

Even though the marriage has been declared null, the Petitioner or the Respondent may be restricted from a future marriage in the Roman Catholic Church. The letter stating the decision about whether the marriage was declared null will indicate the existence of such a restriction and, in that letter, the Pastor responsible for the preparation for a future marriage will be asked to contact the Tribunal for further information. The Petitioner will not be told whether the Respondent is restricted and the Respondent will not be told whether the Petitioner is restricted.

### **CIVIL EFFECTS AND MORAL OBLIGATIONS**

Although a marriage may have been declared null by the Catholic Church, the civil effects of the legal marriage must be fulfilled. For example, a person who is under civil court order to pay child support or alimony must demonstrate meeting those obligations faithfully before being permitted to prepare for a new marriage in the Catholic Church. Both parents remain responsible for the children born or adopted into the prior marriage and remain morally obligated to provide for the physical, moral, intellectual, social and religious education and nurturing of each child.

### **OTHER QUESTIONS**

This brochure has attempted to answer the most basic questions. Please discuss additional questions with a priest or a certified Procurator/Advocate at a nearby Roman Catholic parish.

## **Marriage Cases**

### **Archdiocese of Cincinnati**

Tribunal Office

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The Tribunal process dealing with marriage cases is purely a Catholic process for the spiritual welfare of those who seek to be free to marry again according to Catholic Church law. **This Church process has no bearing in civil court and is conducted only after a legal marriage is terminated according to civil law.**

The purpose of this brochure is to answer the most often asked questions about a Roman Catholic **declaration of nullity** (sometimes improperly called an "annulment"). This information is designed to help those who have suffered a civil divorce/dissolution who seek to participate in the Catholic Church legal process when one of the spouses asks whether a particular marriage can be declared invalid or null according to Roman Catholic Church law.

### **REMARRIAGE IN THE CATHOLIC CHURCH**

Confronted with the difficult issues of divorce and possible remarriage, the Catholic Church strives to imitate the compassion of Jesus Christ (Mt. 5:31-32, 19:3-12; Mk. 10:2-12; Lk. 16:18; Jn. 4:4-42). Jesus taught the norm: marriage is a permanent and exclusive partnership between a man and woman for the purposes of giving and receiving love open to the birth and nurture of children. The Catholic Church presumes that once a marriage has been properly celebrated, it is valid unless proven otherwise (Roman Catholic Church 1983 *Code of Canon Law*, canon 1060). That presumption remains true no matter the baptismal or religious status of the spouses and regardless of the place where the wedding took place.

According to Catholic teaching, the consent of both spouses causes the marriage. In the formal Tribunal process, the Catholic Church investigates and renders a judgment whether it is proven that a specific marriage was invalid due to a defect in the capacity of the spouses for marriage or in the exchange of consent at the wedding.

### **OTHER KINDS OF CASES**

There are other kinds of marriage cases which might determine whether a marriage is invalid or can be dissolved by Church law. Those include lack or defect of required canonical (Church) form, Pauline Privilege or Favor of the Faith or a prior marriage bond case. However, this brochure will focus on formal marriage cases where the Petitioner seeks to have the marriage declared to have been invalid from the moment of consent, from the time of the wedding.

### **WHAT IS A DECLARATION OF NULLITY?**

A declaration of nullity is a formal decision by a Catholic Church Tribunal that a civilly legal marriage between a man and a woman lacked something essential from the moment of consent which prevented this from being a union binding for life according to Catholic Church law. For the baptized, what was missing prevented this from being a Sacrament. The marriage was never canonically valid.

A declaration of nullity is not a moral judgment about the spouses. It is not Church approval of a civil divorce/dissolution. The Church decision does not place blame for the failure of the union on either spouse. The only direct effect of a declaration of nullity is that the spouses may be free to marry in the Roman Catholic Church.

### **EFFECTS ON CHILDREN**

The children born from a legitimate civil marriage remain legitimate which is determined by civil law. A declaration of nullity does not change parentage or the legal status of children.

### **CONCLUSION AND DECISION**

One or three Judges will review each case and the brief of the Defender of the Bond to see whether the nullity of the marriage is proven according to the laws of the Roman Catholic Church.

For each case, the Petitioner, the Respondent and their Procurator/Advocates are notified of the decision which will be either Affirmative (the marriage was proven to be invalid) or Negative (there was insufficient proof to overturn the presumption that every marriage is a valid one – Canon 1060 of the 1983 *Code of Canon Law* of the Roman Catholic Church).

The Petitioner and the Respondent plus the Defender of the Bond also are notified about their right to appeal the decision. If there is no such appeal, the decision becomes final after three weeks.

If a case has received a Negative decision, it could be presented again in the future with significant new information based on a different reason why the marriage is said to be invalid.

### **FREEDOM TO MARRY**

After an Affirmative decision that the previous marriage is judged to be invalid, both spouses may be free to marry in the Catholic Church. That freedom will be stated in the letter of notification sent to the Petitioner and the letter sent to the Respondent. **The letter of notification is an important document. That letter should be kept to prove the marriage was declared to be null and presented when the person may seek to marry in the Church in the future.**

However, because the Roman Catholic Church so deeply respects marriage as a permanent and sacred union, the Judge(s) may restrict a person's freedom to marry in the Catholic Church until some conditions are fulfilled to prevent a future possibly invalid marriage or until a serious obstacle to a future valid marriage is removed.

## WITNESSES AND DOCUMENTS

The Catholic Church teaches that it is not enough for a person to think that a marriage is invalid. Invalidity must be proven (Mt. 18: 15-18; 1 Cor. 6: 1-4). The law of the Catholic Church requires that whatever the Petitioner says about the marriage must be corroborated (backed up) by documents and/or witnesses. If the Petitioner or the Respondent has had professional counseling or therapy, a release from professional confidentiality must be signed before the Tribunal may seek a report from that expert.

## SENDING DOCUMENTS TO THE TRIBUNAL

The Procurator/Advocate will review the Petitioner's responses and submit the case to the Tribunal. A Respondent may respond personally or also may work with a Procurator/Advocate.

## HOW IS A CASE PROCESSED?

First and foremost, all evidence relative to a marriage case is treated with strict confidentiality which is required by Catholic Church law and respected by civil law. All Tribunal officials are bound by an oath to keep all case information confidential.

When a marriage case is received at the Tribunal it is assigned a name and a protocol number (SMITH + JONES, # 88/0999). Put that name and number on all future correspondence with the Tribunal about the case. The case also will be assigned to a Notary/Auditor (case manager) who will steer the case through the Tribunal process. One or three Judges and a Defender of the Bond (the marriage bond) will be assigned to each case.

Cases are processed in the order in which they are received and in order after the Respondent and witnesses have responded. If further information is needed, the Tribunal may request additional witnesses, documents or perhaps an interview.

## WHO MAKES THE DECISION?

After Catholic Church investigations of marriages are completed, Church-appointed Judges make the decisions whether there is proof that marriages are invalid. Along with all Tribunal staff members, Judges are bound to diligently follow the law of the Roman Catholic Church which is found in the 1983 *Code of Canon Law* and subsequent changes to that such as *Mitis Iudex* made law in 2015.

## STRICT CONFIDENTIALITY

All evidence in a marriage case is treated with strict confidentiality as required by Catholic Church law and respected by civil law. Even Tribunal officials who are not assigned to a particular marriage case may not review that case file. Both spouses to the marriage, the Petitioner and the Respondent, have the right to read what is said by each other and non-professional witnesses. They will be notified when the case file is ready for review. The majority of those involved in marriage cases choose not to do such a review so that the case will proceed more quickly but they have the right to review after signing a civil law waiver/review release stating the contents of the evidence will be kept confidential and such information may not be used in a civil court proceeding. Both the Petitioner and the Respondent will be notified when the decision is finalized.

## WHO MAY PRESENT A MARRIAGE CASE?

Any spouse in a marriage, Catholic or not, baptized or not, has the right to present a case to a Catholic Church Tribunal provided the marriage has been ended according to civil law. The person who presents the case is called the Petitioner; the other spouse is called the Respondent. In the Archdiocese of Cincinnati, a person would call any Catholic parish and ask for help to present a marriage case. All of the priests may assist and the Archdiocese has over 120 certified Procurator/Advocates specially trained to help with marriage cases. The Petitioner must have a geographical relationship to the Archdiocese as the place where the wedding took place, the place of residence of either the Petitioner and/or the Respondent, or the place where most of the evidence can be gathered. Important information is whether each of the spouses was ever baptized Christian or Catholic to help officials determine what kind of case is needed. No one knows before a case is completed whether or not a particular marriage can be declared null.

## BASIC RIGHTS AND OBLIGATIONS

The Petitioner has the right to present the case as well as the responsibility to present evidence about the marriage. That includes, but is not limited to, providing testimony in writing or through an interview, submitting the necessary civil documents about the marriage and the divorce/dissolution, and providing names and addresses for the Respondent and those who have agreed to be witnesses. Those who knew one or both of the spouses in person at the time of the courtship and the wedding are the best witnesses. A case usually would need at least 2-3 witnesses and preferably 5-6. The Petitioner or the Respondent should contact witnesses to be sure they are willing to respond but not discuss the case with them – just ask them to be honest in response to questions from the Tribunal about the spouses and the marriage, and to respond as soon as possible to prevent delaying the processing of the case.

Tribunal officials contact the Respondent when the case begins asking if the Respondent wishes to participate and presenting choices about how to do that. The Respondent has the right to present testimony and to name witnesses. Unless all reasonable attempts are made to contact the Respondent, a declaration of nullity of a marriage would itself be invalid and without effect. A case may proceed if the Respondent chooses not to participate in the process. The Respondent also may appoint a local priest or name a Procurator/Advocate to assist the Respondent with the case.

## WHAT IS THE COST?

As of 14 September 2015, there are no fees for marriage cases in the Archdiocese of Cincinnati. However, there still are fees for some kinds of cases processed by a Congregation of the Vatican in Rome. The Petitioner will be advised about any such fees before initiating any procedures which would be processed in Rome.

## HOW LONG DOES THE PROCESS TAKE?

The process for a formal declaration of nullity ideally takes about a year. If there are delays, the process may take longer. If the Petitioner does not provide a current address for the Respondent, the case will be delayed. There are steps that must be documented about trying to locate a Respondent who perhaps cannot be found. It is important that a Petitioner respond immediately to Tribunal requests for any additional information or clarification. Sometimes delays may be caused by the complexity of a particular marriage.

It is important to remember that **no date may be set for a Catholic Church wedding** until any previous marriages of both intended spouses have been declared null or canonically dissolved.

## FILLING OUT THE FORMAL PETITION

The Petitioner will answer a series of questions about the courtship and the marriage and offer family of origin details. It is important to present specific examples and details, being as honest as possible. This becomes formal testimony to the Tribunal. “Yes” or “No” answers usually are not helpful. The Tribunal process focuses particularly on the time of the courtship and the wedding rather than problems that arose during the marriage.

Try to state facts rather than opinions. To say “I thought she was very immature” tells Tribunal officials nothing because there are many standards for maturity. Saying, “I thought he was immature because he was expelled from high school and then was fired from two jobs during the two years of our courtship” offers much more useful, specific, verifiable and factual information.

After the Petitioner has described details of the marriage, the Procurator/Advocate will help the Petitioner compose the formal petition stating a specific canonical (Church law) reason why the Petitioner says the marriage was invalid. A copy of that formal petition will be sent to the Respondent when the case begins.