

The Election is Over

By Charles M. Greene

Orlando and surrounding cities in Central Florida have a large and active Asian community which continues to grow in numbers and influence. The Vietnamese community of Central Florida is particularly active and its reach is not limited to the area locally known as “Little Saigon” (near the intersection of Mills and Colonial Avenue), where one can readily find quality Asian groceries, clothing stores, and many restaurants that serve delectable authentic Vietnamese cuisine.

As with most communities, growth in economic and political influence generally leads to factions, and factions inevitably lead to disputes.

In 2010, a rift in the Vietnamese community pitted one segment of the community against another when battle was joined to obtain control of the Florida Vietnamese Buddhist Association, Inc. (or “Long Van Temple”), a non-profit religious organization operating in Orlando, Florida.

The Election

The Long Van Temple was the first Buddhist Temple in the State of Florida (there are now several) and is still Central Florida’s most influential Buddhist organization. In 2010, a member of the Temple tried to obtain control of the Temple by running for its presidency. The election was preceded by verbal and written attacks against certain candidates and the board of the Temple, which exacerbated the rift in the community. Charges and counter-charges were hurled. The present board and officers of the Temple were accused, among other things, of ignoring the by-laws which the Temple had established for its governance. Consequently, the election was heated and hotly contested.

The election was held in January of 2010. A new president was elected by an overwhelming margin. The disgruntled losing presidential candidate contested the results. His objections to the election (purportedly raised under the Temple’s by-laws) were found by the Temple’s board to be without merit and rejected.

Losing Candidate files Lawsuit

Refusing to accept the will of the majority, the losing candidate filed a lawsuit in which he asked the court to overturn the election because the Temple had allegedly failed to follow its own by-laws.

The lawsuit was initially filed pro se; the Temple moved to dismiss on the grounds that the lawsuit did not state a cognizable cause of action. The lawsuit was thereafter stalled while the former candidate went through a couple of lawyers and amended his pleadings. Eventually, the candidate was sufficiently satisfied

with his pleadings to try to move the case forward. Lawyers for the Temple again moved to dismiss.

The Temple’s motion to dismiss was based on several different grounds, only one of which is pertinent here: the Temple argued that the religious freedoms guaranteed by the First and Fourteenth Amendments to the United States Constitution barred the court from considering the losing candidate’s claims.

Lawyers for the Temple argued that the case involved the struggle for control of a religious organization. They argued that the plaintiff sought to assume the office of the presidency so that he and those who supported him could control the direction of the Temple. The majority of the members of the Temple did not agree with the plaintiff, as the election results had made clear. Consequently, the Temple argued, the court was barred under the First and Fourteenth Amendments from affording the plaintiff the relief he sought because the election was an internal decision of a religious organization which the court could not override without violating the Constitutional guarantee of religious freedom.

The Ecclesiastical Doctrine

In construing the Constitutional guarantee of religious freedom, the courts have articulated what is known as the “ecclesiastical doctrine.” The ecclesiastical doctrine bars sectarian courts from intervening in internal matters of religious organizations to the extent such intervention might affect *doctrine* (the courts generally cannot decide whether the doctrine is really a “religion”) or *governance* (because the power to decide who governs is the power to affect or destroy religious doctrine) or *internal disputes* (because the power to intervene and decide internal disputes can also impair or determine the religious doctrine).

The ecclesiastical doctrine does not allow members of religious organizations to “hide behind the church” and shield themselves from being held accountable for violations of general sectarian civil and criminal laws. For example, a church member may not claim religious freedom as a defense to a charge of child molestation because child abuse laws apply universally to everyone regardless of his or her religious beliefs.

On the other hand, the United States Constitution allows religious organizations to establish their own rules and regulations for *internal* discipline and government and to create tribunals for adjudicating disputes over those matters. Thus, a lawsuit that seeks to inject the courts into the internal governance of a religious organization is barred.

Judge Egan's Opinion

The Temple's motion to dismiss was heard in March of 2012. On March 15, 2012, Circuit Judge Robert J. Egan rendered his opinion and dismissed the lawsuit with prejudice.

In a well-reasoned decision in which he parsed controlling precedents, Judge Egan acknowledged "our country's long-standing principle that the First Amendment provides churches with the authority to decide for themselves, free from state interference, matters of church government as well as those of faith and religious doctrine." Judge Egan distinguished church-related cases that "can be resolved by applying neutral principles of law without inquiry into religious doctrine and without resolving a religious controversy." Judge Egan found that "the Plaintiff is asking this Court to interpret the by-laws of a religious organization in a manner different than its governing body has interpreted them, set aside a religious organization's internal election results and require a new election that comports with the by-laws, as interpreted by the Court." Thus, Judge Egan held, the case involved the "question of how the Temple should govern itself, an activity which the undersigned rules is an entirely religious matter and thus outside the Court's jurisdiction."

Judge Egan's decision was applauded by members of the Temple, all of whom had closely followed the case from its inception. From their perspective, the religious freedoms which the Temple sought to protect remain sacrosanct in Orange County, Florida.

Charles M. Greene represented the Long Van Temple.



CHARLES M. GREENE is a trial attorney who handles cases in federal and state courts. Mr. Greene was born in Tallahassee, Florida and is admitted to the Florida, New York, and Georgia Bars, as well as the U.S. Supreme Court; U.S. Court of Appeals, Eleventh Circuit; and U.S. District Courts for the Southern, Middle, and Northern Districts of Florida. He obtained his B.A. from the State University of New York at Albany (summa cum laude, 1984) and his J.D. (cum laude, 1988) from Albany Law School of Union University. Upon graduating law school, Mr. Greene was hired under the Attorney General's Honors Program and joined the United States Department of Justice, where he received an appointment as a United States Trial Attorney. Mr. Greene tried cases in federal courts across the country and, in 1991, received the Justice Department's Outstanding Trial Attorney Award. In 1993, Mr. Greene returned to Florida and eventually formed his own firm. In 2004, Mr. Greene was appointed Representative of the Criminal Justice Act ("CJA") Panel for the United States District Court for the Middle District of Florida, a position in which he served two terms. Mr. Greene continues to head the CJA Panel of criminal defense lawyers in Orlando. Mr. Greene handles commercial litigation and criminal defense cases in courts throughout the State.