

Tribunal of the Diocese of Camden

QUESTIONS REGARDING ANNULMENTS

Q1. Are divorced persons welcomed in the Catholic Church?

Divorce is a civil procedure and does not affect an individual's participation in the life of the Church unless that person has remarried without having obtained a Declaration of Nullity (Church annulment) from the Church.

A divorced person, who has not remarried, is welcome to receive the Sacraments and also to serve as a Lector or a Eucharistic Minister. A divorced person may be married in the Catholic Church only after receiving a Declaration of Nullity of the first marriage or after the death of the former spouse.

Q2. Does my divorce mean I am ex-communicated from the Catholic Church?

There is no penalty of ex-communication for divorce. Divorce itself is considered neither right or wrong. The Church recognizes that it may be a necessary step to determine civil, legal and financial matters, resulting from the termination of the marriage. As long as a divorced person does not remarry during the lifetime of the former spouse or without a Church Declaration of Nullity (annulment), he/she may continue to receive the other Sacraments and participate in the full life of the Church.

Q3. Is divorce a sin?

Divorce itself is considered neither right or wrong. The Church even recognizes that divorce may be legally and civilly necessary to protect the best interests of the parties and the children of the marriage.

Q4. Isn't an annulment a divorce, Catholic style – a Catholic divorce?

The correct term for an "annulment" is a "Decree of Nullity." This states that the marital union has been thoroughly investigated and found to be lacking in the essential characteristics of the Christian sacramental union from its beginning. The Decree of Nullity is a statement that a valid sacramental bond did **not** exist; not that it **did** exist and is now ended. A civil divorce, on the other hand, is the breaking of an existing legal and civil bond/contract.

Q5. Is it very difficult to obtain a Decree of Nullity?

The process is a detailed one. It is a judgment made on facts presented. Circumstances will make each case different, but the basic process, as prescribed by the Code of Canon Law, is the same in all cases.

Q6. Do only Catholic marriages need to be declared null before a second marriage can take place?

Only a Catholic is bound to marry according to the forms prescribed by the Catholic Church, *i.e.*, before a Catholic Priest or a Deacon and at least two additional witnesses, unless dispensed from the requirement by the Bishop.

The Church recognizes the marriage of two non-Catholics, whether they marry in their own Church, another Church or in a civil ceremony, as long as the ceremony is valid according to civil law and the customs of the individuals.

From a perspective of the Catholic Church, therefore, non-Catholics are considered to be married persons unless the former spouse has died or the marriage has been declared null by the Catholic Church.

Since the Church has the right to determine who may be married in the Catholic Church, it can make a judgment on the validity of the marriage of two non-Catholics, if one requests this in order that he/she might be able to marry a Catholic in the Catholic Church.

Q7. Is the annulment process similar to the divorce process, with testimony, cross-examination and determination of fault?

Within the Church annulment process, there is no cross-examination. Both parties are required to give testimony, but do not confront each other, personally.

Testimony is taken in order to come to an understanding of the circumstances of the relationship, not to place guilt or blame for the breakdown of the marriage. An effort is made to make the atmosphere one of concern and gentleness, and the focus is on their relationship prior to the marriage.

Q8. Is a Decree of Nullity possibly if the marriage lasted many years and had resulted in the birth of children?

The laws of the Church concerning marriage determine when the Church can recognize a marriage as valid. There are a number of grounds for invalidity recognized by Church

Law. However, the fact of consummation or length of the marriage will not prevent the granting of the Decree of Nullity.

Q9. Does the process take very long?

Although the time varies from one diocese to another, it is usually completed within eighteen to twenty-four months. Sometimes it takes less and sometimes it takes more time. Much of the time involved is used in collecting the necessary testimony from each party and their witnesses and documentation. It often depends upon how the fast the witnesses respond and how much evidence they present. This is determined by the one who is petitioning for the annulment (the Petitioner).

Q10. If a Decree of Nullity is granted, are the children of the marriage illegitimate?

For the children who are born of a legal, civil marriage, the decree does not leave them illegitimate or orphaned. Church Law provides that children born of such a marriage are always legitimate.

Q11. If I wish to begin the process of seeking a Church annulment (Decree of Nullity), what should I do?

There are two options. You may consult your parish priest, deacon or pastoral minister, or you may contact the Diocesan Tribunal directly. The Tribunal will place you in contact with a Parish Advocate to assist in the preparing the necessary paperwork to begin the annulment process.

Before you apply:

1. you must be civilly divorced and have received your final decree of civil divorce;
2. you must be a resident of this Diocese, or your former spouse is a resident of this Diocese, or the marriage took place within this Diocese;
3. if you are a resident of this Diocese and the marriage did not take place within the Diocese and your former spouse (who is the Respondent in the process), is living outside this Diocese, then your Tribunal needs to get competence for jurisdiction from the Tribunal of the place where your former spouse is now living. Therefore, the correct address of your former spouse is necessary.

Q12. If a parish priest or minister says he or she believes that there are no grounds present in the case, is there any further assistance?

The parish priest, deacon or pastoral minister cannot make such a determination. They may be able to point out possible weaknesses or difficulties in the case, but only a judge in the Tribunal may definitively determine there are no grounds.

Q13. Will my former spouse be contacted?

Yes, Canon Law requires that every effort be made to inform the former spouse that a petition has been presented and an investigation has begun. This offers the former spouse the opportunity to participate in the process.

Q14. Why are witnesses necessary in a Church annulment?

Church law requires that the testimony of the Petitioner be corroborated by witnesses since the rights of two persons, the sanctity of marriage and the good of the community are all involved. These witnesses are asked about the backgrounds and personalities of the principal parties and about their courtship (relationship prior to the marriage). They do not need to be experts – simply people who knew the partners before the marriage, and knew of any problems encountered prior to the marriage which may have caused the marriage to end.

A witness does not have to know the entire story. One witness can tell about certain things and another witness can tell about other things. Children born to the couple, whose marriage is being investigated, can not be witnesses since they were not present at the time of the courtship.

Q15. Is there a fee for this process? If I cannot afford to pay, may I still apply?

Everyone has a right to apply for an investigation of his/her former marriage. The process is a lengthy and detailed one and there is an expense involved. In **no** case does one “buy” an annulment. It is a judgment of fact and the marriage must be proven invalid before a Declaration of Nullity can be given.

Tribunal charges for the process are similar to civil court costs – expenses involved in processing the case. Tribunals must pay for electricity, maintenance, salaries, equipment and supplies.

The amount required for the ordinary Church annulment case is \$800.00. Checks should be made payable to the Diocese of Camden.

A \$100.00 filing fee will be required before any case is opened or re-opened. This should be included along with the application.

An investigation fee of \$400.00 will then be required at the time the Petitioner is interviewed.

A closing fee of \$300.00 will be required once the case has been completed (grounds have been established and legal briefs have been prepared), and the case has been put on the docket for a decision.

Should an evaluation be needed from a professional counselor – an option which may be necessary to strengthen a weak case – an additional is usually required. This fee is normally \$125.00 and paid either directly to the counselor or through the Tribunal. A case is considered weak when there is a lack of witnesses or a lack of evidence from the witnesses the parties have presented.

These fees are non-refundable and should not be construed as payment for a Church annulment. Rather, the fees are payment for the expenses that are incurred, regardless of the outcome of the case. Should, for some reason, a case not be completed, the final closing fee is not incurred.

If the Petitioner can present proof of financial hardship, arrangements can be made regarding the fees; or the fees can be waived in extreme hardship cases.

Q16. If my former spouse obtains a Decree of Nullity and is allowed to remarry, am I still bound?

No. It is the marriage between the two persons that is declared invalid so both parties are free to marry.

Q17. After a Decree of Nullity is granted, am I free to remarry?

Sometimes the Tribunal will ask that you receive professional assistance from a marriage counselor or professional psychological expert, prior to entering a new marriage so that problems that emerged in the first marriage can be avoided in the new one. This is intended to assist you in your new marriage; it is not a penalty.

Q18. What are some of the grounds for a Church annulment?

Sometimes, when people are asked why they think they are eligible for a Church annulment, they will say, “I think I am a good person. I go to Church every Sunday, I put money in the collection faithfully, I participate in Church functions and I send all my kids to Catholic school. That’s why I think I should get a Church annulment.”

These may be reasons for wanting to apply to the Church for an annulment, but not one of these is a reason for the granting of an annulment.

The main reasons or common grounds for an annulment are:

- a. circumstances present at the time the marriage vows were exchanged.
- b. circumstances perduring throughout the marriage which resulted from psychic causes rooted prior to the marriage.

Thus, was there an obstacle, an intention at the time of your exchanging vows that made your marriage invalid?

“Everything was fine, except after ten years of married life, I was abandoned.” The question is why did your former spouse find someone else? We must go back to the beginning of the **courtship** and delve into the relationship as it was experienced prior to the marriage.

Just because you may not be the blatant or culpable cause of the marriage failure does not mean you are entitled to an annulment. An investigation is needed to determine the doubt regarding the validity of the marriage.

Church Law states, “marriage enjoys the favor of the law; consequently, when a doubt exists, the validity of the marriage is to be upheld until the contrary is **proven**.”

Q19. How can I prove that my marriage is invalid?

Since this is the Petitioner’s case, the basic responsibility for presenting the evidence, *i.e.*, that my marriage was/is defective, lies with the Petitioner. Therefore, it is the Petitioner’s responsibility to provide the proof.

Now proof is not an assertion, nor is it an allegation or a conjecture. For example, my spouse was unfaithful to me ten years into the marriage. He/she met someone else; therefore my marriage is invalid or null. Not at all. However, if he/she intended to be unfaithful from the very beginning, we may now have something on which to build a case.

Church Law requires proof beyond the simple word of the person seeking the Church annulment. Proof needs evidence!

There are three forms of evidence:

1. Testimony – from the parties and their witnesses;
2. Documentation – medical, military, judicial records; and
3. An expert opinion – from a professional counselor.

No one knows the intimate details of any relationship better than the couple themselves. However, the proof beyond the words of the spouse must come from the testimony of witnesses, people who knew the spouses during the courtship and the marriage and people who are willing to cooperate in this matter. Witnesses may be relatives, friends or acquaintances. Marriage counselors, psychologists, doctors, etc, may also act as

witnesses. Therefore, proof is necessary in each and every Church annulment case and the burden of providing this proof is always on the Petitioner.

Q20. What exactly is the annulment process?

A Church annulment is started by completing a preliminary form that contains a Formal Petition, the Petitioner's Agreement and an Initial Statement, and by submitting the filing fee. In completing these forms for a Church annulment, one should answer all the questions as truthfully and completely as possible. A copy of the final decree of civil divorce must be included. The Tribunal will request the necessary documents from any Catholic Church. Please be aware that all evidence obtained in a Church annulment is confidential and limited to only those appointed to function in a particular case.

After the preliminary form has been formally received by the Judge-Instructor assigned to the case, the former spouse (the Respondent) will be sent a copy of the Formal Petition. This is only the one-page Formal Petition – it is not the information contained in the Initial Statement. While the Respondent is being asked to cooperate by giving testimony either in person, by telephone or by written statement. Preliminary grounds for a Decree of Nullity will be set at this time. The Petitioner appears at the Tribunal to give formal testimony in a personal interview. After this interview, either questionnaires will be sent to individual witnesses, or letters will be sent asking these witnesses to make an appointment at the Tribunal so that their testimony can also be taken in person. In situations where a witness is physically or visually disabled or home-bound, arrangements to take testimony by telephone can be made.

If the former spouse (the Respondent) does not respond or refuses to cooperate, the process continues without that input. In such a situation, the Judge-Instructor will select witnesses on behalf of the Respondent from those names submitted by the Petitioner. This is why the Petitioner is asked to list relatives and friends as witnesses for both parties.

Once the investigation has been completed and the case has been reviewed, final grounds are then established. If the case is to be accepted, then both parties will be notified regarding the grounds on which the case will be judged. If it is not possible to establish grounds, or if grounds have been established but there is no hope of proving them, the petition will have to be rejected. However, the case may be re-opened and again considered for acceptance should this situation change at any time in the future.

Once the case has been accepted, the Tribunal will then obtain the evidence that is needed. If it is necessary that the case be sent to an expert for a professional evaluation, an additional fee will be required of the Petitioner.

Once the professional evaluation has been submitted, the case is then ready for written arguments (legal briefs), by both the Advocate for the Petitioner and the Defender of the Bond, with each presenting a canonical argument in written form, one in favor of annulment and the other in favor of preserving the marital bond.

Once these briefs have been submitted, the case is given to the Judges of the Court of First Instance (Diocese of Camden) for their study and decision. Once this First Decision is made and communicated to the parties, the case is then sent to the Judges of the Court of Second Instance (Diocese of Paterson), which is our Appellate Court, for a mandatory review and Second Decision.

Q21. While the annulment process is taking place, how can I inquire as to the status of my case, or have any questions answered by the Tribunal?

In communicating with the Tribunal, we ask that you do so by signed fax or letter; **please no phone calls, no third party inquiries and no unscheduled appearances.** This will ensure confidentiality and accuracy. Each case is assigned a case number, which is to be used when writing to the Tribunal.

Should two monthly letters to the Petitioner requesting specific information/action remain unanswered, the Tribunal will conclude that the Petitioner is no longer interested in pursuing the case, and the case is then placed into our Inactive File. Once a case has been placed into the Inactive File, the regular filing fee will be required to re-open the case.

Q22. How can I re-open a case that I started some time ago?

Generally, if you have previously applied to the Tribunal for an annulment, you need to consider why the case had been withdrawn or placed inactive, and consider if the circumstances have been corrected or changed in any way. If so, simply write to the Tribunal giving the case number, the last name of the one who had petitioned, then the last name of the former spouse, (the woman's maiden name is always used) and explain why you would like to re-open the case.