

MINISTERS:  
MARRIAGE:  
CRIMINAL LAW:  
ORDINATION:

Whether a person who is ordained as a minister of the gospel by the Pentecostal Church, Inc., in 1942, remains an ordained minister of the gospel, is a matter which must be determined by the Pentecostal Church, Inc., and such fact will not be determined by this office. If a person not authorized by Section 451.100 purports to perform a marriage ceremony under the circumstances prescribed in Section 563.250, RSMo 1949, he shall be guilty of a misdemeanor.

December 21, 1953

Honorable Earl Saunders  
Prosecuting Attorney  
Jefferson County  
Hillsboro, Missouri



Dear Sir:

By your letter of November 25, 1953, you requested an official opinion of this department as follows:

"A resident of this county was in 1942, ordained as a minister of the gospel by the Pentecostal Church, Inc. Later, he withdrew from this church and is not affiliated with it. For several years he has been the pastor of a local church which is not affiliated with the above named church. He has not been ordained by any church other than the one in which he was originally ordained and from which he has withdrawn all affiliation. We would appreciate your opinion as to whether this pastor may under sec. 451.100, R.S. 1949, validly solemnize marriages in view of the fact that he is no longer affiliated with the church by which he was ordained and further, whether he would be subject to the penalties imposed by sec. 563.250, R.S., 1949, if he does attempt to solemnize marriages."

Section 451.100, RSMo 1949, which lists those persons eligible to perform the marriage ceremony reads as follows:

"Marriages may be solemnized by whom.--  
Marriages may be solemnized by any licensed

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or ordained preacher of the gospel, who is a citizen of the United States, or who is a resident of this state and a pastor of any church in this state, or by any judge of a court of record, except judges of the probate court."

A definition of what is an ordained minister is given by 76 C.J.S., Religious Societies, Paragraph 39A, page 794, as follows:

"An ordained minister is one consecrated to the ministry by some act of admitting and setting apart. In general acceptation a duly ordained minister is one who has followed a prescribed course of study of religious principles, has been consecrated to the service of living and teaching that religion through an ordination ceremony of an established church by which he has been commissioned, and who is subject to the control and discipline of the church by which he was ordained. Within the meaning of the marriage acts requiring one licensed to marry to be an 'ordained minister,' the term is not confined to the Christian ministry."

If, as you state in your letter, the person in question was ordained by the Pentecostal Church, Inc., in the year 1942, the question of whether he is or is not, now an ordained minister must depend upon whether he is recognized as such by the Pentecostal Church, Inc. The ordination of the ministers of each particular denomination, or sect, is strictly an ecclesiastical matter which is to be done in accordance with the rules of each particular denomination, or sect, and is not governed by statute; nor will the courts interfere to determine whether a person is worthy of being ordained or whether he should be removed from his position. This is substantiated by the Supreme Court in Warren vs. Pulitzer Publishing Company, 336 Missouri 184, 78 S.W. (2d) 404, 1.c. 416:

"\* \* \* The charges were made for the purpose of determining the fitness of plaintiff to continue in the ministry as one of the leaders of his church and its communicants, and not to punish him for a crime against the law of the

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land. No other tribunal had jurisdiction of this matter, a fact which plaintiff recognized in submitting his case to it. Farnsworth v. Storrs, 5 Cush. (Mass.) 412; Fairchild v. Adams, 11 Cush. (Mass.) 549; Rodger v. American Kennel Club, 138 Misc. 310, 245 N. Y. S. 662; Landis v. Campbell, 79 Mo. 433, 49 Am. Rep. 239. Its decision was final upon this question, except for appeal to its appellate body. \* \* \*." (Emphasis ours).

Therefore, whether this person is presently ordained is a matter of fact which must be ascertained by contacting the proper officials of the Pentecostal Church, Inc., and is not one which we can determine as a matter of law.

Section 563.250, RSMo 1949, imposes certain penalties for performance of marriage ceremonies by unauthorized persons. Said section reads as follows:

"Marriages illegally solemnized--penalty.-- Every person who shall solemnize any marriage, having knowledge of any fact which renders such marriage unlawful or criminal in either of the parties under any law of this state, or, having knowledge or reasonable cause to believe that either of the parties shall be under the age of legal consent, or is insane, mentally imbecile, feeble-minded or epileptic, or where to his knowledge, any other legal impediment exists to such marriage, and every person not authorized by law to solemnize marriages who shall falsely represent that he is so authorized, and who, by any pretended marriage ceremony which he may perform, shall deceive any innocent person or persons into the belief that they have been legally married, shall on conviction be adjudged guilty of a misdemeanor, and be punished by imprisonment in the county jail not exceeding one year, or by a fine not less than five hundred dollars, or by both such fine and imprisonment." (Emphasis ours).

If a person not within the categories provided by Section 451.100 falsely represents that he is authorized to perform the marriage ceremony, and who does perform such ceremony, deceiving any

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innocent person or persons into believing that they have been legally married, such person shall be guilty of a misdemeanor in violation of Section 563.250.

CONCLUSION

It is therefore the opinion of this office that whether a person who was ordained as a minister of the gospel by the Pentecostal Church, Inc., in 1942, remains an ordained minister of the gospel, is a matter which must be determined by the Pentecostal Church, Inc., and such fact will not be determined by this office. If a person not authorized by Section 451.100 purports to perform a marriage ceremony under the circumstances proscribed in Section 563.250, RSMo 1949, he is guilty of a misdemeanor.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Yours very truly,

JOHN M. DALTON  
Attorney General

PMcG:vlw