

SUPREME COURT OF SOUTH CAROLINA

The Protestant Episcopal Church in the Diocese of South Carolina v.
The Episcopal Church

Opinion No. 28095 (S.C. Aug. 17, 2022) · No. Appellate Case No. 2020-000986; Opinion No. 28095 · Decided
August 17, 2022

SUMMARY

The South Carolina Supreme Court addresses ownership of real and personal property following the disassociation of the Protestant Episcopal Church in the Diocese of South Carolina and multiple parishes from The Episcopal Church. The court holds that its 2017 decision did not finally determine ownership of all parish real property and conducts a parish-by-parish analysis of express accession to the Dennis Canon and the resulting trusts. The court affirms in part and reverses in part, and substitutes the attached opinion on rehearing.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice John Cannon Few; Chief Justice Donald W. Beatty; Justice John W. Kittredge; Justice George C. James, Jr.; Acting Justice James E. Lockemy
JURISDICTION	South Carolina
DECIDED	August 17, 2022
DOCKET	Appellate Case No. 2020-000986; Opinion No. 28095
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from the circuit court's 2020 parish-by-parish determination of ownership of disputed church property following the Supreme Court's 2017 decision and subsequent petitions for rehearing.
STANDARD OF REVIEW	Whether a parish took a particular action is a question of fact reviewed under the any-evidence standard when tried by a judge without a jury. Whether the known action created a trust under South Carolina law is a question of law reviewed without deference.
PRECEDENTIAL VALUE	Published but expressly limited by the court as nonprecedential in future church property disputes.

PARTIES

The Episcopal Church, The Episcopal Church in South Carolina v. The Protestant Episcopal Church in the Diocese of South Carolina, The Trustees of The Protestant Episcopal Church in South Carolina, The individual Episcopal parishes identified in the caption

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Supreme Court's five separate 2017 opinions finally decided ownership of the real property occupied by all twenty-nine remaining parishes.
2. What conduct constitutes express accession to the Dennis Canon and creation of a trust under South Carolina trust law.
3. Whether trusts created by express accession to the Dennis Canon were irrevocable or revocable under South Carolina Code section 62-7-602(a).
4. Whether two parishes created revocable trusts after January 1, 2006 and validly revoked them.
5. Whether the 2017 decision resolved ownership of real and personal property held by the Trustees and the Disassociated Diocese.
6. Whether state courts should decide the parties' disputes concerning names, styles, emblems, trademarks, and service marks.

HOLDINGS

1. The 2017 Court did not make a final decision as to the real property owned by twenty-nine parishes; the Supreme Court therefore properly reviewed the circuit court's 2020 parish-by-parish determinations.
2. Express accession occurs when, after adoption of the Dennis Canon, a parish states in an official document such as a constitution or bylaws that it adopts or accedes to the canons of The Episcopal Church, together with circumstances showing knowledge of the Dennis Canon and participation in adopting the Diocesan Canon; such conduct creates a trust in favor of the National Church and its diocese.
3. Language stating that a parish pledges allegiance, operates pursuant to, is subject to, or agrees to conform to the National Church's or diocesan canons, without more, does not create a trust in favor of the National Church or its diocese.
4. The trusts created by express accession to the Dennis Canon in this case before January 1, 2006 were irrevocable.

5. The Church of the Holy Cross, Stateburg and the Vestries and Church Wardens of the Parish of St. Andrew created revocable trusts after January 1, 2006 and revoked those trusts in accordance with South Carolina law.
6. The 2017 Court decided that the real and personal property held in trust by the Trustees is held for the benefit of the Associated Diocese, and that decision applied to all Diocesan and Trustee property rather than only Camp St. Christopher.
7. The court deferred the disputes concerning names, styles, emblems, trademarks, intellectual property, and service marks to the federal courts.

KEY QUOTATIONS

“From our decision today, there will be no remand. The case is over.” (Opinion introduction)

“Accordingly, we find “express accession” occurs under the 2017 Court’s collective ruling when the governing body of a Parish states after the adoption of the Dennis Canon in an official document of the Parish, such as a constitution or bylaws, that the Parish “adopts” or “accedes to” the Canons of the National Church, coupled with the Parish’s knowledge of the Dennis Canon and participation in adopting the Diocesan Canon indicating the present intent to create a trust.” (Section III.D)

“We order the governing bodies of the eight Parishes that we hold created an irrevocable trust to prepare an appropriate legal instrument to document the transfer of title of each Parish’s real estate to the National Church and the Associated Diocese, confer with counsel for the National Church and the Associated Diocese, and upon agreement to the terms of this instrument, record it in the public record with the appropriate local official.” (Section VI)

FACTUAL BACKGROUND

The Lower Diocese in South Carolina was formerly affiliated with The Episcopal Church, and thirty-six parishes were members of the Lower Diocese. After doctrinal differences, the Lower Diocese disassociated in 2010 and became the Disassociated Diocese, while the Associated Diocese remained affiliated with The Episcopal Church. The dispute concerns ownership of parish real estate and property formerly held by the Trustees for the Lower Diocese, particularly in light of the 1979 Dennis Canon and later parish governing documents. The record showed that different parishes used varying language concerning adherence to, adoption of, or accession to the governing canons.

PROCEDURAL HISTORY

The parties litigated ownership of church real and personal property after the Lower Diocese and numerous parishes disassociated from The Episcopal Church. After a 2014 nonjury trial, the circuit court ruled that the National Church and Associated Diocese had no legal, beneficial, or equitable interest in the property. The Supreme Court issued five separate opinions in 2017, leaving unresolved whether particular parishes had expressly acceded to the Dennis Canon and whether the 2017 decision resolved ownership of all parish property. The circuit court conducted further proceedings and issued a 2020 parish-by-parish decision. The Supreme Court affirmed in part and reversed in part, granting rehearing as to six parishes and substituting this opinion.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. The governing bodies of the eight parishes held to have created irrevocable trusts must prepare appropriate instruments documenting transfer of their real estate to the National Church and Associated Diocese, confer with opposing counsel, and record the agreed instruments with the appropriate local official.

CASES CITED

- The Protestant Episcopal Church in the Diocese of South Carolina v. The Episcopal Church, 421 S.C. 211, 806 S.E.2d 82 (2017)
- Jones v. Wolf, 443 U.S. 595, 99 S. Ct. 3020, 61 L. Ed. 2d 775 (1979)
- Foster v. Foster, 393 S.C. 95, 711 S.E.2d 878 (2011)
- Ramage v. Ramage, 283 S.C. 239, 322 S.E.2d 22 (Ct. App. 1984)
- Hardy v. Aiken, 369 S.C. 160, 631 S.E.2d 539 (2006)
- City of N. Myrtle Beach v. E. Cherry Grove Realty Co., LLC, 397 S.C. 497, 725 S.E.2d 676 (2012)

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