

Marriages performed by federal judge

Number: INFORMAL

Date: June 18, 1996

The Honorable Maurice M. Paul
United States District Court
Northern District of Florida
United States Courthouse
110 East Park Avenue
Tallahassee, Florida 32301

Dear Judge Paul:

You ask whether you as a federal district court judge in this state and a member of the Florida Bar may perform marriages within the State of Florida.

Section 741.07(1), Florida Statutes, provides:

"All regularly ordained ministers of the gospel or elders in communion with some church, or other ordained clergy, and *all judicial officers*, including retired judicial officers, clerks of the circuit courts, and notaries public *of this state* may solemnize the rights of matrimonial contract, under the regulations prescribed by law. Nothing in this section shall make invalid a marriage which was solemnized by any member of the clergy, or as otherwise provided by law prior to July 1, 1978." (e.s.)

The issue of whether a federal court judge may perform marriages pursuant to section 741.07(1), Florida Statutes, has not been addressed by the courts of this state nor by this office. In contrast to a statute which specifically enumerates state court judges within its terms, section 741.07(1), refers broadly to "all judicial officers" in this state.[1]

As a federal district court judge, you are a judicial officer and you are also a member of the Florida Bar. Moreover, you serve on a court with jurisdiction over a part of this state. Thus, you are a judicial officer serving in this state. In the absence of legislative or judicial clarification, it, therefore, appears that a federal district judge falls within the contemplation of the statute.[2]

I am, accordingly, of the opinion that section 741.07(1), Florida Statutes, until legislatively clarified, authorizes a federal judge whose court's jurisdiction encompasses part or all of the State of Florida to perform marriages in this state.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/hpa

[1] See, e.g., s. 790.061, Fla. Stat. (1993), which excepted a county court judge, circuit court judge, district court of appeal judge, or justice of the supreme court from weapons licensure requirements; and Op. Att'y Gen. Fla. 93-29 (1993), stating that in light of the above enumeration of state courts judges, a federal court judge was not included within the terms of the statute. Section 790.061 was amended by s. 2, Ch. 95-229, Laws of Florida, to include a federal district court judge or a federal court of appeals judge serving in this state.

[2] Cf. Op. Att'y Gen. Fla. 93-29 (1993), in which this office concluded that the firearms statute, section 790.06, Florida Statutes, authorizing a judge to control firearms in his or her courtroom is broad enough to encompass a federal judge.