

No. 18-921

In the Supreme Court of the United States

ROMAN CATHOLIC ARCHDIOCESE OF SAN JUAN, PUERTO RICO,
AND THE ROMAN CATHOLIC DIOCESES OF PONCE, CAGUAS,
MAYAGÜEZ AND FAJARDO-HUMACAO, PUERTO RICO,
Petitioners,

v.

YALÍ ACEVEDO FELICIANO, SONIA ARROYO VELÁZQUEZ,
ELSIE ALVARADO RIVERA, ET AL.,
Respondents.

*On Petition for a Writ of Certiorari to the
Supreme Court of Puerto Rico*

**RESPONSE OF RESPONDENT CATHOLIC
EMPLOYEES PENSION TRUST IN SUPPORT OF
PETITION FOR WRIT OF CERTIORARI**

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February 15, 2019

QUESTION PRESENTED

Respondents, Catholic Employees Pension Trust, agree with the petition's presentation of the question presented:

Whether the First Amendment empowers courts to override the chosen legal structure of a religious organization and declare all of its constituent parts a single legal entity subject to joint and several liability.

PARTIES TO THE PROCEEDING

The petition correctly identifies the parties to this matter. Catholic Employees Pension Trust is a defendant-appellants below and is respondent here.

CORPORATE DISCLOSURE STATEMENT

Catholic Employees Pension Trust is a trust organized under Puerto Rico law. It has no parent corporation, no shareholders, and issues no stock. The plan sponsor is the Superintendence of Catholic Schools of the Archdiocese of San Juan. The trust is a legal entity with its own legal personhood, as per Puerto Rico law.¹

¹ Puerto Rico Trust Act, Puerto Rico Law No. 219 of August 31, 2012, as amended by Puerto Rico Law No. 9 of February 8, 2017.

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INTRODUCTION

This case squarely presents the question of whether a court can ignore the organization of a religion in violation of the First Amendment of the Constitution of the United States. A majority of the Puerto Rico Supreme Court in a completely wrong decision against the Catholic Church, determined, contrary to previous precedents, that there is only one entity of the Catholic Church with legal capacity on the island, thereby disavowing the existence and legal personality of the Archdiocese, five dioceses, parishes, parochial schools, schools of religious orders and religious orders, all of them with legal capacity recognized by said court until its June 11, 2018 decision. The court has acted with reckless disregard of the Constitution of the United States.

The Catholic Schools Employees Pension Trust (“Trust”) was established on November 26, 1979. The Pension Plan was originally intended to supplement, in addition to the Social Security benefits, the retirement income of the Catholic school employees in the Archdiocese of San Juan. Later it was amended to include employees of Catholic schools of other dioceses and schools. The Catholic schools and Catholic entities that participated in the pension plan are “participating employers”. Unfortunately, after the closing of several schools by reason of a decline in the population and some dire financial situations that affected the capacity of the plan, the forty-three participating employers decided to terminate the plan as per its own terms because it was not economically viable. It is important to stress that the pension plan was funded only by the participating employers. This decision by the

participating employers to terminate the plan served as an excuse for the Puerto Rico Supreme Court to reorganize the Catholic Church.

The immediate effect of the majority opinion by the Supreme Court of Puerto Rico is to convert by the stroke of a pen all Catholic entities into “one single employer” that includes the six dioceses, more than 300 parishes and dozens of Catholic schools that were not participants of the pension plan. The Puerto Rico Supreme Court has created *de facto* and a *de jure* chaos in the Catholic Church and in the Pension Plan contrary to the Free Exercise and Establishment Clauses of the Constitution of the United States.

The grant of the Petition of Writ of Certiorari is crucial because said decision deletes in its entirety the deed creating the trust and the plan documents, instead binding all Catholic entities to the pension plan regardless of whether they were participating employers. Moreover, the decision is a textbook example of entanglement in the internal affairs and finances of a religion. It has affected all the dioceses that were not participating employers. The court ordered to seize assets and moneys of the “Roman Catholic and Apostolic Church” in the amount of \$4,700,000.00 and to take any and all necessary measures such as opening doors day or night, breaking locks and forcing entry into any Catholic entity anywhere in Puerto Rico without posting a bond. It is important to stress that such entity “Roman Catholic and Apostolic Church” does not exist. The attachment order forced the Archdiocese of San Juan to file for bankruptcy protection. The Puerto Rico Supreme Court is moving backward in history by denying the

existence of the Catholic Church organization. The intervention of this Court is necessary to prevent an irreparable harm to the Catholic Church, its various dioceses, parishes, religious orders, parish schools, schools of religious orders, and this Respondent Trust.

PROCEDURAL HISTORY

Shortly after the participating employers of the Catholic Schools Pension Trust decided to terminate the pension plan because of extreme financial hardship where the participating employers could not continue making the needed contributions to sustain the plan, plaintiffs filed the instant case claiming that if the trust cannot pay the pensions, the Church is responsible for such payments. A hearing was held in the Court of First Instance and only four plaintiffs testified. After an evaluation of the evidence presented said court denied the preliminary injunction requesting the continuation of the pension payments. Plaintiffs appealed to the Puerto Rico Court of Appeals and said court denied the Writ of Certiorari sought by plaintiffs. Subsequently plaintiffs filed a Petition for Certiorari before the Puerto Rico Supreme Court and in a vague resolution, said court ordered the Court of First Instance to hold a hearing to determine which employers (Catholic school) had independent legal personhood. The Supreme Court ordered the Court of First Instance to determine the legal personality of the parties. Appendix 17.

The Court of First Instance held a hearing and determined that Academia del Perpetuo Socorro was and is incorporated (Appendix 235) but nonetheless has no legal personhood. Appendix 239. The Court of First Instance did not address the issue pertaining to the

legal personhood of the other two schools, Academia San José or Academia San Ignacio. Appendix 230. It also determined that the Archdiocese of San Juan has no legal personhood. Appendix 240.

After the judgment issued by the Court of First Instance, the Archdiocese filed a Writ of Certiorari before the Puerto Rico Court of Appeals. Said court reversed the Court of First Instance and correctly explained thoroughly the organization of the Catholic Church. Said judgment states in pertinent part as follows, Appendix 135:

As can be seen, the canonical order recognizes the representative capacity of the Catholic faith on the Island for the dioceses and parishes, within their respective territorial limits, as a particular Church. Outside of these entities, especially the parish and the dioceses, including the Archdiocese, the hierarchical structure of the Catholic religion has no other authority with the capacity to represent the entire Catholic Church in Puerto Rico, other than the Bishop of Rome, as the universal head of the Roman Catholic and Apostolic Church.

Such is the hierarchical structure of said religion, pursuant to its dogmas of faith and the canonical law that governs it. Any action of the State, by way of any of its components, aimed at intervening or seeking to alter the way in which internally it or any other religion operates or is organized, infringes upon the clause of separation of Church and State of the Constitutions of the United States and Puerto Rico, as already transcribed.

The Decision issued by the CFI, and moreover, its Order for Seizure, to the extent in which it is aimed against a legally nonexistent entity in light of the internal organization of the Church, contravenes the aforesaid constitutional clause, wherefore it lacks validity and effectiveness, among other grounds that shall be set forth later on.

The Court of Appeals also addressed the legal personhood of the parishes and religious orders. Appendix 142-143.

Note that, with respect to the parishes, it is thus expressly provided under sec. 515 (3) of the CCL when it is established that, “the legitimately erected parish holds legal personhood by virtue of the law itself.” Likewise, section 532 establishes that “[the] parish priest represents the parish in all legal transactions, pursuant to legal norms [...]. “for its part, section 800 of the same Code authorizes the particular church “to establish and direct schools of any subject matter, gender and grade.”

Canon law recognizes the same personality for dioceses, by virtue of Canons 372 and 373. These provide that:

372 – Section 1. As a rule, the portion of the people of God which constitutes a diocese or other particular Church is limited to a definite territory, so that it includes the faithful living in the territory.

Section 2. Nevertheless, where the judgment of the supreme authority of the Church it seems advantageous after the conferences of bishops concerned have been heard particular churches distinguished by the rite of the faithful or some other similar reason can be erected in the same territory.

373 – It is only for the supreme authority to erect particular churches; those legitimately erected possess *juridic personality* by law itself. (Emphasis ours).

The same thing can be said of religious orders, and other organizations, in accordance with section 634 (1) of the CCL, which indicates that:

As juridic persons by the law itself, institutes, provinces, and houses are capable of acquiring, possessing, administering, and alienating temporal goods unless this capacity is excluded or restricted in the constitutions.

Even though the Court of Appeals granted a remedy to plaintiffs and recognized the organization of the Catholic Church, the judgment was reversed by the Puerto Rico Supreme Court in which the orders of the Court of first Instance and its conclusions were reinstated, including the order to pay \$4,700,000.00 in 24 hours.

DISCUSSION

The Puerto Rico Supreme Court's blatant violations of constitutional and legal rights cannot be tolerated.

The Supreme Court of Puerto Rico insists on a specific organization of the Catholic Church contrary to the Code of Canon Law, more than 150 years of this Supreme Court jurisprudence and plenty Puerto Rico Supreme Court cases where the legal personhood of the dioceses, parishes, parochial schools, religious orders, and schools of religious orders were recognized. See Appendix 54. The dissent opinion issued by Justice Anabel Rodríguez specifically cites several cases where the Puerto Rico Supreme Court had entertained disputes in which the juridical personality of the Archdiocese of San Juan and the five other Dioceses were recognized, App. 53-55. Justice Anabel Rodríguez stated in pertinent part as follows:

“Certainly, these expressions are consistent with the interpretation of the case *Municipality of Ponce* and the analysis set forth in sections II and III of this opinion. After this decision, on several occasions, this Court has entertained disputes through which it has recognized the juridical personality of the Archdiocese of San Juan and the five (5) other Dioceses. This, demonstrating and understanding about the internal and hierarchical ecclesiastical organization of the Universal Church of the People of Christ. See *Diocese of Arecibo v. Sec. Of Justice*, 191 D.P.R. 292 (2014); *Diocese of Mayagüez v. Planning Board*, 147 D.P.R. 471 (1999); *Díaz v. School Nuestra Sra. Del Pilar*, 123 D.P.R. 765, 1989 PR Sup. LEXIS 126 (1989);

San Jorge Academy v. Labor Relations Board, 110 D.P.R. 193, 1980 PR Sup. LEXIS 145 (1980); *Agostini Pascual v. Catholic Church, Diocese of Ponce*, 109 D.P.R. 172, 1979 PR Sup. LEXIS 139 (1979); *Vélez Colón v. Roman Catholic Apostolic Church, Diocese of Arecibo*, 105 D.P.R. 123, 1976 PR Sup. LEXIS 123 (1976); *Roman Catholic Apostolic Church, Diocese of San Juan v. Registrar*, 95 D.P.R. 511 (1968); *Camacho v. Roman Catholic Apostolic Church, Diocese of Ponce*, 72 D.P.R. 353, 1951 PR Sup. LEXIS 144 (1951). As anticipated, endorsement of the majority opinion leads one to consider these decisions as if they were never written.”

In the above cited cases the Puerto Rico Supreme Court recognized the legal personhood of the dioceses of Arecibo, Mayagüez, Ponce and the Archdiocese of San Juan and also the capacity of a parish schools. Suddenly the Puerto Rico Supreme Court refused to recognize the legal personhood of said entities disregarding one hundred years of its own precedents, just as it disregarded one hundred and fifty years of this Court’s jurisprudence.

Contrary to the court’s conclusions, all of the Bishops in charge of the six dioceses in Puerto Rico have reiterated that the Catholic Church operates through the dioceses, which are all independent of each other and report only to the Holy See. The Bishops are the proper interpreters on how the Catholic Church in Puerto Rico is organized.

In the case of *Municipality of Ponce v. Roman Catholic Church*, 210 U.S. 296 (1908), this Court upheld the canonical concept of the Church’s legal and

moral personality and recognized the existence of the Catholic Church through its only diocese (at the time) and other entities with legal capacity as parishes, parochial schools and schools of religious orders. If this Court permits the reorganization of churches to conform them to specific averments made by laymen in different complaints, we will end up with unimaginable structures and organizations of churches contrary to the spirit and clear language of the constitutional clauses that prohibit actions that may inhibit or foster any particular religion.

As stated before, the principal issue posed in the case goes to the core of religious liberty and it impacts every church, App. 210-211, because it will open to judicial scrutiny any organization of a church. And on that issue, the decision of the Puerto Rico Supreme Court is contrary to precedents of this Supreme Court and previous decisions by the Puerto Rico Supreme Court. All the dioceses of the Catholic Church in Puerto Rico have unequivocally explained its structure and organization. Three judges of the Court of Appeals and two Justices of the Puerto Rico Supreme Court recognized the internal organization of the Catholic Church and provided a remedy to Plaintiffs. The judicial system in Puerto Rico has recognized this internal organization of the Catholic Church since the Spanish-American War of 1898. Yet the Supreme Court of Puerto Rico has now dismantled a structure and organization that has survived centuries and revoked more than one hundred years of its own case law. In doing so, they rewrote the history of the Church and the Code of Canon Law.

The Catholic Church has always existed through the Dioceses, in the case of Puerto Rico, a Metropolitan Archdiocese of San Juan with an Archbishop and five Dioceses with their respective Bishops. That is, in Puerto Rico we have an archdiocese and five dioceses:

- a. Archdiocese of San Juan
- b. Diocese of Arecibo
- c. Diocese of Ponce
- d. Diocese of Mayagüez
- e. Diocese of Caguas
- f. Diocese of Fajardo-Humacao

Each one of these Dioceses has independent legal capacity of the other and all are governed by a Bishop, and in every diocese there are parishes, parochial schools, schools of religious orders and religious orders with legal capacity.

The juridical personality of the Catholic Church is not one, as the court concluded, there are six Dioceses; one Archdiocese and five Dioceses, each with a separate legal capacity governed by their Bishop, more than 300 parishes and catholic schools all with juridical personality.

This organization was highlighted in the case of *Surinach v. Pesquera*, 604 F.2d 73 (1st Cir. 1979). There some Superintendents of Roman Catholic Schools in a number of Puerto Rico dioceses jointly instituted an action to declare unconstitutional an action taken by the government to investigate the operating costs of the Catholic schools because they believed said action was interfering or entangling with the financial affairs of the church. The First Circuit Court, quoting *Lemon v. Kurtzman*, 403 U.S. 602 at 616

(1971), determined that the Catholic schools in question were an integral part of the Catholic Church and as such “involve substantial religious activity and purpose”.

In this case, the Puerto Rico Supreme Court has dismantled the Catholic Church organization and in doing so has deprived the Trust of its structure by turning the participating employers into a single employer. The current controversy is much worse than a simple investigation into the costs of education, as it was decided in *Surinach v. Pesquera, supra*. Instead, we are confronted with a profoundly mistaken judicial attack on the Catholic Church and its organization.

Here, moreover, the Trust and the pensioners it was created to serve would be much better situated under the Puerto Rico Court of Appeals’ decision, that granted a specific remedy to the pensioners. See App. 157-167. The pensioners would continue receiving the pensions in addition to the social security benefits to which they are entitled. As for the Trust, its fundamental structure would be preserved according to its constitutive documents “it is clear that what the participating employers pledge was to make contributions of 2%, 4% or 6% of the payroll for each employee to the Trust fund, from which the pensions would be paid. The text of said plan does not state that the employers pledge to pay the pensions directly to the teachers, that is independently from the management of the Trust. In the end as appears in the text of the pension plan, each participating employer would be liable only for the contributions that it pledged to contribute to the Trust” App. 165.

By contrast, the Puerto Rico Supreme Court's decision essentially attempts to impose joint and several liability on *every* Catholic entity for the alleged pension obligations of *every* parish with an affiliated school or catholic schools of religious orders. For institutions that depend upon a steady stream of voluntary contributions from their members, that approach will be disastrous. Potential donors who believe their contributions may be seized or transferred to meet financial obligations unrelated to their parish, religious order or diocese are likely to reduce or abandon their contributions. And that, in turn, will mean less money available to meet the needs of all Catholic institutions in the Commonwealth and will inexorably affect the Trust.

CONCLUSION

WHEREFORE, we respectfully request from this Court to grant the petition for certiorari.

Respectfully Submitted,

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