



ORIGINAL

FILED
COURT OF CIVIL APPEALS
STATE OF OKLAHOMA

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

JAN 31 2024

JOHN D. HADDEN
CLERK

MICHAEL O'KEEFE, an individual,)
)
 Plaintiff/Appellee,)
)
 SCOTT HALE, an individual,)
)
 Plaintiff,)
)
 v.)
)
 OKLAHOMA CHRISTIAN UNIVERSITY,)
 a domestic not-for-profit corporation, and)
 STEPHEN ECK, individually,)
)
 Defendants/Appellants.)

Supreme Court No. 121,405

Oklahoma County

District Court Case No. CJ-2022-6234

NOTED
DISTRICT
COURT OKC.
JAN 31 2024
JDM

**DEFENDANTS/APPELLANTS' MOTION TO PARTIALLY LIFT
 STAY IN DISTRICT COURT ACTION FOR CONSIDERATION
 OF SUBJECT MATTER JURISDICTION AND TO STAY
 APPEAL PENDING RESOLUTION OF JURISDICTIONAL ISSUE**

Defendants/Appellants Oklahoma Christian University ("OC") and Stephen Eck ("Eck") (collectively, the "Defendants"), respectfully submit the following motion to partially lift the stay of proceedings in the District Court previously ordered by this Court for the limited purpose of allowing the District Court to consider a motion to dismiss by the Defendants for lack of subject matter jurisdiction in light of a recently published opinion of this Court, and (2) to stay this appeal until the subject matter jurisdiction issue has been resolved. In support of their Motion, the Defendants show the Court as follows:

1. The action pending in the District Court of Oklahoma County, Oklahoma from which this appeal was taken (the "District Court Action") arises out of claims brought against OC, a private Christian university located in Oklahoma City, Oklahoma, and Eck, OC's Chief Legal Officer, by Michael O'Keefe ("O'Keefe"), a former professor at OC, and Scott Hale

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(“Hale”), a former adjunct professor at OC. O’Keefe and Hale’s claims arise out of allegations that OC wrongfully terminated O’Keefe’s employment for allowing Hale, a gay man, to give a presentation to his class which contained content which was offensive and contrary to the sincerely held religious beliefs, values, employment policy, and mission of OC, and that an email sent by Eck to OC faculty and staff explaining the reasons for O’Keefe’s termination contained defamatory statements about O’Keefe and Hale.

2. The Defendants initiated this appeal by filing their Petition in Error on June 26, 2023, seeking relief from an order of the District Court which denied the Defendants’ motion to stay the District Court Action and compel arbitration of the dispute between the Defendants and O’Keefe, whose employment contract with OC included an arbitration clause. *See* Petition in Error; Oklahoma Supreme Court Rule 1.61, OKLA. STAT. tit. 12, Ch.15, App. 1.

3. In early August of 2023, while the interlocutory appeal remained pending, Hale served written discovery on the Defendants. In response, the Defendants filed a Motion to Stay Proceedings in this Court on August 11, 2023, seeking a stay of proceedings in the District Court Action with respect to O’Keefe’s claims pending resolution of this appeal. The Defendants also filed a motion to stay with respect to Hale’s claims in the District Court.¹

4. The briefing cycle in this appeal was completed when the Defendants filed their reply brief on August 16, 2023.

5. This Court thereafter entered an order on September 18, 2023 in which the Court ordered that “[p]roceedings in the underlying action are stayed pending resolution of this

¹ The pleadings in the District Court Action filed after the filing of the Defendants’ Amended Designation of Record for Appeal from District Court are not part of the record. The online docket sheet for the District Court Action and copies of relevant pleadings can be viewed at <https://www.oscn.net/dockets/GetCaseInformation.aspx?db=oklahoma&number=CJ-2022-6235&cmid=4149704>

interlocutory appeal.” September 18, 2023 Order. The District Court then entered an order staying the District Court Action pursuant to the Court’s order on September 22, 2023.

6. Approximately one month later, on October 24, 2023, this Court issued opinions in two companion cases, *Oklahoma Annual Conference of the United Methodist Church v. Timmons*, 2023 OK 101, 538P.3d. 163 (“UMC 1”), and *Oklahoma Annual Conference of the United Methodist Church v. Timmons*, 2023 OK 102, 538 P.3d. 170 (“UMC 2”).

7. In the *UMC 1* and *UMC 2* cases, the Court clarified Oklahoma law with respect to one of the Defendants’ defenses to O’Keefe and Hale’s claims, the church autonomy doctrine.

8. Specifically, the Court held that the church autonomy doctrine “**bars courts from exercising subject matter jurisdiction over disputes involving faith, church discipline, and church government.**” *UMC 1*, 2023 OK 101 at ¶ 15, 538 P.3d at 169 (emphasis added); *UMC 2*, 2023 OK 102 at ¶ 12, 538 P.3d at 175.

9. The Court’s holdings in *UMC 1* and *UMC 2* related to the church autonomy doctrine acting as a bar to subject matter jurisdiction partially overruled one of the Court’s previous decisions, *Doe v. First Presbyterian Church U.S.A. of Tulsa*, 2017 OK 106, 421 P.3d 284. *See UMC 1*, 2023 OK 101 at ¶ 18, 538 P.3d at 169-70. In that case, this Court held that the church autonomy doctrine was merely an affirmative defense and did not relate to subject matter jurisdiction. *Doe*, 2017 OK 106 at ¶ 24, 421 P.3d at 291.

10. Based on the change to the law with respect to the church autonomy doctrine announced in *UMC 1* and *UMC 2*, the church autonomy doctrine now deprives both the District

Court and any potential arbitrator of subject matter jurisdiction over the controversy giving rise to the District Court Action.

11. As a result of *UMC 1* and *UMC 2*, the Defendants respectfully move this Court to partially lift the stay in the District Court to permit the Defendants the opportunity to file a motion to dismiss in the District Court Action pursuant to OKLA. STAT. tit 12, § 2012(B)(1) seeking dismissal of all claims asserted by O’Keefe and Hale based on the church autonomy doctrine. *See In the Matter of B.H.*, 2022 OK 80, ¶ 7, 519 P.3d 91, 98 (“Subject matter jurisdiction cannot be waived or conferred upon the court by the parties’ consent, and it may be challenged at any time.”). Unless the stay is lifted, the Court’s previous order staying the District Court Action prevents such a motion from being filed.

12. If the claims asserted by O’Keefe which are the subject of this appeal are dismissed for lack of subject matter jurisdiction due to the applicability of the church autonomy doctrine, the issues involved in this appeal will be rendered moot.

13. For these reasons, the Defendants respectfully request this Court enter an order (1) partially lifting the stay of proceedings imposed by the Court’s order of September 22, 2023 for the limited purpose of allowing the Defendants to file a motion to dismiss for lack of subject matter jurisdiction based on the church autonomy doctrine, and (2) staying this appeal pending the resolution of the Defendants’ motion to dismiss for lack of subject matter jurisdiction and any related appeals or other proceedings.

CONCLUSION

The Defendants respectfully request that the Court lift the stay of proceedings in the District Court Action for the limited purpose of hearing a motion to dismiss based on the church

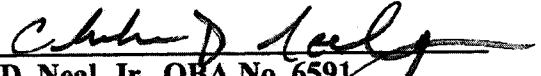
autonomy doctrine, stay this appeal pending the resolution of the jurisdictional issue, and that they be granted all such other further relief to which they may be entitled.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was mailed this 30th day of January, 2024, to:

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