for injunctive and declaratory relief. (R. pp. 31-35.) Although the national AME Church, Inc., refused to assist the Rockford Church in any way, it also refused to let the local church assist itself. The Complaint alleged that the Respondents-Appellants were not members of the Rockford Church and that Rockford Church's real and personal property was held in trust for the national AME Church, Inc., pursuant to the

Book of Discipline. (R. pp. 31-35.) The Book of Discipline sets forth the national AME church doctrines for governing each church. (R. pp. 14-15.) The Complaint sought declaratory relief that all real and personal property of Rockford Church was held in trust for the benefit of the national AME Church, Inc. (R. pp. 34-35.)

The trial court, in its June 27, 2013 Order, held that the individual Defendants are trustees of Rockford Church and not trustees of the national AME church; that Rockford Church owns certain real and personal property separate and apart from the national AME Church, Inc.; and that Rockford Church does not hold this property in trust for the national AME Church, Inc. (R. pp. 14-21.)

The court's September 6, 2013 Order Denying Plaintiff's Motion to Alter or Amend, clarified that the Respondents-Appellants are not trustees of a church affiliated with the national AME church, because Rockford Church is no longer affiliated with the national AME Church, Inc.² (R. pp. 22-23.)

²Despite the trial court's postjudgment clarification, Appellant-Respondent continues to confuse the issues in his litigation by insisting that Respondents-Appellants are or may be trustees of a church affiliated with the national AME Church, Inc. They are not, and Rockford Church is no longer affiliated with the national AME Church, Inc.

ARGUMENT

I. THE TRIAL COURT DID NOT ERR IN CONCLUDING THAT THE 4.5-ACRE TRACT OF REAL PROPERTY BELONGS TO THE ROCKFORD CHURCH AND THAT THE BUILDING FUND ACCOUNT BELONGS TO THE ROCKFORD CHURCH

A. The Neutral Principles Approach Mandates That Church Property May Be Determined Only By State Law

In the June 27, 2013 Order, the trial court held that it had subject-matter jurisdiction over the parties' property disputes under South Carolina's neutral principles of law without violating the First Amendment of the U.S. Constitution. (R. p. 17.) It further held that the legal and equitable title to the 4.5-acre tract in dispute is owned by the local Rockford Church, represented by Respondents-Appellants, and not by the national AME Church, Inc. (R. pp. 17-18.) This ruling is supported by the evidence in the record, including the recorded deeds currently held in Abbeville County. (R. pp. 17-18, 412-16.) The trial court concluded that there was never an express trust in favor of the national AME Church, Inc., as to the 4.5-acre tract of land. (R. pp. 17-19.)

In addition, the trial court held that the local Rockford Church is both the legal and equitable owner of the Rockford Church Building Fund bank account, which, at the time of the Order, was being held in escrow by the McCormick County Clerk of Court. (R. p. 19.) The court also held that the national AME Church, Inc., holds

equitable title, but not legal title, to the 13.1-acre tract of land as of 1998. This ruling is the subject of Respondents-Appellants' appeal. (R. p. 19.)

In the amended initial brief, Appellant-Respondent argues that the trial court erred in not concluding that the national AME church holds title to the real and personal property of Rockford Church, as pursuant to the national AME church's Book of Discipline. There is no legal basis for this argument. Appellant-Respondent relies on *Morris Street Baptist Church v. Dart*, 675 S.C. 338, 455 S.E. 753 (1904), and the Georgia decision, *Rector of Christ Church in Savannah v. Bishop of the Episcopal Diocese of Georgia, Inc.*, 290 Ga. 95, 718 S.E.2d 237 (2011). *Morris Street Baptist Church* has no relevance to the present case, in part because it involved issues arising from a church's vote to dismiss the congregational church pastor and did not involve real and personal property disputes in the context of a hierarchical church, such as the national AME church.³

Additionally, *Morris Street Baptist Church* was also decided nearly 100 years before *Pearson v. Church of God*, 325 S.C. 45, 478 S.E.2d 849 (1996), and the later *All Saints Parish Waccamaw v. Protestant Episcopal Church in Diocese of South Carolina*, 385 S.C. 428, 685 S.E.2d 163 (2009), where the South Carolina Supreme Court adopted and applied the neutral principles of law approach to church property

³As this Court knows, religious organizations are considered to be either "congregational churches" or "hierarchical churches." Hierarchical churches, like the national AME church, have an ecclesiastical head and an ecclesiastical judicature, which the courts have no jurisdiction over. Congregational churches are independent, like Rockford Church, and are self-governing by its members. See *McCain v. Brightharp*, 399 S.C. 240, 730 S.E.2d 916 (2012).

dispute consistent with the U.S. Supreme Court's ruling in *Jones v. Wolf*, 443 U.S. 595 (1979).

Specifically, in *Pearson*, the South Carolina Supreme Court stated that when deciding church disputes, the courts may not engage in deciding disputes "as to religious law, principle, doctrine, discipline, custom or administration," but courts must decide disputes "growing out of civil law." 325 S.C. at 52, 478 S.E.2d at 853.

More recently, in *Banks v. St. Matthew Baptist Church*, 391 S.C. 475, 706 S.E.2d 30 (2011), this Court clarified the neutral principles of law approach to church property disputes stating that the court

["]relies exclusively on objective, well-established concepts of trust and property law familiar to lawyers and judges. It thereby promises to free civil courts completely from entanglement in questions of religious doctrine, polity, and practice." *All Saints Parish Waccamaw*, 385 S.C. at 444, 685 S.E.2d at 172 (quoting *Jones*, 443 U.S. at 603, 99 S.Ct. 3020). "[T]he neutral principles of law approach permits the application of property, corporate, and other forms of law to church disputes." *Id.*

Id. at 480, 706 S.E.2d at 32-33. In *All Saints Parish Waccamaw*, the court held that under the neutral principles of law approach to church disputes, where a court can completely resolve a church dispute on neutral principles of law, the First Amendment requires that it do so.

As in the *All Saints Parish Waccamaw* case, the adjudication of the property ownership issues raised in the present appeal can be resolved exclusively on neutral principles of law, such as reviewing the deeds, and does not require the court to "wade into the waters of religious law, doctrine or polity." 385 S.C. at 445, 685 S.E.2d at

172. Indeed, pursuant to the U.S. Supreme Court decision and the South Carolina Supreme Court decisions, South Carolina courts are mandated to analyze and determine church property disputes solely through the application of state civil laws.

Recently, in *Glover v. Stevenson*, No. 2014-UP-257, 2014 WL 2926811 (S.C. Ct. App. June 25, 2014) (unpublished opinion), this Court rejected the plaintiff Presiding Elder of the Lancaster District of the AME church's claim that the AME's Book of Discipline can create a trust in personal and real property of Shady Grove Church, and instead applied the neutral principles of law to all ownership issues. Citing S.C. Code Ann. § 62-7-401(a)(2), the Court stated that a trust cannot be valid without a writing signed by the representatives of Shady Grove:

The Book of Discipline alone cannot create an express trust. Although it is a writing, it is not signed by the representatives of Shady Grove. Glover presented no signed documents in which the Shady Grove representatives consented to the trust provisions. In addition, the national A.M.E. Church could not create a trust over the Shady Grove Church property through the Book of Discipline as it did not hold title to that property.

2014 WL 2926811, at *1; *see also Glover v. Manning*, No. 2014-UP-256, 2014 WL 2926501 (S.C. Ct. App. June 25, 2014) (unpublished opinion)⁴ (same).

Contrary to the contentions in the Amended Initial Brief of Appellant-Respondent, the trial court may not make a determination on the specific property issues based on church canons or doctrines, such as the Book of Discipline, as McPherson urges. As in *Stevenson* and in *Manning*, the Book of Discipline cannot

⁴Both *Stevenson* and *Manning* involve the same claims by the national AME church in complaints brought by the same attorney as in the present case.

create an express trust, because it was not signed by the Respondents-Appellants, and the national AME church could not create a trust over the Rockford Church property through the Book of Discipline, because the national AME church did not hold title to the property.

In the Amended Initial Brief, Appellant-Respondent tries to circumvent the strict neutral principles approach to church property disputes adopted by the South Carolina Supreme Court by characterizing the dispute between the parties as contractual in nature, with the national AME church Book of Discipline as the contract at issue. This erroneous claim was rejected in *Stevenson* and *Manning* where this Court found no evidence of a contract between the national AME church and the representatives of the local rural churches.

Furthermore, the Complaint and the issues litigated between the parties over the past three and one-half years concern property disputes. Appellant-Respondent cannot recharacterize his allegations as contract claims for the first time on appeal where the issue was never ruled upon and preserved below. *See Stogsdill v. S.C. Dep't of Health & Human Servs.*, No. 5271, 2014 WL 4437468 (S.C. Ct. App. Sept. 10, 2014) (not yet released for publication) (citing *Staubes v. City of Folly Beach*, 339 S.C. 406, 529 S.E.2d 543 (2000)). This contention also ignores the clear instruction by the South Carolina Supreme Court to resolve property ownership issues through objective legal channels and not through church canons and doctrine.

**B. Rockford Church Holds Legal And Equitable Title
To The 4.5-Acre Tract Of Property**

Pursuant to the neutral principles of law requirements, the trial court properly applied state civil laws applicable to the determination of church property disputes with respect to the Rockford Church 4.5-acre tract of land in dispute between McPherson, as representative of the national AME Church, Inc., and Rockford Church and its current members. (R. pp. 16-18.) The trial court concluded that it could resolve the dispute over the property using objective, well-established concepts of the State's trust and property law, including relevant deeds and other documents evidencing title. (R. pp. 17-18.)

Specifically, in its June 27, 2013 Order, the trial court concluded from these legal documents and state laws that the disputed 4.5-acre tract was created by the merger of several smaller parcels of land, the first of which was purchased by Rockford Church in 1898 and the Deed for which was filed in the Abbeville County Clerk of Courts. (R. pp. 17-18.) The second parcel was purchased by Rockford Church in 1914, and the Deed for that parcel was duly filed in Abbeville County. (R. pp. 17-18.) The third parcel of four acres or more was purchased by the Rockford Church from the Rockford School sometime before 1929, but the Deed was never recorded. (R. pp. 17-18.) In 1999, by a Special Referee Order, in response to a quiet title action by the Trustees of Rockford AME Church, the 4.5-acre tract was conveyed to the Trustees of the Rockford AME Church, but was never put in trust for the national AME church. (R. pp. 17-18.) The trustees are no longer trustees of a

national AME church and Rockford Church is no longer affiliated with the national church, therefore, the church maintains both legal and equitable title to the 4.5-acre tract. (R. pp. 17-18.)

The only evidence offered in support of Appellant-Respondent's claim that the 4.5-acre tract should be held by the national AME church are the canons set forth in the Book of Discipline. (R. pp. 361-64.) Again, in *All Saints Parish Waccamaw*, 385 S.C. 428, 685 S.E.2d 163, *Pearson*, 325 S.C. 45, 478 S.E.2d 849, and *Banks*, 391 S.C. 475, 706 S.E.2d 30, the South Carolina appellate courts emphasize that a church's governing canons do not and cannot preempt or have any actual legal effect on the actual title to church property. Specifically, the *All Saints Parish Waccamaw* court stated:

Furthermore, we hold that neither the 2000 Notice nor the Dennis Canon has any legal effect on title to the All Saints congregation's property. A trust "may be created by either declaration of trust or by transfer of property. . . ." *Dreher v. Dreher*, 370 S.C. 75, 80, 634 S.E.2d 646, 648 (2006). *It is an axiomatic principle of law that a person or entity must hold title to property in order to declare that it is held in trust for the benefit of another or transfer legal title to one person for the benefit of another.* The Diocese did not, at the time it recorded the 2000 Notice, have any interest in the congregation's property. Therefore, the recordation of the 2000 Notice could not have created a trust over the property.

385 S.C. at 449, 685 S.E.2d at 174 (emphasis added).

Blatantly ignoring these legal principals, McPherson attempts to distinguish the *All Saints Parish Waccamaw*'s clear ruling that church canons have no legal effect on title to church property by distinguishing the facts in *All Saints Parish Waccamaw*.

Yet the factual distinctions McPherson tries to draw between the present case and *All Saints Parish Waccamaw* are insignificant to the court's legal conclusions. In *All Saints Parish Waccamaw*, the original church charter vested ownership in the church property to the people of Waccamaw, and the people later transferred their interest in the property to the local church by quitclaim deed. In both cases, the legal instruments evidencing title and ownership in property plainly demonstrated that the local church held title to the real property.

Again, McPherson's claims arise from the national AME Church, Inc.'s belief that all personal and real property of Rockford Church was forever held in trust for the national AME Church as evidenced only in the national AME Church, Inc.'s Book of Discipline. McPherson's second appellate argument, that the trial court wrongly concluded that the 4.5-acre tract is titled in the Rockford Church, ignores the evidence relied on by the trial court. The trial court concluded that title to the 4.5 acres was purchased by the Rockford Church sometime before 1929. In 1999, realizing that the deed was never recorded, by a special referee order in response to a quiet title action, the 4.5-acre tract was conveyed to the then-trustees of the church, but there was no legal evidence that the property was held in trust by the national AME church as McPherson alleged in his Complaint.

McPherson's appellate arguments improperly requires the Court to entangle itself in questions of religious doctrine, polity, and practice, contrary to *Banks*, 391 S.C. 475, 706 S.E.2d 30, and to find that the Book of Discipline preempts the

objective principles of South Carolina property law. The trial court properly refused to so entangle itself. Instead, the trial court's ruling on the 4.5-acre tract as held by the current local Rockford Church is supported by South Carolina law and should be affirmed. (R. pp. 17-18.)

Furthermore, the courts do not have subject-matter jurisdiction to enforce church canons. (R. p. 17.) It is axiomatic under *Serbian Eastern Orthodox Diocese for the United States & Canada v. Milivojevich*, 426 U.S. 696 (1976), that controversies brought before a court of law that involve religious doctrine and disputes are considered ecclesiastical and are not within the jurisdiction of the court. *See also Banks*, 391 S.C. at 481, 706 S.E.2d at 33. Indeed, in McPherson's Motion to Dismiss before the trial court, McPherson states that it is not proper for a court to determine whether a church has acted consistently with its religious laws and doctrines, including its "system of discipline and administration." (R. Additions No. 3.)

II. ROCKFORD CHURCH IS THE OWNER OF THE BUILDING FUND ON DEPOSIT WITH THE McCORMICK COUNTY CLERK OF COURT

The trial court also properly held, based on neutral principles of South Carolina law, that certain funds donated by the Rockford Church members, and previously held in a bank account at First Citizens Bank in the name of Rockford Church, represent

inter vivos gifts to the local church to be used solely for the purpose of repairs and future construction costs. (R. pp. 17-19.)

To establish the existence of an inter vivos gift under South Carolina law, there must be evidence of the intent of the donor and the act of the donor. To show the act of a gift of personal property, the donor must deliver the property to the donee. *Lynch v. Lynch*, 201 S.C. 130, 21 S.E.2d 569 (1942). Indeed, the evidence in court below was unequivocal that the monies gifted and delivered to the Rockford Church Building Fund account were intended by the contributing church members to be used to ensure a safe and secure place of worship. The uncontroverted impetus for creating a building fund in the 1990s by Respondents-Appellants and other longtime members of Rockford Church was because the national AME church's strict policy was to take local church funds for national church purposes and to not support local church basic needs. The evidence was abundant and troubling that the national AME church persistently failed to care for the rural church.

In his amended initial brief, McPherson continues to misapply the neutral principles of law. He argues that the trial court should not apply objective rules of law to the dispute over the Rockford Church Building Fund account, but instead should refer to the Book of Discipline as evidence that the funds are held "in trust" for the national AME Church. Yet McPherson also concedes in his Answers to Interrogatories that he, as the representative of the national AME Church, Inc., had no actual interest in the Rockford Church Building Fund.

Applying the South Carolina law on the existence of inter vivos gifts, the affidavit testimony of the Respondents-Appellants meets the requirements that there was an intent to make a monetary gift to the local Rockford Church and that the delivery of the funds was accomplished. In her affidavit, church member Delois Phillips stated that members of Rockford Church "raised and paid all monies that are in the account for Rockford" and that "the members of Rockford do not want Elder McPherson to take control of the church funds." (R. pp. 195-96.) Other church members, including Henry Banks and Twyler Johnson, testified about how funds were raised by Rockford Church members for the exclusive purpose of the Building Fund. (R. pp. 186, 201.) Further, in his Answers to Interrogatories, McPherson stated that his only basis for alleging that the church fund account should be controlled by the national AME Church, Inc., is his interpretation of the Book of Discipline, the national church's canons, which are outside the scope of the court's jurisdiction for the reasons expressed above. (R. p. 384.)

Appellant-Respondent suggests that the court's decision in *McCain v. Brightharp*, 399 S.C. 240, 730 S.E.2d 916 (2012), supports its claim to the Rockford Church Building Fund monies. That case, like *Morris Street Baptist Church*, 675 S.C. 338, 455 S.E. 753, concerns the impact of the internal decisions by members in a congregational church, not the canons and doctrines of a national hierarchical church, such as the national AME church. In both cases, the question was whether the court could interfere with a congregation's decision to remove its pastor. The court held in

McCain that the only issues it could address were whether the congregation met and whether the congregation voted to remove the pastor. 399 S.C. at 248, 730 S.E.2d at 920.

The trial court's jurisdiction over the Rockford Church Building Fund dispute arises from its authority to apply neutral principles of law to resolve church property disputes. Based on South Carolina law regarding gifts and on the testimony of Rockford Church members, and there being no other evidence on the issue, the trial court properly concluded that the Rockford Church Building Fund account is the property of Rockford Church and is to be used exclusively for the betterment of the church sanctuary. (R. p. 19.)

CONCLUSION

For each of the reasons stated herein, Respondents-Appellants respectfully request this Court to enter an Order affirming the trial court's June 27, 2013 Order (filed July 22, 2013) on its conclusions that the 4.5-acre tract and the Rockford Church Building Fund are both legally and equitably titled to Rockford Church.

Dated: December 5, 2014

Respectfully submitted,

WATSON LAW FIRM, P.A.

By:



Marvin R. Watson, Esquire
333 Main Street
Post Office Drawer 799
Greenwood, SC 29648
Telephone: (864) 229-2569
Facsimile: (864) 229-1819

Attorney for Respondents-Appellants

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM McCORMICK COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Case No. 2013-002236

RECEIVED

DEC 08 2014

SC Court of Appeals

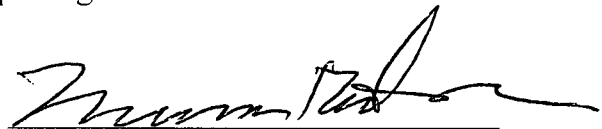
Samuel L. McPherson, as Presiding Elder of the
Abbeville-Greenwood District of the African
Methodist Episcopal (A.M.E.) Church *Appellant-Respondent,*

v.

Henry Banks, Mary Robinson, Delois Phillips,
Naomi Mattison, and Frank Mattison *Respondents-Appellants.*

CERTIFICATE OF COMPLIANCE

Respondents-Appellants hereby certify that the Respondents-Appellants' Final Response Brief to Amended Initial Brief of Appellant-Respondent fully complies with Rule 211(b), SCACR. This Final Response Brief is identical to the Respondents-Appellants' Response Brief to Amended Initial Brief of Appellant-Respondent except for (1) the addition of references to the Record on Appeal; and (2) the correction of obvious typographical errors and/or misspellings.



Marvin R. Watson, Esquire
333 Main Street
Post Office Drawer 799
Greenwood, SC 29648

Attorney for Respondents-Appellants

Dated: December 5, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM McCORMICK COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Case No. 2013-002236

RECEIVED

DEC 08 2014

SC Court of Appeals

Samuel L. McPherson, as Presiding Elder of the
Abbeville-Greenwood District of the African
Methodist Episcopal (A.M.E.) Church *Appellant-Respondent,*

v.

Henry Banks, Mary Robinson, Delois Phillips,
Naomi Mattison, and Frank Mattison *Respondents-Appellants.*

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Respondents-Appellants' Final Response Brief to Amended Initial Brief of Appellant-Respondent to be mailed, first-class postage prepaid, to William T. Toal, Esquire, Johnson, Toal & Battiste, P.A., 1615 Barnwell Street, Post Office Box 1431, Columbia, South Carolina 29202, on this 5th day of December 2014.



Marvin R. Watson, Esquire
333 Main Street
Post Office Drawer 799
Greenwood, SC 29648

Attorney for Respondents-Appellants