UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2065

September Term, 2014

EDWIN R. MELHORN

v.

BALTIMORE WASHINGTON CONFERENCE OF THE UNITED METHODIST CHURCH, ET AL.

Krauser, C.J.,
Berger,
Reed,

JJ.

Opinion by Reed, J.

Filed: March 16, 2016

This appeal involves an application of the First Amendment's "'ministerial exception,' which provides that a court lacks jurisdiction to intrude into matters of a church's self-governance." *Herzog v. St. Peter Lutheran Church*, 884 F. Supp. 2d 668, 671 (N.D. Ill. 2012). The appellant, Edwin R. Melhorn, argues that it would not be violative of this exception for Maryland courts to review his termination as pastor of Cedar Grove United Methodist Church, located in Parkton, Maryland. He presents five questions for our review, which we have reduced to one and rephrased:[1]

> 1. Did the circuit court err where it dismissed the appellant's Complaint for failure to state a claim upon which relief could be granted without providing an opportunity for discovery?

For the following reasons, we answer this question in the negative and shall affirm.

[1] The questions presented by the appellant are as follows:

> 1. [W]hether the resolution of [the appellant's] unlawful and wrongful termination complaint would excessively entangle the courts in religious matters.
>
> 2. [W]hether employment decisions that are not motivated by religious belief receive the protections of the ministerial exception under the First Amendment.
>
> 3. [W]hether the circuit court erred when it ruled that courts cannon intrude on church disputes.
>
> 4. [W]hether the circuit court erred in dismissing the appellant's complaint before permitting a factual record to determine whether the appellant's claims would substantially entangle the court in religious doctrine.
>
> 5. [W]hether the circuit court erred when it ruled that the decision in *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 132 S. Ct. 694, (2012), . . . prevented the appellant's case from going forward.

FACTUAL AND PROCEDURAL BACKGROUND

The appellant was hired as pastor of Cedar Grove United Methodist Church (hereinafter "Cedar Grove" or simply "the church") on July 9, 2009. His pastorship was subject to a yearly employment contract, which was subsequently thrice renewed – first in June 2010, then in June 2011, and then again in June 2012. However, on December 31, 2012, the appellant's employment at Cedar Grove was terminated by the Reverend Dr. Karin Walker, superintendent of the Baltimore-Washington Conference of the United Methodist Church (hereinafter "the Baltimore-Washington Conference"), who informed the appellant that the church was "transitioning" because it had "lost faith" in his spiritual leadership.

On December 12, 2013, the appellant filed a Complaint in the Circuit Court for Baltimore County against Cedar Grove, the Baltimore-Washington Conference, and Dr. Walker. The Complaint alleged wrongful termination based on the appellant's refusal to commit certain unlawful acts in connection with the administration of funds from the Eleanor B. Turnbaugh Trust (hereinafter "the Turnbaugh Trust" or simply "the trust"), of which Cedar Grove was a beneficiary.

On May 16, 2012, approximately a year and a half before the appellant's termination, Cedar Grove was informed that it was scheduled to receive a bequest from the Turnbaugh Trust in the amount of $1,224,849.34. The trust provided that one half of the bequest was to be used for the general operation and maintenance of the church, while the other half was to be used for the upkeep of the church's cemetery. The appellant, who

before becoming pastor had worked as a financial manager at International Business Machines Corporation ("IBM") for nearly twenty-five years and then as the Treasurer and Chief Financial Officer of the Oregon-Idaho Conference of the United Methodist Church, was chosen by the congregation of Cedar Grove to administer the bequest.

According to the Complaint, the appellant quickly discovered that the church sold its cemetery in 2009 and no longer maintained a cemetery fund. The appellant "determined that it would be a breach of trust – as well as fraud and tax evasion – for Cedar Grove to accept the portion of the bequest relating to the upkeep of the cemetery." Therefore, the appellant advised Cedar Grove's Board of Trustees to notify Wells Fargo Bank, which was serving as trustee of the Turnbaugh Trust, that it no longer owned the cemetery and to ask the bank for guidance. But despite the appellant's advice, the Vice Chairman of the Board of Trustees instructed the appellant to request the full amount of the bequest ($1,224,849.34) from the bank and deposit it into the church's general operating account. The appellant refused to follow these instructions and, in August of 2012, took his concerns about accepting the portion of the bequest that was meant for the cemetery fund to Dr. Walker. On October 16, 2012, Dr. Walker notified the appellant that his pastorship at Cedar Grove was terminated, effective December 31 of that year.

On March 31, 2014, the Baltimore-Washington Conference and Dr. Walker filed a Motion to Dismiss the appellant's December 12, 2013, Complaint. A hearing was held on November 5, 2014, the Honorable H. Patrick Stringer presiding. The next day, Judge Stringer issued an Order granting the Baltimore-Washington Conference and Dr. Walker's

Motion to Dismiss. The Order references the "reasons stated on the record in open court," which included Judge Stringer's finding that "[the appellant's] claims are fundamentally connected to issues of church doctrine and governance and would require court review of the church's motives for [the] discharg[e]," which is precluded by the ministerial exception.

DISCUSSION

A. Parties' Contentions

The appellant argues that the circuit court erred in applying the ministerial exception, and thus also in dismissing his Complaint. While recognizing that the ministerial exception bars secular courts from hearing disputes over church doctrine, he asserts that courts are not precluded from hearing employment disputes and contract claims like his that are purely secular and not rooted in religious beliefs. "The circuit court erred," he contends, "because it opined that the immunity provided by the ministerial exception is absolute."

The appellant argues that the circuit court also erred by not allowing discovery before dismissing his Complaint. In support of this argument, he cites to the cases of *Minker v. Baltimore Annual Conference of United Methodist Church*, 894 F.2d 1354 (D.C. Cir. 1990), and *Galetti v. Reeve*, 2014-NMCA-079, 331 P.3d 997, which, he asserts, stand for the proposition that claims like his should not be dismissed unless the court first permits a factual record to be developed and then determines, based on that record, that the claims would substantially entangle the courts in religious doctrine. He contends that "the trial

judge [would have] had adequate discretion to control discovery . . . so that if ecclesiastical matters overtook the litigation, the case could [have been] stopped on summary judgement or simply dismissed."

Cedar Grove, the Baltimore-Washington Conference, and Dr. Walker (hereinafter collectively referred to as "the appellees") argue that the circuit court correctly applied the ministerial exception and thus did not err in granting the Motion to Dismiss. Quoting the Supreme Court's decision in *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, the appellees assert that "the Free Exercise Clause prevents [the Government] from interfering with the freedom of religious groups to select their own [ministers]." 132 S. Ct. 694, 703 (2012). This Free Exercise principle is otherwise known as the "ministerial exception." The appellees recognize that the Supreme Court's holding in *Hosanna-Tabor* was limited to precluding ministers[2] from bringing claims of *employment discrimination* against their religious institution employers. However, they contend that our Court of Appeals, in cases such as *Archdiocese of Washington v. Moersen*, 399 Md. 637 (2007), and *Prince of Peace Lutheran Church v. Linklater*, 421 Md. 664 (2011), has extended the application of the ministerial exception under state law so as to also preclude claims of

[2] It is undisputed in the present case that the appellant qualifies as a minister. However, we find it to be worth noting that the ministerial exception only applies to claims brought by ministers. *See Hosanna-Tabor*, 132 S. Ct. at 707. A minister is "any employee whose 'primary duties consist of teaching, spreading the faith, church governance, supervision of a religious order, or supervision or participation in religious ritual and worship.'" *Moersen*, 399 Md. at 644 (quoting *Rayburn v. General Conf. of Seventh-Day Adventists*, 772 F.2d 1164, 1169 (4th Cir. 1985)). "Pursuant to [this so-called "primary duties"] test, the ministerial exception 'does not depend upon ordination but upon the function of the position.'" *Moerson*, 399 Md. at 664 (quoting *Rayburn*, 772 F.2d at 1168).

wrongful discharge like the appellant's. The appellees also cite to cases from numerous other jurisdictions, both state and federal, that, like Maryland, have applied the ministerial exception to wrongful discharge claims. In sum, the appellees argue that the appellant's claims would have required the court to engage in an impermissible inquiry into the church's doctrine and self-governance – *i.e.*, to decide whether or not the appellant was actually terminated for the stated reason that the church had "lost faith" in his spiritual leadership.

Additionally, the appellees assert that the circuit court was proper in not permitting pre-dismissal discovery. They contend that the Complaint was sufficient on its face to demonstrate that the claims were precluded by the ministerial exception. The appellees contend that the present case is easily distinguished from *Galetti* and *Minker*, the two cases cited by the appellant as requiring discovery prior to dismissal on ministerial exception grounds. The appellees argue that the case at bar is instead similar to *Linklater*, in which the Court of Appeals affirmed the trial court's pre-discovery, ministerial exception dismissal. 421 Md. at 675.

B. Standard of Review

As the Court of Appeals observed in *McDaniel v. Am. Honda Fin. Corp.*, "[t]he standard of review for a grant of a motion to dismiss is well-settled." 400 Md. 75, 83 (2007). The Court in *McDaniel* went on to explain that

> [i]n reviewing the underlying grant of a motion to dismiss, we must assume the truth of the well-pleaded factual allegations of the complaint, including the reasonable inferences that may be drawn from those allegations. In the end, "[d]ismissal is

> proper only if the complaint would fail to provide the plaintiff with a judicial remedy." In sum, because we must deem the facts to be true, our task is confined to determining whether the trial court was legally correct in its decision to dismiss.

Id. (quoting *Debbas v. Nelson*, 389 Md. 364, 372 (2005) (citations omitted)).

C. Analysis

i. Application of the Ministerial Exception

Two elements must be present for the ministerial exception to preclude a secular court from obtaining subject matter jurisdiction over a claim brought by an employee against his religious institution employer: First, the employee making the claim must qualify as a "minister"; and second, the claim must be the type of claim which would substantially entangle the court in the church's doctrinal decision-making and internal self-governance. *See generally Bourne*, 154 Md. App. at 54-57 (first analyzing whether the former pastor appellant satisfied the "primary duties" test, then whether his defamation claim was barred by the ministerial exception). In the case before us, it is clear that the appellant satisfies the first of the immediately aforementioned elements.[3] It is also clear that, with regard to the second element, wrongful discharge claims like the appellant's are precluded by the ministerial exception under Maryland law. Therefore, we shall hold that the circuit court did not err in granting the Baltimore-Washington Conference and Dr. Walker's Motion to Dismiss. We explain.

Hosanna-Tabor is the most recent Supreme Court case dealing with the ministerial exception. In that case, the Equal Opportunity Employment Commission ("EEOC") filed

[3] *See* n. 2, *supra*.

an employment discrimination suit against the Hosanna-Tabor Evangelical Lutheran Church and School. 132 S. Ct. at 701. The suit alleged that Hosanna-Tabor had fired one of its former teachers in retaliation for threatening to file an Americans with Disabilities Act ("ADA") lawsuit. *Id.* At the outset, the Supreme Court noted that "the First Amendment permits hierarchicals religious organizations to establish their own rules and regulations for internal disciple and government, and to create tribunals for adjudicating disputes over these matters, . . . [whose decisions] the Constitution requires that civil courts accept . . . as binding." *Id.* at 705 (internal quotations and citations omitted). But furthermore, the Court observed that "[u]ntil today, we have not had occasion to consider whether this freedom of a religious organization to select its ministers is implicated by a suit alleging discrimination in employment." *Id.* Thus began the Court's analysis.

Ultimately, the Supreme Court held that the ministerial exception, which "the Courts of Appeals have uniformly recognized . . . [as] grounded in the First Amendment," *id.*, does apply to employment discrimination claims brought under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, and that it applied so as to bar the EEOC's claims. *Id.* at 706-07. In reaching this conclusion, the Court first determined that the former teacher qualified as a "minister." *Id.* at 707-09.[4] It then explained that "[t]he purpose of the [ministerial] exception is not to safeguard a church's decision to fire a minister only when it is made for a religious reason. The exception instead ensures that the authority to select

[4] The Court concluded that the former teacher qualified as a "minister" because of "the former title [of "Minister of Religion, Commissioner,"] given to [her] by the Church, the substance reflected in that title, her own use of that title, and the important religious functions she performed for the Church." *Hosanna-Tabor*, 132 S. Ct. at 708.

and control who will minister to the faithful – a matter 'strictly ecclesiastical,' – is the church's alone." *Id.* at 709 (quoting *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 119 (1952)).

Although the Supreme Court has not addressed whether the ministerial exception applies to wrongful discharge claims,[5] the Court of Appeals, our Court, the United States Court of Appeals for the Fourth Circuit, and the United States District Court for the District of Maryland have all held that it does. *See Moersen*, 399 Md. 637; *Linklater*, 421 Md. 664; *Bourne*, 154 Md. App. 42; *Bell v. Presbyterian Church (U.S.A.)*, 126 F.3d 328 (4th Cir. 1997); *Davis v. Baltimore Hebrew Congregation*, 985 F. Supp. 2d 701 (D. Md. 2013). For instance, in *Bourne*, much like in the present case, a former pastor sued his church, the church's regional supervisory body, and the supervisory body's district superintendent, among others, for breach of employment contract. 154 Md. App. at 45. Although we concluded that "[the] appellant fail[ed] to set out any details of the contract allegedly violated by [the] appellees," we went on to state in *dicta* that

> [e]ven assuming there was a contract, in evaluating the parties' adherence to such a contract, the court would have to make a determination regarding whether appellant met the qualifications to act as a minister for the Church. It appears that appellant's responsibilities included faithfully attending church services, committing to the church, giving tithes and offerings, and maintaining "a spirit of Christian cooperation with staff," and "a spirit-filled relationship with the Lord." In considering the issues raised by appellant, the court would have to consider whether appellant was properly performing his job. Doing so would mandate the court to consider appellant's adherence to religious tenants, his spiritual successfulness, as determined by

[5] As we previously indicated, *Hosanna-Tabor* dealt strictly with the ministerial exception's application to claims of employment discrimination under Title VII.

> the church, his teaching skills, and his relationship with both clergy and worshipers. Such determinations are clearly prohibited by the case law outlined above.

Id. at 55-56. This is so because "religious organizations must be allowed to hire and fire their clergy members without government interference." *Id.* at 53. Therefore, as the *Bourne* case demonstrates, the case law of our own Court has extended the ministerial exception to cover breach of employment contract claims in addition to the employment discrimination claims contemplated by the Supreme Court in *Hosanna-Tabor*.

The Court of Appeals has also recognized a broader ministerial exception under Maryland law. In *Linklater*, for example, the Court of Appeals held that the ministerial exception precluded a former church employee's claims of "Retaliatory Harassment and Constructive Discharge," "Intentional Infliction of Emotional Distress," "Negligent Retention and Supervision," "Breach of Contract," and "Breach of Implied Contract." 421 Md. at 1189-90. The Court concluded that each of these claims "would necessarily involve judicial inquiry into church governance, and such an inquiry is prohibited by the First Amendment." *Id.* at 1189.

We need not go any deeper into the litany of the state and federal cases cited above to reach our holding, which is that the appellant's wrongful discharge claim, like the "Retaliatory Harassment and Constructive Discharge" claim in *Linklater*, "would . . . 'encroach on the ability of a church to manage its internal affairs,'" *id.* at 1190 (quoting *EEOC v. Roman Catholic Diocese*, 213 F.3d 795, 801 (4th Cir. 2000)), and is thus precluded by the ministerial exception. The court could not have heard the appellant's

wrongful discharge claim without having to make a determination as to whether the appellant was terminated in retaliation for refusing to obey the Vice Chairman's instruction regarding the portion of the bequest that was meant for the cemetery fund, or because the church had "lost faith" in his spiritual leadership. Such a determination is of the precise type that the ministerial exception precludes secular courts from making.

ii. The Need for Discovery

The appellant also argues that the circuit court erred in that it did not permit discovery before it ruled on the Motion to Dismiss. For the following reasons, we disagree.

The appellant's reliance on *Galetti* and *Minker* with regard to this issue is misguided. In both of those cases, the respective appellate court remanded for discovery because the claims on their face did not clearly require an inquiry into religious matters. In *Galetti*, the Court of Appeals of New Mexico noted that "[t]he district court does not need to determine whether the [church] had cause to terminate Plaintiff's employment, but only whether the Conference complied with its contractual obligation with respect to the timeliness of the notice it provided to Plaintiff." 331 P.3d at 1001. Therein lies the difference between *Galetti* and the case at bar. Here, the circuit court could not have heard the appellant's wrongful discharge claim without determining whether the church had cause to carry out the termination.

In *Minker*, the United States Court of Appeals for the District of Columbia Circuit, like the Court of Appeals of New Mexico in *Galetti*, remanded for discovery on a claim that was potentially precluded by the ministerial exception. 894 F.2d at 1361. However,

the claim in *Minker* was also one that would not necessarily require an inquiry into religious matters. In fact, the *Minker* Court even warned that "any inquiry into the Church's reasons for asserting that Minker was not suited for a particular pastorship would constitute an excessive entanglement in its affairs." *Id.* at 1360. In the present case, the circuit court could not have heard the appellant's claim without performing the exact type of inquiry that was warned against in *Minker*.

The Court of Appeals has affirmed pre-discovery dismissals of claims barred by the ministerial exception in cases where it was clear based on the face of the complaint that an inquiry into religious matters would have been necessary. *See, e.g., Linklater*, 421 Md. 664. We are currently presented with such a case, one in which the church has said all along that its decision to terminate the appellant's employment was motivated entirely by reasons of faith. Therefore, discovery was not necessary for the circuit court to properly determine that the appellant's claim was barred by the ministerial exception, and, as such, we hold that the circuit court did not err in granting the Baltimore-Washington Conference and Dr. Walker's Motion to Dismiss.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.