

CASE NO. 19-60293

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

WILL McRANEY,

Plaintiff - Appellant

VS.

**THE NORTH AMERICAN MISSION BOARD OF THE SOUTHERN
BAPTIST CONVENTION, INCORPORATED,**

Defendant - Appellee

**On Appeal from the United States District Court
For the Northern District of Mississippi
Honorable Glen H. Davidson, Senior United States District Judge**

**REPLY BRIEF OF APPELLANT
(ORAL ARGUMENT REQUESTED)**

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CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the Justices of the Supreme Court may evaluate possible disqualification or recusal.

District Court Judge: Honorable Glen H. Davidson
Senior U. S. District Judge

Magistrate Judge: Honorable David A. Sanders

Appellant: Will McRaney

Appellee: The North American Mission Board of the Southern
Baptist Convention, Incorporated

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APPELLANT’S REPLY BRIEF
ARGUMENT

The Southern Baptist Convention (SBC) is unique among most other religious organizations. For example: The United Methodist Church, the Catholic Church, the Presbyterian Church, the Greek Orthodox Church, and to an extent, the Lutheran Church, are all hierarchical in organization, nature, and church polity. Governance in these many denominations is top down. The SBC is none of these. The only place in the Southern Baptist Convention where authority resides is in the local church. In other words, the local Associations, the State Conventions, the entities of the SBC- such as the North American Mission Board (NAMB) - have no authority over the local church. In fact, Article IV of the SBC prohibits even the attempt to exercise authority over the local church. The only place in the SBC where the word church applies is at the congregation level in the local community.

Appellee wants this Court to treat the SBC as though it is the same as the many top down hierarchical religious organizations found in the United States. Appellee wants this Court to treat NAMB as a church entity with a hierarchical relationship with the Maryland/Delaware State Convention which necessitates that the Maryland/Delaware State Convention is also a church in a hierarchical relationship with NAMB. Appellee wants this Court to pretend that there are church-like hierarchical organizations that exists above the local congregation (the church). The

problem with Appellee's assertion is that there is no hierarchical organization within the SBC. The Appellee wants this Court to apply the ecclesiastical abstention doctrine to preclude intrusion into church affairs when no church is involved in the case.

The case at bar is not one of religious policy, not one involving internal affairs of a church, or a case involving the specific actions of a church towards a specific member or personnel. All of the cases cited by Appellee involve different levels of governance within a denomination and most involve internal affairs within that denomination. But none of the above is true here.

Present in the case at bar is a corporate entity set up for religious purposes, but which governs itself without input from the churches which fund it or the convention with which it is associated. The actions of NAMB are best controlled by its pocketbook. As such, the only means by which local churches and the various state conventions associated with the Southern Baptist Convention have any impact on NAMB is through the purse strings. Neither local churches, nor state entities, nor even the Southern Baptist Convention itself, exercise any direct control over NAMB, its employees or its policies. As a consequence, the completely voluntary nature of the association between NAMB, churches and other entities, offers no protection from torts committed by NAMB against individuals like Appellant, unlike the hierarchical denominational structure found in church bodies. The ecclesiastical

abstention doctrine is not designed to permit an independent, autonomous entity like NAMB to act with impunity toward someone like Appellant then hide behind an alleged religious activity which allows it to commit a tort.

When one person, the Appellant, pushed back as to that exercise of power, he was punished for doing so, with defamation and threats to his employment with bribes to the employer, BCMD. Notwithstanding Appellant's termination, the retribution continued, and now the Appellee wants to hide their actions behind the ecclesiastical abstention doctrine and say that the Courts can not control them. But neither can the state conventions, or the individual churches. And the Appellee does not want a further inquiry into their actions because their interference "might" be ecclesiastically related. Even though the Appellant pled that Appellee's actions were a mere power play for control and money, the Appellee wants to "throw the baby out with the bath water" and say that just because one of the parties has the cloak of religion, the inquiry should be ended. Appellant responds and states, that one day in the future eternity, there will be a further inquiry into the actions of these parties, but until then, the only forum available to protect the rights of the "less than these" against the abuse by the greater are the earthly Courts of law to whom this appeal is made.

The Courts have made allowances and established rules to intervene in property disputes involving churches. In the case of *Jones v. Wolf*, 443 U.S. 595, 99 S.Ct. 3020, 61 L.Ed.2d 775(1979) the Court considered which faction within a local congregation had the right to control the use of the property. Notwithstanding that the First Amendment prohibits civil Courts from resolving church property disputes, or any other matter, on the basis of religious doctrine and practice, a two step inquiry was developed to allow Courts to proceed. Finding consistency with various constitutional principles, the Court adopted a “neutral principles of law” approach as to whether civil courts could exercise jurisdiction in church property disputes.

“The primary advantages of the neutral-principles approach are that it is completely secular in operation, and yet flexible enough to accommodate all forms of religious organization and polity. *Jones* at 603.

The *Jones* Court recognized the inviolate doctrine that the First Amendment prohibits civil Courts from intervening in church matters, but further stated,

“As a corollary to this commandment, the Amendment requires that civil courts defer to the resolution of issues of religious doctrine or polity by the highest court of a hierarchical church organization.” *id.* At 602.

The above case gives rise to an inquiry about two legal premises that apply to the case at bar. If the Courts can fashion a “neutral principles of law” inquiry into matters involving church property, should there not be an equal inquiry into matters involving a tort committed by the same church? The second premise is, that if there

is no hierarchical church organization to which to appeal, does this not lend credence to the Courts at least exploring these “neutral principles of law” approach as to whether a tort was committed?

As previously stated, the Appellant has no appeal process to the highest Court of his church organization. In fact, there is no appellant authority. The Southern Baptist Convention is unique in their organizational approach. Appellees referenced several extra-record statements urging the Court to look beyond the record to Southern Baptist policy and procedures. See footnote ¹ at page 2 of Appellee’s brief and footnote ² at the bottom of page 3.

“¹ Southern Baptist Convention: A Closer Look, *available at* www.sbc.net/aboutus/acloserlook.asp (Last visited Sept.2, 2019).”

“² The Baptist Faith and Message is a statement prepared by the Southern Baptist setting forth the Convention’s generally held convictions, which “serves as a guide to understanding who they are.” *See* Southern Baptist Convention, About Us: Basic Beliefs, *available at* www.sbc.net/aboutus/basicbeliefs.asp (last visited Sept.2, 2019).”

An additional and closer look by this Court into the constitution and about the Southern Baptist Convention as referenced by the Appellee above adds credibility to the argument of Appellant that there is no hierarchical body to whom he can appeal his grievance. The following highlights are brought to this Court’s attention.

“SBC Constitution Article IV. Authority: <http://www.sbc.net/aboutus/legal/constitution.asp> “While independent and sovereign in its own sphere, the Convention does not claim and will

never attempt to exercise any authority over any other Baptist body, whether church, auxiliary organizations, associations, or conventions.”

“The broader Southern Baptist Network is comprised not only of autonomous churches, but other autonomous Baptist bodies with whom local churches labor to fulfill God’s mandate to make disciples of all peoples. These include local associations, ethnic fellowships, state or regional Baptist conventions, and a missions auxiliary.”

The Southern Baptists Network: “Southern Baptists are not hierarchical, with top-down denominational structure. In fact, Southern Baptists can only be called a ‘denomination’ in the word’s most general meaning....By doctrine and polity, the SBC cannot and does not unite local congregations into a single ‘church’ or denominational body. Each cooperating Baptist body—local church, association, state convention, and auxiliary—retains its sovereignty and is fully autonomous....Each autonomous Baptist church, association, ethnic fellowship, and state convention participates in SBC causes voluntarily.”

Flexibility and Freedom: “Baptists have long held the principles of congregational self-governance and self-support. Local churches select their own staff, ordain their own ministers, adopt their own budgets, organize their own ministries, hold legal title to their own properties, develop their own governance policies and bylaws, and establish their own membership requirements. The Southern Baptist Convention does none of these, for it is not a ‘church’ and it has no authority over the churches. The SBC Constitution is clear: The SBC ‘does not claim and will never attempt to exercise authority over any other Baptist body.’ The Convention does not ordain ministers, assign staff to churches, levy contributions, choose literature, adopt the church calendar, monitor or maintain church membership lists, or assign persons to churches according to place of residence. These are local church prerogatives and responsibilities.”

Individuals: “Individuals do not ‘join’ the Southern Baptist Convention; in fact, the SBC has no members....”

CONCLUSION

For the above and foregoing reasons, Appellant prays that this response will be filed, and that this Court will grant oral arguments as a further inquiry into this matter. Appellant further prays that this case will be remanded back to the District Court for further inquiries into the tort committed by Appellee.

This the 16th day of October, 2019.

Respectfully submitted,

WILL McRANEY, APPELLANT

BY: /s/WILLIAM HARVEY BARTON, II

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CERTIFICATE OF SERVICE

I, WILLIAM HARVEY BARTON, II, do hereby certify that I electronically filed the foregoing with the Clerk of the Court using the ECF System which sent notification of such filing to:

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SO CERTIFIED, this the 16th day of October, 2019.

/s/WILLIAM HARVEY BARTON, II

CERTIFICATE OF COMPLIANCE

Pursuant to Fifth Circuit Rule 32.3, the undersigned certifies that this brief complies with the type volume limitations of Federal Rule of Appellate Procedure 32(a)(7)(B) because:

1. This brief contains 1776 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(a)(7)(B)(iii).
2. This brief complies with the type face requirement of Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Times New Roman 14 point font.
3. The undersigned understands a material misrepresentation in completing this certificate, or circumvention of the type volume limits in FED. R. APP. P. 32(a)(7), may result in the Court's striking the brief and imposing sanction against the persons signing the brief.

THIS, the 16th day of October, 2019.

/s/WILLIAM HARVEY BARTON, II

United States Court of Appeals

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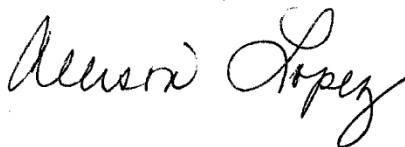
No. 19-60293 Will McRaney v. N Amer Mission Bd So Baptist
USDC No. 1:17-CV-80

Dear Mr. Barton,

You must submit the 7 paper copies of your reply brief required by 5th Cir. R. 31.1 within 5 days of the date of this notice pursuant to 5th Cir. ECF Filing Standard E.1.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Allison G. Lopez, Deputy Clerk
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cc: Ms. Kathleen Ingram Carrington
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