Third District Court of Appeal

State of Florida

Opinion filed October 23, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-0650
Lower Tribunal No. 18-31703

St. Brendan High School, Inc., et al.,
Petitioners,

vs.

Magali Neff, et al.,
Respondents.

A Case of Original Jurisdiction – Prohibition.

J. Patrick Fitzgerald & Associates, P.A., and Roberto J. Diaz and Maura Fitzgerald Jennings; Gaebe Mullen Antonelli & DiMatteo, and Joseph M. Winsby and Michael A. Mullen, for petitioners.

Jay M. Levy; James J. Traitz, for respondents.

Before SALTER, SCALES and LINDSEY, JJ.

PER CURIAM.

St. Brendan High School, Inc. ("St. Brendan") and the Archdiocese of Miami, Inc. ("Archdiocese") petition for a writ of prohibition to preclude the circuit court from exercising subject-matter jurisdiction over two counts in a pending lawsuit. The petition (and the motion to dismiss in the circuit court) invokes the ecclesiastical abstention doctrine. We deny the petition.

In a recently-decided appeal from a non-final order in the same circuit court case, we briefly described the lawsuit:

> St. Brendan, a private Catholic high school in Miami-Dade County, Florida, expelled high school student, Michelle Neff, when her parents, Magali and Herbert Neff, filed a personal injury action against the school after Michelle was injured while performing community service at Good Hope Equestrian Training Center, Inc., an organization listed on St. Brendan's approved community service list. St. Brendan maintains that filing the suit against the school violated school policy, specifically certain school handbook provisions.

St. Brendan High Sch., Inc. v. Neff (St. Brendan I), 275 So. 3d 220, 221-22 (Fla. 3d DCA 2019) (footnote omitted).

The Neffs' first amended complaint ("Complaint") consists of ten counts. Count IX alleges that St Brendan's administrative withdrawal (disenrollment) of their daughter breached their enrollment agreement such that she should be

readmitted as a student and provided "whatever remediation is necessary in order for [her] to become current with regard to her academic studies."[1]

Count X alleges that St. Brendan's disenrollment of the Neffs' daughter inflicted severe emotional distress upon her and seeks a judgment for money damages. St. Brendan and the Archdiocese moved for the dismissal of counts IX and X based on their contentions that the student's disenrollment was based on the Neffs' prosecution of a lawsuit against St. Brendan in violation of the Parent-Student Handbook ("Handbook") provisions and the religious teachings and standards imposed by the Handbook.[2]

St. Brendan's and the Archdiocese's motion to dismiss included their contention that the trial court lacked subject-matter jurisdiction based on the First Amendment to the United States Constitution and case law comprising the "ecclesiastical abstention doctrine" or, as it sometimes also known, the "church

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[1] The Complaint sought relief, including injunctive relief for readmission during the 2018-2019 academic year, which has since ended. This Court denied the Neffs' motion to dismiss as moot the temporary injunction appeal, subsequently reversing and vacating the temporary injunction issued by the trial court regarding that academic year. St. Brendan I, 275 So. 3d at 223.

[2] It is undisputed that the Handbook was received and signed by the Neffs at the beginning of the 2018-19 school year. On that acknowledgment and signature page, they agreed to the terms of the Handbook, confirmed that they understood the "consequences of any violations of the rules and policies of the school," and agreed "to cooperate with the school in the interpretation and enforcement of the policies" in the Handbook.

autonomy doctrine."[3] The trial court denied the motion, and St. Brendan and the Archdiocese filed their petition for prohibition.

Analysis

"Prohibition is an extraordinary remedy used to restrain the unlawful exercise of jurisdiction by the lower tribunal." Shteyn v. Grandview Palace Condo. Ass'n, 147 So. 3d 675, 676 (Fla. 3d DCA 2014). We have granted such petitions based on the ecclesiastical abstention doctrine in cases involving prospective "secular court review of religious policy and administration" and the employment status of "spiritual leaders" or "ministerial employees." See Archdiocese of Miami, Inc. v. Miñagorri, 954 So. 2d 640 (Fla. 3d DCA 2007); Goodman v. Temple Shir Ami, Inc., 712 So. 2d 775 (Fla. 3d DCA 1998).

The Florida Supreme Court has followed the Supreme Court of the United States in holding that "the First Amendment prevents courts from resolving internal church disputes that would require adjudication of religious doctrine." Malicki v. Doe, 814 So. 2d 347, 355 (Fla. 2000) (footnote omitted). Malicki described the boundaries of that proscription and the nature of the judicial inquiry in this case:

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[3] See, e.g., Flynn v. Estevez, 221 So. 3d 1241, 1245 (Fla. 1st DCA 2017). Except when a cited decision refers specifically to the "church autonomy doctrine," in this opinion we use the term "ecclesiastical abstention doctrine." The dictionary definitions of "ecclesiastical" extend more broadly to the "formal and established institutions or government of any religion" than the primarily Christian definitions of "church." See, e.g., *Ecclesiastical*, Webster's Third New International Dictionary (1986 ed.).

> A court . . . must determine whether the dispute "is an ecclesiastical one about 'discipline, faith, internal organization, or ecclesiastical rule, custom or law,' or whether it is a case in which [it] should hold religious organizations liable in civil courts for 'purely secular disputes between third parties and a particular defendant, albeit a religiously affiliated organization.'"

Malicki, 814 So. 2d at 357 (alteration in original) (quoting Bell v. Presbyterian Church, 126 F.3d 328, 331 (4th Cir. 1997)).

Because we find that the Neffs' claims fall on the secular/contractual side of the divide discernible in Florida's decisions addressing the ecclesiastical abstention doctrine, we deny the petition.