

PROCEDURES

A civil divorce/dissolution must be granted prior to submitting a petition to the Church tribunal.

The first step for a person considering a marriage case is to approach the local parish priest or tribunal advocate, who will assist them in completing a questionnaire form together with a written account of the history of the marital relationship for submission to the Tribunal. The petition must be accompanied by: certificate of Baptism with notations, issued within past 6 months, a copy of the marriage license, and a copy of the civil divorce decree.

- Once accepted, the petition is put on the Tribunal docket. Each case is handled in its turn. The Tribunal sends a citation to both the petitioner and respondent.

- Both parties have the right to present any documents and to name witnesses to corroborate the facts of the case. Each witness is sent a questionnaire.

- A Defender of the Bond reviews every case before a decision is rendered and presents the reasons that argue in favor of a valid marriage.

- The Judge carefully studies the documents and testimony that have been submitted. They also examine the written arguments of the Defender of the Bond and the Advocates. In some cases the Judges may consult with a psychological expert.

- If the Judges reach moral certitude that invalidity has been proven according to the law and jurisprudence of the Church, then the Judges issue a declaration of nullity in writing and this decision is shared with the parties. If the Judges fail to reach moral certitude, then the validity of the bond stands.

- When an affirmative decision by the Lexington Tribunal is reached, then the parties have 15 days to make the appeal. If no one appeals, after the 15 days expire the decision becomes executed.

In some cases the Tribunal will order that before either of the parties marries again, they must undergo a professional evaluation or special marriage preparation. This is to make sure that past problems will not be repeated.

TIME INVOLVED

Due to the number of cases regularly submitted and the demands of canon law, it is not possible to indicate a precise time when the petition will be decided. The case may take from six months up to a year for a decision. It is important to note that Church law stipulates that no new marriage may be scheduled in any Catholic parish until the first instance decision has been executed.

THE REASONS FOR GRANTING A DECLARATION OF NULLITY

A declaration of nullity can be issued for a number of reasons that are established by Church law.

1. The required form of marriage was somehow radically flawed in the celebration of the wedding. For Catholics, it is required that they be married in the presence of a duly authorized priest or deacon and two witnesses according to the rite of marriage.

2. There was some impediment to a valid marriage. For example, a person who was previously married (whose spouse is still living and there was no annulment of that marriage) is not free to marry.

3. There are other impediments in Church law. In each case, the Tribunal will check for the existence of any such impediments at the time of the wedding.

4. The consent of either one or both of the parties was invalid because:

- a person lacks the sufficient use of reason;
- a person suffers from a grave lack of discretion of judgment concerning the

essential rights and duties of marriage that are to be mutually given and accepted;

- a person was ignorant about what marriage entails;

- a person is in error about the person he or she is marrying;

- a person is in error about a quality of the person he or she is marrying;

- a person was deceived by fraud which was perpetrated to obtain consent;

- a person is in error about the unity, indissolubility or sacramental dignity of marriage;

- a person totally simulates consent, excluding marriage as the Church understands it by substituting his or her own idea of such a union;

- a person partially simulates consent by excluding either the good of permanence, the good of fidelity, or the good of children;

- a person marries with some condition;

- a person is compelled to enter marriage due to some force or fear inflicted from outside

In all stages of the process, testimony is held strictly confidential among the court officials. Only the petitioner and respondent, with or through their respective advocates, are allowed to review the testimony gathered by the court.

EXPENSES

The Catholic Diocese of Lexington offers Tribunal service free of charge. The Diocese incurs costs, which includes ordinary office and personnel expenses and for this reason, donations are accepted upon completing of the case.

The Lord is faithful in all his words
and loving in all his deeds.

The Lord supports all who fall
and raises all who are bowed down.

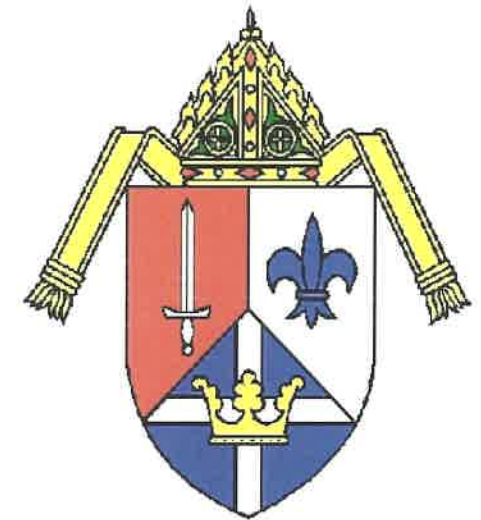
--Ps. 145--

DECLARATION

OF NULLITY

OF MARRIAGE

In the Diocese Of Lexington



Tribunal Office

The Catholic Center
1310 West Main Street
Lexington, KY 40508

(859) 253-1993,
ext. 241/281
fax: (859) 259-0951

Petitioning for a declaration of nullity is difficult, but can bring much benefit. The Church recognizes the pain-filled time and extends compassion and support. The process affords an opportunity for insight regarding relational dynamics and healing. We pray it will bring such blessings for you.

THE CATHOLIC CHURCH'S VIEW OF MARRIAGE

Marriage is a holy vocation or calling that by its very nature promotes the good of both spouses and is open to the procreation and education of children. The covenant of marriage is a lifelong and exclusive partnership of a man and a woman. It was made holy in God’s creation and Christ has raised marriage between two baptized persons to the dignity of a sacrament.

Marriage comes into being by the free and unimpeded act of giving marital consent by both spouses. Church law presumes all marriages valid and thus indissoluble as long as both parties remain alive and were free to marry at the time consent was exchanged in a lawful manner.

While the state permits divorce as a means to end a legally contracted marriage, the Catholic Church holds that the marriage bond, by its very nature, cannot be dissolved by any civil power. Thus the marriage bond is presumed to remain in place until it can be established that valid marital consent was not exchanged.

Not every marital relationship meets the standard established by Christ – a standard that requires certain intentions and capabilities on the part of the husband and wife. Without these intentions and capabilities, a marriage does not have the kind of enduring bond, which Christ taught was indissoluble.

THE TRIBUNAL OFFICE

The office which assists the Bishop in accord with Church law in carrying out his responsibility as shepherd of the local Catholic community is the

Diocesan Tribunal. It is primarily designated to investigate the validity of the marriages that fall within its competency. Qualified and appointed by the bishop, clerics and lay persons with a degree in canon law serve as judges who decide each case.

The Tribunal must have jurisdiction over the marriage in question to process the case. The Tribunal of the Diocese of Lexington has jurisdiction over marriages which were celebrated anywhere within the territory of our diocese. The Tribunal also has jurisdiction if either or both parties live in the territory of our diocese and if most of the witnesses live in our diocese.

STATUS OF DIVORCED PEOPLE IN THE CATHOLIC CHURCH

The Church esteems the marriages of non-Catholics and Catholics equally and presumes the validity of all marriages (independent of where they were celebrated and whether they were baptized or unbaptized) until the contrary has been established.

Any divorced person, Catholic or of another faith tradition or no faith tradition at all, who wishes to marry in a Roman Catholic Church or who wishes to become a member of Roman Catholic Church needs to first obtain the freedom from all previous marriages.

Civil divorce does not affect the divorced person’s status in the Church. The Church views a divorced person as married, but living apart from his/her spouse. Thus a divorced Catholic, as long as he/she have not initiated any subsequent relationship with another partner, can fully participate in sacraments and have the same rights as any other Catholic.

A divorced Catholic, who is remarried civilly without the declaration of the nullity of the previous marriage and a convalidation

of the present marriage, is encouraged to practice the Catholic faith to the fullest possible extent, but cannot receive the sacraments.

A Catholic who marries a divorced person may not receive the sacraments if that person’s previous marriage has not been declared invalid and the current civil union was not validated in Church.

DECLARATION OF NULLITY

It is a pronouncement by the Tribunal of the Roman Catholic Church based on its law and doctrine that the act of consent of a particular man and woman was lacking in qualities essential for a true and valid marriage to come into existence. It means that what did exist between the parties did not meet the Church’s requirements for full participation in the sacrament of matrimony.

The purpose of the nullity process is to determine whether or not an indissoluble marriage bond was created when the parties entered their marriage. Church law is applied to the facts surrounding the marriage. It must be proved clearly and without doubt that this enduring bond was not established at the time when the parties exchanged their marital consent in order to declare the marriage null.

If the decision was reached that the act of consent in question was lacking or defective in some essential way, the Tribunal acknowledges that fact by issuing a declaration of nullity. Both parties of this marriage are now free to enter into a valid union.

EFFECTS OF DECLARATION OF NULLITY

No civil effects are connected to a decree of nullity issued by a Catholic Church Tribunal. It does not affect in any manner the legitimacy or custody of children born or

adopted of that marriage, property rights, inheritance rights, or names. These issues are under the jurisdiction of the civil courts.

The main effect of a declaration of nullity is to determine whether a person is free to enter a marriage in the Church, and thus be admitted to full sacramental participation.

THE PARTIES: PETITIONER AND RESPONDENT

Any person (husband or wife within the marriage) may submit a petition of nullity of his/her marriage to a Church Tribunal. This person is called the petitioner. As required by law, the other party, the former spouse called the respondent, will be contacted, notified of the petition and invited to participate in the proceedings.

Both parties have the right to be advised by an advocate, represented by a procurator and to provide witnesses on their behalf. Both the petitioner and the respondent have the right to review each other’s written testimony. Either or both parties have the right to appeal the decision to the designated appellate Tribunal or to the Roman Rota, which is the appellate tribunal of the Holy See and the second highest ecclesiastical court in the Roman Catholic Church

WITNESSES

Witnesses are persons who can provide the Tribunal with information about the parties and their relationship, who knew both parties intimately, their backgrounds and how their relationship began and developed. The selection of witnesses is very important, if not critical to the case. It is very important that the parties choose witnesses that are the most knowledgeable. It is the petitioner’s responsibility to ensure that the witnesses have agreed to cooperate prior to submitting their names to the Tribunal.