THE PROCESS FOR INSTRUCTING A PAULINE PRIVILEGE CASE

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A consummated marriage of two baptized persons, that is a sacramental marriage, is indissoluble, and only death alone can dissolve that bond. However, a non-sacramental marriage can be dissolved in various circumstances; one of these is referred to as the Pauline Privilege. Since the 4th century, the Christian Tradition has understood the words of Saint Paul in 1 Corinthians 7: 12-15 to mean that a Christian convert is free to contract another marriage if their unbelieving spouse departs or refuses to cohabit peacefully. Therefore, under certain conditions a non-sacramental marriage in which both parties were unbaptized at the time of consent may be dissolved by means of the Pauline Privilege. One who desires that such a marriage be dissolved can request this favor from his/her local Ordinary. The local Ordinary, or his delegate, will then gather information to ascertain that the requirements for the use of the Pauline Privilege are met and if so, grant the requisite permission.

Completion of the Request for the Use of the Pauline Privilege
To initiate the process, the petition of one of the spouses to have the marriage dissolved by means of the Pauline Privilege is necessary. The applicable form can be accessed on the website of the Tribunal of the Diocese of Wheeling-Charleston.

Determination Whether the Case Fulfills the Requirements for the Use of the Pauline Privilege
The dissolution of the first marriage by means of the Pauline Privilege is only granted if several conditions are met: 1) there was a valid marriage between two unbaptized persons; 2) one and only one of the spouses is subsequently baptized; 3) the unbaptized spouse refuses to cohabit peacefully and there is no possibility of restoring conjugal life; 4) the baptized spouse now wishes to marry someone else in order to practice the faith; 5) neither the Petitioner nor the Intended Spouse was the prevailing cause of the breakup of conjugal life; 6) no scandal would arise from the dissolution of the marriage; 7) if a Catholic party intends to marry a non-Catholic, the Catholic party declares that he/she is ready to remove any danger of departure from the faith and the non-Catholic party promises to allow the Catholic party to profess his/her faith and to baptize and raise the children as Catholics.

Commission of Officers (Instructor, Defender, Notary)
The local Ordinary can carry out the instruction of the process personally or he can entrust it to an instructor, who could be a tribunal judge or another approved person. This commission may be given on a permanent or case by case basis. The commission of an Instructor, a Defender of the Bond, and a Notary must be done in writing and signed by the local Ordinary before any testimony is received. The officers are to take an oath as well, if they have not yet already done so in their function in the tribunal.

Interpellation of the Unbaptized Party
The unbaptized party must be asked: 1) whether he/she has ever been baptized, christened, or sprinkled in any Christian denomination or sect; 2) whether he/she wishes to be baptized as a Christian; 3) whether he/she wishes to resumed married life with the Petitioner. If the Unbaptized Party does not respond within a time period set by the Instructor, silence is considered a negative response.

Instruction: Deposition of Petitioner and Intended Spouse
The Petitioner is to be questioned about his/her own non-baptism at the time of consent, the subsequent baptism, the other party's baptismal status, the possibility of restoring conjugal life, whether natural obligations are being fulfilled, the prospective spouse, the intended marriage, the possibility of scandal, and the willingness to practice the faith and raise the children Catholic. The Intended Spouse is to be asked about his/her baptismal status, religious affiliation, the breakup of the marriage, cohabitation, the possibility of scandal, and willingness to allow the Petitioner to practice the faith and raise the children Catholic.

Instruction: Questioning of Witnesses
In order to use the Pauline Privilege, there must be moral certitude (i.e., the absence of any reasonable doubts) that the necessary conditions exist. In order to demonstrate non-baptism, the word of the parties alone is not sufficient. Rather, credible and pertinent witnesses must also attest to the fact of non-baptism, as well as the other conditions mentioned above. If the alleged unbaptized party was raised in a Christian family, the burden of proof of non-baptism is even greater. There are to be witnesses to the non-baptism of one of the parties, character witnesses, and witnesses to the breakdown of the marriage.

Observations of the Defender of the Bond
The Defender of the Bond is entrusted with presenting his observations on whether there are any reasons that might stand in the way of the dissolution of the bond by means of the Pauline Privilege. This will include observations on the instruction, whether the non-baptism of both parties at the time of consent has been proven, the interpellation of the Unbaptized Party, the cause of the separation of the parties, the possibility of restoring conjugal life, the possibility of scandal, and whether the Catholic party will practice the faith and raise the children Catholic.

Rescript of the Local Ordinary Authorizing the Use of the Pauline Privilege
If the local Ordinary is certain that all of the requirements have been met and judges it opportune, he will issue a rescript granting permission for the use of the Pauline Privilege. This rescript is sent to the Petitioner as well as his/her pastor with instructions on what to do when a new marriage is celebrated.

Dissolution of the First Marriage Upon Celebration of the New Marriage
The non-sacramental marriage is NOT dissolved with the issuance of the aforementioned rescript. Rather, the first non-sacramental marriage is only dissolved by the celebration of the second marriage. All of the usual marriage paperwork must be completed according to the norm of law. This includes obtaining any applicable permissions (e.g., permission for a mixed marriage, permission for the validation of an existing civil union, etc.) and dispensations. A copy of the attached rescript authorizing the use of the Pauline Privilege is to be kept with the marriage paperwork. Notifications must also be sent to the baptismal registers and marriage register, as well as to the local Ordinary.