

2014 WL 5390996 (D.C.Super.) (Trial Motion, Memorandum and Affidavit)
Superior Court of the District of Columbia,
Civil Division.

German BERNAL, Plaintiff,

v.

IGLESIA EVANGELICA APOSTOLES Y PROFETAS EF 2:20, Defendant.

No. 2012 CA 006324 B.
March 11, 2014.

Memorandum of Points and Authorities in Support of Plaintiff's Motion in Limine

[John F. Pressley, Jr.](#), #379716, 7600 Georgia Avenue, N.W., Suite 412, Washington, D.C. 20012, (202) 723-8800, for plaintiff.

Judge [Clark](#).

Calendar 7

Preliminary Statement

This is a case arising out of a dispute between two factions of Iglesia Evangelica Apostoles Y Profetas Ef 2:20 (the church), a conservative evangelical church.

Prior to the dispute, the plaintiff, German Bernal, had served as pastor of the church since its inception over thirty (30) years ago in El Salvador. Since immigrating to the United States in 1983 he continued to serve as pastor of the church until retiring in 2005.

Pursuant to the plaintiff's retirement the Governing Board and Deacons of the church entered into an agreement with the plaintiff to provide payment of a pension to him pursuant to which he would begin receiving payments upon his retirement and continue to be involved with the church.

Mr. Bernal retired in December of 2005 and starting receiving his pension in January of 2006 in compliance with the agreement. In the fall of 2007 a dispute arose whereby the church was divided and litigation ensued. The primary case was resolved in favor of the church faction of which the plaintiff was not a part.

Upon taking control of the church in July of 2012 and out of what appeared to be pure vindictiveness, the faction took it upon themselves to callously terminate Mr. Bernal's pension, notwithstanding the terms of the agreement which precluded such action.

Mr. Bernal is an **elderly** gentleman who depended on his pension. He had no reason to expect the cutoff of his livelihood. As a result of the cutoff of his pension, he is dependent upon his son, Gember Bernal for housing and **financial** support.

Pursuant to the instant lawsuit, Mr. Bernal seeks reinstatement of his pension which is rightfully owed to him.

ARGUMENT

I. THE PRIOR CHURCH CONTROVERSIES ARE IRRELEVANT AND PREJUDICIAL

1. The instant case and trial are about whether or not the plaintiff, German Bernal, the retired pastor of the defendant church has a right to receive a pension which the church agreed to pay him pursuant to his agreement to retire, but continue to serve and work with the church.

2. The defendant church which has been taken over by faction hostile to Mr. Bernal and his family. The dissention arose pursuant to an attempt to investigation thefts from the church based upon a belief that the church's nonprofit status could be affected. Pursuant to the investigation, filings at the Department of Consumer and Regulatory Affairs were temporarily amended to remove the names of individuals possibly involved in the thefts. In fact, this type of thing had routinely been done and had no effect on the actual power of the Board members to function as Board members. Nonetheless, once the amended filings was discovered, the factional infighting began and escalated. This resulted in accusations flying back and forth and each faction trying to expel the other. It ultimately resulted in a lawsuit.

3. Defendant also is likely attempt to introduce evidence relating to a temporary transfer of title to the church property which had nothing to do with the foregoing dispute and has nothing to do with the present case. The temporary transfer of title of the church property to Mr. Bernal's son was done pursuant to the church attempting to obtain a loan to repay church members who had made loans to the church. It is not something that the younger Mr. Bernal sought or desired.

4. Defendant also will attempt to smear Mr. Bernal by bringing up a controversy relating to his fathering a child by a member of the congregation. Mr. Bernal to his credit, took full responsibility for his transgression, resigned, agreed to pay child support and returned to El Salvador. The church leadership subsequently out of the high esteem in which he was held, went to El Salvador and asked that he return to the church as senior pastor, which he did.

5. It is clear that these past controversies have absolutely nothing to do with the instant lawsuit. However, they present grist for the defendant's mill. Defendant would love to have testimony regarding these issues for no other purpose than to make Mr. Bernal look like he is a nefarious character, which is far from the truth. Legally, it is irrelevant and prejudicial for such testimony to come into the trial. Defendant, however, has the perspective that what ever it takes to prevail is okay.

II. THE INSTANT CASE IS ABOUT A PENSION AGREEMENT

6. The instant case is about whether or not the pension agreement executed between the parties is legally enforceable.

7. The issues involved in the case relate to whether or not there is a valid contractual agreement or an enforceable promise.

8. The case does not turn on whether or not the plaintiff father a child or whether his son had temporary title to the church property.

9. There is simply no way that the defendant could throw out a salacious snippet relating to these irrelevant matters and not raise questions and issues which would have to be addressed. This would, besides being improper, would unnecessarily prolong the trial and require that the full story be explained, assuming that it is not too late to prevent a mistrial.

CONCLUSION

In truth, this is not a complicated matter. A party should not be allowed to introduce blatantly prejudicial evidence into a trial -- period. The defendant should not be allowed to do so in the instant case.

WHEREFORE, plaintiff prays that the motion be granted.

Respectfully submitted,

/s/ John F. Pressley, Jr.

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