

THE EPISCOPAL DIOCESE OF)	IN THE DISTRICT COURT OF
FORT WORTH ET AL.,)	
)	TARRANT COUNTY, TEXAS
Plaintiffs,)	
)	
v.)	
)	
FRANKLIN SALAZAR ET AL.,)	141st JUDICIAL DISTRICT
)	
Defendants.)	
)	

SECOND AFFIDAVIT OF DR. ROBERT BRUCE MULLIN

Robert Bruce Mullin, being over the age of eighteen (18) years, fully competent to make this expert affidavit, and being duly sworn according to law, upon his oath deposes and says:

1. I am a Professor of Church History at the General Theological Seminary. My credentials are set forth in detail in the First Affidavit of Dr. Robert Bruce Mullin being filed in this action.

2. It is the practice of The Episcopal Church and its dioceses for an employee or representative of the diocese with knowledge of certain acts, events, conditions, or opinions within the diocese, and in particular with knowledge of the actions of the respective Conventions of The Episcopal Church or any one of its dioceses, to make a record of those acts, events, conditions, or opinions or to transmit the information to be included in such records. The records, which are published and maintained as "Journals" of the Convention at issue, are made at or near the time or reasonably soon after the act, event, condition, or opinion recorded. The records attached hereto as Exhibits 1 through 13 are such records of The Episcopal Church and/or of one of its dioceses, and are exact duplicates thereof.

3. The Episcopal Church first established its ministry in the geographic territory now covered by the Episcopal Diocese of Fort Worth in the early 19th Century with the establishment in 1838 of what would be known as its "Missionary District of the Southwest." Excerpts from the Journal of the General Convention from 1838 are attached as Ex. 1.

4. In 1849, a portion of the Missionary District of the Southwest petitioned the Episcopal Church's General Convention for admission as a diocese of the Episcopal Church, and the Diocese of Texas accordingly was formed and admitted by the General Convention in 1850 after it acceded to the Constitution and canons of the Church. See Proceedings of a Convention of the Clergy and Laity of the Protestant Episcopal Church in the State of Texas (1849) (excerpts from which are attached as Ex. 2); Journal of the General Convention (1850) (excerpts from which are attached as Ex. 3).

5. In 1874, the Diocese of Texas petitioned the General Convention to accept cession of portions of its territory, along with all Episcopal congregations and property located therein. The General Convention thereupon formed the Missionary Districts of Northern Texas and West Texas out of the ceded territory. See Journal of the Diocese of Texas (1874) (excerpts from which are attached as Ex. 4); Journal of the General Convention (1874) (excerpts from which are attached as Ex. 5).

6. In 1878, canons were adopted for the governance of the Missionary District of Northern Texas. Canon VIII required the Constitution of a parish of the Missionary District to declare:

"[t]his Parish, as a constituent part of the Protestant Episcopal Church in the Missionary District of Northern Texas, expressly accedes to, recognizes and adopts the Constitution, Canons, Doctrines, Discipline and Worship of the Protestant Episcopal Church in the United States of America, and the Constitution and Canons of the Protestant Episcopal Church in this jurisdiction, and acknowledges their authority accordingly."

Canon XXIV required all missions to declare: "We promise conformity to the Constitution and Canons of the General Convention, and of the Missionary District of Northern Texas, and rules and regulations of its Convocation." A copy excerpts from the 1878 canons of the Missionary District of Northern Texas are attached as Ex. 6.

7. In 1895, the General Convention gave permission to the Missionary District of Northern Texas to organize as a diocese of The Episcopal Church by the name of the Diocese of Dallas. At its first Convention held on December 19-20, 1895, the new diocese passed a Constitution that, in Article II, stated: "The Church in this Diocese accedes to the Constitution and Canons of the Protestant Episcopal Church in the United States of America, and recognizes the authority of the General Convention of said church." Article XXII required all canons of the Diocese to conform with the Constitution and Canons of The Episcopal Church. It provided: "Canons not inconsistent with this Constitution, or the Constitution and Canons of the General Convention may be adopted" A copy of excerpts from the 1895 Constitution of the Diocese of Dallas is attached as Ex. 7.

8. In 1896, the Diocese of Dallas adopted a set of canons. Canon XIII required the Constitution of each parish to include the following article:

"This Parish, as a constituent part of the Protestant Episcopal Church in the Diocese of Dallas, expressly accedes to, recognizes and adopts the Constitution, Canons, Doctrines, Discipline, and Worship of the Protestant Episcopal Church in the United States of America, and the Constitution and Canons of the Protestant Episcopal Church in this Diocese, and acknowledges their authority accordingly."

Canon XXVI included the form to which missions were required to affirm, which provided:

"We do hereby declare ourselves, individually and collectively, ready to do what in us lies, to establish and sustain the regular worship of the said [Protestant Episcopal] Church, and promote its influence in our

neighborhood, and we promise conformity to its doctrines, discipline, liturgy, rites and usages. We put ourselves under your charge, and will reverently obey your authority. We promise conformity to the Constitution and Canons of the General Convention, and of the Diocese of Dallas, and rules and regulations of its Council.”

A copy excerpts from the 1896 Canons of the Diocese of Dallas is attached as Ex. 8.

9. In 1982, the Bishop of the Diocese of Dallas called a special meeting of the Convention of that diocese for the purpose of considering “a resolution to divide the diocese and to request the General Convention . . . to ratify this action if approved.” Minutes of the Special Convention of the Diocese of Dallas (1982) at p. 1 (a true and correct copy of relevant excerpts from these Minutes is attached as Ex. 9). The resolution approved by the Convention explained that the division of the Diocese of Dallas was contemplated in order to better carry out the mission and ministry of the Episcopal Church, stating:

“Whereas, the Bishop believing that the call for creative Episcopal leadership can best be answered by a division of the Diocese and has given his consent to the proposal to divide the Diocese of Dallas into two dioceses in order to provide for effective Episcopal pastoral care and leadership of the clergy and congregations within the geographic area known at present as the Diocese of Dallas, and

“Whereas, the Diocese of Dallas is growing and the forecasts predict a continued increase in population which increase will provide unusual opportunities for growth and mission which can best be met by two distinct diocese[s], . . .

.....

“Now, therefore, be it resolved, that

“1. The Episcopal Church in the Diocese of Dallas with the approval of the Bishop shall be divided to form a new diocese which until it adopts a name, shall be referred to as the western diocese and the remainder to be known as the Diocese of Dallas.” Ex. 9, Minutes of the Special Convention of the Diocese of Dallas (1982) at pp. 2-3.

10. The Diocese of Dallas further recognized that the division of the diocese required the action and consent of the General Convention. Thus, the Convention further resolved:

“3. The Secretary of the Convention of the Diocese of Dallas is instructed to forward this resolution to the 1982 General Convention for ratification.

“4. Upon ratification by the General Convention, the Bishop is requested to take steps to organize the new diocese no later than 1 October 1983.

“The Bishop shall appoint a committee . . . to recommend an appropriate division of diocesan assets and obligations between the two dioceses.” *Id.* at 3.

11. At its meeting in September 1982, the Episcopal Church’s General Convention approved the division, contingent upon its receipt of certification that “all of the appropriate and pertinent provisions of the Constitution and Canons of the General Convention of the Episcopal Church in the USA and the Constitution and Canons of the Diocese of Dallas have been fully complied with.” *Journal of the General Convention of the Protestant Episcopal Church in the United States of America (1982)* at p. C169-170 (true and correct copies of which are attached as Ex. 10).

12. After it received the General Convention’s assent to its proposal, the Diocese of Dallas proceeded to divide. At the Annual Convention of the Diocese of Dallas held in October 1982, the Bishop explained: “The new diocese will come into being on 1 January 1983, the day on which it will file the necessary documents with the Secretary of the General Convention of the Episcopal Church.” *Journal of the Eighty Seventh Annual Meeting of the Diocese of Dallas (1982)* at p. 12 (true and correct copies of relevant excerpts from this Journal are attached as Ex. 11). Specifically:

“[t]he Primary Convention of the new diocese [would] be held November (13th) in Fort Worth, *in order to fulfill the requirements of the National Constitution and Canons*; namely:

“(a) to name the new diocese

“(b) to organize committees/officers

“(c) *to accede to the National Constitution and Canons*

“(d) to adopt its own Constitution/Canons

“(e) to perfect a budget.” *Id.* (emphasis added).

13. In connection with the plan to divide the diocese, the Diocese of Dallas also considered and adopted a resolution to divide the property and funds of the diocese and its congregations in proportion to the congregations comprising each part of the divided diocese. The Diocese of Dallas also resolved that after the division, it would “give to the western diocese a gift from the operating funds in the amount of One Hundred Thousand Dollars (\$100,000.00), payable in three (3) equal installments for a period of three (3) years.” *Id.* at 15.

14. The Bishop of Dallas called the “Primary Convention of the Episcopal Diocese of Fort Worth” on November 13, 1982. See Proceedings of the Primary Convention of the Episcopal Diocese of Fort Worth (1982) at pp. 1, 11 (true and correct copies of relevant excerpts from this Journal are attached as Ex. 12). The Convention was attended by clergy and lay delegates from each of the 30 Episcopal parishes and 24 Episcopal missions of the Diocese of Dallas that the new diocese was to receive. See *id.* at pp. 1-9; Ex. 11, Journal of the Eighty Seventh Annual Meeting of the Diocese of Dallas (1982) at p. 18. In his address to the Convention, the Bishop recited that one of the purposes of the meeting was to “affirm [their] desire as a New Diocese to come into union with the other dioceses within the Episcopal Church in the United States of America by accession to the National Constitution and Canons.” Ex. 12, Proceedings of the Primary Convention of the Episcopal Diocese of Fort Worth (1982) at p. 12.

At that meeting, and in accordance with the requirements of the Episcopal Church's Constitution, the delegates to the Convention unanimously concurred in and signed a resolution confirming their full accession to the Constitution and canons of the Episcopal Church:

“WHEREAS, the Primary Convention of the Diocese of Fort Worth, meeting at All Saints Episcopal Day School, in Fort Worth, Tarrant County, Texas, on Saturday, 13 November 1982, pursuant to approval of the 67th General Convention of The Episcopal Church, does hereby fully subscribe to and accede to the Constitution and Canons of The Episcopal Church, and

“IN SO DOING, we unanimously hereunto set our hand this 13th day of November in the year of our lord, One Thousand Nine Hundred Eighty-two; and the Secretary of Convention is hereby instructed to promptly inform the Secretary of General Convention by copy of this Resolution with all signatures, in accordance with Canon I.9(4) of General Convention; and with copies of the Constitution and Canons of the Diocese of Fort Worth adopted this day.” *Id.* at pp. 25-32.

15. The Convention further adopted a Constitution for the Diocese that affirmed that “[t]his Constitution shall commence and be in full force and effect on January 1, 1983.” Constitution and Canons of the Episcopal Diocese of Fort Worth (1982) (a true copy of which is attached as Ex. 13) at p. 18. Article I of the Constitution, titled “Authority of the General Convention,” restated the Diocese’s accession to the Episcopal Church’s Constitution and canons: “The Church in this Diocese accedes to the Constitution and Canons of the Episcopal Church in the United States of America, and recognizes the authority of the General Convention of said Church.” *Id.* at p. 1.

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State of New York)

County of New York

ss.

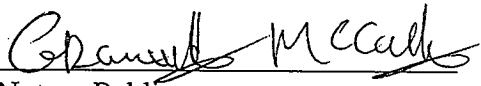
My name is Robert Bruce Mullin. I am above the age of eighteen (18) years and am fully competent to make this expert affidavit. All the statements contained in this affidavit are true and correct to the best of my knowledge and belief.

This 17 day of July, 2009.



Robert Bruce Mullin

SUBSCRIBED AND SWORN TO
before me, the undersigned authority,
on this 17 day of July, 2009.



Notary Public

My commission expires:

3/26/2011



GRANVILLE MCCALLUM
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01MC6163404
QUALIFIED IN KINGS COUNTY
MY COMMISSION EXPIRES MARCH 26, 2011