

Matter of Pratt v Calvary Baptist Church

2013 NY Slip Op 33462(U)

December 2, 2013

Supreme Court, New York County

Docket Number: 101204/13

Judge: Cynthia S. Kern

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: Part 55

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In the Matter of the Application of

ANTHONY PRATT,

Petitioner,

Index No. 101204/13

For an Order Pursuant to Article 78
of the Civil Practice Law and Rules,

DECISION/ORDER

-against-

CALVARY BAPTIST CHURCH and HOTEL
SALISBURY, INC.,

Respondents.

FILED

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HON. CYNTHIA S. KERN, J.S.C.

DEC 04 2013

Recitation, as required by CPLR 2219(a), of the papers considered in the review of this motion
for :

NEW YORK
COUNTY CLERKS OFFICE

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	<u>1,2</u>
Answering Affidavits.....	<u>3,4</u>
Replying Affidavits.....	<u>5,6</u>
Exhibits.....	<u>7</u>

Petitioner Anthony Pratt brings the instant petition pursuant to Article 78 of the Civil Practice Law and Rules ("CPLR") seeking to vacate the decision made by respondent Calvary Baptist Church ("Calvary") removing petitioner from his position as Member of the Board of Elders. Calvary and respondent Hotel Salisbury, Inc. (the "Hotel") also move to dismiss the petition. The motions are consolidated for disposition. For the reasons set forth below, the motion to dismiss the petition is granted and the petition is denied.

The relevant facts are as follows. Calvary is a Baptist church located at 123 West 57th

Street, New York, New York and has approximately 850 members. Calvary also owns and operates the Hotel, which has approximately 200 rooms and is located adjacent to Calvary. Additionally, Calvary receives a significant amount of funding from the Hotel to support its operations and substantial charitable endeavors. Petitioner has been a member of Calvary since 1986 and became a member of the Board of Elders in 1987. He served as vice chairman of the Board of Elders for several years and then was elected as chairman of the Board of Elders in April 2012.

Calvary alleges that in or around May 2012, petitioner obtained two \$2,500.00 check donations from the Hotel without Calvary's knowledge or approval and allegedly for personal benefit for petitioner and his wife to attend Calvary's charitable missions in Haiti and Brazil. On June 6, 2012, certain members of the Board of Elders spoke with petitioner who denied that he was trying to benefit financially from the donations. However, on June 15, 2012, the Board of Deacons advised the Board of Elders that based on petitioner's transgressions, he should not continue as chairman of the Board of Elders and perhaps not continue as an Elder altogether. The Board of Elders agreed that petitioner engaged in what appeared to be a conflict of interest and they voted, by strong majority, to remove petitioner as chairman of the Board of Elders. Additionally, the Board of Elders voted by simple majority to recommend to petitioner that he should resign as an Elder.

On April 22, 2013, the Board of Elders met and voted unanimously to recommend to the congregation that petitioner should be removed as an Elder. On May 7, 2013, six Elders and Pastor David Epstein met with petitioner to encourage him to resign as an Elder for the good of Calvary rather than force a full congregation vote. However, on May 29, 2013, petitioner

indicated that he would not resign as an Elder. Thus, on September 22, 2013, Calvary's congregation voted 164 in favor and 61 opposed to declare petitioner's position as Elder vacant pursuant to Calvary's Bylaws. Petitioner then commenced the instant Article 78 proceeding seeking to challenge Calvary's decision removing him from his position as Elder.

This court finds that petitioner's Article 78 petition must be dismissed on the ground that this court lacks jurisdiction to hear the petition. "It is well established that absent the invasion of civil or property rights, courts will not interfere with matters...concerning the internal affairs of a church." *Mays v. Burrell*, 124 A.D.2d 714 (2d Dept 1986)(affirming the dismissal of an Article 78 petition on the ground that "a controversy involving questions of church discipline and ecclesiastical rule...should be determined by the church judicatory and not the civil courts of the State"); *see also Matter of Thompson v. Bruce*, 65 A.D.3d 1245, 1246 (2d Dept 2009)(finding that alleged irregularities in voting for church pastor "do not warrant judicial interference in the internal affairs of the Church.") As petitioner seeks to challenge a decision involving the internal affairs of Calvary, a church, and the way Calvary disciplines its members, the petition must be dismissed.

Accordingly, the petition is dismissed. This constitutes the decision and order of the court.

Dated: 12/2/13

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(Signature)

J.S.C.

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