

Answer by letter-Klaffenbach

January 20, 1971

OPINION LETTER NO. 105

Honorable Ray Lee Caskey  
Prosecuting Attorney  
Second Floor Court House  
Alton, Missouri 65606



Dear Mr. Caskey:

This letter is in response to your opinion request which is stated as follows:

"Will you please give me an opinion as to whether or not a man and women [sic] are legally married, notwithstanding Section 451.040 RSMo., where a license was obtained in Arkansas, the ceremony performed in Missouri, and the man and woman believing marriage valid, consummated same and have been living together as husband and wife for twelve years. In rendering this opinion I would like to direct your attention Subsection six (6) of Section 451.040 RSMo."

The subsection you cite states:

"6. Provided, however, that no marriage shall be deemed or adjudged invalid, nor shall the validity thereof be in any way affected on account of any want of authority in any person so solemnizing the same under section 451.100, if consummated with the full belief on the part of the persons, so married, or either of them, that they were lawfully joined in marriage."  
(Emphasis added)

In our Opinion No. 82, dated February 28, 1962, to Steck, copy enclosed, we held that marriages solemnized in Missouri on the basis

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of licenses issued in other states are invalid. While we did not there consider the above subsection, we believe that the subsection refers only to the want of authority under Section 451.100, RSMo 1969. The latter section refers only to the persons authorized to perform marriages.

Therefore, it is our view that under the circumstances you pose there was no valid marriage and subsection 6 of Section 451.040 does not apply.

Yours very truly,

JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 82  
2-28-62, Steck