



CANON LAW & ORDER

Our understanding of the annulment process, and our ability to explain it to others, can be improved by stepping back and looking at the big picture: What exactly is an annulment in the Church, and what is the nature of the annulment process?

When speaking about annulments, we are speaking about a legal term. Legally speaking, marriage is a binding contract. An annulment, or, more properly speaking, a declaration of nullity, is a pronouncement by an authorized tribunal that a marriage is legally null, that is, without legal effect, in the Church. This means that the parties involved are not legally bound by that contract and are free to marry someone else.

I cannot stress enough that an annulment is a legal concept, affecting only the legally binding effect of marriage in the Church. It is not a declaration that a marriage never existed; at the very least there was a civil marriage, and most likely a sharing of life, love, and children that we normally think of as marriage.

An annulment changes none of that. All that an annulment declares is that, according to the law of the Church, something essential to entering into the binding contract of marriage was missing when the parties “signed” the contract – the moment they exchanged their vows. It is purely a matter of canon law and has no effects in civil law, nor any effect on the legitimacy of children born to the marriage. An annulment’s sole effect is to declare the parties legally free to enter a new marriage in the Catholic Church because they are not bound by a prior marriage.

Unlike a dispensation or permission, an annulment is not a favor that is granted to someone. It is also not a reward for being a good Catholic or good person; one cannot earn an annulment. It is a declaration of a legally established fact that has been proven through the required legal process.

The determination of that fact is an act of legal judgment, hence the process, which has developed in the Church over centuries, is a judicial process, or trial. However, canonical trials do not resemble an episode of *Law & Order*. Unlike trials seen on TV, canonical trials primarily consist of the gathering of various documents, including

written or transcribed testimony from the parties involved and witnesses. These documents form what are called the acts of the case, upon which the judges ultimately base their decision.

The judges in a canonical trial do not render their decision arbitrarily. They are bound to observe the requirements of canon law, basing their decision purely on the acts of the case and weighing those acts according to established rules of evidence. To render an affirmative decision, that is, to declare the marriage null, the judges must find that the acts of the case meet the necessary standard of proof: moral certitude. This is similar to the standard of proof in American criminal trials in that it does not require absolute certainty of the nullity of the marriage, but only that the nullity of the marriage has been established beyond reasonable doubt.

That’s it for now. Until next time, keep the faith, love God’s people, and always honor the code!

Resurrexit sicut dixit!

