

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

John M. Milling, Circuit Court Judge

Civil Action No. 2007-CP-10-896
Case Tracking No. 2011-188006

Ira Banks, James Bell and
Vernon Holmes,

Respondents,

v.

St. Matthew Baptist Church,
an unincorporated association
and Clinton Brantley of whom
Clinton Brantley is the

Petitioner.

BRIEF OF RESPONDENTS

Thomas O. Sanders, IV
Sanders Law Firm, LLC
1738 Three Oaks Avenue
Charleston, South Carolina 29407
(843)573-8828
Attorney for Respondents

RECEIVED

MAY 15 2012

S.C. Supreme Court

TABLE OF CONTENTS

Table of Authorities..... ii

Statement of Issues on Appeal..... iii

Counter Statement of the Case..... 1

Counter Statement of the Facts..... 1

Arguments

 I. THE COURT OF APPEALS PROPERLY APPLIED THE "NEUTRAL PRINCIPLES" DOCTRINE TO APPELLANTS CLAIMS..... 2

 II. PETITIONER BRANTLEY'S DISPARAGING REMARKS AGAINST RESPONDENTS ARE NOT INTERTWINED WITH CHURCH GOVERNANCE..... 4

Conclusion..... 8

Certificate of Counsel..... 9

TABLE OF AUTHORITIES

CASES

All Saints Parish Waccamaw v. Protestant Episcopal Church in Diocese of S.C.,
385 S.C. 428, 685 S.E.2d 163 (2009)..... 2

Bramlett v. Young, 229 S.C. 519, 93 S.E.2d 873 (1956)..... 1,3

Hutchison v. Thomas, 789 F.2d 392 (6th Cir. 986)..... 6

Jae-Woo Cha v. Korean Presbyterian Church of Washington, et al, 553 S.E.2d 511
(Va. 2001)..... 5

Jones v. Wolf, 443 U.S. 595 (1979)..... 2

Kedroff v. St. Nicholas Cathedral, 344 U.S. 94, 73 S. Ct. 143 (1952)..... 5

Knotts v. Williams, 319 S.C. 473, 462 S.E.2d 288 (1995)..... 5

Morris Street Baptist Church v. Dart, 67 S.C. 338, 45 S.E. 753 (1903)..... 3

Pearson v. Church of God, 325 S.C. 45, 478 S.E.2d 849 (1996)..... 3

Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696, 96 S. Ct. 2372 (1976) 3,4

Sherbert v. Verner, 374 U.S. 398, 83 S. Ct. 1790 (1963)..... 6

STATUTES

Not applicable.

OTHER AUTHORITIES

U.S. Const. 1st Amendment..... 4

U.S. Const. 14th Amendment..... 4

STATEMENT OF ISSUES ON APPEAL

1. WHETHER THE COURT OF APPEALS PROPERLY RULED THAT THE TRIAL COURT MAY APPLY THE "NEUTRAL PRINCIPLES" DOCTRINE TO APPELLANTS' CLAIMS.

COUNTER STATEMENT OF THE CASE

On January 26, 2011, The South Carolina Court of Appeals ruled that the trial court can decide Respondents Ira Banks', James Bell's and Vernon Holmes' ("Respondents") defamation cause of action against Petitioner Clinton Brantley ("Petitioner Brantley") without looking at religious principles. Petitioner Brantley appealed.

COUNTER STATEMENT OF THE FACTS

On March 5, 2007, Respondents Ira Banks, James Bell and Vernon Holmes ("Respondents") brought a Defamation claim against Petitioner Clinton Brantley ("Petitioner Brantley") arising from Petitioner Brantley's false and disparaging remarks at a May 22, 2006 congregational meeting held at St. Matthew Baptist Church ("the Church") which led to their dismissal as Trustees. At the meeting, Petitioner Brantley accused Respondents of mishandling, mismanaging, misappropriating and stealing \$300,000.00 of the church's money and said he did not know what was done with it (Appx. pp. 3-4) (Appx. p. 83) (Appx. p. 86) (Appx. p. 90) (Appx. pp. 93-94) (Appx. pp. 96-97) (Appx. 99-100) (Appx. pp. 101-102) (Appx. p. 103) (Appx. p. 107) (Appx. p. 109) (Appx. p. 111) (Appx. pp. 112-113) (Appx. p. 129, lines 24-25) (Appx. p. 130, lines 1-9).

Previously, the Church had tasked Respondents to purchase rental property near the Church in order to improve the surrounding neighborhood. Respondents were authorized to borrow up to \$300,000.00 to buy the rental property (Appx. p. 131, lines 14-16) so they would not have to wait for, and keep coming back to, a called Church meeting for approval (Appx. p. 99) (Appx. p. 101). This pre-approval allowed

Respondents to move forward with their negotiations in a timely manner (Appx. pp. 99, 101).

Petitioner Brantley's allegations were egregious not only because of his position as the pastor, but also because before the meeting he clarified with Church Finance Officer Francina Roche that the authorized amount of the loan to buy rental property for the Church's community outreach ministry was the \$300,000.00 which was borrowed (Appx. p. 131, lines 14-16). Also before the meeting, Petitioner Brantley made no attempt to determine whether or not any money was actually missing (Appx. p. 131, lines 7-16). During the meeting, Church Finance Officer Francina Roche reported that all the Church's money was accounted for (Appx. p. 94). After the meeting, Church Finance Officer Francina Roche made it a point to tell Petitioner Brantley that all of the money was accounted for (Appx. p. 109) and that none was missing. Even so, Petitioner Brantley seemed unconcerned about the accounting (Appx. p. 109). After the meeting, a preliminary audit was done. It revealed that no money was mismanaged or missing (Appx. p. 127, lines 2-13). By that time, the word on the street was that Respondents had stolen money from the Church (Appx. p. 90). The damage to Respondents' reputations had been done.

On September 16, 2008 before the trial began, the trial court dismissed for lack of jurisdiction. On January 26, 2011, the Court of Appeals properly reversed the trial court as to the Defamation claim.

ARGUMENTS

- I. THE COURT OF APPEALS CORRECTLY HELD THAT NEUTRAL PRINCIPLES OF CIVIL LAW MAY BE APPLIED TO THE DEFAMATION CLAIM WITHOUT DISTURBING THE CHURCH'S DECISION TO REMOVE RESPONDENTS AS TRUSTEES.

Respondents' claim of Defamation against Petitioner Brantley can be resolved by applying neutral principles of civil law without disturbing the Church's decision to remove them as Trustees and without considering the Church's beliefs, policy, governance or doctrine. When resolving church disputes, South Carolina courts are to apply the "neutral principles of law approach." All Saints Parish Waccamaw v. Protestant Episcopal Church in Diocese of S.C., 385 S.C. 428, 442, 685 S.E.2d 163, 170 (2009); Jones v. Wolf, 443 U.S. 595 (1979). The "neutral principles of law" approach permits the application of property, corporate *and other forms of law* to church disputes. Id. at 444 (emphasis added). Further, where a civil court can completely resolve a church dispute on neutral principles of law, the First Amendment commands it to do so without resolving underlying controversies over religious doctrine. Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696, 96 S.Ct. 2372 (1976). In our case, the Court of Appeals' decision follows both the federal law and the well-established South Carolina Law.

The jurisdiction of civil courts as to civil rights involved in a church controversy is further defined in Pearson v. The Church of God, 325 S.C. 45, 478 S.E.2d 849 (1996) (quoting Bramlett v. Young, 229 S.C. 519, 537-38, 93 S.E.2d 873, 882 (1956)). Pearson holds that "civil courts do have jurisdiction as to *civil*, contract and property rights which are involved in a church controversy, even though they have no jurisdiction of "ecclesiastical questions and controversies." Id. at 51 (emphasis added), that courts cannot avoid adjudicating rights arising from civil law, and that courts must accept as final and binding the decision of the church's highest judicatories as to administration. Id. In our case, the Court of Appeals' decision follows this case law.

Petitioner Brantley incorrectly asserts that the "neutral principles of law approach" is restricted to property disputes and contractual issues (Brief of Petitioner Brantley, pp. 13-14) citing Morris Street Baptist Church v. Dart, 67 S.C. 338 (1903). Morris Street involved a church's attempt to enjoin and to restrain a pastor from preaching and from attempting to function as a pastor after the congregation had voted to dismiss him. The pastor asserted that he was entitled to three months' notice before he could be dismissed. The court held that a church may dismiss its pastor without notice at a properly-called, regular business meeting. While the court mentions rights "growing out of a contract" or "possession of property," it does not restrict the "neutral principles of law" approach to these two issues. Id. at 342. The Morris Street holding is much broader than Petitioner Brantley suggests. "When a *civil* right depends upon an ecclesiastical matter, it is the civil court, and not the ecclesiastical, which is to decide (emphasis added). But the civil tribunal tries the civil right and no more, taking the ecclesiastical decisions out of which the civil right arises, as it finds them." Id. at 341, 45 S.E. at 754.

Respondents' Defamation claim seeks redress of a civil right.¹ To reverse the Court of Appeals and to embrace the trial court's ruling would strip away the civil rights of those who belong to an organized religion. Parishioners could be harmed by their pastor without redress. Penalizing Respondents for joining an organized religion violates both the First and 14th Amendments of the U.S. Constitution.

II. PETITIONER BRANTLEY'S DISPARAGING REMARKS AGAINST RESPONDENTS ARE NOT INTERTWINED WITH CHURCH GOVERNANCE.

All of the legal authority relied upon by Petitioner Brantley is intertwined with

¹ Civil courts have been opened to the multitude of molestation claims of young parishioners against Catholic Priests.

issues of expelling members or firing employees (the ministerial exception) of a church. In contrast, our case involves neither issue.

Petitioner Brantley's false allegations are not protected speech. Challenging them would not affect church governance at all, because Respondents are not attacking the Church's beliefs or its decision to remove them as Trustees. Instead, the Defamation claim is focused solely upon Petitioner Brantley's behavior-- specifically his false allegation that Respondents misappropriated \$300,000.00 (Appx. p. 93) (Appx. pp. 101 102) (Appx. p. 113) (Appx. p. 129, lines 7-25) (Appx. p. 130, lines 1-9).

Further, Petitioner Brantley incorrectly suggests that civil courts may not inquire into any matters of church administration (Petitioner's Brief, p. 9). This suggestion contradicts federal law. At best, Petitioner Brantley's allegations are very peripheral to the Church's administration. Even so, in Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696 at 709 (1976), the Court accepted extensive inquiry by civil courts into religious law and polity when it used the words "extensive inquiry" in its holding. The Court held that when such an extensive inquiry is made, the First and Fourteenth Amendments of the United States Constitution 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." Id. at 709. This rule requires that proof be made as to what these decisions are. If proofs on the decisions conflict, then the civil court will inevitably have to choose one over the other. In our case, the Church is governed congregationally. It is not governed by a ruling hierarchy as in Kedroff v. St. Nicholas Cathedral, 344 U.S. 94, 73 S. Ct. 143 (1952), another case upon

which Petitioner Brantley relies.

As such, there is no appeal from a congregational decision (Appx. p. 32, lines 15-18). Therefore, the trial court has jurisdiction to review actions taken by both the congregation (which is not before the Court) (see Knotts v. Williams, 319 S.C. 473, 479 (1995)) and the pastor.

Petitioner Brantley's reliance upon Jae-Woo Cha v. Korean Presbyterian Church of Washington, 553 S.E.2d 511 (Va. 2001) is misplaced. Our case is easily distinguishable. In Jae Woo Cha, a pastor sued his church and its governing board for wrongful termination and for the resulting defamation. The court held that because the defamation was intertwined with the termination, it could have a potentially chilling effect on the performance of the duties of a religious board's members. Id. at 515. Even though the court in Jae-Woo Cha declined jurisdiction, it recognized that there are situations in which a civil court may exercise jurisdiction over a plaintiff's tort claims as to a church and its officials.

In our case, Respondents have neither contested their termination as Trustees, nor were they employees of the Church, nor did they sue a governing board. Further, Petitioner Brantley fails to assert any potential chilling effect on operation of the Church.

Also, Petitioner Brantley's reliance upon Sherbert v. Verner, 374 U.S. 398, 83 S. Ct. 1790 (1963) is misplaced. Sherbert held that South Carolina's denial of unemployment benefits to an employee who was fired for refusing to work on the Sabbath Day (a Saturday) of her faith was unconstitutional, because such a policy required the employee to abandon her religious convictions. Such drastic action has not occurred in our case.

Further, Petitioner Brantley's reliance upon Hutchison v. Thomas, 789 F.2d 392 (6th Cir. 1986) is misplaced. Our case is easily distinguishable. In Hutchison, a minister was forced into retirement because of repeated complaints that he was hard to get along with. The Neutral Principles Doctrine was not applied, because these concerns of internal church discipline, faith and organization were governed by ecclesiastical rule, custom and law. In this case, the minister was fighting his forced retirement. In our case, Respondents are not contesting their removal as Trustees.

The Defamation claim against Petitioner Brantley is not intertwined in the congregation's decision to remove them as trustees. The false allegations can be considered in isolation, separate and apart from the congregation's decision to remove Respondents as Trustees without considering the Church's beliefs.

It is important to observe what Respondents have not done. They have not challenged Petitioner Brantley's authority as pastor. They have not challenged their removal as Trustees. They have not challenged any decision of the Church. The trial court took notice of this fact before ruling when it admitted, "I don't know that the decision of the body is what's being called into question." (Appx. p. 51, lines 16-18). This alone distinguishes our case from all of the cases relied upon by Petitioner Brantley.

Petitioner Brantley fails to show that the trial court's hearing the Defamation claim would violate religious freedom. Further, Petitioner Brantley fails to show even a potential chilling effect upon the Church's operation or its beliefs, because none exists.

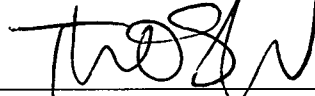
To reverse the Court of Appeals and to embrace the trial court's ruling would shield pastors or other church leaders from his/her wrongful actions by hiding behind the protective cloak of his/her church, thus granting a privilege to pastors and to other church

leaders not generally available to other people. Thus, pastors or other church leaders would be allowed to commit all kinds of atrocious behavior at his/her church without redress by the aggrieved.

CONCLUSION

The Court of Appeals correctly decided that the Defamation claim against Petitioner Brantley can be decided without intruding into the Church's beliefs, policy, governance or doctrine. This Court should affirm the Court of Appeals' ruling. Aside from the civil court, Respondents have nowhere else to turn for redress.

SANDERS LAW FIRM, LLC



Thomas O. Sanders, IV
1738 Three Oaks Avenue
Charleston, South Carolina 29407
(843)573-8828
ATTORNEY FOR RESPONDENTS

May 14, 2012
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

John M. Milling, Circuit Court Judge

Civil Action No. 2007-CP-10-896
Case Tracking No. 2011-188006

Ira Banks, James Bell, and Vernon Holmes..... Appellants

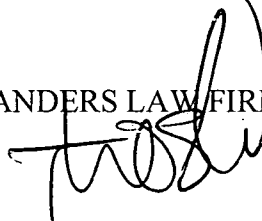
v.

St. Matthew Baptist Church, an Unincorporated
Association, and Clinton Brantley..... Respondents

CERTIFICATE OF COUNSEL

I certify that this *Brief of Respondents* complies with Rules 208 and 267, SCACR and with the South Carolina Supreme Court's August 13, 2007 Order regarding Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings.

SANDERS LAW FIRM, LLC



Thomas O. Sanders, IV
1738 Three Oaks Avenue
Charleston, South Carolina 29407
(843)573-8828
Attorney for Respondents

May 14, 2012
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

MAY 15 2012

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

S.C. Supreme Court

John M. Milling, Circuit Court Judge

Civil Action No. 2007-CP-10-896
Case Tracking No. 2011-188006

Ira Banks, James Bell and
Vernon Holmes,

Respondents,

v.

St. Matthew Baptist Church,
an unincorporated association
and Clinton Brantley of whom
Clinton Brantley is the

Petitioner.

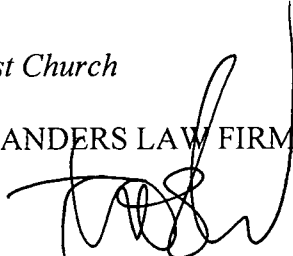
PROOF OF SERVICE

I certify that I have served the *BRIEF OF RESPONDENTS* on Petitioner Clinton Brantley and to attorneys of record by depositing a copy of it in the United States Mail, postage prepaid, on May 14, 2012 as follows:

Weston Adams, III, Esquire
PO Box 12519
Columbia, SC 29211-2519
Attorney for Petitioner Brantley

Richard C. Thomas, Esquire
PO Box 8448
Columbia, SC 29202
Attorney for St. Matthew Baptist Church

SANDERS LAW FIRM, LLC



Thomas O. Sanders, IV

1738 Three Oaks Avenue
Charleston, South Carolina 29407
(843)573-8828
Attorney for Respondents

May 14, 2012
Charleston, South Carolina

SANDERS LAW FIRM, LLC

1738 THREE OAKS AVENUE
CHARLESTON, SOUTH CAROLINA 29407
WWW.SANDERSLAWFIRM.COM

THOMAS O. SANDERS, IV, ATTORNEY AT LAW
Certified Mediator by S.C. Supreme Court

MICHAEL A. WHITSITT, ATTORNEY AT LAW

Tel. (843)573-8828
Fax. (843)573-9288
E-mail tosanders@sanderslawfirm.com

May 14, 2012

The Honorable Daniel E. Shearouse, Clerk of Court
Attn.: Ms. Linda Allen, Deputy Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RECEIVED

MAY 15 2012

S.C. Supreme Court

pm 5-14-12

RE: Banks, Ira v. Brantley, Clinton, 2007-CP-10-896

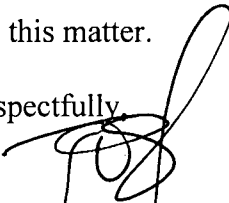
Dear Ms. Allen:

Attached please find the following: 1) Original (unbound) and 15 copies of *Brief of Respondents*; and 2) Original and one copy of Proof of Service.

Please return a clocked copy of each in the self-addressed, stamped envelope provided.

Thank you very much for your help with this matter.

Respectfully


Thomas O. Sanders, IV

TOS/jm

cc: Mr. Ira Banks (by email) ✓
Estate of James Bell ✓
Mr. Vernon Holmes (by email) ✓
Weston Adams, III, Esquire ✓
Richard C. Thomas, Esquire ✓