



Diocese of Altoona-Johnstown

Office of the Tribunal

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Altoona, PA 16601

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July 22, 2019

Reverend and dear Monsignors, Fathers, and Deacons,

Please find attached to this e-mail the **REVISED DIRECTIVES FOR NON-OBSERVANCE OF CANONICAL FORM OF MARRIAGE**. These **DIRECTIVES** replace *Handout E* which was included in your blue folder from the “*BACK TO BASICS*” *Tribunal presentation*, given at the October 2009 Fall Pastoral Conference at Seven Springs. Please **save** these new directives in your blue folder and make copies of them as needed for your ministry.

I remind you that these **Directives** are used **ONLY** as part of the **pre-nuptial investigation** prior to a wedding, in which you determine the status of a person’s freedom to marry. These **Directives** are used to prove the invalidity of marriage in **A) the case of a Catholic, bound to the canonical form, who attempted civil marriage before a civil official or a non-Catholic minister** or **B) a case of a non-Catholic, previously married to a Catholic, bound to canonical form, who attempted civil marriage before a civil official or a non-Catholic minister**. Such cases may be processed without a formal marriage nullity trial.

You may notice only **one change** to these directives. The question “Had the Catholic party abandoned the Catholic Church by any formal act?” has been omitted. From 23 November 1983 until 9 April 2010, if one formally “defected” from the faith, one was released from certain *merely* ecclesiastical laws, including the observance of the canonical form of marriage. Since ***Omnium in mentem*** took effect on 9 April 2010, defection from the faith no longer has any canonical effect. “Defection” does not release one from ecclesiastical law, including the observance of canonical form of marriage. Simply put, “Once a Catholic, always a Catholic” is not just a cultural sentiment. It is juridical. One is a Catholic from Baptism to death.

Please follow the simple steps of the attached **CHECKLIST**. Please forward only the **SUMMARY OF THE CASE** to me at the Tribunal. All other documentation is kept in the pre-nuptial investigation file. I will assign the **SUMMARY OF THE CASE** a protocol number, record it in the Diocesan files, and return it to you.

Do not hesitate to call me with any questions.

In Christ,

Very Rev. John D. Byrnes, JCL
Judicial Vicar

CHECKLIST for determining freedom in Non-Observance of Form Cases:

(Diocese of Altoona-Johnstown)

1. Obtain baptismal certificate of Catholic party: ()
2. Obtain copy of the marriage certificate: ()
3. Obtain copy of divorce decree: ()
4. Obtain testimony of Petitioner (*use special questionnaire for Petitioner*): ()
5. Obtain testimony of 2 witnesses (*use special witness questionnaire*): ()
6. Contact the Chanceries of all dioceses in which couple resided (including Altoona-Johnstown, if the case warrants) to discover any declaration of nullity, sanation, or dispensation from canonical form or for convalidation of the marriage (*use enclosed sample letter*): ()

(This search of Chanceries is important because the Tribunal has had cases in which the Petitioner and Witnesses alleged that the wedding took place before a non-Catholic minister only to learn by investigation that a dispensation or sanation was granted, or that a convalidation occurred—with no parish baptismal record notation duly entered.)

7. The above questionnaires and documentation must establish the following 4 criteria:
 1. That one of the parties is a Catholic and bound to follow canonical form: ()
 2. The Catholic party was not dispensed from canonical form: ()
 3. The Catholic party did not marry before the proper ordinary, pastor, or delegate, nor was the marriage convalidated: ()
 4. This attempted marriage has been civilly terminated: ()
8. If all 4 criteria are established, THE PASTOR is to issue a Decree: ()
(*see enclosed sample*) (parochial vicars and deacons can prepare these cases but the pastor should sign the Decree):
9. The PASTOR is to complete the Summary of the Case: ()
(*sample enclosed*) (Again, parochial vicar or deacon can prepare but pastor must sign)
10. Forward Summary of Case to the Tribunal: ()
(The Tribunal will assign it a protocol number, record it in Diocesan files, and return it to you.)
11. All testimony, certificates, decrees and summary sheet are to be retained and placed in the marriage file of the parish:

-
-
-
-
-
6. Was the Catholic party confirmed? If no, why not?
7. With whom did you attempt marriage?
8. What was the religion of that person with whom you attempted marriage?
9. When and where did the wedding take place?
10. Did you ever go to a Catholic priest before the wedding? If yes, was a dispensation from Canonical Form obtained? If no, why did you not go to a priest at that time?
11. How long did you live together?

- 12 a. During that time did you ever approach a Catholic priest to have the marriage convalidated?
- b. Was this union in fact ever convalidated according to the law of the Catholic Church?
- c. If no, explain.
- 13 a. Were there any children to this union?
- b. Who has custody?
- c. Have they been baptized Catholic?
- d. Is support being paid?
- e. Are all your obligations (visitation, religious education, etc.) to the children being fulfilled?
- f. Do you have any obligations to your former spouse (eg. - alimony, etc.)? Are they being fulfilled?

g. Are there any ongoing court cases between you and your former spouse? If yes, refer to Tribunal.

14. Are you now civilly divorced? (a copy of the divorce is to be submitted.)

15. During the union where did you live? (Priest is to check the chanceries of those localities of any record of dispensation, sanations, or decree of invalidity.)

16. Name two Witnesses who can corroborate your testimony and give their addresses

1.

2.

17. Do you wish to change, delete or add to your testimony?

I hereby swear that the above statements are true.

Signature of Petitioner

Priest

PLACE:

DATE:

PARISH SEAL:

DIOCESE OF ALTOONA-JOHNSTOWN
NON-OBSERVANCE OF CANONICAL FORM OF MARRIAGE

Testimony of Witness in the case of _____ and _____
man woman

Administer Oath: I solemnly swear that in giving my testimony I will tell the truth, the whole truth and nothing but the truth, so help me God and these Holy Gospels which I touch with my hand.

1. What is your name and address?
2. When were you born?
3. What is your religion?
4. a) Are you related to _____? b) If yes, please state the relationship.
Petitioner
c) If no, how well do you know him/her?
5. Have you any reason to believe the Petitioner is not truthful?

6. What is the religion of the Petitioner?

7.
 - a. Did he/she ever contract marriage in any type of ceremony?

 - b. With whom?

 - c. What was the other party's religion?

 - d. When and where?

 - e. Who performed the ceremony?

8. Did the couple go to a Catholic priest before the wedding?

9. Was the Catholic party dispensed from the Catholic form of marriage?

10. Why did they not have a Catholic priest officiate?

11. How long did the couple live together?

12. During that time did they ever have this union convalidated by a Catholic priest?

13. Is it likely that they might have gone to a Catholic priest without you knowing about it?

14. During their married life where did this couple live?

15. Is the Petitioner fulfilling all obligations toward the former spouse and children?

In giving the foregoing testimony which I have read and found to be correctly transcribed, I solemnly swear that I have told the truth, the whole truth and nothing but the truth, so help me God and these His Holy gospels which I touch with my hand.

Signature of Deponent

I hereby attest that the above signed personally appeared before me, and in my presence gave testimony confirmed it by oath, and signed it.

Signature of Priest

PLACE:

DATE:

PARISH SEAL:

SAMPLE LETTER TO CONTACT CHANCERY OFFICE

(Parish Letterhead)

Name

Address

Will you please be kind enough to search the files of your Curia in order to ascertain whether or not a Decree of Nullity, Dispensation or Sanation was granted in favor of:

_____ and _____
(name of man) (maiden name of woman)

during the period extending from:

_____ to _____
(date of wedding) (date of divorce)

With kind regards, I am

Sincerely in Christ

(Parish Letterhead)

DECREE

Having examined authentic documents and having obtained the necessary testimony, I hereby declare invalid the attempted marriage of _____ a baptized Catholic, and _____, a Catholic or a baptized or unbaptized non-Catholic, which took place on the _____ day of the month of _____ in the year _____ before _____ at _____ in _____

(minister or civil magistrate)

(city)

(state)

by reason of lack of canonical form as required by Canon 1108 of the Code of Canon Law.

Given this _____ day of the month of _____ in the year _____ at _____

(city, state)

Pastor

SEAL

SUMMARY OF THE CASE

(PLEASE RETURN THIS FORM ONLY)

DIOCESE OF ALTOONA-JOHNSTOWN
NON-OBSERVANCE OF CANONICAL FORM OF MARRIAGE

The Petitioner _____ a baptized Catholic or
baptized/unbaptized non-Catholic, attempted marriage with _____,
on _____ before _____
name & office of officiant

The Catholic party _____ was born on
_____ and was baptized on _____
at the Church of _____ in _____

The Catholic party was a practical Catholic until _____

The Catholic party had not been dispensed from the canonical form of matrimony. This fact was
determined by my writing to the Diocese(s) where the couple had lived during the union.

This attempted marriage was never convalidated.

To this union _____ children were born and are/are not baptized in the Catholic
Church and are now in the custody of _____. The Catholic is fulfilling
all natural obligations owed the children and former spouse.

A civil decree of divorce was granted on _____ by the Court of
_____.

I have placed in the pre-nuptial file the following:

1. Certificate of Catholic Baptism for the Catholic party.
2. Copy of civil marriage license.
3. Copy of divorce decree.
4. Testimony of Petitioner and two Witnesses.
5. Testimony from the Chancery of the Diocese(s) in which the parties lived together.

I attest that the Catholic party was bounds to the canonical form of marriage and did not observe it. Therefore I declare that union to be invalid.

For Tribunal use only
Prot. No.
This case has been duly
Recorded in the Tribunal
Archives

Signature of Pastor

Church

City, State, Zip

Judicial Vicar/Delegate

Date

Date: _____