

THE FORMAL ANNULMENT PROCESS

1. APPLYING FOR A FORMAL ANNULMENT PROCESS

a. When to Apply

When the previous two procedures cannot be utilized (i.e., the Absence of Canonical Form Process or the Documentary/Summary Process), then one must initiate the Formal Annulment Process. This process consists of citing the parties, determining the grounds or issues involved, taking formal testimony from the parties and witnesses, publication of acts, and intervention of the Defender of the Bond, with the issuing of a sentence by the Judge stating the facts, the law and the arguments with a determination whether the marriage has been proven null.

b. Application for Formal Annulment Booklet

For the purpose of presenting such a case to the Tribunal, each Petitioner needs to complete the Application for Formal Case for Annulment. It can be found at <https://bhmdiocese.org/formal-case>. It can be printed and completed by hand, or filled out on a computer.

The Application For Formal Case For Annulment consists of an Advocate's Checklist, Application and Petition, Data Pages (names, dates, addresses, etc.), a list of Required Documents (copies of marriage licenses, divorce decrees, baptismal certificates, etc.), list of witnesses (people who knew both parties prior to and throughout the marriage and who would be willing to testify), and the Petitioner's Marriage History (a narrative of both parties' lives before marriage, their courtship, engagement and marriage). Also included are medical release forms for counselors either of the parties may have seen before, during and after the marriage.

c. The Advocate's Responsibilities

It is the responsibility of the Procurator Advocate (the Petitioner's parish priest or Deacon, pastoral associate, or lay advocate) to review the forms and the process with the Petitioner BEFORE the Petitioner is asked to complete the Application and Petition. The Advocate is also responsible for both reviewing the completed forms making sure of their absolute completeness and for presenting them to the Tribunal.

Specifically, the Advocate is to be certain that the full name of each party as well as the maiden name of the woman is given. The exact street address for each party is to be given as well as the mailing address if it should be different. A narrative called "*The Autobiographical Essay Outline*" should have been completed. At least THREE individuals who are knowledgeable of the facts surrounding the marriage in question are to be listed as witnesses as well as any professionals consulted over the course of the relationship. Certain documents must be collected and presented along with the Application for Formal Case for Annulment including the baptismal

certificates of all Catholic parties to the marriage, as well as the Church marriage certificate, or the civil certificate if the marriage was between two non-Catholics. The Final Decree of Divorce is also required. Signatures are required on several pages of the Application and Petition, including the Advocate's signature. The cost of the annulment, \$200, is to be sent in with the case. This fee is to help cover the costs of the operation of the Tribunal.

*****PLEASE NOTE***:** The Advocate assisting the Petitioner should be sure that he/she knows that a copy of his/her Petition will be sent to the Respondent. Near the end of the trial the Respondent will be given an opportunity to read the Autobiographical Essay accompanying the Petition. Consequently, choice of words, opinions, and conclusions should be stated in such a way so as to minimize antagonizing the Respondent. Nevertheless, the truth should always be stated no matter how unsavory.

2. THE TRIBUNAL'S INITIAL REVIEW OF THE PETITION

When the completed Application for Formal Case for Annulment is received by the Tribunal, it will be reviewed to determine whether it has been correctly completed and all the necessary documents and the initial fee have been submitted. If it is found to be incomplete, it will be returned to the Petitioner with an explanation of what is missing. *(This causes useless delays in the processing of the case.)*

a. Competency

If the form is complete, we will determine whether the Tribunal of the Diocese of Birmingham is the competent Tribunal to hear the case. In order for this Tribunal to be competent, one of the three following situations must exist: (1) The marriage took place within the Diocese of Birmingham; or (2) The Petitioner or the Respondent has a domicile or quasi-domicile in the Diocese of Birmingham; or (3) The majority of proofs concerning the marriage can be said to be available in the Diocese of Birmingham. Be aware that the diocese does not have competence if the marriage takes place between two Eastern Catholics, or an Eastern Catholic and a non-Catholic.

If the Tribunal of the Diocese of Birmingham is not competent, we will assist the Petitioner in identifying the possible competent Tribunals.

b. Grounds *A full treatment of the GROUNDS for nullity are included in Section VII, Parts 36 and 37 (see especially cc. 1095-1103).

The following are only some brief thoughts about grounds. The person may be incapable of giving valid consent on the day of the wedding for a variety of reasons such as: severe mental illness, severe immaturity, psychological or social pressure, force and fear demanding that the wedding take place, pressure resulting from

premarital pregnancy, alcohol/drug abuse, grave defect of judgment resulting from lack of freedom or pressure, and prior family circumstances such as alcoholism of parents or other acute family problems which affect the Petitioner's judgment concerning the rights and duties of marriage which are to be mutually given and received.

Likewise a person may be incapable of living out the essential responsibilities of marriage due to: sexual disorder, personality disorders, severe alcohol or drug abuse, chronic irresponsibility.

Finally a person may have an explicit or implicit positive intention against marriage, or one of the goods of marriage, for example, the procreation and education of children, fidelity, permanence, or the good of the spouses (community of life and conjugal love).

*c. **Proofs***

The most common of all PROOFS is the Testimony offered by the Parties and their Witnesses. Other proofs could include any type of document, letter, diary, etc., that might shed light on the case. Experts, such as medical doctors and psychologists, may be employed to help the Judge reach moral certitude. (See cc. 1526-1586)

*d. **Acceptance/Rejection of the Petition***

The Tribunal informs the Petitioner by letter as to whether or not it is competent to try the case AND whether or not there are sufficient grounds and methods of proof to accept the case. If proper grounds and proofs do not exist, further information will be requested. If further testimony does not supply the Tribunal with canonical grounds and proofs, the Petition will be rejected. **(The Petitioner has the right to appeal this decision.)** If proper grounds and proofs appear to exist, the case will be accepted and personnel will be assigned to the case.

Please remind the Petitioner that, because of the volume of cases, there may be some delay before the Tribunal can begin the formal investigation of his/her case. Each case is handled in its turn.

3. BUILDING THE CASE

*a. **Rights of the Respondent***

After a case is accepted, Church law requires that the Tribunal **must** contact the RESPONDENT (the former spouse) in order to inform him or her that the marriage is under investigation and to request his or her cooperation.

The Respondent has the right to be informed and to participate. In addition, the Respondent has the right to approach the Tribunal for an interview and present

Witnesses. However, failure of a Respondent to participate does not necessarily impede the progress of a case.

The former spouses are never asked to appear in the Tribunal at the same time as the Petitioner.

Keep in mind that every effort must be made to locate the Respondent. Otherwise, the whole process is invalid.

If the Respondent cannot be located, a letter from the pastor or advocate indicating what efforts have been taken to locate the Respondent should be sent to the Tribunal.

b. Testimonies and Questionnaires to the Parties and Witnesses

The Tribunal sends questionnaires to the Respondent and Witnesses to help in the investigation. They are given three weeks to complete the questionnaire. It is imperative that the parties contact the witnesses and urge them to complete the questionnaires as soon as possible.

c. Petitioner's Interview in the Tribunal

The Petitioner will most likely be asked to come to the Tribunal for a personal interview with a Priest/Judge who will seek clarification and, perhaps, further information.

4. THE CONCLUSION OF THE CASE

Once the Judge feels that sufficient grounds and evidence exist and have been collected, the Tribunal will inform by mail the parties in the case that it is time for the Judge to make his decision. Both parties have the right to inspect the testimony which was submitted in the case. The Judge may withhold some testimony only for a just cause. A panel of Judges (or a single Judge) carefully studies the testimony submitted. If the Judge reaches moral certitude that invalidity has been proven, then a Declaration of Nullity is issued. If the Judge does not reach moral certitude, then the validity of the marriage bond stands. A negative decision does not mean that the marriage is certainly valid – only that the invalidity thereof has NOT been proven.

Each party, as well as the Defender of the Bond, has the right to appeal the Judge's decision, even to the Roman Rota.

5. THE SECOND INSTANCE COURT (Metropolitan Tribunal of Mobile)

If either party or the Defender of the Bond decide to appeal the decision, they may file a Formal Appeal of the Sentence (Decision) of the First Instance Court with the Second Instance Court, which is the Tribunal of the Archdiocese of Mobile. This Formal Appeal may be filed whether the Sentence (Decision) is either Affirmative or Negative. The Birmingham Tribunal will assist you through any eventual appeals process. Please note that appeals that are merely dilatory in nature may be rejected.

6. PRACTICAL INFORMATION

a. No Wedding Date can be set BEFORE the Final Decision

For the above-stated reasons, **NO DATE IS TO BE SET FOR A FUTURE MARRIAGE** until the LETTER OF NOTIFICATION OF RATIFICATION/CONFIRMATION has been received by the parties and presented to the priest who is then free to assist in the wedding preparations and setting of the wedding date. This document will be kept in the nuptial file for the new marriage to be celebrated.

b. Monitum and Vetitum

Sometimes, even though the marriage is found to be null, a warning or prohibition called a monitum or vetitum is issued which prevents a future marriage for one or both of the parties. To remove this, a person usually will have to have some counseling. Whatever is required will be specified on the parties' LETTER OF NOTIFICATION OF RATIFICATION/CONFIRMATION. A vetitum can be lifted only by the explicit permission of the Bishop of the Diocese.

c. Fee

As you know, the work of the Tribunal is supported by the generosity of the people of the Diocese of Birmingham, most of whom never require its services but who, nonetheless, share in the joy of all who are reconciled with themselves and with the Church community. It seems only fair, however, that those who avail themselves of the services of this office assist in bearing this financial burden. The total fee for a Formal Annulment Process (the most common procedure) is \$200.00. This fee covers only a portion of the actual cost per case (which is closer to \$1500.00). ***It is important to remind the Petitioner that the progress of one's case or the eventual decision is never affected by one's inability to pay the full fee.***

Revised 01/2023