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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-855

No. COA22-358

Filed 20 December 2022

Wake County, No. 21 CVS 3776

ALEAH HIGH, Plaintiff,

v.

WAKE CHAPEL CHURCH, INC.,

and BISHOP JOHN JASPER WILKINS, II, Defendants.

Appeal by Plaintiff and Defendants from judgment entered 21 December 2021 by Judge Vince M. Rozier, Jr., in Wake County Superior Court. Heard in the Court of Appeals 1 November 2022.

*Howard, Stallings, From, Atkins, Angell & Davis, P.A., by Brooke E. Webber, B. Joan Davis, and Robert H. Jessup for the Plaintiff.*

*Ellis & Winters LLP by Alex J. Hagan and Joseph D. Hammond, and Bailey & Dixon, LLP, by David S. Coats for the Defendant Wake Chapel Church, Inc.*

*Cranfill Sumner LLP by James C. Thornton and Steven A. Bader, for the Defendant John Jasper Wilkins, II.*

DILLON, Judge.

I. Background

Plaintiff Aleah High was a member of the congregation of Defendant Wake

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Chapel Church. Defendant Bishop John Jasper Wilkins, II, is a prominent spiritual leader in the church.

¶ 2 Plaintiff commenced this action, claiming Bishop Wilkins “groomed” her for about three years beginning in 2015 when she was 15 years of age, culminating in several sexual encounters and assaults by Bishop Wilkins with and upon Plaintiff in 2018 and 2019. She asserted claims against Bishop Wilkins for his actions and against the Church based on *respondeat superior* and on its own negligence in its hiring, retention, and supervision of Bishop Wilkins.

¶ 3 Both Defendants moved to dismiss Plaintiff’s claims on essentially two theories; that the claims are ecclesiastical in nature and that Plaintiff, otherwise, had failed to state claims for which relief could be granted. After a hearing on the matter, the trial court dismissed all claims against Bishop Wilkins *except* Plaintiff’s claims for seduction and for sexual assault and battery. Also, the trial court dismissed all claims against the Church *except* Plaintiff’s claims of negligence and gross negligence based on the Plaintiff’s negligent hiring theory.

¶ 4 Each party filed a notice of appeal. Each Defendant appeals the trial court’s order as to the claims the trial court did not dismiss. Plaintiff appeals the trial court’s order as to the claims the court did dismiss.

II. Analysis

¶ 5 We review each Defendant’s appeal and Plaintiff’s appeal in turn. We note at

the outset that the order being appealed is interlocutory in nature and that we generally do not have jurisdiction to consider an appeal unless the appellant demonstrates that the interlocutory order affects a substantial right which would be lost if not reviewed prior to the issuance of a final judgment. *A.E.P. Industries v. McClure*, 308 N.C. 393, 400, 302 S.E.2d 754, 759 (1983).

A. Bishop Wilkins' Appeal

¶ 6 Bishop Wilkins only appeals the trial court's denial of his motion to dismiss Plaintiff's claim for seduction. Bishop Wilkins contends that we have jurisdiction to consider his appeal, arguing that the claim involves ecclesiastical matters and thus affects his First Amendment rights. Indeed, our Supreme Court has recognized that a substantial right is affected when "a civil court action cannot proceed [against a church defendant] without impermissibly entangling the court in ecclesiastical matters." *Harris v. Matthews*, 361 N.C. 265, 270, 643 S.E.2d 566, 569 (2007). And when a lawsuit requires a civil court to judge a religious belief or practice, subject-matter jurisdiction is not present, and the suit fails to state a claim upon which relief can be granted. *Nation Ford Baptist Church v. Davis*, 2022-NCSC-98, \*5. We, therefore, address the merits of Bishop Wilkins' argument that Plaintiff's claim for seduction would unduly involve the trial court in ecclesiastical matters.

¶ 7 While courts should not get involved in ecclesiastical matters, our courts may resolve claims that touch on ecclesiastical issues if they can be resolved using "neutral

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principles of law.” *See Harris*, 361 N.C. at 272, 643 S.E.2d at 570.

¶ 8 We have reviewed Plaintiff’s claim for seduction and agree with the trial court that this claim can be resolved using neutral principles of law. Specifically, neutral principles of law can be applied to determine whether Bishop Wilkins procured a sexual relationship with Plaintiff by “deception, enticement or other artifice.” *Hutchins v. Day*, 269 N.C. 607, 609, 153, S.E.2d 132, 134 (1967).

¶ 9 Bishop Wilkins further argues that even if we agree with the trial court in denying his motion to dismiss based on ecclesiastical entanglement concerns, the trial court should have granted his motion for failure to state a claim. We note that a denial of a motion to dismiss for failure to state a claim is normally not immediately appealable. Bishop Wilkins, though, asks that we consider this argument. *See RPR & Associates v. State*, 139 N.C. App. 525, 530-31, 534 S.E.2d 247, 252 (2000) (stating that when our Court has jurisdiction to consider an appeal of an interlocutory order, we may review related arguments not otherwise subject to immediate review). In our discretion, we address Bishop Wilkins’ argument.

¶ 10 Bishop Wilkins essentially argues that the tort of seduction should be abolished in North Carolina as being outdated. However, as Bishop Wilkins concedes, our Court does not have the authority to abolish a tort recognized by our Supreme Court. Accordingly, we must affirm the trial court’s order denying Bishop Wilkins’ motion to dismiss Plaintiff’s seduction claim as our Supreme Court has never

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abolished this tort. *See State v. McKay*, 202 N.C. 470, 163 S.E. 586 (1932) (recognizing wrongful seduction as a tort).

B. The Church's Appeal

¶ 11 The Church argues the trial court erred by not dismissing Plaintiff's claims based on a theory that the Church was negligent in hiring/retaining/supervising Bishop Wilkins.

¶ 12 We have held that a negligent supervision claim against a church can be decided using the same standards that apply to any other employer. *Doe v. Diocese of Raleigh*, 242 N.C. App. 42, 776 S.E.2d 29 (2015); *Smith v. Privette*, 128 N.C. App. 490, 495 S.E.2d 395 (1998). These cases each involved a claim against a church for negligence where a defendant clergy member sexually manipulated a congregation member. We held that such claims only involved "[t]he application of a secular standard to secular conduct that is tortious . . . ." *Id.* at 494, 495 S.E.2d at 399.

¶ 13 Following these cases, we hold that the trial court did not err in denying the Church's motion to dismiss Plaintiff's negligent hiring/retention/supervision claims against it on First Amendment grounds. In our discretion, we do not address whether the trial court should have dismissed these claims for failure to state a claim under Rule 12(b)(6).

C. Plaintiff's Appeal

¶ 14 Plaintiff argues that the trial court erred by dismissing her other claims

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against Defendants. She argues that this issue is immediately appealable to avoid the possibility of inconsistent verdicts. *See Green v. Duke Power*, 305 N.C. 603, 608, 290 S.E.2d 593, 596 (1982) (substantial right affected where there is a possibility that a second trial might involve the same issues which creates the possibility that a party “will be prejudiced by different juries . . . rendering inconsistent verdicts on the same factual issue”). Defendants have moved to dismiss Plaintiff’s appeal, arguing that Plaintiff has failed to articulate how our failure to consider her appeal at this time would result in inconsistent verdicts. We agree and, therefore, dismiss Plaintiff’s appeal. *See Doe v. City of Charlotte*, 273 N.C. App. 10, 21-22, 848 S.E.2d 1, 10 (2020) (holding conclusory assertion that overlapping facts between claims could lead to inconsistent verdicts was insufficient to show effect on a substantial right because “the appellant must explain to the Court how, in a second trial on the challenged claims, a second fact-finder might reach a result that cannot be reconciled with the outcome of the first trial” (citation omitted)).

AFFIRMED IN PART, DISMISSED IN PART.

Judges DIETZ and INMAN concur.

Report per Rule 30(e).