

No. 93374-0

SUPREME COURT OF THE STATE
OF WASHINGTON

THE PRESBYTERY OF SEATTLE, a Washington nonprofit corporation; THE FIRST PRESBYTERIAN CHURCH OF SEATTLE, a Washington nonprofit corporation; ROBERT WALLACE, President of the First Presbyterian Church of Seattle, a Washington nonprofit corporation; WILLIAM LONGBRAKE, on behalf of himself and similarly situated members of First Presbyterian Church of Seattle,

Respondents,

v.

JEFF SCHULZ and ELLEN SCHULZ, as individuals and as the marital community composed thereof; and LIZ CEDERGREEN, DAVID MARTIN, LINDSEY MCDOWELL, GEORGE NORRIS, NATHAN ORONA, and KATHRYN OSTROM, as trustees of the First Presbyterian Church of Seattle, a Washington nonprofit corporation,

Petitioners.

DECLARATION OF
SCOTT LUMSDEN
IN OPPOSITION TO
PETITIONERS' EMERGENCY
MOTION FOR STAY

I, Scott Lumsden, pursuant to RCW 9A.72.085, declare as follows:

1. I am over the age of eighteen, have personal knowledge of the matters set forth in this declaration, and am competent to testify about

them. I submit this declaration in opposition to petitioners' emergency motion for stay.

2. I am an ordained Minister of Word and Sacrament and teaching elder in the Presbyterian Church (U.S.A.) (the "Church"). I serve as the Executive Presbyter of the Presbytery of Seattle, better known as Seattle Presbytery, and I have held that position since 2008. My responsibilities as Executive Presbyter include serving as a pastor to more than 50 congregations in the greater Seattle area and their pastors and ruling elders. In addition to that role, I manage the Presbytery's business operations, which includes overseeing four properties (with a collective value of over \$ 9 million) and managing the Presbytery's finances, which exceed \$4 million.

3. After the Administrative Commission assumed original jurisdiction on February 16, 2016, I was appointed business and property manager of First Presbyterian Church of Seattle ("FPCS"), with "authority to oversee the property and financial affairs of FPCS." Report, p. 15 (attached to the complaint and found in the Plaintiffs' Appendix ("PA") at p. 47).

4. The authority delegated to me by the Administrative Commission includes, without limitation, employment and personnel matters, administrative issues, policy implementation, budget management, supervision of financial transactions including banking and investment decisions, insurance matters, and property management.

5. On May 27, 2016, Judge Mary Roberts of the King County Superior Court issued a declaratory judgment that petitioners are bound by the ecclesiastical decisions of the Administrative Commission and that the Administrative Commission constitutes the current leadership of FPCS. On June 30, 2016, Judge Roberts denied petitioners' motion for reconsideration.

6. The Administrative Commission/Session of FPCS met on Wednesday afternoon, July 6th. After reviewing the Court's decisions, discussing the continuing deterioration of the ministries of FPCS under the former leaders, including the recent closing of the Wednesday night shelter, and considering the Session's ecclesiastical and fiduciary responsibilities, the Session determined that it was time to implement the decision that the Administrative Commission/Session had issued on February 16, 2016. The Session directed me as the business and property manager of FPCS to advise persons doing business with FPCS about Judge Roberts's orders and to redirect church income to the leaders of the true church rather than continuing to direct church income to persons having no authority to speak or act on behalf of FPCS.

7. On July 11, 2016, I wrote to Key Bank, which services the FPCS bank accounts, to inform the bank of Judge Roberts's declaratory judgment and to request that, consistent with her order, authority over the bank accounts be given to the true leaders of FPCS.

8. That same day, I contacted the Seattle Classical Christian School, which leases space from FPCS for the use of church property, to inform the school of Judge Roberts's ruling and to request that lease payments be made to the true church. I also contacted Women's Enterprises International, which leases space at FPCS, to inform them of the same thing and notify them of the correct destination for their lease payments.

An Emergency Stay Would Interfere with the Presbyterian Church's Religious Governance and Hamper the True Church's Mission and Ministry.

9. In my capacity as teaching elder and Executive Presbyter, I am familiar with the Constitution of the Church (the "Church Constitution"). The Church Constitution contains the *Book of Order*, which provides the ecclesiastical law of the Church.

10. Under the *Book of Order*, the particular congregations of the denomination together constitute one church, which is governed by a hierarchical series of councils: sessions, comprising the pastors and ruling elders of local congregations; presbyteries, composed of ruling elders and pastors from each congregation in the district; synods, composed of representatives from the presbyteries in the region; and the national general assembly. (The *Book of Order* can be found at PA 114-179.)

11. Because this structure is required under ecclesiastical law, an emergency stay, if obtained by the petitioners in this matter, would impair the self-governance of the Church and of FPCS. A stay would

have the effect of preventing Seattle Presbytery from exercising its ecclesiastical decision-making authority over a local congregation in its geographical purview, thus interfering with the relationship between the Presbytery and the local congregation.

12. In addition, the presence of a non-denominational ministry, led by petitioners Jeff and Ellen Schulz, in the FPCS building and using the name "First Presbyterian Church Seattle" has created confusion in the Seattle religious community. It also has undermined the right of the Church, through the Seattle Presbytery, to have a presence in downtown Seattle, to deepen relationships with other religious leaders and ministries in the area, and to extend its mission by supporting community and religious programs.

13. In November 2015, the Administrative Commission began investigating the former leaders and former co-pastors of FPCS, who remain in possession of the church building. The Administrative Commission's investigation uncovered accounting irregularities and mismanagement of the local congregation. *See* PA 31-49.

14. Staying the effectiveness of Judge Roberts's orders would impede the ability of the Presbytery and the Administrative Commission, acting as FPCS's session, to address the mismanagement issues, both spiritual and financial, that the Administrative Commission found.

15. Petitioners' ministry, now falsely purporting to be that of FPCS, has gradually reduced and retreated from FPCS's traditionally high

level of community involvement and urban ministry. Historically the church was involved in many efforts throughout the city, including ministering to groups in underprivileged communities and working on ecumenical relationships and projects with other churches in the area.

16. Petitioners' ministry has withdrawn from most of these projects, such that, even if petitioners *were* the FPCS (which they are not), the presence of Presbyterianism in downtown Seattle has shrunk to a sliver of its former prominence.

17. Allowing petitioners to remain in place, despite a court order recognizing that the Administrative Commission constitutes the true session and thus the *only* rightful governing authority of FPCS, means that the true church will be compelled to stand aside as a church unrelated to it, yet bearing its name, fails to carry out FPCS's mission in Seattle.

Allowing the True Church to Implement Judge Roberts's Summary-Judgment Order Will Not Harm the Petitioners.

18. The leaders of the Presbytery and the Administrative Commission, which currently comprises the Session of FPCS, fully intend and are prepared to continue the ministries, programs, and worship services of FPCS in its historic downtown location. The transition will be seamless, and it can easily be undone should petitioners ultimately prevail.

19. Because petitioners are unrelated to the true church, they cannot carry out FPCS's mission and ministry. Only the Administrative Commission, which is the rightful governing body of the church, can do

this, while also ensuring the preservation of the church's assets and the appropriate expenditure of its funds for the ministries of the true church.

20. Once the true church's leadership is restored, funds will be disbursed to ensure that the ministries and programs of FPCS are continued, that its staff is compensated, and that its financial obligations are met with respect to tenants, maintenance, utilities and other obligations necessary to fulfilling the ministries of the true church.

21. The programs mentioned in paragraphs 8 through 19 of the Declaration of David Martin in Support of Petitioners' Emergency Motion for Stay all will be continued under the leadership of the true church.

22. If the stay is not granted, and petitioners either volunteer or are required to turn over the facilities of FPCS, I anticipate that the true church's leadership will be able to assume control of and manage the church's property seamlessly. We will also pay maintenance, payroll, program-related, lease-related, and other administrative costs essential to sustain the ministries of the true church, as generally described in paragraphs 21 through 24 of Mr. Martin's declaration.

23. The Presbytery and the Administrative Commission, comprising the true church, are in a far better position to do this than petitioners, because the Presbytery and Administrative Commission have the leadership, resources, and backing of the Church. Far from being harmed, FPCS would *benefit* from the denial of a stay because the true church's leadership has:

- a. Full ministry support of the Presbytery through its connections with partner Presbyterian churches and their ministries;
- b. Full financial support of the Presbytery through proceeds of its mission asset fund account in addition to the funds from FPCS congregational donations and lease revenue;
- c. Full support of ecumenical partners, who have long been separated from the petitioners; and
- d. Full support of the Presbytery staff.

24. Also, contrary to Mr. Martin's assertions in his declaration, the true church's leadership commits to retaining existing employees (except the former co-pastors) at FPCS until at least thirty days after the petitioners' motion for discretionary review is denied, or, if the motion is granted, until the appeals process is resolved.

25. It is claimed that petitioners Jeff and Ellen Schulz have valid severance agreements with FPCS. If the stay is not issued, the Schulzes will have no role in leading worship services or otherwise ministering at FPCS, having renounced the jurisdiction of the Church and, with it, their employment. As an accommodation, however, the true church's Session will pay the Schulzes at their current rate of pay until the earlier of either the resolution of this appeal or until the propriety of those agreements is addressed and, if need be, adjudicated.

26. If the Schulzes and any members of the congregation desire to continue separate worship services with the Schulzes, I am willing to assist them in finding an alternate location by contacting other churches and partners in the area.

27. Those worshipping at FPCS can continue attending the church for worship services and other activities if no stay is granted. From the perspective of parishioners and other attendees of a church service or program at the church's property, nothing will change other than that Pastor Heidi Husted Armstrong will be the pastor in charge. The only other difference will be administrative, with the leadership of the true church restored. That leadership will oversee the disbursement and expenditure of funds in a responsible way, thereby preserving the church's assets and allowing FPCS to deepen its ecumenical presence and relationships with the Seattle Christian community.

28. Although the Presbytery and the true FPCS leadership will not use funds they are entitled to receive for the purposes of financing litigation against them or the other respondents, the true leadership also will not unreasonably withhold funds from the current programs and ministries of the church.

29. We will always comply with the law. Should petitioners prevail in this matter and receive a final judgment on the merits from which no appeal can be taken, the Administrative Commission will return

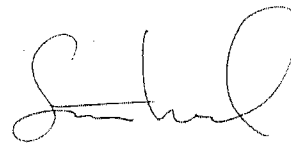
control of the property to petitioners and account for any funds earned and expended in the interim.

30. Rather than being on the brink of closing its doors, as petitioners argue, FPCS stands at the threshold of a long-awaited new beginning. The only thing obstructing this is the intransigence of petitioners, who continue to use the church's name while not carrying out its mission or abiding by its governing principles.

31. The Presbytery is dedicated to nothing less than the continued, long-term vitality and viability of FPCS and its ministry in downtown Seattle, and it is prepared to support that mission spiritually, financially, and administratively.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 22nd day of July, 2016, at Seattle, Washington.



Scott Lumsden