

PR. 62-77 in this record, fall 30

ref 69 fr. 0570, PR. 109-114 of this dep.

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

SEVE

DONALD L. BARNETT, )  
 )  
Plaintiff )  
 )  
vs. )

NOV 16 1990  
10:05  
EDWARDS, SEH.  
WIGGINS & HATHAWAY  
ATTORNEYS AT LAW

NO. 88-2-04148-2

JACK A. HICKS, JACK H. DuBOIS, )  
and E. SCOTT HARTLEY, )  
individually and as the Board of )  
Directors of COMMUNITY CHAPEL )  
AND BIBLE TRAINING CENTER and )  
COMMUNITY CHAPEL AND BIBLE )  
TRAINING CENTER, )  
 )  
Defendants )

COPY

DEPOSITION OF DAVID MOTHERWELL  
VOLUME I

PR. 62-77

APPEARANCES:

For Plaintiff: MR. RODNEY PIERCE  
Attorney at Law  
800 Fifth Avenue, #4200  
Seattle, WA 98104

For Defendants: MR. ROBERT ROHAN  
Attorney at Law  
Rohan, Goldfarb, Breskin  
and Shapiro  
1109 First Avenue, #212  
Seattle, WA 98101

Also Present: Donald L. Barnett  
(During a.m. session only)

BE IT REMEMBERED that the deposition of DAVID  
MOTHERWELL was taken on November 13, 1990, at 800 Fifth  
Avenue, Suite 4200, Seattle, Washington, before Mary Jean  
Berkstresser, Notary Public.

WHEREUPON, the following proceedings were had, to wit:

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870 10th Lane, Fox Island, Washington 98333, Tacoma 272.9288, Bremerton 373.9032, Seattle 622.9919

1 Q Do you remember the dates that was signed?

2 A I believe it was signed on January 25.

3 Q Does that help you as to the start of the eldership  
4 hearings?

5 A Well, the eldership hearings that were referred to in that  
6 agreement began on that date or afterwards.

7 Q Do you know if they started on a date after January 25 or  
8 on January 25?

9 A I don't remember exactly.

10 Q Prior to the eldership hearings commencing, did you have  
11 any conversations with Donald Barnett with regards to the  
12 eldership hearings?

13 A Yes.

14 Q How many occasions did you have conversations with him  
15 about those eldership hearings prior to the eldership  
16 hearings beginning?

17 A I don't remember the number. More than one.

18 Q Tell me what meetings you do recall.

19 A I can't recall a specific meeting, but he would meet with  
20 me on the phone or in person as a intermediary between  
21 himself and the eldership, and I would communicate some of  
22 his thoughts to the eldership and some of the eldership  
23 thoughts to him.

24 Q I'm just looking at the period before the eldership  
25 hearings.

1 A That's what I'm referring to.

2 Q And you don't recall any of the meetings that occurred  
3 between you and him or any of the conversations that  
4 occurred between you and him?

5 A Not verbatim.

6 Q I'm not asking for verbatim. I'm just asking if you recall  
7 any meetings or conversations with Donald Barnett.

8 A I don't recall a specific meeting at a specific time with a  
9 specific thing said or not said. It was just an occasional  
10 phone call, an occasional personal visit in the days  
11 preceding January 25th.

12 Q Do you recall any conversations that you had with Donald  
13 Barnett during this first period of time before the  
14 eldership meetings occurred?

15 A Bits and pieces.

16 Q Tell me what you do recall from these bits and pieces of  
17 your telephone conversations with Donald Barnett.

18 MR. ROHAN: And the personal meetings?

19 MR. PIERCE: No, just the telephone  
20 conversations.

21 THE WITNESS: To the best of my memory, for  
22 instance a paraphrase or approximation of one of the  
23 meetings --

24 Q One of the telephone calls? I just want telephone calls.

25 A I can't differentiate between the telephone calls and the

1           personal meetings.

2   Q       Tell me what telephone calls and personal meetings you can  
3           recall with Donald Barnett and the conversations that took  
4           place.

5   A       The subject came up of this agreement that he signed in my  
6           presence on January 25th, and I informed him that the  
7           eldership felt it was in his best interest and the church's  
8           best interest that he sign this agreement so that he  
9           wouldn't appear hypocritical, abusing his position, rigging  
10          the hearings, abusing his power and position for his own  
11          behalf, and we discussed that. I can't recall whether it  
12          was in person or on the phone.

13   Q       What was discussed?

14   A       He said, what do they want me to sign, and I told him what  
15          I knew that they wanted him to sign.

16   Q       What did you tell him?

17   A       The gist of what is in the agreement.

18   Q       Do you remember what words you used when you spoke with Don  
19          Barnett?

20   A       No, I don't remember exactly the words. I just said it is  
21          in your best interest to sign this. That's a rough quote,  
22          the heart of what I said. That it is in your best interest  
23          to sign this, that you are going to be appear to be abusing  
24          your office and your position and you are not trusted.  
25          Words to that effect.

1 Q What else do you remember occurring in this meeting or  
2 conversation?

3 A Oh, he would ask me what would happen if I don't sign it  
4 and what will happen if I don't attend the meetings. And I  
5 would say I can't say for sure -- and again I'm giving you  
6 a rough paraphrase, approximations of what was said. I  
7 can't give you exact quotes, but again the gist of it was  
8 that if he didn't cooperate that Jerry Zwack would take the  
9 information that he had to a broader audience than just the  
10 eldership, and so I communicated that with Don more than  
11 once.

12 Q This is in the one conversation?

13 A It was probably in more than one conversation.

14 Q On more than one specific occasion?

15 A Yes. That is the best of my recollection.

16 Q Let's say on this one that you do recall here --

17 A I'm not recalling a specific one. I'm just recalling the  
18 message or the messages that were exchanged between he and  
19 I, the eldership and I, and he and the eldership with me as  
20 an intermediary. I'm recalling the general substance of the  
21 exchange.

22 Q Anything else that you recall in either a conversation or  
23 meeting with Don Barnett during this first period?

24 A Oh, he would ask about what other elders may or may not do  
25 if he refused to comply with the meeting, and I would tell

1           him I can't say specifically but that I know that they are  
2           almost to a man determined to have a meeting or determined  
3           to have an investigation.

4   Q       Did you use the word investigation?

5   A       Meeting, investigation, hearing, trial, inquiry, it was one  
6           or a combination of one of those words at some given time  
7           or another.

8   Q       Did you use the words that you just described?

9   A       I would have used one of those words at some time. I don't  
10          know if I used all of them but --

11   Q       So you don't know whether you used the word trial with Don  
12          Barnett?

13   A       I know he used the word trial often, so I'm assuming I did  
14          too in my response.

15   Q       Do you recall any other conversations or communications  
16          between you and Don Barnett in this first period?

17   A       Well, during this period -- which period are you talking  
18          about?

19   Q       The first period I'm talking about is the --

20   A       Prior to January 25?

21   Q       I'll set the foundation. The first period I'm talking  
22          about are conversations that you had with Don Barnett  
23          during the period up until the start of the elders'  
24          hearings on January 25, 1988. The second period I'm  
25          talking about will be January 25 to March 4 until the end

1 of the elders' hearings. The third period would be  
2 anything that occurred after March 4, 1988.

3 Do you understand that?

4 A Right. We had other discussions on Jerry Zwack in that I  
5 was kind of an intermediary between Jerry Zwack and Don  
6 Barnett.

7 Q What occurred?

8 A Don would insist that Jerry was -- in Don's mind he thought  
9 that Jerry was upset about his dismissal from his position  
10 on staff, and I would reply to Don that I don't hear that  
11 from Jerry, I have yet to hear that from Jerry, that Jerry  
12 is taking issue with your unaccountability. I am giving  
13 you paraphrases, the substance of the conversation. I  
14 can't recall if any of these words were used exactly and in  
15 the order that I am giving them to you, but this was the  
16 substance of what I communicated between Jerry and Don  
17 Barnett.

18 Q Do you recall any other communications or conversations  
19 that you had with Don Barnett during this first period?

20 A Well, the further back you go -- what I have done in  
21 speaking here is I have started with January 25th and I'm  
22 working backwards, so the further back you go the more  
23 unclear the conversations go. During calendar year 1987 we  
24 had discussions just about him in my role as his counselor.

25 Q These are discussions that just you and Don Barnett had?

1 A Right.

2 Q Did it involve any eldership hearings?

3 A No.

4 Q I'm limiting the first period to any discussions you had  
5 with Don Barnett with regard to the eldership hearings.

6 A I've covered a lot of that. There may be more that may  
7 come to my memory at some time in the future, but I have  
8 covered the things that are immediately coming to mind.

9 Q Do you recall any other conversations or communications you  
10 might have had with Don Barnett during this first period of  
11 the eldership hearings that we talked about?

12 A Not that I'm sure of.

13 Q Did you have any conversations during this first period  
14 with Don Barnett with regards to what the eldership  
15 hearings could result in for Don Barnett?

16 A I did have conversations with him about what would result  
17 if we didn't have the meetings or the hearings.

18 Q I'm asking did you have any conversations with him as to  
19 what he could expect to have happen if there was the  
20 eldership hearings?

21 A I think it was that if the investigation or trial or  
22 hearing or inquiry went successfully and the issues were  
23 addressed and whatever corrections or changes that were  
24 necessary were made, then the hearings would conclude on  
25 that note. All along I know I stressed that if he



1 cooperated it would go well, and if he failed to cooperate  
2 that it would be trouble.

3 Q Did you talk to him about what the eldership hearings could  
4 result in for him if they didn't go well or if he didn't  
5 make the corrections necessary?

6 MR. ROHAN: Objection. Asked and answered.

7 Q Of course no one knew how they would go, and we were  
8 always, we meaning any of us, were always assuming the  
9 brighter side of it, but even though we were assuming the  
10 brighter side, even though we were assuming a favorable  
11 ending, I communicated to him that if they did not go well  
12 it would be trouble.

13 Q Did you explain what trouble meant?

14 A My explanation of trouble changed as the hearings  
15 progressed, and if you are referring to the time prior to  
16 the commencement of the hearings, I don't think it was  
17 explained other than just trouble, to the best of my  
18 memory.

19 Q Did he ever ask you what you meant by trouble?

20 A No. He knew. He knew that at least this information would  
21 go to a much broader audience and that that would be great  
22 trouble. *He knew that for sure in my judgment.*

23 Q Can you explain to us what you mean by this information  
24 going to a much broader audience?

25 A The complaints that Jerry Zwack had. This is the

1 information. The broader audience was to at least the  
2 church, if not a broader audience than the church.

3 Q What is a broader audience than the church?

4 A The media.

5 Q What are the complaints of Jerry Zwack as you understood  
6 them prior to the commencement of the elder hearings?

7 A Extensive sexual misconduct, abuse of authority, abuse of  
8 his position, abuse of his wife, lying to cover up,  
9 mishandling of his office and the congregants because of  
10 his misconduct, and other things.

11 Q What other things?

12 A Other things that related to these things that I have  
13 already mentioned.

14 Q What are those things that related to this?

15 A For instance, allegations that he disfellowshipped people  
16 or threatened to disfellowship people if they disseminated  
17 information like what Jerry Zwack had, information as to  
18 what he would do on vacations with women congregants, just  
19 related information. I'm kind of getting off into the tag  
20 ends here.

21 Q This was the information and complaints set forth in the  
22 December 23, 1987, letter of Jerry Zwack directed to the  
23 senior elders and elders?

24 A Yes.

25 Q To make sure I understand this, you said if things did not

1 go well in the eldership hearings that were being set up  
2 that this could be trouble and that trouble included the  
3 fact that this information could be disseminated to the  
4 church as a group or to the media outside?

5 A That was a real possibility.

6 Q And if he did not participate in the meetings that this  
7 trouble could still exist with the dissemination of the  
8 information to the church and the media?

9 A If he did not participate?

10 Q Right.

11 A Right.

12 Q Was there any other discussions as to what could or could  
13 not happen to Don Barnett if he participated in the elders'  
14 hearings?

15 A He mentioned at that time, as he had mentioned in months  
16 past -- for instance, in one meeting in the fall of '87 --  
17 and he kind of would restate this fear from time to time  
18 that he would lose his church.

19 Q Did you talk to Don with regards to what you saw could or  
20 could not happen to him as a result of his participation in  
21 the elders' hearing during this first period of time prior  
22 to the elders' hearings starting?

23 A Yes.

24 Q Was there anything else that you discussed with Don besides  
25 what you previously told us?

1 A Not that I can remember.

2 Q Did you discuss with Don at all the authority of the elders  
3 to take some action against him?

4 A Not at that time.

5 Q Did you discuss with Don whether --

6 A That I can recall.

7 Q Did you discuss with Don whether or not the elders had any  
8 authority to disfellowship him?

9 A Not at that time that I can recall. It was an assumption  
10 in my mind that no one was above disfellowship. I believe  
11 that assumption was shared by others.

12 Q Did you discuss that with Don Barnett prior to the  
13 eldership hearings starting?

14 A Not that I can specifically recall.

15 Q Did you discuss with Don Barnett prior to the eldership

1 talked to Don with regards to the fact that the elders  
2 could disfellowship him?

3 MR. ROHAN: What time period?

4 MR. PIERCE: During the first second or third

1 A Absolutely.

2 Q And that was based on what facts?

3 A The Bible.

4 Q Was there any documents, articles, bylaws, provisions of  
5 any type involving Community Chapel and Bible Training  
6 Center which you used to form that opinion?

7 A My discussions with Don Barnett prior to January 28, 1988,  
8 were always regarding the Bible, and his with me were  
9 always regarding the Bible in terms of responsibility,  
10 power, authority, issues like that.

11 Q Am I correct that your position is that he could be  
12 disfellowshipped based on biblical authority?

13 A Absolutely.

14 Q Did you in forming your opinion that he could be  
15 disfellowshipped rely on any articles, bylaws, or any other  
16 documents from Community Chapel and Bible Training Center?

17 A Did I?

18 Q Yes.

19 A I felt there was no need to. He had at all times in every  
20 relationship I am aware of, other people, with the church,  
21 with me, he would present himself or characterize himself  
22 as submissive to the scriptures.

23 Q In Community Chapel and Bible Training Center was there one  
24 individual who was the interpreter of the scriptures for  
25 Community Chapel and Bible Training Center?

1 A We had seven, eight, nine theologian elders who were  
2 entrusted with the -- well, keeping watch over the teaching  
3 and interpretation of the Bible. But even with that, Don  
4 Barnett would say this is the way I read it, you make up  
5 your own mind, in his sermons on occasion.

6 Q Was the interpretation of scripture for Community Chapel  
7 and Bible Training Center the primary duty for Don Barnett?

8 MR. ROHAN: Objection. Lacks foundation. Asked  
9 and answered.

10 A No. He frequently would even say that there were  
11 theologians that had a better handle on sections of  
12 theology than he did, although he was obviously regarded as  
13 a voice as well, but he didn't claim to be the sole voice,  
14 and he even claimed that others were as well trained or in  
15 some instances better trained in certain things that he  
16 was.

17 Q Do you recall in the bylaws that it provided that the  
18 original pastor, Donald Barnett, could not be removed  
19 without his consent?

20 A Yes.

21 Q Do you know why that provision was in there?

22 A No. I am assuming he put it in there when they were  
23 originally drafted.

24 Q Do you recall any other conversations during this first  
25 period of eldership hearings up until they commenced

1           between you and Donald Barnett?

2    A       You are restricting this to elders' hearings?

3    Q       Yes.

4    A       Well, the matter of lawsuits was discussed between he and I  
5           and his uncertainty about how they would end up.

6    Q       Tell us all you recall with regard to those conversations?

7    A       As I am talking I'm recalling bits and pieces more, and I  
8           am giving you the substance of what was discussed. The  
9           main thing that was discussed was what would happen if the  
10          hearings didn't go, what would happen if they did, and if  
11          they went well, and what Jerry and the other elders may or  
12          may not do or said that they would do if the hearings  
13          wouldn't commence. That is the substance of what was  
14          discussed. I am sure other things were too.

15   Q       When did your first conversation with Donald Barnett take  
16          place with relation to these eldership hearings starting?

17   A       I think it was in December of 1987.

18   Q       Would it have been shortly after the letter of Jerry Zwack?

19   A       Right.

20   Q       Did you have discussions with any of the elders with regard  
21          to those eldership hearings in 1987?

22   A       It was so close to the turn of the year, I don't remember  
23          if it was in December of '87 or January of '88.

24   Q       Within the first couple of weeks?

25   A       Yes.



1 Q What conversation did you have?

2 A For instance, Ron Myrick said that there absolutely must be  
3 hearings and we needed to get to the bottom of this for  
4 instance. Let me think who else. Gerry Slaminski said  
5 similar things. I spoke to Ron, Jerry, George Bowker who  
6 voiced similar feelings. I was speaking to Lanny Peterson  
7 about this frequently. To Russell MacKenzie because Don  
8 had sent a letter to each of them -- or rather Jerry Zwack  
9 sent a letter to each of them.

10 Q During this period starting at the end of 1987 up until the  
11 start of the eldership hearings on January 25, do you  
12 recall any other conversations that you had with Donald  
13 Barnett which did not relate to the eldership hearings?

14 A Frankly, no.

15 Q Showing you what is Exhibit Number 1 to these depositions  
16 here, is that a copy of the agreement that you recall  
17 discussing with Donald Barnett on or around January 25,  
18 1988?

19 A Yes.

20 Q And showing you what is Exhibit Number 2, is that a copy of  
21 the guidelines for the eldership hearings between Don  
22 Barnett and Jerry Zwack?

23 A Well, this says guidelines for eldership hearings, but I  
24 believe it was a draft. Exhibit 3 says the same thing and  
25 it is not marked as Exhibit 2 is.