

Re: *McRaney v. North American Mission Board*, No. 19-60293, 5th Cir., Nov. 25, 2020.

On August 21, 2020, the Thomas More Society and the Ethics and Religious Liberty Commission (“Amici”) submitted the Brief of Amici Curiae of the Thomas More Society and the Ethics and Religious Liberty Commission in Support of Defendant-Appellee’s Petition for Rehearing En Banc (“Brief Amici Curiae”) in the above case. Since that time, it has come to the attention of Amici that the Brief Amici Curiae includes certain factual statements that inaccurately describe the Southern Baptist Convention’s polity and theology of cooperative ministry. Amici do not view those statements to be material to the legal focus of the brief. The legal issues addressed in the brief included: (1) the constitutionality of secular court intrusion into ecclesiastical matters such as church governance, faith and doctrine; and (2) the consequent need for secular courts to determine that abstention is appropriate at the earliest possible point in litigation.

Out of an abundance of caution, Amici seek to notify the Court of these errors and request direction from the Court. *See* Model Rules of Prof. Conduct R. 3.3 (“A proceeding has concluded within the meaning of this Rule when a final judgment in the proceeding has been affirmed on appeal or the time for review has passed.”).

Specifically, the Brief Amici Curiae reflects three factual errors. First, it refers to the Baptist Convention of Maryland and Delaware as a “state convention member of the Southern Baptist Convention.” Brief, p. 3. Second, it suggests that state conventions govern Southern Baptist churches. *Id.* at 4. Third, it refers to the Southern Baptist Convention as the “umbrella Southern Baptist governing body of Southern Baptist Churches” and suggests a “hierarchy” between Baptist Conventions. *Id.* at 10. Upon further review, Amici believe these statements do not accurately paraphrase the portions of the record cited in support of them. During their drafting and review of the Brief Amici Curiae before filing, Amici did not identify or correct the foregoing inaccuracies.

Amici affirmatively show that Article VI of *The Baptist Faith and Message 2000* states:

A New Testament church of the Lord Jesus Christ is an autonomous local congregation of baptized believers, associated by covenant in the faith and fellowship of the gospel; observing the two ordinances of Christ, governed by His laws, exercising the gifts, rights, and privileges

invested in them by His Word, and seeking to extend the gospel to the ends of the earth.

Further, Article XIV states:

Christ's people should, as occasion requires, organize such associations and conventions as may best secure cooperation for the great objects of the Kingdom of God. Such organizations have no authority over one another or over the churches.

All Southern Baptist churches are autonomous, self-determining, and subject only to the Lordship of Christ—no local, state, or national entity may exercise control or authority over any Southern Baptist church. Baptists reject the idea of a religious “hierarchy” or “umbrella” superior to the local church, or that any Baptist Convention is in a hierarchy or governing relationship over another Convention.

The record establishes the relationship between the parties. ERLC and other Southern Baptist entities have long argued that Baptist organizations are ecclesiastical organizations by virtue of their relationship to the churches, and therefore deserving of all the protections of the church autonomy doctrine. Brief of Amici Curiae the Ethics & Religious Liberty Commission of the Southern Baptist Convention and National Association of Evangelicals in Support of Movant-Appellant and Vacatur, p. 12, *Whole Woman's Health v. Smith*, 896 F.3d 362 (2018) (“Religious deliberations over doctrine and mission and morality are just as protected by the church autonomy doctrine for congregational churches like the Baptists as for any other religious organization.”).

As this Court has already denied the Petition For Rehearing En Banc and the case has been remanded to the District Court, Amici request direction from the Court on the filing of a corrected brief or other remedial action.

Amici regret the above-referenced errors and await the direction of the Court.

Respectfully submitted,

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