



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 4, 2012

The Honorable Jerry D. Rochelle
Bowie County Criminal District Attorney
601 Main Street
Texarkana, Texas 75504

Opinion No. GA-0948

Re: Whether a retired federal judge may conduct a
marriage ceremony in Texas (RQ-1035-GA)

Dear Mr. Rochelle:

You ask whether a retired federal judge may conduct a marriage ceremony in Texas.¹ Section 2.202 of the Texas Family Code lists the judges who may conduct marriage ceremonies:

(a)(4) a justice of the supreme court, judge of the court of criminal appeals, justice of the courts of appeals, judge of the district, county and probate courts, judge of the county courts at law, judge of the courts of domestic relations, judge of the juvenile courts, retired justice or judge of those courts, justice of the peace, retired justice of the peace, judge of a municipal court, or judge or magistrate of a federal court of this state.

(b) For the purposes of this section, a retired judge or justice is a former judge or justice who is vested in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two or who has an aggregate of at least 12 years of service as judge or justice of any type listed in Subsection (a)(4).

TEX. FAM. CODE ANN. § 2.202(a)(4)–(b) (West Supp. 2011) (notation “(a)” added). *See also State v. Gonzalez*, 82 S.W.3d 322, 327 (Tex. 2002) (explaining that Texas courts construe statutes by looking to the plain meaning of statutory words). Section 2.202(b) defines the term “retired judge.” *Id.* § 2.202(b). Section 2.202(b) does not authorize a retired judge to conduct a marriage ceremony, but section 2.202(a)(4) authorizes two groups of retired judges to do so: those that the term “retired justice or judge of those courts” describes; and a “retired justice of the peace.” *Id.* § 2.202(a)(4)–(b). You ask about a retired federal judge. Request Letter at 1. You do not ask about a federal judge who

¹Letter from Honorable Jerry D. Rochelle, Bowie Cnty. Criminal Dist. Att’y, to Honorable Greg Abbott, Tex. Att’y Gen. (Dec. 28, 2011), <http://www.texasattorneygeneral.gov/opin> (“Request Letter”).

might also be “a retired justice of the peace.” *Id.* See also TEX. FAM. CODE ANN. § 2.202(a)(4) (authorizing “a retired justice of the peace” to perform a marriage ceremony). Therefore, we will discuss whether the term “retired justice or judge of those courts” describes a retired federal judge.

The term “retired justice or judge of those courts” describes only the courts listed before it in section 2.202(a)(4). See TEX. GOV’T CODE ANN. § 311.011(a) (West 2005) (“Words and phrases shall be read in context and construed according to the rules of grammar and common usage.”). A “judge or magistrate of a federal court” is listed after the term “retired justice or judge of those courts.” TEX. FAM. CODE ANN. § 2.202(a)(4) (West Supp. 2011). Therefore, the term “retired justice or judge of those courts” does not describe a retired federal judge. Accordingly, section 2.202(a)(4) does not authorize a retired federal judge to conduct a marriage ceremony in Texas.²

²Nevertheless, even if a retired judge who conducts a marriage ceremony lacks authority to do so, the subsequent marriage might still be valid if, among other things, the judge had a reasonable appearance of authority and a party participated in the ceremony in good faith. TEX. FAM. CODE ANN. § 2.302(1)–(2) (West 2006).

S U M M A R Y

Section 2.202(a)(4) of the Family Code does not authorize a retired federal judge to conduct a marriage ceremony in Texas.

Very truly yours,

A handwritten signature in black ink, appearing to read "Greg Abbott", is written over the typed name.

GREG ABBOTT
Attorney General of Texas

DANIEL T. HODGE
First Assistant Attorney General

JAMES D. BLACKLOCK
Deputy Attorney General for Legal Counsel

JASON BOATRIGHT
Chair, Opinion Committee

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