

## MARRIAGE TRIBUNAL FREQUENTLY ASKED QUESTIONS (FAQS)

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### **1. What is Marriage?**

The Church understands the marriage as a covenant established by God between a man and a woman whereby they establish between themselves a partnership for their whole life. By its very nature, this partnership is ordered to the good of the spouses and to the procreation and upbringing of children (essential elements) (c. 1055). The essential properties of marriage are unity and indissolubility, which in a Christian marriage have a special firmness because it is a sacrament (c. 1056). The Catholic Church recognizes that every valid marriage is permanent and that a valid marriage between baptized persons is a sacrament (c. 1055). Since God establishes marriage as permanent, Jesus prohibits divorce and remarriage. The Church presumes that every marriage (whether between Christians or even non-baptized persons) is valid unless the invalidity is proven (c. 1060).

## **2. What if has there been a prior marriage?**

If there has been a marriage of any kind (religious or civil), some Church process is required before a person is recognized as free to marry in the Catholic Church. Therefore, any previous marriage is an obstacle to a person seeking marriage with a Catholic ceremony unless and until the person has a proof of free status to marry. Before a marriage is celebrated, it must be established in a way that is a valid and licit celebration (c. 1066).

## **3. What is a declaration of nullity?**

A declaration of nullity is a judgement by the Church court, called a tribunal, that the covenant of marriage had not been validly established and so the union was not “what God has joined together.” The law declares that marriage is brought about (c. 1057) through (1) the consent of the parties (the bride and groom), (2) legitimately manifested, (3) by those qualified according to the law (again, the bride and the groom). So, if the consent was defective or if the consent was not legitimately manifested or if one or both of the persons was unqualified according to law, marriage was not brought about. If it can be shown that something essential was lacking at the time of the exchange of vows, then the Church declares the marriage “null” through a formal or a documentary process depending on the nature of the case. The declaration of nullity process can help people come to peace within themselves and with the community of the Church. A declaration of nullity states that a marriage was invalid from the beginning according to Church law while a civil divorce asserts that a marriage, valid or not, is dissolved; therefore, a declaration of nullity is not to be considered as a “Catholic Divorce.” It is neither a statement that a marriage never existed civilly nor a statement of who caused the marriage to fail or who was most guilty for its failure. Rather, this process is an investigation of the truth whether a particular marriage was valid or invalid with a moral certitude according to canon law.

## **4. Are there any civil effects to a declaration of nullity?**

A church declaration of nullity has no civil effects. It is not a divorce, for it does not dissolve an existing marriage. In the United States, a declaration that a marriage was invalid from the start has no effect before the laws of any state. It does not affect anything that is determined by civil law such as alimony, child custody, visitation rights, division of property or inheritance rights, usage of names, legitimacy of the children, etc. This declaration from the Catholic Church that a particular union, presumably begun in good faith and erstwhile thought by all to be a marriage was, in fact, an invalid union as the Church defines marriage. There is no attempt in this investigation of truth to attach blame or to punish individuals. Instead, the purpose of the procedure is to seek the truth to serve one’s conscience and spirit, and to reconcile persons to full participation in the community of the Church.

## **5. Does an annulment affect the legitimacy of children?**

The legitimacy of children is determined by the laws of the states. Just as a divorce does not make children illegitimate, neither does an annulment granted by the Church. The laws of the

Church state that children born of a presumably valid union are legitimate children. Therefore, if the marriage is later shown to have been invalid, the status of the children remains unchanged: they are legitimate.

## **6. What is the role of the Tribunal?**

The Tribunal has a staff of specially trained and experienced priests and lay persons. We offer assistance to people who request the Church to study a marriage in order to determine whether or not there are adequate grounds acceptable in church law for a declaration of nullity. The Tribunal then investigates the failed marriage following a judicial process, and evaluates proposed proofs whether or not invalidity has been proven beyond a reasonable doubt. The guidelines used by the Tribunal are the gospel teachings of Jesus Christ and the Law of the Catholic Church. Pope Pius XI defined the role of the Tribunal in these words: “to care for the dignity of marriage; to work for the good of the persons.” The Tribunal works towards this end by diligently protecting the rights of a man and a woman in a specific marriage, as well as the rights of the Church which have been charged by Christ to be the guardian of the Sacrament of Matrimony.

## **7. Who can apply for an annulment?**

A person who seeks an annulment is someone who has been married, is now divorced, and might or might not wish to marry again, particularly in the Catholic Church. The marriage of Catholics, even if one party is Catholic, is regulated not only by divine law but also by canon law (c. 1059). Divorced people, no matter what their religious affiliation, have a carefully-protected right in this Church to ask the Church to determine if invalidity has been proven. If they are not part of the Catholic community, they seek this generally because they wish to remarry, and the intended spouse is a Catholic who wants the marriage to be recognized by the Church. We respect the vows of marriage of all people, no matter what their religious affiliation is. Members of the Catholic Church, however, are bound to have their marriage recognized by the Church. This is why members of other churches with prior marriages go through an annulment process before they can marry someone in the Catholic Church.

## **8. How is an annulment process started?**

The annulment preliminary process begins when the concerned party begins talking with someone knowledgeable about this process, contacts, and requests information from the diocesan tribunal. You will be given the appropriate packet of information. You will be asked to give a narrative of your growing up years, the courtship, the marriage, and the problems that existed. It is nothing more than telling your “story.” Non-Catholics often approach the tribunal with the help of their intended Catholic spouse or a trained advocate. Of course, anyone can directly approach the tribunal to begin the marriage nullity process; however, one may also seek the guidance of his/her pastor who can help the party begin their process at the tribunal.

## 9. What documents are needed?

The following documents are required to begin a case:

- ❖ Copies of the baptismal certificates of all Catholic parties involved.
- ❖ A copy of the civil marriage license.
- ❖ A copy of the church marriage certificate (if applicable)
- ❖ A copy of the divorce decree certified or signed by the Judge and filed.

The documents will be returned to you upon request.

## 10. How is a case submitted to the Tribunal?

Once you have completed the packet for the Tribunal and gathered all the necessary documents, you can submit it directly to the Tribunal or with the help of a Tribunal Advocate who will review the packet to make sure everything is in order, before sending it to the Tribunal.

## 11. What are the procedural steps involved?

### 1) Introduction of a case

- A preliminary appointment with pastor or advocate will determine what type of procedure needs to be done in your individual situation.
- When we receive your case, it will be carefully reviewed to determine if there is any basis for accepting and proceeding with the matter

### 2) Joinder of the issue

- The Tribunal will determine whether or not there is a probable ground to initiate an investigation. This is also known as the formulation of doubt.

### 3) The Trial

- If your petition is accepted, you will be notified by letter of general information pertaining to the start of your case. You will then be given a case number that will be used in any correspondence concerning your case.
- Your (the petitioner) written testimony in the form of your answers to the questionnaires given by the tribunal will be reviewed and you may be requested more written information if necessary.
- We will also notify your former spouse (the respondent) about the proceedings and will be asked to submit his/her written testimony if the other party agrees to participate in the trial.
- Witnesses will submit their written testimony in the form of their answers to the questionnaires given by the tribunal and they may be interviewed if necessary.
- Experts may be consulted if necessary.
- The gathered testimonies will be reviewed by the Defender of the Bond for observations.

### 4) The pronouncement of the Judge (first instance decision)

- A Judge (if the case warrants 3 judges) will study the evidence presented and give the final decision declaring the nullity of marriage to enable the parties to contract a new Catholic/canonical marriage.

#### **5) The Court of Appeal**

- For the ordinary process of a formal case: appeals will be directed to the Appellate Court (Archdiocese of Galveston-Houston, Texas).
- For the briefer process of a formal case: appeals will be submitted to the Metropolitan (Archdiocese of Galveston-Houston).
- If the parties prefer they can appeal directly to the Roman Rota.

#### **6) The execution of the decision**

- You and your former spouse will be notified when a decision is made by the Tyler Tribunal.

### **12. Why is my former spouse contacted?**

Church law requires that your former spouse should be notified about your request for the process of the declaration of nullity of your marriage in view of the other party's right of defense. Your former spouse is offered the opportunity to participate in the proceedings and present his/her own testimony. Your former spouse will be sent a letter explaining the process that was initiated. You are asked to provide us with your former spouse's contact information and address. Failure to do so will only extend the overall processing time. Sometimes, it happens that the current address of the former spouse is not known or cannot be located after sincere and adequate efforts, then, an advocate will be appointed by the court for the right of defense of the other party in order to proceed with the trial up to the final decision of the court.

### **13. Who can be your witnesses?**

We require from you the names of minimum two to four witnesses who know something about the marriage in question, especially the period right before and right after your wedding (people knowledgeable about both parties during the courtship and marriage), who can assist the Tribunal in a deeper understanding of you, your spouse, and your marriage. These people usually are friends or family members. Generally, the children of the marriage are not to be witnesses unless they were witnesses to the wedding. We ask you to contact these people and obtain their permission to be called and to give their written testimony or be interviewed by the Tribunal if necessary. All information received from witnesses is kept private and confidential. Sometimes doctors, psychologists and/or professional counsellors have been consulted before or during a marriage in question. If this is applicable, please provide the complete name(s) and address(es) of the professional(s). After you sign a Release for Information, the professional(s) may provide the Tribunal with a written assessment that will be of great value in our study of the marriage.

### **14. Is other information needed?**

If more information is needed from you or from your witnesses, you or your witnesses may be asked to provide more written information. In more complicated cases, a psychological opinion may be sought from a professional who assists the Tribunal based on the acts of the case.

### **15. When is a decision reached?**

After all of the information is gathered, a judge or panel of judges will write the decision. They will decide whether or not the invalidity has in fact been proven. Another person who is known as the Defender of the Bond also participates and gives his observations. The Defender of the Bond represents the marriage itself, speaking in favor of all the facts that support the validity of the marriage. After the judge reaches a decision, both you and your former spouse will be notified of the decision (unless the former spouse elected not to be notified). If either of you disagree with it, there is a process of appeal available to you. The decision of the ordinary process of a formal case can be appealed to the Appellate Court in the Archdiocese of Galveston-Houston. The decision of the briefer process can be appealed to the Metropolitan. If the parties prefer they can submit their appeal directly to the Roman Rota. Appeal to the Roman Rota is rare and somewhat costly.

### **16. When does the decision become final?**

When the Tribunal of the Diocese of Tyler gives an affirmative decision (meaning that the marriage in question was invalid), then, the parties are not bound to this prior union, in other words, the parties are not impeded from marriage due to this prior bond and will be free to enter into a marriage in the Catholic Church (unless other marriage cases are pending). At this point the decision of the case is final.

### **17. Does the Tribunal ever deny an annulment?**

Yes. Some cases are given a negative decision; that is, the judge decides that the marriage was not proven to be invalid. If this should happen, you will be notified of that decision by the Tribunal. You would then have the option of appealing the decision to either to the Appellate Court in San Antonio (for the ordinary process of a formal case) or to the Metropolitan (when your case is handled by the diocesan bishop through the briefer process) or the Roman Rota, the Supreme Court of the Church for marriage cases (please know that the appeal to the Rota while possible is expensive and time consuming).

### **18. How long will it take to complete the process of annulment?**

The Tribunal attempts its utmost to finish and finalize our proceedings within one year; however, it is not possible to guarantee any length of time due to factors that may be beyond our control – such as difficulty in contacting and obtaining the cooperation of knowledgeable witnesses or other unforeseen circumstances. For instance, witnesses may delay sending in their

testimony for several weeks. Or a personal interview with one of the parties to the marriage may be required, etc. If your case is treated under the briefer process before the bishop, then the court will try to complete the process within 45 business days (approximately 2 – 3 months).

### **19. When should I call?**

Please contact us if you have new evidence to support your case or if you have names of additional witnesses. Also, let us know if you have a change of address and/or phone number. Whenever you call or write us, please refer to your protocol case number and names under which it is listed. The contact information for the Tribunal is:

Margaret Oppenheimer, Tribunal Administrator: 903-266-2140  
E-mail: [tribunal@dioceseoftyler.org](mailto:tribunal@dioceseoftyler.org) or [moppenheimer@dioceseoftyler.org](mailto:moppenheimer@dioceseoftyler.org)

Teresa Tiscareño, Tribunal Secretary: 903-534-1077, ext. 172  
E-mail: [mtiscareno@dioceseoftyler.org](mailto:mtiscareno@dioceseoftyler.org)

### **20. What if I have other questions?**

Your normal contact person throughout the annulment process will be your advisor or advocate. The parties may freely contact the tribunal office through email or phone to know the status of their marriage case with their protocol number and names.

### **21. What about re-marriage (setting a wedding date) in the Catholic Church?**

A wedding date should never be set in stone until the declaration of nullity has been received. The reason for this is that one is never sure of the outcome of a case until it receives an affirmative decision from the Tyler Tribunal. Since the outcome is never certain, no firm dates should be set, no invitations ordered, etc., until the declaration of nullity has been received and confirmed. However, since preparation for marriage takes at least six months, the parties can start their marriage preparation after submitting the case with the understanding that the tribunal may not grant annulment. If the marriage is declared invalid and no restriction or condition has been attached to the judgement, discussions should be initiated with your pastor (or of the Parish of the Catholic person whom you intend to marry) who will advise you on arrangements.

### **22. How much will it cost?**

The work of the Tribunal is one of the many services of the Catholic Church. The right to present a marriage nullity cause, after a divorce has been obtained, is available to anyone who has serious grounds.

Canon law requires every Diocese to staff and maintain a Tribunal Office. The Bishop's Appeal now subsidizes the Tribunal over \$100,000 each year to provide for this most important

ministry. The Diocese spends approximately \$1,500 to process a formal case petition. Costs arise from staff salaries/medical insurance, priest stipends, continuing education, office utilities, equipment supplies, phone/postage and general office maintenance.

We ask that a \$25 filing fee be submitted with your petition. An additional donation would be greatly appreciated to help defray these Diocesan expenses.

**23. What is the briefer process before the bishop according to the *motu proprio* “The Gentle Judge, the Lord Jesus” by Pope Francis?**

When the petition is proposed either by both spouses together or one of them with the consent of the other, if the judicial vicar believes that the acts of the case do not demand a more accurate investigation and that the acts of the case render the nullity manifest, then that case may be treated with the briefer process before the bishop and this process is to be completed by 45 business days (approximately 2 – 3 months).