



TRIBUNAL DIOCESE OF FARGO

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Reviewed by _____
Date of Respondent letter _____
Protocol No. _____
Date of Decree _____

PETITION FOR A LACK OF CANONICAL FORM CASE

CANONS: 1108-1123

I. THE CASE

A Catholic, baptized or having been received into the Catholic Church, and not having left it by means of a *formal act (if the attempted marriage took place after November 27, 1983)* married outside the Catholic Church. A dispensation from Canonical Form was **not** granted and the union was not convalidated or sanated. The Tribunal has been given the responsibility of investigating the assertions and declaring the freedom of the parties to marry within the Catholic Church.¹

II. REQUIRED DOCUMENTS

The parish priest submitting this case must provide to the Tribunal the following documents:²

1. Recent Baptismal Certificate of the Catholic Party
2. Authentic record of the attempted marriage³
3. Divorce Decree⁴

III. REQUIRED INFORMATION (please type or print clearly – black pen only)

1. Present legal name of Petitioner⁵ _____
Maiden Name _____
Religion⁶ _____
Address _____
City, State, Zip _____ Phone Number _____
2. Present legal name of Respondent⁷ _____
Maiden Name _____
Religion⁸ _____
Address _____
City, State, Zip _____ Phone Number _____
3. Catholic party's baptism or reception into the Church:
Church _____
Place _____
Date _____
4. Attempted Marriage
Place _____
Date _____
Name of Minister or Judge _____

5. Was this attempted marriage ever validated or blessed by a Catholic Priest or Deacon?⁹ _____

6. Was this attempted marriage ever brought to the attention of the Church for a possible sanation?¹⁰ _____

7. Final Divorce Decree

Date _____

Place _____

8. Was a dispensation from Canonical Form obtained?¹¹ _____

9. Did the Catholic party formally leave the Catholic Church before the attempted marriage?¹² _____

If yes, to which ecclesiastical authority did the Catholic party submit the declaration of his/her intent to leave the Catholic Church. _____

10. Is the petitioner fulfilling his or her natural obligations to the children and the other party arising from this or other previous unions?¹³ _____ If no, please explain:

11. Is the other party fulfilling his or her natural obligations to the children and the other party arising from this or other previous unions?¹⁴ _____ If no, please explain:

12. Why was the decision made not to have this marriage take place within the Catholic Church?

I solemnly swear that, to the best of my knowledge, the above answers are true especially that my attempted marriage was never validated or blessed by a Catholic Priest or Deacon.

Date

Petitioner

CHURCH SEAL

Parish priest or delegate

N.B. Please return this form and required documents to the Tribunal. Do not set a date for the marriage until you are notified that this marriage has been declared null by a Decree of Lack of Canonical Form. There may be some period of time as we will attempt to contact the Respondent to notify him or her of the process and that he or she will not dispute the facts presented by the Petitioner. Please enclose \$25.00 as a processing fee.

INSTRUCTIONS FOR THE PARISH PRIEST SUBMITTING A LACK OF CANONICAL FORM PETITION

¹While all parties have a right to marriage (can. 1058), this is not an absolute or unrestricted right. The Ordinary has the right to forbid a marriage of his own subjects, though only for a time, for a grave reason and while that reason persists (can. 1077 §1). The Tribunal will use this form along with the recommendations of the parish priest to decide if the Ordinary should restrict the right to marry in this case. Possible reasons for restricting this right might include: the serious likelihood that a proposed marriage would be invalid, the marriage of person who is not fulfilling natural obligations toward another party or children, arising from a previous union, the well-grounded prospect of a turbulent and unhappy marriage, a real danger to the faith of the parties or their children, a physical or moral danger to the parties or to others. In submitting this petition the parish priest is to enclose any information that would suggest the need to restrict the right to marriage.

²These documents must be submitted to the Tribunal so that the Tribunal can verify that this truly is a Lack of Canonical Form case.

³Either a copy of the marriage license or a certificate issued from the church where the attempted marriage took place.

⁴This is to be a document that declares the marriage to have been civilly dissolved. It may be called the final judgment. Occasionally persons submit to the Tribunal other documents such as property stipulations or custody agreements. They get confused because this is a part of the divorce process. These other documents are not proof of a civil divorce. The divorce decree will indicate that a divorce or dissolution has been granted, the date of the dissolution and the place. It will usually indicate the judge granting the dissolution.

⁵The Petitioner is the party requesting the declaration of nullity. The Respondent is the other party.

⁶If the Petitioner was baptized in another religion but has been formally received into the Catholic Church, please indicate that.

⁷If at all possible we must have the address of the Respondent, so that we can notify him or her and verify that there is no disagreement over the essential facts of the case. It is also their canonical right to be notified about anything that may affect their canonical status within the Church.

⁸If the Respondent was baptized in another religion but has been formally received into the Catholic Church, please indicate that fact.

⁹Obviously if the person answers yes to this question, this is not a Lack of Canonical Form Case and needs to be treated as a likely Formal Annulment Case.

¹⁰ A radical sanation is an administrative procedure by which the bishop convalidates a marriage without the parties having to renew their consent. The convalidation is understood to be retroactive to the time the marriage was celebrated. If a sanation was granted by a bishop, then the marriage is presumed to be valid and a Formal case will need to be introduced.

¹¹Many lay persons do not understand the meaning of the words dispensation from Canonical Form. You may need to ask them if they worked with a priest to get permission to be married in a non-Catholic setting.

¹²If a Catholic has formally left the Catholic Church, he or she is not bound by Canonical Form. The Holy See has recently clarified the meaning of the formal act of defection. The person has to intentionally commit an act of heresy, schism or apostasy. In addition the person committing these acts must submit in written form to the Ordinary or proper pastor that they intend to abandon the Catholic Faith. It will be very rare that a person actually defects from the Catholic Faith.

¹³Canon 1071 §1 3° requires the permission of the local Ordinary before anyone is allowed to witness the marriage of a person bound by natural obligations towards another party or children,

arising from a previous union. In the Fargo diocese the Bishop has given permission to pastors and parochial vicars to witness marriage of those thus bound, where there is proof that the obligations are being fulfilled.

The focus of this canon is primarily concerned with the children. However there may be situations where there are special obligations owed to a former spouse. The first question the parish priest should ask of the petitioner is whether he or she is fulfilling the legal obligations imposed by the civil courts. Beyond these obligations are broad parental responsibilities seeing to the physical, social cultural, moral and religious education of the children. Is the petitioner doing his or her part to see to it that the physical, emotional and developmental needs of the children are being met?

The purpose of this question is not to be presented as a means of policing the petitioner but educating him or her in living out parental responsibilities. The parish priest should raise the awareness of the petitioner that the church has a grave concern for the welfare of children in cases of divorce and remarriage. If the parish priest discerns that the petitioner is fulfilling these responsibilities, they can simply answer yes to this question. If the petitioner is not fulfilling these responsibilities, but there are mitigating circumstances such as spousal hostilities, these should be noted. If the petitioner appears obstinate in refusing his or her responsibilities, this should be noted. An administrative prohibition delaying the marriage may be imposed if it appears appropriate.

¹⁴The same requirement for the fulfillment of natural obligations belongs to the other party of the marriage as well as the Petitioner. Since the Declaration of Nullity frees the other party from any impediment to marriage within the Catholic Church, it is important to investigate the respondent's fulfillment as well.