

No. 20-791

IN THE
Supreme Court of the United States

EGLISE BAPTISTE BETHANIE DE FT. LAUDERDALE, INC., etc., et al.,

Petitioners,

v.

THE SEMINOLE TRIBE OF FLORIDA, et al.,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the
Eleventh Circuit

BRIEF IN OPPOSITION FOR RESPONDENT AIDA AUGUSTE

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QUESTION PRESENTED

Whether the ecclesiastical abstention doctrine divests a court of subject matter jurisdiction where a claim brought pursuant to the Freedom of Access to Clinic Entrances Act, 18 U.S.C. § 248, turns on the resolution of an ecclesiastical dispute over a pastoral vacancy and the right to control a church.

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BRIEF IN OPPOSITION

Respondent, Aida Auguste (“Respondent”), respectfully requests that the Petition for Writ of Certiorari (“Petition”) be denied.

INTRODUCTION

In a continuing effort to unnecessarily waste court and party resources, Petitioners Eglise Baptiste Bethanie De Ft. Lauderdale, Inc., et al. (collectively, “Petitioners”) submit their second appeal in this litigious saga. Petitioners’ claim arises out of the Freedom of Access to Clinic Entrances Act, 18 U.S.C. § 248(a)(2), (c) (“FACE Act”), which provides a civil right of action against anyone who “by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person *lawfully* exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.” 18 U.S.C. § 248(a)(2) (emphasis supplied). Specifically, Petitioners contend that Respondent is liable under the FACE Act because Respondent, by force or threat of force or by physical obstruction, intentionally interfered with Petitioners who were purportedly lawfully exercising their right of religious freedom at a place of religious worship, i.e., at Eglise Baptiste Bethanie De Ft. Lauderdale, Inc.

In view of the unique factual circumstances implicated in this dispute, adjudication of Petitioners’ federal claim would excessively entangle the Court in ecclesiastical questions of church governance, administration, and membership. The judiciary must first determine whether Petitioners were *lawfully* exercising their

right to religious freedom when they were expelled from the church property. Further, Petitioners cannot have been “lawfully exercising” their religious freedom if they were refused entry onto the church property by someone with the authority to refuse it. Because Respondent and Petitioners (through one of the putative plaintiffs, and his supporters, named in this case) are both vying to fill the pastoral vacancy position left by the passing of Respondent’s late husband, each Party believes that it is the rightful successor and that it may, in its representative capacity on behalf of the church’s Board of Directors, lawfully exclude the other from the property. If the Court were to rule on the FACE Act claim on the merits, it would inevitably rule for one faction of the church—either Respondent and her supporters or Petitioners and their supporters—and against the other. This the judiciary cannot do without contravening the guarantees of the First Amendment and the doctrine of ecclesiastical abstention. To this end, the neutral principles approach cannot be used to resolve this religious controversy because its application to the factual circumstances of this case again places the Court in the position of ruling on a matter of ecclesiastical polity and governance.

The foregoing principles of law have been well-established by relevant decisions of this Court, which decisions were both followed and cited by the lower courts when ruling on this issue. Because the lower court’s decision neither conflicts with this Court’s jurisprudence nor creates a conflict with another United States court of appeals on the same important matter, the Court should exercise its judicial discretion to summarily deny the Petition.

STATEMENT OF THE CASE

On July 26, 2014, the Pastor of Eglise Baptiste Bethanie de Fort Lauderdale—the Rev. Usler Auguste—passed away, leaving behind his wife and fellow church member, Respondent Auguste. Pet. for Writ. of Cert. p. 12. Upon the Pastor’s death, disagreement over successive church leadership arose between Respondent and Petitioners’ Board of Directors. *Id.* All parties to this action, with the exception of the Seminole Tribe of Florida, are members of the church. *Id.* It has been alleged that on September 22, 2019, Petitioners’ congregation met to designate a successor to the late Pastor Auguste and a disagreement ensued among attendees of the meeting. *Id.* Specifically, the First Amended Complaint alleges that:

On Sunday, September 22, 2019, a meeting of the congregation of Eglise Baptiste was convened for the purpose of approving a process for the selection and installation of a successor to the late Pastor Auguste. Despite the peacemaking efforts of a mediator assigned to Eglise Baptiste by an affiliate of the Southern Baptist Convention, the September 22, 2019, congregational meeting devolved into a pushing, shoving and punching affair between the supporters of the Board of Directors and the supporters of Auguste.

Id.

Petitioners further alleged that on September 29, 2019, Respondent “escorted by six (6) armed (with SPD-issued handguns) officers wearing SPD uniforms” arrived at the property and proceeded to disperse the attendees, change the locks, and lock the gates to the property, and seized business records. Pet. for Writ. of Cert. p. 13.

On September 24, 2019, Petitioners filed a civil action for declaratory and injunctive relief against Respondent in the Circuit Civil Division, Seventeenth Circuit Court, Broward County, Florida, which came to be styled *Eglise Baptiste Bethanie De*

Ft. Lauderdale, Inc. v. Aida Auguste, et al., Case No. CACE-19-19270 (4), asserting claims for ejectment and intentional interference with business relationships. Pet. for Writ. of Cert. p. 12-13. While the state case was pending, Petitioners filed a First Amended Complaint against Respondent in the United States District Court for the Southern District of Florida, asserting a claim for relief pursuant to 18 U.S.C. § 248(c)(1). Pet. for Writ. of Cert. p. 14-15. Respondent filed a motion to dismiss the First Amended Complaint based on Rule 12(b)(6), improper claim splitting, and the non-justiciability of the claim pursuant to the ecclesiastical abstention doctrine. Pet. for Writ. of Cert. p. 16. In an Omnibus Order, the Court granted Respondent's motion to dismiss, basing its dismissal of the claims against Respondent on the lack of subject matter jurisdiction of the Court to hear an action barred by the ecclesiastical abstention doctrine. *Eglise Baptiste Bethanie De Ft. Lauderdale, Inc. v. Seminole Tribe of Fla., et al.*, 2020 U.S. Dist. LEXIS 617, at *25-27 (S.D. Fla. Jan. 3, 2020).

Upon the entry of final judgment by the Southern District Court of Florida, Petitioners filed a notice of appeal to the United States District Court of Appeal for the Eleventh Circuit. The Eleventh Circuit affirmed the district court's dismissal of Petitioners' complaint, finding that adjudication of the claim against Respondent would excessively entangle the Court in questions of purely ecclesiastical doctrine or belief. *Eglise Baptiste Bethanie De Ft. Lauderdale, Inc. v. Seminole Tribe of Fla.*, 824 Fed. Appx. 680, 683 (11th Cir. 2020). Petitioners subsequently filed the Petition that is presently before the Court for consideration.

REASONS TO DENY THE PETITION

I. THE ELEVENTH CIRCUIT COURT’S DECISION DOES NOT CONFLICT WITH ANOTHER UNITED STATES COURT OF APPEALS OR WITH RELEVANT DECISIONS OF THIS COURT.

Pursuant to Rule 10 of the Supreme Court Rules, a petition for a writ of certiorari is only granted for “compelling reasons” which include, as particularly relevant here, the following:

(a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;

. . . .

(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

S. Ct. R. 10.

In conclusory fashion, the Petition claims that the Eleventh Circuit misapplied the First Amendment by invoking it as the constitutional basis for refusing to apply the FACE Act to the specific facts at issue in this case. Pet. for Writ of Cert. p. 19. The Eleventh Circuit’s ruling however (along with the district court’s ruling) is rooted in First Amendment principles of ecclesiastical abstention which have a long and enduring history in this Court’s jurisprudence, e.g., *Serbian E. Orthodox Diocese for U.S. and Can. v. Milivojevich*, 426 U.S. 696, 713 (1976); *Crowder v. S. Baptist Convention*, 828 F.2d 718, 721 (11th Cir. 1987). In its order, the Eleventh Circuit explained:

“[R]eligious controversies are not the proper subject of civil court inquiry.” *Serbian E. Orthodox Diocese for U.S. and Can. v. Milivojevich*, 426 U.S. 696, 713 (1976). We have long recognized that both the Establishment and Free Exercise Clauses require a “prohibition on judicial cognizance of ecclesiastical disputes.” *Crowder v. S. Baptist Convention*, 828 F.2d 718, 721 (11th Cir. 1987). “By adjudicating religious disputes, civil courts risk affecting associational conduct and thereby chilling the free exercise of religious beliefs.” *Id.* And “by entering into a religious controversy and putting the enforcement power of the state behind a particular religious faction, a civil court risks ‘establishing’ a religion.” *Id.*

The interplay between these two constitutional provisions generally requires that we refrain from adjudicating matters involving “theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required of them.” *Id.* at 722. Moreover, we “are bound to accept the decisions of the highest judicatories of a religious organization of hierarchical polity on matters of discipline, faith, internal organization, or ecclesiastical rule, custom, or law.” *Milivojevich*, 426 U.S. at 713.

Eglise Baptiste Bethanie De Ft. Lauderdale, Inc., 824 Fed. Appx. at 682-83.

Likewise, the district court also cited long-standing Supreme Court precedent in propounding its ruling and reasoning which substantially mirrors that of the Eleventh Circuit:

The Supreme Court and the Eleventh Circuit have explained that under the principles of separation of church and state, “[c]ivil courts lack jurisdiction to entertain disputes involving church doctrine and polity.” *Myhre v. Seventh-Day Adventist Church Reform Movement Am. Union Int’l Missionary Soc’y*, 719 F. App’x 926, 928 (11th Cir.), cert. denied, 139 S. Ct. 175 (2018). The First Amendment states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” U.S. Const. amend. I. “[C]ivil actions involving ecclesiastical disputes implicate both the Establishment and Free Exercise Clauses” of the First Amendment. *Myhre*, 719 F. App’x at 928 (citing *Crowder v. S. Baptist Convention*, 828 F.2d 718, 721 (11th Cir. 1987)).

Eglise Baptiste Bethanie De Ft. Lauderdale, Inc., 2020 U.S. Dist. LEXIS 617, at *19.

In view of the multitude of legal authorities cited by the Eleventh Circuit and the district court in support of their judicially sound rulings, it cannot reasonably be concluded that the Eleventh Circuit's ruling on this federal question conflicts with relevant decisions of this Court. Indeed, the ruling is wholly consistent with existing jurisprudence on the ecclesiastical abstention doctrine. *See, e.g., Milivojevich*, 426 U.S. at 713 (“[R]ecognition of such an exception would undermine the general rule that religious controversies are not the proper subject of civil court inquiry, and that a civil court must accept the ecclesiastical decisions of church tribunals as it finds them.”); *Crowder*, 828 F.2d at 721 (“The prohibition on judicial cognizance of ecclesiastical disputes is founded upon both establishment and free exercise clause concerns. By adjudicating religious disputes, civil courts risk affecting associational conduct and thereby chilling the free exercise of religious beliefs. Moreover, by entering into a religious controversy and putting the enforcement power of the state behind a particular religious faction, a civil court risks ‘establishing’ a religion.”); *Myhre v. Seventh-Day Adventist Church Reform Movement Am. Union Int’l Missionary Soc’y*, 719 F. App’x 926, 928 (11th Cir.), *cert. denied*, 139 S. Ct. 175 (2018) (“Civil courts lack jurisdiction to entertain disputes involving church doctrine and polity.”).

Accordingly, the Eleventh Circuit has not “so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court’s supervisory power.” Further, Petitioners

identify no applicable circuit split (nor is Respondent aware of any) that may otherwise justify this Court’s exercise of its judicial discretion to grant the Petition.

Because Petitioners do not provide a “compelling reason” in support of their Petition to have this Court hear the instant dispute, the Court should exercise its judicial discretion to deny the Petition. In view of the church governance dispute that is at the core of this case, it is clear that the FACE Act is merely being used as a guise to definitively vest leadership of the church with Petitioners. Resolution of this federal claim invariably turns on resolution of the ongoing church leadership dispute which the Court cannot undertake without violating the guarantees of the First Amendment and the well-settled principle of ecclesiastical abstention.

Accordingly, the Eleventh Circuit’s decision does not present the type of case that ordinarily calls for judicial review by this Court.

CONCLUSION

For all the foregoing reasons, Respondent respectfully requests this Court deny the Petition for Writ of Certiorari.

Dated: April 8, 2021

Respectfully submitted,

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