Bigamy

Number: INFORMAL

Date: May 19, 2014

The Honorable Alcee L. Hastings
2701 West Oakland Park Boulevard
Suite 200
Ft. Lauderdale, Florida 33311

Dear Congressman Hastings:

Thank you for your correspondence of May 15, 2014, requesting that this office provide a legal opinion on the validity of the marriage in Haiti of your constituent, Mr. Isaie Jean-Louis. Attorney General Bondi has asked me to respond to your letter.

After reviewing the information you have submitted, it does not appear that this is a matter upon which this office may comment. The Florida Attorney General is statutorily limited to providing legal opinions to governmental officials on questions of state law relating to their official duties. *See* section 16.01(3), Florida Statutes, and Department of Legal Affairs Statement Concerning Attorney General Opinions (available at www.myfloridalegal.com). This office has no authority to comment on the validity of foreign marriages.

However, in an effort to assist you, I offer the following informal comments relating to the laws of Florida relating to bigamy. It appears from the material that you have forwarded to this office that Mr. Jean-Louis submitted "evidence establishing that [he] and the beneficiary married on January 6, 2013 in Haiti and that the petitioner's divorce was final on January 8, 2013." Thus, I understand the issue to be whether it is legal in Florida for persons to marry while married to another and prior to a divorce being secured. It is not.

Section 826.01, Florida Statutes, states:

"Bigamy; punishment.–Whoever, having a husband or wife living, marries another person shall, except in the cases mentioned in s. 826.02, be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084."

Section 826.02, Florida Statutes, provides certain exceptions to the provisions cited above:

"Exceptions.–The provisions of s. 826.01 shall not extend to any person:
(1) Who reasonably believes that the prior spouse is dead.
(2) Whose prior spouse has voluntarily deserted him or her and remained absent for the space of 3 years continuously, the party marrying again not knowing the other to be living within that time.
(3) Whose bonds of matrimony have been dissolved.
(4) Who violates its provisions because a domestic or foreign court has entered an invalid judgment purporting to terminate or annul the prior marriage and the defendant does not know

that judgment to be invalid.
(5) Who reasonably believes that he or she is legally eligible to remarry."

This office is obviously unaware of whether any of these exceptions may apply in Mr. Jean-Louis's case.

Finally, section 826.03, Florida Statutes, makes it a crime to knowingly marry the husband or wife or another:

"Knowingly marrying husband or wife of another.–Whoever knowingly marries the husband or wife of another person, knowing him or her to be the spouse of another person, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084."

Thus, bigamy is a third degree felony in Florida and against the public policy of this state.

I trust that these informal comments will be helpful to you in advising your constituent, Mr. Isaie Jean-Louis. I am enclosing a copy of Chapter 826, Florida Statutes, for your consideration.

Sincerely,

Gerry Hammond
Senior Assistant Attorney General

GH/tsh

Enclosure