



Declarations of Nullity in the Diocese of Sioux City

Even for those who believe that marriage is a lifetime commitment and a sacrament, divorce can be a traumatic and painful reality. Many who are divorced wish to remarry at some time, and they very much desire to do so with the full recognition and blessing of the Catholic Church. For this to be done, the Church has developed a special process to study failed marriages, and to make decisions based upon the Church's law that can restore the divorced person's freedom to marry in the Catholic Church.

This pamphlet has been designed to answer some questions often asked by those who might seek a declaration of nullity in the Catholic Church. It is our hope that this information will be helpful and reassuring to those who have experienced an unsuccessful marriage, and to others who simply wish to better understand the Church's teaching on marriage. The Church's Code of Canon Law states that "the salvation of souls must always be the supreme law in the Church." On January 25, 2008, Pope Benedict XVI noted that "the essence of Canon Law is the Christian person in the Church."

The Marriage Tribunal of the Diocese of Sioux City invites our divorced brothers and sisters to read this brochure and consider the possibility of beginning the nullity process. Further information is available on the diocesan web site www.scdiocese.org and from your Catholic pastor. Inquiries may be directed to:

Office of the Tribunal
1825 Jackson St.
P.O. Box 3379
Sioux City, Iowa 51102-3379

Phone: 712-233-7533
Fax: 712-233-7588
E-mail: tribunalooffice@scdiocese.org

WHAT IS MARRIAGE?

In God's plan, marriage is an enduring and exclusive partnership between a man and a woman, established for the giving and receiving of love, and the procreation and education of children. For the baptized, every consummated marriage is also a sacrament that is permanently binding and cannot be broken by any human power. Marriages between two non-Catholics are also presumed to be valid, if not always sacramental.

HOW, THEN, ARE DECLARATIONS OF NULLITY POSSIBLE?

Evidence may show that a particular marriage was missing something essential from the very beginning. Perhaps one or both spouses did not possess the required maturity of judgment. Or the spouses' intentions were not proper for marriage. For example, one person did not intend to be open to having children or did not intend to be faithful. Or one or both spouses did not have the ability to marry due to a serious psychological instability, addiction, or mental illness. A declaration of nullity is the Church's declaration that the marriage did not measure up to what the Church expects marriage to be. It is not a denial that a real relationship existed, nor does it mean that the partners did not at one time love one another, nor does it mean that their children were not loved. A declaration of nullity does not mean that the persons married with ill will or moral fault. Rather, a declaration of nullity is a judicial decision based upon the present marriage law of the Church that a particular marriage fell short of at least one of the elements considered essential for a lifelong union.

WHAT ARE SOME "GROUNDS OF NULLITY" FOR DECLARING A MARRIAGE INVALID?

Persons who marry must be "ready, willing and able" to enter marriage as the Church understands this sacred, permanent commitment. Being "ready" means having mental and emotional maturity that is suited to the responsibilities and obligations of marriage. An unplanned pregnancy might bring about a marriage between persons who are not mature enough. Or someone might choose marriage as a way to escape an abusive home life. Other grounds relate to the correct intentions for marriage. One who marries must be "willing" to accept the permanence of marriage, the obligation to be faithful in marriage, and the obligation

to treat one's partner with dignity and respect. Those who marry are also required to be open to the gift of children in marriage. If one or both spouses did not choose permanence, fidelity, openness to children, and the good of one's spouse, the marriage can be investigated on the grounds of improper intentions. Being "able" to marry refers to the psychological and mental capacity to assume the essential obligations of marriage. A personality disorder, mental illness or addiction such as alcoholism may be grounds for a declaration of nullity.

It is important to note that the radical flaw that makes a marriage invalid must be present from the beginning of the marriage. It must be present when the couple exchanged their wedding vows. Problems that arose later in the marriage do not necessarily indicate the marriage was invalid, but they may have roots at the start of the union. The Tribunal, with the help of psychological experts, investigates psychological and mental issues in order to determine whether they contributed to the absence of the ability to marry.

ARE THERE ANY CIVIL EFFECTS TO A CHURCH DECLARATION OF NULLITY?

In the United States where church and state are separated, there are no civil effects. A declaration of nullity does not affect the legitimacy of children, property or inheritance rights, child support payments, and other matters from the civil divorce settlement. A declaration of nullity is purely an internal, Church-related procedure that addresses the good of persons and protects the dignity of marriage. It is an inquiry into the truth of the marriage from the viewpoint of the Church's teaching, and it speaks to the conscience of persons and their communion with the Church.

WHAT IS THE PURPOSE OF THE DIOCESAN TRIBUNAL?

Church law requires that every diocese establish a tribunal for the protection of people's rights and the defense of Church teaching. In Sioux City, a staff of specially educated and experienced priests and lay people serve in this capacity. They offer assistance to those who request a Church study of their failed marriage. They investigate the circumstances surrounding the relationship and make a decision about the validity or nullity of the marriage in

Would you like more information? If so, detach this form and return it to the Tribunal Office, PO Box 3379, Sioux City, Iowa 51102-3379. Someone from the Tribunal will be in touch with you.

Your Name: _____ (maiden name, if woman) _____ (Zip Code) _____
Address: _____
Religion: _____ Parish/city (if applicable): _____
Have you remarried? _____ To Whom: (name and religion) _____
Is your present spouse free to marry? Yes/No _____

Information about your Former Spouse:
Name _____ Present Address: _____ (Zip Code) _____
Religion: _____ Has he/she remarried? Yes/No To Whom: (name/religion) _____

Information about your marriage to your former spouse:
Date of marriage: _____ Place of marriage: _____
Date of divorce: _____ Place of divorce: _____

Your question or comment: _____

question. The Tribunal must do its work according to the norms of Canon Law. Its overall purpose is pastoral insofar as it addresses the spiritual good of persons in the Body of Christ.

HOW DOES THE PROCESS BEGIN?

Usually the nullity process begins when the interested person visits their pastor, another Catholic priest, or a staff person in their parish. A preliminary examination of the marriage is done. The person who wishes to be the “petitioner” in a nullity case responds to questions about family background, courtship, the marriage itself, and its ultimate breakdown. A form is filled out and documents are gathered: baptismal certificates for Catholics, civil marriage record, and divorce decree. This material is sent to the Tribunal for a preliminary decision whether or not a further investigation is in order.

WHAT ABOUT THE FORMER SPOUSE?

If there is enough evidence to proceed, the Tribunal will seek to contact the other marriage partner who is called the “respondent.” He/She is informed of the study about to take place and of their rights in the process. They are asked to provide their response to the initial statement of the petitioner, and their reflections on the marriage. The Church’s law requires that the former spouse be contacted, if at all possible. The petitioner needs to provide a current address for the respondent at the time the preliminary investigation begins.

WHAT IF THE RESPONDENT DOES NOT COOPERATE OR CANNOT BE FOUND?

Sometimes the former spouse willingly participates in the nullity process because they too seek a declaration of nullity or they are not opposed to the petitioner seeking such a declaration. The respondent is free to participate or not. If the respondent does not wish to cooperate, the Tribunal may still do its investigation and reach a final decision as long as sufficient proof is available from the petitioner’s statement and other sources such as witnesses and documents. If the respondent cannot be found, the Church’s law in some situations allows the respondent to be declared absent, and the investigation may move forward. The Tribunal will appoint an Advocate to represent the absent respondent.

WHAT ABOUT OTHER WITNESSES?

The Tribunal needs a complete view of the marriage in order to reach a decision. Witnesses are contacted on behalf of the petitioner and asked what they know of the marriage and the circumstances that surrounded the wedding and the eventual breakdown of the union. The respondent also has the right to name witnesses, if they so choose. Witnesses are often parents, brothers or sisters, other relatives, friends, co-workers, and counselors. The Tribunal usually contacts the witnesses by mail and provides a questionnaire to them. These testimonies are returned to the Tribunal and they form a large portion of the proofs upon which a final decision is made. Sometimes, when there are no witnesses available due to the length of time since the marriage ended, character witnesses are required; these are people who can testify to the honesty and reliability of the petitioner.

HOW LONG DOES THE PROCESS TAKE?

The length of time required for the process from start to finish depends upon a number of circumstances: the length of the marriage, the availability of witnesses, the quality of testimony, and the need for expert witnesses. Ordinarily, the formal nullity process from beginning to end in the Tribunal of Sioux City can be completed in 6-12 months. The petitioner is advised to be patient since such a time-frame cannot be guaranteed.

WHAT ABOUT CONFIDENTIALITY?

This is an area that concerns many people who are involved in the nullity process due to the sensitive nature of much of the information that is shared. As a matter of course, confidentiality and the protection of one’s privacy are safeguarded by the Tribunal. No one outside of the nullity process will ever have access to information obtained during the investigation.

HOW IS THE DECISION REACHED?

When all the available proofs are gathered (testimony, documents/records, relevant correspondence, diaries or journals, newspaper clippings, opinions from psychological experts), the investigation concludes. The case is presented to the Defender of the Bond who reviews the procedures and notes those elements that are in favor of the validity of the marriage. The case

then goes to the judge (either a single judge or a collegial court of three judges) who considers the observations of the Defender, examines all the evidence, and writes a formal decision based upon the grounds established at the beginning of the process. An affirmative decision means that the nullity of the marriage has been proven.

IS THE TRIBUNAL’S DECISION FINAL?

As of December 8, 2015 there is no longer an automatic appeal to Second Instance (Dubuque), but the following guidelines will now apply

a) AFFIRMATIVE decision

1. An AFFIRMATIVE decision by the Court of First Instance (Sioux City) may be appealed by either party, Advocate or the Defender of the Bond before the deadline date listed in the letter sent after the decision. If no appeal is lodged by that deadline, the decision stands.

2. Should either party, Advocate or the Defender of the Bond appeal the decision within the time established, to either Dubuque or to the Roman Rota (Tribunal in Rome), the file would be sent to that Court and any further Tribunal correspondence would originate from said Tribunal in regard to the case status. The person filing the appeal would be responsible for any fees assessed by that Tribunal. All parties involved would be notified of the progress and outcome of the case.

b) NEGATIVE decision

1. In the case of a NEGATIVE decision by the Court of First Instance (Sioux City), if an appeal is sought, it can be lodged to either the Court of Second Instance in Dubuque or to the Roman Rota (Tribunal in Rome). The Appeal Court would open the case to a new process and collect additional testimony in order to render a decision: either AFFIRMATIVE or NEGATIVE. All parties involved will be notified of the progress and outcome of the case.

2. Any decision may be appealed by either party, Advocate or the Defender of the Bond to the next court.

IF THE DECISION IS AFFIRMATIVE, CAN REMARRIAGE TAKE PLACE RIGHT AWAY?

Sometimes the persons whose marriage has been declared invalid can marry again or have their present civil unions celebrated in the Church with no special restrictions, as long as the basic requirements for any Church marriage are observed. However, a declaration of nullity does not automatically bring with it unlimited freedom to marry. When the cause of the marriage nullity is seen to be ongoing (a lingering intention against children, fidelity and/or indissolubility, or perhaps some continuing psychological or emotional problems), the Tribunal may include a restriction in the affirmative decision. This would either be a “prohibition” (*vetitum*), or a “caution” (*monitum*). These restrictions may require additional counseling or evaluation before a further marriage can take place. The “prohibition” can be removed by the diocesan bishop upon the recommendation of the Tribunal. The “caution” informs the pastor of the need to take certain precautions before the marriage is celebrated. The “caution” is handled on the local level. **Marriages should not be scheduled** in any Catholic Church until the entire nullity process has been completed.

It is the hope of those working in Marriage Tribunal ministry that this process is an extension of the healing and reconciling mission of Jesus Christ, as well as an opportunity for both parties to a former marriage to look at themselves, their marriage and their future, and evaluate these realities in light of the Gospel. Toward that end, the Marriage Tribunal of the Diocese of Sioux City stands ready to assist and support those who seek to take advantage of this judicial and pastoral process.

