

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 5, 2017

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2015AP866

Cir. Ct. No. 2013CV1302

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

**VICTORY VALLEY CHURCH, INC., STEVEN OLSON, DALE A.
RITCHIE, CINDY RITCHIE, DOUG SPENCER, ALFRED GEORGE AND
GARY SCHROEDER,**

PLAINTIFFS-APPELLANTS,

v.

**PURPORTED VICTORY VALLEY CHURCH D/B/A RIVER OF LIFE
CHURCH, KAREN RANGELOFF, FRANZ KUESTER AND ROBERT WERTEL,**

DEFENDANTS-RESPONDENTS.

APPEAL from a judgment of the circuit court for Winnebago County: JOHN A. JORGENSEN, Judge. *Affirmed.*

Before Neubauer, C.J., Reilly, P.J., and Gundrum, J.

¶1 PER CURIAM. Victory Valley Church, Inc. (Victory) was incorporated in 1988 and maintained a small membership over the years. In 2013,

a dispute arose among two factions over the control of the corporation. Plaintiff-Appellants (hereafter, the “Olsons”) brought a declaratory judgment action seeking a declaration that they were the lawful officers and members of the corporation. Defendant-Respondents (hereafter, the “Rangeloffs”) joined in the request for the declaration but asserted they were the legal officers and members of the corporation. The court held a trial and found in favor of the Rangeloffs. The Olson faction, upset with the court’s decision, accuses the court of meddling in church affairs and violating the First Amendment of the United States Constitution by involving itself in “ecclesiastical practices.” We affirm as the circuit court did not interfere in any “ecclesiastical practices”; the court simply answered the question the Olson faction asked the court to answer.

FACTS

¶2 Victory is a Wisconsin nonstock corporation organized under Chapter 181 of the Wisconsin Statutes. Historically, Victory has operated under a governing board of four officers. The parties agreed that most recently the officers were Steven Olson, president; Franz Kuester, vice president; Karen Rangeloff, secretary; and Robert Wertel, treasurer. Victory’s Articles of Incorporation and Constitution and Bylaws (Bylaws) indicated that the “membership” of the corporation shall consist of “the officers and pastors of chartered churches, and other ordained and licensed ministers, evangelists and those who are approved by the Board of Trustees.”¹ The event that precipitated the declaratory judgment

¹ The church never operated with a board of trustees, despite Article XV of the Bylaws calling for one.

action was a meeting of the officers of the corporation that took place on January 25, 2013, in which Steven was removed as president.

¶3 In October 2013, the Olsons filed a complaint seeking a declaratory judgment per WIS. STAT. § 806.04(1) (2015-16)² that the Olsons “are the official officers of the Victory Valley Church, Inc.” and “that actions taken by [the Rangeloffs] on January 25, 2013 ... [are] null and void as unlawful.” The circuit court held a trial on February 4, 2015, the parties submitted briefs, and the court ultimately found for the Rangeloffs. The court made findings of fact that Steven and the Rangeloffs were the legal officers and the members of the board of directors of Victory as of January 25, 2013, and there were no other voting members of Victory as of that date. The court concluded that Steven was “properly removed as (i) President of the corporation, and (ii) as a member of the Board of Directors, leaving as Officers, Karen Rangeloff, Secretary, Franz Kuester, Vice President and Robert Wertel, Treasurer, and as Board Members, Karen Rangeloff, Robert Wertel and Franz Kuester.” The Olsons appealed.

ANALYSIS

¶4 The warring factions of the church agreed upon two pertinent facts—that the church was incorporated under Chapter 181 of the Wisconsin Statutes and that both the Olsons and the Rangeloffs requested that the court declare who the members and officers of the corporation are. Both factions acknowledged that they could have addressed the issue voluntarily via an “ecclesiastical court,” but they could not agree and utilized the circuit court of the

² All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

State of Wisconsin as they had organized the corporate identity of Victory under the laws of Wisconsin.

¶5 Both constitutional questions and issues of statutory interpretation are questions of law that we review de novo. *Farrell v. John Deere Co.*, 151 Wis. 2d 45, 62, 443 N.W.2d 50 (Ct. App. 1989); *Phelps v. Physicians Ins. Co. of Wis., Inc.*, 2009 WI 74, ¶36, 319 Wis. 2d 1, 768 N.W.2d 615. Where the circuit court’s analysis is dependent upon findings of facts, however, we will not overturn the court’s findings unless clearly erroneous. *Farrell*, 151 Wis. 2d at 62; *Badger Produce Co. v. Prelude Foods Int’l, Inc.*, 130 Wis. 2d 230, 238, 387 N.W.2d 98 (Ct. App. 1986); *see also Welytok v. Ziolkowski*, 2008 WI App 67, ¶28, 312 Wis. 2d 435, 752 N.W.2d 359 (“[W]e defer to the circuit court’s credibility determinations and we affirm a circuit court’s findings of fact unless they are clearly erroneous.”).

¶6 The primary issue in this case was who were voting members of Victory. The Olsons agree that it was proper for the circuit court to examine Victory’s Bylaws to determine who were members, officers, and directors of Victory.³ *See Wisconsin Conf. Bd. of Trs. v. Culver*, 2001 WI 55, ¶21, 243 Wis. 2d 394, 627 N.W.2d 469; *L.L.N. v. Clauder*, 209 Wis. 2d 674, 687, 563 N.W.2d 434 (1997); W. Cole Durham & Robert Smith, 1 Religious Organizations and the Law § 4:43, Westlaw (database updated Dec. 2013) (noting that voting membership in a nonprofit civil corporation is subject to judicial scrutiny and

³ Article XIII of Victory’s Bylaws states that “[t]he membership of this Corporation shall consist of the officers of this Corporation, pastors of chartered churches, and other ordained and licensed ministers, evangelists, missionaries approved by the Board of Trustees and the individual churches granted by charters by this organization.”

where congregational church corporations are involved, courts typically apply “neutral principles” to “evaluate merely compliance or noncompliance with corporate bylaws where the bylaws are clear”). The Olsons assert, however, that the court erred when it determined who is a minister, which involved improper evaluation of the qualifications of clergy and interpretation of church law, policies, and practices in violation of the First Amendment to the United States Constitution. We disagree.

¶7 The court reviewed the Bylaws and the evidence presented at trial and found no evidence proving who, aside from the officers, were members entitled to voting rights. The board of trustees had never approved anyone as a member, as no board of trustees existed, and there was no evidence that anyone had satisfied the Bylaw’s credentialing requirements.⁴ The circuit court found the testimony of the Rangeloffs to be credible and the testimony of Steven to be lacking in credibility. Steven’s testimony was “hard to follow, questionable, and there were a lot of faulty memory.” According to the court, there were “no books kept, procedures weren’t followed, and [Steven] had no idea as to who exactly legally are members.” The court was “careful” that it was “not finding anyone is a pastor or not a pastor in their own ... community or in their own church.” The question rested on the voting status of a member under a corporation’s governing legal documents, not on an individual’s religious status within the organization. We conclude that the court’s findings, evaluating compliance with Victory’s Bylaws and assessing credibility of witnesses, were not in error.

⁴ Credentialing requirements for ministers are outlined in Article XIX of Victory’s Bylaws, which include annual renewal of “licensed certificates,” review before a “governing board,” credentialing committee review, an annual application, and an annual fee.

¶8 Once the circuit court determined that “it’s uncontroverted” that only the officers, including Steven and the Rangeloffs, were members with voting rights, the question became whether Steven had properly been removed as president. Article XX of Victory’s Bylaws governs removals and states that “[a]ny pastor, officer, or other member of the Corporation, found guilty”⁵ of inappropriate behavior “may be removed from his office or pastorate.” Removal is to be accomplished by “be[ing] tried secretly by an Ecclesiastical Court presided over by the President of the Victory Valley Church, Inc. and the Board of Trustees.” The Olsons claim that as there is no dispute that an ecclesiastical court was not held, the removal of Steven was illegal. The Rangeloffs contend that under WIS. STAT. § 181.0843(2), an officer can be removed with or without cause.

¶9 The circuit court first determined that the meeting to remove Steven was properly noticed and held. The court then looked to Article XX of Victory’s Bylaws and determined that as Steven would be required to preside over his own removal procedure, “this article doesn’t work in these circumstances. It can’t.” As a result, the court defaulted to WIS. STAT. § 181.0843(2) for removal of officers. Section 181.0843(2) provides that “[t]he board may remove any officer and, unless restricted by the bylaws or by the board, an officer may remove any officer or assistant officer appointed by that officer under [WIS. STAT. §] 181.0840(2), at any time, with or without cause.” The court determined that there was cause for Steven’s removal.

⁵ The removal procedure does not apply to the removal of a member of the board of directors.

¶10 We agree with the circuit court’s assessment that the removal procedure under Article XX was unworkable under the circumstances and that Victory’s Bylaws were silent and ambiguous as to how removal would be accomplished under these facts. As Victory had organized its corporate identity under WIS. STAT. ch. 181, the court properly applied WIS. STAT. § 181.0843(2) and found that Steven had been removed under the statute.⁶

¶11 The circuit court answered what it was asked to do by both factions—make a factual determination, following a trial, as to who the officers and members of the church were. The court did so and for the Olsons to now argue that the circuit court erred by doing what the Olsons asked it to do is disingenuous. The circuit court did not address nor resolve any ecclesiastical matters. The decision of the circuit court is affirmed.⁷

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

⁶ WISCONSIN STAT. § 181.0808(1) also provides that “[t]he members may remove, with or without cause, one or more directors elected by them.” As the court determined that the Rangeloffs and Steven were the only proper members under Victory’s Bylaws, Steven’s removal as a director was also proper. The Olsons argue, however, that Steven was a “designated officer” and that his removal could only be accomplished under WIS. STAT. § 181.0809. We conclude that § 181.0809 is not applicable as there is no evidence in the record that the procedure for designating Steven as president under Article XVI, Section II of Victory’s Bylaws was complied with and at the time of his removal he was not serving as vice president as provided in Article XVI, Section I.

⁷ A related small claims eviction action was consolidated into this action but those issues are not pertinent to this appeal per the appellants.

