Court Upholds Sale of Polygamous Church Assets

A federal appeals court ruled Monday that a polygamist sect on the Utah-Arizona border waited too long to challenge a court-ordered takeover, clearing the way for state authorities to break up a **church** trust and sell assets including homes, businesses and farms in two small towns.

A three-judge panel of the 10th U.S. Circuit Court of Appeals overturned a federal judge in Salt Lake City, who ruled nearly two years ago that Utah's takeover violated the constitutional rights of the Fundamentalist **Church of Jesus Christ of Latter-Day Saints.** U.S. District Judge Dee Benson's decision had frozen the sale of church assets in Hildale, Utah, and Colorado City, Ariz., and put Utah's takeover in limbo.

Utah seized control of the community trust in 2005 amid allegations of mismanagement by church officials, including now-jailed polygamist sect leader **Warren Jeffs**.

The appeals court panel didn't rule on the constitutionality issue. Instead, it determined the FLDS waited too long—nearly three years—to take legal action.

The FLDS sued the attorneys general of Utah and Arizona, along with the Utah district judge overseeing the takeover and the fiduciary appointed to break up the church trust, Bruce Wisan. The first lawsuit was filed in state courts in 2008, but as the church waited for a decision it took a similar case to federal court. Ultimately, the Utah Supreme Court ruled the church was too late to file a claim anywhere—not because it missed a fixed deadline but because changes had been made to the church trust that could not be undone.

The 10th Circuit panel said it was taking guidance from the Utah Supreme Court.

“We conclude that the FLDS Association is precluded from pursuing its claims in federal court,” said the decision by judges Mary Briscoe, Bobby Baldock and Timothy Tymkovich. “The FLDS Association has waited nearly three years from the date the state district court modified the UEP (United Effort Plan) Trust to challenge its modification and, in the interim, transactions have occurred and other parties have acted in reliance on the trust’s modification.”

The United Effort Plan, established long ago by the church, is the charitable trust that holds real estate and other assets in the border towns. Church members are allowed to live and work on the FLDS property, but some have lost everything in periodic purges by Jeffs.

Utah’s decision to take control of the trust was backed by Arizona. After the mismanagement allegations and takeover, Jeffs and other FLDS leaders and some church members moved to a remote West Texas ranch. But authorities there raided the compound in 2008, bringing numerous child-bride charges against a string of leaders.

Jeffs, 56, is serving a life sentence for sexually assaulting two underage girls he considered his brides.

Monday’s ruling means Wisan is free to redistribute FLDS assets that Utah Attorney General Mark Shurtleff has said are worth more than $100 million.

Wisan plans to sell the assets to residents of Hildale and Colorado City, who will become property owners for the first time.

Shurtleff said Monday he hopes to move quickly to fashion a settlement disposing of all community assets.

Utah officials plan to hold a town hall-style meeting Nov. 30 in St. George for **church leaders** and members or ex-members asserting rights of ownership.

Real-estate sales will raise cash to pay Wisan and his team $5.6 million in overdue legal expenses, which Shurtleff had been under pressure to pay.

“I instructed my team to help the fiduciary sell property,” Shurtleff said. “There’s some valuable property down there, and it’s a good time to buy.”