

No. 23-60494

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

WILL McRANEY,

Plaintiff – Appellant,

v.

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

Defendant – Appellee.

On Appeal from No. 1:17-CV-80 in the
United States District Court for the Northern District of Mississippi, Aberdeen,
Hon. Glen H. Davidson, Presiding

**BRIEF OF *AMICI CURIAE* CURRENT AND FORMER
BAPTIST LEADERS IN SUPPORT OF APPELLANT AND VACATUR**

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SUPPLEMENTAL STATEMENT OF INTERESTED PARTIES

Under Fifth Circuit Rule 29.2, undersigned counsel supplements Appellant's Certificate of Interested Parties to fully disclose all persons with interest in this amicus brief. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

E. Randall Adams, Executive Director/Treasurer, Northwest Baptist Convention (2013 to present); Church Outreach Team Leader, Baptist General Convention of Oklahoma (2004-2013)

Steve Ballew, Executive Director, Baptist Convention of New Mexico (the State Mission Board of the BCNM voted to affirm this amicus brief's representations)

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Alex Barrett, Pastor, Ridgeview Church, Fontana, CA

John Batts, Pastor, First Baptist Church, Clear Lake, WA; trustee of the Southern Baptist Convention Executive Committee; former member of the Southern Baptist Convention Nominating Committee

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Robert D. Rodgers, retired Vice President, Southern Baptist Convention Executive Committee

William Schmautz, Pastor, East Valley Baptist Church, Spokane Valley, WA; former Moderator and Chair, Missions Committee, Inland Empire Baptist Association

Clint E. Scott, Senior Pastor, Hilltop Baptist Church, Green River, WY

Jeffery Stading, Pastor, Friendship Baptist Church, Hudson, NC; former Trustee, Baptist College of Florida; former Moderator, Taylor Baptist Association, Taylor County, FL

Dr. Keith Stell, Senior Pastor, New Georgia Baptist, Villa Rica, GA

Mike Stone, Pastor, Emmanuel Baptist Church, Blackshear, GA; Chairman, Southern Baptist Convention Executive Committee (2018-2020); President, the Georgia Baptist Convention (2017-2018)

David L. Thompson, former NAMB Trustee and Chairman, NAMB Church Planting Division (1999-2009); former Secretary Treasurer, Southern Baptist Convention (Pastor's Conference) (2006); former Pastor, North Pointe Community Church, Nashville, TN (1999-2014)

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Bevan Unrau, Senior Pastor, Seabreeze Church, Huntington Beach, CA

Steve Wolverton, Pastor, Canton Baptist Church, Baltimore, MD; former Baptist Foundation trustee, Baptist Convention of Maryland/Delaware

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Michelle Stratton, counsel for *amici curiae*

/s/ *Michelle Stratton*
Michelle Stratton

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Current and Former Baptist Leaders

INTEREST OF *AMICI CURIAE*¹

Amici curiae are current or former Baptist leaders. Some are active or retired pastors of local Baptist churches. Some are or have been directors, officers, or employees of state or regional Baptist conventions and associations. Some hold or have held posts in the Southern Baptist Convention or its entities, including positions at Defendant-Appellee North American Mission Board (NAMB). Many hold advanced degrees from Baptist seminaries. In short, *amici* are, by long experience and deep education, experts on Baptist polity. They are also firmly committed to the protection of religious liberty.

Amici curiae submit this brief because the decision below rests on a profound misunderstanding of Baptist polity: namely, that “the Baptist Church” exists (it does not) and that adjudicating this lawsuit would thus involve deciding an inner-church dispute (it would not). Further, the decision below perversely undermines religious liberty in the guise of safeguarding it. The district court denied a plaintiff the civil-law protection that is available to secular persons, because some of his claims related to his employment by an organization that serves Baptist churches and are alleged against another organization that serves Baptist churches. And the district court did

¹ All parties have consented to this brief’s filing. *See* Fed. R. App. P. 29(a)(2). No counsel for a party authored this brief in whole or in part, and no party or their counsel made a monetary contribution intended to fund the preparation or submission of this brief. No one other than *amici curiae* or their counsel made a contribution to the preparation or submission of this brief. *See* Fed. R. App. P. 29(a)(4)(E).

so by defining Baptist polity *contrary to how Baptists have defined it* since their inception.

ARGUMENT²

Unquestionably, secular courts may not interfere with a church or religious institution’s internal dispute about church government, faith, and doctrine. The First Amendment’s Religion Clauses “protect the right of churches and other religious institutions to decide matters of faith and doctrine without government intrusion.” *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2060 (2020). This freedom includes “internal management decisions that are essential to the institution’s central mission,” like “the selection of the individuals who play certain key roles.” *Id.*

Relying on these principles, variously called “church autonomy,” “ecclesiastical abstention,” and the like, the district court dismissed Plaintiff-Appellant Will McRaney’s lawsuit. Like many *amici*, McRaney is a former leader of a state Baptist entity—in McRaney’s case, the General Mission Board of the Baptist Convention of Maryland/Delaware (BCMD). McRaney’s lawsuit alleges that NAMB, the domestic missions entity of the Southern Baptist Convention, tortiously interfered with his BCMD employment and post-termination employment efforts, inflicted emotional distress, and defamed him.

² This brief adds all emphasis and omits internal citations and quotation marks in quoted material.

The court dismissed McRaney’s lawsuit on the theory that it would require the court to decide internal matters of “the Baptist Church.” *See* Mem. Op. (Appellant’s RE at 53–55). In a previous iteration of this case, dissenting judges of this Court took the same view, calling the lawsuit an “internal dispute” over leadership of “the church.” *McRaney v. N. Am. Mission Bd. of S. Baptist Convention, Inc.*, 980 F.3d 1066, 1067 (5th Cir. 2020) (“*McRaney I*”) (Ho, J., dissenting from denial of reh’g en banc); *see also id.* at 1076 (Oldham, J., dissenting from denial of reh’g en banc) (recounting history of “the Church” of England’s exclusive jurisdiction over its clergy).

Amici say “amen” to robust judicial commitment to stay out of internal church disputes about governance, faith, and doctrine. *But this is not such a case.* The district court and judges of this Court have reasoned from the indisputably flawed premise that NAMB and BCMD are parts of a single religious institution—“the Baptist Church”—and that McRaney was a minister/leader of “the church.” That is wrong. And it infringes religious liberty.

I. Principles of ecclesiastical abstention do not apply because this is not an internal dispute of “the Baptist Church.”

The “Roman Catholic Church,” the “Episcopal Church,” the “United Methodist Church,” the “Presbyterian Church (U.S.A.),” and the “Presbyterian Church in America” exist. In those denominations, individual local churches are part of and under the authority of a single institution, *the Church*, exercised by a hierarchy of bishops or (for Presbyterians) a General Assembly. To varying degrees, “the

Church” hierarchy of those denominations, in addition to dictating doctrine, can install, discipline, and remove local church ministers and denominational entity employees.

Baptists are different. There is no such thing as “*the* Baptist Church” or “*the* Southern Baptist Church.” Rather, each local Baptist church is *autonomous*: individual congregations rule themselves according to the governing documents and procedures they have independently established. As McRaney’s expert, Dr. Barry Hankins, rightly explained to the district court, the individual autonomy of local churches is a venerable, core Baptist distinctive. *See* Appellant’s Br. 12–13.

To enhance their ministry efforts, many individual Baptist churches *voluntarily* partner together in state and regional associations or conventions of Baptist churches. A representative example is the Constitution and Bylaws of the Southern Baptists of Texas Convention, which allows but does not require a Texas church to affiliate with the convention and states that “[a]ny affiliated church may withdraw from this body at its discretion.”³ Similarly, individual churches may *choose to cooperate* in the Southern Baptist Convention, a national network.

Like each local church, associations and conventions of Baptist churches are also autonomous: each is self-governed according to rules they have established for

³ Southern Baptists of Texas Convention and Bylaws, Article IV, “Affiliation,” *available at* https://sbtexas.com/wp-content/uploads/2023/01/SBTC-Constitution-Bylaws_2023.pdf (last visited Nov. 4, 2023).

themselves. And like local churches, state and regional conventions may *choose to cooperate* in the Southern Baptist Convention. Again, for example, the Texas Convention “fraternally cooperates with and supports the work of the Southern Baptist Convention.”⁴

When local Baptist churches cooperate in state and regional conventions, and when state and regional conventions cooperate in the Southern Baptist Convention, neither the individual churches nor the individual conventions surrender any authority. Indeed, the Southern Baptist Convention’s governing documents acknowledge that it has no authority over local Baptist churches or over state or regional associations and conventions of local Baptist churches. Its statement of faith, the Baptist Faith and Message 2000, defines a Baptist church as “an *autonomous local congregation* of baptized believers” and emphasizes that “each congregation operates under the Lordship of Christ through democratic processes.”⁵ And its constitution expressly disavows authority over those churches or their state and regional associations or conventions: “While independent and sovereign in its own sphere, *the Convention does not claim and will never attempt to exercise any*

⁴ Southern Baptists of Texas Convention and Bylaws, Article V, “Relationships,” *available at* https://sbtexas.com/wp-content/uploads/2023/01/SBTC-Constitution-Bylaws_2023.pdf (last visited Nov. 4, 2023).

⁵ Baptist Faith and Message 2000, Article VI, “The Church,” *available at* <https://bfm.sbc.net/bfm2000/#vi> (last visited Nov. 4, 2023).

*authority over any other Baptist body, whether church, auxiliary organizations, associations, or convention.”*⁶

In a previous *amici curiae* letter to this Court, the Southern Baptist Convention’s Ethics and Religious Liberty Commission—NAMB’s sister entity—acknowledged these fundamentals of Baptist polity. After *McRaney I* and dissents from denial of rehearing based on mistaken understandings of Baptist polity, the Ethics and Religious Liberty Commission wrote the Court: “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.” Ltr. of *Amici Curiae* Ethics and Religious Liberty Commission and Thomas More Society at 1, *McRaney I*, 966 F.3d 346 (5th Cir. 2020) (No. 19-60293) (filed Dec. 14, 2020). Those statements—though too late for this Court’s judges to rely on when considering rehearing en banc—are correct.

All of this necessarily means that a dispute between *McRaney* (a former employee of BCMD, a state Baptist convention) and NAMB (an entity of the Southern Baptist Convention) is not an “internal” dispute of “the Baptist Church.”

⁶ Southern Baptist Convention Constitution, Article IV, “Authority,” *available at* <https://www.sbc.net/about/what-we-do/legal-documentation/constitution/> (last visited Nov. 4, 2023).

That wrongly assumes that there is a “Baptist Church;” that McRaney, BCMD, and NAMB are all inside that single institution; and that when NAMB allegedly interfered with McRaney’s BCMD employment and later efforts to earn a living and distressingly defamed him, NAMB was exercising “the Baptist Church’s” unreviewable governance over one of “the Church’s” leaders stationed at a subordinate entity. But those notions are foreign to Baptist polity.

In Baptist polity, only autonomous entities exist, including autonomous local Baptist churches, associations, and conventions. Contrary to the district court’s opinion, there is no “the Baptist Church” with unified “mission” and “government.” Mem. Op. (Appellant’s RE at 53–55). And unlike “the Church” of England’s historically exclusive jurisdiction over its clergy, *McRaney I*, 980 F.3d at 1076 (Oldham, J., dissenting from denial of reh’g en banc), the NAMB entity of the Southern Baptist Convention has no authority to govern or control the employees, faith, or doctrine of BCMD, an independent state convention. *See supra* at 11–12. NAMB’s actions vis-à-vis McRaney thus could not possibly “involv[e] internal, purely ecclesiastical matters of church governance that federal courts have no business adjudicating,” *Id.* at 1069 (Ho, J., dissenting from denial of reh’g en banc).

II. The district court’s ecclesiastical abstention perversely undermines religious liberty.

Though ecclesiastical abstention principles are designed to protect religious liberty, the district court’s misplaced abstention threatens religious liberty in at least two ways.

First, it deprives Baptist pastors and convention leaders of access to civil legal protection that is available to secular persons in like circumstances. The First Amendment does not give religious institutions “a general immunity from secular laws,” *Guadalupe*, 140 S. Ct. at 2060, like civil laws prohibiting them from interfering with the business relationships and reputation of someone who is not their employee. Yet the district court held that a state Baptist convention’s former employee cannot seek judicial relief when a separate and independent Baptist institution allegedly harmed him in those ways. This puts *amici* and other Baptist pastors and convention leaders at risk of harm, including employment interference and character assassination. And, even worse for First Amendment free exercise purposes, it puts them at risk *because* they operate in religious circles, employed by religious institutions.

In fact, barring the secular courthouse door is particularly harmful to Baptist leaders because Baptists have no “church law” or “church courts” to turn to. Hierarchical denominations like the Roman Catholic Church,⁷ the Episcopal Church,⁸ the Presbyterian Church (U.S.A.),⁹ and the Presbyterian Church in

⁷ See Code of Canon Law, available at https://www.vatican.va/archive/cod-iuris-canonici/cic_index_en.html (last visited Nov. 6, 2023).

⁸ See Constitution and Canons of the General Convention of the Episcopal Church, Article IX, Of Courts: available at <https://extranet.generalconvention.org/staff/files/download/23830> (last visited Nov. 6, 2023).

⁹ See The Constitution of the Presbyterian Church (U.S.A.), Part II, Book of Church Order, “Church Discipline,” available at https://www.pcusa.org/site_media/media/uploads/oga/pdf/boo_2023-2023_publishedversion_cover_and_boo_complete.pdf (last visited Nov. 6, 2023).

America¹⁰ have developed church laws and courts for their disputes because, due to their polity, their disputes *are* usually inside “the Church” and secular courts rightly cannot adjudicate them. But precisely *because of Baptist polity*—the individual autonomy of Baptist churches, associations, and conventions—Baptists do not have “church laws” or “church courts” or a hierarchical authority to enact and administer them. So if Baptists cannot bring secular causes of action in secular courts against independent Baptist entities because of misplaced ecclesiastical abstention, then Baptists have no recourse for wrongdoing.

Second, in improperly abstaining, the district court violated religious liberty by judicially declaring Baptist polity to be something other than what Baptists say that it is. The First Amendment guarantees that Baptists get “to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.” *Guadalupe*, 140 S. Ct. at 2055. That means, at a minimum, that the district court and this Court must accept the undisputed facts in this case establishing how *Baptists* define a Baptist “church” and understand their “government.” Otherwise, as Appellant’s expert rightly observed, “the U.S. court system will have transformed and redefined Baptists into something they have always insisted they are not.” Appellant’s Br. 14–15. That is exactly the error that

¹⁰ See The Book of Church Order of the Presbyterian Church in America, Chapters 10–11, available at <https://www.pcaac.org/bco/> (last visited Nov. 6, 2023).

dissenting judges of this Court made in this case's prior appeal, and it's an error the district court repeated below.

CONCLUSION

The Court should defer to Baptists' understanding of their own polity, hold that this case does not implicate an inner church dispute, vacate the district court's order, and remand for adjudication of McRaney's claims.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(a)(5) because it contains 2,131 words, excluding the parts of the brief exempted by Rule 32(f).

This brief complies with the typeface requirements of Rule 32(a)(5) and the type style requirements of Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 16 in Times New Roman 14-point font for main text and 13-point font for footnotes.

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CERTIFICATE OF SERVICE

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