

UNIVERSAL LIFE CHURCH MONASTERY STOREHOUSE, a Washington non-profit corporation; GALE PLUMM and TIMEAKA FARRIS, a married couple; ERIN PATTERSON, an individual; GABRIEL BISER, an individual; and JAMES WELCH, an individual,

Plaintiffs,

v.

WAYNE NABORS, in his official capacity as County Clerk of Putnam County, Tennessee; JENNINGS H. JONES, in his official capacity as District Attorney General for Rutherford County; NEAL PINKSTON, in his official capacity as District Attorney General for Hamilton County; and BRYANT C. DUNAWAY, in his official capacity as District Attorney General for Putnam County.

Defendants.

Case No. 2:19-cv-00049

Chief Judge Waverly D. Crenshaw

Magistrate Judge Alistair Newbern

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE AT NASHVILLE

Report of J. Gordon Melton

1. My name is John Gordon Melton. I have been retained by counsel for Plaintiffs as a consultant on issues raised in this case, Universal Life Church Monastery et al. v. Wayne Nabors et al., and have been asked to speak to several questions relative to the Universal Life Church Monastery. I have prepared this report as a complete statement of all opinions to be expressed and the basis and reasons therefor. This report includes reference to the data or other information considered by me in forming these opinions; my qualifications, including a list of all publications authored within the preceding ten years; the compensation to be paid me for this study and testimony; and a listing of any other cases in which I have testified as an expert at trial or by deposition within the preceding four years.

2. I am the Distinguished Professor of American Religious History at the Institute for Studies of Religion at Baylor University (retired 2022). I am a graduate of Birmingham-Southern College (B.A., 1964), Garrett Evangelical Theological Seminary (M.Div. 1968), and Northwestern University (Ph.D. 1975). I am the author of several dozen books and the editor of a number of additional books covering the broad diversity of American religious belief and practice. In 1989 the first edition of *The Encyclopedia of American Religions* was published. This book, which attempts to provide information on every religious community (denomination) currently operating in North America has consumed much of my professional time over the decades since its initial appearance. Now in its ninth edition, it has become a standard reference work in libraries across the United States and Canada, and a tenth edition is currently being readied for publication.
3. In 1968, I was ordained an elder in the United Methodist Church and remain a member of its Northern Illinois Conference (currently in retired status). I reside in Woodway, Texas (a suburb of Waco). My complete CV is attached.
4. During the course of my research on American religious groups, I became aware of the original Universal Life Church, visited its headquarters in the early 1970s, and interviewed its founder Kirby J. Hensley (1911-1999). The most recent editions of *The Encyclopedia of American Religions* have carried entries of the Universal Life Church (ULC) and the Universal Life Church Monastery (ULCM). ULCM is one of the Plaintiffs in this action.
5. In reaching an opinion on the matters discussed below, I have had access to the statements filed in this Court by Plaintiffs Erin Patterson, Gabriel Biser, and James Welch; the Declaration of ULC Monastery founder George Freeman; and the extensive webpage of the Universal Life Church Monastery, posted at themonastery.org, and the Sixth Circuit United States Court of Appeals decision in this case, posted at scribd.com. In addition, I have made reference to the 2021 Tennessee Code, Title 36 - Domestic Relations, Chapter 3 – Marriage. Part 3 – Ceremony § 36-3-301. Persons Who May Solemnize Marriages [TN Code § 36-3-301 (2021)], posted at law.justia.com. Finally, I have interviewed Rev. George Freeman the founder of the Universal Life Church Monastery via telephone.

The Universal Life Church

6. The original Universal Life Church was founded in the early 1960s largely as a protest of the numerous restrictions placed upon both leaders and members of most previously founded religious groups operating in the United States, especially the obstacles to people who felt led to become a clergy person and perform those actions a religious minister is generally expected to be able to perform, including but not limited to the founding and leading of a congregation, the preaching of sermons, and the performance of various rituals such as marriage, funerals and the leading of

various sacramental acts (baptism, the Eucharist, etc.). Marriage is, of course, considered a holy and/or sacramental act in most religious traditions.

7. It was Hensley's belief that all people should be able freely to explore the spiritual life and express their findings in religious organization, behavior, and belief. He concluded, in particular, that anyone should be able to gain the status of an ordained minister without restriction. Hensley founded the ULC in that belief and began to grant ordination freely (without cost) to any who requested it and became quite vocal in advertising the availability of such ordinations. My original visit with Hensley had been initially prompted by a feature story on television concerning him that showed him lecturing at a college concerning the ULC and the rationale behind it. At the conclusion of that lecture, he offered ordination to any in the audience that desired it and upon completing the process, gave them an ordination certificate.
8. Hensley's belief relative to ordination came in the aftermath of several centuries of protest by various movements to remove a variety of requirements placed on anyone seeking ordination by older churches such as conformity to a credal statement; a college, seminary, and or Bible school education; and/or submission to the authority of a bishop or religious hierarchy. The nature of ministry and the role of ministers has been and continues to the present as a topic in ecclesiology, a major field of theology. One is immediately reminded that the first ordination in the early Christian church began with the selection of the new apostle Matthias to be ordained as a replacement for the recently deceased Judas by the throwing of dice (Acts 1: 22-26), a process still integral to various Mennonite churches.
9. This history of the removal of requirements (barriers) to ordination can be seen in the changes in the Western Christian tradition as each generation ruminated on the 16th century Lutheran affirmation of the priesthood of all believers. By the time Martin Luther (1483-1546) appeared, the Roman Catholic Church had developed an elaborate process for ordination that included the designation of particular officials (bishops) who could perform the ordination act; a program of education and personal development (spiritual formation) for candidates for ordination; and an elaborate set of rituals through which the candidate must pass over a period of years. The church also limited who could apply for ordination to unmarried males.
10. New Christian groups founded over succeeding centuries rid themselves of bishops (Presbyterians); affirmed the authority of the local church to ordain (Baptists), assigned ministerial privileges to lay people (Methodists); dispensed with any formal educational requirements (a variety of free Christian groups); abandoned the necessity of clergypersons altogether (the Society of Friends); and in the twentieth century, abandoned any distinction between clergy and laity by designating all members as ministers (Jehovah's Witnesses). The original Universal Life Church continued the ecclesiological discussion one step further by removing any doctrinal affirmation or training in a particular doctrinal tradition from the

requirements of ordination.

11. While the ULC emerged in the twentieth century as part of a lengthy process of new Christian groups distancing themselves from the elaborate process of ordination through which Roman Catholic priests passed, the ULC also emerged within the context of the world's religions all of which have now established themselves in the United States and in each of the states (including the state of Tennessee). Every urban center in the United States, including Nashville) is now home to congregations of Buddhists, Hindus, Muslims, Sikhs, Baha'is, et al., not to mention the more familiar Western alternative groups from Jews, Christian Scientists, and Unitarians to the wide variety of Western Esoteric groups—Spiritualists, Theosophists, and Wiccans.
12. In the United States alone, there are more than 1,200 Christian denominations and that many more groups (denominations) representing the world religions. All of the major Christian denominational families and the great majority of the worlds' religious traditions are now represented in Tennessee, and in the Nashville metropolitan area. Included within this plethora of religions are new non-theistic groups such as the American Humanist Association, one of a number of atheistic new religions that have appointed officiants to carry out weddings and funerals.
13. While championing the removal of barriers to ordination imposed by various church organizations, the Universal Life Church also joined the 20th century effort to stop discrimination against people seeking ordination due to certain personal attributions. The church will ordain women, which the two largest religious groups in the United States still refuse to do, and has readily offered ordination to LGBTQ people. It is justly proud of its role in standing up for minorities, the marginalized, and social outcasts. Finally, the ULC has joined groups like the Primitive Baptists and the Amish who place no special educational requirements on ministerial candidates.
14. Most recently, the Covid-19 pandemic has forced churches to reconsider the mechanics of administering some of its most sacred ceremonies, the practice of which was blocked by health regulations. Older and more-established church communities had to move a spectrum of sacramental practices into cyberspace as direct contact between clergy and lay members was cut off. Even the Roman Catholic Church had to conduct the sacraments of Reconciliation (confession) and Extreme Unction (anointing of the sick) over the Internet, while Protestant churches experimented with Holy Communion. Ultimately, even ordination was reconsidered and its practice over the Internet approved (syntrinity.org). It appears that the Episcopal Church had paved the way for the liturgical experimentation of the Covid era, and as early as June 1999 Bishop Michael Garrison ordained Ann Elizabeth Markle to the diaconate in cyberspace (anglicansonline.org). More recently, in 2020, the Baptist News Global reprinted Ashley Robinson's online ordination. She currently serves at Wilshire Baptist Church in Dallas, Texas (

baptistnews.com).

The Universal life Church Monastery

15. Hensley’s belief and his practice of ordaining anyone who requested it was quite controversial in the mid- to late-twentieth century. Some saw the Universal Life Church as a parody of religion. However, as church members were shown to take their vocation seriously both in mastering the art of officiating marriages and funerals, and/or providing leadership of new religious fellowship groups (congregations), and/or exercising various religious vocations (chaplaincy, religious counseling, etc.), the church gradually found a place on the American religious landscape. It was copied by a variety of other religious organizations and most recently led to the development of religious associations of people who call themselves simply “officiants” and meet a need for people to perform various traditional rituals for individuals who do not belong to a particular religion but wish to hold a ritualized event for the major moments of life from the christening of a new born child to the burial of deceased loved ones. In 2017, it was reported that, “Roughly a third of weddings were officiated by a friend or family member in 2017, according to The New York Times” (religionnews.com).
16. It was also the case that, in the performance of their ministerial duties, the Universal Life Church ran into a set of practical problems. One set of problems came in relation to tax laws. Churches generally are routinely given a tax-free status, but there are a set of regulations that churches and ministers (and any who handle church funds) must follow. Through the last decades of the 20th century, a host of incidents testing these laws involved ministers of the ULC. Simultaneously, as the ULC grew, it suffered from some internal corruption among leadership personnel. Charges of immoral and even illegal behavior led to the withdrawal of members. The Universal Life Church Monastery was founded (incorporated in 2006) by people who wished to continue the beliefs and practices of the original ULC while distancing themselves from the problems within the ULC leadership at the end of the twentieth century.
17. Operating in the tradition of the original Universal Life church, the Universal Life Church Monastery has two very simple beliefs:
 1. Do only that which is right.
 2. Every individual is free to practice their religion in the manner of their choosing, as mandated by the First Amendment, so long as that expression does not impinge upon the rights or freedoms of others and is in accordance with the government’s laws.

18. The ULC fits on one end of a spectrum of modern religious belief and practice in that it provides a home for people who have their own distinctive beliefs or find themselves uncomfortable with the selection of churches and religious groups in their home community. It speaks especially to that group of people who self-identify as “spiritual but not religious,” but particularly those who have developed their own unique personal beliefs and have not found a religious group to which they can belong. The Universal Life Church has developed a loosely structured religious organization/fellowship in which a wide variety of belief and practice can exist and in which members find a shelter from an often-hostile world. Ordination in the ULC allows such people to lead common occasions regularly marked by a ritualized event and sanctioned by a religious community (such as marriages) when asked to do so by family, friends and acquaintances.
19. It should be noted that the Universal Life Church was founded decades before the Internet. In the earlier decades, it commonly provided ordination through an exchange of letters. Today, it operates in a hybrid methodology of snail mail and email with the application for ordination being submitted by email, but the documents that confirm the ordination still being sent through the mail.

Tennessee Regulations Relative to Marriage

20. Because of the legal implications of marriage relative to such matters as ownership of property, custody of children, distribution of inheritances, and property issues raised by a divorce, marriage is one area in which the wall of separation between religion and the government is regularly breached. The state has a proper interest in registering marriages that occur within the many different religious groups among the citizenry (with the overwhelming majority of religious groups considering marriages as one of the most solemn and sacred events they oversee) and in also providing a means for the non-religious to be married. It is also assumed that this regular breach of church-state separation should be kept to the bare minimum in each individual case.
21. Any regulations concerning marriage by religious groups have to account for the wide variety in the organization of different religious groups and the way marriages are solemnized. For example, the Baha’i Faith, like the Society of Friends (often referred to as the Quakers), has no equivalent of the Christian clergy person. Marriages are largely set up by Baha’i families and the ritual conducted by the two people to be married. The license is signed by the couple, two witnesses, and a lay person designated by the community for the service. Among Swaminarayan Hindus (the largest Hindu community in the United States), there are very strict rules separating males and females in worship contexts. The ordained sadhus (monks) are celibate and can have no contact (including touching or talking) with females. Lay people (usually the families of a couple to be married) must oversee marriages. In the Sikh community, the couple being married take the lead in conducting the wedding service.

Conclusions

22. I have been asked to speak to the recent Tennessee regulations relative to marriage law [TN Code § 36-3-301 (2021)], which states “Persons receiving online ordinations may not solemnize the rite of matrimony.” I would note that given the present diversity in the ordination of people in the radical assortment of religion now operating in the United States, including the Quakers, which are singularly recognized in the Tennessee laws, the stance of excluding from the authority to officiate at weddings any minister who received his/her ordination via the internet appears to be incompatible with core principles of religious freedom by penalizing the ministerial selection process of some church communities because they initiate the process of ordination with a particular medium of communication.
23. The Universal Life Church was founded prior to the establishment of and integration of the Internet in the social context. Originally, the church advertised its existence in various periodicals and ordination commonly occurred through the mail. (Hensley also ordained people in person if they approached him.) In the early twentieth century a variety of religious groups were founded whose membership never gathered in person but was held together by a mailing list. Religious activity, including major ritual events, occurred through regular contact back and forth between individual members and the group’s headquarters. The ULC morphed as email largely replaced U.S. mail at the beginning of the twentieth-first century.
24. While the Universal Life Church Monastery is the single church that is mentioned in this present litigation, it should be noted that it is but one of more than a dozen similar church bodies that operate with a very similar process of offering ordination for any who apply and meet the (often very minimal) requirements of belief and/or ethical commitment. Some, similar to the Universal Life Church Monastery, have no theological requirements such as the [American Fellowship Church](#), the [United National Ministry](#), and the [Open Ministry](#). Others assume a profession of belief in Christianity such as the [Christian Harvest Church](#) or the [Christian Global Outreach Ministries](#), which may ask ministers for a minimal accent to belief in God and the saving role of Jesus Christ. All these groups offer free ordination, though some may ask for a small fee to cover the registration of their ordination.
25. Given the diversity of belief and practice, including the holding of marriage ceremonies, the act of simply banning ministers from churches that ordain their ministers over the Internet from conducting marriages, has the appearance of an arbitrary act of discrimination against a particular religion (or set of religions) based upon a disparagement of the manner in which it chooses to recruit its candidates for the ministry and ultimately confers ministerial status upon them. Indeed, based on my knowledge of religions present and active in Tennessee, drawing this distinction between recognized ministers and spiritual leaders who have been ordained online and those who

have not clearly discriminates and denies government sanction to recognized spiritual leaders of not only ULCM ministers, but also a number of other groups such as the [First Nation Church](#) or [God's Living Word Ministry](#) while expressing government approval of other recognized spiritual leaders. Making this distinction in the law also appears inconsistent with Tennessee's own statement in Tennessee Code Annotated § 36-3-301 (2021), which begins, "All regular ministers, preachers, pastors, priests, rabbis and other spiritual leaders of every religious belief, more than eighteen (18) years of age, having the care of souls. . . may solemnize the rite of matrimony." The ministers of the ULC have been recognized as "regular" ministers in most other states of the United States.

A "considered, deliberate, and responsible act"

26. The second paragraph of TN Code § 36-3-301 (2021), states, "In order to solemnize the rite of matrimony, any such minister, preacher, pastor, priest, rabbi or other spiritual leader must be ordained or otherwise designated in conformity with the customs of a church, temple or other religious group or organization; and such customs must provide for such ordination or designation by a considered, deliberate, and responsible act." This sentence appears to provide the rationale for denying ministers who received their ordination over the internet. I would suggest that, in the case of the ULC, it provides no such rationale.
27. The original ULC widely disseminated accounts of its belief and practice beginning in the 1960s. It is as an organization older than half of the religious communities now operating in the United States. At the time I interviewed Kirby Hensley in the 1970s, he had already ruminated for over a decade concerning his own personal understanding of the nature of the universe, God, and religion as well as the situation created in the United States of the granting of the rights of religious freedom. He periodically accepted invitations to speak at colleges and universities about the ULC's practices and the thought that undergirded them. While his position can be stated rather succinctly in a few sentences, years of thought went into his final formulation. His position has subsequently been tested over the last sixty years. The survival of the church into its second generation and its several permutations (including the Universal Life Church Monastery) have demonstrated its value in becoming the end point of the spiritual search of many individuals. While the appropriateness of the government making any evaluation of how any church or religious groups handles the elevation of its members to the ministerium is, to say the least, questionable, in this case, the ULCM, along with the other churches that operate in the broader ULC tradition, appear to have more than met the criteria of conducting its ordinations "in conformity with the customs of a church" and as a "considered, deliberate, and responsible act."
28. While the process of ordination is minimal, at least relative to ritual, the length of (or lack thereof) is a matter for the church and its members to establish. The testimonies of those who have

been ordained provide substantial evidence of its spiritual value in the ULC minister's life.

28. If a Tennessee court were to conclude ULCM ordination did not meet the criteria that its ordinations were the result of a "considered, deliberate, and responsible act," that would again place the State of Tennessee in the position of distinguishing between recognized ministers and spiritual leaders who could and could not officiate at weddings, on the basis of their chosen religious practices and theological beliefs concerning ordination, offering government approval for some, and denying such approval to others. Based on my knowledge of religions present and active in Tennessee, there would most likely be religions that would fall on each side of this divide created by the law.
29. In light of my investigation of the ULCM, it is my considered opinion that The ULCM's practice of ordination is as acceptable as that of other religious groups operating in America in general and Tennessee in particular and should not be excluded simply because of its use of the Internet as a key element in the ordination procedure.
30. During the last four years, I have not testified as an expert at trial or by deposition.
31. I have agreed to be compensated for my work in this matter on the basis of my hourly rate of \$300 an hour, plus expenses.
32. I reserve the right to amend and supplement this expert report in light of additional information I may be provided, and to respond to opinions of any other expert designated by any other party to this proceeding on the matters that are the subject of this declaration.
33. Pursuant to 28 U.S.C § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

