

McLean claims court cannot enforce ban on its affiliation with SBC

Published on: January 11, 2023 Published by: [Capstone Report](#)



McLean Bible Church advances legal theory that its constitution is religious and as such its promise not to be affiliated with a denomination cannot be reviewed by a Virginia court.

McLean Bible Church's Constitution prohibits the church from affiliating with any denomination. This is without challenge as it says exactly that in Article 1, Section 2 of the MBC Constitution. However, lawyers representing McLean Bible Church claim that courts have no way to enforce this ban because "affiliation" is a religious question.

According to church's legal filing in the case, **"The Court is without jurisdiction to resolve the alleged 'affiliation' controversy because, under these particular allegations, it is an inextricably religious issue.** Specifically, it turns solely on upon an interpretation of the ecclesiastical-structure standards in the Church's constitution."

Hilarious. But it gets even better.

“Plaintiff’s note the Church’s standard that ‘This Church shall not, and cannot, be affiliated with any denomination, but shall remain independent’...But they omit the crucial second half of that standard: that the Church ‘remain independent for the promotion of the Gospel of our Lord Jesus Christ...The Church’s constitution thus defines the restriction on affiliation by reference to the Church’s requirement to ‘remain independent for the promotion of the Gospel of our Lord Jesus Christ.’ Thus in this context, determining whether the Church is independent (and non-affiliated) is clearly a religious question to be answered by ecclesiastical authorities.”

This is bad. The clear promise to church members that the church cannot be affiliated is an absolute that requires no standard by which to judge it other than a first-grade ability to read. Moreover, the second part cited by McLean lawyers is not something that judges the non-affiliation but the explanation for why that promise was included in the Church Constitution.

Of course, the lawyers anticipated this objection and decided to obfuscate.

The church claims, “It is no answer to argue the Court can substitute neutral principles to determine whether the Church affiliated with the SBC. While affiliation might sometimes be determinable by applying dictionary definitions or regulations...the Church has chosen—as a religious matter—to define affiliation in terms of its ability to independently promote the Gospel.”

In other words, while nonprofit organization’s constitutions are considered a type of contract in Virginia, courts cannot apply the same standard to a religious nonprofit if that nonprofit uses religious language to hedge the promise.

Detect anything dangerous in that claim?

If courts are banned from adjudicating actual textual violations of what is in a contract, then it gives anyone in charge of a religious institution the perfect opportunity to say one thing and do the complete opposite. This appears to be [David Platt’s specialty given the Radical author lives the Lifestyles of the Rich and Famous](#).

This is the same type of special power sought by religious liberty claims made by the North American Mission Board (NAMB) in its filings against Will McRaney. In fact, the Fifth Circuit Court of Appeals rejected giving special privileges.

In its opinion in *McRaney v. NAMB* the Fifth Circuit quoted *Sanders v. Casa View Baptist Church*, 134 F.3d 331, 335–36 (5th Cir. 1998), **“The First Amendment does not categorically insulate religious relationships from judicial scrutiny, for to do so would necessarily extend constitutional protection to the secular components of these relationships,”** which **“would impermissibly place a religious leader in a preferred position in our society...Therefore, the relevant question is whether it**

appears certain that resolution of McRaney's claims will require the court to address purely ecclesiastical questions. At this stage, the answer is no."

Would it require the Virginia court to answer purely religious questions to determine if McLean Bible Church is affiliated with the SBC?

Of course not.

The only way out of McLean Bible Church's violation of the plain text of the constitution is to attempt to make an explanatory phrase into a standard for judging affiliation.

Again, "**AFFILIATION This church shall not, and cannot, be affiliated with any denomination, but shall remain independent for the promotion of the Gospel of our Lord Jesus Christ.**"

What does that mean? If a court can't hold a church to fulfill its explicit word to people who give it money, then what good are courts? And if religious liberty can be used to avoid justice in cases like this, it won't take very long for opponents of religious liberty to overturn the guarantees so necessary for actual expressions of religious liberty.

You can read the latest court filing embedded below.