



# Concerning Issues: The Formal Process - The Truth About Common Myths

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## 1. An Annulment means that the marriage never occurred

*The truth is that an annulment cannot erase history and is not meant to do so. The couple was legally and historically married. The word "annulment" is likely partially to blame for this myth because it gives the impression that the marriage is somehow wiped away. The Code of Canon Law uses the term "declaration of nullity" rather than "annulment." The truth is that if an affirmative decision is rendered, the Church is simply declaring a fact: that according to Church law there was something invalid about the union from the very beginning so that an indissoluble bond was never formed and both parties are now free to marry. Nothing that was is erased or wiped away.*

## 2. Only Catholic marriages need to be annulled

*The truth is that every marriage is considered a promise until death, including merely civil unions if neither party is bound to form. No one, no matter what their religious affiliation, is free to contract marriage in the Catholic Church if they were married previously unless that prior marriage is declared invalid.*

## 3. An annulment is just "Catholic divorce"

*The truth is that civil divorce and a declaration of nullity are two very different things. A divorce focuses on the end of the union and deals with the legal realities of a failed marriage. A declaration of nullity focuses on the very beginning, the time of consent, and deals with the reasons why the union was or was not invalid from that point in time.*

## 4. The former spouse has to agree to an annulment

*The truth is that both spouses have equal rights in the process. That does not mean that they both have to want a declaration of nullity. Tribunal judges can declare a marriage invalid even if the former spouse is opposed.*

## 5. The former spouse does not have to know

*The truth is that the former spouse must be cited and has certain rights during the process. This subject was discussed at length in the April 2015 edition of Concerning Issues.*

## 6. An annulment makes the children illegitimate

*The truth is that a declaration of nullity has absolutely no effect on the legitimacy of children. If, at the time of the child's birth, the parents were legally married, legitimacy was established. Canon 1137 clearly states that children remain legitimate following a declaration of nullity.*

## 7. If there were children, the marriage cannot be annulled

*The truth is that any divorced person has the right to petition for a declaration of nullity. The presence of children or the length of the marriage does not prohibit this request.*

## 8. An annulment cost thousands of dollars

*The truth is that no tribunal's fee is "thousands of dollars," although the processing fee does vary from diocese to diocese. In the Diocese of Erie, the fee for a formal case is presently \$450. This represents one-third of the actual cost of processing the case. The remainder of the total amount is provided by the generosity of the people of the diocese through the annual Catholic Services Appeal. The fee is always waived or reduced for persons who cannot afford it.*

## 9. It takes years to get an annulment

*The truth is that every case is different but few ever take longer than 18 months. There are certain time frames at various stages of the process that are mandated by canon law and must be observed. Failure of witnesses to provide testimony in a timely manner is often the longest delay. In the Diocese of Erie most formal cases are processed in six to eight months.*

## 10. Everyone who petitions gets an annulment

*The truth is that negative decisions are rendered when the presumption of validity cannot be overturned. Because the Church presumes that every marriage is valid, there must be sufficient grounds for declaring otherwise. The burden of proof is on the person petitioning for the declaration of nullity. The Tribunal staff will assist the Petitioner in gathering the necessary evidence but sometimes that evidence is not enough to overturn the presumption of validity.*



### Sister Sylvia Elected to Leadership

Sister Sylvia Burnett, OSBM, Auditor in the Office of Matrimonial Concerns and the Tribunal, has been elected to the position of Counselor for her religious community, the Sisters of Saint Basil the Great of Our Lady of Perpetual Help Province. The Order of Saint Basil the Great is a Byzantine Rite community. Sr. Sylvia will travel to her motherhouse in Uniontown, PA for regular meetings while continuing her work in the Erie Tribunal. Congratulations to Sr. Sylvia for being recognized by her sisters for her many gifts. We are grateful for her continued ministry with us.

### Often Asked Canonical Question

*Are Catholics excommunicated if they are divorced?*

Divorce itself does not affect or alter one's status in the Catholic Church. Divorce is a function of civil law and secular courts. Divorced Catholics are free to receive the sacraments but cannot marry again in the Catholic Church. It is only when a Catholic wants to remarry that the first marriage must be resolved through the Church's Tribunal. The Church does require that divorced Catholics who remarry outside the Church refrain from the reception of the sacraments but they are still not excommunicated.