

## Questions and Answers Regarding the Decree of Invalidity

### 1. What is a Christian Marriage?

According to Vatican Council II, marriage is an intimate partnership of married life and love which was created by God and qualified by His laws. It is through a mutual exchange of consent between a man and a woman that the irrevocable conjugal covenant is established. Marriage as created by divine will and celebrated publically in the eyes of society is a lasting union which is for the good of the spouses and their offspring.

### 2. What is a Declaration of Invalidity?

A Declaration of Invalidity is a judgment made by a Church process which declares that a marriage apparently did not fulfill or include one or more of the essential elements of a valid sacramental marriage. These elements include: permanence, fidelity, partnership, and openness to children.

### 3. Should divorced Catholics still participate in the sacraments of the Church?

Yes. A divorced Catholic who has not remarried is still a member of the Catholic Church in good standing and can participate in the sacraments of the Church.

### 4. Should divorced and civilly remarried Catholics still participate in the life of the Church?

Divorced Catholics who are civilly remarried are still members of the Church. They are, however, not able to participate in the sacraments (Eucharist, Reconciliation).

### 5. Why can't divorced and remarried Catholics receive the Eucharist?

Unless the divorced and remarried Catholic has received a Decree of Invalidity for their earlier marriage(s), they and their Catholic spouse cannot participate in the Eucharist because the new marital bond is considered to contradict the validity of the first marital bond which the Church is obliged to protect.

### 6. When is the best time to apply for a Decree of Invalidity?

This varies according to the needs of the individual. If a person has recently been divorced, they may be still experiencing the grieving process and may not as yet have come to terms with the fact that the marriage has ended. Thus, it may be too early. However, if one or both of the parties plans to remarry soon, the parties may not want to wait and should initiate a case as soon as possible.

### 7. Does a person need to apply for a Decree of Invalidity if he/she does not plan on

remarriage?

A person never knows what life will bring, and even though the person does not plan on remarriage, this may change in the future, and plans may have to be delayed or changed because a decree of nullity will be needed. The process can also be seen by both parties, if approached in the right spirit, as a means of healing and going forward with their new lives.

8. Who should apply for a Declaration of Invalidity?

Either spouse of a marriage who feels a need for a Declaration of Invalidity can apply. The person who is initiating the marriage case is the Petitioner, and their former spouse is the Respondent.

9. Will my former spouse be contacted?

Yes. Both parties were a part of the marriage, and both parties have the right to know that a Decree of Invalidity is being sought. While one party is initiating the marriage case, their former spouse has a right of defense on their own behalf. It is also in the best interest of justice to have the full story regarding the marriage from both parties.

10. What if my former spouse will not cooperate?

The former spouse will be contacted and invited to participate in the process, and if they should not choose not to participate, the case will still go forward in the process.

11. Will I be asked to confront my former spouse?

Although the party initiating the case is required to make a serious effort to locate and provide the Court with their former spouse's present name and address, they will not be asked to confront him or her. Interviews for the spouse are set at different times.

12. What if I don't know where my former spouse is?

The Petitioner has the obligation to find the Respondent by whatever means are available, but if no address is known, the case will go forward.

13. Is the purpose of this process to judge my former spouse and myself?

No. It is not the Tribunal's aim to carry out any type of moral judgment regarding who is right or wrong or who is innocent or guilty. It is the aim of the Tribunal to decide whether any essential element is missing in this marriage which could then prove the marriage not fully valid.

14. Does the Decree of Invalidity mean that the children from my marriage are illegitimate?

No. A child is legitimate as long as the parents were married at the time the child was born, or even if they married after the birth of the child.

15. If my husband/wife has been previously married and divorced, but he/she is not Catholic, do they have to apply for a Decree of Invalidity before we can have our civil marriage validated?

Yes. The Catholic Church considers all marriages valid because of natural law. Therefore, all marriages are considered naturally valid.

16. Does a Decree of Invalidity mean that I am free to remarry or have my present civil marriage validated?

In some cases, additional instruction about Catholic Doctrine of Marriage is required. In other cases a prohibition may be placed on one or both parties.

17. How can the prohibition be lifted?

The Tribunal Judge needs to receive a report and be satisfied that the previous condition(s) no longer exist. **For details, please contact the Tribunal.**

18. What is the procedure for remarriage or the validation of my civil marriage once the Decree of Invalidity has been granted?

The Decree of Invalidity requires an affirmative decision both in the First Instance Court in Peoria and in the Second Instance Court in Chicago. Once this has been obtained, the parties must meet with the parish priest who will be preparing them for their marriage/validation. The couple must undertake the same preparations as anyone who is preparing to be married. However, the documents of the previous marriage, as well as the Decree of Validity must be included in the prenuptial file, and if the parties have been in a civil marriage celebrated outside the Church, the Catholic parties must celebrate the Sacrament of Reconciliation.

19. What if I receive a negative decision at the conclusion of the marriage case process?

If a negative decision is given, the Petitioner is encouraged to talk with their Advocate at the Tribunal. A negative decision can be appealed to the Second Instance Court.

Anyone who has any questions regarding the Tribunal, a possible marriage case, or suggestions for recommended reading regarding this topic may call the Tribunal at (309)671-1550 Monday through Friday, 8:30-4:30.