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Verdict

May 14, 2013

Joanna L. Grossman

A Difference of Opinion: Are Universal Life Church Weddings Valid in New York?



Rabbi? Priest? Imam? Justice of the peace? These are the usual suspects with authority under state marriage laws to preside over wedding ceremonies. Should a minister ordained online with the click of a button be added to the list? Whether ministers ordained by the Universal Life Church (“ULC”), an online ministry with more than 20 million ministers, can lawfully preside over weddings is a recurring question in lawsuits.

In a recent opinion, in *Oswald v. Oswald*, an appellate court in New York suggested that a ULC marriage was valid. This might not seem surprising, but it departs from three other cases in New York that have held the opposite, one of which was a fellow appellate court. In this column, I’ll explain the new ruling and the split of opinion that New York law now reflects.

***Oswald v. Oswald*: Were They Ever Married?**

On October 29, 2005, Henry and Victoria Oswald were married. The ceremony was performed by a ULC minister, in Washington County, New York. Three days before the wedding, the parties signed a prenuptial agreement that was, like most such agreements, to take effect “only upon the solemnization of [the] marriage.” The agreement, again like most, purported to fix the parties’ financial obligations should the marriage end in divorce.

Five years later, Henry filed for an annulment—a declaration that the marriage never validly existed. His claim rested on the assertion that the minister who presided over their wedding did not have the authority to do so. He relied on prior precedents in New York that had held that such ministers do not meet the legal definition of clergy, and the Universal Life Church does not meet the legal definition of a church. On the basis of these precedents, the trial court granted his motion for summary judgment that the prenuptial agreement was unenforceable because the marriage never validly existed. The wife appealed, which led to the ruling cited above. Were the Oswalds ever legally married?

Marriage Law and the Role of Officials

State marriage laws require that marriages be solemnized and offer parties a choice of religious and secular officials with authority to preside over a wedding. Marriage law imposes certain prerequisites to a valid

marriage. First, the parties must be eligible to marry in general (not lacking in mental capacity, of sufficient age, not already married to someone else, and so on) and eligible to marry each other (not closely related by blood, e.g.). Second, the parties must appear in person at the clerk's office to apply for a marriage license and then wait an assigned period of time, usually a few days at most. Third, the marriage must be solemnized in some kind of ceremony (no specific form required) at which an officiant with the authority to preside over the wedding elicits the consent of both parties ("I do") and declares them married in the eyes of the state ("I now pronounce you . . ."). The officiant then obtains signatures from the parties and witnesses (if required by the state), certifies that the ceremony had all the requisite components, and files the paperwork with the clerk's office that issued the license. (For the ten or so states that allow common-law marriage, the second and third requirements are lifted in favor of a private agreement to marry.)

In the typical marriage code, the state delegates authority to make sure the legal requirements are met to private officiants; it allows them to be the eyes and ears of the state. This system reflects the complicated religious/secular marriage traditions in the United States. A legal marriage is a civil status. The government grants rights to, and imposes obligations on, married couples; it also regulates entry and exit—who can get married and how, and whether and on what terms a couple can get divorced. But many people feel that marriage is also, or even primarily, a religious institution. They want to get married in a church or other place of worship, with the official legal requirements enmeshed in a religious ceremony or mass. The state defers to these wishes, by allowing a religious ceremony to fulfill the secular, civil legal requirements.

Who Is a "Minister"? What Constitutes a "Church"?

All states allow some array of civil officers to solemnize marriages and some array of religious figures to do so, too. State statutes generally bestow the power to solemnize on "clergy," referring to a category of persons that states define differently. The most common definition of "clergy" or "minister" is an individual who has been ordained by a recognized religious body and has a congregation or following.

The very idea of something like the Universal Life Church is confounding to a traditional definition of clergy. The ULC is a non-denominational church that was founded in Modesto, California in 1962 and claims to have ordained more than 20 million ministers. The ULC joins together ministers who "come from all walks of life and spiritual traditions"; their "common thread" is "adherence to the universal doctrine of religious freedom: Do only that which is right." There is no set doctrine for ministers to accept, nor is there a mandate that ministers must believe in God. The ULC advocates "religious freedom," and the pursuit of "spiritual beliefs without interference from any outside agency, including government or church authority." Ordination is free and is accomplished in seconds through a click on the website. The click is followed by online approval and the offer to buy everything from laminated credentials to a special clergy-parking placard.

In several cases, spouses have argued that their marriages were invalid because the wedding was solemnized by a ULC minister (or other minister ordained online). The legal validity (or lack thereof) of marriages officiated by ULC ministers, or other similar churches, varies by jurisdiction. In Mississippi, the state's highest court has ruled that ULC marriages are valid because the church is "enough of a religious body," and one of its ministers is "enough of a spiritual leader." The Virginia Supreme Court, however, held that the authority of a group of ULC ministers was rightfully rescinded because they did not meet the state law definition of clergy.

A Trilogy of New York Cases on ULC Ministers: ULC Marriages are Invalid

The first challenge to the validity of a ULC-solemnized marriage took place in New York in 1972. In that case, *Ravenal v. Ravenal*, Richard Ravenal sought an annulment of his marriage to Cathy on the grounds that the ULC minister who presided over their wedding did not have the authority to solemnize marriages under New York law. The minister was a guitar-playing folk-singer, as well as a member, along with the parties, of an "encounter group."

New York's Domestic Relations Code provides that valid marriages may be solemnized by a "clergyman or minister of any religion." The statute borrows the definition of clergyman from another provision of the code, which defines "church" to include both incorporated and unincorporated churches—the latter as a "congregation

or society, or other assemblage of persons who are accustomed to statedly meet for divine worship or other religious observances. . . .”

A “clergyman” or “minister” is defined by the Religious Corporations Law to include “a duly authorized pastor, rector, priest, rabbi, and a person having authority from, or in accordance with, the rules and regulations of the governing ecclesiastical body of the denomination or order, if any, to which the church belongs, or otherwise from the church or synagogue to preside over and direct the spiritual affairs of the church or synagogue.”

The trial court in *Ravenal* concluded that the minister who presided over the marriage did not have the power to do so. It looked to prior cases, which had established that the guarantee of free exercise of religion includes the “right to have one’s marriage solemnized by a minister of one’s own faith,” and that a minister need not necessarily be “ordained,” as long as he or she is “recognized by his church and congregation as a minister.” Yet, the court held that a ULC minister does not meet the standard because it was not sure whether the ULC was a “religious denomination,” given the lack of any doctrine or standard set of beliefs. The court also found no record of the church’s physical or corporate existence in New York.

The ease with which anyone could become a minister—and the sheer number of people who had achieved that status—cast doubt on the validity of the religion. The court concluded that the ULC was “entirely nonecclesiastical and nondenominational.” And, it held, the *Ravenals*’ officiant—whose authority, the court commented, “rests solely on his having obtained in the mail the card entitled “Credentials of Ministry”—did not qualify as a “clergyman,” particularly given the “absence of an actual church or stated meeting place for worship or any form of religious observance, presided over or directed by a person regarded by such a group as its minister.”

The question of the validity of ULC-solemnized marriages arose again twelve years later. In 1989, a group of ULC-ordained ministers sued the New York City clerk’s office for refusing to register them as officiants qualified to perform marriages. (New York City is unusual in requiring officiants to register in advance, and, at the time this case was brought, it refused to register ULC ministers. It has since changed its policy.) The ministers lost their case. In *Rubino v. City of New York*, a trial court in New York County found no violation of the First Amendment’s free exercise of religion clause in the clerk’s policy. Beliefs, not conduct, are absolutely protected, and there is no free exercise right to perform marriages. Nor is there anything in the constitution requiring the state to give effect to religious acts (i.e., by recognizing a marriage solemnized by a religious official). Moreover, the city clerk’s office’s policy was not arbitrary, given the very real possibility that ULC marriages might be declared invalid by courts. The government had a strong interest in protecting the validity of marriage and in protecting individuals from “the possibility that those marriages might be declared invalid or annulled” because of the officiant’s religious credentials.

The third case in the New York trilogy came from an appellate court. In *Ranieri v. Ranieri* (1989), the court held that a marriage solemnized by a ULC minister was void. The couple had signed two prenuptial agreements that would be nullified if the marriage never validly existed (which is the effect of a decree of annulment). Relying on the two trial court opinions in New York, as well as opinions from the highest courts in North Carolina and Virginia, the appellate court held that, under New York’s relatively restrictive definition of church and clergyperson, a ULC minister was not authorized to perform weddings.

The Recent Ruling in *Oswald v. Oswald*: A Different Tack

In this case, as in *Ranieri*, the enforceability of a prenuptial agreement turned on the validity of the underlying marriage. The trial court followed the earlier precedents and held the marriage invalid because it was solemnized by a ULC minister. The appellate court, however, from a different “department” (jurisdiction) than the *Ranieri* appellate court, reversed the grant of summary judgment. It did not definitively rule that the marriage is valid, but it held that the husband had not carried his burden at the summary judgment stage of proving that it was invalid without further factfinding. On remand, the trial court could again find the marriage void—or valid. But in the course of the ruling, the appellate court made clear that it was departing from the analysis and reasoning of the earlier cases.

First, the court noted correctly that it was not bound by an appellate court ruling from a sister department. It could thus disagree with the reasoning in *Ranieri*, a dispute that the state's highest court could (and should) resolve.

Second, it found the plaintiff's development of the factual record lacking. At the summary judgment stage, a party must prove that there are no triable issues of fact, and that the legal issues can be fully resolved on the pre-trial record. But here, the court found, the husband had failed to show that the ULC was the same organization it was almost twenty-five years earlier when the decision in *Ranieri* ruled it was not enough of a church to qualify under the New York statutory definition. Open questions, in the court's view, are whether the ULC has an "actual church or stated place of worship." The plaintiff alleged "upon information and belief" that it does not, but the court wanted more information. The wife submitted an affidavit from the ULC swearing that it had "numerous places of worship throughout New York State," and ULC's website claims that "the communication and fellowship of our ministers is equal to the once a week sacramonious [sic] fellowship in some of our most segregated and elitist churches."

Third, while the *Oswald* court pitched much of its opinion as dissatisfaction with the development of the factual record, it clearly disagrees on the merits with the rulings in the earlier cases. It wrote, for example, that courts can rely only on the "application of neutral principles of law," which, in this context, means it cannot "question the ULC's membership requirements or the method by which it selects its ministers." A court can do no more than "determin[e] whether the ULC adhered to its own rules and regulations in selecting and ordaining the officiant as a minister."

Moreover, it rejected the husband's suggestion that the ULC could not qualify as a church under New York law because it professes no beliefs. The court suggested that a court has no power to assess a church on this basis, beyond perhaps a determination that its self-characterization is made in good faith. This raises the larger question whether the legislature should, when delegating authority to conduct a civil act to religious officials, have standards at all. Is it the government's place to decide who or what qualifies as a religion, a church, or a minister?

But the *Oswald* court then takes its analysis another step, into territory that is no better supported by the factual record than the plaintiff's assertions are:

In some respects, the ULC conducts itself like more conventional churches and encompasses many of the same ideas and values that are present in traditional religions. The ULC ordains ministers and, although ministers are not required to preside over a specific congregation or work within a physical church, the ULC encourages that practice. Additionally, since the ULC's formation in 1959, it has consistently advanced and advocated for its beliefs.

Conclusion

This recent ruling checkers the landscape on ULC marriages in New York, but, given the three cases finding them invalid, they are still legally questionable. The *Oswald* court raises valid questions, but does not deal with the core problem that led to the three earlier rulings: the New York legislature has imposed a definition of church and clergy that the ULC does not seem to meet.

While the New York Court of Appeals (the state's highest court) might weigh in this issue given the appellate split, the real remedy, if one is to be had, should come from the legislature. The state treads on dangerous ground when it tries to pick and choose among "religions" or "religious officials" on the basis of their religiosity.

Without changing the general definition for other purposes, the legislature could expand the definition of officiants authorized to perform marriages. It might do well to follow the model of some states, which allow laypersons to become a "minister for a day" for purposes of performing a wedding ceremony. Given that civil marriage has no religious implications, there is no particular reason why the legislature should prefer clergy over other competent adults who can be trusted to follow the rules and fill out the paperwork.



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