

IN THE SUPREME COURT
STATE OF GEORGIA

TIMBERRIDGE PRESBYTERIAN)
CHURCH, INC./TIMBERRIDGE)
PRESBYTERIAN CHURCH,)

Appellant,)

v.)

PRESBYTERY OF GREATER)
ATLANTA, INC.,)

Appellee.)

SUPREME COURT DOCKET
NOS. S09A1494, S09A1495

BRIEF OF APPELLEE
PRESBYTERY OF GREATER ATLANTA, INC.

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JURISDICTIONAL STATEMENT

Appellant contends that this Court has jurisdiction over the cases at issue under the title to land and equity classes of cases as set forth in Article VI, Section VI, Paragraph III of the Constitution of the State of Georgia. This Court has narrowly construed the phrase “title to land” to those actions “such as ejectment and statutory substitutes in which the plaintiff asserts a presently enforceable legal right against the possession of the defendant for the purposes of recovering the land.” Georgia Dept. of Trans. v. Meadow Trace, Inc., 278 Ga. 423, 424 (2004)(citing Bond v. Ray, 207 Ga. 559, 561 (1951)). The ejectment action was brought by the Presbytery of Greater Atlanta, Inc. (“PGA”) to recover possession of the church property from the “disaffiliated” church and the Court has jurisdiction over the ejectment case as it relates to title to land.

It is less clear whether this Court has jurisdiction over the related declaratory judgment case brought initially by the Presbyterian Church (U.S.A.) (“PCUSA”) affiliated church corporation. The declaratory judgment action and the ejectment action were not consolidated by the trial court but argument on the cases was consolidated. Neither declaratory judgment actions regarding land nor quiet title actions are, as a matter of course, cases relating to title to land. See Henson v. Tucker, 278 Ga. App. 859 (2006)(plaintiff brought quiet title action and appealed trial court judgment to Georgia Supreme Court, which

transferred the case to the Court of Appeals finding that the action did not invoke the Supreme Court's title to land jurisdiction); Barton v. Gammell, 238 Ga. 643 (1977)(declaratory judgment action relating to the conveyance of easements was not a case respecting title to land). In this case, the Appellant sought a declaratory judgment specifically declaring that all property held by or titled in the name of the local PCUSA affiliated church corporation was held by the corporation and that Appellee had no right, title or interest therein. Appellee does not object to this Court's exercise of jurisdiction over the declaratory judgment case.¹

These cases, though not consolidated below, are related cases that arise from the same facts and should be decided by the same appellate court for judicial economy and in order to avoid any confusion and the possibility of inconsistent decisions by the Supreme Court and the Court of Appeals.

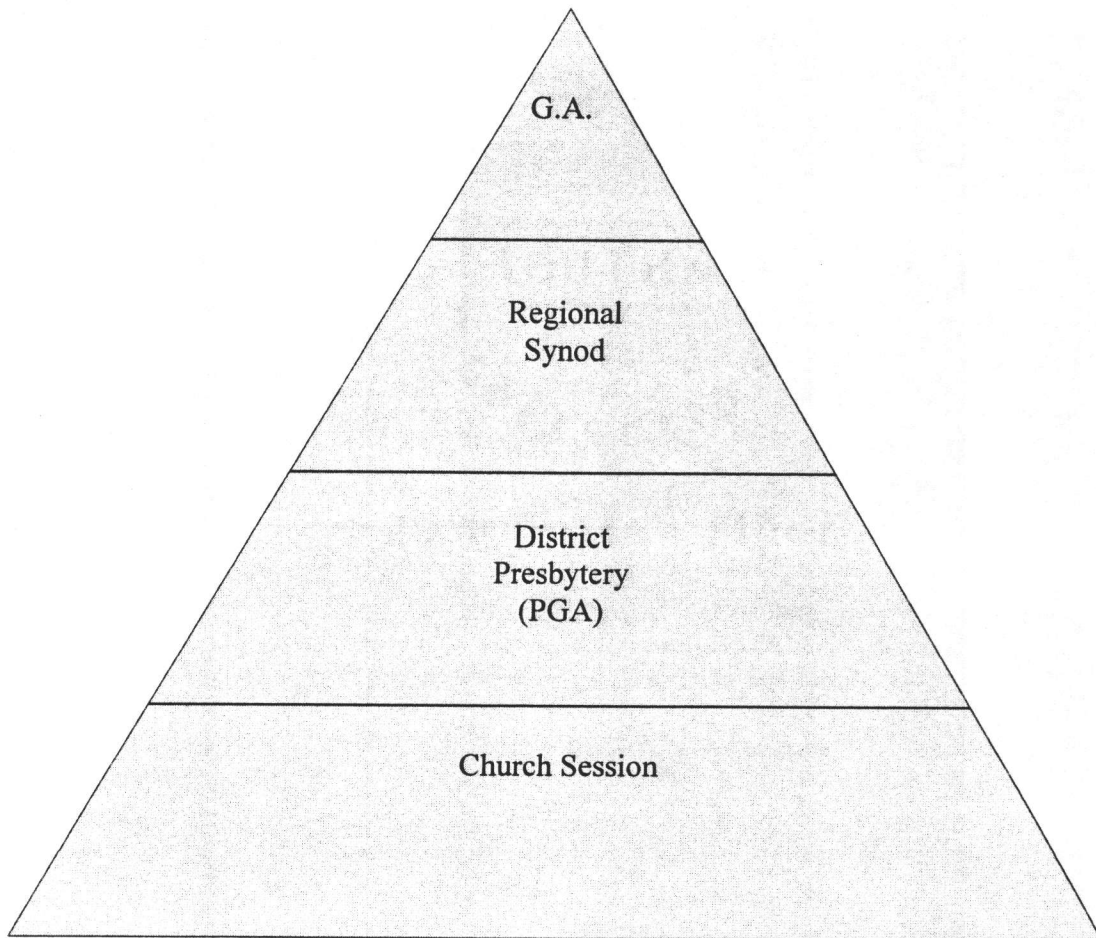
STATEMENT OF FACTS²

For 127 years Timberridge Presbyterian Church ("TPC") has been a member of the PCUSA. (R. 753-756.) PCUSA is a national hierarchical Presbyterian denomination that was formed when the former "Northern" branch

¹ The equitable relief requested by Appellant in the declaratory judgment case was ancillary to the underlying declaratory judgment count and does not provide a basis for the exercise of the Court's equitable jurisdiction.

² All record cites are to the record in case S09A1494 (declaratory judgment action) unless otherwise noted.

of the denomination, the United Presbyterian Church in the United States of America (“UPCUSA”), came together in reunion with the “Southern” branch of the denomination, the Presbyterian Church in the United States (“PCUS”).³ (R. 661.) PCUSA is a hierarchical denomination with the following structure:



³ The PCUSA is, in all ecclesiastical, judicial, legal and other respects, the successor of both the PCUS and the UPCUSA. PCUSA Articles of Agreement, Preamble, Book of Order, Appendix B, p. B-1. (R. 732.)