

# *DIOCESAN TRIBUNAL*

## *POLICY ON CANONICAL PROCEDURES*

### *APPLICATIONS FOR DECLARATION OF INVALIDITY*

#### **Annulment**

The Catholic Church understands marriage as a “covenant by which a man and woman establish between themselves a partnership of the whole of life, and is by its nature directed toward the good of the spouses and the procreation and education of offspring” (c. 1055). Furthermore, “marriage is brought about through the consent of the parties, legitimately manifested between persons who are capable according to the law of giving consent” (c. 1057). An annulment is a declaration by the Catholic Church that the consent required for a valid marriage was defective from the beginning. This declaration is made by the Diocesan Tribunal, the judicial office for the Bishop of the diocese. A decision in a marriage nullity case can be made only after a thorough process of obtaining information concerning the family background of each of the parties, the quality and length of their courtship, the history of the marriage, and the remote and immediate causes of the separation and divorce. It is only through a careful examination of the history of the individuals involved and the nature of the relationship together from the beginning of their courtship that the Tribunal can come to a decision in a marriage nullity case.

#### **Presentation of a Case**

In presenting a case to the Tribunal it is important that the required application forms, questionnaires and documents are submitted at the beginning. When these documents do not accompany the petition, the case is delayed while this office requests these documents from the Petitioner.

Petitioners and advocates should have clear that the canonical process cannot be processed until a final divorce decree is completed.

A clear reference to the place of marriage must be made and support by the appropriate marriage certificate or marriage license.

If the Respondent lives outside of the US Conference of Bishops, we must be sure that the Tribunal has the possibility to gaining canonical competence to hear the case.

The baptismal status of the parties must be clearly established. If the parties are certainly unbaptized, a *Pauline Privilege of the Faith* may be the appropriate canonical procedure to apply. The Tribunal will always advise the Petitioners and Advocates the best and appropriate way to follow, considering the particular circumstances of each case. The *dissolution of a marriage in favor of the Faith* is a Roman procedure which is prepared and instructed at the diocesan level but decided by the CDF in Rome.

If the Petitioner has been married more than once we must make sure that all marriages are accounted for when the petition is submitted. Indicate whether a former spouse has died or a former marriage is being resolved through a lack of form, ligamen (prior bond), etc. Lacking details on all marriages in question often delays a case and the resolution thereof.

The Tribunal has the obligation to make sure that the intended or present spouse is free to marry. It is unfair to the Petitioner to lead them through the process and after their case is completed realize that the process must begin for the prospective spouse.

### **Canonical Competence**

An application for marriage nullity may be accepted in the Tribunal of Salt Lake City, according to Canon 1673, if:

- a) the marriage took place in the Diocese of Salt Lake City;
- b) the Respondent lives in the Diocese of Salt Lake City, which covers the entire state of Utah;
- c) the Petitioner lives in the Diocese of Salt Lake City and the Respondent resides in the Continental area of the United States, which includes Hawaii, Guam, Alaska, Puerto Rico and the U.S. Virgin Islands;
- d) the Tribunal of Salt Lake City is in fact the place in which most of the proofs are to be collected, following the specific procedure of law.

### **Petitioner**

The procedure begins with the Petitioner, completing the appropriate application form and writing a testimony according to the questionnaire of the Tribunal. These documents should be collected by the advocate (parish priest, deacon or religious), who then forwards it to the Tribunal in person or by mail. From that

point on, the Tribunal will deal directly with the Advocate and the Petitioner. The appropriate documentation must accompany every petition (baptism certificates, marriage certificates, and divorce decree), along with the legal fees. A Policy Statement and a Statement of understanding about the expenses of the case must be signed by the Petitioner.

### **Respondent**

Church law requires that once the Tribunal has received and accepted the Petitioner's application, the Tribunal, after establishing canonical competence in the case, is to contact the Respondent and invite him/her to participate in the proceedings. Should the Respondent choose not to participate, the case will nonetheless continue, and the Respondent will be notified of the final decision. If the Respondent's whereabouts are unknown, the Petitioner and Advocate must explain what efforts have been made to locate the Respondent.

### **Witnesses**

Supporting testimony is essential to clearly establish the facts of the case. The Tribunal understands that no one is aware of every difficulty, stress, or trauma in someone's marriage. However, the information provided by the witnesses should support the Petitioner's statements. We ask that parents, brothers and sisters be considered to be witnesses in the case. Relatives and friends who were aware of some of the difficulties would also be helpful. Counselors or therapists who were seen either during the course of the marriage, or after the marriage ended, are also helpful in their observations, even if the counseling was not 'marriage counseling'. The Tribunal needs as clear a picture as possible of the individuals involved and the nature of their relationship to resolve the case.

### **Process**

Each party is invited to review the Acts of the case when all available information has been gathered. Advocates are also invited to accompany the parties for this review. In non-contentious cases this part should be abbreviated.

An ecclesiastical annulment must be affirmed by two (2) Tribunals. If an affirmative decision is rendered by this Tribunal, the decision must be confirmed by a Tribunal of Second Instance to be conclusive. The Tribunal of Second Instance will a) review the procedures followed in First Instance, and b) review the proofs of marriage nullity. The Tribunal of Second will confirm the case by decree or will admit the case for an ordinary examination. Once the Second Instance confirms the decision rendered by the Tribunal of Salt Lake City; the parties are notified by mail.

### **Confidentiality**

The proceedings of the Diocesan Tribunal are exclusively religious in nature and are governed solely by the laws of the Roman Catholic Church. The sensitive nature of the information gathered in this process and the dictates of charity require that the information be considered confidential. The information collected in a canonical procedure is made available as required by Church law for inspection by the Petitioner, the Respondent, and officers of the Tribunal. This information is not made available to the witnesses or anyone acting in their behalf, nor in any civil proceedings. The Presiding Judge may restrict the availability of the information for serious reasons, such as avoidance of defamation of character, family discord, or scandal. It is the policy of the Tribunal to disclose this information to the authorized ecclesiastical officers or other ecclesiastical Tribunals when necessary for the resolution of the case. Updates of cases are strictly given to petitioners and advocates and never to third parties.

### **Civil Effects**

A decree of ecclesiastical annulment has no effects in civil law in this country. A decree of ecclesiastical nullity does not affect the legitimacy of children.

A final decree of civil divorce must be obtained prior to the Tribunal accepting an application for ecclesiastical nullity. A copy of the final decree of civil divorce must accompany your application.

### **Legal Fees**

A fee of \$225.00 is required and that can be paid in full at the beginning of the case, or in three (3) installments:

- a) an initial fee of \$75.00 accompanying your application,
- b) a second payment of \$75.00 when the case is accepted by the Tribunal, and
- c) a final installment of \$75.00 when the first instance decision is rendered.

No one is denied this procedure because of inability to pay. If the Petitioner has financial concerns or difficulties, please discuss it with the advocate and make an agreement with the Judicial Vicar from the beginning of the case. The legal fees are to cover part of the administrative costs. A Financial Agreement should be submitted with any formal application for an annulment, properly signed and dated by the Petitioner.

### **Time Frame**

The average time to complete a formal case is about 6 to 8 months. While this may seem to be a long time, the fact is that more respondents are participating in the process and, in some cases, contesting the process as well. This reality, along with more requirements that have been made by the appellate process, has increased the time frame. Please keep in mind that the Tribunal has the legal obligation to protect the canonical rights of both parties; it is a time consuming process.

For Pauline Privilege of the Faith Cases and Ligamen Cases the average time is three months (in some instances the process could be shorter). For Lack of form cases consider several weeks before any pending wedding. For cases decided in Rome, please allow three months for the Tribunal to instruct the case before is sent to the proper Congregation. The average time for Roman procedures is 8 months.

### **General Observations**

Do not set wedding dates until the case is concluded. The pressure of established wedding dates will not move the case more quickly either in our Diocesan tribunal or in the appellate court. A Policy Statement should be submitted with any formal application for an annulment, properly signed and dated by the Petitioner.

Cases are dealt with in the order in which they become ready for hearing. No preference is given to any case due to the catechumenate, weddings, First Communions, etc. In justice, each and every case is important. The Tribunal makes every possible pastoral effort to process the cases in an effective manner with the proper observance of the regulations established by the current Code of Canon Law.

The proper diagnosis of the case by the advocates saves a significant amount of time, especially on applications with multiple procedures. The Tribunal will always offer the best way to resolve the issues in every particular case. In case of doubt it is recommended to make the proper consultation with the office of the Judicial Vicar.

Some cases are completed with a *MONITUM* or *VETITUM* on the part of one of the spouses. All parties and Advocates will be notified of the appropriate procedure of law to lift a *MONITUM* or *VETITUM* before any pending wedding.

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The application fee for a decree of nullity has been established but may be changed according to different circumstances. Petitioners and Advocates will be notified of changes. As always, no case is refused because of an inability to pay. Please inform the Tribunal of financial need and payments will be arranged.

For Chancery Procedures (request of canonical dispensations) you may submit the application form along with the prenuptial investigation and the documents attached to that investigation.

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For additional information, legal consultation or requests for applications, please contact your local parish or refer your questions through your Canonical Advocate to Reverend Langes J. Silva, JCD at the office of the Judicial Vicar, [fr.silva@dioslc.org](mailto:fr.silva@dioslc.org) or visit us at [www.dioslc.org](http://www.dioslc.org)

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