

## **§850 THE TRIBUNAL**

*The Tribunal of the Diocese of Springfield in Illinois (“Tribunal”) exercises the judicial power of the Bishop. It acts to promote or vindicate the rights of physical or juridic persons and to discover and declare juridic facts. Tribunal staff members, including priests, religious and lay persons, are specially trained to aid individuals who formally request that the Church examine their marriage to determine whether or not it can be annulled.*

*The most common case heard by the Tribunal is a formal declaration of nullity. A formal Declaration of Nullity is a statement by the Roman Catholic Church that the marriage in question was not a binding (sacramental) union. It does not deny that a relationship existed which was recognized as a marriage by civil law. Furthermore, it does not imply that the relationship was entered with ill will or moral fault. Rather, a formal declaration of nullity is a statement by the Church that a relationship fell short of at least one of the elements seen as essential for a valid marriage according to the teachings of the Catholic Church. Other cases heard by the Tribunal are: Documentary Declarations of Nullity, including Ligamen, Other Impediments and Defect of Form; Pauline Privilege; and Privilege of the Faith.*

*In each case heard by the Tribunal, the process by which the case is filed, tried and decided is the same. The main difference between each type of case is the information required to be submitted. The sacramental explanations and requirements of each case will not be addressed in §850, but the process by which each must follow will be addressed.*

## **§851 DEFINITIONS**

1. Annulment: The English vernacular word that is used to refer to a Declaration of Nullity given by a Tribunal as a consequence of a formal, Ecclesiastical trial of the bond of marriage.
2. Petition: The term “petition” shall be used to define each type of petition filed with the Tribunal, whether for a declaration of nullity, pauline privilege, etc..
3. Declaration of Nullity: A finding given by a competent Ecclesiastical authority that, while there may have been a marital relationship, there was no canonical bond of marriage.
4. Lack of Form: An examination of the bond of marriage based on the possible non-observance of the required canonical form or the required sacred ritual for members of the Catholic or Orthodox Churches. In the Diocese of Springfield in Illinois, this examination is

§850 *The Tribunal*

conducted by the Office for Canonical Services in a non-judicial procedure.

5. Defender of the Bond An officer of the Tribunal who is the legal representative of the Bond of Marriage in a formal, Ecclesiastical trial of the Bond of Marriage. His/Her involvement is required for the validity of the trial.
6. Ligamen: A trial of the bond of marriage based on the possible impeding existence of an earlier, prior bond. This trial is normally conducted in an expedited manner.
7. Pastoral Minister: Pastor, Parochial Administrator, Parochial Vicar, Pastoral Associate, Deacon.
8. Pauline Privilege: Dissolution of a valid, non-sacramental, natural bond of marriage by the Diocesan Bishop as a favor in certain, specified cases.
9. Petitioner: The person who files an petition with the Tribunal.
10. Petrine Privilege: Dissolution of a valid, non-sacramental, natural bond of marriage by the Holy See as a favor in certain, specified cases.
11. Respondent: The ex-spouse of the Petitioner (in terms of civil law).
12. Tribunal: The Tribunal.

**§852 PRE-PETITION REQUIREMENTS**

**852.1. Policy** Since spouses have the duty and the right to preserve conjugal living unless a legitimate cause excuses them (c. 1151), no marriage nullity case shall be accepted by the Tribunal unless it is certain that reconciliation between the parties and the resumption of conjugal life is impossible or a civil divorce has been obtained. (See also c. 1676.)

**§853 JURISDICTION**

**853.1. Policy** The Tribunal's jurisdiction over cases shall be determined according to Canon 1673.

## §854 CONFIDENTIALITY

**854.1. Policy** All information in the case file pursuant to proceedings in the Tribunal shall remain strictly confidential, except where access is provided by Canon Law and Policy 854.2.

**854.2. Policy** The Petitioner and the Respondent shall have the right to review the evidence and the arguments in their case. The case judge shall determine the manner and extent of their access in accord with Canon 1598. As a part of any access to the case materials, the reviewing party shall be required to sign an agreement which outlines the conditions for access.

## §855 THE PETITION AND JUDICIAL PROCESS

### §855.1. Petition

*The petition enables the Tribunal (1) to determine the type of case that the individual has (i.e., formal annulment trial, or Pauline privilege, etc.); (2) to determine whether or not it has jurisdiction; and (3) to determine the type of testimony to be sought from the Petitioner.*

**855.1.1. Policy** The Petitioner shall file an petition with the Tribunal.

#### *Procedures*

- a) If an petition is not available at the local parish, the Petitioner may contact the Tribunal for an appropriate petition.
- b) The Petitioner may be assisted by a pastoral minister at the Petitioner's local parish.
- c) Once the petition is completed, it must be returned to the Tribunal.

**855.1.2. Policy** The parties are free to appoint a field advocate, with the assistance of the Tribunal Office to assist them in presenting his or her case to the Tribunal.

***Procedures***

- a) Field advocates are specially trained and appointed lay persons, deacons, religious and priests throughout the Diocese who assist Petitioners in presenting a case to the Tribunal.
- b) The Petitioner will schedule an appointment with the field advocate.

**855.1.3. Policy** After the completed petition and all pertinent information is returned to the Tribunal, the Tribunal shall assign the case to a panel of judges. The case shall be formally accepted by the Tribunal when the Tribunal Office notifies the Respondent that the Petitioner has presented a petition to the Tribunal and at the same time requests his/her reaction to the proposed grounds.

**§855.2. Notice**

**855.2.1. Policy** The Respondent shall be given notice of the Petitioner's petition. The Respondent shall be given the opportunity to respond to the petition.

***Procedures***

- a) The Petitioner must make a diligent effort to find the address of the Respondent. The judge will determine whether the Petitioner has made reasonable efforts to locate the Respondent. If a reasonable effort has not been made, the case will not be accepted.
- b) The Respondent is not required to participate, and if he/she does not, the non-cooperation will not hinder the progress of the case.

**855.2.2. Policy** Each party shall have the opportunity to offer objection to grounds or to officials assigned to the case.

**§855.3. Rules of Evidence**

**855.3.1. Policy** Each party shall have the opportunity to present witnesses.

***Procedures***

- a) A witness is a person who can provide the Tribunal with information about the parties and their relationship.
- b) Most persons, including family members, are eligible witnesses. However, the Tribunal discourages the use of children of the marriage in question as witnesses. Confessors are specifically excluded by Church Law.

**855.3.2. Policy** There shall be the opportunity to collect other evidence when preparing a case, such as statements from clinicians, therapists, hospitals, etc..

***Procedures***

Additional evidence is obtained through the cooperation of parties and their therapists. Parties are encouraged to sign the appropriate releases and to contact their therapists regarding the preparation of reports.

**§855.4. Defender of the Bond**

**855.4.1. Policy** Before the judges decides a case, it shall be submitted to the Defender of the Bond for his or her observations.

***Procedures***

The Defender of the Bond has the task of arguing for the validity of the marriage and ensuring that church law has been observed during the investigation.

**§855.5. Appeals**

**855.5.1. Policy** Either party has the right to appeal the decision of the Tribunal, according to the norms of law, to either the Court of Appeals in the Archdiocese of Chicago or directly to the Roman Rota. The Tribunal will assist a party in lodging their appeal.

**§856 FEES**

***Commentary***

*“Pope Francis has directed local tribunals to provide their legal services at no cost to parties. We are happy to do this. Formerly, we have had the custom of asking petitioners, as far as they are able, to contribute to the meeting of the expenses of the diocesan tribunal, and we have never delayed the administration of justice because of non-payment on a petitioner’s part. We rely upon the continued generosity of Catholic Christians so that we may meet the expenses associated with this judicial work.”*

<p><b>856.1. Policy</b> The Tribunal of the Diocese of Springfield in Illinois does not charge a fee for the services it provides in its judicial work.</p>
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