

Judge rules for breakaway church in St. Louis

by [Tim Townsend](#)

March 20, 2012

c. 2012 St. Louis Post-Dispatch

ST. LOUIS (RNS) Wading into sensitive church-state territory, a Missouri judge has ruled in favor of an independent-minded Catholic church that claims ownership of its property and autonomy from the Archdiocese of St. Louis.

Judge Bryan Hettenbach's 50-page ruling in favor of St. Stanislaus Kostka Catholic Church is unusual for the strong interjection of a civil court into internal church matters.

In a statement, St. Louis Archbishop Robert Carlson promised to appeal the judge's opinion "all the way to the Supreme Court."

Hettenbach was careful to point out in his ruling that civil courts have no business wading into theological or ecclesiastical issues, or interpreting church law.

But he also acknowledged that the case brought by the archdiocese had given him no choice but to grapple with the Catholic Church's internal canon laws.

St. Stanislaus's lawyers believe Hettenbach succeeded. On Thursday (March 15), Richard Scherrer, one of the church's attorneys called the judge's opinion "unassailable," and a "correct finding of law."

"I don't see any way that a court of appeals is going to disturb this brilliant job by a fine jurist," Scherrer said.

The ruling upholds St. Stanislaus's ownership of its property and its right to craft bylaws that limit the authority of the Roman Catholic Church over its governance.

Hettenbach relied on so-called "neutral principles of law" -- secular documents like deeds, constitutions and bylaws that govern individual churches as organizations. In

using the neutral principles approach, Hettenbach rejected the traditional approach of civil courts deferring to the internal legal mechanisms of a church.

In 1891, the members of St. Stanislaus formed a corporation under Missouri law in order to secure a loan for a new church building. The civil corporation, called Polish Roman Catholic St. Stanislaus Parish, existed alongside the parish itself. The lay board overseeing the corporation would be allowed to control the property and assets while the archbishop would appoint the board members and pastor.

The corporation's original articles of agreement, signed by the pastor and five parishioners, said the "purpose" of the corporation was, in part, "to maintain a Polish Roman Catholic Church."

Hettenbach's decision rested on his interpretation of whether St. Stanislaus has remained true to that purpose. Specifically, the judge needed to decide if the church's original mission had been undermined by recent revisions to its bylaws.

Those changes stemmed largely from a request in 2003 by then-Archbishop Justin Rigali that the church undergo a legal restructuring. When Rigali sent a vicar general to carry that message, his methods served only to deepen the church's resolve to be independent.

The next year, the board rewrote its bylaws, eliminating the archbishop's authority. Then-Archbishop Raymond Burke responded by pulling the parish pastors, declaring several board members excommunicated and announcing that the church was no longer Roman Catholic.

Ignoring the archbishop's authority, the board hired its own pastor, who was, in turn, suspended, excommunicated and eventually defrocked. In the archdiocese's view, St. Stanislaus was no longer a Catholic church.

That position was central to its argument before Hettenbach. Using the neutral principles of law approach, the archdiocese argued that the St. Stanislaus corporation had cast away the church's Catholic status, ignoring Vatican directives, and had broken its original agreement to "maintain a Polish Roman Catholic Church."

Or as the archbishop said in a press conference after the ruling, the corporation had "transformed St. Stanislaus into an entity which has no resemblance to a Roman

Catholic parish."

Hettenbach, however, interpreted things differently.

In his ruling, the judge proceeded methodically through each bylaw change that the archdiocese argued violated canon law. If those bylaw changes didn't "expressly contradict the 'purpose' of maintaining a Roman Catholic Church," Hettenbach determined it was not in conflict with the corporation's originating documents.

But he steered clear of determining whether St. Stanislaus has actually fulfilled its chartered mission of maintaining a Catholic church to the satisfaction of higher church authorities. To do so, he said, would inappropriately insert the court into church disputes over which it has no jurisdiction.

"Whether or not Defendants are adhering to the standards required by the Catholic Church is clearly a theological controversy," the judge wrote.

In the end, Carlson said, the judge "has substituted his own analysis of church law."

Frank Ravitch, law professor at Michigan State University, said Hettenbach's ruling "might be the unique, rare case" that shows that even in the face of voluminous canon law, an individual church may have sufficient legal documentation to exert its independence.

And that should put centralized religious organizations like the Catholic Church on notice. "If you're a hierarchical church, make sure your titles are clear," Ravitch said.