

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Carol Goodson-Eaddy,

Plaintiffs,

v.

Travien L. Capers, Gregory A. Brown, Robert Davis, Herbert Bell, James Randolph, Jr., Harry Thompson, James Brown, Frank M. Jones, Edwin L. Rivers, Sr., Lever Thompson, Jr., Fred Davis, Harry L. Jones, Sr., David J. Clarkson, Larry B. Brown, Grady Wilson, and Dorothy B. Adams,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2014-CP-40-6224

RECEIVED

MAY 11 2016

SC Court of Appeals

ORDER

JEANETTE W. ROSENBLUM  
C.C.P. & O.S.

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RICHLAND COUNTY  
FILED


A hearing was conducted in this Court on April 6, 2016 on Defendants' Motion to Dismiss under Rules 12(b)(1) and 12(b)(6) or in the alternative for Summary Judgment. After hearing able argument of counsel and reviewing the submitted exhibits, memoranda, and testimony, the Court grants Defendants' motion.

On July 22, 2014, Travien L. Capers (hereinafter "Pastor Capers"), sent an email to Plaintiff, and to no one else, requesting to meet with Plaintiff privately to address Plaintiff's prior conduct during the church's formal meetings. Thereafter, on August 30, 2014, a disciplinary letter to Plaintiff was drafted and signed by Pastor Capers as well as by the additional Defendants in this action, all of whom were either trustees or deacons of Zion Benevolent Baptist Church at the time of the letter's execution. In relevant part, the letter informed Plaintiff that her disruptions in church meetings, disrespect shown to church officials, and desire to turn church affairs into legal matters were not in accordance with the church leadership's view of proper Biblical conduct. The letter cited numerous passages of scripture and communicated the decision to discipline Plaintiff for her

actions by rescinding Plaintiff's membership at Zion Benevolent Baptist Church, to include removing Plaintiff from the church record and revoking all privileges of church membership.

While dated August 30, 2014, this letter was not mailed to Plaintiff until September 10, 2014. In the interim, on September 8, 2014, a special business meeting was held at Zion Benevolent Baptist Church. At this special business meeting, Pastor Capers addressed the issue of church discipline. Plaintiff testified that Pastor Capers called Plaintiff a "troublemaker" and told the church members present at the meeting that Plaintiff would potentially be excommunicated from the church if she did not "repent" and "apologize" for her actions. Plaintiff chose not to apologize during the meeting. Following the meeting, Plaintiff received via mail the church discipline letter dated August 30, 2014 excommunicating Plaintiff from the church.

On October 10, 2014, Plaintiff filed the instant lawsuit. On November 3, 2014, Defendants filed a Motion to Dismiss the lawsuit in its entirety. Judge Barber granted in part and denied in part Defendants' Motion to Dismiss, dismissing Plaintiff's civil conspiracy claim and allowing Plaintiff "to amend her Complaint to cure certain deficiencies." Judge Barber's Order recognized that the Court was unable to determine at the initial stages of the proceeding whether the lawsuit involves ecclesiastical matters outside of the subject matter jurisdiction of the Circuit Court. Any church discipline matters would not be within the jurisdiction of the court and would be dismissed. The Order also allowed Plaintiff to amend her Complaint to include "facts to support allegations that the statements were not qualifiedly privileged if made in a church meeting." Finally, the Order clarified that the Defendants have been named in their individual capacity, and to the extent any Defendant is shown to have been acting as an agent of the church at the time he or she engaged in any tortious conduct, the suit must be dismissed as to that Defendant. Ultimately, Judge Barber

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denied Defendants' Motion to Dismiss as premature and provided Plaintiff with an opportunity to cure the deficiencies detailed above.

Plaintiff subsequently filed an Amended Complaint and has testified in a deposition to clarify her causes of action and her evidence to support her claims. She testified that the only alleged defamation is the email, the letter, and the statements by Pastor Capers in the church meeting. The outrage claim relates to how the church disciplinary process worked. Defendants have filed the instant Motion to Dismiss or, in the alternative, Motion for Summary Judgment on the basis that Plaintiff has been unable to cure the deficiencies detailed by Judge Barber in his previously filed Order and has failed to show any publishing of alleged libel, and Defendants are entitled to dismissal under Rule 12(b)(1) and 12(b)(6) and/or summary judgment under Rule 56.

According to the United States Supreme Court, the First Amendment of the U.S. Constitution limits the circumstances under which a civil court can intrude into a church's internal affairs:

*[W]here resolution of the disputes cannot be made without extensive inquiry by civil courts into religious law and polity, the First and Fourteenth Amendments mandate that civil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity, but must accept such decisions as binding on them, in their application to the religious issues of doctrine or polity before them.*

Pearson v. Church of God, 325 S.C. 45, 49, 478 S.E.2d 849, 851 (1996) (quoting Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696 (1976)). The South Carolina Supreme Court

has adopted similar principles:

- 1) Courts may not engage in resolving disputes as to religious law, principle, doctrine, discipline, custom, or administration;
- 2) Courts cannot avoid adjudicating rights growing out of civil law;

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- 3) In resolving such civil law disputes, courts must accept as final and binding the decisions of the highest religious judicatories as to religious law, principle, doctrine, discipline, custom, and administration.

Pearson, at 52-53, 478 S.E.2d at 853. The South Carolina Supreme Court has stated that it “is not the function of the courts to dictate procedures for a church to follow,” and “we limit our inquiry into church affairs and respect the boundaries of church self-governance.” Williams v. Wilson, 349 S.C. 336, 340, 563 S.E.2d 320, 322 (2002).

For example, “[i]n Pearson v. Church of God, 325 S.C. 45, 53, 478 S.E.2d 849, 853 (1996), our supreme court held it was not proper for this court to ‘determine whether the Church acted consistently with its religious laws and doctrines, its system of discipline and administration in revoking [the minister’s] ministry . . . [because that] would be a quintessentially ecclesiastical matter over which a court could not exercise jurisdiction.’” McCain v. Brighttharp, 730 S.E.2d 916, 920 (S.C. Ct. App. 2012). Thus, the areas of church administration and church discipline are specifically outside the jurisdiction of civil courts.

The only instances of alleged defamation identified by Plaintiff in her deposition are the July 22, 2014 email from Pastor Capers to Plaintiff, the August 30, 2014 letter from Pastor Capers and other church officials to Plaintiff, and the September 8, 2014 special business meeting. However, the allegedly defamatory statements made within these two letters as well as during the special business meeting were limited to the context of church administration and church discipline and were thus official church business over which this Court has no jurisdiction.

For example, the July 22, 2014 email sent by Pastor Capers only to Plaintiff specifically addresses Plaintiff’s behavior in the context of church meetings and notes that this conduct does not comport with the manner in which a church member should raise questions, which should “respect[] [the church’s] sanctuary and reflect[] a Christian character.” These statements reflect

the communication of proper church procedure related to interactions with church officials and potential discipline for failing to adhere to such procedures.

Similarly, the August 30, 2014 letter to Plaintiff from the church detailed instructions from the New Testament “on how the church should function from the pulpit to the pew” and addressed the ways in which Plaintiff had failed to heed these instructions. The letter cites numerous scriptures to demonstrate how Plaintiff’s behaviors have not been in accordance with the teachings of the church. These statements necessarily implicate church doctrine, administration, and discipline over which this Court cannot exercise jurisdiction, as they address Plaintiff’s conduct related to the church interpreted in light of the Bible and the appropriate discipline for such conduct in the context of church doctrine.

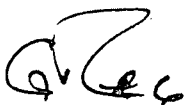
Finally, the alleged defamatory statements made at the September 8, 2014 special business meeting involve Pastor Capers communicating that Plaintiff was a “troublemaker” within church meetings and requiring Plaintiff to “repent” and “apologize” in order to retain her membership in the church. *These statements directly relate to internal church disciplinary matters over which this Court has no jurisdiction and were confined to a meeting of church members. Indeed, a witness at the September 8, 2014 meeting, church member Nadine Taylor, testified that she viewed Pastor Capers’ comments at the meeting as “a warning” to Plaintiff that her actions could result in discipline to include the termination of her church membership if she did not repent and apologize. Exhibit E, Deposition of Nadine Taylor (Page 17:11 to 17:20, Page 18:6 to 18:14).* Further, while Plaintiff herself testified that does not believe the special business meeting was the “appropriate way” for Pastor Capers to administer church discipline, there is no evidence in the record that Plaintiff disputes the fact that the meeting and her ultimate excommunication from the church was a form of discipline imposed by the church.



Thus, the alleged defamation identified by Plaintiff in her deposition was delivered in the context of church administration and discipline. All of the communications came from church officials responsible for handling disciplinary matters. In fact, Plaintiff conceded in her deposition that the church officials who signed the August 30, 2014 letter were officials responsible for running the church and handling church discipline. While Plaintiff may hold a personal belief that Defendants' methods of implementing church discipline were not "appropriate," this belief does not change the fact that the statements of the Defendants in this action were made in the context of church administration and discipline. Plaintiff also failed to comply with the prior Order in this case requiring facts to support allegations that the statements did not have a qualified privilege since they were made in a church meeting.

Further, with respect to Plaintiff's pending claim for intentional infliction of emotional distress, the claim itself stems from the above-discussed actions of alleged defamation and excommunication. These actions were performed in context of church administration and discipline by church officials who Plaintiff recognizes were responsible for church discipline. As such, Plaintiff's claim for intentional infliction of emotional distress, which derives from the Defendants' alleged defamatory conduct as well as her subsequent excommunication, also concerns ecclesiastical matters specifically outside the jurisdiction of the Circuit Court.

While Defendants recognize that civil courts may hear cases touching upon religious organizations where the dispute may be resolved entirely by neutral principles of law, a resolution of the dispute by neutral principles of law here is not feasible. Banks v. St. Matthew Baptist Church, 406 S.C. 156, 160-61, 750 S.E.2d 605, 607 (2013). The Court cannot perform an independent assessment of the allegedly defamatory statements and ultimate excommunication because the statements and disciplinary actions were made by church officials during church



proceedings in the context of implementing church discipline. For this reason, the statements and excommunication can only be considered in the appropriate context, that is, as acts of discipline and administration by church officials for actions that did not comport with Biblical directives. The August 30, 2014 letter specifically cites to “Biblical law” and scripture passages upon which the disciplinary step of excommunicating Plaintiff was ultimately based. This Court cannot apply neutral principles of law to these statements without deciding issues of religious doctrine and discipline.<sup>1</sup> As such, Plaintiff’s Complaint concerns ecclesiastical matters specifically outside the jurisdiction of the Circuit Court.

In ruling on Defendants’ initial Motion to Dismiss, Judge Barber provided Plaintiff with an opportunity to amend her Complaint and present any evidence to demonstrate that the allegations in her Complaint do not involve ecclesiastical matters. Plaintiff has failed to do so. Instead, the record evidences that the conduct alleged in Plaintiff’s Complaint was performed by church officials and constituted church administration and church discipline. As such, the allegations in Plaintiff’s Amended Complaint involve ecclesiastical matters and thus fall outside of the subject matter jurisdiction of this Court.

Even if this Court were to have jurisdiction over this subject matter, Plaintiff has not satisfied the elements of defamation under South Carolina law. “The tort of defamation allows a plaintiff to recover for injury to her reputation as the result of a defendant’s communication to others of a false message about the plaintiff.” Holtzscheiter v. Thomson Newspapers, Inc., 332

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<sup>1</sup> For example, in order to sustain her intentional infliction of emotion distress claim, Plaintiff must demonstrate that her excommunication was so “extreme and outrageous” as to exceed “all possible bounds of decency.” Hansson v. Scalise Builders of S. Carolina, 374 S.C. 352, 356, 650 S.E.2d 68, 70 (2007). However, Plaintiff’s ultimate excommunication was a form of church discipline imposed following Plaintiff’s voluntary decision to refrain from repenting and apologizing during the meeting. A South Carolina court cannot apply neutral principles of law to this issue without making a ruling as to whether the church-imposed discipline of excommunication exceeded “all possible bounds of decency,” which would necessarily rule on issues of religious doctrine and discipline outside of the jurisdiction of the Court.

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S.C. 502, 508, 506 S.E.2d 497, 501 (1998). The elements of a defamation claim include: (1) a false and defamatory statement concerning another; (2) an unprivileged publication to a third party; (3) fault on the part of the publisher; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. Id. “Slander is a spoken defamation while libel is a written defamation or one accomplished by actions or conduct.” Id.

In her deposition, Plaintiff limited the alleged defamation in this matter to three instances: (1) the July 22, 2014 email from Pastor Capers to Plaintiff; (2) the August 30, 2014 letter from Pastor Capers and other church officials to Plaintiff and (3) the September 8, 2014 special business meeting.

With respect to the July 22, 2014 email and the August 30, 2014 letter, these documents do not constitute defamation because neither document was published to a third party. “The publication of defamatory matter is its communication, intentionally or by a negligent act, to a third party—someone other than the person defamed.” Id. at 520, 506 S.E.2d at 507. The July 22, 2014 email was sent from Pastor Capers’ email address to Plaintiff’s email address. In her deposition, Plaintiff conceded that she has no knowledge that this email was sent to any other person besides herself. There is no evidence in the record that the July 22, 2014 email was published to a third party. As such, Plaintiff fails to satisfy the publication element of her defamation claim as to the July 22, 2014 email.

Further, the August 30, 2014 letter was sent directly to Plaintiff by Defendants. In her deposition, Plaintiff testified that she is not aware of the letter being sent to any third party and has never heard of anyone else receiving a copy of the letter. While Plaintiff testified that she herself subsequently shared the letter with “quite a few people,” this does not establish that Defendants published the letter to any third party as is necessary to sustain a libel claim. As such, Plaintiff

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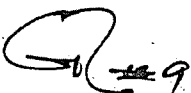
fails to satisfy the publication element of her libel claim as to the August 30, 2014 letter. Accordingly, summary judgment is granted in favor of all Defendants as to Plaintiff's claim for libel. This letter serves as the only basis for claims against all Defendants except Defendant Capers.

With respect to Plaintiff's slander claim, the alleged defamatory statements made during the September 8, 2014 special business meeting were made solely by Pastor Capers.<sup>2</sup> However, the alleged statements made by Pastor Capers during the special business meeting were not defamatory. Plaintiff testified that at the meeting, Pastor Capers told Plaintiff she needed to repent and apologize for her actions. Plaintiff also testified that Pastor Capers called Plaintiff a "troublemaker." These statements are not defamatory, especially within the context of a church meeting addressing discipline. Indeed, when church member and witness Nadine Taylor was asked about these statements in her deposition, she testified that she felt that the church members needed more information and "details" as to what made Plaintiff a troublemaker and why Plaintiff should be excommunicated from the church. Similarly, Plaintiff testified that at the meeting, she and other church members questioned Pastor Capers as to details of why he made such comments about Plaintiff and what information he had to support these comments. Thus, the statements made by Pastor Capers during the meeting were not defamatory, as both Plaintiff and Nadine Taylor indicated that more statements were needed on the discipline matter and that they wished Pastor Capers to comment further concerning Plaintiff.

Further, even if this Court were to find any of Pastor Capers' statements to be defamatory, the statements were made in the context of a special business meeting at the church and Pastor Capers is thus entitled to a qualified privilege as a matter of law. See Fountain v. First Reliance Bank, 398 S.C. 434, 444, 730 S.E.2d 305, 310 (2012). Under the doctrine of qualified privilege,

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<sup>2</sup> Plaintiff's slander claim is only asserted against Pastor Capers and does not concern the additional Defendants.



one who publishes defamatory matter concerning another is not liable for the publication if (1) the matter is published upon an occasion that makes it conditionally privileged, and (2) the privilege is not abused. Id. “The essential elements of a conditionally privileged communication may be enumerated as good faith, an interest to be upheld, a statement limited in its scope to this purpose, a proper occasion, and publication in a proper manner and to proper parties only.” Id. The existence of this privilege is a question of law for the court. Castine v. Castine, 403 S.C. 259, 267, 743 S.E.2d 93, 97 (Ct. App. 2013).

The alleged defamatory statements made by Pastor Capers were delivered during a church meeting to church members discussing church business. The statements were made in the context of disciplining Plaintiff, a church member at that time, pursuant to church administrative procedures. The statements were limited to addressing Plaintiff’s past behavior in the context of her participation and behavior in the church and with church officials. An official church meeting with church members present is the proper occasion to discuss disciplinary issues arising from a church member’s conduct. It is hard to conceive of a more appropriate setting for church officials to discuss the discipline of church members than in an official church meeting limited to church members. Denying Pastor Capers a qualified privilege during such discussions would undermine the purpose of the privilege, and Plaintiff has presented no evidence to support such a denial despite an explicit requirement in the prior Order to do so in order for the claims to survive.

Judge Barber’s Order on Defendants’ initial Motion to Dismiss specifically recognized that “Plaintiff must also present facts to support allegations that the statements were not qualifiedly privileged if made in a church meeting.” Plaintiff has presented no such facts. Instead, the record supports the determination that Pastor Capers is entitled to a qualified privilege as a matter of law. Accordingly, even if this Court were to find any statements by


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Pastor Capers to be defamatory, the statements by Pastor Capers are entitled to a qualified privilege as a matter of law and thus Plaintiff has failed to satisfy the elements of a defamation claim. As such, Defendants are entitled to summary judgment as to Plaintiff's defamation claims.

Finally, Plaintiff's claim for intentional infliction of emotional distress, or outrage, are subject to a heightened burden of proof. Hancock v. Mid-S. Mgmt. Co., 381 S.C. 326, 330-31, 673 S.E.2d 801, 803 (2009). Plaintiff must submit more than a mere scintilla of evidence to withstand a motion for summary judgment. Id. Plaintiff in the subject matter lacks physical harm, so she must show more in the way of extreme outrage that is simply not present in the evidence before the Court. Hanson v. Scalise Builders of S.C., 374 S.C. 352, 356, 650 S.E.2d 68, 71 (2007). Consequently, Plaintiff's claim fails as a matter of law even if the subject of her claim was not a church discipline matter over which this Court has no jurisdiction. It is hereby

ORDERED, ADJUDGED and DECREED that the Plaintiff's claims as to all Defendants are dismissed with prejudice, and

IT IS SO ORDERED.

  
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The Honorable G. Thomas Cooper, Jr.  
Presiding Judge  
Richland County Court of Common Pleas

April 11, 2016