



STATE OF KANSAS

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Attorney General

November 11, 1975

ATTORNEY GENERAL OPINION NO. 75-422

Honorable John Mike Elwell  
Probate Judge  
County Courts of Douglas County  
Lawrence, Kansas 66044

Re: Domestic Relations--Marriage--Persons Authorized  
to Officiate

Synopsis: A licentiate of a denominational body is a person who may be duly authorized to be an officiating person at a marriage.

Upon the filing of credentials of license by a person found to be a duly authorized officiating person, the judge of the probate court shall record the same and give to such person an instrument evidencing proof of such filing.

Dear Judge Elwell:

You have inquired as to whether an alleged minister bearing credentials from the "Universal Life Church, Inc." of Medesto, California, could be authorized to officiate at marriages.

K.S.A. 23-104(b) provides that before any clergyman, licentiate or appointee is authorized to solemnize a marriage, he shall file credentials of ordination, license or appointment or other proof of such official character with the judge of the probate court in the county of his residence who shall record the same and give to such person an instrument evidencing proof of such filing.

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K.S.A. 23-104 provides that the following are duly authorized to be officiating persons:

(1) Any ordained clergyman or religious authority of any religious denomination or society who continues to be such ordained clergyman;

(2) Any licentiate of a denominational body or an appointee of any bishop serving as the regular clergyman of any church of the denomination to which he belongs, if he is not restrained from doing so by the discipline of his church or denomination;

(3) Any judge of a court of record.

The United States District Court (Eastern District of California) has recognized the Church of Universal Life, Inc., as an organization entitled to a tax exemption under 26 U.S.C. § 501(c)(3), such organization being organized and operated exclusively for religious . . . purposes. Universal Life Church, Inc. v. United States, 372 F.Supp. 770 (1974).

In that opinion, the Court discussed the Church's practice of dispensing credentials of ministry through mail order requests.

The court stated:

"The Court must then address itself to the defendant's second conclusion: that the ordination of ministers, the granting of church charters, and the issuance of Honorary Doctor of Divinity certificates by plaintiff are substantial activities which do not further any religious purpose. Certainly the ordination of ministers and the chartering of churches are accepted activities of religious organizations. The fact that the plaintiff distributed ministers' credentials and Honorary Doctor of Divinity certificates is of no moment. Such activity may be analogized to mass conversions at a typical revival or religious crusade. Neither this Court, nor any branch of this Government, will consider the merits or

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fallacies of a religion. Nor will the Court compare the beliefs, dogmas, and practices of a newly organized religion with those of an older, more established religion. Nor will the Court praise or condemn a religion, however excellent or fanatical or preposterous it may seem. Were the Court to do so, it would impinge upon the guarantees of the First Amendment."

Prior to the United State District Court's decision of March 1, 1974, the Universal Life Church, Inc. had been recognized by few, if any, jurisdictions as a bona fide religious organization. This office issued an opinion on October 15, 1969, stating that the Kansas statutes required more than a certificate issued by mail from the Church of Universal Life, Inc. At that time, the State of California had closed down the operation of the Church and had an injunction against its bishop, barring him from operating there. That is no longer the case.

It is now the opinion of this office that the credentials of ministry issued by the Universal Life Church, Inc. could make the bearer of such credentials a licentiate of a denominational body. This is not to say that the bearer of a certificate from the Church of Universal Life, Inc. is a minister as that term is commonly and ordinarily understood. The bearer could be deemed, however, to be a licentiate of a denominational body, as the bishop of the Church of Universal Life, Inc. has issued the certificate and the bearer is a member of that denomination.

There are no other Kansas statutes or decisions referring to the qualifications of a clergyman, minister, licentiate or appointee of religious denominations. Therefore, a person bearing credentials from the Church of Universal Life, Inc. could be duly authorized to be an officiating person in solemnizing a marriage upon the proper filing and recording of those credentials with the probate court.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS/DLW/ksn