

**INTERNET-ORDAINED MINISTERS AND MARRIAGE IN
PENNSYLVANIA:
BUCKS COUNTY AND YORK COUNTY DISAGREE ON
LEGALITY OF MARRIAGE ACCORDING TO THE
PENNSYLVANIA MARRIAGE ACT**

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I. Introduction

In today's internet-savvy times, it seems that almost anything can be accomplished online: even obtaining the ability to marry two people. But the question of whether an internet-ordained minister can marry people in the state of Pennsylvania has not yet been decided, or at least not agreed upon. Bucks County and York County, Pennsylvania are at the forefront of this controversial marriage legality issue. In the recent December 31st, 2008 ruling by Judge C. Theodore Fritsch Jr. of Bucks County, a marriage performed by an internet-ordained minister has been declared valid.¹ This ruling directly contradicts a 2007 York County decision that internet-ordained marriages are invalid.² While both rulings aim to protect marriage, it seems that the York County decision was too rigid and inflexible of a ruling and endangers religious freedom at the expense of its public policy goals. Courts should respect the institution of marriage but should not sacrifice religious freedom to do so.

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¹ *Jason B. O'Neill and Jennifer R. O'Neill*, No. 08-01620-29-1 (Ct. Com. Pl., Bucks County, Dec. 31 2008) (declaring a valid marriage exists between Jason B. O'Neill and Jennifer R. O'Neill). The text of the complaint is available at <http://www.ulccaselaw.com/legalPDF/Bucks-county-valid-ulc-marriage.pdf>.

² *Heyer v. Hollerbush*, No. 2007-Su-002132 Y08 (September 7, 2007) (holding that internet-ordained marriages were invalid because Pennsylvania law limits clergy who can perform weddings to those who have a "regularly established church or congregation").

Although these rulings are only binding in their respective counties, the decisions present questions of the validity of marriages performed by ministers ordained on the internet. The main legal issue at the center of the most recent cases is whether a minister ordained by the Universal Life Church³ “is the minister of a regularly established church within the meaning of the Pennsylvania Marriage Act.”⁴

³ According to its website, the Universal Life Church is a non-denominational, full-spectrum, interfaith ministry. The website contains links to easily become a minister of the Universal Life Church, *available at www.ulc.org*. To become a minister, one must simply click on a link listed on the site’s homepage labeled “Become an Ordained Minister”. Then a brief questionnaire must be answered in full and submitted online. Once this questionnaire is approved, an online-generated credential will be emailed signaling that you are now a minister ordained by the Universal Life Church. The Universal Life Church explains its religious culture on its website with the following statement:

ULC is the only denomination in the world that opens its doors to all, and welcomes all who ask to become an ordained minister..We are non-denominational. We support a full spectrum interfaith ministry. Over 20 million ministers have been ordained online throughout the world. We make no religious hurdles, no hoops to jump through, no tests of loyalty, no rings to kiss and no fees to pay. The Universal Life Church represents freedom, and to have freedom you cannot make demands upon individuals. In the Universal Life Church Monastery everyone is equal - the same level of greatness is enjoyed by all. We will be your personal minister/consulate and advisor, with your consent at no charge to you. We ordain all who ask and welcome you to the Universal Life Church Monastery Ministries.

⁴ 23 Pa.C.S. § 1503(6)(2008). This Pennsylvania Statute states the general rule on persons qualified to solemnize marriages:

(a) GENERAL RULE.-- The following are authorized to solemnize marriages between persons that produce a marriage license issued under this part:

that . . .

(6) A minister, priest or rabbi of any regularly established church or congregation.

A pertinent law review article discusses the muddled history of Pennsylvania’s common law marriage laws. *See* Ryan P. Newell, *To Be Sure He Is My Husband Good Enough, Or Is He? An Analysis of Common Law Marriage in Pennsylvania*, 109 Penn St. L. Rev. 337, 2004.

The article explains that the Pennsylvania Marriage Act, while explicit on persons qualified to solemnize marriages, is unclear about common law marriage in general. The general rule in Pennsylvania is that a valid marriage requires a marriage license. *Id.* (citing 23 Pa. Cons. Stat. s 1301(a) (2003). "No person shall be joined in marriage in this Commonwealth until a marriage license has been obtained").

Marriages in Pennsylvania do not have to be solemnized in any particular form before state or church officials;⁵ however, one out of the six options of the following must be chosen to officiate the marriage:

(a) General rule.--The following are authorized to solemnize marriages between persons that produce a marriage license issued under this part:

(1) A justice, judge or magisterial district judge of this Commonwealth.

(2) A former or retired justice, judge or magisterial district judge of this Commonwealth who is serving as a senior judge or senior magisterial district judge as provided or prescribed by law.

(3) An active or senior judge or full-time magistrate of the District Courts of the United States for the Eastern, Middle or Western District of Pennsylvania.

(3.1) An active, retired or senior bankruptcy judge of the United States Bankruptcy Courts for the Eastern, Middle or Western District of Pennsylvania who is a resident of this Commonwealth.

(4) An active, retired or senior judge of the United States Court of Appeals for the Third Circuit who is a resident of this Commonwealth.

(5) A mayor of any city or borough of this Commonwealth.

(6) A minister, priest or rabbi of any regularly established church or congregation.

Once one of these choices has been made for who will solemnize a marriage, a form has been chosen and must reflect the intent of the statute. In each Pennsylvania case at hand,

⁵ *Devlin v. City of Philadelphia*, 809 A.2d 980 (Cmwlth. 2002) (holding that there is no requirement that marriage be solemnized in any particular form before church or state officers, but it must be evinced by words said in present tense, and articulated with purpose of forming a spousal relationship; this principle applies equally to common-law marriages).

a “minister”⁶ was chosen to solemnize the marriage.⁷ The ministers selected in both the Bucks County and York County cases were ordained via the Universal Life Church.

To be considered a minister according to 23 Pa.C.S. § 1503(6), the minister must be of “any regularly established church or congregation.”⁸ So the question becomes whether the Universal Life Church is a “regularly established church or congregation.”⁹

However, additional facts concerning the marriages seem to play into each court’s analysis.

In the recent December 2008 case of *Jason and Jennifer O’Neill*, the Bucks County, Pennsylvania court¹⁰ found the validity of their marriage unaffected by the fact that they were married by an internet-ordained minister. The O’Neill’s were married in 2005 by Jason’s uncle, Mr. Robert Norman.¹¹ Mr. Norman was a Universal Life Church-ordained minister and performed the marriage in a ceremony in front of over 300 of the O’Neill’s family members and friends.¹²

⁶ 23 Pa.C.S. § 1503(6)(2008).

⁷ *Jason B. O’Neill and Jennifer R. O’Neill*, No. 08-01620-29-1 at 2, 3 (Ct. Com. Pl., Bucks County, Dec. 31 2008).

⁸ 23 Pa.C.S. § 1503(6)(2008).

⁹ *Id.*

¹⁰ Information on the Bucks County Court *available at* <http://www.buckscounty.org/courts/CourtInfo/CommonPleas.aspx>. According to the Bucks County Court website, the Courts of Common Pleas are Pennsylvania’s courts of general trial jurisdiction. They have existed in Pennsylvania at least since the Constitution of 1776, under which they were given constitutional status. Prior to the Commonwealth’s Constitution of 1968 there existed in addition to Courts of Common Pleas -- Courts of Oyer and Terminer and General Jail Delivery, Quarter Sessions of the Peace and Orphans’ Courts. The new constitution abolished these latter separate courts and incorporated them into existing Common Pleas Courts. Common Pleas Courts have original jurisdiction over all cases not exclusively assigned to another court and appellate jurisdiction over judgments from the special courts (also referred to as minor courts, presided over by Magisterial District Judges). They also hear appeals from certain state and most local government agencies.

The Court of Common Pleas of Bucks County, a class 2A county, is the 7th Judicial District of Pennsylvania. First established in 1683, it hears all Criminal, Civil, Family, and Orphan’s (Probate) matters. The Court consists of thirteen judges, and is located in Doylestown, Bucks County Pennsylvania. It supervises all Adult Probation, Juvenile Probation (including the Bucks County Youth Center), and Domestic Relations services, the Law Library, and provides administrative services for a twenty court system of limited jurisdiction courts (special courts) - issuing authority in all felony and misdemeanor cases, and hears all traffic and summary cases. It has concurrent jurisdiction in civil cases where the amount in controversy is less than \$8,000.

¹¹ *Jason B. O’Neill and Jennifer R. O’Neill*, No. 08-01620-29-1 at 2.

¹² *Id.*

Mr. Norman became an ordained minister online “in a matter of minutes by the Universal Life Church after completing a short form online”.¹³ The ruling of this marriage as valid within the meaning of the Pennsylvania Marriage Act will most likely bring relief to the many marriages performed by Universal Life Church-ordained ministers (Universal Life Church claims to have over twenty million ordained ministers).¹⁴ However, because of the varied outcomes in Pennsylvania concerning similar cases, this issue is far from being fully settled.

This article will outline the Bucks County opinion written by Judge Fritsch and the issues raised in the decisions from both Bucks County and York County. It will also discuss the analysis of the meaning of the Pennsylvania Marriage Act. Since each decision remains binding only in its own county, this article will examine the characteristics needed for a valid marriage in the commonwealth of Pennsylvania. Other significant cases and rulings outside of Pennsylvania will be compared as well.

This issue remains important not just as a ruling on the validity of marriage but to further reaching issues affected by marital legality such as insurance, taxes and family concerns. A particular and legitimate concern arises when people believe that they have become legally married via an internet-ordained minister when in fact the marriage may not be recognized as valid in all parts of Pennsylvania.

II. Background of Marriage Laws in Pennsylvania

To understand the history of marriage law in Pennsylvania, the history of marriage law in the United States must first be examined. The history of marriage law in the United States provides the foundation for the background of Pennsylvania’s marriage laws. The transition of legal thought pertaining to common law marriage in the United States is reflected in Pennsylvania’s own legal history and its public policy rationales can be found in the recent rulings in York County and Bucks County on internet-ordained marriages. This section will outline these relevant histories.

¹³ Available at

http://www.philly.com/inquirer/local/20090101_Bucks_judge_approves_unusual_marriages.html

¹⁴ 23 Pa.C.S. § 1503(6)(2008).

A law review article from Penn State Law School has examined the history of marriage in the United States and provides a detailed and comprehensive basis for examining the current Pennsylvania cases. The article, “*To be Sure He is My Husband Good Enough, Or Is He? An Analysis of Common Law Marriage*,” cites historical cases pertaining to marriage law in the history of the United States.¹⁵ The article explains that common law marriages have been legally accepted in the United States dating back as far as 1809, when the New York case of *Fenton v. Reed*¹⁶ held that formal requirements are unnecessary for a valid marriage and that words in the present tense will suffice.¹⁷ The case set forth that a marriage in New York could be proved by “cohabitation, reputation, acknowledgement of the parties, reception in the family, and other circumstances from which a marriage may be inferred.”¹⁸

Almost three quarters of century later, the United States Supreme Court also ruled on the issue of common law marriage.¹⁹ In *Meister v. Moore*, the Supreme Court held that statutes are only directory when it comes to marriage and that marriage is a common right.²⁰ Relevant to the recent Pennsylvania cases, the Supreme Court explained that statutes are not the ultimate laws that grant the right to marriage.²¹ Rather, a statute exists to set forth methods to formally enter into a marriage.²² More importantly, these statutes do not preclude the common law method.²³ The ruling also explained that the lower court had erred when a jury was instructed that only the presence of a minister or magistrate would make a marriage valid.²⁴

Analysis of a Common Law Marriage then proceeds to explain the public policy reasons of the promotion of common law marriage—primarily protection of the family unit.

¹⁵ Ryan P. Newell, “*To Be Sure He is my Husband Good Enough, Or Is He? An Analysis of Common Law Marriage in Pennsylvania*,” 109 PENN ST. L. REV 337 (2004) (citing *Fenton v. Reed*, 4 Johns. 52 (N.Y. Sup. Ct. 1809)).

¹⁶ *Fenton v. Reed*, 4 Johns. 52 (N.Y. Sup. Ct. 1809).

¹⁷ *Id.* at 338.

¹⁸ *Id.*

¹⁹ *Id.* (citing *Meister v. Moore*, 96 U.S. 76 (1877)).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

Firstly, common law marriage eased the economic hardships of women and put the burden on families for financial support rather than letting the burden fall on the government.²⁵ Additionally, if a common law marriage is in place then children born in that marriage can be considered to be legitimate.²⁶ And lastly, promoting marriage via common law prevented what is termed by the article as historically “subversive relationships” where a man and woman are living together out of wedlock.²⁷

The law review article then addresses Pennsylvania case law concerning marriage dating as far back as the 1700’s when the Pennsylvania Supreme Court held that common law marriages were binding on men and women.²⁸ Then, a Pennsylvania case decided in 1833 held that the formal requirements of marriage as provided by statutes were not the only means of obtaining a valid marriage and that common law marriage would also suffice.²⁹ In the 20th century, in *Manfredi Estate* the Pennsylvania Supreme Court upheld its decision from 1833 that a common law marriage is formed:

1) with ‘the express agreement of the parties without ceremony;’ 2) with words in the present tense; and 3) with the purpose of establishing a husband and wife relationship.³⁰

The court also promoted marriage by stating that there is a rebuttable presumption in favor of marriage if there is constant cohabitation and a reputation of marriage.³¹ However, the law became less clear in the twentieth century. One case held that it was not a correct assumption that a male and female living together would result in a common law marriage; rather, it should only to be viewed without a high level of scrutiny if it was clear that a common law marriage was meant to be entered into.³² This level of scrutiny

²⁵ *Id.* at 341.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 343 (citing *Hantz v. Sealy*, 6 Binn. 405 (Pa. 1814)).

²⁹ *Id.* (citing *Rodebaugh v. Sanks*, 2 Watts 9, 11 (Pa. 1833)).

³⁰ *Id.* (citing *Manfredi Estate*, 159 A.2d 697 (Pa. 1960)).

³¹ *Id.*

³² *Id.* at 244 (citing *Baker v. Mitchell*, 17 A.2d 738, 741 (Pa. Super. Ct. 1941)).

towards common law marriage was reiterated by the Pennsylvania Supreme Court two years later.³³

The Pennsylvania court continued in the direction of deciding against common law marriage in the years to come citing the worry that couples might turn relationships into marriages for economic advantage without really desiring to be husband and wife.³⁴ For example, the court stated that illicit relationships might be termed common law marriages for advantages in workmen's compensation or against the estate of a decedent; however, the court did not abrogate the acceptance of common law marriage in Pennsylvania because it deemed it to be the role of the legislature to do so.³⁵ This unwillingness to abrogate Pennsylvania's acceptance common law marriage was heard again in 1982 by the Pennsylvania Superior Court; the court obliged that changes to the law must be left to the legislature.³⁶

A more recent case decided by the Pennsylvania Supreme Court in 1998 concerning equitable distribution of marital property held that claims for common law marriage are disfavored.³⁷ The holding accounted for this hostility by explaining the opportunity for fraud via the claim of common law marriage.³⁸ In this case, however, there were factual red flags pertaining to the marriage such as a reference to the date of the marriage as the "date for legal purposes"³⁹ and also a failure to inform parents that the marriage existed.⁴⁰ Despite the proffered evidence that the alleged husband and wife used the same last name, had shared banking and property and tax returns, the marriage was still not considered valid.⁴¹

³³ *Id.* (citing *Nikitka's Estate*, 346 Pa. 63, 67 (Pa. 1943)).

³⁴ *Id.* (citing *Buradus v. Gen. Cement Prod. Co.*, 48 A.2d 883, 885 (Pa. Super. Ct. 1946)).

³⁵ *Id.*

³⁶ *Id.* at 345 (citing *In the Interest of Miller*, 448 A.2d 25, 32 (Pa. Super. Ct. 1982)).

³⁷ *Id.* at 346 (citing *Staudenmayer v. Staudenmayer*, 714 A.2d 1016 (Pa. 1998)).

³⁸ *Id.* (citing 714 A.2d 1019).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* (citing 714 A.2d at 1018).

The legal reasoning set forth for this is that the plaintiff failed to prove “clearly and convincingly”⁴² that the couple had exchanged words in the present tense.⁴³ Also, the court held that the plaintiff would not be afforded the presumption of marriage via cohabitation since she was lacking testimony as to the exchange of words in the present tense.⁴⁴

These cases set the stage for the recent York County and Bucks County decisions concerning the validity of marriage. The public policy reasons created by the foundation of case law in the United States and Pennsylvania are present in the reasoning of the current cases of internet-ordained marriage. Next, the recent cases of York County and Bucks County will be examined.

III. Statement of the Case & Procedural History

The procedural history of the O’Neill’s case cannot be understood without first explaining the chain of events that led them to file a motion with the Bucks County Court of Common Pleas. Therefore, first the case of *Heyer v. Hollerbush*⁴⁵ will be introduced both to compare decisions and to explain the impetus for the O’Neill’s to raise the question of the validity of their marriage.

Heyer v. Hollerbush:

Dorie E. Heyer and Jacob P. Hollerbush were married in 2006 by Adam Johnston, who had been ordained via the internet by the Universal Life Church.⁴⁶ Within a year, Heyer filed a motion for declaratory judgment against her husband with the Court of Common Pleas of York County, Pennsylvania⁴⁷ to request that the court declare the marriage

⁴² *Id.*

⁴³ *Id.* (citing 714 A.2d at 1022).

⁴⁴ *Id.*

⁴⁵ *Heyer v. Hollerbush*, No. 2007-SU-002132-Y08 (York Co., Pa., Ct. C.P) (Sept. 7, 2007).

⁴⁶ Michael Coughlin, *Title Policies, Marriage Performed by Internet-Ordained “Minister” Declared Invalid*, (Sept. 7, 2007), available at <http://www.kaplaw.com/bio/MichaelCoughlin.asp>.

⁴⁷ Court information available at <http://www.york-county.org/>. The Constitution of the Commonwealth of Pennsylvania was amended in 1968, and some of the greatest changes were in the judiciary article. A unified Court system was established whereby all Courts in the Commonwealth were brought within the administrative control of the Supreme Court. This administrative control is carried out through the office of the State Court Administrator. All of the judicial power and authority in Counties such as York is now

invalid.⁴⁸ The Court declared the marriage to be invalid from its inception because judge did not consider Johnston to be a “minister, priest or rabbi or any regularly established church or congregation.”⁴⁹ These are the terms required by the Pennsylvania Domestic Relations Code §1503(a).⁵⁰ This seems like a close-minded interpretation of the term minister. It also seems to put one public policy aim ahead of another, sacrificing one’s freedom of religion to promote the institution of fair and honest marriages.

The Court based its analysis on the decisions of courts outside of Pennsylvania based on lack of appellate case law.⁵¹ Courts in New York,⁵² Virginia,⁵³ North Carolina⁵⁴ and Mississippi⁵⁵ all ruled differently on the issue of Universal Life Ministers being legally empowered to conduct wedding ceremonies.⁵⁶ Since these courts did not share an overwhelming opinion one way or another, the York County court turned to examine the language of the Domestic Relations Code:⁵⁷

General Rule.—The following are authorized to solemnize marriages
between persons that produce a marriage license issued under this part. . .

vested in a single Court of Common Pleas, which has unlimited jurisdiction in all cases except as may otherwise be provided by law. The Supreme Court has delegated the duty of supervision of the District Courts to the President Judge of the Court of Common Pleas.

⁴⁸ *Heyer*, No. 2007-SU-002132-Y08 at 1.

⁴⁹ *Heyer*, No. 2007-SU-002132-Y08 at 6.

⁵⁰ 23 Pa.C.S. § 1503(a).

⁵¹ *Heyer*, No. 2007-SU-002132-Y08 at 3.

⁵² *Id.* at 3 (citing *Ravenal v. Ravenal*, 338 N.Y.S.D. 324(1972) (holding that the New York statutory definition of “minister” did not cover those ordained by Universal Life Church in the absence of a church or congregation).

⁵³ *Id.* at 4 (citing *Cramer v. Commonwealth*, 214 Va. 561 202 S.E.2d, 911 (1974)). The Virginia Supreme Court held that Universal Life Church ministers were not ministers at all because the entire church was made up of only ministers, making none of them fall within Virginia’s contemplation of “ministers.”

⁵⁴ *Id.* at 5 (citing *State v. Lynch*, 301 N.C. 479, 272 S.E.2d 349 (1980)). North Carolina’s Supreme Court did not recognize the validity of marriage by someone who was ordained via a mail-order certificate from Universal Life Church. However, this case can be distinguished since the marriage was voided in order to reverse a condition for bigamy.

⁵⁵ *Id.* at 6 (citing *Blackwell v. Magee*, 531 So.2d 1193 (1988)). This case is distinguished from the other cases because it held that a Universal Life Church minister was legally empowered under Mississippi to conduct wedding ceremonies.

⁵⁶ *Coughlin* at 1. North Carolina’s Supreme Court did not recognize the validity of marriage by someone who was ordained via a mail-order certificate from Universal Life Church.

⁵⁷ 23 Pa.C.S. § 1503(6)(2008).

(6) a minister, priest, or rabbi of any regularly established church or congregation.⁵⁸

The main issue with using the code, however, is that cases turn on the outcome of the interpretation of “of any regularly established church or congregation.”⁵⁹ The code does not further explain or define the intended meaning of the terms in more detail than providing that phrase. So the court decided to apply its own standard to circumvent this problem, assuming that the statute requires an activity that occurs on habitual or patterned basis as a place of worship or before a group of individuals gathered together for the same purpose.⁶⁰ In this instance of the Universal Life Church, the place of worship would be considered a church and the group gathered would be the congregation.

The court reasoned that since Mr. Johnston was ordained in only a matter of minutes, the brief amount of time it takes to fill out the online forms on the Universal Life Church website, it is clear that he did not attend any meetings in an actual church or office of the Universal Life Church, nor did he have a congregation with which he regularly meets.⁶¹ This means that he does not fit into the Code’s definition of who is “authorized to solemnize marriages between persons.”⁶² Facts that may also diminish the legality of the marriage were that no witnesses attended the ceremony other than the bride, groom and Mr. Johnston, the internet-ordained minister.⁶³

In this particular situation, the Court honored Heyer’s wishes that the marriage be invalidated, basing the decision on a restrictive interpretation of the statute.⁶⁴ While invalidating this marriage did not seem to cause harm to the parties involved, some members of the legal community feared negative repercussions from this holding.⁶⁵ The ability to invalidate a marriage solemnized by an internet-ordained minister might be an

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Coughlin at 1.

⁶² 23 Pa.C.S. § 1503(a).

⁶³ *Heyer*, No. 2007-SU-002132-Y08 at 2.

⁶⁴ *Id.*

⁶⁵ Tresa Baldas, *Court Ruling Spikes Internet Ministers, Highlights Legal Issue*, 1 (Oct. 29, 2007). Available at <http://www.law.com/jsp/article.jsp?id=1193216618121>.

easy way out for unhappy partners to avoid alimony payments or deal with property divisions.⁶⁶ If this easy way out could be accomplished by arguing the marriage was not valid to begin with, it might create a dangerous precedent for future couples.⁶⁷ But from a practical standpoint, if couples know that an internet-ordained marriage would be easily invalidated, it might set a precedent to err on the safe side and go through a regular county clerk to avoid the eventual costs of litigation.⁶⁸

Jason B. O'Neill and Jennifer O'Neill

After the ruling invalidating the marriage between Heyer and Hollerbush, the Solicitor for the Association of the Registers of Wills in Pennsylvania issued a warning to all registrars not to accept marriage certificates from ministers with questionable qualifications.⁶⁹ While this was only a directive and not a law, the Register of Wills for Bucks County responded and took it to the next level.⁷⁰ They sent out letters to inform married couples to verify that their minister was truly part of a regularly established church or congregation.⁷¹ After being married by their Universal Life Church-ordained family member, the O'Neill's had received one of these letters.⁷²

The O'Neill's felt compelled to file a motion seeking a declaration that their marriage was valid out of concern that Pennsylvania would not recognize it in the event of an important legal issue.⁷³ The motions were filed by Jason and Jennifer O'Neill in Bucks County, Pennsylvania.⁷⁴ Many concerns were embedded in the legality of their marriage, such as health care, life insurance benefits and joint tax returns based on being a married

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Jason B. O'Neill and Jennifer R. O'Neill*, No. 08-01620-29-1 at Exhibit B, pg. 1 (Ct. Com.Pl., Bucks County, Dec. 31 2008).

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Jason B. O'Neill*, No. 08-01620-29-1 at 1.

⁷³ *Id.*

⁷⁴ A brief account of the facts is available at <http://religionclause.blogspot.com/>.

couple.⁷⁵ As the court’s analysis will show, their case enjoyed a very different outcome than that of *Heyer*.

IV. The Bucks County Courts Analysis

The O’Neills had the right to file their motion in order to secure a declaration on the validity of their marriage pursuant to 23 PA. CSA 3306.⁷⁶ This statute states that if the validity of a marriage comes under question, then the party may bring an action to seek a declaration of the validity of the marriage.⁷⁷ The O’Neill’s complaint explained the following:

The York County court held that the marriage of Dorie Heyer and Jacob Hollerbush never existed because the minister who solemnized the marriage did not serve a congregation or preach in a physical house of worship, and in doing so called into question the marriages of thousands of other couples across the Commonwealth.⁷⁸

The court then analyzes the basic marriage laws of Pennsylvania and defines marriage via statute 23 Pa. CSA. 1102: “a civil contract by which one man and one woman take each other for husband and wife.”⁷⁹ The opinion also cites the necessity of a marriage license.⁸⁰ And thirdly, as previously mentioned in the *Heyer* case, the marriage needs to

⁷⁵ *Jason B. O’Neill*, 08-01620-29-1.

⁷⁶ 23 Pa. C.S.A. 3306. The relevant portion of this statute states that “when the validity of marriage is denied or doubted, either or both of the parties to the marriage may bring an action for declaratory judgment seeking a declaration of the validity or invalidity of the marriage.”

⁷⁷ *Id.*

⁷⁸ *Jason B. O’Neill*, No. 08-01620-29-1 at 4.

⁷⁹ 23 Pa. CSA 1102.

⁸⁰ 23 Pa. C.S.A.1304. Law of the state in which a marriage is celebrated governs validity of the marriage in regard to the capacities of the parties to enter into the contract of marriage (citing *Jewett v. Jewett*, 175A.2d 141, 196 Pa.Super.); the validity of marriage between persons sui juris is to be decided by the law in the place it was celebrated. Exceptions to this rule is where the marriage is incestuous, and where a state by statute prohibits one of its subjects or a class or a class of such subjects to contracts matrimony, generally and in the abstract, employing in the statute language specifically indicating the intention to impose a personal incapacity to contract marriage either within or without the state, or by statutes prohibits marriage between persons related to a certain degree expressly upon the ground that such marriages are contrary to God’s law.

be solemnized.⁸¹ It is pointed out, however, that the validity of a marriage does not require a formal ceremony nor does a couple have to be married by a religious figure.⁸²

The Court then lays out the three different ways a marriage can be “solemnized.”⁸³ The method at issue is part three of the statute, reading “by a religious society or organization of which one of the married couple is a member.”⁸⁴ The public policy issue behind these choices exists to ensure members of different religious groups or those who are secular can be married in a way that suits their own personal style.⁸⁵ The court also points out that there is no written requirement that the person performing the marriage has to have any specific qualifications.⁸⁶ And in addition to judges, magistrates, district judges, etc., a marriage can also be solemnized by any “minister, priest or rabbi of any regularly established church or congregation.”⁸⁷

Further justifying the choice of minister selected by the O’Neills, the court relies on the O’Neill’s complaint that requests for declaratory judgment seeking confirmation of the validity of their marriage:

Furthermore, the York County court’s ruling casts doubt upon the validity of *any* marriage performed in the Commonwealth by a religious official who does not have a physical house of worship or a congregation. Such officials would include, but are not limited to, Jesuit professors, rabbis at college Hillels, retired clergy, ordained church administrators, and priests or rabbis attached to military units, hospitals or care facilities. Upon information and belief, thousands of otherwise robust marriages in Pennsylvania have been consecrated by ministers who fail to meet the York County court’s artificial standard.⁸⁸

⁸¹ *Heyer v. Hollerbush*, No. 2007-SU-002132-Y08 at 5 (York Co., Pa., Ct. C.P) (Sept. 7, 2007).

⁸² *Jason B. O’Neill*, No. 08-01620-29-1 at 10.

⁸³ 23 Pa. C.S.A. at 1502-1503. A marriage can be solemnized by (1) an authorized third-party clergy or officiant; (2) by the couple themselves in a religious ceremony before two witnesses; or (3) by a religious society or organization of which one of the married couple is a member.

⁸⁴ *Id.*

⁸⁵ Tresa Baldas, *Court Ruling Spikes Internet Ministers, Highlights Legal Issue*, 1 (Oct. 29, 2007). Available at <http://www.law.com/jsp/article.jsp?id=1193216618121>.

⁸⁶ *Jason B. O’Neill*, No. 08-01620-29-1 at 5.

⁸⁷ *Id.* (citing 23 Pa. C.S.A. 1503(a)(6)).

⁸⁸ *Id.* at 7.

This leaves the majority of the analysis to deal with the interpretation of the words in the statute since they are not expressly defined. The court chooses to apply a plain and common reading of the statute to find its intended meaning.⁸⁹ The court found that 1503(a)(6) “clearly permits a minister of *either* any regularly established church *or* a minister of any regularly established congregation to perform a marriage.”⁹⁰ This begs the question of what constitutes a regularly established church.

The court then applies a broad interpretation of the word church, holding it to be not just a physical place of worship for Christians.⁹¹ The unconstructed meaning given to the word prevents the law from limiting those who do not worship in a physical or specific building.⁹² The court takes a public policy approach of reading the Marriage Act inclusively. It cites its decision to do so as being “logical and reasonable”⁹³ to interpret the word church as “referring to religion and faith in the broader sense.”⁹⁴ The court has the freedom to do this especially because the Marriage Act refrained from defining specific phrases.⁹⁵ Therefore, the court examined the Universal Life Church and its internet-ordained ministers and applied the broad interpretation of the Marriage Act to it.

The next portion of the court’s analysis closely examines the characteristics of the Universal Life Church and its belief system. It defends the broad beliefs of the Universal Life Church and finds that it shares several features of more traditional religions.⁹⁶ The court also highlights Universal Life Church’s positive attributes such as its consistent fifty-year existence and large following of over twenty million members.⁹⁷ Even its

⁸⁹ *Id.* at 9.

⁹⁰ *Id.* at 6.

⁹¹ *Id.*

⁹² *Id.* at 7.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.* at 8.

⁹⁷ *Id.*

status as a 501(3)(c) religious organization that entitles it to tax exemption contributes to its reputation as a “regularly established church.”⁹⁸

The next term in need of definition is “minister.” In contrast to *Heyer v. Hollerbush*, the Bucks County court does not discount ministers simply because they are not “selective leaders in the church.”⁹⁹ In *Heyer*, because all members are ministers the court reasoned that by default, no one could truly be a minister.¹⁰⁰ This is presumably because there is usually only one minister (or at the most two to three) in most churches, but this point is left undefined in the opinion. The court does take note of the unconventional methods of becoming ordained as a minister via the Universal Church Life Website but steps back on the issue because it is not the court’s role to determine the way any faith decides is the proper way to ordain members as ministers.¹⁰¹

The opinion demonstrates a comparison to *Heyer v. Hollerbush*:

The court did not address the validity of the online ordination process, but rather focused on the fact that the minister did not regularly preach in a church not did he have an actual congregation. The court construed the language of the marriage statute authorizing the solemnization of a marriage by a ‘minister, priest or rabbi of any established church or congregation’ to require that a clergy be of an established religion and also have an established place of worship and congregation.¹⁰²

The court also cites several opportunities the Pennsylvania legislature had to limit the term minister, since the Marriage Act was amended in 2000 and twice in 2004.¹⁰³ On neither occasion did the legislature opt to do so; this can be interpreted as the intention for the word “minister” to be construed broadly.¹⁰⁴ The court distinguishes itself from

⁹⁸ *Id.*

⁹⁹ *Id.* at 3. .

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.* at 9.

¹⁰⁴ *Id.*

other jurisdictions that have not validated marriages and aligns itself with a Mississippi court's decision to validate.¹⁰⁵ Because both states share a similarly unrestrictive statutory language, that allows them to interpret “established church” and “minister” broadly.¹⁰⁶

Additionally, the Bucks County opinion mentions the importance of the O’Neill’s seemingly good faith marriage and desire to be in compliance with the law.¹⁰⁷ The opinion states:

Jason O’Neill testified that they were not just emotionally affected by the possibility that they may not be married to each other, but there were also several other financial concerns stemming from the situation. They have received healthcare and life insurance benefits as a married couple and have consistently filed joint tax returns.¹⁰⁸

Pennsylvania looks favorably on the institution of marriage not only for the couple but for the positive contribution married couples make to society.¹⁰⁹ However, the most important legal issue is that the Universal Life Church is determined to be a regularly established church within the meaning of the act and that Mr. Norman is a minister and is therefore qualified to perform the marriage.¹¹⁰ And since there is no appellate decision in Pennsylvania, Bucks County is not obligated to follow the York County decision that invalidated the marriage between Heyer and Hollerbush.

IV. Conclusion

York County and Bucks County ruled differently on the issue of internet-ordained ministers and the validity of marriage performed by the ministers. While producing opposing results, it seems that the public policy reasons behind each decision might not be so different after all. Though Bucks County views the statutory language of

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at 3.

¹⁰⁸ *Id.* at 6.

¹⁰⁹ *Id.* at 11.

¹¹⁰ *Id.* at 12.

Pennsylvania's Marriage Act as broad and inclusive, and York believed it was more narrowly tailored—they seem to both be protecting the sanctity of marriage in different ways.

The history of marriage emanating from case law both in the United States and more specifically Pennsylvania point towards protecting the sanctity of marriage and preserving family values that stereotypically go hand in hand with marital union. It is natural for these courts to express different holdings to protect the institution of marriage. Holding people responsible for their actions in order to protect women and children and the family unit seems to be the purpose of both the York County Court and the Bucks County Court. While the *O'Neill* Court chose to construe a broad meaning of the term minister in order to include a Universal Life Church clergyman within the Pennsylvania statute, it was really to protect marriage. This decision is aligned with the historical public policy reasons set forth by the state and the country.

In *Heyer v. Hollerbush*, the couple did not want to be married and the issue was brought to the court less than a year after they took their vows. But in the case of the O'Neills, the couple was interested in preserving their marriage and was simply seeking a declaration of its validity. So it seems that the interpretation of the statute has been construed in whichever way seems to best suit the marriage in question. Despite the different rulings, Judge Fritsch of Bucks County made a convincing argument construing the Marriage Act broadly in order to be conducive to validating marriages where the couples want to maintain the marriage. This reading of the Marriage Act will most likely remain a persuasive argument for similar cases that may arise in the future. The ruling in *Heyer v. Hollerbush* was rigid and may cause too much restriction on religious liberty in the future, and it is not fair or just to trump one freedom for the sake of another.