

# THE PROCESS FOR OBTAINING A PAULINE PRIVILEGE

## Introduction

This document is written for persons who have a petition for a Pauline Privilege pending before the Tribunal of the Diocese of Pueblo. This document lists only the more important stages of the process for obtaining a Pauline Privilege. The intent of the document is to inform the Parties about their responsibilities in this process so that they can clearly understand what they are undertaking. This document is designed to help the Parties become aware of the stages of the process for obtaining a Pauline Privilege so that they can actively, directly and personally participate in these proceedings.

## An Ecclesiastical Dissolution

The Catholic Church claims the power to dissolve non-sacramental marriages.

The theory is that in order to have the *sacrament* of matrimony both Parties to the marriage must be validly baptized. If it can be proven that either one or both Parties to a marriage is not baptized, then the marriage is held to be non-sacramental and hence subject to a possible ecclesiastical dissolution either by way of the Pauline Privilege or by way of a Privilege of the Faith, sometimes called the Petrine Privilege.

## Requirements for the Pauline Privilege

The requirements for the valid grant of a Pauline Privilege are found in the 1983 Code of Canon Law canons 1143 – 1150. The following three conditions are the most important.

- 1) It **must be proven** that **both** Parties to the marriage were **not baptized** when the marriage was entered.
- 2) The Petitioner **must convert and be baptized**.
- 3) The other Party does not wish to receive baptism or does not or will not live peacefully with the one who is to be baptized.

## Acceptance of the Petition

When a petition for a Pauline Privilege has been received by the Tribunal, and the case appears to have merit, the Tribunal commits itself to investigate the case. The Petitioner and Advocate are then notified that the case has been accepted. Included with the notification letter of acceptance are three other items: 1) this document entitled *The Process for Obtaining a Pauline Privilege*; 2) the Acknowledgment of Petitioner form; 3) a lengthy Petitioner Questionnaire, that the Petitioner will need to complete with the assistance of the Advocate. The Petitioner should complete the questionnaire, with the assistance of the Advocate, and the Acknowledgment form and return them both to the Tribunal as soon as possible.

### **Citation of the Other Party**

On the same day that the Tribunal formally accepts the case for investigation, it writes to the former spouse. Included with the letter of citation are two other items: 1) this document entitled *The Process for Obtaining a Pauline Privilege*; 2) a questionnaire concerning the issue of non-baptism and the reasons for the break down of the marriage.

### **Citation of the Witnesses for Testimony**

This is also the stage at which the testimonies of the witnesses and other proofs are gathered by the Tribunal. Among the most important source of proof in any type of case is the testimony of knowledgeable and willing witnesses. In a Pauline Privilege case, testimonies from the blood relatives of both Parties is essential. The Tribunal directly contacts the witnesses who have been named. They are asked to complete a witness questionnaire that contains approximately twelve questions. These questions concern the baptismal status of the Parties and the reasons for the breakdown of the marriage. All of the questions must be answered. The questionnaire must be signed by the witness as well as by a Notary Public or by a Catholic priest. If all of the questions are not answered or if the testimony is not properly signed and notarized, then what is provided is useless. Full and adequate witness testimony is absolutely essential in a Pauline Privilege case. Delays are frequently encountered at this stage. Sometimes witnesses claim they never received the citation for testimony from the Tribunal. Some witnesses fail to have their testimonies properly signed and notarized. Sometimes witnesses claim to have sent testimony to the Tribunal when, in fact, they have not done so. Some witnesses fail to cooperate.

The burden of proving that the marriage in question is non-sacramental rests with the Petitioner, not the Tribunal. The best way for the Petitioner to avoid delays is to contact the witnesses, after they have been notified that the case has been accepted for investigation, to insure that they cooperate fully with the Tribunal's request for testimony.

### **The Interpellations**

Canon 1144 requires for the validity of the process that the other Party, that is, the former spouse, be questioned whether he or she wishes to receive baptism and whether he or she wishes to cohabit peacefully with the now baptized Petitioner. However, Canon Law allows the local Bishop to dispense from the requirement of questioning the other Party about these issues if such questioning cannot be done or if it would be useless. In most cases a dispensation is readily granted for this as the Parties have already divorced and either one or both of the Parties wishes to remarry.

## **The Decree and Additional Document**

Once all three of the requirements for the valid granting of the Pauline Privilege have been proven, and the issue of the interpellations has been resolved, the decree authorizing the use of the Pauline Privilege is drawn up and sent directly to the Petitioner. This is an important ecclesiastical document and should be carefully preserved. The Petitioner will need to present this decree to the clergyman who will be witnessing their marriage in the Catholic Church. Also enclosed with the decree is a second document, to be completed and returned to the Tribunal by the clergyman who will have witnessed the subsequent marriage of the Petitioner in the Catholic Church. Care needs to be taken to present this second document to the clergyman who will be witnessing the marriage and seeing to it that it is completed and returned to the Tribunal.

## **Other Actions**

Sometimes the Petitioner is not able to produce the evidence necessary to prove that both Parties to the marriage are not baptized. Perhaps legitimate proof is only had that the Petitioner, but not the Respondent, has not been baptized. Or perhaps the Petitioner has changed their mind and does not wish to convert and be baptized. In such situations, the Tribunal, while notifying the Party that a Pauline Privilege is not available to him or her, will suggest that a Privilege of the Faith case, that is, a Petrine Privilege can be sought. Or if evidence suggests, the Petitioner might be urged to lodge a formal case for a declaration of invalidity, that is, an annulment.

## **The Difference between a Privilege Case and an Annulment Case**

Neither a Pauline Privilege nor a Petrine Privilege should be confused with a declaration of invalidity case, popularly termed an annulment. A Pauline Privilege case, or a Petrine Privilege case, is one in which the issue is proving that the marriage was not a sacrament, that is, that either one or both of the Parties to it were not baptized. A declaration of invalidity case, popularly termed an annulment, is one in which the issue is proving that the marriage in question is not valid. That is proving that at the time the union was entered there was a radical defect present which prevented valid consent from being given. And therefore the right to marry still obtains.

## **Future Weddings**

The process for obtaining a Pauline Privilege takes time. If an affirmative decision is given, we will send the final decree directly to you. Only then may you set a date for a new marriage. Under no circumstances may any priest or cleric promise a date nor may any couple set a date for a wedding or make arrangements for a new marriage before receiving the final decree.