

No. 23-1030

IN THE
Supreme Court of the United States

MISSISSIPPI DISTRICT COUNCIL ASSEMBLIES OF GOD,
Petitioner,

v.

KEVIN BEACHY, EDDIE KINSEY,
ANDRE MULET, AND KRIS WILLIAMS,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE MISSISSIPPI SUPREME COURT

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether the Mississippi Supreme Court properly applied the ecclesiastical abstention doctrine by declining to decide ecclesiastical questions relating to an intra-church property dispute, and remanding the parties' property dispute to the state trial court to be decided under neutral, secular principles.

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INTRODUCTION

When religious entities are in conflict and turn to a civil court for resolution, the Constitution and this Court's precedents delineate clear rules about what role the civil courts can play. Those rules are commonly referred to as the ecclesiastical abstention doctrine. That doctrine essentially requires civil courts to abstain from opining on matters of faith and church governance, such as who is the rightful pastor of a congregation, whether a person was fairly excommunicated from a church, or whether a church is properly complying with governing religious tenets. Under the ecclesiastical abstention doctrine, courts typically dismiss lawsuits in which an individual sues to challenge the ecclesiastical decisions of a religious organization. However, there are some limited disputes between religious entities that courts typically do address, such as intra-church property disputes like the one at issue in this case. Such intra-church property disputes can sometimes involve adjacent ecclesiastical questions relating to church governance and adherence to the tenets of the faith. In those circumstances, this Court holds that a civil court can either decide the dispute based on secular, neutral principles of law, or else defer to the highest ecclesiastical authority (assuming who possesses that authority is clear or uncontested) to answer the ecclesiastical questions.

The Mississippi Supreme Court resolved the dispute between the parties here in a manner consistent with this Court's precedent on the ecclesiastical abstention doctrine. Citing this Court's precedents and its own, the Mississippi Supreme

Court abstained from deciding any ecclesiastical questions and remanded the property dispute for the trial court to resolve based on neutral, secular, state-law principles. This Court and courts throughout the country are in broad agreement that the ecclesiastical abstention doctrine permits the approach that the Mississippi Supreme Court took in this case.

The Petition raises a number of irrelevant and illusory disagreements among state and lower federal courts that are not implicated in this case and not worthy of this Court's review. For example, the Petition frames the issue presented as whether the ecclesiastical abstention doctrine bears on a court's subject-matter jurisdiction. But that question has no relevance to this case. The Mississippi Supreme Court, citing not only this Court's cases but also its own precedent pre-dating the application of the ecclesiastical abstention doctrine to the states, would have declined to reach the ecclesiastical questions in this case whether it had "jurisdiction" to do so or not. And, given this Court's express endorsement of lower courts' abstaining on religious questions while resolving property disputes based on neutral, secular, state-law principles, it is no surprise that the Petition cites no case holding that state courts are required to reach the ecclesiastical questions presented in an intra-church dispute. Rather, to the extent the Petition cites cases in which courts adopted different approaches to resolving intra-church disputes, those cases simply reflect the flexibility this Court has afforded the states in resolving these kinds of cases. So not only is the issue presented by the Petition irrelevant, it is also not the subject of disagreement in the lower courts.

Furthermore, as a threshold matter, the Petition itself suffers from a basic jurisdictional infirmity: the decision below is an interlocutory order of a state court—not a final judgment—and this Court thus lacks jurisdiction to review it under 28 U.S.C. § 1257.

For these reasons, the Petition should be denied.

STATEMENT OF THE CASE

The Church Chooses to Disaffiliate from the General Council of the Assemblies of God

The Gulf Coast Worship Center (“the Church”) is a Christian church in Long Beach, Mississippi. In November 1988, the Church applied for recognition and became a “General Council Affiliated Assembly,” affiliated with the General Council of the Assemblies of God (the “General Council”). Pet. App. 3, 245, 250. The General Council’s constitution and bylaws provide that a local church affiliating with the General Council maintains “the right of *self-government* under Jesus Christ, its living Head, and shall have the power to choose or call its pastor, elect its official board, and transact all other business pertaining to its life as a local unit.” Pet. App. 74 (emphasis added). The affiliating local church also “shall have the right to acquire and hold title to property, either through trustees or in its corporate name as a self-governing unit.” *Id.* And the “*fact it is affiliated with The General Council of the Assemblies of God shall in no wise destroy its rights as above stated or interfere with its sovereignty.*” *Id.* (emphasis added).

In 2017, Kevin Beachy, the Church's Pastor, with the support of his congregation, decided not to renew his credentials as an ordained minister of the General Council. Pet. App. 2, 4. On March 15, 2017, Pastor Beachy informed the District Council—the entity that sits below the General Council—that he and the Church intended to exercise the sovereign right (maintained under the General Council's constitution and bylaws) to disaffiliate from the General Council. Pet. App. 2, 4.

The next day, the District Council wrote a letter to Pastor Beachy that the Church was being placed under District Council supervision. Pet. App. 255. The letter did not dispute the right as a “sovereign church” to disaffiliate, but stated that the District Council had to be given notice and a chance to address the members of the congregation to make its case. Pet. App. 4-5, 255-56.

The Church responded that in previously affiliating with the General Council, it retained its status as a “sovereign, autonomous, self-governing and self-determining body.” Pet. App. 262. The response continued that, based “upon the overwhelming support of the congregation and based upon much prayer with serious and thoughtful consideration of their actions and consequences, the Board and the Church Congregation have decided that they do not wish to hold another business meeting to reconsider its decision of disaffiliation.” Pet. App. 263.

The District Council Brings This Suit Against Pastor Beachy and the Church's Trustees

In November 2017, the District Council sued Pastor Beachy and members of the Church's board of trustees in Mississippi state court seeking to gain control of the Church, its property, and its pulpit. Pet. App. 3, 5. Pastor Beachy and the Church trustees moved to dismiss, arguing that the ecclesiastical abstention doctrine prohibits civil courts from adjudicating the ecclesiastical questions at issue in the case. The trial court denied the motion to dismiss. Pet. App. 5-6, 35-45.

The District Council then amended its petition and sought a declaration that: (1) the Church's disaffiliation vote was void; (2) the Church "has been under District supervision since March 16, 2017"; and (3) the Church's property was "intended to be held in trust and under the control of the District Council." Pet. App. 6, 276. The District Council also sought "an injunction barring [Pastor Beachy and the trustee defendants] from claiming any position of authority or, in any way, preventing District supervision of" the Church, including the District Council's ability to install a new pastor of the Church. Pet. App. 277.

Discovery ensued, and on May 15, 2020, the District Council moved for summary judgment. Pet. App. 7. In response, Pastor Beachy and the trustee defendants disputed the District Council's characterization of the facts, including the validity of the District Council's attempt to place the Church under the District Council's supervision and the existence of a trust in the District Council's favor regarding the

Church's property. *Id.* The Church further argued that the Church was never lawfully subjected to the District Council's supervision, that the Church had the authority to hold the disaffiliation vote, and that the ecclesiastical abstention doctrine prohibits the trial court from adjudicating the governance issues raised by the District Council. *Id.* On the same day, Pastor Beachy and the trustee defendants moved for summary judgment and moved to dismiss the District Council's claims, asserting (among other things) that the Church's property does not belong to the District Council and no trust exists regarding the Church's property. Pet. App. 7-8.

The trial court granted the District Council's motion for summary judgment. Pet. App. 8. The trial court held that Pastor Beachy and his congregation had "no authority to take any action" to disaffiliate. Pet. App. 39; *see* Pet. App. 7-8. The trial court further ruled that the Church had been under the District Council's supervision since March 16, 2017, and the District Council controlled all of the Church's real and personal property. Pet. App. 9, 39.

The Mississippi Supreme Court Reverses the Trial Court's Grant of Summary Judgment and Remands for Adjudication of the Property Dispute

The Supreme Court of Mississippi reversed the trial court's grant of summary judgment in favor of the District Council and remanded for further proceedings. Pet. App. 1-34. The court held that the trial court erred in making "a judicial determination of whether [the Church] is to remain a member of the

General Council and under its control.” Pet. App. 13. The court held that the trial court’s judicial inquiry “intrudes into the affairs of church government.” *Id.* Accordingly, the trial court should not have reviewed whether the “actions taken by Defendants during the congregational meeting on March 19, 2017, are void.” *Id.*

The court reached this result by directly drawing on this Court’s cases concerning the ecclesiastical abstention doctrine, as well as Mississippi precedent predating the application of the doctrine to the states, which the Mississippi Supreme Court explained “preclude[] judicial review of claims that require resolution of strictly and purely ecclesiastical affairs.” *Id.* (internal quotation marks omitted). The court explained that “matter[s] of internal church government” are among the topics a court cannot resolve as they are “at the core of ecclesiastical affairs.” *Id.*

The court further held that, in contrast, the property dispute between the parties was not outside of the trial court’s authority to decide. Citing this Court’s decision in *Jones v. Wolf*, 443 U.S. 595 (1979), and its own precedent, the Mississippi Supreme Court explained that this intra-church property dispute may be resolved based on neutral principles of law, without running afoul of the ecclesiastical abstention doctrine. Pet. App. 14-15. The court detailed how neutral principles would apply here: “In order for the District [Council] to gain ownership of the property, [the trial court] must demonstrate either an actual transfer of property ..., an express trust, or clear and convincing evidence evinc-

ing an intent on the part of the local congregation to create a ‘trust’ in favor of the denomination.” Pet. App. 17 (cleaned up).

Analyzing the record, including affidavits, deeds, and property records, the court concluded that the District Council had not at this stage demonstrated either a transfer of the Church’s property or an express trust in its favor. Pet. App. 18. The court also determined that there is an unresolved fact issue as to the existence of an implied trust that precluded summary adjudication of that issue. Pet. App. 18-19. The court, accordingly, reversed the trial court’s grant of summary judgment in the District Council’s favor on the property dispute and remanded the property dispute for further proceedings regarding the existence of an implied trust. Pet. App. 19-22.

Justice Maxwell specially concurred. Insofar as the case involved “questions for the church, not the civil court,” he underscored that “it was error for the chancellor not only to entertain these questions but also to enter summary judgment” on “these ecclesiastical matters.” Pet. App. 22. His concurrence also stressed that the majority opinion correctly declined to “resolv[e the] sharply contested factual disputes surrounding the District’s relationship with [the Church],” and that the trial court could resolve the “disputed facts” on remand concerning the “District’s claim that [the Church] intended for its property to

be placed in trust under the District’s control.” Pet. App. 23.¹

REASONS TO DENY CERTIORARI

The Petition raises no issues warranting this Court’s review and should be denied for at least three reasons.

First, the interlocutory state-court order at issue is not a final judgment, as required by 28 U.S.C. § 1257, and does not meet any of the exceptions to the final judgment requirement. The Mississippi Supreme Court issued no final decision in this case, but rather remanded the property dispute for further proceedings in the trial court. Accordingly, the Petition improperly seeks to invoke this Court’s jurisdiction at this interlocutory stage of the case.

Second, contrary to the Petition’s arguments, lower courts are properly applying the ecclesiastical abstention doctrine. Petitioner asserts that there is an important dispute among the courts about whether the doctrine bears on a court’s subject-matter jurisdiction. But the characterization of the court’s ruling here as jurisdictional had no bearing on the disposition of the case. And the claimed conflict likewise has no bearing on the only question actually presented by the Petition—whether courts

¹ Justice Ishee also concurred in part and dissented in part. Pet. App. 23-24. Chief Justice Randolph dissented, Pet. App. 24, arguing that the Church’s notice of disaffiliation was “void” and that, in his view, “control of [the Church] vested with the District Council.” Pet. App. 34.

may decline to reach ecclesiastical questions adjacent to an intra-church property dispute, and instead remand the property dispute to be resolved based on neutral state-law principles, if possible, as the Mississippi Supreme Court did here. Such a remand is fully consistent with this Court's decision in *Jones*, where this Court specifically endorsed a neutral-principles approach as a proper option for deciding intra-church property disputes. 443 U.S. at 602-04. The Petition does not identify any case holding that courts must reach every ecclesiastical question presented in a dispute, notwithstanding *Jones*. And, thus, the Petition does not identify any conflict on the only question relevant to this case.

More generally, Petitioner's framing of the question myopically focuses on whether lower courts use the word "jurisdiction" in abstaining from reaching ecclesiastical questions, while ignoring the widespread agreement among the courts that certain religious disputes are improper for civil courts to address, and the similar agreement that, under *Jones*, it is a proper option to resolve intra-church property disputes using neutral, secular principles under state law. *Id.* The Petition also ignores the fact that, even if *some* courts choose to decide intra-church disputes by reaching ecclesiastical questions and deferring to the highest ecclesiastical authority, there is no requirement that courts must do so in all cases. And indeed, such a requirement would contradict this Court's decision in *Jones*.

Third, there was no error here. The Mississippi Supreme Court properly applied the ecclesiastical abstention doctrine. Consistent with this Court's

precedent and its own state-law principles, it refused to opine on predominately ecclesiastical questions between the parties regarding the propriety of the disaffiliation and the District Council's attempt to place the Church under its supervision. The court, however, remanded the property dispute for the trial court to adjudicate using neutral, secular principles. That is fully consistent with the ecclesiastical abstention doctrine, and the Mississippi Supreme Court's fact-based reversal of the trial court's issuance of summary judgment provides no basis for this Court's review.

I. The Petition Improperly Seeks To Invoke This Court's Jurisdiction Over An Interlocutory State-Court Order.

The Petition cites 28 U.S.C. § 1257(a) as the basis for this Court's jurisdiction. That statute provides for this Court's review of "[f]inal judgments or decrees" by a State's highest court. But the decision below is not a final judgment. The Mississippi Supreme Court reversed the trial court's grant of summary judgment in Petitioner's favor, dismissed the claims it determined would entangle the courts in questions regarding ecclesiastical governance, and remanded the rest of the case for further proceedings in the state trial court. *See* Pet. App. 21-22.

To constitute a "final judgment," a decision must "be final as an effective determination of the litigation and not of merely interlocutory or intermediate steps therein. It must be the final word of a final court." *Jefferson v. City of Tarrant*, 522 U.S. 75, 81 (1997) (quoting *Market St. Ry. Co. v. R.R. Comm'n of*

Cal., 324 U.S. 548, 551 (1945)). The final judgment rule precludes review in circumstances like these, where claims “remain[] to be determined by a State court.” *Flynt v. Ohio*, 451 U.S. 619, 620 (1981) (per curiam) (quotation marks omitted).

Petitioner does not invoke an exception to the final judgment rule, and it should not be permitted to sandbag Respondents by doing so for the first time on reply. *See Johnson v. California*, 541 U.S. 428, 431 (2004) (per curiam) (“A petition for certiorari must demonstrate to this Court that it has jurisdiction to review the judgment.”) (citing S. Ct. R. 14.1(g)).

In any event, none of the recognized exceptions applies. *See Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 479-87 (1975).

(1) The first exception applies when the federal issue, having been decided by the state’s highest court, is conclusive and the outcome of the case is preordained on remand. *See id.* at 479. In such cases, the judgment on the federal issue renders the case complete “for all practical purposes.” *Id.* That is not the situation here. Petitioner continues to press its property claim under neutral principles of law, and the trial court is still faced with fact-finding on that claim and its ultimate resolution.

The Petition cryptically posits in a footnote that, unless this Court intervenes, “the trial court will be powerless to meaningfully resolve the property dispute” before it because “no court can decide who controls the Worship Center.” *See* Pet. 10 n.1. But under

the terms of the Mississippi Supreme Court’s remand, the trial court is tasked with deciding who owns the disputed property under neutral principles of law—including whether an implied trust interest in the property exists in Petitioner’s favor. *See* Pet. App. 17-22. It is possible for Petitioner on remand to win control of the property on its state-law claim, under neutral principles, if it can make the required showings. Thus, the first exception does not apply.

(2) The second exception is limited to circumstances where the federal issue “will survive and require decision regardless of the outcome” of the case. *Cox*, 420 U.S. at 480. That is also not the situation here, as “[r]esolution of the state-law claims” on remand “could effectively moot the federal-law question raised here.” *Jefferson*, 522 U.S. at 82.

Petitioner seeks review of the Mississippi Supreme Court’s decision requiring dismissal of Petitioner’s claims for a declaratory judgment regarding its purported authority over the Church, including the validity of the Church’s disaffiliation vote and the validity of the District Council’s attempt to place the Church under its supervisory control. *See* Pet. App. 11-14, 21. But Petitioner seeks to adjudicate its purported authority over the Church as a means of gaining control of the Church’s property. *See* Pet. 10 n.1. If Petitioner prevails on the property dispute on remand based on neutral principles of law, then its claims for declaratory relief will be moot.

(3) The third exception applies only to circumstances “in which later review of the federal issue cannot be had, whatever the ultimate outcome of the

case.” *Cox*, 420 U.S. at 481. That is also not the case here, as Petitioner may seek certiorari on the federal issue after final judgment on the property dispute if that dispute is resolved against it. *See Jefferson*, 522 U.S. at 82-83 (this Court may review an interlocutory decision on a federal question after final judgment).

(4) Finally, the fourth exception is limited to circumstances in which: (i) “the party seeking review here might prevail on the merits on nonfederal grounds, thus rendering unnecessary review of the federal issue by this Court”; (ii) “reversal of the state court on the federal issue would be preclusive of any further litigation on the relevant cause of action”; and (iii) “refusal immediately to review the state court decision might seriously erode federal policy.” *Cox*, 420 U.S. at 482-83. The Petition here fails at least the latter two criteria.

a. Petitioner plainly cannot meet the last criterion. As we detail below, there is no conflict among the courts as to whether courts *may* decline to reach ecclesiastical questions in an intra-church property dispute, and in selecting their approaches to resolving these disputes, the lower courts are adhering to the federal policies announced by this Court. There is thus no need to bend the jurisdictional rules to protect a federal policy—there is no such policy at risk here.

But even if Petitioner were correct regarding what it claims to be an entrenched split among lower courts on the federal issue, then one more court weighing in on the question is hardly an emergency

requiring this Court’s immediate intervention. Pet. 11-20. Resolution of the issues presented here can await final judgment “without any adverse effect upon important federal interests.” *Flynt*, 451 U.S. at 622. Indeed, “[a] contrary conclusion would permit the fourth exception to swallow the rule. Any federal issue finally decided on an interlocutory appeal in the state courts would qualify for immediate review.” *Id.*

b. The Petition also fails the second factor. Reversing the Mississippi Supreme Court’s decision would not be “preclusive of any further litigation on the relevant cause of action.” *Cox*, 420 U.S. at 482-83. The Mississippi Supreme Court would still need to adjudicate the ecclesiastical governance questions it determined the trial court should have abstained from deciding. The Petition challenges the Mississippi Supreme Court’s determination that the trial court should have abstained from deciding whether the disaffiliation vote was void and whether the District Council validly placed the Church under its supervision and control. Reversing the Mississippi Supreme Court’s decision on the federal issue would thus leave additional issues to be resolved on remand—namely, whether the trial court was nonetheless correct in awarding Petitioner summary judgment on questions regarding its authority over the Church. Because “reversal of the state court on the federal issue would” not “be preclusive of any further litigation on the relevant cause of action,” *id.*, the fourth exception does not apply. *See Nike, Inc. v. Kasky*, 539 U.S. 654, 659-60 (2003) (Stevens, J., concurring).

“Compliance with the provisions of § 1257 is an essential prerequisite to [this Court’s] deciding the merits of a case brought here under that section.” *Johnson*, 541 U.S. at 431. Because no basis exists for this Court to exercise jurisdiction at this stage, this Court should reject the Petition as jurisdictionally barred.

II. The Claimed Split Is Not Implicated Here And Is Illusory In Nature.

The ecclesiastical abstention doctrine codifies an important constitutional principle: the Establishment Clause of the First Amendment bars a civil court from answering “strictly and purely ecclesiastical” questions. *Serbian E. Orthodox Diocese for U.S. & Can. v. Milivojeovich*, 426 U.S. 696, 713 (1976) (quoting *Watson v. Jones*, 80 U.S. 679, 733 (1871)). The doctrine protects the autonomy of religious institutions “to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.” *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952). But this Court has clarified that a civil court can and should generally resolve an intra-church property dispute. *See Jones*, 443 U.S. at 602 (“The State has an obvious and legitimate interest in the peaceful resolution of property disputes.”). Under *Jones*, the civil courts can do so either by application of neutral state-law principles, where possible, or instead may choose to defer to the highest ecclesiastical authority (where that hierarchy is clear or uncontested) on the relevant ecclesiastical questions. *Id.* at 602-03. “[T]he First

Amendment does not dictate” which option to follow. *Id.* at 602.

And while the ecclesiastical abstention doctrine originated in the First Amendment, Mississippi has recognized an equivalent bar under state law against courts exercising “ecclesiastical jurisdiction” for over a century. *Mt. Helm Baptist Church v. Jones*, 30 So. 714, 716 (Miss. 1901); *see also Sustar v. Williams*, 263 So. 2d 537, 540 (Miss. 1972) (“Long before the Federal Government began to draw the rights of the states into its centralized jurisdiction by the ‘process of absorption’ this Court had a rich heritage in the protection of religious freedom,” including by “refus[ing] to interpret ecclesiastical dogma”); *Smith v. Charles*, 24 So. 968, 968 (Miss. 1899) (courts cannot decide “contest between two factions” of a church based on which faction followed the faith of the church).² And like this Court, the Mississippi courts have long similarly recognized that intra-church property claims can be properly resolved by applying neutral principles of state law. *Mt. Helm Baptist Church*, 30 So. at 716.

The Mississippi Supreme Court has had no trouble following this basic guidance for more than a century, and no case from this Court (or any other

² *Watson v. Jones* was decided “before judicial recognition of the coercive power of the Fourteenth Amendment to protect the limitations of the First Amendment against state action.” *Kedroff*, 344 U.S. at 115. It was not until 1952 that this Court held that ecclesiastical abstention “must now be said to have federal constitutional protection as a part of the free exercise of religion against state interference.” *Id.* at 116.

court identified by the Petition) has brought into question the Mississippi courts' authority to abstain from reaching ecclesiastical questions while attempting to decide property disputes using neutral, state-law principles. But because the decision in this case used the word "jurisdiction" twice in declining to reach the ecclesiastical questions in this case, Petitioner now claims that this Court's review is necessary to resolve whether the ecclesiastical abstention doctrine "deprives courts of jurisdiction to enforce the ecclesiastical decisions of religious authorities in an intra-church dispute." Pet. i. Even if there were a meaningful split on this issue, this case is not a proper vehicle for addressing it because the use of the word "jurisdiction" in the decision below made no material difference in this case.

Whether the Mississippi Supreme Court lacked jurisdiction or simply elected not to exercise it in declining to reach the purely ecclesiastical questions in this case is not material here. Either way, the court elected not to reach those questions as part of its own long history of protecting the freedom of religious institutions to make their own ecclesiastical decisions and remanded the property issue to be addressed under neutral state-law principles. This Court expressly endorsed such an approach in *Jones* and provided courts with the option to avoid reaching ecclesiastical questions. That option would be a dead letter if courts were required to reach and defer on all ecclesiastical questions presented in intra-church disputes. And indeed, the Petition cites no case in which a court has held that state courts may not decline to reach ecclesiastical questions. Instead, Petitioner's claimed split largely features cases that

do not involve intra-church disputes at all, and other cases where courts were simply choosing between two proper options this Court specified in *Jones* for addressing intra-church property disputes. Thus, any diversity in how courts choose to resolve these disputes simply reflects the flexibility this Court has afforded the states and the circumstances of particular cases, not a genuine split.

A. The decision below would have been the same regardless of whether the ecclesiastical abstention doctrine bears on a court’s subject-matter jurisdiction.

Based on the Mississippi Supreme Court’s use of the term “jurisdiction” at the tail end of its decision that the trial court should not have addressed the predominantly ecclesiastical issues in this case, Pet. App. 13-14, 21, Petitioner attempts to place the decision here on one side of a purported split between courts that view the ecclesiastical abstention doctrine as bearing on subject-matter jurisdiction and those that do not. Pet. 16-20. But the Mississippi Supreme Court did not discuss, much less decide, that the ecclesiastical abstention doctrine deprives courts of subject-matter jurisdiction. Instead, it used the term “jurisdiction” in a manner that is consistent with this Court’s and other courts’ use of the term to convey the basic principle that civil courts may not opine on ecclesiastical questions in intra-church disputes. *See, e.g., Watson*, 80 U.S. at 732-33 (repeatedly using the term “jurisdiction” in describing courts’ lack of authority to decide ecclesiastical matters); *Milivojevich*, 426 U.S. at 713-14 (same) (quoting *Watson*, 80 U.S. at 733-34); *Seattle’s Union Gospel*

Mission v. Woods, 142 S. Ct. 1094, 1096 (2022) (mem.) (Alito, J., statement respecting denial of certiorari) (“As early as 1872, our church-autonomy cases explained that ‘civil courts exercise no jurisdiction’ over [ecclesiastical] matters[.]”) (quoting *Watson*, 80 U.S. at 733).

At least as far as this case is concerned, whether the Mississippi Supreme Court’s reference to jurisdiction connoted subject-matter jurisdiction in the technical sense is a matter of semantics, with no material difference to the case’s outcome. Either way, the result in this case would be the same—Mississippi state law provides that courts should decline to reach ecclesiastical questions where possible and resolve intra-church disputes based on neutral principles. And, as we detail below, there is no confusion among the lower courts as to the propriety of the Mississippi Supreme Court’s approach. *See infra* II.C.

The question actually presented by the decision below is simply whether the Mississippi Supreme Court *could* abstain from reaching the disaffiliation and authority issues, and remand the case to the trial court to adjudicate the property issues based on secular, neutral principles. The answer to both of those questions is yes. *See infra* III. Those rulings implicate no conflict and are fully consistent with this Court’s precedents.

B. The majority of Petitioner’s cases giving rise to the claimed split have nothing to do with whether courts must reach ecclesiastical questions in deciding intra-church property disputes.

Trying to portray a conflict among the state and federal courts on whether the ecclesiastical abstention doctrine bears on courts’ subject-matter jurisdiction, Petitioner cites over a dozen cases that are unhelpful for two reasons.

First, those cases arise in the wholly distinct context in which individual plaintiffs sue to challenge the ecclesiastical decisions of religious organizations—such as excommunicating members, terminating ministers, or denying applicants admission to a parochial school. *See, e.g., Bell v. Presbyterian Church (U.S.A.)*, 126 F.3d 328, 332-33 (4th Cir. 1997) (declining to adjudicate claims by former executive director of religious non-profit terminated because of lack of funds). These kinds of disputes are materially different from an intra-church dispute between two organizations that each claim sovereign religious authority for their ecclesiastical decisions.

As then-Justice Rehnquist explained, while “[t]here are constitutional limitations on the extent to which a civil court may inquire into and determine matters of ecclesiastical cognizance and polity in adjudicating intrachurch disputes,” “this Court never has suggested ... [they] similarly apply outside the context of such intraorganization disputes.” *Gen. Council on Fin. & Admin. of United Methodist Church v. Superior Ct. of Cal.*, 439 U.S. 1369, 1372

(1978) (order denying stay). The ecclesiastical abstention doctrine is “premised on a perceived danger that in resolving intrachurch disputes the State will become entangled in essentially religious controversies or intervene on behalf of groups espousing particular doctrinal beliefs.” *Id.* at 1373. This concern is precisely what animated the Mississippi Supreme Court’s decision to abstain from deciding the ecclesiastical questions in this case. Understandably, the doctrine does not have the same implications when a case does not present an intra-church property dispute, and thus, roughly half of the cases cited in the Petition are irrelevant.

Second, all of the individual-plaintiff cases cited in the Petition unsurprisingly come out the same way—declining to second guess the ecclesiastical decisions of the defendant religious organizations.³

³ On Petitioner’s side of the purported split, not one of the cases “enforced” a church’s ecclesiastical decision. See *Bryce v. Episcopal Church in the Diocese of Colo.*, 289 F.3d 648, 657-59, 660 (10th Cir. 2002) (courts cannot adjudicate claims by lesbian former youth pastor regarding church debate on homosexuality); *Winkler v. Marist Fathers of Detroit, Inc.*, 901 N.W.2d 566, 576 (Mich. 2017) (remanding claims brought by dyslexic student suing parochial school for determination of whether claims require reaching ecclesiastical questions); *Pfeil v. St. Matthews Evangelical Lutheran Church of the Unaltered Augsburg Confession of Worthington*, 877 N.W.2d 528, 542 (Minn. 2016) (“[A]djudicating [plaintiff’s] claims would excessively entangle the courts with religion and unduly interfere with [the church’s] constitutional right[s].”); *St. Joseph Catholic Orphan Soc’y v. Edwards*, 449 S.W.3d 727, 736, 738, 740-41 (Ky. 2014) (remanding with order to dismiss because “when religious issues permeate” a dispute, courts “are without authority to adjudicate” and “must abstain from hearing the case”);

Whether the courts do so because they choose to “defer” to the religious organizations or simply because they choose to abstain from deciding ecclesiastical questions, the bottom-line effect is the same. And not one of these cases involves a court using the doctrine as a sword and becoming an arm of the church to “enforce the ecclesiastical decisions of church authorities,” Pet. 12. Rather, they respect the religious autonomy of the church by declining to disturb the ecclesiastical decisions the church made.

For both of these reasons, these cases fail to show any “split” as to whether courts are required to adjudicate the ecclesiastical questions presented in an intra-church dispute.

Brazauskas v. Fort Wayne-S. Bend Diocese, Inc., 796 N.E.2d 286, 294 (Ind. 2003) (declining to apply state blacklisting and tort law to communication between church officials); *Celnik v. Congregation B’nai Israel*, 131 P.3d 102, 107-08 (N.M. Ct. App. 2006) (“[T]he dispute ... is precisely the type of religious debate that the church autonomy doctrine is intended to protect from judicial review.”).

Likewise, in the cases that are cited for Respondents’ side of the purported split, the courts declined to review ecclesiastical issues. *See, e.g., Rutland v. Nelson*, 857 F. App’x 627, 627-29 (11th Cir. 2021) (per curiam) (affirming dismissal of claim regarding religious disciplinary proceedings because they are “purely ecclesiastical in character”); *Hyung Jin Moon v. Hak Ja Han Moon*, 833 F. App’x 876, 879-80 (2d Cir. 2020) (summary order) (declining to adjudicate who is the proper leader of a church because church leadership is an ecclesiastical question); *Bell*, 126 F.3d at 332-33 (declining to adjudicate claims regarding termination of director of religious organization).

C. There is no split among courts on how to apply the ecclesiastical abstention doctrine to intra-church property disputes.

Consistent with this Court’s articulation of what the ecclesiastical abstention doctrine requires, as well as its own precedent, the Mississippi Supreme Court declined to reach the ecclesiastical questions related to this intra-church property dispute and remanded for the trial court to adjudicate the property dispute using neutral principles. The Petition identifies no case holding that courts *must* reach the ecclesiastical questions presented in intra-church disputes. And thus, there is no split on the propriety of the Mississippi Supreme Court’s approach.

There is no dispute that, as far back as 1871, this Court has consistently held that in an intra-church dispute, a court cannot opine on purely ecclesiastic questions. *See Watson*, 80 U.S. at 733 (“civil courts exercise no jurisdiction” over a matter “strictly and purely ecclesiastical in its character,” such as “a matter which concerns theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required of them”). And the law is clear that courts may resolve intra-church property disputes by reference to neutral principles of state law without reaching related ecclesiastical issues. *See Jones*, 443 U.S. at 602-04; *see also Presbyterian Church in the U.S. v. Mary Elizabeth Blue Hull Mem’l Presbyterian Church*, 393 U.S. 440, 449 (1969) (“First Amendment values are plainly jeopardized when church property litigation is made to turn on

the resolution by civil courts of controversies over religious doctrine and practice.”). In *Jones*, this Court explained that civil courts have a choice in deciding intra-church property disputes. 443 U.S. at 604-05. They may elect to resolve issues related to such a property dispute by using neutral principles of law if they can; but they also may choose to defer to the highest ecclesiastical authority if that authority has spoken (and where the church hierarchy is sufficiently clear or uncontested). *Id.*

Whether a court attempts to resolve a property-related question using neutral principles or through deference is a matter of state law, and the choice is often guided by how those principles apply to the particular case. *See, e.g., Church of God in Christ, Inc. v. Graham*, 54 F.3d 522, 525-26 (8th Cir. 1995) (Missouri resolves intra-church property disputes using neutral principles of law where possible, as permitted by this Court); *Fonken v. Cmty. Church of Kamrar*, 339 N.W.2d 810, 813, 816 (Iowa 1983) (acknowledging courts are free to choose between neutral principles and deference to the highest ecclesiastical authority, and employing both). The cases cited by the Petition as presenting a conflict in the handling of such property disputes simply reflect the flexibility this Court has afforded the states in choosing their own approach, as well as differences in state law and the facts of each individual case.

The Petition says that eleven courts “have held that it is proper to exercise jurisdiction and enforce the ecclesiastical decisions of church authorities within hierarchical denominations.” Pet. 12. But, of course, courts are free to do so in appropriate cir-

cumstances and where suitable under their own state law. This Court held as much in *Jones*. To the extent the Petition suggests instead that courts like the Mississippi Supreme Court instead *must* decide intra-church disputes by enforcing the ecclesiastical decisions of church authorities within hierarchical denominations, it misunderstands both *Jones* and the authorities it cites. No case the Petition cites on the opposite side of the purported split conflicts with the Mississippi Supreme Court's decision.

First, as discussed above, *supra* II.B, six of the cases the Petition cites on its side of the purported split⁴ are irrelevant because they do not have anything to do with an intra-church property dispute. Instead, they involve the distinct context of individual plaintiffs suing to challenge the ecclesiastical decisions of religious bodies. And anyway, none of these cases stands for the proposition that courts are compelled to adjudicate ecclesiastical questions by enforcing the decisions of church authorities.

Second, the six remaining cases⁵ that do involve intra-church disputes also do not conflict with the Mississippi Supreme Court's decision. To the extent Petitioner is claiming that these jurisdictions say that courts are required to reach all ecclesiastical

⁴ See *Bryce*, 289 F.3d 648; *Winkler*, 901 N.W.2d 566; *Pfeil*, 877 N.W.2d 528; *Edwards*, 449 S.W.3d 727; *Brazauskas*, 796 N.E.2d 286; *Celnik*, 131 P.3d 102.

⁵ The Petition refers to eleven jurisdictions, but because it cites two cases from California, there are twelve total cases the Petition cites for its side of the purported split. See Pet. 14.

questions presented and defer to the highest ecclesiastical authority in intra-church property cases, this Court's *Jones* decision says otherwise. 443 U.S. at 605. And not surprisingly, the cited cases do not contradict *Jones*.

For example, the Iowa Supreme Court, like the Mississippi Supreme Court here, acknowledged that the ecclesiastical abstention doctrine required it not to decide any intra-church dispute based on its own interpretation of religious doctrine. *See Fonken*, 339 N.W.2d at 812-13. But it determined that it could resolve the church property dispute before it based on either deference to the highest church authority in a hierarchical church, or, in the alternative, based on neutral principles. *Id.* at 816. Ultimately, the Iowa Supreme Court determined that under either the compulsory deference approach or the neutral principles approach, the outcome in that case would be the same. *Id.* at 819. Thus, there is no split between the Mississippi Supreme Court's and the Iowa Supreme Court's decisions. Both acknowledged that the ecclesiastical abstention doctrine forbids them from opining on religious doctrine, but that they could resolve the church property dispute by relying on one of the two approaches approved by this Court.

The remaining cases involving intra-church disputes cited by Petitioner also reflect courts electing between the two proper options identified by this Court. *See Graham*, 54 F.3d at 526 (resolving church property dispute based on neutral principles); *Church of God in Christ, Inc. v. Cawthon*, 507 F.2d 599, 602 & n.4 (5th Cir. 1975) (citing this Court's precedent and holding that "as a church of hierar-

chical polity,” hierarchical church “established its right to possession and control” of property);⁶ *Episcopal Church Cases*, 198 P.3d 66, 70 (Cal. 2009) (acknowledging that “[s]tate courts must not decide questions of religious doctrine” and “[a]pplying the neutral principles of law approach”); *Tea v. Protestant Episcopal Church in the Diocese of Nev.*, 610 P.2d 182, 184 (Nev. 1980) (citing *Jones* and electing to apply the deference approach, noting that it is “not constitutionally impermissible”); *Kim v. True Church Members of the Holy Hill Cmty. Church*, 187 Cal. Rptr. 3d 515, 524 (Cal. Ct. App. 2015) (preferring the neutral-principles approach, where possible, in property disputes).

These cases merely reflect the flexibility this Court provided courts in *Jones*—not a split in authority. And none dictates that courts must reach all ecclesiastical questions presented in an intra-church dispute. All told, Petitioner’s claimed split is illusory.

III. Certiorari Is Also Unwarranted Because The Decision Below Is Correct.

The Mississippi Supreme Court correctly applied the ecclesiastical abstention doctrine in declining to wade into the ecclesiastical dispute between the Church and the District Council. Pet. App. 11-14.

⁶ Notably, the Fifth Circuit’s decision in *Cawthon* precedes this Court’s instructive decision in *Jones*. Nevertheless, the Fifth Circuit’s decision still does not animate a split because deference to hierarchical church authorities remains one of the options available to lower courts.

And it correctly reasoned that the church property dispute could be resolved in accordance with neutral principles. Pet. App. 14-22. Both of those decisions are consistent with this Court’s teachings on how to properly apply the ecclesiastical abstention doctrine in resolving intra-church property disputes between religious entities.

A. Civil courts are not required to reach questions of church governance.

As this Court has long held, matters of church governance are quintessential ecclesiastical questions. *See, e.g., Kedroff*, 344 U.S. at 115-16. State interference into these domains targets the “religious law and polity” comprising the core of religious belief, and courts lack secular standards to decide these questions without implicitly or explicitly evaluating tenets of a faith. *Milivojevic*, 426 U.S. at 709. If the ecclesiastical abstention doctrine is to have any effect, it must protect religious institutions from judicial meddling into how they structure their affairs.

The decision below reflects this framework and vindicates the larger constitutional principle advanced by the ecclesiastical abstention doctrine. Drawing on both this Court’s precedent and its own, the Mississippi Supreme Court observed that “[t]he ecclesiastical abstention doctrine recognizes that the Establishment Clause of the First Amendment precludes judicial review of claims that require resolution of strictly and purely ecclesiastical questions.” Pet. App. 13 (internal quotation marks omitted). It then noted that ecclesiastical governance issues like

the “[t]he alteration of a parish,” are “at the core of ecclesiastical affairs.” *Id.* (citing *Schmidt v. Catholic Diocese of Biloxi*, 18 So. 3d 814, 822 (Miss. 2009)). Accordingly, the Mississippi Supreme Court concluded that “a judicial determination of whether [the Church] is to remain a member of the General Council and under its control intrudes into the affairs of church government.” *Id.* In declining to “undertake the adjudication of this internal church matter” and voiding “[the trial court’s] determination” regarding the validity of the disaffiliation vote and the District Council’s attempt to place the Church under its supervision, the court sought to avoid inserting secular courts into questions that are “predominately ecclesiastical in nature.” Pet. App. 13-14. This was a straightforward and correct application of the ecclesiastical abstention doctrine.

No case from this Court provides that courts must reach and decide all ecclesiastical questions presented in a dispute. Indeed, such a requirement would obviate the purpose of the ecclesiastical abstention doctrine, as well as this Court’s decision in *Jones*. After all, “the promise of nonentanglement and neutrality inherent in the neutral-principles approach” would be a nullity if, notwithstanding this Court’s approval of the neutral-principles approach in *Jones*, litigants could “insist as a matter of constitutional law that whenever a dispute arises over the ownership of church property, civil courts must defer” to an ecclesiastical authority on *all* related ecclesiastical issues. *Jones*, 443 U.S. at 605-06. In declining to reach the ecclesiastical questions in this case, the Mississippi Supreme Court sought to decide this intra-church dispute “free ... completely

from entanglement in questions of religious doctrine, polity, and practice.” *Id.* at 603. That approach is, at a minimum, permitted by this Court’s precedent.

B. The property dispute was properly remanded to be decided under neutral principles of law.

The Mississippi Supreme Court’s remand of the property dispute was correct and provides no basis for this Court’s review. The Petition barely addresses the Mississippi Supreme Court’s remand of the property dispute for further proceedings in the trial court. Despite the fact that the property issue commanded much of the attention of the decision and briefing below, the Petition limits substantive discussion of this issue to a two-sentence footnote, urging that it is impossible to decide the property dispute in this case without first reaching the related ecclesiastical questions. *See* Pet. 10 n.1. Petitioner is incorrect, as the Mississippi Supreme Court remanded the property dispute to be decided under neutral principles of law, as this Court explicitly permitted in *Jones*. *See Jones*, 443 U.S. at 604 (“We therefore hold that a State is constitutionally entitled to adopt neutral principles of law as a means of adjudicating a church property dispute.”).

In resolving intra-church property disputes, courts may rely “on objective, well-established concepts of trust and property law familiar to lawyers and judges,” rather than “questions of religious doctrine, polity, and practice.” *Id.* at 603. Courts regularly turn to these objective and well-established principles to resolve the sort of property dispute at

issue in this case. And the Mississippi Supreme Court is in accord. *See* Pet. App. 14-21. “Mississippi has adopted the ‘neutral principles of law’ approach for resolving church property disputes”—one of the two permissible approaches to resolving these kinds of disputes under this Court’s decision in *Jones*. Pet. App. 16 (quoting *Schmidt*, 18 So. 3d at 824); *see also supra* II.C (discussing the flexibility this Court gave lower courts in *Jones*). In Mississippi, the neutral-principles approach typically “allows courts to examine evidence respecting the deed and chain of title of real property being claimed by the competing parties.” Pet. App. 17.

In this case, these neutral principles of law must be applied to what are at this point “sharply contested factual disputes.” Pet. App. 23 (Maxwell, J., concurring). As the Mississippi Supreme Court recognized, the current record at this stage of the litigation does not show that there was “an actual transfer of property from [the Church] to the District” Council, or that the elements for the creation of an express trust were met. Pet. App. 18. Accordingly, the Mississippi Supreme Court determined that there was insufficient evidence in the record to establish “whether the District has a resulting trust interest in the property.” Pet. App. 19. And it determined that a fact question exists as to whether there is an implied trust in the District Council’s favor. Pet. App. 19-21. Given the ongoing factual disputes, and the Mississippi Supreme Court’s conclusion that the state-law property question can likely be resolved based on neutral principles of state law, Petitioner’s rush to have this Court treat this case as turning on constitutional issues is premature, at

best. At this “early stage of the litigation,” when “it is not clear that” the property dispute “will require the court to address purely ecclesiastical questions,” the proper course is to first allow the trial court to decide the non-ecclesiastical questions. *McRaney v. N. Am. Mission Bd. of S. Baptist Convention, Inc.*, 966 F.3d 346, 349, 351 (5th Cir. 2020) (remanding on grounds that dismissal based on the ecclesiastical abstention doctrine was “premature” and “[a]t this time, it is not certain that resolution of [the] claims will require the court to interfere with matters of church government, matters of faith, or matters of doctrine”).

In short, the Mississippi Supreme Court properly determined that summary judgment was improper and remanded the property dispute to be resolved under neutral principles of law. That fact-based ruling furnishes no ground for further review, even if this Court did have jurisdiction over this interlocutory matter.

CONCLUSION

For the foregoing reasons, the Court should deny the petition for a writ of certiorari.

Respectfully submitted,

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