



WHAT YOU NEED TO KNOW ABOUT NULLITY CASES

D I O C E S E O F S A L I N A

WHAT IS MARRIAGE?

Marriage is a covenant that a man and a woman establish between themselves and God as a partnership for the whole of life that is directed toward the good of the spouses and the procreation and education of children.

WHAT IS THE DIFFERENCE BETWEEN A DIVORCE AND A DECLARATION OF NULLITY?

Divorce is a formal and legal ending of marriage under civil law. A declaration of nullity is a formal and legal decree that states that an essential element necessary for a valid marriage was lacking prior to and at the time of consent; therefore, the bond never existed. The word “null” is the same as “invalid.” The process leads to a judicial decision from the Church – represented by the Tribunal. A declaration of nullity indicates that a true marriage bond did not come into being, even though it had the appearance of marriage of two people who tried to make it happen.

WHY IS THE WORD “NULLITY” USED RATHER THAN “ANNULMENT?”

The Church does not cancel or nullify marriages, but the Church does declare what facts establish. It has to do with the truth of a given marriage. The Tribunal’s main role is to investigate the facts in order to determine if a marriage was invalid from the beginning; if that is not clear from the facts, then the marriage in question is presumed to be valid and thus operative despite what civil law states.

HOW LONG DOES A NULLITY CASE TAKE IN THIS DIOCESE?

Formal cases average between 5 and 12 months from the time of submitting the petition to the Tribunal. Documentary cases are much shorter—1 to 3 months to process. If you are seeking a future marriage, please do not set the wedding date until you receive the final decree conveying the result of the proceedings. We are mindful of those in RCIA and those who desire a future marriage; we have a duty to complete all the elements of the process before a decision is reached.

WHY DOES IT TAKE SO LONG?

In that amount of time, we examine the petition/narrative, determine the grounds, gather evidence, and then move toward the conclusion of the case when it's ready for judgment. The gathering of the evidence and working towards understanding the facts is what takes the most time. Also keep in mind that each case is unique; some cases require more attention than others due to various circumstances.

WHAT IF BOTH PARTIES ARE NON-CATHOLIC?

The Tribunal does handle cases involving non-Catholics. Just because a non-Catholic gets divorced does not mean that they would be free to remarry. This is due to Catholic belief in the permanence of marriage – unless the marriage was invalid from the beginning – which is what we investigate.

WHAT IS A DOCUMENTARY CASE?

1) The marriage in question was done outside of the Catholic Church when one or both parties were bound to marry in the Church.

2) The marriage in question was not lawful due to one or both parties being previously married if they are still bound by that bond.

Note: in the first case, like Pauline Privilege, the role of the Tribunal in those cases is to ensure that the person is lawfully free to marry; the documents assist in arriving at necessary certainty.

WHAT IS A FORMAL CASE?

It's the phrase used in reference to almost all nullity cases. Baptismal status and other facts are taken into account. Normally we look to see if there was a defect of consent in one or both parties at the time of the wedding.

WHAT RESULTS CAN I EXPECT WHEN THIS PROCESS IS FINISHED?

It will be either Affirmative or Negative.

AFFIRMATIVE:

This means that there is moral certitude that a specific ground is established, thus being reason for the marriage in question to have been invalid from the beginning.

NEGATIVE:

This means that there is not moral certitude that a specific ground is established, thus there is no declaration of nullity of the marriage from the beginning. Note: if any of the grounds selected ends up Affirmative, the whole case is Affirmative; otherwise, it's Negative. You will be informed what the grounds are early in the case; if you need clarification of what those grounds mean, you are welcome to contact the Tribunal or your local priest/pastoral expert.

IF I RECEIVE AN AFFIRMATIVE DECISION, WILL MY CHILDREN BE CONSIDERED ILLEGITIMATE?

No, your children's status and legitimacy is intact and unaffected by this process – no matter what the outcome is. The matter at hand is whether or not a marriage bond was established; children born before or after the wedding is outside of the primary consideration of this process. The 1983 Code of Canon Law does not have harsh consequences for children born outside of wedlock, but the understanding of this before 1983 was much different. Rest assured that, for all those involved and their children, the fundamental human dignity of all remains intact.

BUT DOESN'T THE RESULT OF THIS PROCESS AFFECT EVERYTHING IN MY LIFE MOVING FORWARD?

The result of this process reveals if you are free from all ecclesiastical rights and obligations of marriage or not. It reveals if you are free to marry in the future or not. The result of this process does not affect the status of children, property rights, inheritance rights, etc.

HOW MIGHT A MARRIAGE BE DECLARED INVALID FROM THE BEGINNING?

While that concept might seem odd, the best thing is to tell your story and to allow the Tribunal to seek facts and to declare Affirmative or Negative on each of the grounds that are relevant. Offering further explanation of how this works delves into canon law language that is better explained in person.

IF I DISAGREE WITH THE FINAL DECISION, WHAT ARE MY OPTIONS?

You can elect to appeal the case to a higher court, appeal it to Rome, or you can accept the result. If you do not want to appeal, but simply have questions, you are welcome to request clarification from the Tribunal.

WHAT IF MY FORMER SPOUSE REFUSES TO PARTICIPATE IN THE NULLITY CASE?

If that were to happen, your case will continue to proceed. The Tribunal will work to ensure that the rights of both parties are upheld.

HOW MUCH DOES A NULLITY CASE COST?

Neither party is required to contribute to the administrative cost incurred in processing a nullity case. If you choose to donate to the diocese to help defray some of the costs, you will be invited to do so at the end of the proceedings. If a donation is made, in no way is that tied to what the outcome of the case is.

MUST MY FORMER SPOUSE BE CONTACTED IN THE NULLITY PROCESS?

Since all people enjoy the right of self-defense, Church law requires that the ex-spouse be contacted so that they can offer their point of view. If extremely serious reasons are present that make it impossible or dangerous to contact the ex-spouse, you are welcome to explain those circumstances and then to see if the Tribunal will grant an exception.

WHAT HAPPENS IF THE ADDRESS OF MY FORMER SPOUSE IS UNKNOWN?

If that's the case, efforts to locate them need to be attempted and documented. This makes the Tribunal aware of the situation; sometimes the Tribunal is able to locate the Respondent.



IF I AM DIVORCED, BUT NOT
REMARRIED OR COHABITATING, MAY
I RECEIVE HOLY COMMUNION?

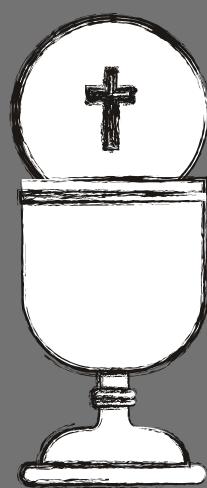
yes

A divorced Catholic, in the state of grace, who has not remarried outside of the Church and is not living with someone as if married, is permitted to receive Holy Communion.

IF I AM DIVORCED AND REMARRIED
OUTSIDE OF THE CATHOLIC CHURCH,
MAY I RECEIVE HOLY COMMUNION?

no

Receiving Holy Communion is a public statement that the person accepts the teachings of the Catholic Church, including marriage laws. We are interested in ensuring that your way of life does not contradict the teachings of the Church. Often the desire to remarry provokes one to petition for a declaration of nullity.



WHAT IF BOTH PARTIES ARE NON-CATHOLIC?

The Tribunal does handle cases involving non-Catholics. Just because a non-Catholic gets divorced does not mean that they would be free to remarry. This is due to Catholic belief in the permanence of marriage – unless the marriage was invalid from the beginning – which is what we investigate.

WHAT IF I AM DIVORCED, BUT HAVE NO FORESEEABLE DESIRE TO REMARRY, CAN I STILL SUBMIT A CASE?

Yes, you have the right to petition for a declaration of nullity regardless of your future plans. You will likely learn something about yourself and about the Church by engaging in this process.

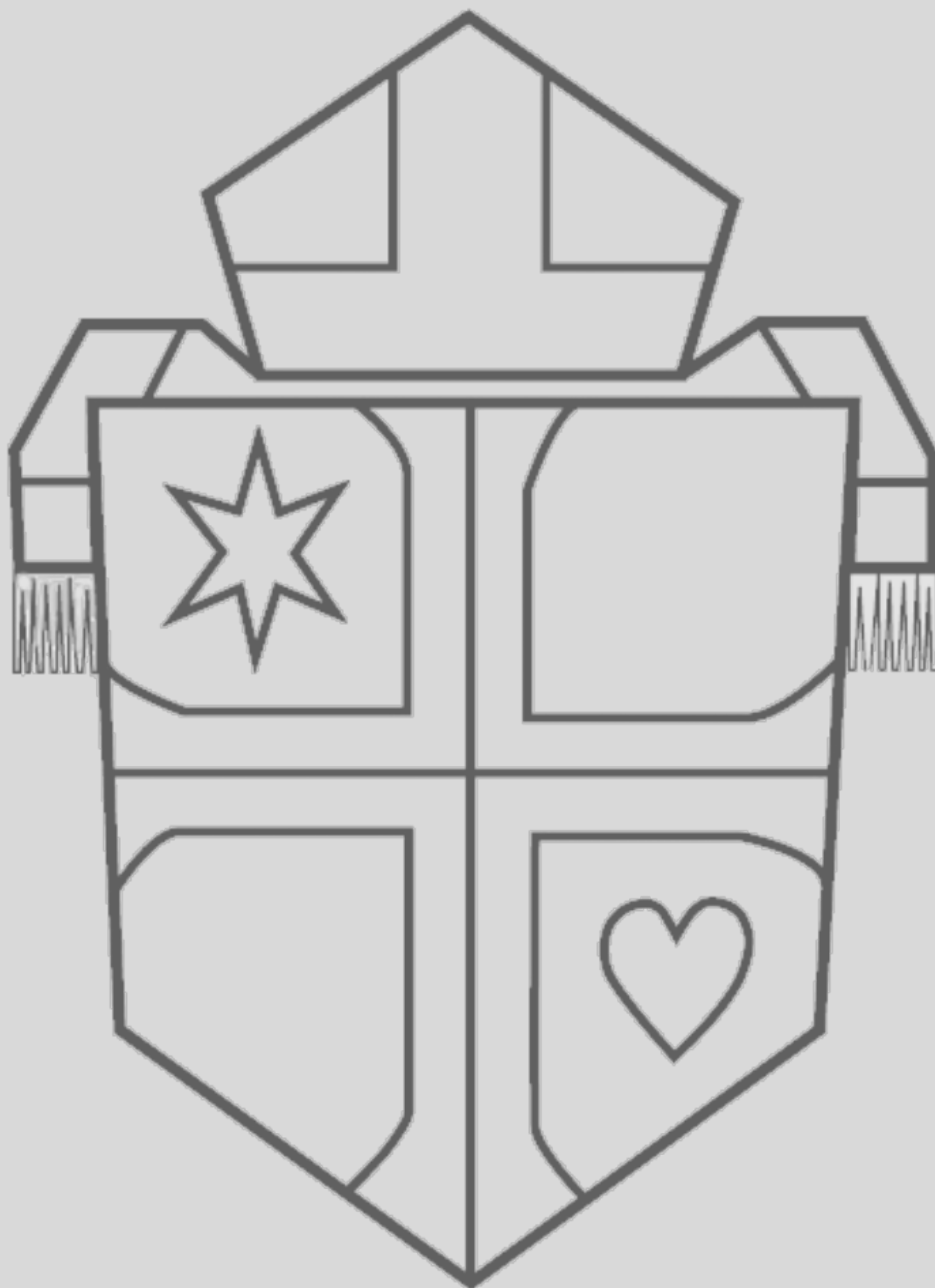
HOW DO I START A NULLITY PROCESS?

Contact your pastor or someone with expertise in pastoral ministry. You could also contact the Tribunal and we can appoint someone to work with you – or we can work with you directly. Regardless, once the checklist is complete, the Tribunal will determine the best way to proceed on the case. The checklist is a concise list of paperwork that is needed initially; you'll find that most of the work is getting started. This provides the Tribunal something to work with in the investigation of the marriage in question.

WHAT DO I DO WITH THE NERVOUSNESS THAT I FEEL ABOUT THIS?

This is an important and delicate matter. If it's the right time for you to move forward on this with seeking a declaration of nullity, please know that it has the potential to be a healing process, a true encounter with Jesus Christ. Remember that there is no implication of criticism or blame on the part of you or of your ex-spouse. This is not a time to make a defense or an accusation. Our purpose is to discover the truth, not to assign blame. Keep in mind that this process is conducted within a long-standing framework called the Tribunal, and will eventually lead to a judicial decision.





OFFICE OF THE TRIBUNAL

103 NORTH NINTH STREET

WWW.SALINADIOCESE.ORG