

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Judge Zagel	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	10 C 5080	DATE	December 6, 2010
CASE TITLE	BOSKO VUJOSEVIC, et al. v. LONGIN KRCO		

DOCKET ENTRY TEXT:

Plaintiffs' motion to remand [9] is granted. Case is hereby remanded to the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois.

STATEMENT

This case was originally filed in the circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois. Defendant filed a notice of removal in this court on August 12, 2010 citing 20 U.S.C. § 1331. Plaintiffs now move, pursuant to 28 U.S.C. § 1447, to remand this matter to the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois. For the following reasons, Plaintiffs' motion is granted.

This action involves a dispute within the Serbian Orthodox Metropolitanate of New Gracanica-Dioocese of the United States of America and Canada. By way of background, the Free Serbian Orthodox Dioocese of the United States ("Free Church") was founded with independently acquired funds and property, specifically to exist outside the hierarchy of the Serbian Orthodox Church ("Belgrade Church"). In July of 1991, the name of the Free Church was changed to Serbian Orthodox Metropolitanate of New Gracanica-Dioocese of the United States of America and Canada ("Metropolitanate"). The Diocesan Church Peoples Assembly-SABOR (the "Assembly") is the supreme legislative body of the Metropolitanate. In 1992 the Metropolitanate approved the Transitional Regulations while the Metropolitanate and the Belgrade Church considered reuniting under a common constitution. At a meeting in 1999, the Assembly voted unanimously to be bound by the 1986 constitution and remain separate from the Belgrade Church. On July 11, 2009, Defendant Bishop Longin Kroc, the Bishop of Metropolitanate, stated publicly that a reorganization of the Metropolitanate had occurred and that there was no longer a division between the Metropolitanate and the Belgrade Church. Neither the 1986 constitution nor the Metropolitanate Assembly authorized such reorganization. Plaintiffs, members of the Metropolitanate holding various positions of power, filed a three-count complaint seeking a declaratory judgment finding that the Metropolitanate is an independent and autonomous religious organization, and both preliminary and permanent injunctions restraining Bishop

STATEMENT

Longin Kroc from taking any action causing the transfer of property belonging to the Metropolitanate.

Pursuant to U.S.C. § 1331, “the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States.” Whether a district court has original jurisdiction as a result of a federal question is to be determined in accordance with the “well pleaded complaint” rule. *Holmes Group, Inc. v. Vornado Air Circulation Systems, Inc.*, 535 U.S. 826 (2002). Under the well-pleaded complaint rule, a federal court may look only to the well pleaded complaint, and not to any possible or anticipated defenses, to determine if the case “arises” under federal law. *Vorhees v. Naper Aero Club, Inc.*, 272 F.3d 398, 402 (7th Cir. 2001). In evaluating a motion to remand a federal court should interpret the removal statutes narrowly and presume that the plaintiff may choose his or her forum. *Illinois v. Kerr-McGee Chemical Corporation*, 677 F.2d 571, 576 (7th Cir. 1982).

Plaintiffs seek to remand this action arguing that no requested relief is based on a federal law or constitutional ground. Rather, Plaintiffs raise questions involving title and possession of real estate that must be decided under state law. Defendant, however, contends that Plaintiffs’ complaint triggers the First and Fourteenth Amendment because the court cannot decide the property dispute without also resolving underlying controversies over religious doctrine. Defendant’s argument is unavailing.

The First Amendment limits the power of the courts to hear suits “whenever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by ... church judicatories...” *Watson v. Jones*, 80 U.S. 679, 727 (1871); *see also Serbian E. Orthodox Diocese for U.S. of Am. and Can. v. Milivojevich*, 426 U.S. 696 (1976). This restraint has been termed the church autonomy doctrine or ecclesiastical abstention doctrine. *Ogle v. Hocker*, 279 Fed.Appx. 391, 394-395 (6th Cir. 2008). Pursuant to this doctrine, “where resolution of the disputes cannot be made without extensive inquiry by civil courts into religious law and polity, the First and Fourteenth Amendments mandate that civil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity, but must accept such decisions as binding on them, in their application to the religious issues of doctrine or polity before them.” *Serbian E. Orthodox*, 426 U.S. at 709. The doctrine applies to both state and federal courts. *Lucas v. Hope*, 515 F.2d 234, 236-37 (5th Cir. 1975).

This is a dispute over property and should be resolved in accordance with state law. Contrary to Defendant’s assertion, this case raises no questions of federal law and does not require analysis of the First and Fourteenth Amendments. To the extent that it is necessary to delve into the constitution or doctrinal opinions of the Metropolitanate or Belgrade Church, jurisdiction is prohibited. *Serbian E. Orthodox*, 426 U.S. at 709. Accordingly, Plaintiffs’ motion to remand is granted.

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 4.1.1
Eastern Division**

Bosko Vujosevic, et al.

Plaintiff,

v.

Case No.: 1:10-cv-05080

Honorable James B. Zagel

Longin Krco

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, December 6, 2010:

MINUTE entry before Honorable James B. Zagel: Status hearing set for 12/9/2010 is stricken. Mailed notice(drw,)

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