

Declaration of Invalidity (Annulment)

Procedures in a Formal Case

By law, the Church presumes that all marriages are valid until proven to be invalid. The petitioner has the burden of providing witnesses and evidence as to why the marriage is invalid. The formal process is not adversarial and does not make a moral judgment on any person involved, it simply makes a statement of truth regarding the validity of the prior bond according to Church teaching. The formal declaration of invalidity (mistakenly called an annulment) process is necessary for many cases. It includes the steps below.

PRELIMINARY PHASE:

Contacting an Advocate

The Diocese of Little Rock requires that petitions for a declaration of invalidity be submitted with the assistance of an advocate. Petitioners can contact the local parish or the Tribunal office for a list of advocates in their area.

Preparing the Petition

The advocate will assist the petitioner in determining the proper case type, completing the petition, providing a statement, and gathering the necessary documents. All petitioners must provide a copy of the civil marriage certificate and the divorce decree. Catholic petitioners must also provide a copy of their baptismal certificate, that has been obtained from the church of baptism in the last six months.

The application **MUST** include the current mailing address for the respondent. This is required by canon law to protect the rights of the respondent.

The petitioner will need to name at least three witnesses who knew either the petitioner or the respondent well prior to and/or at the time of the wedding. The petitioner must contact all the witnesses and confirm that they are willing to provide testimony in the matter.

The entire petition and statement must be completed, and all required documents received before the Tribunal process can begin.

Once the Tribunal has received the petitioner's packet jurisdiction will be determined and the case reviewed. The Tribunal will either accept the case as presented, ask additional questions of the petitioner, or reject the case with specific reasons provided.

ACCEPTANCE OF THE CASE:

Acceptance of the Case and Citation of Respondent

If the case is accepted, the petitioner will receive a letter indicating the grounds that the court has proposed for hearing the case. The petitioner should carefully review this letter with his/her advocate to be certain the grounds proposed are clearly understood and that the petitioner has no legitimate objection to any of the members of the court named by the judicial vicar.

The court will send a certified letter to the respondent with a copy of the decree of acceptance. This letter explains that the petitioner has formally started the process, and that the respondent has the right to be informed about the process, to participate, name his/her own witnesses, appoint an advocate, and to be informed about the final outcome. This letter invites the respondent to either agree with or object to the proposed grounds, and/or to propose his/her own grounds.

Formulation of the Doubt and Constitution of the Court

If neither party objects to the grounds, the judicial vicar will formally determine the grounds upon which the invalidity of the marriage will be investigated and name the members of the court. A letter is sent to both parties and they are given the opportunity to object to the grounds and members of the court.

Instruction of the Case

If neither party objects to the members of the court or the grounds, the tribunal will contact the witnesses and invite them to provide testimony by responding to specific questions. If the respondent provides witnesses, they are asked to participate in the same manner as the petitioner's witnesses.

The tribunal will contact the petitioner and/or respondent every 30-45 days to advise which witnesses have or have not provided testimony. The judges will not be able to reach an affirmative decision in your case if sufficient testimony is not received.

Depending on the grounds, the petitioner and/or the respondent may be asked to meet with a psychologist or another court-appointed expert for an interview to offer insight into the marriage.

Publication of Acts of the Case

After all of the information has been gathered from the petitioner, respondent, and witnesses, the judge issues a decree publishing (i.e., make known to the parties) the acts of the case. This means that both parties may be given the opportunity to come to the Tribunal to review all of the material that has been collected and will be used in making a decision concerning the validity of the marriage bond.

Judgment

After the publication of the acts has concluded the case is then presented to the defender of the bond and then to a collegiate panel of three judges. The defender of the bond does not decide the case. If the defender does not believe the process has been followed according to canon law, this will be noted accordingly. It is the responsibility of the defender to point out all things that support the presumption of validity.

After the defender of the bond provides his/her observations, the judges can begin to develop a decision. They each review the case and come to an individual decision, then they meet to discuss and agree upon a final decision.

Publication of Sentence and Appeals

After the tribunal judges agree on a decision, a definitive sentence will be written. This decision contains an application of the grounds and church law to the facts of the case as well as the argument leading to the court's conclusion. Both parties and their advocates will then be notified of the decision.

If the judges decide that the evidence supports an affirmative decision in favor of a declaration of invalidity, a 15 day period of time is required for any possible appeals. If no

appeals are received, a final decree is issued. Prior to receiving this final decree, **NO PLANS** for a marriage in the Catholic Church can be made.

If the judges decide that the evidence does not support a declaration of invalidity and give a negative decision, unless one of the parties wishes to appeal, the case ends there. In the case of a negative decision, the bond of marriage is upheld because the presumption of the validity of the marriage has not been overturned and therefore neither party is free to remarry.

Whether the decision is affirmative or negative, the petitioner, respondent, and defender of the bond all have a right to appeal the decision. In order to appeal the decision, a party must send a written request to the tribunal within 15 days of the date the person is notified stating that he/she wishes to appeal the decision.

Decisions of the Little Rock tribunal can be appealed to the Metropolitan Archdiocesan Tribunal of Oklahoma City in the Archdiocese of Oklahoma City, or to the tribunal of the Roman Rota in Rome, Italy.