

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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**May 05 2022**

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

Edgar W. Dickson, Circuit Court Judge

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Appellate Case No. 2020-000986

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The Protestant Episcopal Church in the Diocese of South Carolina; The Trustees of The Protestant Episcopal Church in South Carolina, a South Carolina Corporate Body; All Saints Protestant Episcopal Church, Inc.; Christ St. Paul's Episcopal Church; Church Of The Cross, Inc. and Church Of The Cross Declaration Of Trust; Church Of The Holy Comforter; Church of the Redeemer; Holy Trinity Episcopal Church; Saint Luke's Church, Hilton Head; St. Bartholomew's Episcopal Church; St. David's Church; St. James; Church, James Island, S.C.; St. Paul's Episcopal Church of Bennettsville, Inc.; The Church Of St. Luke and St Paul, Radcliffeboro; The Church Of Our Saviour Of The Diocese of South Carolina; The Church Of The Epiphany (Episcopal); The Church Of The Good Shepherd, Charleston, SC; The Church Of The Holy Cross; The Church Of The Resurrection, Surfside; The Protestant Episcopal Church, Of The Parish Of Saint Philip, In Charleston, In The State Of South Carolina; The Protestant Episcopal Church, The Parish Of Saint Michael, In Charleston, In The State Of South Carolina and St. Michael's Church Declaration Of Trust; The Vestry And Church Wardens Of The Episcopal Church Of The Parish Of St. Helena and The Parish Church of St. Helena Trust; The Vestry and Church Wardens Of The Episcopal Church Of The Parish Of St. Matthew; The Vestry and Wardens Of St. Paul's Church, Summerville; Trinity Church of Myrtle Beach; Trinity Episcopal Church; Trinity Episcopal Church, Pinopolis; Vestry and Church Wardens Of The Episcopal Church Of The Parish Of Christ Church; Vestry and Church Wardens Of The Episcopal Church Of The Parish Of St. John's, Charleston County, The Vestry And Church Wardens Of St. Jude's Church Of Walterboro The Vestries And Churchwardens Of The Parish Of St. Andrew,

Respondents,

v.

The Episcopal Church (a/k/a, The Protestant Episcopal Church in the United States of America); The Episcopal Church in South Carolina,

Appellants.

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**PETITION FOR REHEARING OF THE VESTRIES AND CHURCHWARDENS  
OF THE PARISH OF ST. ANDREW**

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Pursuant to Rule 221(a) of the South Carolina Appellate Court Rules, The Vestries And Churchwardens Of The Parish Of St. Andrew (“Old St. Andrew’s”), through its undersigned counsel, respectfully petitions this Court for a rehearing based on an issue overlooked or misapprehended as set forth herein.

For the first time, this Court has articulated the basis and timing of parish trust creation in its parish by parish review determining as a matter of law if, when and how trusts were created by 14 plaintiffs, among them Old St. Andrew’s. Appellants, TEC and TECSC, have always contended that trusts created by the parish churches were created before January 1, 2006 and, therefore, were presumptively irrevocable. That was basis of the irrevocability finding of three opinions in the 2017 decision, which this Court recognized in its 2022 opinion. However, now this Court has determined, for the first time, as a matter of law that Old St. Andrew’s created the trust, which is the basis for its property transfer order, after January 1, 2006. Therefore, whether this trust was revocable is not precluded by the 2017 opinions because revocation of a trust created after January 1, 2006 was never presented to this Court and was not decided in 2017 by those three opinions. As a matter of law, the trust found by this Court to have been created after January 1, 2006 was revocable and it was revoked.

**I. Appellants previously admitted that Old St. Andrew’s did not create an express trust.**

None of the parties contended that the Old St. Andrew’s created an express trust in the 2015 appeal. Appellants admitted that Old St. Andrew’s, along with seven other parishes, did not create an express trust for the benefit of the Appellants. Record on Appeal, Vol. 1, 2015-000622,

pp. 101-06 (Aug. 6, 2015).<sup>1</sup> However, this Court overlooked and misapprehended this admission from 2017 Opinion to conclude that Old St. Andrew's created an express trust in favor of The Episcopal Church a/k/a The Protestant Episcopal Church in the United States of America ("National Church") and its diocese because it "took sufficient actions indicating the necessary present intent" through its use of "adopt" and "accede to" the Canons of the National Church and Diocese in its 2007 and 2010 Constitutions. *The Protestant Episcopal Church in the Diocese of South Carolina v. The Episcopal Church (a/k/a, The Protestant Episcopal Church in the United States of America)*, Op. No. 28095, 2022 WL 1161382, \*9, \*16 (S.C. Sup. Ct. filed Apr. 20, 2022); *see also* 2020 ROA 6252 & 6256.

**II. Under the South Carolina Trust Code, All Trusts Created After the Amended Code's Effective Date, January 1, 2006, are Presumptively Revocable and Old St. Andrew's Revoked any Trust Created.**

Trusts created after January 1, 2006 are presumptively revocable. S.C. Code § 62-7-602. The documents this Court held created a trust are the 2007 and the 2010 Constitutions. Opinion at \*16; ROA 6252, 6256. Old St. Andrew's revoked the trust created in 2007 and 2010 when it amended its Constitution in 2013, removing the phrase "accedes and adopts the Constitution and Canons of the Episcopal Church in the United States of America." ROA 6191.

This Court should correct its opinion and find that the trust it found was created in 2007 and 2010 was revoked, or alternatively, permit that issue, never before considered, to be heard.

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<sup>1</sup> This Court in 2017 recognized that the Appellant contended that twenty-eight (not twenty-nine) of the Respondents acceded in some form or another to either the local or national versions of the Dennis Canon. *Protestant Episcopal Church in the Diocese of S.C. v. Episcopal Church*, 421 S.C. 211, 265, 806 S.E.2d 82, 111 (2017); *See Record on Appeal*, Vol. 1, 2015-000622, pp. 101-06 (Aug. 6, 2015). In this 5 page list of acceding parishes, Old St. Andrew's is not listed.

**CONCLUSION**

For the above-stated reasons, this Court respectfully should reconsider its opinion with respect to Old St. Andrew's and hold that Old St. Andrew's did not create a trust in favor of the National Church or its diocese because Appellants admitted that fact or hold that the trust this Court found was created after January 1, 2006 was revoked. Alternatively, Old St. Andrew's requests this issue be heard.

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