
**IN THE
SUPREME COURT OF THE UNITED STATES**

DAVID R. TURNER Petitioner-Appellant,

v.

ST. FRANCIS CHURCH, THE TOUROVIA CONFERENCE OF
CHRISTIAN CHURCHES, AND REVEREND DR. ROBERTA
JONES

Respondents-Appellees.

BRIEF FOR RESPONDENTS

SUBMITTED BY TEAM FIFTEEN (15)

ON WRIT OF CERTIORARI
FROM THE TOUROVIA COURT OF APPEALS

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**JURISDICTION
ON WRIT OF CERTIORARI**

Judgment was entered in this matter on January 20, 2015 in the State of Tourovia, Supreme Court. The Second Department, Appellate Division of the State of Tourovia Supreme Court granted a timely appeal and affirmed the decision of the lower court on December 18, 2015. The United States Supreme Court granted Certiorari. This court has jurisdiction under 28 U.S.C. §1254(1).

QUESTIONS PRESENTED

1. Whether or not the State Supreme Court properly held the ministerial exception of the First Amendment shields religious institutions from wrongful termination claims even when they are based on breach of contract and retaliatory discharge for failure to participate in tortious conduct.

2. Whether or not the State Supreme Court properly granted respondent's motion to dismiss, based on the application of the ministerial exception, without affording petitioner an opportunity for discovery.

STATEMENT OF THE CASE

This is a response to an appeal from the State of Tourovia Court of Appeals decision which affirmed the State of Tourovia Supreme Court's decision granting the motion to dismiss for failure to state a claim upon which relief can be granted in favor of defendants St. Francis Church of Tourovia, the Tourovian Conference of Christian Churches, and Reverend Dr. Roberta Jones.

The State of Tourovia Supreme Court properly granted the motion to dismiss finding that even if plaintiff, David Turner's, claim of wrongful termination due to breach of contract and retaliatory discharge, due to refusal to engage in the Church's tortious conduct were proven true, his suit against defendants would be barred by the ministerial exception of the First Amendment of the United States Constitution.

SUMMARY OF THE ARGUMENT

The State of Tourovia Court of Appeals properly affirmed the decision of the State of Tourovia Supreme Court granting respondent's motion to dismiss for failure to state a claim because Respondent is shielded from Petitioner's claims by the ministerial exception of the First Amendment of the United States Constitution.

ARGUMENT

1. Petitioner's claim is barred by application of the ministerial exception because an inquiry into the church's decision would result in excessive government entanglement.

“The *Free Exercise Clause* prohibits governmental action that encroaches upon the ability of a church to manage its internal affairs [allowing]...religious organizations to decide for themselves, *free* from state interference, matters of church government as well as those of faith and doctrine.” *Prince of Peace Lutheran Church v. Linklater*, 421 Md. 664 (2011). “The establishment clause prohibits excessive entanglement between government and religion.” *Ibid.* In the current matter, the Church made a decision to terminate its relationship with the Petitioner after deciding to transition because they had lost faith in Petitioner's spiritual leadership. Simply put, their beliefs were no longer in harmony.

Two elements must be present for the ministerial exception to preclude a secular court from obtaining jurisdiction over a claim brought by an employee against a religious institution employer: First, the employee making the claim must qualify as a ‘minister’; and second, the claim must be the type of claim which would substantially entangle the court in the church's doctrinal decision-making and internal self-governance. *Bourne v. Ctr. on Children, Inc.*, 838 A.2d 371 (2003). In *Bourne*, just as in the case at hand, a former pastor sued his church for breach of an employment contract. In *ditca*, the court noted:

[I]n evaluating the parties adherence to such a contract, the court would have to make a determination regarding whether appellant met the qualifications to act as minister for the Church...In considering the issues raised by appellant, the court would have to consider whether appellant was *properly* performing his job. Doing so would mandate the court to consider appellant's adherence to religious tenants, his spiritual successfulness, as determined by the church, his teaching skills, and his relationship with both clergy and worshipers. Such determinations are clearly prohibited.

In the present case, both sides agree that Petitioner was a minister as defined by the exception. Further, both parties recognize that the Church was in fact, a church, and agree to the existence of the employment contract between Petitioner and Respondent Church. Any further inquiry into the church's reasons for ending its relationship with the Petitioner would require an inquiry into religious doctrine and would result in excessive government entanglement.

A. Inquiry into Religious Doctrine

Petitioner was hired as a pastor of St. Francis Church of Tourovia. The employment contract was subject to a yearly review wherein the church could, at its discretion, renew or terminate the following years' contract. The church, after two years of service by Petitioner, lost faith in his spiritual leadership; the sole reason for the contract. If it were to inquire into the reasoning behind the church's decision, the Court must necessarily read church doctrine and make a determination as to whether the Petitioner's teachings were in accordance with it. This is exactly the type of inquiry the First Amendment and Ministerial Exception prohibit, because such an inquiry would "deprive the church of control over the selection of those who will personify its beliefs." *Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*, 565 U.S. 171(2012).

The Reasoning behind the Church's decision is essentially irrelevant under the ministerial exception. The judicially created ministerial exception bars secular courts from inquiring into a church's reasoning in hiring and firing of its employees. *Kirby v. Lexington Theol. Seminary*, 426 S.W.3d 597 (2014). Such an inquiry necessarily requires an inquiry into the church's beliefs in cases such as this one. Petitioner was removed from his position as minister because the church lost faith in Petitioners spiritual leadership.

In *Prince of Peace Lutheran Church v. Linklater*, *supra*, the court held that in applying the ministerial exception, the most prudent approach is to “hold that a court may examine employment claims against a church if they have nothing to do with the spiritual rationale of the ministerial exception. This includes a retaliatory constructive discharge claim if the church does not offer a reason for dismissal related to the spiritual function of the church.” Unlike *Prince of Peace*, where Plaintiff survived the motion to dismiss based on the exception because the Church did not assert it had doctrinal or spiritual grounds for its actions, the record here shows the church provided Petitioner with an explanation that was based on spiritual grounds.

In *Kirby v. Lexington Theol. Seminary*, the court held that inquiry into the Plaintiff’s breach of contract suit was allowable under the ministerial exception explaining, “(1) the enforcement of the contractual arrangement between the Seminary and Kirby does not arouse concerns of government interference in the selection of ministers, and (2) the contract does not involve any matters of ecclesiastical concern that would otherwise bar the suit under the ecclesiastical abstention doctrine.” *Id.* at 615. This case differs from the one at bar because in *Kirby*, the Plaintiff complained of being discriminated against due to his race. Based on this courts jurisprudence, the *Kirby* court was correct in allowing the suit because *Kirby*’s claim that he was terminated because of his race did not involve matters of church doctrine.

B. Excessive Government Entanglement

The “excessive entanglement” can be substantive or procedural. The entanglement is substantive where “the government is placed in the position of deciding between competing religious views.” *Rweyemamu v. Cote*, 520 F.3d 198 (2nd Cir. 2008). For example, when “a church’s freedom to choose its ministers is at stake.” *Bollard v. California Province of the*

Society of Jesus, 196 F.3d 940, 948-949 (9th Cir. 1999). Entanglement may be procedural “where the state and church are pitted against one another in a protracted legal battle.”

Rweyemamu, at 208. Moreover, in *Alicea-Hernandez v. Catholic Bishop of Chicago*, 320 F.3d 698 (7th Cir. 2003), the court held “the ministerial exception applies without regard to the type of claims being brought” and “precludes any inquiry whatsoever into the reasons behind a church’s ministerial employment decision.”

The entanglement here is one of a substantive nature. Even in instances of alleged fraud and/or breach of contract, to allow a minister to pursue a wrongful discharge claim when the record indicates he was fired for spiritual reasons, would necessarily require an inquiry by the courts into the governance of the Church and its minister(s). Courts have consistently, both pre- and post-*Hosanna-Tabor* applied a fact specific inquiry into each cause of action presented in a ministerial case to determine whether resolution of that claim would necessarily involve an inquiry “into internal church governance.” *Melhorn v. Balt. Conf. of the United Methodist Church*, Md. App. LEXIS 933 (2016). “Permitting the continuation of this type of breach of contract...claim by a ministerial employee, who seeks [recovery] based on an allegedly improper reason for being terminated from her employment, would impermissibly interfere with a religious institution’s choice of ministerial employees.” *Ibid.*

Finally, Petitioner argues that because his complaint contains allegations of alleged Fraud, it must be treated different than other wrongful termination claims involving ministers. “If this were the standard, then all that an employee subject to the ministerial exception would need to do to overcome the church’s First Amendment protections would be to allege fraud in the complaint.” *DeBruin v. St. Patrick Congregation*, 816 N.W.2d 878 (2012).

2. Petitioner's claim should not proceed to discovery because his claims are ecclesiastical and therefore do not entitle him to relief.

A. Petitioner's claims are ecclesiastical, not secular.

The first amendment of the United States Constitution states in part "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." U.S. CONST. amend. I. The First Amendment does not preclude all claims against religious institutions, only claims which are "rooted in religious belief." *Galetti v. Reeve*, 331 P.3d 997 (2014). Respondent asserts they terminated Turner due to a loss of faith in his spiritual leadership. Confidence in one's spiritual leadership certainly stems from a religious belief. Further, the court cannot make a determination about one's spiritual leadership abilities as that is an ecclesiastical decision properly left to the church. "Personnel decisions by church-affiliated institutions affecting clergy are per se religious matters and cannot be reviewed by civil courts." *Connor v. Archdiocese of Philadelphia*, 601 Pa. 577 (2009).

In *Galetti* the plaintiff's claims for breach of contract, wrongful termination, and retaliation were remanded for discovery because the court found the claims did not require inquiry into issues of church governance. Conversely, Mr. Turner's claim necessarily requires inquiry into church governance as it would require an inquiry into why the church terminated him. "Selection and termination of clergy is a core matter of ecclesiastical self-governance." *Connor v. Archdiocese of Philadelphia*, 601 Pa. 577 (2009). Such an inquiry is not only impermissible, it is irrelevant pursuant to the First Amendment. See *Kirby v. Lexington Theological Seminary*, 426 S.W.3d 597 (2014) (holding that "the reasoning behind a church's decision to fire one of its ministers is essentially irrelevant under the ministerial exception.") Regarding religious matters, the First Amendment "protects the act of a decision rather than a

motivation behind it.” *Rayburn v. General Conference of Seventh-Day Adventists*, 772 F.2d 1164 (4th Cir. 1985).

Connor v. Archdiocese of Philadelphia, 975 A.2d 1084 (2009), established a three step approach for determining whether a claim should proceed to discovery. After considering the elements of the plaintiff’s claims as well as the defendant’s defenses, a determination should be made as to whether the finder of fact would be able to evaluate the elements without intruding on “sacred precincts.” Regardless of the claims of the suit, when court must consider a religious body's retention of clergymen, the First Amendment is implicated. *Natal v. Christian & Missionary Alliance*, 878 F.2d 1575 (1st Cir. 1989). In evaluating the elements of Turner’s claims it would be necessary for the court to consider the church’s decision not to retain Turner. Such a determination is precluded by the ministerial exception.

In *Natal* the Federal Court of Appeals affirmed the dismissal of a complaint by a minister of 40 years who had been terminated because the court is prohibited from adjudicating disputes which turn on church policy and administration or religious doctrine or practice. *Id.* at 1576. Conversely, in *Minker v. Baltimore Annual Conference of United Methodist Church*, 894 F.2d 1354 (D.C. Cir. 1990), the court remanded the case to allow the minister to prove the breach of an oral contract regarding employment between the church and himself, but only if he could do so “on a course clear of the church’s ecclesiastical domain.” Because Turner is claiming termination based on retaliation while the Respondent is claiming ecclesiastical reasons, the case must be dismissed. Any further probe into the issue by the court would be prohibited because “evaluation of the ‘gifts and graces’ of a minister must be left to ecclesiastical institutions.” *Id.* at 1357.

“The purpose of the [ministerial] exception is not to safeguard a church's decision to fire a minister only when it is made for a religious reason. The exception instead ensures that the authority to select and control who will minister to the faithful is the church's alone.” *Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*, 565 U.S. 171 (2012).

B. Petitioner can prove no set of facts in support of his claim that would entitle him to relief.

Pursuant to FED. R. CIV. P. 8(a), a complaint must contain a short and plain statement of the claim showing that the pleader is entitled to relief. “A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that a plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” *Conley v. Gibson*, 355 U.S. 41 (1957). The relief sought by Turner is that of monetary damages. Awarding such relief would have the effect of penalizing the church for terminating Turner. Such a penalty is unconstitutional as the First Amendment guarantees a church the freedom to select ministers. *Hosanna-Tabor* at 194. In addition to violating the First Amendment, that type of penalty imposed on a church would set a precedent for other churches, requiring them to either retain pastors when they wish not to do so, or pay a penalty for the decision to terminate. Forcing churches to make that choice would further infringe on First Amendment rights. *Id.* at 194.

In order to survive a motion to dismiss a claim must be plausible. In determining plausibility only the well pleaded facts are considered. After considering all of the well pleaded facts, the party must have established a plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). Allegations are implausible if there is an obvious alternative explanation for the alleged facts indicating lawful conduct other than the unlawful conduct alleged by the plaintiff. *Bell*

Atlantic Corp. v. Twombly, 550 U.S. 544 (2007). Turner alleges his termination was unlawful because the church was retaliating against him for refusing to participate in tortious conduct. However, Respondent has provided a lawful reason for Turner's termination, specifically that they were transitioning because they had lost faith in his spiritual leadership. Given this alternative lawful reasoning for his termination, Turner's allegations are not plausible and cannot survive Respondent's motion to dismiss.

Petitioner's claim is not only implausible, he has failed to prove that he is entitled to any relief. Since there is no basis for the court to grant Mr. Turner any kind of relief, the motion to dismiss was properly granted prior to discovery.

CONCLUSION

For the reasons discussed above the decision of the State of Tourovia Court of Appeals affirming the decision of the State of Tourovia Supreme Court granting the motion to dismiss for failure to state a claim upon which relief may be granted was correct and must be affirmed. Accordingly, based on this court's jurisprudence and stare decisis, we respectfully ask the court to affirm.