

CITATION: British Methodist Episcopal Church v. Davis, 2010 ONCA 8  
DATE: 20100108  
DOCKET: C49773 and C50430

COURT OF APPEAL FOR ONTARIO

Laskin, MacPherson and Rouleau JJ.A.

BETWEEN:

The British Methodist Episcopal Church

Applicant (Respondent)

and

Erica Davis

Respondent (Appellant)

Erica Davis, appearing in person

David Dunnet, for the respondent

Heard and released orally: January 7, 2010

On appeal from the orders of Justice A. Donald K. MacKenzie of the Superior Court of Justice, dated November 18, 2008 and January 27, 2009.

**ENDORSEMENT**

[1] The appellant, Erica Davis, appeals two orders of MacKenzie J. dated November 18, 2008 and January 27, 2009. In the first order, the motion judge transferred title to the British Methodist Episcopal Church in Guelph to the respondent and declared that Ms.

Davis was in contempt of Snowie J.'s order dated September 9, 2008 relating to Ms. Davis' access to the church premises and retention of church property. In the second order, the motion judge ordered that Ms. Davis be incarcerated for 14 days for failing to comply with the component of his previous order requiring Ms. Davis to deliver up personal property belonging to the respondent. However, the order also gave Ms. Davis 10 days to purge her contempt by delivering up the relevant documents, records and personal property.

[2] In oral argument, Ms. Davis said that she is no longer claiming title to the church property. It is clear, and the respondent acknowledges, that Ms. Davis has purged her contempt in several respects – she is no longer attending the church premises, she is not participating in or interfering with the church services, and she has returned her church keys. The only remaining dispute is whether Ms. Davis still possesses church property – i.e. records and documents. In her affidavit, Ms. Davis says that she does not possess such documents and, at this juncture, and in light of her compliance with the other components of the various court orders, we are inclined to accept her assertion.

[3] As a result of the contempt being purged, there is no longer any need for incarceration or a Warrant of Committal and the warrant is set aside.

[4] The appeals are dismissed. Costs to the respondent fixed at \$2000 inclusive of disbursements and G.S.T.

“J.I Laskin J.A.”

“J.C. MacPherson J.A.”

“Paul Rouleau J.A.”