

Clarifying myths about annulments

For centuries, the Catholic Church has required that persons whose marriages end in divorce receive an annulment, or what is officially called a "decree of nullity," of that marriage before they can remarry in the Church.

The process has been filled with misunderstandings over the years. These misunderstandings appear to have frequently discouraged eligible persons from going through the process.

According to Deacon Michael Riley, vice chancellor

of the Diocese of Des Moines and director of the diocesan Tribunal office which handles such cases, only about 10 percent of people who are eligible to have their marriages nullified actually attempt to do so. Recently, Deacon Riley discussed some of the common myths and facts about the annulment process.



Deacon Michael Riley

By Steve Boeckman
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Myth - If a marriage is annulled, any children from that marriage will be illegitimate.

Fact - A child's parentage is in no way affected by the nullity of the marriage which produced that child or children.

According to Deacon Riley, the "marriage study" (annulment process) is designed solely to check the validity of the marriage in the eyes of the Catholic Church. Was the marriage a sacramental union?

The Church raises no question about the legitimacy of the marriage from a civil standpoint. In fact, the Church supports that civil legitimacy.

What the Church, as represented by the bishop of a diocese, has to determine is whether the two people in the marriage were free to give their consent to marry, he explained. In other words, did one or both of the individuals go ahead with the marriage because of some external circumstance that forced them to go forward?

Examples of external circumstances might be a pregnancy or a desire to escape from the parents' home. In addition, one or both parties might not be able to give free consent if they are addicted to alcohol or drugs and actively using those substances before and after the wedding, even if they were sober on the wedding day.

Myth - A person married in a civil ceremony or in a protestant church doesn't have to annul that marriage in order to marry in the Catholic Church, since he or she was never married in the Catholic Church.

Fact - The Catholic Church looks on all marriages - civil or otherwise - as valid marriages, said Deacon Riley. However, there are specific circumstances which affect the validity of those marriages.

A non-Catholic who marries another non-Catholic before a justice of the peace or in a Protestant ceremony, gets divorced, then wants to marry a Catholic in the Catholic Church would have to get a decree of nullity. The reason is a civil ceremony or a ceremony in a Protestant church is a valid forum for marriage for non-Catholics, he said.

A Catholic who marries before a justice of the peace or in a Protestant church with no priest or deacon present would not have to get a decree of nullity because there was no Catholic clergy present at the ceremony. Since the Catholic Church requires one or the other be present, the marriage is not valid in the eyes of the Church.

Such a person needs only to get what he called a "jack of form" ruling from the Tribunal. This administrative action requires the person

simply to complete a two-page form listing names and dates and furnish a baptismal certificate, a marriage certificate, a divorce decree and \$50.

Normally an administrative action takes about 30 days to complete, Deacon Riley said. The Tribunal office processed 68 administrative actions last year.

Myth - A person who is divorced, even from a marriage that did not take place in the Catholic Church, is excommunicated from the Church.

Fact - Not true, said Deacon Riley. A person is a full member of the Church and can receive the sacraments until he or she remarries. The act of divorce, which is a civil not a Church matter, does not prevent a Catholic from being in full communion. In the Church's eyes, the person is still married even though the state says he or she is not. A decree of nullity is required for the Church to view the marriage as no longer in existence.

Myth - It takes years to receive a decree of nullity.

Fact - The speed with which the process is completed depends mainly on how rapidly all of the testimony is received at the Tribunal office. On the average, cases before the Tribunal in the Diocese of Des Moines require about nine months, Deacon Riley said.

Once the testimony is in, it is given to an impartial panel made up of a judge, a "defender of the bond" and two advocates - one for each of the parties involved. After reviewing the testimony, the panel rules on the case. The case is then sent to the Archdiocese of Dubuque where it is reviewed. This process generally takes another three or four months.

Myth - The better known a person is, or the more money the person contributes, affects how quickly a decree of nullity is obtained.

Fact - Recognition and amount of money contributed to the Church has no bearing on how cases are handled, according to Deacon Riley. In fact in most instances, office staff and volunteer panel members refer to cases by their numbers and may not even know who the individuals are.

When a case comes into the Tribunal, it is given a number. It travels through the marriage study process based on that number. The only time a case jumps ahead of another case with a lower number is when the testimony from the newer case is completed sooner than that from the older case.

As far as money, "we ask for a fee of \$400 for a formal case," Deacon Riley said. That is less than half of the cost of a case. The difference between the actual cost and the money con-

tributed is paid by the Annual Diocesan Appeal. The amount a person contributes to the ADA, to any other diocesan appeal, or to his or her parish has no bearing on the handling of the marriage case.

In fact, even the \$400 fee isn't absolutely required. The decision about payment is left to the pastor. "If the pastor calls and says the individual can't pay the fee, or can only pay part of it, that's as far as it goes," he said.

Myth - The whole annulment process is secretive, conducted behind closed doors, so that it is difficult to know whether anyone's or everyone's rights are being upheld.

Fact - True, the process is confidential. But, it also is very open to the affected individuals, Deacon Riley said. And, safeguards are in place to make sure everyone's rights are protected.

For example, he said, when an individual (called a "petitioner") requests a decree of nullity, the person's former spouse (called the "respondent") is notified. The respondent has 10 days to acknowledge the notification.

Myth - What went on in the marriage is between the two individuals and should be kept private.

Fact - Actually the Church says marriage is a public act, Deacon Riley said. It is a declaration in front of the parish - or at least in front of a priest or deacon and two witnesses representing the Church. That's why the Church has to be involved in the nullification of the marriage.

The Catholic Church is one of the few religious denominations that consider marriage so important that it is a sacrament, he said.

That hasn't always been the situation. In Roman times, the church was not involved with marriages. Marriages were left up to the government. As time went on, the Church got more involved and established matrimony as a sacrament.

Myth - It's too difficult to get an annulment. Why bother?

Fact - In reality, it's much easier to get a decree of nullity today than it was prior to Vatican II, according to Deacon Riley. The Code of Canon Law, which governs most of the Catholic Church's activities including marriages, was revised in 1983. The revisions made the nullity process more easily understood for laypeople and introduced a more pastoral approach into the process.

In the Des Moines diocese, 99 percent of all cases that are brought before the Tribunal result in a decree of nullity, he said. Part of the reason is that the Tribunal office tries to screen all cases before taking them on, and doesn't accept cases if there isn't evidence to support a decree of nullity.