

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA  
COURT OF APPEAL, THIRD CIRCUIT**

**CA 15-829**

**FAIRFIELD PENTECOSTAL CHURCH**

**VERSUS**

**ELWOOD JOHNSON, ET AL.**

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**APPEAL FROM THE  
THIRTY-FIFTH JUDICIAL DISTRICT COURT  
PARISH OF GRANT, NO. 22990  
HONORABLE WARREN DANIEL WILLETT, DISTRICT JUDGE**

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**BILLY H. EZELL**

**JUDGE**

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Court composed of Judges Sylvia R. Cooks, Billy H. Ezell, and John E. Conery.

**APPEAL DISMISSED.**

**Bobby L. Culpepper  
Culpepper & Carroll, PLLC  
525 East Court Ave.  
Jonesboro, LA 71251  
(318) 259-4184**

**COUNSEL FOR PLAINTIFF/APPELLANT:**

**Fairfield Pentecostal Church  
Edward Larvadain, Jr.  
626 Eighth St.  
Alexandria, LA 71301  
(318) 445-6717**

**COUNSEL FOR DEFENDANTS/APPELLEES:**

**Elwood Johnson  
Billie Nell Johnson Oaks**

**EZELL, Judge.**

This court issued a rule on September 9, 2015, ordering Plaintiff-Appellant, Fairfield Pentecostal Church, to show cause, by brief only, why its appeal should not be dismissed for lack of a judgment bearing district court docket number 22990.

This case arises out a complex dispute among members of Fairfield Pentecostal Church. In late November 2013, suit was filed. On July 11, 2014, the trial court issued a written order, upon which the parties agreed, which instructed the parties to conduct a business meeting of Fairfield Pentecostal Church to be held on July 19, 2014, at 2:30 p.m. “for the purpose of voting” on whether or not Darryl Franks would be retained as Pastor and continue to serve as President of and member of the Board of Trustees, whether or not Ashely Franks would continue to serve as Secretary Treasurer and/or Trustee, and whether or not Karen Langley would continue as Trustee.

A year later, on July 19, 2015, Fairfield Pentecostal Church filed a motion for new trial which was denied in open court on July 28, 2015. Fairfield Pentecostal Church subsequently filed a petition for suspensive appeal on August 6, 2015.

The record in the matter was lodged in this court on September 2, 2015. As stated above, this court issued the subject rule to show cause on September 9, 2015. Fairfield Pentecostal Church was given until September 24, 2015, to file a brief in this court in response to the rule but has not responded.

We note that the trial court denied the Motion for New Trial in open court as follows:

BY THE COURT: Counsel, the - - the Order that the Court signed on July 11<sup>th</sup> of 2014, that Order was issued by the Court after a conference that the Court and the attorneys had regarding an essentially a

resolution to all issues that were pending. . . . Power was off, we could not record, it was hot, it was dark, nothing was going to happen that day, for a [sic] undetermined amount of time and so there was no hearing held, there was no trial held. The - - it was my understanding that the attorneys had agreed to a vote and I set their agreement in writing in a form of a [sic] Order. That Order was not appealed . . . The only thing this Order from July 11<sup>th</sup> did was schedule a special election for the purposes of determining if Reverend Franks would remain as Pastor and who the officers of that - - of the church would be that was set for July 19, 2014. I do not see where you can have a Motion for a New Trial when there was not a trial. . . . The reality is that it [the Order] set the matter for a special election in July of 2014. We are in July of 2015. This Order dated July the 11<sup>th</sup>, 2014 is mute. That day has come and gone. I do not find that anything in the law that supports the granting of a new trial when there was not a trial, when there was not a hearing. I think the issue is mute because the Order that you are seeking a new trial on has long since past [sic] what the Court ordered to be done. That Order was not based - - was not based upon a hearing or the submission of evidence, it was based upon the Court's understanding of the Counsel's agreement. In [La.Code Civ.P. art.] 1974 sets forth the delay for applying for a new trial and that is seven (7) days from the service of the Order. If that has not been served in over a year, I would be quite surprised. Motion for New Trial is **DENIED**.

Fairfield Pentecostal Church filed its motion for suspensive appeal referencing both the July 11, 2014 ruling and the denial of its motion for new trial. However, recognizing that the judgment of July 11, 2014, was only partial, it asked the trial court to designate that ruling as final, presumably pursuant to the authority granted under La.Code Civ.P. art. 1915(B). The trial court, in granting the order of appeal, expressly stated that it was refusing to designate the July 11, 2014 judgment as immediately appealable "as many issues would remain after its rendition." A denial of a motion for new trial is not appealable. *See Wallace v. Geo Group, Inc.*, 11-863 (La.App. 3 Cir. 10/5/11), 76 So.3d 600. Therefore, we find that no appealable ruling has been entered in this suit and that this appeal must be dismissed.

**APPEAL DISMISSED.**

This opinion is NOT DESIGNATED FOR PUBLICATION. Uniform Rules—Courts of Appeal. Rule 2–16.3.