

Process for Formal Declaration of Nullity

Diocese of Beaumont Tribunal

There are a number of distinct types of annulment procedures in Church law. The ordinary procedure is described here. This does not apply to the case of a Catholic who was married outside the Church without permission or to the person who married someone who was married before. There are special procedures for those types of cases.

MARRIAGE

The Catholic Church teaches that Christian marriage is an exchange of persons in which the parties give and accept each other in a permanent, faithful, fruitful union, which is to mirror Christ's relationship to the Church.

The Second Vatican Council spoke of marriage as an "intimate partnership of life and love," and referred to the marriage covenant rather than the marriage contract. It described marriage as "...a means by which a man and a woman render mutual help and service to each other through an intimate union of their persons and of their actions; by which they experience the meaning of their oneness and attain to it with perfection day by day;" and by which "they increasingly advance their own perfection, as well as their mutual sanctification and hence contribute jointly to the glory of God" (GS 48).

For this reason the Church views divorce very seriously--a last resort to safeguard rights under civil law.

The Church does not accept that divorce can sever the bond of a valid marriage. Church law, in fact, presumes that a marriage is valid once it is entered, a presumption which remains in force *unless and until the contrary is proved*.

NATURE OF AN ANNULMENT

The annulment investigation is handled by the Tribunal. This office of the Diocese of Beaumont works under a set of guidelines and laws established as part of the universal law of the Church..

The purpose of an annulment investigation is to determine whether or not an indissoluble marriage bond was created when the parties entered their marriage. In order to declare the marriage invalid, it must prove *clearly and without doubt* that this enduring bond was not established *at the time the marriage was entered*. **This proof must focus on grounds of nullity recognized by Church law, which were present in the marriage from its very beginning.** Most grounds pertain to serious immaturity or psychological factors which impeded the freedom of the parties when entering the marriage, but there are many other grounds as well.

A Church annulment has *no civil effect* in the United States. It does not, therefore, affect rights in regard to such matters as property, inheritance, visitation of children, *nor does it affect the legitimacy of children either in civil law or in Church law*. There is no attempt in the proceedings to question the good faith of either party in entering the marriage or to assign guilt or moral blame for the breakup of the union. It is sought for the personal peace and healing of the persons involved. Ordinarily, an annulment frees the persons involved to seek marriage in the Catholic Church or to seek a convalidation of a civil marriage.

Each case submitted to the Tribunal is unique, involving individuals and their particular marriage relationships. It is impossible, therefore, to generalize about marriage cases. Only a broad picture of the actual procedure is possible.

THE PETITIONER

The first step for a person considering an annulment is to contact his/her parish priest, deacon, or other designated minister. The person making this request is called the Petitioner. The priest, deacon, or designated minister will give to the Petitioner the "**Petition (Libellus) for Nullity**" form.

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Once the petition has been completed, the Petitioner is to return it, along with the necessary documents (recent baptism certificate [issued in past six months], marriage license/certificate, certified final divorce decree) and the initial deposit, to the parish priest, deacon, or designated minister for his/her signature and comments and for transmittal to the Tribunal. The Petitioner will be requested to give the name and address of his/her former spouse.

To have a petition accepted for investigation, the Petitioner must: 1) indicate that there was present from the beginning some basis on which the marriage might have been invalid, and 2) show that there is some reasonable hope of proving this contention. The Petitioner is to list witnesses who can testify about the quality of the relationship during the courtship/engagement/married life, about problematic behavior which preceded the wedding, about the growing up years of the Petitioner or Respondent. Witnesses can be family members, friends, neighbors, co-workers who will not be overly prejudiced against the other party.

Occasionally it may be necessary for a member of the Tribunal to meet with the Petitioner to review the petition (libellus) so as to set grounds.

Once the grounds are set, the Tribunal will send to the Petitioner a questionnaire in which he/she is asked to give his/her story in greater detail.

THE RESPONDENT

Once the petition (libellus) is accepted, the Tribunal will contact by certified mail the other party to the marriage--called the Respondent--who has a right in law to be heard. The procedure will be explained to the Respondent and he/she will be invited to participate in the investigation by giving testimony and by citing witnesses. By means of a "Mandate" form, the Respondent is asked to indicate whether he/she opposes the tentative grounds set, opposes the contentions of the Petitioner, wishes to cooperate or not to cooperate, etc.

The importance of the Respondent's cooperation varies from case to case. In some instances it might well be impossible to prove the Petitioner's contention without such cooperation; in other cases it might be less important. Nevertheless, it is important to have **both** sides of the story in all cases so that the eventual decision will reflect the truth. The Respondent is given a set period of time to reply. An additional period can be requested if the one initially established is insufficient. A Respondent is not permitted, however, to delay a case unreasonably.

The Respondent's cooperation is important, but the case can proceed in the event of non-cooperation; nevertheless, the grounds of the case must still be proved.

After contact is made with the Respondent, the Tribunal will send the Petitioner a detailed questionnaire, with instructions, pertaining directly to the grounds of nullity agreed upon. If the Respondent wishes to participate, he/she will also be sent a questionnaire and asked to list witnesses.

WITNESSES

Ordinarily, the parties are expected to approach their own witnesses, indicating to them that they will be contacted by the Tribunal and requesting their prompt cooperation. Each witness is sent a questionnaire based on the grounds in the case and a cover letter explaining how to proceed. **Witnesses should be knowledgeable about the circumstances of the whole relationship in question.** They are encouraged to be as complete as possible in their answers and are advised that the parties have the right to review their testimony if they wish. It is the parties' responsibility to ensure that his/her witnesses return their testimonies.

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LENGTH OF TIME

The length of time involved varies from case to case and depends on the cooperation of the witnesses and the Respondent, as well as many other factors, most of which are beyond Tribunal control. The *least amount of time* a case can take is from 8 months to 1 year in the Court of Beaumont and 2 more months in the Appellate Court in San Antonio. This by no means guarantees that the case will be completed in that time or that the final decision will be favorable. *For this reason, the parties are cautioned against making any plans or setting a date for a future marriage or convalidation until the entire proceeding is completed and the final decision rendered.*

EXPENSES

The cost of providing the pastoral service of the Tribunal is largely funded by the Diocese of Beaumont. The \$350 amount due for processing a formal case represents about 20% of the actual cost to the Diocese of Beaumont and includes the salaries of the professional staff, mailing and telephone charges, and any other costs incurred in operating a full-time office. While the Diocese of Beaumont (and this means the Catholic people who support it) must bear this expense, it is only fair that those Petitioners who submit their cases should make a contribution to help defray the expense. We ask that a deposit of \$60 accompany submission of the petition (libellus).

The expense also covers the required second hearing of the case in San Antonio.

The remaining balance of \$290 is due when the completed questionnaire is submitted or it may be paid out in pre-arranged installments while the case is being investigated. Generally, Petitioners are expected to complete payment of the expenses prior to the decision of the case by the Beaumont Tribunal.

REVIEW

By Church law, an affirmative decision in First Instance (the Beaumont Tribunal) must be reviewed in Second Instance. The Second Instance Court for the Dioceses of Texas is in San Antonio. This requires additional time which, depending on the nature of the case involved, may be substantial. This is another reason why the parties should make no plans for a future marriage until the process is finally completed. Upon completion by the San Antonio Court, the Petitioner is notified by mail of the decision. A similar communication is sent to the Respondent unless he/she has requested no further contact from the Tribunal. Only after the Second Instance Court has ratified the affirmative decision are both parties ordinarily free to enter a subsequent marriage in the Church.

OFFICE HOURS

The Tribunal office is open 8:00 a.m. to 12:00 noon, and 1:00 p.m. to 5:00 p.m., Monday through Friday.

TRIBUNAL

Diocese of Beaumont

Post Office Box 3948

(703 Archie Street)

Beaumont, TX 77704-3948

Telephone (409) 838-0451 Ext. 140

Fax: (409) 838-4511