


EXHIBIT A

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO
CIVIL DIVISION

ROSIE ANDUJAR, et al. : CASE NO.:
Plaintiffs, : JUDGE
v. : **MEMORANDUM OF LAW IN**
BISHOP PILLA, et al. : **SUPPORT OF JURISDICTION**
Defendants. :
:

NOW COME Plaintiffs, Rosie Andujar, et al., by and through their attorney,
Santiago Feliciano, Jr., and respectfully submit this Memorandum of Law in Support of
Jurisdiction for reasons more fully stated below.

Respectfully submitted,


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MEMORANDUM OF LAW IN SUPPORT OF COMPLAINT

I. STATE COURT RESOLUTION OF ISSUES INVOLVING CHURCH PROPERTY.

Law

Generally, civil courts will not interfere in church matters related to faith; however, they may intervene if property or civil rights are involved. The authority of civil courts to inquire into religious disputes was confirmed by the Supreme Court of the United States in Jones v. Wolf (1979), 443 U.S. 595. The state has an obvious and legitimate interest in the peaceful resolution of property disputes and in providing a civil forum in which the ownership and control of church property can be determined conclusively. Id. at 600; Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church (1969), 393 U.S. 440, 445 (“Blue Hull Church”).

However, the First Amendment to the United States Constitution severely circumscribes the role that civil courts may play in resolving church property disputes. Jones v. Wolf, 443 U.S. at 602; Blue Hull Church, 393 U.S. at 449. Most importantly, the first amendment prohibits civil courts from resolving church property disputes by inquiring into and resolving disputed issues of religious doctrine and practice. Id.; Serbian Eastern Orthodox Diocese for the United States of America and Canada v. Milivojevich (1976), 426 U.S. 696, 710 (“Serbian Orthodox Diocese”); Maryland & Virginia Eldership of the Churches of God v. Church of God at Sharpsburg, Inc. (1970), 396 U.S. 367, 368 (per curiam) (“Sharpsburg Church”). When a disputed issue of religious doctrine or practice is relevant to a property dispute, a civil court must defer to the resolution of that issue arrived at by the highest court, tribunal or controlling body of

a hierarchical church organization. Jones v. Wolf, 443 U.S. at 602, 604; Serbian Orthodox Diocese, 426 U.S. at 709, 724-25; Watson v. Jones (1871), 80 U.S. (13 Wall.) 679, 727.

Subject to the foregoing limitations, however, the First Amendment does not dictate that a state must follow a particular method of resolving a church property dispute. Jones v. Wolf, 443 U.S. at 602. “[A] state may adopt any one of various approaches for settling church property disputes so long as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith.” Id., quoting Sharpsburg Church, 393 U.S. at 368.

“[States may] resolve disputes over the ownership of church property by adopting a ‘neutral principles of law’ approach, which relies on the language of deeds, the terms of local church charters, state statutes governing the holding of church property, and the provisions in the constitution of the general church concerning ownership and control of church property.”

Jones v. Wolf, 442 U.S. at 602. Ohio courts have recognized that determination of the right to possession and control of church property should be made through utilization of neutral law principles.

Argument

Despite the limitations on civil courts to interject in matters of church disputes, this Court has the authority to do so in this case. This Court has an obvious interest in protecting the rights and ownership interests of the beneficiaries of the Roman Catholic Diocese of Cleveland. Because of this it is not necessary for the court to delve into matters of church practices or doctrines in order to resolve this dispute. By adopting a “neutral principles of law” approach to this dispute and applying Ohio trust law to the

facts of the case, the case can be resolved. Thus, this Honorable Court has competent jurisdiction and an obligation to resolve this dispute.

II. THE CLEVELAND CATHOLIC DIOCESE: A JURIDIC PERSON.

Law

The Roman Catholic Church acknowledges the existence of three categories of persons in the church: natural (physical), moral, and juridic. While the notion of a natural person is self-evident, the notions of a moral and juridic person are not. A moral person is a group or succession of natural persons who are united by a common purpose, and hence, who have a particular relationship to each other and who, because of that relationship, may be conceived of as a single entity. The Code of Cannon Law, Canon 133 § 2. A juridic person, however, is an artificial person, distinct from all natural persons, constituted by competent ecclesiastical authority for an apostolic purpose, with a capacity for continuous existence and with canonical rights and duties like those of a natural person conferred upon it by law or by the authority which constitutes it. Id., Canon 133 § 2. Similar to a civil law corporation, it is a legal construct which can and must be conceived apart from the natural persons who constitute it, administer it, or for those whose benefit it exists. Id., Canon 133 § 2; see also L. Chiappetta, *Il Codice di Diritto Canonico: Commento Giuridico-Pastorale*, 2nd ed. (Rome: Dehoniane, 1996) 1:169.


Under the Code of Cannon Law, the Catholic Church, to pursue its proper purposes, is able to acquire, retain, administer, and alienate temporal goods. Id., Canon 1254 § 1. The proper purpose of church ownership is principally to: order divine worship; care for the decent support of the clergy and other ministers; and exercise works

of the sacred apostolate and of charity, especially toward the needy. Id., Canon 1254 § 2. According to the supreme authority of the Roman Pontiff, ownership of ecclesiastical goods belongs to that juridic person which has acquired them legitimately. Id., Canon 1256. Ecclesiastical goods are all goods, which belong to the universal Church, the Apostolic See, or other public juridic persons in the Church. Id., Canon 1257 § 1.

Argument

From 1822 until October 1847, the Roman Catholic churches and schools in the northern portions of Ohio were part of the Diocese of Cincinnati. In 1846, Bishop John B. Purcell, petitioned the Holy See for a division of this jurisdiction, which then comprised of the entire State of Ohio. The petition was granted and Roman Catholic Diocese of Cleveland was established on April 23, 1847. Since July 22, 1943, the Diocese has encompassed eight counties in the north-central part of Ohio: Ashland; Cuyahoga; Geauga; Lake; Lorain; Medina; Summit; and Wayne Counties. Thus, because Plaintiffs are both parishioners of their respective parishes, which are separate juridic persons, and members of the Roman Catholic Diocese of Cleveland, which is also a separate juridic person; therefore, they are all beneficiaries of the ecclesiastical goods held in the name of the Roman Catholic Diocese of Cleveland as well as their respective parishes.

Respectfully submitted,


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