

FILED  
 GILBERT SANCHEZ  
 DISTRICT CLERK  
 IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS

210<sup>TH</sup> JUDICIAL DISTRICT  
 2010 DEC 17 AM 10:12

EL PASO COUNTY, TEXAS

BY \_\_\_\_\_ DEPUTY

ST. FRANCIS ON THE HILL CHURCH, )  
 a Texas non-profit Corporation, )  
 Formerly known as ST. FRANCIS ON THE )  
 HILL EPISCOPAL CHURCH, )

Plaintiff, )

v. )

Cause No. 2008-4075

THE EPISCOPAL CHURCH, a Non-Profit )  
 Unincorporated Association, THE DIOCESE OF )  
 THE RIO GRANDE, a Non-Profit )  
 Unincorporated Association, and THE TRUSTEES )  
 OF PROPERTY OF THE EPISCOPAL CHURCH, )  
 DIOCESE OF THE RIO GRANDE, IN TEXAS, )  
 A Texas Non-Profit Corporation, )

Defendants. )

**FINAL SUMMARY JUDGMENT**

The Court, having considered the pleadings, the parties' cross-motions for summary judgment and the responses thereto, the evidence on file, and the argument of counsel, denies Plaintiffs' Motion for Summary Judgment, grants Defendants' Motions for Summary Judgment, and renders Judgment for the Defendants.

The Court hereby issues a Declaratory Judgment, pursuant to Texas Civil Practices and Remedies Code §37.001:

1. that The Episcopal Church is a hierarchical church as a matter of law and that Plaintiff, prior to October 28, 2008 was a mission and later a parish member of said Church. Because the Episcopal Church is such, the Court follows the long-established Texas precedent governing hierarchical church property disputes,

which holds that in the event of a dispute among its members, a constituent part of a hierarchical church consists of those individuals remaining loyal to the hierarchical church body. *See, e.g., Brown v. Clark*, 102 Tex. 323, 116 S.W. 360 (1909); *Presbytery of the Covenant v. First Presbyterian Church*, 552 S.W.2d 865 (Tex. Civ. App.-Texarkana 1977, *no writ*). Under the law articulated by the Texas courts, those are the individuals who remain entitled to the use and control of the church property. *Id.* Plaintiff's arguments based on the Texas Corporations Code and trust law do not alter the result dictated by the Texas precedent specifically governing church property disputes;

2. that even if the Court applied neutral principles of law to resolve this church property dispute, the neutral principles considerations favor Defendants, because (a) the deeds provide that the property is to be held by "St. Francis on the Hill Episcopal Church"; (b) prior to plaintiff's attempt to leave the Church and the Diocese, the incorporated parish was known as "St. Francis on the Hill Episcopal Church," and the bylaws of the corporation acceded to the rules of the Church and the Diocese; (c) the Church's and the Diocese's longstanding canons provide that parish property is held in trust for the Church and the Diocese and confirm the interest of the Church and the Diocese in seeing to it that property held by Episcopal parishes be used solely for the mission of the Church and the Diocese; d) the Diocese's canons further set forth when, how and why a member parish may be allowed to incorporate; and (e) the Texas Non-Profit Corporations Act permits subordinate parts of hierarchical churches to incorporate, but such

corporations remain subject to the rules of the religious organizations that formed them and hold property for the benefit of and in trust for those organizations;

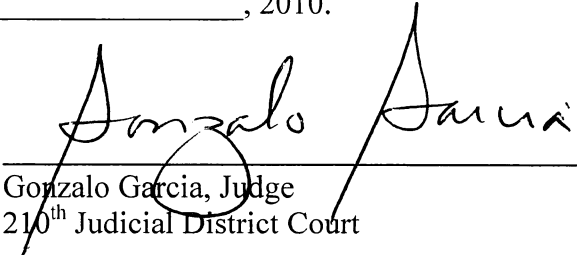
3. that the vestry and/or membership of Plaintiff may not unilaterally alter the status of St. Francis on the Hill Episcopal Church as a parish of the Church and the Diocese;
4. that the real and personal property held by St. Francis on the Hill Episcopal Church is held and may be used only for the ministry and work of the Church and the Diocese and may not be diverted, alienated, or used except as provided by the Constitution and canons of the Church and the Diocese;
5. that St. Francis on the Hill Episcopal Church is represented by those of its members who have remained part of The Episcopal Church, under the leadership of the clergy recognized by the Church and the Diocese;
6. that Plaintiff is enjoined from diverting, alienating, or using the real or personal property of St. Francis on the Hill Episcopal Church except as provided by the Constitution and canons of the Church and the Diocese; and
7. that possession and control of the property held by St. Francis on the Hill Episcopal Church is awarded to the continuing Episcopal congregation for use in furtherance of the parish/mission's ministry and mission pursuant to the Constitution and canons of the Church and the Diocese.

Based on the above, it is therefore ORDERED, ADJUDGED, AND DECREED:

1. that Plaintiff's motion for summary judgment is DENIED;
2. that Defendants' motions for summary judgment are GRANTED;

3. that within thirty (30) days of the signing of this judgment, Plaintiff shall relinquish control of all real and personal property of St. Francis on the Hill Episcopal Church and deliver said property to the Vestry/Bishop's Committee of St. Francis on the Hill Episcopal Church or the appropriate Diocesan agency;
4. that execution shall issue for this judgment;
5. that within sixty (60) days of the signing of this judgment, Plaintiff shall render an accounting to the Vestry/Bishop's Committee of St. Francis on the Hill Episcopal Church of the disposition of all property of St. Francis on the Hill Episcopal Church since October 20, 2008;
6. that within sixty (30) days of the signing of this judgment, Plaintiff shall permit members of the Diocesan archive access to the records of St. Francis on the Hill Episcopal Church for the purpose of obtaining copies of all documents related to St. Francis, the Diocese and/or the Episcopal Church;
7. that this judgment is final, disposes of all claims of the parties, and is appealable;  
and
8. that all other relief not expressly granted herein is denied.

SIGNED this 16 day of December, 2010.

  
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Gonzalo Garcia, Judge  
210<sup>th</sup> Judicial District Court